

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 27 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Wendy Leiserson

Jim Montverde

Laura Wernick

Jason Marshall

City Employees

Olivia Ratay, Zoning and Building Associate



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P R O C E E D I N G S

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(6:00 p.m.)

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

BRENDAN SULLIVAN: Welcome to the January 27, 2022  
meeting of the Cambridge Board of Zoning Appeals. My name  
is Brendan Sullivan, and I am the Chair for tonight's  
meeting.

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

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

1 Cambridge.

2           There will also be a transcript of the  
3 proceedings.

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

7           Members of the public will be kept on mute until  
8 it is time for public comment. I will give instructions for  
9 public comment at that time, and you can also find  
10 instructions on the city's webpage for remote BZA meetings.  
11 Generally you will have up to three minutes to speak, but  
12 that might change based on the number of speakers.

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

15           OLIVIA RATAY: Jim Monteverde?

16           JIM MONTEVERDE: Jim Monteverde is present.

17           OLIVIA RATAY: Laura Wernick?

18           LAURA WERNICK: Laura Wernick is present.

19           OLIVIA RATAY: Jason Marshall?

20           JASON MARSHALL: Jason Marshall present.

21           OLIVIA RATAY: Andrea Hickey?

22           ANDREA HICKEY: Andrea Hickey present.

1 OLIVIA RATAY: Wendy Leiserson?

2 WENDY LEISERSON: Wendy Leiserson present.

3 OLIVIA RATAY: Gus Alexander?

4 CONSTANTINE ALEXANDER: Gus Alexander present.

5 OLIVIA RATAY: And Brendan Sullivan?

6 BRENDAN SULLIVAN: And Brendan is obviously  
7 present and audible.

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2 (6:02 p.m.)

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

7 BRENDAN SULLIVAN: First case I'm going to call  
8 tonight is a continued case BZA No. 149665 -- 38 Mount  
9 Pleasant Street. Alphen, are you?

10 CHRISTOPHER ALPHEN: Yep. Good evening, Mr.  
11 Chair, Members of the Board. Thank you for having us  
12 tonight. I am here with the applicants, Matt and Lindsey  
13 Russell, as well as Mike Fields of SKA, as well as the rest  
14 of the team at SKA Architects.

15 As you may recall, we are a continued hearing.  
16 The last hearing the Board suggested that we speak to some  
17 of the abutters, who expressed some concerns about the  
18 proposal. The proposal, which is a 200 --

19 BRENDAN SULLIVAN: I don't mean to interrupt you -  
20 - well, I do actually, sorry. But you're seeking a special  
21 permit, and under Section 8.22 d), is that correct?

22 CHRISTOPHER ALPHEN: That is correct.

1           BRENDAN SULLIVAN: In reading subsequently to our  
2 last get together, and delving a little bit more closely  
3 into, obviously, the plethora of correspondence, pro and  
4 con, it also occurred to me that I needed to read the  
5 section again.

6           Section 8.222 d) states, "In all districts, the  
7 Board of Zoning Appeal may grant a special permit for the  
8 alteration or enlargement of a preexisting, dimensionally  
9 nonconforming detached, single-family dwelling or two-family  
10 dwelling, not otherwise permitted in Section 8.221 above."

11           And then it goes on to say about the alteration or  
12 enlarging of a nonconforming, preexisting unit.

13           The key phrase there to me is a nonconforming,  
14 detached, single-family dwelling or two-family dwelling.  
15 This is an attached, single to a rowhouse.

16           I spoke to the Commissioner, and he confirms that  
17 he feels that you cannot seek relief under 8.22 d) because  
18 this is an attached, single-family dwelling. And that you  
19 would have to seek a variance for relief.

20           CHRISTOPHER ALPHEN: Okay. If that's the  
21 determination of the Building Commissioner and the  
22 determination of the Board, I think what's unique about this

1 particular application is that it is not a condominium, so  
2 there are no legal common documents that attach the  
3 properties together, where they share the walls.

4 And so it's in itself -- legally acts as itself.  
5 It is a unit by itself not part of some sort of association  
6 or anything like that.

7 The unit itself acts as itself. So the unit is on  
8 its own lot. It doesn't share any lots, it's not a  
9 condominium lot. It's on a lot that is single by itself and  
10 therefore there isn't a combination of units that come  
11 together and create, you know, one lot that you would  
12 typically see when you have attached units.

13 So I think that the intent and the purpose of the  
14 bylaw was to allow a special permit for a structure like  
15 this, which is a unique structure, granted. But --

16 BRENDAN SULLIVAN: So the distinction on what  
17 you're saying is that it's a condominium as proposed, and we  
18 have -- you know, and throughout the city there are side-by-  
19 side houses that are separated, totally different deeds and  
20 what have you and not part of a condominium association.

21 The wording of the ordinance makes no exception as  
22 to the legal status; only that it is either a detached



1 single-family home, or this one is an attached. And again,  
2 we have read it over and over, and the determination is that  
3 you cannot seek relief on 8.222 d).

4 CHRISTOPHER ALPHEN: Okay. So this is my other  
5 legal theory, is that under 40A Section 6, it's a  
6 requirement that any preexisting, nonconforming structure,  
7 which this is, requires a special permit for any expansion  
8 or change in use or alteration. You know, that is the case  
9 law that came down.

10 And, you know, if we're not applying under Section  
11 8.22. (sic) 2 d), we're applying under the statute, which is  
12 40A Second 6, there would be -- there's nothing in your  
13 bylaws, there's nothing in your ordinance, excuse me -- that  
14 permit a special permit for a preexisting, nonconforming  
15 structure that is attached.

16 So, you know, there wouldn't really be another  
17 section that we would apply under. It would be under 40A  
18 Section 6. It would be under the statute that allows a  
19 special permit for a preexisting, nonconforming structure.

20 BRENDAN SULLIVAN: And that's part of the  
21 application, your application is for relief under 8.22 d).

22 So --

1           CHRISTOPHER ALPHEN: Well, I would say that I did  
2 also add the statute, which is 40A Section 6 --

3           BRENDAN SULLIVAN: Or in the alternative, you  
4 could proceed, and the Board could either agree with your  
5 interpretation, or they could agree with my reading of the  
6 statute. And we would vote one way or the other, either  
7 that you are entitled to relief under 8.22 d) or not.

8           CHRISTOPHER ALPHEN: Well, I don't necessarily  
9 disagree with you that the ordinance section, you know, says  
10 that it has to be -- you know, a detached, single-family  
11 structure. And this is something that I thought about.

12           But there's no other -- there's no other  
13 applicable section of your bylaw, of your ordinance, that  
14 permits a special permit for a change in a preexisting,  
15 nonconforming structure.

16           BRENDAN SULLIVAN: Correct.

17           CHRISTOPHER ALPHEN: You know, if there was a  
18 section in your ordinance that said, "an attached, single-  
19 family structure" and there's a change in that, I would  
20 apply it under that section.

21           But this was the closest section I could find,  
22 while still complying and still following the rules under

1 the statute under 40A Section 6.

2 BRENDAN SULLIVAN: Well, the alternative is to --  
3 you could continue this matter and discuss it with the  
4 Commissioner. If you disagree with his determination, then  
5 you can appeal his determination.

6 CONSTANTINE ALEXANDER: Or you can apply for --  
7 you can seek a variance.

8 BRENDAN SULLIVAN: Or you can seek a variance.

9 CHRISTOPHER ALPHEN: Or you can seek a variance,  
10 sure.

11 BRENDAN SULLIVAN: Or, or you can continue the  
12 hearing and the vote of the Board would be whether or not  
13 you qualify under 8.222 d) or not.

14 If members of the Board agreed that you can seek  
15 relief under that Section, and you meet the merits of your  
16 application, and the vote would go that way, if members felt  
17 that you did not qualify for a special permit, the vote  
18 would go that way.

19 CONSTANTINE ALEXANDER: I for one -- this is Gus  
20 Alexander, I'm not a Member of the Board, obviously -- I  
21 agree with Brendan's analysis and conscious analysis, I  
22 don't see that you can file -- you can apply for a special

1 permit. This is a variance case.

2 CHRISTOPHER ALPHEN: Yeah, I think the only issue  
3 is that, you know, the City is going to run into a situation  
4 where, you know, somebody's applying under 40A Section 6 and  
5 they might say, "Well, this is something that's missing in  
6 the ordinance." And, you know, I think it's our right to  
7 apply for a special permit under this case, even though it's  
8 an attached structure.

9 BRENDAN SULLIVAN: Well, again, I'm going by the  
10 wording of the ordinance, and that's something --

11 CHRISTOPHER ALPHEN: So usually when we weren't in  
12 Zoom, I'd be able go and whisper to my clients to see what  
13 they want to do.

14 BRENDAN SULLIVAN: You can, and we can -- well,  
15 you have the next case, we can go to the third case, and  
16 come back to you whenever you're available.

17 CHRISTOPHER ALPHEN: Okay.

18 BRENDAN SULLIVAN: You're representing the next  
19 case, which is Frost Street on the agenda, but we can skip  
20 that, because you can't do -- I'm sure you're very good at  
21 multitasking, but that is asking too much.

22 CHRISTOPHER ALPHEN: [Laughter] Yeah, if you don't

1 mind, that's fine. And it's my --

2 BRENDAN SULLIVAN: We'll go to the third case,  
3 which is Telecom, and then after we conclude that, we'll  
4 come back to you.

5 CHRISTOPHER ALPHEN: Okay.

6 CONSTANTINE ALEXANDER: Or later on. We have a  
7 whole night ahead of us, so, you know. Yeah.

8 CHRISTOPHER ALPHEN: Yeah. No, if you don't mind  
9 only because I'm preparing for a wedding that I'm having for  
10 myself in the next couple days.

11 If you don't mind just putting this on hold so my  
12 clients can just shoot me a text message while I'm doing the  
13 next agenda item, and then we can continue this item, and  
14 then finish what we're going to do, I appreciate it.

15 BRENDAN SULLIVAN: We're going to be here for two,  
16 three, four hours tonight. So --

17 CHRISTOPHER ALPHEN: Yeah. So I'd appreciate  
18 that. Only because my wedding is on Saturday, so.

19 BRENDAN SULLIVAN: We'll get you to the altar on  
20 time, if that's where it is.

21 CHRISTOPHER ALPHEN: I appreciate it, yeah.

22 BRENDAN SULLIVAN: All right. So anyhow, we will

1 recess this hearing, and then let the petitioner and the  
2 counsel meet or converse, and then we will come back. Give  
3 us the high sign when you're ready.

4 [Pause]

5 Okay.

6 CONSTANTINE ALEXANDER: We probably should set a  
7 time to reconvene this case. I would suggest half an hour?

8 CHRISTOPHER ALPHEN: I think right after one --  
9 right after the next agenda item I think I'll have an answer  
10 for you.

11 BRENDAN SULLIVAN: Okay, good. Good.

12 CONSTANTINE ALEXANDER: All right.

13 BRENDAN SULLIVAN: All right.

14 CHRISTOPHER ALPHEN: All right.

15 BRENDAN SULLIVAN: Thank you.

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(6:13 p.m.)

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

BRENDAN SULLIVAN: That being said, the Board will  
now hear Case Number No. 102207 -- 1923 Mass Avenue.

CHRISTOPHER ALPHEN: Good evening, Board.  
Attorney Christopher Alphen; Blatman, Bobrowski & Haverty on  
the line with me. Waiting for them to get on the line.

BRENDAN SULLIVAN: Are you representing the  
telecom?

CHRISTOPHER ALPHEN: Oh, no, I'm sorry about that.  
I thought we were the next on the agenda.

JAKE SHAPPY: Hi. This is -- sorry about that, it  
made me reconnect in order to participate. My name is Jake  
Shappy and I'm representing T-Mobile in this regard.

BRENDAN SULLIVAN: Okay. Mr. Shappy, the --  
you're proceeding tonight, is that correct?

JAKE SHAPPY: That is correct.

BRENDAN SULLIVAN: Now, the last meeting the  
reason why we continued it is because there was

1 correspondence from the Planning Board --

2 JAKE SHAPPY: That is correct.

3 BRENDAN SULLIVAN: -- that we did not approve it,  
4 and that you have -- your client have further discussions  
5 with Community Development. Have you had those discussions,  
6 or --

7 JAKE SHAPPY: Well, we were not told to reach out  
8 to Community Development. We were told to make changes, as  
9 described by the Planning Board.

10 To the extent that it was feasible, we have made  
11 those changes and resubmitted documents -- construction  
12 drawings, a revised structural and revised photo simulations  
13 -- all of which have been uploaded and hopefully provided to  
14 the Board.

15 BRENDAN SULLIVAN: Okay. Let me just run through  
16 what their letter of December 29 and hopefully those  
17 improvements, if they were --

18 CHRISTOPHER ALPHEN: We were originally applying  
19 to move eight antennas -- two antennas per sector -- to  
20 three antennas per sector for a total of 12.

21 We have gone back. We were able to with  
22 technology that's come out in the intervening period from



1 the initial design come up with an antenna solution that  
2 keeps us at the eight-antenna count.

3 They asked us to set back from the parapet with  
4 our remote radio heads. They're not visible from the street  
5 for the simulation to show as much. We also were told to  
6 use stealthing to the extent feasible. Unfortunately with  
7 this design, it is not feasible.

8 We were told -- let me see, side elevation we  
9 should avoid the architectural features. I believe that was  
10 the cornices. That is where our antennas are.

11 Unfortunately, due to the radiofrequency engineer  
12 requirements, that's not truly feasible either. To the best  
13 of our ability, we were --

14 BRENDAN SULLIVAN: The cornices, and the details  
15 at the cornices of the building?

16 CHRISTOPHER ALPHEN: Yeah. You can see that in  
17 the photo simulations. They are not impeding or directly on  
18 top of, they are in the same positions using the same style  
19 of mounting in the before and after. There is no major  
20 difference in those.

21 BRENDAN SULLIVAN: The other issue was the side-  
22 mounted antenna on the side elevation and Davenport

1 elevation, proposed brick pattern treatment should be  
2 replaced with a uniform matte color that matches the brick.

3 CHRISTOPHER ALPHEN: Yes. Unfortunately, it looks  
4 like our photo simulation did not change that, but that is  
5 an easy change that we are able to make well prior to  
6 construction or permit issue. That is something that we can  
7 do essentially day of, if necessary, but we'll be able to  
8 make sure that that is a matter color if they do not want  
9 the brick simulation.

10 BRENDAN SULLIVAN: All visual exposed equipment  
11 and materials including cabling and brackets should be  
12 finished or painted in a matte, dull color?

13 CHRISTOPHER ALPHEN: Correct.

14 BRENDAN SULLIVAN: The smallest mounting brackets  
15 available should be utilized so that the antennas can be  
16 mounted as close to the existing frame and façade surfaces  
17 as possible.

18 CHRISTOPHER ALPHEN: We are currently using the  
19 smallest amounts that we can use. We'll still maintain  
20 structural integrity for the site. We are making sure not  
21 to overstress the walls, making sure that it's safe for  
22 mounting. They are mounted as close to the walls as we can,

1 while maintaining structural integrity.

2 BRENDAN SULLIVAN: All right. So it seems that  
3 you have made some efforts to comply with their suggestions.  
4 We have also not received any correspondence back from them.

5 They were -- they did have your new submittals  
6 available to them, and it appears not to have any comments.  
7 So either they are satisfied with the results or what was  
8 proposed is okay.

9 So anyhow, end of presentation? Reopen it then OT  
10 public comment. Any members of the public who wish to speak  
11 should now click the button that says, "Participants," and  
12 then click the button that says, "Raise hand."

13 If you are calling in by phone, you can raise your  
14 hands by pressing \*9 and unmute or mute by pressing \*6.  
15 There appears to be nobody calling in; I will close the  
16 public comment.

17 Any Members of the Board wish to comment?

18 JIM MONTEVERDE: I have no comment.

19 BRENDAN SULLIVAN: Laura, are you -- Jason any  
20 comment on this?

21 JASON MARSHALL: No comment, Mr. Chair.

22 BRENDAN SULLIVAN: All right, Gus any --

1           CONSTANTINE ALEXANDER: No comment.

2           BRENDAN SULLIVAN: Nothing? And I have no  
3 comment. It appears that they have made an attempt to, do  
4 the investigation, as raised by the Planning Board via  
5 Community Development.

6           So let me make a motion, then, to grant the relief  
7 requested, as per the application, to modification the  
8 existing T-Mobile wireless communication involving replacing  
9 eight existing antennas, adding four additional antennas,  
10 replacing four existing RRHs and adding four additional RRHs  
11 within the existing leased area.

12           The Board finds that modification of its existing  
13 telecommunications facility at the site proposed by the  
14 petitioner does not substantially change the physical  
15 dimension of the existing wireless tower or base station at  
16 such facility within the meaning of Section 6409 of the  
17 Middle Class Tax Relief and Job Creation Act of 2012, also  
18 known as the Spectrum Act.

19           The Board moves that the petitioner be granted the  
20 special permit it is seeking, subject to the following  
21 conditions:

22           That the work proceed in accordance with the plans

1 submitted by the petitioner, and initialed by the Chair.

2 The Chair will also make conditions that  
3 regarding the painting as noted in the Community Development  
4 communique that the existing pseudo-brick be changed to the  
5 matte color. And this will give it somewhat of a stealth  
6 appearance -- that that be a condition of granting of this  
7 relief.

8 That upon completion of the work, the physical  
9 appearance and visual impact of the proposed work will be  
10 consistent with the photo simulations submitted by the  
11 petitioner and initialed by the Chair.

12 That the petitioner shall at all times maintain  
13 the proposed work, so that its physical appearance and  
14 visual impact will remain consistent with the photo  
15 simulations previously referred to.

16 That should the petitioner cease to utilize the  
17 equipment approved tonight for a continuous period of six  
18 months or more, it shall promptly thereafter remove such  
19 equipment and restore the building on which it is located to  
20 its prior condition and appearance, to the extent reasonably  
21 practical.

22 That the petitioner is in compliance with, and

1 will continue to be in compliance with -- all aspects -- 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 Further, in as much as the health effects of the  
6 transmission of electromagnetic energy waves is a matter of  
7 ongoing societal concern and scientific study, the special  
8 permit is also subject to the following conditions:

9 That the petitioner shall file with the  
10 Inspectional Services Department each report it files with  
11 the federal authorities regarding electromagnetic energy  
12 waves emissions emanating from the petitioner's equipment on  
13 the site.

14 Each such report shall be filed with the  
15 Inspectional Services Department no later than 10 business  
16 days after the report has been filed with the federal  
17 authorities.

18 Failure to timely file any such report with  
19 Inspectional Services shall ipso facto terminate the special  
20 permit granted tonight.

21 That in the event that at any time the federal  
22 authorities notify the petitioner that its equipment on the

1 site, including but not limiting to the special permit  
2 granted tonight, fails to comply with the requirements of  
3 law, or governmental regulations -- whether with regard to  
4 the emissions of electromagnetic energy waves or otherwise -  
5 - the petitioner, within 10 business days of receipt of such  
6 notification of such failure, shall file with the  
7 Inspectional Services Department a report disclosing in  
8 reasonable detail that such failure has occurred, and the  
9 basis of such claimed failure.

10 The special permit granted shall also ipso facto  
11 terminate if any of the petitioner's federal licenses are  
12 suspended, revoked or terminated.

13 That to the extent that that a special permit has  
14 terminated, pursuant to the foregoing paragraphs a) and b),  
15 the petitioner may apply to the Board for a new special  
16 permit, provided that the public notice concerning such  
17 application discloses in reasonable detail that the  
18 application has been filed because of a termination of the  
19 special permit pursuant to paragraph a) or b) above.

20 Any such new application shall not be deemed a  
21 repetitive petition, and therefore will not be subject to  
22 the two-year period during which repetitive petitions may

1 not be filed.

2 That within 10 business days after receipt of a  
3 special permit for the installation of the equipment subject  
4 to this petition, the petitioner shall file with the  
5 Inspectional Services Department a sworn affidavit of the  
6 persons in charge of the installation of equipment by the  
7 petitioner with a geographical area that includes Cambridge  
8 stating that:

9 a) he or she has such responsibility, and

10 b) that the equipment being installed pursuant to  
11 the special permit we are granting tonight will comply with  
12 all federal safety rules, and will be situated and  
13 maintained in locations with appropriate barricades and  
14 other protections, such that individuals, including nearby  
15 residents and occupants of nearby structures, will be  
16 sufficiently protected from excessive radiofrequency  
17 radiation under federal law.

18 Also under granting of the special permit, it  
19 appears that the requirements of the ordinance can be met  
20 with the granting of this relief.

21 That traffic generated or patterns of access or  
22 egress would not cause congestion, hazard, or substantial



1 change in the established neighborhood character.

2 The Board finds that continued operations of or  
3 development of adjacent uses, as permitted in the zoning  
4 ordinance, will not be adversely affected by the nature of  
5 the proposed use.

6 There would not be any nuisance or hazard created  
7 to the detriment of the health, safety and/or welfare of the  
8 occupant of the proposed use, or to the citizens of the  
9 city. In fact, there would be a public benefit for an  
10 enhance telecommunication facility at this location.

11 For other reasons the proposed use would not  
12 impair the integrity of the district or adjoining district.  
13 The Board notes other telecommunication facilities on this  
14 locus or nearby, or otherwise derogate from the intent and  
15 purpose of the ordinance.

16 On the motion to grant the relief requested, Mr.  
17 Alexander?

18 CONSTANTINE ALEXANDER: I vote in favor of  
19 granting, subject to the conditions that you've put into  
20 motion.

21 BRENDAN SULLIVAN: Jim Monteverde?

22 JIM MONTEVERDE: I vote in favor.

1 BRENDAN SULLIVAN: And Laura Wernick?

2 LAURA WERNICK: I'm not voting on this continuing  
3 case.

4 ANDREA HICKEY: Gus, it's -- I'm sorry, Brendan,  
5 it's Andrea Hickey. I think I am on this case.

6 BRENDAN SULLIVAN: All right. Andrea.

7 ANDREA HICKEY: Yes, Mr. Chair. I am voting in  
8 favor of granting, in this case.

9 BRENDAN SULLIVAN: Okay, Jason are you sitting on  
10 this one?

11 JASON MARSHALL: I am, Mr. Chairman, and I vote in  
12 favor of granting. Thank you.

13 BRENDAN SULLIVAN: Sullivan votes in favor. Five  
14 affirmative votes. The relief is granted. Thank you. All  
15 set.

16 [ALL vote YES]

17 CHRISTOPHER ALPHEN: Thank you very much, Members  
18 of the Board.

19 BRENDAN SULLIVAN: Yep.  
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1 \* \* \* \* \*

2 (6:28 p.m.)

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

6 BRENDAN SULLIVAN: All right. I don't know,  
7 Counsel you're back with us?

8 CHRISTOPHER ALPHEN: I am.

9 BRENDAN SULLIVAN: Okay.

10 CHRISTOPHER ALPHEN: I am, Mr. Chairman.

11 CONSTANTINE ALEXANDER: Welcome back.

12 CHRISTOPHER ALPHEN: [Laughter].

13 BRENDAN SULLIVAN: Okay. What is the -- how do  
14 you want to proceed?

15 CHRISTOPHER ALPHEN: So Mr. Chairman, we  
16 understand your concerns, and I was able to speak with my  
17 clients. We will continue the hearing.

18 And I would just state, again for the public  
19 record, that I do believe that we're still entitled under a  
20 special permit under 40A Section 6 under the statute. But  
21 nevertheless, we will continue and have that conversation  
22 with the building Commissioner.

1 I'd also respectfully ask that, you know, we likely  
2 will apply for a variance in order to, you know, have any  
3 sort of continued dispute with the City. And we would ask  
4 that we get on the public hearing list as soon as possible.

5 And if the Board could so accommodate to get us on  
6 the Board on the hearing list sooner than later with a  
7 variance application, it would be much appreciated.

8 BRENDAN SULLIVAN: Okay. That is an  
9 administrative procedure. I think that in the scenario of  
10 events that you may want to have a conversation with the  
11 Commissioner, come to an agreement as to the path forward.  
12 And if that is a variance route, then that would have to be  
13 applied for. You can ask Staff to accommodate you as  
14 quickly as possible.

15 The question is regarding this particular case to  
16 continue this, it would appear that it's going to continue  
17 probably for two months, I would think. And that would be  
18 March 24. Now, if -- we have two meetings in March or one?

19 OLIVIA RATAY: One.

20 BRENDAN SULLIVAN: There's one meeting in March,  
21 so -- there are two. If you were to determine that you need  
22 a variance, you can apply for it. If you didn't apply for

1 it, you could be on the -- maybe the first meeting, and --  
2 well, maybe not.

3 But the opening now is March 24. I could possibly  
4 get on that night, and this one here would be scheduled for  
5 the same night. If you are heard on the variance, this one  
6 could then be -- could go away. But to keep the case alive,  
7 we would continue it until March 24.

8 CHRISTOPHER ALPHEN: Okay.

9 BRENDAN SULLIVAN: Is that fair, or not?

10 CHRISTOPHER ALPHEN: Yeah, understood. I think,  
11 you know, we wish this was brought up to our attention,  
12 obviously, sooner. But it is what it is, and we'll move  
13 forward.

14 BRENDAN SULLIVAN: Okay. So on the motion then to  
15 continue this matter until March 24, 2022, on the condition  
16 that the petitioner -- I think you already have signed a  
17 waiver of a statutory hearing -- the decision to be rendered  
18 at the statutory time near the --

19 CONSTANTINE ALEXANDER: You should have one --

20 BRENDAN SULLIVAN: We have it? Okay.

21 CONSTANTINE ALEXANDER: The waiver.

22 BRENDAN SULLIVAN: The waiver.

1           CONSTANTINE ALEXANDER: This case was continued  
2 before.

3           OLIVIA RATAY: Should have been --

4           BRENDAN SULLIVAN: That the posting sign be  
5 changed to reflect the new date of March 24, 2022, and that  
6 should there be any new submittals relating to this  
7 particular case that they be in the file by 5:00 p.m. on the  
8 Monday prior to March 24.

9           CONSTANTINE ALEXANDER: Brendan, I think you want  
10 to make clear that also the time on the new sign be 6:00  
11 p.m.

12           BRENDAN SULLIVAN: The time on the new sign, as  
13 Mr. Alexander pointed out, should be at 6:00 p.m., the  
14 original time. Should there be two cases that particular  
15 night, we would probably hear the public case first vote  
16 over this one here, to see which one basically goes away.  
17 This one may go away. So anyhow, it's sort of an  
18 administrative thing there.

19           So on the motion, then, to continue this matter  
20 until March 24, Mr. Alexander?

21           CONSTANTINE ALEXANDER: I vote in favor.

22           BRENDAN SULLIVAN: Andrea Hickey?

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ANDREA HICKEY: Andrea Hickey yes in favor.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: Wendy Leiserson yes in favor.

BRENDAN SULLIVAN: And Jim Monteverde?

JIM MONTEVERDE: Jim Monteverde voting in favor.

BRENDAN SULLIVAN: And Brendan Sullivan votes in the affirmative, so that's five affirmative votes.

[ALL vote YES]

This matter is continued until March 24, 2022.

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(6:33 p.m.)

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

BRENDAN SULLIVAN: Okay. The next case that we  
will hear is Case No. 149683 -- 2 Frost Street, Unit 2.

ANDREA HICKEY: Mr. Chair, it's Andrea Hickey  
speaking. I believe I was only on the continued cases, so  
I'm going to drop off the meeting?

BRENDAN SULLIVAN: Yeah. You were on this  
particular case.

JIM MONTEVERDE: This is continued.

ANDREA HICKEY: Oh, it is?

JIM MONTEVERDE: Yeah.

BRENDAN SULLIVAN: Yeah.

ANDREA HICKEY: My apologies. I will stay.

BRENDAN SULLIVAN: I'm glad you're here.

ANDREA HICKEY: Thank you.

BRENDAN SULLIVAN: Okay.

CHRISTOPHER ALPHEN: Thank you, Mr. Chairman. For  
the record, Attorney Christopher Alphen; Blatman, Bobrowski



1 & Haverty.

2 With me are the petitioners, Josh and Anna. But  
3 they're showing on the screen there, and we have also have  
4 Axel with SKA also with us in the Zoom, the Architect for  
5 the project.

6 As you may recall, this application was continued  
7 relatively quickly when the Board discovered that there was  
8 a letter of correspondence from the Planning Board asking  
9 that they wanted to review this application.

10 We reviewed that application with the Planning  
11 Board at two public hearings. During the -- between the two  
12 hearings, we met with the Community Development Department.

13 They had some suggestions about design --  
14 specifically to the roof, which Axel will go over. End all  
15 be all was that the Planning Board reversed course and said  
16 that they appreciated the design that we have.

17 What we're seeking is a variance for FAR. The FAR  
18 is going to be 0.01 over. The variance is for -- in this  
19 district is 0.5; we're looking for a variance to have an FAR  
20 of 0.51.

21 This is a modest addition. It's needed for the  
22 applicants' or the petitioners' family members. They're

1 having -- they have two twins, and they need to expand their  
2 living space.

3 We're also seeking a special permit for the moving  
4 of some windows. And with that, I'll turn it over to Axel,  
5 who will go over the plans.

6 AXEL RAMIREZ-PALACIO: Hi. Good evening, Members  
7 of the Board. My name is Axel Ramirez-Palacio. Sam Kachmar  
8 Architects here. We're going to present our project,  
9 located at 2 Frost, Cambridge, Massachusetts. Here we go.  
10 Yes.

11 BRENDAN SULLIVAN: Axel, the issue before was the  
12 design of that third-floor addition, and that I think they  
13 felt that it was not comparable or complimentary to the  
14 existing structure. Is that basically your information?

15 AXEL RAMIREZ-PALACIO: That is correct.

16 BRENDAN SULLIVAN: And so you have redesigned that  
17 third floor?

18 AARON RUBIN: That is correct. We changed it, so  
19 we changed the border, we changed the shape of the upper  
20 level. We met with a member of the CDD like on three  
21 occasions with a little back and forth with him, and with  
22 our clients as well. And prior to that our clients with the

1 neighbors.

2           So we finally found common ground, and all the  
3 parties were agreed -- CDD, our clients, the neighbors  
4 around. So we will come with this presentation. And they  
5 allowed us to go to be here today. So I will continue here.

6           So our plan consists of a renovation in a condo.  
7 This is a building that is owned by a condo association.  
8 Two condos in this building. Condo number 1 has 3833 square  
9 feet. Condo number 2 just 1500 square feet.

10           Our project is based on condo number 2. As you  
11 can see, as a family of five, it's a very small space, and  
12 that's when we became planning the additional footprint in  
13 the making level 3.

14           So we can go to the next sheet, please?

15           SAM KACHMAR: Next slide please?

16           AXEL RAMIREZ-PALACIO: Next page? Next sheet,  
17 please?

18           Well, here you can see an aerial view of the  
19 existing condition on the left side, and the proposed  
20 condition on the right side. And you can notice the  
21 additional footprint on the third level and the main entry  
22 of the house on the side of Roseland Street.

1           Next, please?

2           Here is a street view from Roseland. But I would  
3 like to mention before that there is no intention of any  
4 tree removal. We just didn't draw the -- put our trees on  
5 the model just for visual purposes.

6           But you can see the addition on the third floor on  
7 the left side of the building and the alteration of the main  
8 entry on this elevation.

9           Next, please?

10           This is another street view from the corner of  
11 Roseland and Frost. You can see on the top existing  
12 conditions, and the bottom the proposed design. You can see  
13 pretty much in the main façade on Frost Street a big part of  
14 the façade on Roseland we have no intention of any  
15 alteration.

16           Next, please?

17           Here on the left side, we have here a calculation.  
18 When you -- this residence is located in Residential  
19 District B, but the maximum ordinance for FAR is 0.5. We're  
20 trying to move to 0.51; it's a very de minimis increase in  
21 the footprint.

22           On the right side, we have a floor plan. You can

1 see in red the setback lines, and only effected with special  
2 permit. On the top left, you can see the addition of the  
3 skylight. And that is within the setback lines.

4 Next, please?

5 Here's the north elevation. In the upper part,  
6 you can see existing conditions. On the left, the drawings  
7 were existing conditions. On the right side is a picture of  
8 the existing conditions. On the bottom part, you can see on  
9 the left rendering with our addition on the third floor of  
10 the main entrance. On the right side you can see the area  
11 of relief we're looking at. You know, one's our proposed  
12 elevation.

13 You can see as well on the far right the setback  
14 line from the front rear apartment as well.

15 Next, please?

16 This is the east elevation. Same on the upper  
17 part; you can see existing conditions. Our drawings on the  
18 left, existing condition pictures on the right side. On the  
19 bottom you can see our proposed design with a render on the  
20 left side, and our architectural drawings on the right side.  
21 So on the new addition level 3.

22 Next, please?

1           This is the south elevation. Again, upper part  
2 existing condition, left are drawings of existing condition,  
3 a picture on the left and the right side; on the lower part  
4 you have the proposed elevation showing again the proposed  
5 addition on the third floor. You can see on our  
6 architectural drawings on the right side as well.

7           Next, please?

8           This is the west elevation. In this elevation  
9 there were no more alterations done at all.

10          Next?

11          This is level 0, where you can see the setback  
12 line being pretty far from -- a very small area and  
13 structure on the main entry to the house.

14          Next, please?

15          This is level 1. Again, here you can see the  
16 addition -- part of the additional footprint on the main  
17 entry of the house.

18          Next?

19          Level 2 we're just doing internal renovations, no  
20 addition at all to the footprint.

21          Next, please?

22          Here, you can see on the rectangle the additional

1 footprint that we have to -- we proposed. We would like to  
2 proceed on this one.

3 Next? Here's the roof plan. You can see the  
4 additional roof on the next sheet. We have a QR code that  
5 you can access for a video for steadier conditions and you  
6 can access with the smartphone camera.

7 Next sheet, please?

8 Here we have exterior condition pictures that were  
9 requested by the city of Cambridge.

10 Next?

11 This is the certified plot plan by the requirement  
12 -- requested documentation (sic) as well.

13 Next?

14 And here we have the last -- all the letters of  
15 support from the neighbors, including the next-door  
16 neighbors over at condo number 1. That will be the end of  
17 the presentation. Any questions or back to you, Chris?

18 BRENDAN SULLIVAN: Counsel, you're asking for two  
19 forms of relief, other than the special permit for the  
20 windows. One is going over the FAR. And the other one  
21 would be the height.

22 AXEL RAMIREZ-PALACIO: Right. The height of the

1 building -- the height of the building is already  
2 nonconforming, but we aren't doing any alteration on that as  
3 well.

4 BRENDAN SULLIVAN: All right. So that the  
5 addition would exceed the height allowance also?

6 SAM KACHMAR: The building already exceeds the  
7 allowable height. It's 37.5 feet tall.

8 BRENDAN SULLIVAN: And this is a continuation of  
9 that?

10 SAM KACHMAR: Correct. Mm-hm.

11 BRENDAN SULLIVAN: All right. I have no other  
12 questions at this time. Let me open it to the Board. Mr.  
13 Alexander, any?

14 CONSTANTINE ALEXANDER: I have no questions.

15 BRENDAN SULLIVAN: Andrea, any questions?

16 ANDREA HICKEY: No, Mr. Chair. I have no  
17 questions.

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

20 WENDY LEISERSON: Just a point of clarification,  
21 please. When I was looking at one of your slides in the  
22 beginning, when you pointed out the window that was in the



1 setback line --

2 AXEL RAMIREZ-PALACIO: Yes.

3 WENDY LEISERSON: Was that --

4 AXEL RAMIREZ-PALACIO: Skylight. It says,  
5 "skylight."

6 WENDY LEISERSON: And were --

7 AXEL RAMIREZ-PALACIO: Top right. Top left, I'm  
8 sorry.

9 WENDY LEISERSON: And that's in the main building?

10 AXEL RAMIREZ-PALACIO: It's in the garage.

11 WENDY LEISERSON: Yeah. So what's happening in  
12 the garage? Is that being transformed into living space?

13 AXEL RAMIREZ-PALACIO: Well, we are proposing the  
14 garage, and we can go to the next Level 1. Well, what we  
15 are doing here is we're going to accommodate the garage for  
16 a potential -- you know, storage. The roof is damaged as  
17 well. We have to fix the roof; it's all rotted in the  
18 short-term now.

19 It's going to be used for storage, and as part of  
20 the extension as well of the footprint for the family, this  
21 will become like a little hangout. It's a multidynamic  
22 area. It will remain as the garage. It will remain as the

1 garage, and it will be occupied in -- like in the summertime  
2 it will be occupied as storage for bicycles; little hangout  
3 for the kids is the additional part.

4 But mainly it will be a garage; it will not  
5 change.

6 WENDY LEISERSON: So is this something that needs  
7 to be counted in your table, or was counted in your table?

8 AXEL RAMIREZ-PALACIO: What do you mean? I don't  
9 understand your question.

10 WENDY LEISERSON: I mean, like, is this space  
11 something that, you know, is additional square footage that  
12 -- or somehow needs to be -- is this livable space or is  
13 this -- yeah, it's a question, right?

14 AXEL RAMIREZ-PALACIO: It was included in our  
15 calculations. You can go to the sheet when we have the plot  
16 plan and study on our areas. You can see that that area was  
17 included.

18 WENDY LEISERSON: As living space?

19 AXEL RAMIREZ-PALACIO: Yes. It's in the top area,  
20 on one of the first sheets.

21 WENDY LEISERSON: Okay. Yep. All right. And --  
22 but there's not going to be any kind of plumbing type stuff

1 there? It's just --

2 AXEL RAMIREZ-PALACIO: No plumbing. No plumbing.  
3 No bathroom -- nothing, no.

4 WENDY LEISERSON: Okay.

5 AXEL RAMIREZ-PALACIO: Nothing at all.

6 WENDY LEISERSON: All right. Thank you. No more  
7 questions.

8 AXEL RAMIREZ-PALACIO: You're welcome.

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

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

15 [Pause]

16 Since nobody seems to be calling in, there are  
17 some letters in the file who are in favor -- probably four  
18 or five of the Members of the Board have read them and there  
19 are probably six or seven in the immediate neighborhood who  
20 have no objection to this and support it going through.

21 Let me just sort of make a comment. The funny  
22 thing is on these houses, which this was probably built as a

1 single-family home, and then divided into two condos, which  
2 allow for basically starter homes.

3           And one of the things that happens here on  
4 Thursday nights is then we take what was probably a starter  
5 home for a couple, and then children come and then require  
6 more space which -- what we wind up doing is taking away  
7 some of that starter home status.

8           However -- and of course I don't need to go into  
9 Bobrowski's handbook Fourth Edition 2018, where he basically  
10 -- again cites a number of cases where it is well settled  
11 there's personal hardship. Needing more space is heart-  
12 rendering, but not a proper factor for consideration.

13           However, I think that this Board has been somewhat  
14 sympathetic to families that start and who grow in a  
15 community, who establish roots in the community and  
16 basically contribute to the fabric of the city, and have  
17 come upon a situation where they need to continue that  
18 stability and basically to maintain domestic tranquility.

19           And there's a public benefit for that, to allow  
20 these people to expand the residences and basically stay in  
21 the city. Other than that, there is really -- there are  
22 options, but maybe not very pleasant ones.

1           This particular house has I think -- I don't think  
2 there's anything unusual about the size, shape or topography  
3 of the lot -- all the lots around there are somewhat  
4 similar.

5           However, this particular structure is unique in  
6 the fact that it has a mansard roof and very, very  
7 difficult, challenging even for a good architectural firm to  
8 be able to add some space with the constraints that a  
9 mansard roof places on it.

10           The initial design I thought was not good. This  
11 one here is a lot better, and tasteful, so that -- agree.  
12 And so I would support the granting of the variance, and  
13 also, the special permits to relocate the window. So that's  
14 my thought on that.

15           Mr. Alexander, your thoughts?

16           CONSTANTINE ALEXANDER: I thought that -- actually  
17 you anticipated my thoughts. I was not very --  
18 architecturally -- not at all happy with the original  
19 design. But the changes that have been made -- still have  
20 some problems, but I can understand what's going on.

21           I think the reasons that Brendan has cited for the  
22 granting relief are valid. And so I would vote in favor.

1 BRENDAN SULLIVAN: Okay. Andrea?

2 ANDREA HICKEY: Mr. Chair, I agree with Gus that  
3 you've sort of hit all of the points that were in my head.  
4 This presentation is better than the prior -- not perfect,  
5 but I can live with it. So I do plan to vote in favor, as  
6 presented.

7 BRENDAN SULLIVAN: Wendy?

8 WENDY LEISERSON: Likewise, I intend to follow my  
9 colleagues and vote in favor.

10 BRENDAN SULLIVAN: Jim?

11 JIM MONTEVERDE: Same comments. I agree with my  
12 colleagues.

13 BRENDAN SULLIVAN: All right. Let me make the  
14 motion, then, to grant the relief in question as per the  
15 application and the drawings contained therein. The Board  
16 finds that a literal enforcement of the provisions of the  
17 ordinance would involve a substantial hardship to the  
18 petitioner.

19 The Board finds that there are unusual  
20 circumstances relating to this particular locus; the house,  
21 the challenges of adding some additional much-needed space,  
22 and that the proposal before us is somewhat de minimis to

1 achieve that particular end.

2 That the amount of floor area ratio just tows it  
3 over the line a little bit. Reasonable that the height  
4 violation is in keeping with the existing height of the  
5 house, and does violate the 35-foot limit, but the design is  
6 proper, and in keeping with the continuation of that height.

7 The Board finds that desirable relief may be  
8 granted without substantial detriment to the public good,  
9 and I would incorporate my earlier comments about people  
10 maintaining their residence in the city and contribution  
11 that that makes.

12 The Board finds that desirable relief may be  
13 granted without nullifying or substantially derogating from  
14 the intent and purpose of the ordinance. And the  
15 renovations will improve the neighborhood without any  
16 derogating from the streetscape and/or from the surrounding  
17 neighbors and the properties.

18 So on that motion, then, I will -- I make a  
19 motion, then, to grant the variance based on that motion,  
20 and also, the submittals for the record.

21 Mr. Alexander?

22 CONSTANTINE ALEXANDER: I think we want to make it

1 clear that the vote in favor is subject to the work  
2 proceeding in accordance with the plans that have been  
3 submitted and you've initialed.

4 BRENDAN SULLIVAN: Yeah. Those -- thank you --  
5 and those are dated 01/18/22, is that correct? There are  
6 three sets in the plans, in the files here, so.

7 CHRISTOPHER ALPHEN: Axel, when's the latest date  
8 of the plans?

9 AXEL RAMIREZ-PALACIO: 01/18/22 is the correct  
10 one, yes.

11 BRENDAN SULLIVAN: 01/18/22?

12 AXEL RAMIREZ-PALACIO: Yes.

13 BRENDAN SULLIVAN: Okay. Okay. Mr. Alexander,  
14 your vote.

15 CONSTANTINE ALEXANDER: I vote in favor. We went  
16 through this already.

17 BRENDAN SULLIVAN: We haven't gone through the  
18 lineup yet. I'm sorry, Andrea, you voted for it?

19 ANDREA HICKEY: Yes, yes. Andrea Hickey in favor.

20 BRENDAN SULLIVAN: All right. So then Wendy and  
21 then Jim also. Okay. And Brendan Sullivan too. So on the  
22 motion, then, that the variance is granted.



1           Now onto the special permit, to add or alter  
2 windows within the setback. I think you already touched on  
3 those, and the ones that are going to be changed. Is that  
4 correct?

5           AXEL RAMIREZ-PALACIO: That's correct.

6           BRENDAN SULLIVAN: Okay. So on the motion, then,  
7 to allow for the relocation of windows, it appears that the  
8 requirements of the ordinance can be met with the granting  
9 of the special permit.

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

13           The Board finds that continued operation of or  
14 development of adjacent uses, as permitted in the zoning  
15 ordinance, will not be adversely affected by the nature of  
16 the proposed use changes.

17           The Board finds that there would not be any  
18 nuisance or hazard created to the detriment of the health,  
19 safety and/or welfare of the occupants of the proposed use -  
20 - in fact, it would be enhanced -- or the citizens of the  
21 city.

22           The Board finds that the proposed use would not

1     impair the integrity of the district or adjoining district,  
2     or otherwise derogate from the intent and purpose of the  
3     ordinance.

4             And that the -- for those reasons, I make a  
5     motion, then, to grant the special permit. Mr. Alexander?

6             CONSTANTINE ALEXANDER: I vote in favor, so long  
7     as the vote is -- the special permit would be granted  
8     subject to compliance with the plans we referred to with  
9     regard to the variance.

10            BRENDAN SULLIVAN: Andrea?

11            ANDREA HICKEY: Yes, in favor and supporting the  
12     caveat of Mr. Alexander.

13            BRENDAN SULLIVAN: And Wendy Leiserson?

14            WENDY LEISERSON: Yes in favor with the same  
15     caveat.

16            BRENDAN SULLIVAN: Great. And Jim Monteverde?

17            JIM MONTEVERDE: Jim Monteverde voting in favor.

18            BRENDAN SULLIVAN: Great. Thank you.

19            [All vote YES]

20            The special permit is granted, as per the  
21     application and the drawings.

22            CHRISTOPHER ALPHEN: Thank you very much, Mr.

1 Chairman.

2 BRENDAN SULLIVAN: All right.

3 SAM KACHMAR: Yes, thank you very much.

4 CHRISTOPHER ALPHEN: Thank you.

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(6:57 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Laura Wernick, Jim Monteverde and Jason  
Marshall

BRENDAN SULLIVAN: Okay. The next cases are 33 --  
33-35 Webster. Sitting on this is myself, Mr. Alexander,  
Jim Monteverde, Laura you're sitting on this and Jason  
Marshall you're sitting on the regular agenda?

JASON MARSHALL: Yes, I am. Laura? Laura, are  
you audible?

LAURA WERNICK: Yes. Hello.

JIM MONTEVERDE: There you go.

BRENDAN SULLIVAN: Laura, you're there?

LAURA WERNICK: Yes.

BRENDAN SULLIVAN: Great. Okay.

LAURA WERNICK: Okay. Thank you.

BRENDAN SULLIVAN: All right. The Board will now  
hear Case Number 155114 -- 33 Webster Avenue. Mr. Anderson?

DANIEL ANDERSON: I'm going to let Parviz Parvizi  
introduce himself.

BRENDAN SULLIVAN: Sure. Absolutely.

1           PARVIZ PARVIZI: Hi. Thank you, Mr. Chair. I'm  
2 Parviz Parvizi. That's spelled P-a-r-v-i-z first name, P-a-  
3 r-v-i-z-i last name. I'm the owner of 33-35 Webster Avenue.  
4 With the Chair's permission, I'd like to share some  
5 background.

6           I've lived in Cambridge as an active member of the  
7 community for close to two decades as a renter. In the past  
8 five years, my rent has gone up by over 70 percent. My  
9 partner and I have tried to purchase a home to get some  
10 measure of stability with an eye toward the near future,  
11 when we had looked to have aging grandparents with us.

12           We've submitted numerous purchase offers,  
13 typically over asking price, and lost out, often by hundreds  
14 of thousands of dollars, in what's become a frenzied market.

15           We got to the point where we needed to think  
16 creatively and be open to a place that needed work, and that  
17 we could make our own with some extra effort and sweat  
18 equity. We bought 33-35 Webster with that in mind.

19           We'd like to build our long-term home in the back.  
20 The two existing homes in the front are not in great shape,  
21 and the City's assessor has given them a grade of 4. We'd  
22 like to renovate them to have a multigenerational property

1 with grandparents as they age.

2 Much of what's driving the relief we're asking for  
3 with this set of applications is due to the existing  
4 nonconforming nature of the property and structures.

5 In addition to our planned improvements, we're  
6 able to provide compliance with the zoning ordinance's  
7 parking requirements. We've had to reconfigure 33 and 35  
8 Webster to take out living space to incorporate our new  
9 primary residence and off-street parking.

10 We're looking to improve the two existing  
11 structures for long-term use for our family, which will  
12 require limited relief from the zoning ordinance. I'll hand  
13 things off to Dan Anderson in a moment to walk through the  
14 details.

15 I do want to emphasize that we're staying within  
16 the city's square footage limits. No building is higher  
17 than the maximum that's allowed int district, and we have  
18 more open space than the ordinance requires.

19 I also wanted to share with you my neighborhood  
20 outreach. Starting last fall, I reached out to over 20  
21 neighbors. I hosted an open neighborhood meeting, had met  
22 in person or by phone with all but one direct abutter, and

1 several neighbors who are not direct abutters. The last  
2 abutter corresponded with me in writing.

3 Nobody who I communicated with, other than those  
4 filing with you tonight, has expressed opposition to what  
5 we're covering with the permit applications before the BZA.  
6 Neighbor input has focused on how construction would be  
7 conducted and landscaping.

8 Since learning of some of the opposition filings  
9 on Monday, I have gotten in touch with some of the filers to  
10 better understand their concerns and clarify the exact scope  
11 of my plans. I hope this outreach has helped address some  
12 of their concerns.

13 Through the interactions I've had with neighbors,  
14 I've accommodated for their well-being on things that are  
15 outside the scope of what the zoning ordinance requires, but  
16 just felt like the right thing to do in order to be a good  
17 neighbor -- such as incorporating a deck privacy screen in  
18 the design at 33 Webster, modifying plans for the roof at 37  
19 Webster, planting additional trees, and sharing my plans to  
20 maintain the health and safety of a tree at the back of my  
21 property based on conversations I've had with five different  
22 arborists.

1           Thanks for your time. I'm really excited to be  
2 part of Cambridge as a homeowner, and I'm looking forward to  
3 building deeper connections with the community and with my  
4 neighbors. I'll now hand it over to Dan Anderson, who's the  
5 architect for these buildings.

6           CONSTANTINE ALEXANDER: I'm Mr. Alexander, one of  
7 the Board members. I'd like to have some conversation with  
8 you, before we --

9           PARVIZ PARVIZI: Yeah, please.

10          CONSTANTINE ALEXANDER: -- move on. I must say I  
11 was -- frankly, agree with you about the problems with  
12 trying to buy residential real estate in Cambridge these  
13 days. It's just crazy, period. However, letters -- no  
14 letters of support.

15          There are several detailed, long letters of  
16 opposition, citing all sorts of reasons -- many of which are  
17 tied to the trees on the property and the modifications of  
18 trees. For those -- and that's not technically a voting  
19 issue, the trees, but as you probably know, in Cambridge  
20 these days trees are very, very much in the front people's  
21 minds, and there's a strong movement about anything that  
22 removes trees or damages them or the like.



1           So I'm not -- and I may be wrong, so correct me if  
2 I am -- I think to do some of the tree work that you want or  
3 need, you're going to have to remove some of the roots of  
4 the trees. Is that right?

5           PARVIZ PARVIZI: Yes, so it's actually there's one  
6 tree. And --

7           CONSTANTINE ALEXANDER: But that one tree is --

8           PARVIZ PARVIZI: Absolutely. It's a big tree, and  
9 it's --

10          CONSTANTINE ALEXANDER: Right.

11          PARVIZ PARVIZI: -- actually, like, a wonderful  
12 tree. And so what I did starting in August before really  
13 engaging in any of the planning is I met with several  
14 arborists to just understand what the situation was with  
15 that tree, and if it would even be feasible to build near  
16 it, for the benefit of the neighborhood, for my own safety.

17                 But what they've told me is that there's really no  
18 risk, or very limited risk, to the health of the tree and  
19 the safety of the tree. And if I wanted to be diligent,  
20 what I should do is a few things, which is to AirSpade and  
21 prune the roots of the tree around the excavation zone.

22                 Because one of the things that happens is when you

1 excavate sort of near a tree, the excavators will go in and  
2 dig and they'll grab the roots. And they'll yank them out.  
3 And so they'll grab some roots that are in that excavation  
4 zone, but what's particularly harmful is that they'll pull  
5 out the roots all the way to the tree.

6           So if you use an AirSpade to basically create a  
7 trench around the perimeter, and then an arborist goes and  
8 prunes those roots, what you do is you actually then take  
9 that risk away.

10           You're pruning some roots, just like when you  
11 prune branches you have to be judicious in doing that,  
12 right? If you prune branches and cut off 50 percent of  
13 them, that's going to be really bad for the tree.

14           And also there's a matter of timing and when you  
15 do that. If you do that at a time when the tree is most  
16 sort of alive in warm weather, that's more damaging to the  
17 tree. If you do it in the winter when it's dormant, that  
18 does the least harm to the tree.

19           So in this case, I sort of developed that plan  
20 with the arborists. I chose an arborist. In December, we  
21 actually had that AirSpading and root pruning done. So  
22 anything in terms of construction when it comes to the roots

1 would not cause incremental damage to the tree, because  
2 we've sort of protected that root area from having the sort  
3 of -- the sort of excavators come and yank out the proposed  
4 roots.

5           And then there is a separate set of activities  
6 like pruning the branches -- clearly -- giving, taking care  
7 of the tree as you should anyway. You know, giving  
8 fungicides. It's a Dutch Elm, so there's Dutch Elm -- it's  
9 an elm tree, so there's Dutch Elm disease. So fungicide can  
10 be beneficial, giving macronutrient boosts -- things of that  
11 sort.

12           So -- and then in the conduct of the construction,  
13 there's also a relevant factor there, where what you want to  
14 do is make sure you don't put heavy things and heavy  
15 equipment on top of the root structure that's closest to the  
16 tree, because even if you're not for example digging a hole,  
17 if you're just simply putting a lot of heavy things on top  
18 of the root structure, you compact the roots. And that can  
19 be damaging.

20           So part of the plan also is to basically cordon  
21 off the area around the tree to make sure that no equipment  
22 is sort of placed on it.

1           CONSTANTINE ALEXANDER: There's a letter in the  
2 files, I assume from the arborist you selected. It talks  
3 about things you can do injecting into the -- which you  
4 mentioned, injecting in the roots and the like.

5           But they all -- almost every one of the measures  
6 also talks about you have to get permission from the owner  
7 of the tree.

8           And if those people in opposition have a right to  
9 block you, what are we doing? Inviting you to put a --  
10 allowing you to build -- do the work you want; we're going  
11 to put the trees at risk and putting the structures at risk.  
12 That's what my concern is.

13           PARVIZ PARVIZI: Sure.

14           CONSTANTINE ALEXANDER: I don't know where we are,  
15 and we're not arborists. Or certainly, I am not an  
16 arborist. And are we rolling the dice -- we as a Board, or  
17 me as a Board Member, by allowing this to go forward on the  
18 basis of a lot of uncertainty about the -- even the midterm,  
19 not the long-term -- midterm life of these trees?

20           I'm sympathetic to what you want to do -- no  
21 issues. But I have to consider the other side.

22           PARVIZ PARVIZI: Sure. I don't know if it's

1 helpful. I'm happy to address part of that or --

2 CONSTANTINE ALEXANDER: Yeah. What do you want to  
3 know? I want you to address it.

4 PARVIZ PARVIZI: Yeah. So if you look at that  
5 list, sort of the couple most critical things are the root  
6 pruning. And that's entirely on my property, and that's  
7 been done. That's completed.

8 Then the second thing that's important is the  
9 branch burning. And the tree's a border tree. So it  
10 borders 5 Lilac Court. And Graham and Joe own that. They  
11 are -- they live in Chicago, and act as landlords for their  
12 property. I contacted them the fall, you know, sent digital  
13 copies of the file, et cetera. Didn't hear back other than  
14 initial very quick e-mail.

15 When I learned about their opposition this week, I  
16 did contact them. I had a good conversation with Graham.  
17 Hopefully he -- he was planning on showing up this evening  
18 prior to us speaking to oppose this -- and we talked about a  
19 couple other.

20 One was on the branch pruning, that's something  
21 that he and Joe have done over the years every two years.  
22 And they haven't had cooperation from the property from my

1 property, from the prior owners. And so we talked about how  
2 we would actually work together on that. That's just  
3 something that's beneficial to the tree, regardless of any  
4 construction.

5 And the other activities -- the injections, et  
6 cetera. -- those are sort of beneficial bonus things to do.  
7 They're good things to do. If they had opposition to that,  
8 I'd certainly want to talk it through with them.

9 But when it comes to the conduct of the  
10 construction, I think we've been quite diligent in really  
11 the most critical thing, which is making sure the excavation  
12 doesn't harm the root structure.

13 Much of what else is on that list is certainly  
14 beneficial and helpful, but everything on that list is kind  
15 of going above and beyond kind of the call of duty on this.

16 The initial recommendations were this tree is  
17 really not something that should be harmed by what you want  
18 to do. I just wanted to do the right thing and go above and  
19 beyond that.

20 So to answer your question of, "Is this relevant,  
21 can somebody block this, will the tree just die and there be  
22 harm?" I really don't think so. That's -- from the work

1 I've done, which has been significant, there's very little  
2 reason to believe that to be the case.

3           CONSTANTINE ALEXANDER: Thank you. You're very  
4 good in your comments, and you're responsive to the  
5 questions I'm asking. I'd like to see when we have  
6 questions from the neighbors if they chose to speak, what  
7 they have to say and what you will have to say.

8           PARVIZ PARVIZI: Yeah. I'd love for Graham and  
9 Joe -- hopefully, again, if they have thoughts, hopefully it  
10 was a good, helpful conversation. I know they have, you  
11 know, their own perspectives on things. And no matter what,  
12 you can't have a zero-risk situation. It's not possible to  
13 have zero risk.

14           But in terms of being diligent, you know, I talked  
15 to five different arborists. I hired a national company.  
16 These are people who have reputations to uphold, and they're  
17 not going to come in and do work that's going to just cause  
18 significant harm to the community.

19           CONSTANTINE ALEXANDER: Well, I don't want to  
20 pursue this any longer. Just one final comment. If you've  
21 talked to five arborists and you've pick one arborists, I  
22 don't know what the other four arborists told you. The

1 Board doesn't know. And they tell you the rest of them  
2 agree?

3 I'm not saying they did. I don't have the benefit  
4 of what the other four said to you and why you didn't use  
5 any one of the other four, which makes me a little  
6 suspicious.

7 PARVIZ PARVIZI: Well, for whatever it's worth, to  
8 be fair, I mean this is public testimony and I'll say that  
9 they all said there isn't risk, but in fact the one who I  
10 wanted to work with, because of COVID, didn't have  
11 availability until later in the spring. So I went with  
12 another arborist. So there are at least two that I can  
13 demonstrably show said the same thing, wanted to do the same  
14 work.

15 So as for the other three, I mean I could be  
16 perjuring myself here, but I think I'm a reasonably --  
17 person --

18 CONSTANTINE ALEXANDER: -- to the Board Members.  
19 You made your point. Okay, I want to hear the rest of the  
20 case.

21 PARVIZ PARVIZI: Sure.

22 CONSTANTINE ALEXANDER: And presumably the



1 neighbors who are going to speak.

2 BRENDAN SULLIVAN: Mr. Parvizi -- and also  
3 directed to Mr. Anderson -- there's three distinct cases  
4 here, but in fact it's really, you know, one lot. This is  
5 going to be a condominium setup?

6 PARVIZ PARVIZI: I'm planning to just keep one  
7 property, as opposed to condominiumizing, because it's a  
8 family sort of space.

9 BRENDAN SULLIVAN: So it's going to be one piece  
10 of property, three houses, and a common ownership?

11 PARVIZ PARVIZI: I mean, I haven't gone through --  
12 that's the current plan. I don't know if there's a  
13 background to one path or another in terms of how you guys  
14 regulate this. That's -- currently that's the plan. But  
15 you tell me.

16 DANIEL ANDERSON: Mr. Chair, if I may -- this is  
17 Dan Anderson, Partner at Anderson Porter Design. So Mr.  
18 Parvizi, Parviz owns this piece, simple. So he is developing  
19 this, and there's no reason for him to change the ownership  
20 structure of this. And as far -- in all of our  
21 conversations, there is no intention to do so.

22 And I just would want to make the comment this is

1 a fairly unusual case, three structures on the lot -- two  
2 preexisting, nonconforming structures. But the very first  
3 meeting that I had with Parvizi, I asked him to contact an  
4 arborist, because in our experience, it just requires extra  
5 diligence.

6 We have added additions and structures underneath  
7 canopy using a variety of different methods. But it was  
8 first and foremost in our recommendation that before we even  
9 started design and planning, that he have a clear path  
10 forward with a good arborist.

11 And the conversations that were reported to me we  
12 were as Parvizi described them, all saying that there was  
13 nothing -- there was no risk, but with proper management  
14 they had a clear path forward.

15 BRENDAN SULLIVAN: I'll be quite candid is that  
16 when -- obviously I've been wrestling with for more than a  
17 couple weeks -- have been down to the site three times, four  
18 times, and actually stood in the middle of the yard at  
19 various times in the morning and in the afternoon to see the  
20 direction of the sun, the sunlight, how it would be affected  
21 to the neighbors.

22 And that thought that I came away with and where

1 I'm at is that you bought a site with two houses on it.

2 Yes, they do need some work and what have you, but then  
3 proceeded to basically maximize the site.

4 And by adding that third unit, I understand, you  
5 know, your agenda and your wishes, wants and desires as far  
6 as that being your home and what have you, but I think that  
7 it will have a deleterious effect on the surrounding  
8 properties.

9 And again, my observation of sunlight and the  
10 effect of the buildings on the neighbors is something I am  
11 troubled with and wrestle with.

12 But I'll let you go on with your presentation,  
13 Dan, but it's -- it's a tough sell right now on me, anyway.  
14 But anyhow.

15 DANIEL ANDERSON: No, thank you for your  
16 observations and diligence in going and visiting the site.  
17 It is a tight site. Just as a quick summary, apart from --

18 BRENDAN SULLIVAN: In hindsight -- and again, Mr.  
19 Parvizi, you know, you buy -- again, the site with two  
20 houses on it and you paid x number of dollars, whatever that  
21 is, for those two pieces of property and houses and the  
22 adjoining large lot for the condition that it's in and what

1 you can do with it as-of-right.

2 Now, obviously after you bought it you said, "Aha,  
3 there's a potential here to do whatever." But using the  
4 Zoning Board or a variance as a vehicle to enhance that  
5 initial investment, you know, is really not part of our  
6 charge, nor should it be part of our consideration. It's  
7 really what is beneficial to the site, and/or to the  
8 neighborhood.

9 But again, I think that you bought these -- I  
10 assume -- from the previous owner and the condition that  
11 they were in, what you needed to spend to enhance them,  
12 bring them up to code or modern, livable standards, but only  
13 as-of-right. And not seeking any kind of relief from the  
14 Zoning Board.

15 DANIEL ANDERSON: Well, it -- Mr. Chair, this is  
16 Dan --

17 BRENDAN SULLIVAN: Beyond that -- you know.

18 DANIEL ANDERSON: -- so I think that Parviz has a  
19 slightly different approach and perspective on this. But  
20 let me give a quick rundown of what we're asking for, and we  
21 can engage in a conversation about what those specific  
22 reliefs are, and how they may or may not be acceptable. And

1 it's worth having your input as well.

2 But we're specifically looking at modifications to  
3 number 33, which --

4 BRENDAN SULLIVAN: That's the building on the  
5 right.

6 DANIEL ANDERSON: -- which is the building on the  
7 right. Yeah, so the existing as you're looking at it from  
8 the street, 33 is on the right, 35 is on the left, and  
9 although the application says 35, we've numbered the new  
10 structure at the rear as 37.

11 And fundamentally, the changes were reduction in  
12 gross building area to the front two units to allow for what  
13 was Parviz's primary interest, was building his own single-  
14 family primary residence in the back and renovating the two  
15 structures in the front, the existing structures, for the  
16 extended family as the family comes down to him in future.

17 So the modifications to the two structures in the  
18 front do in fact ask for increases -- specifically 33  
19 converts the existing second-story to a third story in order  
20 to provide the number of bedrooms in there that his program  
21 asks for. And that change is an increase of the exposed  
22 elevation in a nonconforming setback.

1           However, it also removes any window openings from  
2 that. So there's -- we're talking about a foot and a half,  
3 just shy of two feet of side setback on that site. So it is  
4 a tight side setback, but in conversations with neighbors  
5 and abutters, you know, Parviz mentions the application of a  
6 privacy screen on a deck area, and the removal of the one  
7 operable window there.

8           We do have a translucent wall there that can help  
9 provide some light, but the only request there is an  
10 increase in height in the side yard setback.

11           Number 35, which is the one to the left as you're  
12 facing, is an older workers' cottage, which is in rough  
13 shape and has very, very low ceiling heights, and we've  
14 reviewed this with the Cambridge Historic Commission, and  
15 the strategy is in addition to the second-story, which  
16 currently you can't stand up in.

17           And we are providing this as a -- basically going  
18 from a one-and-a-half story structure to a two-story  
19 structure, and currently proposing some change in window  
20 openings to the north, which faces 41 the abutter.

21           The addition of a new structure at the rear,  
22 number 37, is a conforming structure in all respects,

1 including FAR, height, setbacks. The only relief that we're  
2 really asking for is a variance for a guardrail/handrail to  
3 the areaway basement stair access to the lower level.

4 So it would be -- the hardship created or  
5 otherwise is that placing that conforming structure on the  
6 site, placing a new curb cut, which we have in the works  
7 right now as an application with neighborhood approval would  
8 allow there to be conforming parking on the site, conforming  
9 off-street parking.

10 So the strategy employed here is really to meet  
11 Parvizi's desired program to improve and modify the two  
12 existing structures that definitely needed work, and to  
13 create an otherwise conforming single-family primary  
14 residence in the rear.

15 So there wasn't a certain sense of, "Aha, I can do  
16 this to maximize." Rather, how can this site meet the  
17 programming requirements that Parviz has for a long-term  
18 family compound. So we worked at this very diligently, and  
19 I think that the opposition came quite late.

20 Parviz did a lot of outreach, and we didn't see  
21 any letters of opposition or quite honestly even responses  
22 of opposition, apart from conversations around the tree and

1 concerns from Lilac Court about privacy and screening,  
2 really until Monday.

3 So I'm certainly happy to open this up to  
4 conversation with the Board. I do have one particular  
5 request, which is that we were asked to submit the special  
6 permit application for number 35 -- again, the worker's  
7 cottage that's on the left-hand side -- under 8.22.2.

8 Again, same as number 33, in that we were  
9 increasing the height of that nonconforming -- of the  
10 elevation in the nonconforming setback.

11 It does seem that 8.22.1 h) allows as-of-right a  
12 modification, an addition to the second story that further  
13 violates the yard and height width strictly by building  
14 permit. So I would ask that you kind of consider that.

15 Certainly, the -- any issues around window  
16 placement on that side are legitimately special permit, and  
17 Parviz has tried to engage with that conversation. We do  
18 have some opposition from new owners at number 41, and  
19 Parviz had tried to be as engaging on that front as  
20 possible.

21 BRENDAN SULLIVAN: Regarding the previous  
22 statement that you made about just getting a building



1 permit, had you had a conversation with the Commissioner on  
2 that fact?

3 DANIEL ANDERSON: So I -- in terms of a building  
4 permit for number 30 --

5 BRENDAN SULLIVAN: Because it's written as-of-  
6 right.

7 DANIEL ANDERSON: For number 35, is that  
8 specifically what you're asking?

9 BRENDAN SULLIVAN: Yes.

10 DANIEL ANDERSON: Yeah. So I had two different  
11 response. One is first from Ms. Ratay and the second in  
12 conversation with Ms. Ranjit -- with Mr. Singanayagam. He  
13 was -- I'm happy to make the argument for it -- he felt that  
14 the 822.1 h)1) would only apply to extending an existing  
15 roofline.

16 However, so we were not in agreement of  
17 interpretation on that. I put it forward to you that I  
18 believe that that is applicable. But now is not the time  
19 and place to debate that. We're happy to move forward with  
20 just a discussion of the whole piece as special permit.

21 BRENDAN SULLIVAN: Okay. So he has a different  
22 interpretation than you have?

1           DANIEL ANDERSON: So it comes down to the fact  
2 that he thinks that the second-story addition is not  
3 applicable to a half story, he says, through a roof.  
4 However, part 2 says the dormer to the third story, which is  
5 clearly a roof, the half-story.

6           So I find that I don't agree with his  
7 interpretation, I think it is contradictory. But because  
8 this project specifically is raising the roof to add to the  
9 second story. But I can only give my interpretation.

10          BRENDAN SULLIVAN: Dan, on the back Unit 37 --

11          DANIEL ANDERSON: Yes.

12          BRENDAN SULLIVAN: -- where you're seeking a  
13 variance, have you explored an as-of-right solution to --

14          DANIEL ANDERSON: Yes. So we have an as-of-right  
15 -- we do have an as-of-right solution. If we provide a  
16 safety grate to cover that basement access areaway, we don't  
17 need the variance.

18          BRENDAN SULLIVAN: Oh.

19          DANIEL ANDERSON: It's just the guardrail within  
20 the side yard setback as I understand it.

21          BRENDAN SULLIVAN: So you do have the ability to  
22 construct whatever you want without needing a variance?

1 DANIEL ANDERSON: That's correct. And that  
2 includes height above new average grade. So we're well  
3 within that caveat.

4 BRENDAN SULLIVAN: All right. I didn't mean to  
5 take away from some of your thunder here, but the Board  
6 heard it. Did you want any more presentation at all?

7 DANIEL ANDERSON: No, I would open it back to the  
8 Chair and Board for comments. And I'm happy to have all  
9 your observations heard.

10 BRENDAN SULLIVAN: All right. Let me open it up,  
11 then, to Board discussion. Mr. Alexander, any additional  
12 comments?

13 CONSTANTINE ALEXANDER: I want to see if the other  
14 Board Members have anything they want to say at this point?

15 BRENDAN SULLIVAN: Jim Monteverde, any comments at  
16 this time?

17 JIM MONTEVERDE: No comments, thank you.

18 BRENDAN SULLIVAN: And --

19 CONSTANTINE ALEXANDER: Laura.

20 BRENDAN SULLIVAN: -- Laura?

21 LAURA WERNICK: Yes, please. I just want to make  
22 sure I understand. And I think that Mr. Sullivan clarified

1 this, but I just want to go through it. So the 37 could be  
2 done as-of-right, given if you chose to do the grate  
3 coverage, rather than the railing? Otherwise it's as-of-  
4 right?

5 DANIEL ANDERSON: Correct.

6 LAURA WERNICK: That's correct? So -- and then  
7 the two front buildings, are they -- were they being lived  
8 in when Mr. Parvizi purchased the property? Were they  
9 occupied?

10 DANIEL ANDERSON: I don't know.

11 PARVIZ PARVIZI: Yes, they were. They both were.  
12 The one on the left, the smaller 135, the two bedrooms are  
13 upstairs. They have six-foot ceilings at the maximum, and  
14 then the roof slopes down to a little under three feet. So  
15 those are the bedrooms. And they were living --

16 LAURA WERNICK: They're not code, though?

17 PARVIZ PARVIZI: They were certainly  
18 grandfathered. And, you know, to the earlier comments, I  
19 mean, regardless of the thought of -- I don't even want to  
20 kind of try to summarize that earlier thought, but  
21 regardless of the thought of my using the back, that left  
22 side building is just not livable, according to a modern

1 standard as it is, regardless of anything else that's done.

2 It's hard for me to debate that.

3 LAURA WERNICK: So you're in fact improving the  
4 quality of the housing stock, your suggested improvement --

5 PARVIZ PARVIZI: Absolutely. I mean, my long-term  
6 plan is to have my mom live there. Regardless of that, I  
7 would be happy to walk any of you through that place. It  
8 would take about five minutes, because it's quite small. A  
9 six-foot ceiling that goes down to --

10 LAURA WERNICK: No, no, I get it, I get it, I get  
11 it. I'm just trying -- so --

12 PARVIZ PARVIZI: Yeah.

13 LAURA WERNICK: -- on 37 --

14 PARVIZ PARVIZI: Yep.

15 LAURA WERNICK: -- so you're making two bedrooms  
16 that don't meet code will be made to meet code, and will  
17 become livable? At 33, how many bedrooms are there  
18 currently? You're -- it'll be the same number of bedrooms,  
19 they're just as there are now?

20 PARVIZ PARVIZI: Want me to answer that, Dan, or  
21 should --

22 DANIEL ANDERSON: I'm just looking at this

1 quickly. I believe that there are the same number of  
2 bedrooms. Currently there are three bedrooms on the second  
3 floor, and a kind of quasi-livable bedroom, but quite low  
4 ceilings on the third floor.

5 So we're proposing a -- I believe it is the exact  
6 same number of bedrooms.

7 LAURA WERNICK: Again, in that instance you're  
8 making those what you termed, "quasi-livable" into code-  
9 approved rooms?

10 DANIEL ANDERSON: Yeah. It's a very typical, you  
11 know, half-story, you know, 1800 -- late 1800s -- yeah. So  
12 that's not very usable.

13 LAURA WERNICK: So the way I'm seeing is that  
14 you're -- in both of those instances, 33 and 35 you're  
15 improving the quality of the housing stock, making either  
16 the same number of bedrooms or the same number of bedrooms  
17 more livable than they currently are.

18 And the house in the rear, the new house is as-of-  
19 right, or could be as-of-right with minor adjustments?

20 DANIEL ANDERSON: That is also correct.

21 LAURA WERNICK: So okay, that's fine. That's --

22 DANIEL ANDERSON: Yeah.

1           LAURA WERNICK: Yeah.

2           DANIEL ANDERSON: And just to give a little  
3 further piece, the number 33, which is the one on the right,  
4 could be improved not quite to Parviz's satisfaction, but  
5 that dormer ordinance, the 822.1 h)1) would allow an as-of-  
6 right 15-foot dormer on that side.

7           So we're here suggesting that the impact is  
8 appropriate under special permits, as per that basically  
9 third floor renovation to provide relief -- the same number  
10 of bedrooms, but at a more modern and livable capacity.  
11 Thank you.

12           LAURA WERNICK: That was good. I appreciate that  
13 -- that you could have improved the bedrooms and do it as-  
14 of-right with/by making it a dormer, rather than changing  
15 the roof. Is that correct for 33?

16           DANIEL ANDERSON: That is correct.

17           LAURA WERNICK: Yeah. Okay. Thank you. That's  
18 all.

19           BRENDAN SULLIVAN: Jason Marshall, any questions?

20           JASON MARSHALL: At this point, Mr. Chair, given  
21 the extensive discussion that's already occurred, I think  
22 I'd benefit most from hearing public comment.

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

5           If you are calling in by phone, you can raise your  
6 hand by pressing \*9 and unmute or mute by pressing \*6. And  
7 I will allow the speakers up to three minutes to speak,  
8 comment on the case. And I would ask Staff Olivia to  
9 monitor the time. And then at the end of three minutes, we  
10 will then mute.

11           OLIVIA RATAY: Lin Yang?

12           LIN YANG: Am I on?

13           BRENDAN SULLIVAN: Yes.

14           LIN YANG: Okay. So I'll be very brief. So I  
15 will tell another side of the story. I'm the future owner  
16 of 41 Webster.

17           And according to what I can say, they are taking  
18 up space for parking space, but actually they are maximizing  
19 the floor area ratio as they could. So I don't think that's  
20 the right argument.

21           And for the neighboring outreach, I was trying to  
22 say you are raising the roof too high, and what I said is



1 they can do it by right. They will not take my input at  
2 all.

3 And then I have to argue with the Building  
4 Department with the code explanation, and that's why there  
5 are two explanations for them. And then they kind of  
6 started to work with me. So that's that.

7 And secondly, they are not raising a 1.5 floor  
8 building to 2. -- to 2 they're actually raising the height  
9 for 7.2 feet, which is nearly raising it to 2.5 story  
10 height.

11 And also for the code, for the both codes 8.2.22  
12 and .1, they both need to be not detrimental to the  
13 neighborhood. So either way, so we -- I don't think that's  
14 being met.

15 Okay. So other than that, I want to say the  
16 applicant doesn't meet the requirement to the Section  
17 8.22.2.c (sic) where the code requires any enlargement or  
18 alteration of such nonconforming structure. It's not  
19 further in violation of the dimensional requirements. And  
20 the aerial volume is up by 25 percent.

21 And as stated in the petitioner's proposal, the  
22 application increases the height of the building, which

1 further violates setback. So that -- the petitioner  
2 acknowledged by themselves that they're violating the first  
3 requirement.

4 Also, their building is increasing the height of  
5 36.7 percent, and this will most likely result in a  
6 violation for the second requirement.

7 Secondly, as we pointed out in the opposition  
8 letter, the shadow study in the current application is  
9 extremely inaccurate. And that being said, given our  
10 observation in real life, the current structure of 35  
11 Webster already blocks a significant portion of sunlight of  
12 the whole yard and our basement at noon and late fall,  
13 winter and early spring.

14 And any additional increase of the height would  
15 definitely block sunlight for our yard and rooms for a  
16 longer period of time. And we'll have additional negative  
17 impact. We believe this is substantially more detrimental.

18 And thirdly, the height increase, not as the  
19 applicant said, doesn't serve much purpose than design  
20 statement. Like, each --

21 OLIVIA RATAY: 30 seconds.

22 LIN YANG: -- initially, they have two bedrooms

1 on the second floor of 35. But now they are dropping the  
2 entire bedroom. There's only one bedroom there, and all the  
3 other space is open to below and used for demonstration of  
4 the high view. And --

5 BRENDAN SULLIVAN: Thank you very much.

6 LIN YANG: Okay.

7 BRENDAN SULLIVAN: Thank you.

8 OLIVIA RATAY: Graham McMahon?

9 GRAHAM MCMAHON: Hi. Good evening, everybody.

10 Thanks for hearing from me. And nice to be able to see Mr.  
11 Parvizi as well. As he mentioned, we've had some  
12 conversations. We were very worried about this property for  
13 many reasons brought up by my colleagues and the other  
14 neighbors in our conversations.

15 But the three primary issues that we're worried  
16 about are the height of the structure and its effect on  
17 shading and light access to our property, which is directly  
18 to the south of the 37 structure.

19 Number two, we're genuinely worried about the  
20 integrity of the tree and the unnecessary risk to that  
21 integrity by proceeding with the large development plan in  
22 this what has traditionally been an open-field space.

1           And number three, we're alarmed at the position of  
2 the windows in the balcony, which in their current  
3 formulation look directly into our property into the main  
4 living space into it. And those windows are extremely tall  
5 and large and face specifically into the property.

6           So it substantially and detrimentally affects the  
7 integrity of our experience of Cambridge and the property  
8 that we've owned since 2005.

9           So we have real worries about this new, large  
10 structure being placed, and feel like the Zoning Board  
11 should facilitate our efforts to ensure that it's modified  
12 to an acceptable extent to be within the character of the  
13 neighborhood, without affecting the neighbors so  
14 substantially.

15           And we appeal to you for your help in helping us  
16 navigate this position of this particular property. Thank  
17 you.

18           OLIVIA RATAY: Scott Kenton?

19           SCOTT KENTON: Hello? Hello? Hello, hello?

20           BRENDAN SULLIVAN: Yes, proceed.

21           CONSTANTINE ALEXANDER: You're on.

22           SCOTT KENTON: Okay, yeah. Hi. I'm Scott Kenton.

1 I am one of the partners who live -- who owns the property  
2 next door at 45 Webster. And, you know, as has been  
3 mentioned, we have a concern in general about the overall  
4 density of the project.

5 But two things come to mind and one is just the  
6 consideration which between -- of the access, the driveway  
7 between 33 and 35.

8 It's very tight, and in my experience, it might be  
9 a good idea, whether or not this application moves ahead or  
10 not, you know, tonight or another time, that the applicant  
11 speaks to the Fire Department and someone in Fire Prevention  
12 to determine whether there is going to be some issues with  
13 that access for the Fire Department, especially with the new  
14 construction going into the back.

15 And it would be sort of unfortunate if, you know,  
16 the Fire Prevention comes back with a necessary revision,  
17 and then you would have to come back to the Board. So I  
18 just want to mention that.

19 But the main objection that we next door have, I  
20 think, is to the work being done to 35, which I call, "The  
21 Worker's Cottage" which is, you know, essentially a historic  
22 structure.

1           My understanding is that in the past, the amount  
2 of work that's being done completely dismantling the second-  
3 floor half-story and the complete roof would have required  
4 the Historic Commission to have purview over it.

5           I did have a discussion with the Historic folks,  
6 and they made clear there has been a rule change  
7 unofficially about demolition of percent of roof structure  
8 so that they do not have any purview for a public hearing by  
9 Historic, although reading between the lines, I got a sense  
10 that they wish they did have purview over it.

11           And our concern is that that structure has -- is  
12 just being completely blown out of proportion. It is going  
13 from around 19-foot to the ridge to around 28 feet.

14           So it's an increase of about 40 percent in height.  
15 It's affecting -- you know, our property -- the shadow  
16 study, as had been mentioned. It just seems excavate. It's  
17 going to have a radical change to the streetscape -- you  
18 know, notwithstanding any design considerations, just the  
19 massing.

20           And we really have a concern about that. So  
21 that's.

22           BRENDAN SULLIVAN: Okay.

1           CONSTANTINE ALEXANDER: Is that all?

2           OLIVIA RATAY: John Hall?

3           JENNA AND JOHN HALL: Hi. This is Jenna Hall and  
4 John Hall. We live directly across from 35 and 33. We live  
5 at 36 Webster Ave, and we've lived here for -- well, since  
6 1999. So we've seen a lot of change in the neighborhood.  
7 And we welcome new neighbors.

8           We do have some concerns about the structures in  
9 front. We feel that they are too close together. I'm  
10 really surprised that any modification can be made to the  
11 little house. I mean, it should probably just be taken  
12 down. I know one of the Board Members has seen the space,  
13 it's extremely, they're extremely close together.

14           And one of my concerns is about crowding and  
15 density of the neighborhood. We have had four large  
16 buildings put up to the left of 35, and I worry that there's  
17 fire danger.

18           Because we have had a history of fires in the  
19 neighborhood -- you know, 2017 17 houses burnt down. We had  
20 a huge fire just a few weeks ago, and then there was another  
21 fire around the corner from us yesterday. So there's a lot  
22 of fire in the neighborhood. And we're very concerned about

1 the closeness of the houses.

2 I'm also very concerned about the large, open  
3 windows that are being put on the front of 33. Those will  
4 look directly into our property. It looks like Florida  
5 ceiling glass on three floors. It's really out of character  
6 with the neighborhood, and it's also just really daunting to  
7 think about those large neighbor -- large windows on the  
8 front, you know.

9 We live in the city. We love this city. We're  
10 not asking for, like, country-level privacy, but those  
11 windows are really, really big and open.

12 And then I'm also just concerned about all of the  
13 construction on three different buildings simultaneously.  
14 We, as I mentioned, have just lived through a period of,  
15 like, four or five years or total redos around us -- new  
16 construction.

17 It's been a constant noise. Our house shakes  
18 constantly. It's -- there's -- I'm worried about damage to  
19 our foundation, some of the pounding. Our house will  
20 literally shake, and this has been going on for years. It's  
21 very, very disruptive. So I'm also just concerned about  
22 that.



1           So my two points are the mitigation of the noise  
2 and the damage and the, you know, volume of the  
3 construction, but also crowding, density, privacy and fire  
4 risk. Did you have anything else to add?

5           JOHN HALL: Uh-huh.

6           JENNA HALL: Okay. Thank you.

7           OLIVIA RATAY: Graham McMahon?

8           LEON SUN: This is Leon Sun. This is -- we're  
9 actually -- I'm here with my wife, Zi Wang. We are the co-  
10 owners of 6 Lilac Court. We abut Mr. Parvizi's property,  
11 kind of on the -- towards the east side. We're owners of  
12 this long kind of courtyard to which the big American elm  
13 tree has a large portion of its canopy shading our yard.

14           And so I just want to give a little background  
15 about, you know, American elm trees and why this tree is so  
16 important. Now, this is a tree -- you know, my father is a  
17 plant biologist, and he actually -- I talked to him about  
18 kind of the danger of this tree. And so this is a decent  
19 tree.

20           Now, unfortunately in North America, it's been in  
21 decline really due to Dutch Elm disease, as Mr. Parvizi's  
22 mentioned earlier, and this is -- the root system of this

1 tree in particular based on my father is that, you know, it  
2 only reaches, you know, three to four feet under the ground.  
3 It's quite shallow.

4 And, you know, we were in discussion with Mr.  
5 Parvizi about, you know, root pruning and how careful that  
6 should be done. And the fact that it's already been done  
7 during our discussion was surprising to us.

8 And, you know, our main concern is that based on  
9 the design, the root pruning has already occurred. And that  
10 it's occurred essentially, you know, without our notice, and  
11 that because of the pruning that's already been done, you  
12 can imagine if you take the root system -- if you take a  
13 part of a chair off, or a stool, the chair will be unstable  
14 and fall towards the opposite end, if the heavy -- you know,  
15 wind would blow.

16 And so essentially, you know, this would blow  
17 directly onto our property. Even though we're not the owner  
18 of this tree, we worry that the tree would directly fall on  
19 our property in our yard or on our deck, you know, when we  
20 are outside on our deck.

21 And the fact that the pruning had already been  
22 done really worries us that, you know, maybe not immediately

1 the tree will be in danger, but maybe down the line that the  
2 tree might fall with strong wind, and fall on our property  
3 and cause property and personal harm.

4 ZI WANG: So this is Zi Wang, also a co-owner of 6  
5 Lilac Court. Two things that I want to add for the Board to  
6 consider first is that Mr. Parvizi argued that the buildings  
7 are in very poor condition. However, they are currently  
8 both occupied by renters, according to our previous  
9 conversations.

10 And if those buildings can be occupied by renters  
11 -- especially, like, short-term renters from VRBO, then I  
12 think it's probably not in super bad condition that  
13 definitely needs, like, a gut renovation that elevates the  
14 floor.

15 And secondly, I would also like to raise your  
16 attention on the gross floor area that's being computed from  
17 the plan. According to my understanding of the Zoning  
18 Ordinance -- I think it's like number 10.47.1 -- I believe  
19 that the indoor garage should also be counted towards the  
20 total gross floor area, but they're not. And similarly, for  
21 some balconies that have roofs, they're not counted towards  
22 the total gross floor area.

1           So I think -- I really hope that the Board of  
2 Zoning Appeal will consider redoing it very carefully.

3 Thank you.

4           BRENDAN SULLIVAN: Goodnight. Thank you for your  
5 comments. There is no other calls coming in, and I will  
6 cease public comment at this time. Let me turn it back to  
7 Mr. Anderson. Do you have any comments, or shall I turn it  
8 over to the board?

9           DANIEL ANDERSON: No, I think that there are a few  
10 comments there -- some are predominantly questions of  
11 clarification. Certainly, on the issues raised by the  
12 abutters to the north that are predominantly in terms of the  
13 sun shadow studies, we had done an initial sun shadow study  
14 based strictly on observable pieces.

15           We didn't have -- as that was a relatively new  
16 construction, we did not have access to public documents of  
17 exact placement. And so objections came on Monday this past  
18 week. We worked with parties making those corrections.

19           Essentially, yes, there is shadow impact on 41,  
20 which sits directly to the north of number 35. So that  
21 increase of height does increase shadows predominantly in  
22 the solstice -- I'm sorry, the equinox -- and obviously in

1 the winter solstice.

2 The impacts, however, in terms of our assessment  
3 are that they predominantly impact, obviously, the yard,  
4 which is going to be impacting in those seasons pretty much  
5 anyway. Come up the side face of the building, it is a two-  
6 story addition at that portion, with a roof deck at the  
7 third floor.

8 And the -- according to our sun shadow studies,  
9 which we I believe Parviz distributed, there's no shadow  
10 impact on that deck area.

11 So there's I believe a door, or a glass door and  
12 two windows on that side, which would be impacted after the  
13 fall equinox and really the kind of later and earlier parts  
14 of the day.

15 But you can gauge that from our shadow study which  
16 is included in the set with -- I think the adjustments were  
17 within three or four feet of being accurate but, again, were  
18 based on our best guess placement from direct observation.

19 So the abutters to the south: We very much  
20 appreciate the concerns about the tree.

21 Everything that Parviz has done has been  
22 consistent with the arborist and tree management approach,

1 and we have tried to be as conscientious as possible.

2 I think we've succeeded in keeping the issues of  
3 privacy to those abutters to the south, reducing window area  
4 visibility, and I know that we had discussions neighborhood  
5 meeting with our across-the-street neighbors.

6 And Parvis is interested in obviously having  
7 larger windows. This is a request specifically to the kind  
8 of indoor light quality that he was looking for.

9 But we have a product that is an applied screen  
10 that goes from transparent to opaque with a new technology.  
11 So it's quite possible to have this be very, very private  
12 and either all or portions of these windows be made opaque  
13 at any point.

14 So we tried to be very conscientious about those  
15 design considerations.

16 In terms of our calculations and things, I believe  
17 they are all consistent with the zoning code, which we've  
18 kept with whatever calculations for covered porch areas,  
19 making sure that they don't impact with sizing and placement  
20 and distribution of trellises.

21 So those are square footages that can be  
22 legitimately extruded and are -- as far as I can tell are in

1 compliance with -- fully in compliance with number 37. And  
2 I believe Parviz will start construction on that, hopefully  
3 with the approval of a guardrail, but can move forward with  
4 a grate on that.

5 So I think the root pruning is very much an  
6 anticipation of starting construction on that property. And  
7 obviously, the building permits will be dependent on full  
8 review from ISD, from the Fire Department, from DPW. The  
9 drive will be dependent on the successful application of the  
10 curb cut, which is in process.

11 And I think generally I think it's just a question  
12 maybe to ask the Board in terms of their -- how they're  
13 looking at this, whether they want to rule on these  
14 structures independently, I assume, since they're submitted  
15 as independent applications, we can take them one at a time.

16 And I'd like the opportunity if there does seem to  
17 be significant hesitation in giving approval this evening,  
18 have the opportunity for a continuance to address any  
19 changes that would be of benefit.

20 Essentially, I think although this is a very -- we  
21 do live in a tight urban condition. I would argue that  
22 these structures are not inconsistent with the form and

1 character of the neighborhood, particularly with the  
2 addition of number 41 Webster next door -- very modern in  
3 character.

4 These are of a traditional size and scale, even  
5 though the placement on the lot is tighter, they work with  
6 all of the dimensional requirements, and I'm happy to have  
7 more conversation with the Board and hear any other  
8 comments.

9 Thanks.

10 BRENDAN SULLIVAN: Well, the continuance to have  
11 further discussion with the neighbors and/or to address  
12 issues that were raised is at your option. So it can either  
13 be continued, or we can proceed. So here you would have a  
14 one-time opportunity to request or of course we can proceed.

15 But what I don't want is when we get into the  
16 vote, and all of a sudden then you ask for a continuance.  
17 If you --

18 DANIEL ANDERSON: Yeah, so --

19 BRENDAN SULLIVAN: -- one way or another, that's  
20 all.

21 DANIEL ANDERSON: No, I appreciate that. I guess  
22 I would ask generally what the pleasure of the Board,



1 whether there's -- I certainly for number 37, perhaps we  
2 could discuss that for a moment.

3           If the Board seems disinclined to consider a  
4 variance for that guardrail, I think it would be a -- in the  
5 past that's been a fairly straightforward request. It would  
6 be code required.

7           I think that the grate, while it will suffice is a  
8 less than ideal piece for the project. But I would hesitate  
9 to push this to a vote if the Board felt that that was  
10 inappropriate, since that would put Parviz in terms of  
11 having to wait two years before you could come back and  
12 request that as a separate item.

13           BRENDAN SULLIVAN: Okay. Mr. Alexander, what is  
14 your --

15           CONSTANTINE ALEXANDER: Okay. My thoughts are as  
16 follows: What I feared was going to happen tonight has  
17 happened. There is legitimate -- in my opinion, based upon  
18 what I'm hearing -- legitimate and widespread neighborhood  
19 opposition. It's just not a one-issue case; I've heard  
20 about trees of course, I've heard about privacy concerns,  
21 crowding, design issues.

22           I think what should be done, the case should be

1 continued. And that another arborist be brought in to look  
2 at the issues of the trees and the like. That arborist  
3 should be mutually satisfactory to a neighborhood  
4 representative, and of course the petitioner, and get  
5 another view.

6 I think it sounds like maybe the shadow studies  
7 need to be redone, and there's been criticism of that. I  
8 think the petitioner needs to rethink the design of the  
9 project. I think it is probably too dense -- and I can tell  
10 -- for the property.

11 Maybe there are things to be done that will make  
12 it much more practical for the neighborhood. But all this  
13 means is time and money.

14 But I don't think there's any alternative -- at  
15 least for me. I'm prepared now to vote against granting  
16 relief, based on what is before us tonight.

17 BRENDAN SULLIVAN: Jim Monteverde, your thoughts  
18 on either continuing or proceeding with a vote?

19 DANIEL ANDERSON: Is he there?

20 BRENDAN SULLIVAN: Jim is on mute.

21 JIM MONTEVERDE: Sorry. That's -- I'll leave that  
22 to the proponent whether it's continued or whether it

1 proceeds. I'm definitely ready to act on it if it proceeds.  
2 I concur with Gus's sentiment -- I mean that's my head  
3 talking that it feels too dense.

4 But when I look at the dimensional form, it's  
5 exactly compliant with what the City Standards are, in terms  
6 of the FAR, in terms of the amount of open space. So I  
7 think, you know, they've met the ordinance and can't  
8 complain about that.

9 There are some design issues or architectural  
10 issues, but I don't think that's the purview of this Board.

11 So I'm prepared to vote if that's what the  
12 proponent would like to do.

13 BRENDAN SULLIVAN: Laura, your thoughts as far as  
14 if you wish to continue this and have the issues discussed  
15 and ironed out, or proceed with a vote?

16 LAURA WERNICK: I'm concerned because 37 is as-of-  
17 right. So they can turn around tomorrow and proceed, which  
18 it seems kind of ridiculous for us to hold up something that  
19 can be proceeding without -- these are filed as three  
20 separate comments. So what is it that we're holding up?

21 The density is allowed, the square footage is  
22 allowed, they could in fact at 33 by changing to a dormer,

1 this could be as allowed as well.

2           So there may be some -- I'm just wondering if  
3 there isn't some middle ground here where we go ahead and  
4 allow the handrail at 37 and suggest are there roof -- are  
5 there ways to achieve the bedrooms, make the bedrooms legal  
6 and code-compliant?

7           I think that's the issue is that they're not  
8 compliant at this point -- without having this traumatic  
9 impact on the neighbors, casting as much shade on the  
10 neighbors. I'm not even sure that those two buildings are  
11 the real concern for shadows.

12           So I guess I'm still a little bit -- I'm kind of  
13 in line with Jim here. It appears as if we really,  
14 particularly with 37 and even with the other ones, they fall  
15 within the parameters of the code, as I understand it.

16           BRENDAN SULLIVAN: Okay.

17           LAURA WERNICK: I'm not sure what a continuation  
18 would achieve.

19           BRENDAN SULLIVAN: No, your thoughts are right on.  
20 Jason, what are your thoughts, as far as whether we wish to  
21 continue this matter and have some of those issues further  
22 discussed with the neighborhood or have the petitioner come

1 back and address some of those issues? Or to go forward  
2 with a vote?

3 JASON MARSHALL: Well, I'm happy to share some  
4 early thoughts. I mean, ultimately of course it's up to the  
5 petitioner as to whether they want to seek a vote or not. I  
6 mean, I guess I'll start just by saying, Mr. Parvizi, I'm  
7 glad that you persisted in staying in Cambridge and  
8 acquiring a property.

9 And it is a difficult market to break into, and  
10 it's clear that you have invested a lot of time in meeting  
11 your neighbors and making outreach and exploring different  
12 avenues and alternatives for the property.

13 Unfortunately, as we heard tonight, and what was  
14 in the records, it seems like there are still significant  
15 concerns remaining with respect to the proposal across all  
16 three properties. And there are concerns about shadows with  
17 respect to the height, concerns about privacy with respect  
18 to windows.

19 And again, this isn't exhaustive, this is just  
20 what we've heard. You know, concerns about credibility of  
21 the shadow study. And I would credit the Chair, who  
22 observed some of the shadowing himself.

1           With respect to the proposed variance, you know, I  
2 do struggle a little bit as to whether it meets a legal  
3 standard for substantial hardship and how it relates to the  
4 soil or the shape of the land. Those are threshold issues.  
5 So, again, it's up to you.

6           I'm at this point not inclined to grant the  
7 relief. But it is up to you as to whether you want to  
8 proceed or not. And as to what you can do as-of-right,  
9 obviously you can do it as-of-right.

10           That's not what's before us, though, just acting  
11 on the application that is here in the record as before us  
12 tonight.

13           DANIEL ANDERSON: I appreciate the opinions of the  
14 Board very much. One procedural question on the special  
15 permit: I note that a denial on the variance is very  
16 specific in terms of returning with a substantially  
17 different proposal. Is that same standard held through for  
18 a special permit? What is the --

19           BRENDAN SULLIVAN: Yes.

20           DANIEL ANDERSON: -- read of the Board?

21           BRENDAN SULLIVAN: Yes.

22           CONSTANTINE ALEXANDER: Yes.

1 BRENDAN SULLIVAN: Yes.

2 DANIEL ANDERSON: Same thing.

3 CONSTANTINE ALEXANDER: That's what I say.

4 DANIEL ANDERSON: Same thing. Parviz, I look to  
5 you a little bit --

6 PARVIZ PARVIZI: Oh, yeah.

7 DANIEL ANDERSON: -- this impacts your schedule  
8 more than anything. My sense is that it's a hard sell this  
9 evening. I think that your general approach to this has  
10 really been neighborly, and the conversations to date with  
11 all your Lilac Court abutters and across the street have  
12 been very productive.

13 I think that probably the -- I can't say that you  
14 will be able to satisfy all of the requests of all the  
15 abutters, but I think it goes a long way to engaging in that  
16 conversation.

17 Would you be inclined -- we would be hopeful that  
18 we could be back within a short period of time, but, you  
19 know, it's at the availability of the Board Members who've  
20 heard the case so far.

21 BRENDAN SULLIVAN: To March?

22 PARVIZ PARVIZI: Yeah. Can I be heard here, or --

1 can you guys here me, am I live on this too, or --

2 DANIEL ANDERSON: We can hear you.

3 PARVIZ PARVIZI: Oh, great. Yeah, thanks. First  
4 of all, I just want to thank everyone for engaging the Board  
5 as well as the neighbors. So yeah. It's -- construction's  
6 never fun. I've had construction around me in my time in  
7 Cambridge forever.

8 So I'd certainly appreciate the opportunity for a  
9 continuance. We can explore that path. We can explore by  
10 right options. I really have been trying to be a good  
11 neighbor; certainly 1 and 2 Lilac Court they're directly  
12 next to 33 Webster, and it's been a lot of kind of  
13 engagement and attention making sure that doesn't impact  
14 them.

15 And also, just, you know, in building something,  
16 at least doing it the right way, rather than just the way  
17 that I'm allowed to without having to go in front of a  
18 Board.

19 But I'd greatly appreciate a continuance, and we  
20 can explore both of those paths during the next period of  
21 time, whenever we can get this rescheduled.

22 BRENDAN SULLIVAN: April 14 would be the earliest



1 date.

2 PARVIZ PARVIZI: Wow. Well, it is what it is.

3 BRENDAN SULLIVAN: April 14. Now, can all five  
4 Members who sat on this case be available on April 14?

5 JIM MONTEVERDE: I can be available.

6 BRENDAN SULLIVAN: Jason, are you available?

7 JASON MARSHALL: I'm just checking my calendar  
8 now, Mr. Chair. Give me one minute, please.

9 BRENDAN SULLIVAN: Laura?

10 LAURA WERNICK: I'm also checking here, because I  
11 have some things at the end of March.

12 BRENDAN SULLIVAN: While they're checking, Dan and  
13 Parviz, let me leave you with just a couple of thoughts.

14 The purpose of the ordinance, Section 1.30, "it  
15 shall be the purpose of this ordinance to lessen congestion  
16 in the streets, conserve health, secure safety from fire,  
17 flood, panic and other dangers, to provide adequate light  
18 and air to prevent the overcrowding of land, and to avoid  
19 undue concentration of population. That's one aspect.

20 The other one is a landmark case, Blackman versus  
21 the Board of Appeals of Barnstable, Cambridge Judicial  
22 Court. This court has said repeatedly that the power to

1 vary the application of a zoning ordinance must be sparingly  
2 exercised, and only in rare instances, and under exceptional  
3 circumstances particular in their nature, and with due  
4 regard to the main purpose of the zoning ordinance is to  
5 reserve the property rights of others.

6           The last thing I'll say is that on Section 8.222  
7 d) which is the clarification of the Bellalta decision that  
8 recently came down, that the Board may grant special  
9 permits, alterations or enlargements -- this is also for the  
10 people listening in, who have raised issues about violations  
11 of various aspects of the dimension -- the Board may grant  
12 special permit for the alteration or enlargement of a  
13 preexisting, dimensionally nonconforming, detached single-  
14 family dwelling or two-family dwelling, not otherwise  
15 permitted in Section 8.22.1 above..

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

1 Further, in order to grant the special permit, the  
2 Board of Zoning Appeals is required to find that the  
3 alteration or enlargement shall not be substantially more  
4 detrimental than the existing nonconforming structure to the  
5 neighborhood.

6 And that the alteration or enlargement satisfies  
7 the criteria in Section 10.43.

8 Those are three things to be considered by the  
9 Board, and also, by the applicants in our consideration of  
10 granting relief. We are on for -- I'm sorry, going back to  
11 Jason, are you available on the fourteenth?

12 JASON MARSHALL: I am, yes.

13 BRENDAN SULLIVAN: And Laura?

14 LAURA WERNICK: Yes, I am as well.

15 DANIEL ANDERSON: April 14. Confirmed?

16 PARVIZ PARVIZI: Was that everybody who's  
17 available?

18 BRENDAN SULLIVAN: I'll go check with Laura.

19 PARVIZ PARVIZI: Sorry.

20 LAURA WERNICK: Yes. I am available. Can you  
21 hear me?

22 BRENDAN SULLIVAN: So on the motion, then, to

1 continue this matter to April 14, 2022, at 6:00 p.m. on the  
2 condition that the petitioner sign a waiver of time to a  
3 statutory requirement for a decision -- for a statutory  
4 decision to be rendered thereof, and that said waiver shall  
5 be signed and in the file by a week from Monday.

6 Failure to do so will render de facto denial of  
7 any relief for the three properties, and three cases at  
8 hand.

9 Second, that the petitioner change the posting  
10 sign and we put the new date of April 14, 2022 and the time  
11 of 6:00 p.m.

12 Third, that should there be any changes,  
13 submissions to the file for Case No. 155114, 155115, 155116  
14 regarding 33,35 and 35-37 Webster Street. All changes must  
15 be in the file by 5:00 p.m. on the Monday prior to the April  
16 14 hearing.

17 Any other conditions?

18 On the motion then to continue this matter until  
19 April 14? Mr. Alexander?

20 CONSTANTINE ALEXANDER: I vote in favor.

21 BRENDAN SULLIVAN: Jim Monteverde?

22 JIM MONTEVERDE: [Jim Monteverde] I vote in favor.

1 BRENDAN SULLIVAN: Laura?

2 LAURA WERNICK: Laura Wernick votes in favor.

3 BRENDAN SULLIVAN: Jason Marshall?

4 JASON MARSHALL: Jason Marshall yes in favor of  
5 the continuance.

6 BRENDAN SULLIVAN: The matter is continued until  
7 April 14. See you then.

8 PARVIZ PARVIZI: Thank you.

9 DANIEL ANDERSON: Thank you very much. Have a  
10 good evening.

11 CONSTANTINE ALEXANDER: Since this is a waiver of  
12 time for a decision you have to find the three conditions.  
13 It's a very simple form, and the Inspectional Services  
14 Department will give it to you. It's a printed form.

15 PARVIZ PARVIZI: Oh?

16 CONSTANTINE ALEXANDER: Just make sure you do it  
17 by a week from Monday.

18 PARVIZ PARVIZI: I will. Thank you so much.

19 BRENDAN SULLIVAN: Wendy, you're available for  
20 School Street?

21 WENDY LEISERSON: Wendy Leiserson yes.

22 BRENDAN SULLIVAN: And Laura, you're signing off

1 just for this particular case, is that right?

2 LAURA WERNICK: That's correct. Thank you. Thank  
3 you, Wendy.

4 WENDY LEISERSON: No problem.

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(8:12 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No.  
155685 -- 88 School Street.

MATTHEW LARUE: Hi. Good evening. I'm Matthew  
LaRue. And I'm with my wife, Randa Ghattas. We're  
residents of 88 School Street, and we're both also  
Registered Architects, so we're representing ourselves  
tonight.

We're coming to you because we're undertaking some  
renovations to our house. We've lived in this house for 13  
years, and when we bought it, we understood, you know, it  
was kind of a fixer-upper.

And we undertook some initial phases of  
renovations, including the yard. We did the living areas on  
the first floor. And now we're undertaking what we hope to  
be is our last phase of renovation where we're just going to  
take care of the outside of the house, and also adjust some

1 of the issues on the second and third floor.

2 This house is from the 1880s. It's over 130 years  
3 old. And as part of the work that we're doing, we're hoping  
4 to correct a few of the historical deficiencies that existed  
5 in the house as far as we know from when it was built.

6 Really there's -- and I also want to mention that  
7 we have a family; we have two children who are school age.  
8 And so this house is evolving as the children grown, and  
9 we're growing into it. And so a lot of it has to do with  
10 how we're occupying the third floor, which is kind of the  
11 attic story under the mansard of the house.

12 We're coming to you tonight seeking relief for  
13 three areas. And I think they are pretty minor in our view.  
14 And we'll explain to you what those are, if we could.

15 [Could we switch over, so I can be in focus more?]

16 RANDA GHATTAS: Yes.

17 MATTHEW LARUE: Sorry, Randa. That's better.

18 BRENDAN SULLIVAN: If I can just interrupt?

19 MATTHEW LARUE: I'm sorry.

20 BRENDAN SULLIVAN: You're submitting -- the work  
21 is to be done on the south elevation, is that correct?

22 MATTHEW LARUE: On the south elevation and on the



1 west-facing elevation, correct.

2 BRENDAN SULLIVAN: Now, on the south elevation we  
3 have Study Number 1, Study Number 2, and Study Number 3.

4 RANDA GHATTAS: Yep.

5 MATTHEW LARUE: Yes.

6 BRENDAN SULLIVAN: So what does that all mean?

7 MATTHEW LARUE: So we provided these studies to  
8 you as background, so you could understand the process that  
9 we went through and what we're -- where we ended up, and  
10 what we're proposing to do.

11 The main issue here is with the stair going up to  
12 the third floor and the head height issue. Today it's --  
13 you bump your head when you get up to the third floor,  
14 because you're under the mansard. And our primary goal is  
15 to address that and fix it.

16 At the same time, we're implementing a small study  
17 on the third floor, and we want to take advantage of the  
18 work that we're doing and carve out a little bit more head  
19 height there to make it more useable for us as we evolved to  
20 a work at home situations with the both of us and our  
21 children at times.

22 So these studies represent our efforts to look at

1 how we could address what we understand is language where  
2 the length of dormers on any one side of the house, when  
3 they should not exceed 15 feet.

4 And the studies showed what it would look like if  
5 we tried to do that. And the first one achieves that  
6 wherever it creates the situation where the distance between  
7 the kind of expanded dormer, which fixes the stair problem,  
8 and the existing dormer next to it is very small and creates  
9 a construction constructability issue.

10 And I think it has some long-term maintenance  
11 issues with, you know, the collection of snow and ice in a  
12 small area.

13 And it does effectively change the overall effect  
14 if you add one long dormer, which you would see in the later  
15 elevations.

16 RANDA GHATTAS: And it doesn't give us the study.

17 MATTHEW LARUE: And it doesn't really give us any  
18 better headroom in the study. So that's Study Number 1.

19 If you want to go to the next slide?

20 Study Number 2 says what if we stayed within the  
21 15 feet, and really minimize what we did in the stair, and  
22 adjust the worst part of it? And so that creates a slightly

1 better situation for how to construct two separate dormers.  
2 But it still leaves a part of the stair where the head  
3 height is not code-compliant today, and it would still be a  
4 problem.

5           And then for the next one, Study Number 3, this  
6 was just looking at what if we try to break up the massing  
7 of the dormer, so this is a long dormer? And it just  
8 extends the roofline from the upper slope of the roof in the  
9 middle part of the dormer. And that really -- it doesn't  
10 end up with a code-compliant head height in the stair.

11           So it's really a nonstarter, aside from the fact  
12 that I don't think it really is visually any -- it doesn't  
13 provide a better, visually appealing situation.

14           BRENDAN SULLIVAN: So the question I have is which  
15 of the three studies are you advocating for, and what --

16           MATTHEW LARUE: So neither of them.

17           JIM MONTEVERDE: None.

18           MATTHEW LARUE: If you go to the later elevation -  
19 - correct. And so this one is -- we're proposing to have  
20 one continuous dormer, and it exceeds the 15 feet, but it's  
21 clean, it combines the issue of the stair, head height. It  
22 allows us to get a little bit more usability out of the

1 study space on the third floor.

2 And I think it's overall just a simpler gesture on  
3 the house, and it fits well with the overall design.

4 CONSTANTINE ALEXANDER: I'm sorry, are you --

5 RANDA GHATTAS: And if you'd like to see how the  
6 conditions at the sections -- we also did some sections to  
7 show you what they need; why we're doing what we're doing.

8 So yeah, that one, slide number 24. You can see  
9 what the condition of the stair right now is. It's pretty  
10 problematic in terms of how you go up. You can see --  
11 actually Matt going up and down those stairs.

12 And then what the dormer would do to solve that  
13 head height issue.

14 And if you go to the next section on the next  
15 slide, it actually shows the study condition where we're  
16 taking a -- carving a tiny space for us to work.

17 And in the images below, this is really where the  
18 relief comes from is that little corner on the existing  
19 where we're essentially making the dormer -- it's like 6.7  
20 square feet, it's minor.

21 But it allows us to actually make -- put a desk in  
22 that corner and have some desk space so that we have another

1 -- a second small study for a touchdown space for when we  
2 are all working from home, and there is the plan kind of  
3 shows that as well, how that -- we can actually do a study,  
4 make it work.

5 Because otherwise it's just -- the head height  
6 doesn't work. It's too small. So those sections kind of  
7 explain the logic behind what we're doing. It's not  
8 significant -- yeah, that's --

9 CONSTANTINE ALEXANDER: Are you aware that the  
10 City has dormer guidelines? And one of those guidelines is  
11 that the dormer, single or a pair of dormers, should not be  
12 more than 15 feet long. And as I look at it, I think you've  
13 got about 17 plus feet, but the total proposal -- yes, this  
14 one -- 17 feet, 10 inches.

15 RANDA GHATTAS: Yes.

16 CONSTANTINE ALEXANDER: Can you bring that length  
17 of that dormer to 15 feet?

18 MATTHEW LARUE: Yes, we are aware of it. And  
19 that's why we went through the studies, to see how we can  
20 avoid exceeding the 15 feet.

21 But our understanding, and we feel that that  
22 doesn't create a better situation, for the reason that I

1 explained when we walked through the studies.

2 We understand that you have the ability to still  
3 approve something, even if it doesn't meet the guidelines.  
4 I don't know if --

5 RANDA GHATTAS: I mean, we did -- we did -- I  
6 talked -- I met with Ranjit briefly, and he suggested that I  
7 share these drawings with the Historical Commission. And  
8 they did review them based on some of what we were talking  
9 about.

10 And they said it makes sense based on the  
11 conditions that you have, because we do have that stair that  
12 is problematic, and then if you look at Study #1, which we  
13 could do as-of-right, it's -- I think it's -- I mean, we can  
14 avoid the -- we don't get the study, but it does create a  
15 really odd situation of this really narrow gap between those  
16 two dormers.

17 It's not as clean as an elevation, and the  
18 constructability it's really narrow. I mean, we're leaving  
19 very little structure between them. So it gets complicated.

20 BRENDAN SULLIVAN: Olivia, could you pull up --  
21 the floor plan of the third level. I'm just trying to  
22 figure out what is that room between W7 and W8?

1           OLIVIA RATAY: Between what? Sorry, I can't see.

2           BRENDAN SULLIVAN: Between -- in other words that  
3 no man's land sort of between the dormer -- proposed dormer  
4 and the existing rendering?

5           MATTHEW LARUE: Yeah. Actually if you go to the  
6 existing third floor plan, Olivia, that might help explain  
7 it a little bit better. So here you can see on the lower  
8 part of the plan the existing dormer, which is in the  
9 bedroom. And then you see the wall that separates it with  
10 the stair. That's that no man's land as you call it.

11          BRENDAN SULLIVAN: So we're looking at the -- on  
12 the left side, so there are basically two bedrooms?

13          MATTHEW LARUE: Right.

14          RANDA GHATTAS: Right.

15          BRENDAN SULLIVAN: At the window on the other side  
16 is the window that would stay, is that correct? In Scheme  
17 1?

18          MATTHEW LARUE: In Study #1, the lower window is  
19 the one that would stay, correct.

20          BRENDAN SULLIVAN: The lower window is the -- is  
21 toward the --

22          MATTHEW LARUE: It's on the left on the elevation.

1 BRENDAN SULLIVAN: Okay. So that would stay, and  
2 then --

3 MATTHEW LARUE: And then the new dormer --

4 BRENDAN SULLIVAN: -- has a 22-inch space.

5 MATTHEW LARUE: Right.

6 BRENDAN SULLIVAN: And then you'd have another?

7 RANDA GHATTAS: Yes. And then you have another  
8 dormer. Because, I mean, we -- my understanding after  
9 talking also with Olivia is that we're allowed to have that  
10 dormer over the stair by Zoning, because it only increases  
11 the volume. So that's an as-of-right condition.

12 MATTHEW LARUE: It's not a square footage  
13 increase.

14 RANDA GHATTAS: It's not a square footage  
15 increase. It's just that extra space -- that no man's land,  
16 as everyone's been describing -- is that we're adding, and  
17 yeah. It just makes for a better elevation and a -- I mean,  
18 it's extending between two existing dormers. So that's what  
19 we're trying to do.

20 BRENDAN SULLIVAN: So basically, Section 5 you're  
21 either going to -- that's that 1-foot-10-space, and then the  
22 proposed dormer then would be over the stairway, is that --



1           MATTHEW LARUE:  If you now -- maybe actually if  
2 you go to the proposed third-floor plan, we'll show you what  
3 our proposal is.

4           I think because the studies were shown first in  
5 the slideshow, it's a little confusing about what we're  
6 actually proposing, but this is -- this plan represents our  
7 proposal, which is to connect the dormers from the bathroom  
8 all the way into what is going to be the study on the bottom  
9 of the plan.  Takes care of the stair in between them.  And  
10 in that no man's land gives us a little bit of head room.

11          BRENDAN SULLIVAN:  All right.  So it's basically  
12 Section 6 would -- if we were to accept Study #1, Section 6  
13 would just be current conditions?

14          MATTHEW LARUE:  Correct.

15          BRENDAN SULLIVAN:  And it would basically  
16 interrupt the layout of the room, the --

17          MATTHEW LARUE:  Right.

18          BRENDAN SULLIVAN:  -- it would be --

19          RANDA GHATTAS:  Yes.

20          BRENDAN SULLIVAN:  -- it would be a -- to the  
21 room, as opposed to --

22          RANDA GHATTAS:  Yeah, we couldn't make it a

1 study, because it's just -- there's not enough room, right?  
2 I worked during the height of COVID when we were all working  
3 in that corner. And you actually end up -- the desk has to  
4 be partly in the bedroom space.

5 So you actually need that extra room from that  
6 corner to make it work, because of the way the mansard roof  
7 comes down. There's just not enough room to get a five-foot  
8 desk in that width.

9 BRENDAN SULLIVAN: One of the original cases  
10 tonight on Frost Street had a mansard roof, and one of the  
11 findings that I thought was that it was very difficult to  
12 create additional space for the mansard roof; that it was  
13 very challenging and so on and so forth.

14 Well, obviously you have come up with a solution  
15 for it. Now I see what the solution is, and I'm not sure  
16 that it's aesthetically pleasing. But on the same token,  
17 for the interior space, it may work. And the alternative  
18 may not work, I guess by leaving that bump in the existing  
19 roofline, inside.

20 JIM MONTEVERDE: Can I ask a -- just throw in a  
21 comment? So can you explain why -- how Study Number 2 does  
22 not work for you?

1           RANDA GHATTAS: Yeah. If you go to Study Number  
2 2, if you zoom in -- actually why don't you just go to the  
3 plan corner, right -- see how you have the plan on the side?  
4 Can you zoom in to that a little bit?

5           JIM MONTEVERDE: I see it. I have it up on  
6 another screen, yeah.

7           RANDA GHATTAS: So -- yeah. So when you step up  
8 the stairs. So you -- actually by the third step --

9           MATTHEW LARUE: The bottom of the stairs is the  
10 lower part of the stair.

11          JIM MONTEVERDE: Right. I understand. Again, I'm  
12 --

13          RANDA GHATTAS: So --

14          JIM MONTEVERDE: -- looking at the elevation. So  
15 that in essence is the section dotted in?

16          MATTHEW LARUE: Yep.

17          RANDA GHATTAS: Yeah.

18          JIM MONTEVERDE: So --

19          RANDA GHATTAS: So by the third step, you're  
20 already at 6'1". The mansard is already bumping; it's  
21 already kind of getting into your space. So as you're --

22          JIM MONTEVERDE: So --

1           RANDA GHATTAS:  -- coming down the stairs, that's  
2 a bump into the middle of the stair.

3           JIM MONTEVERDE:  Okay.  So if you go to your  
4 elevation there that's on the left-hand side for a second?

5           RANDA GHATTAS:  Yeah.

6           JIM MONTEVERDE:  So you count the risers there on  
7 that stair?

8           RANDA GHATTAS:  Right.

9           JIM MONTEVERDE:  Where you lose your headroom?  
10 Step one?

11          RANDA GHATTAS:  You lose it --

12          JIM MONTEVERDE:  Two, three?

13          RANDA GHATTAS:  Yeah, you start to lose it -- I  
14 can do it in the section, it's better in the section.  If  
15 you don't mind, I can -- if you go down, you remember the  
16 sections?  It's easier -- I can't remember how it works.

17                 So if you go to the section, go one -- one riser,  
18 two risers, third riser you're already at 6'1".  At the top  
19 of the third riser, you're already at 6'2".  And then after  
20 that you're -- it goes below.  So if we do the other -- the  
21 two dormers that there's a portion of that that is already  
22 below code head he is.

1           And as you're coming down the stairs, you have  
2 something popping out in your way that is --

3           JIM MONTEVERDE:   Okay.

4           RANDA GHATTAS:   -- I mean it's --

5           JIM MONTEVERDE:   So --

6           RANDA GHATTAS:   -- it's an unfortunate condition.

7           JIM MONTEVERDE:   No, I understand.   So you have 20  
8 pounds of stuff in a 10-pound-bag?

9           RANDA GHATTAS:   Yes.

10          JIM MONTEVERDE:   Right?   Between your study, the  
11 stair and the bathroom.

12          RANDA GHATTAS:   Yeah, it's just --

13          JIM MONTEVERDE:   I understand the bathroom window  
14 you really don't change.   You just potentially --

15          RANDA GHATTAS:   Yeah.

16          JIM MONTEVERDE:   -- stylistically revise it?

17          BRENDAN SULLIVAN:  Mm-hm.

18          RANDA GHATTAS:   Yes.

19          JIM MONTEVERDE:   And the mansard or whatever you  
20 want to do about the stairs to give you headroom and you  
21 really need it for that whole length on that elevation --  
22 that south elevation.

1           MATTHEW LARUE: Technically, to comply with code  
2 you need it for all but one foot of that.

3           JIM MONTEVERDE: Yeah. And like you showed in  
4 your Scheme 1?

5           MATTHEW LARUE: Yeah.

6           RANDA GHATTAS: Yeah.

7           JIM MONTEVERDE: Correct?

8           RANDA GHATTAS: Yeah, actually Scheme 1 goes all  
9 across the entire stair.

10          JIM MONTEVERDE: Yeah.

11          RANDA GHATTAS: It just doesn't capture the study  
12 area.

13          JIM MONTEVERDE: Right.

14          RANDA GHATTAS: So it means that you just don't  
15 have that study.

16          JIM MONTEVERDE: Right. And that was noncompliant  
17 at -- what is that, that's 15', 16'1"?

18          RANDA GHATTAS: It's seven --

19          JIM MONTEVERDE: Of dormer?

20          RANDA GHATTAS: -- yeah, that one's still --

21          JIM MONTEVERDE: 12'9" and 3'4"?

22          RANDA GHATTAS: Yeah, it's still -- if you're

1 considering -- I don't -- I've heard it different ways, but  
2 if the combination of those two dormers is still more than  
3 15 feet --

4 JIM MONTEVERDE: No, I get it, I get it.

5 RANDA GHATTAS: So --

6 MATTHEW LARUE: And I think, you know --

7 JIM MONTEVERDE: And given -- sorry, and given you  
8 occupy the entire residence?

9 RANDA GHATTAS: Yes. The two kids -- our two  
10 kids live --

11 JIM MONTEVERDE: Right.

12 RANDA GHATTAS: -- they sleep upstairs, and we  
13 sleep downstairs. And I -- there's the study --

14 JIM MONTEVERDE: No, that's okay. Let me --

15 RANDA GHATTAS: -- that now we use full-time.

16 JIM MONTEVERDE: -- ask my questions. So the bathroom's not  
17 going to move, and the stair's not going to move?

18 MATTHEW LARUE: No.

19 JIM MONTEVERDE: And the dormer is existing,  
20 correct? In other words, you can't -- there isn't another  
21 use for this? It is what it is?

22 RANDA GHATTAS: It is. Exactly.

1 JIM MONTEVERDE: All right. I'm done.

2 BRENDAN SULLIVAN: It really, it appears that  
3 whole wall just needs to be blown out in order to be able to  
4 walk up and down the stairs safely, code-compliant, and that  
5 the window in the room is the window in the room, and then  
6 you've got the windows -- the window in that bathroom, and  
7 then --

8 JIM MONTEVERDE: Mm-hm.

9 BRENDAN SULLIVAN: -- the rest of it just goes in  
10 the stairway.

11 JIM MONTEVERDE: Mm-hm.

12 RANDA GHATTAS: Right.

13 BRENDAN SULLIVAN: For head height to go up the  
14 stairs safely and down again.

15 JIM MONTEVERDE: Correct.

16 BRENDAN SULLIVAN: All right. Jason, any  
17 questions, comments at this time?

18 JASON MARSHALL: No questions or comments at this  
19 time.

20 BRENDAN SULLIVAN: Wendy? Any --

21 WENDY LEISERSON: No questions or comments at this  
22 time.



1 BRENDAN SULLIVAN: Gus, any further comments, no?

2 CONSTANTINE ALEXANDER: Nope.

3 BRENDAN SULLIVAN: All right. Let me open it to  
4 public comments. I'm going to open it to public comment.  
5 Any member of the public who wishes to speak should now click  
6 the button that says, "Participants," and then click the  
7 button that says, "Raise hand."

8 If you are calling in by phone, you can raise your  
9 hand by pressing \*9 and unmute or mute by pressing \*6, and  
10 you will have up to three minutes to comment. There's nobody  
11 calling in. We are in receipt of letters from Eva Sommaripa  
12 --

13 UNIDENTIFIED: Sommaripa, yes.

14 BRENDAN SULLIVAN: -- the owner of 15-17.5 Bishop Allen  
15 Drive.

16 "My property shares a border with 88 School Street.  
17 I have reviewed the renovation proposal and see no problems.  
18 I am in favor of granting the relief."

19 BRENDAN SULLIVAN: There was another letter from  
20 Alexander Schwartz and Halcyone Wise writing in support of  
21 the renovation project. Looking over the design, they  
22 wholeheartedly support. "As their direct neighbors, we

1 enthusiastically support the changes proposed."

2           There is -- well, correspondence that you had  
3 written. And I guess that's it.

4           So I will close the public comment portion. Yep,  
5 okay, that's it. Close public comment. Any other thing to  
6 add at this point?

7           MATTHEW LARUE: No, I just want to point out that  
8 we're also asking for relief on the two porch roofs on the  
9 exterior, which because we're extending the existing one to  
10 help cover the entry porch, hopefully -- we're adding the  
11 other one, which is partially over exterior steps -- it is  
12 also adding a small amount of square footage to our already  
13 noncomplying FAR.

14           BRENDAN SULLIVAN: That's on the west elevation?

15           MATTHEW LARUE: Yeah, the porch roof on the west,  
16 and then on this elevation you can see the roof we're adding  
17 over the south.

18           BRENDAN SULLIVAN: So you're expanding the entry  
19 porch?

20           MATTHEW LARUE: Yes.

21           BRENDAN SULLIVAN: And the attic? All right.  
22 Take it to the Board. Mr. Alexander, your thoughts?

1           CONSTANTINE ALEXANDER: I'm in favor.

2           BRENDAN SULLIVAN: Okay. Jim Monteverde, your  
3 thoughts?

4           JIM MONTEVERDE: I'm in favor. Ready for a vote.

5           BRENDAN SULLIVAN: Wendy?

6           WENDY LEISERSON: Likewise.

7           BRENDAN SULLIVAN: Okay, Jason.

8           JASON MARSHALL: Same here, Mr. Chair. Ready for  
9 a vote.

10          BRENDAN SULLIVAN: Make a motion, then, to grant  
11 the relief requested, as per the plans submitted, and the  
12 supporting statements. Just to be clear, we are approving  
13 south elevation proposed. There is no -- it's not numbered,  
14 but it's dated December 12, is that correct?

15          MATTHEW LARUE: That is correct.

16          BRENDAN SULLIVAN: All right. Initialed by the  
17 Chair, which will include basically a dormer of 17'10.5".  
18 Correct?

19          RANDA GHATTAS: Right.

20          MATTHEW LARUE: Correct.

21          BRENDAN SULLIVAN: Okay. And we are also  
22 approving on the west elevation? Which is again, sheet --

1 not numbered, but initialed by the Chair, and that is for  
2 the standard entryway and the roof structure after that over  
3 it, correct?

4 RANDA GHATTAS: Right.

5 BRENDAN SULLIVAN: The Board finds that the  
6 requirements of the ordinance can be met. The proposed  
7 changes will increase the proposed floor area by 22.3 square  
8 feet.

9 The proposed addition will not result in a change  
10 of use, nor create any new dimensional nonconformities.

11 The Board finds that traffic generated or patterns  
12 of access or egress resulting from what is being proposed  
13 will not cause congestion, hazard, or substantial change in  
14 the established neighborhood character.

15 The Board finds that the changes are somewhat de  
16 minimis and create a better living situation, code-compliant  
17 stairway headroom, which is a benefit to the occupants of  
18 the structure.

19 The Board finds that continued operation of or  
20 development of adjacent uses, as permitted in the zoning  
21 ordinance, would not be adversely affected by the nature of  
22 the proposed use renovation.

1           There would not be any nuisance or hazard created  
2 to the detriment of the health, safety and/or welfare of the  
3 occupants of the proposed use -- in fact it would be  
4 enhanced -- or to the citizens of the city.

5           Further, under Section 8.22 d), that the Board may  
6 grant a special permit for the alteration or enlargement of  
7 a preexisting, dimensionally nonconforming, detached single-  
8 family dwelling, or two-family dwellings not otherwise  
9 permitted, but not the alteration or enlargement of an  
10 already nonconforming use, provided that there is no change  
11 in use, and that any enlargement or alteration of such  
12 preexisting, nonconforming, detached single-family dwelling  
13 or two-family.

14           They only increase a preexisting dimensional and  
15 nonconformity, but does not create a new dimensional  
16 nonconformity.

17           In order to grant, the Board is required to find -  
18 - and the Board does find -- that the alteration or  
19 enlargement shall not be substantially more detrimental to  
20 the existing nonconforming structure to the neighbor, and  
21 that as stated, the alterations or enlargement satisfies the  
22 criteria in Section 10.43.

1           On the motion, then, to grant the relief  
2 requested, Mr. Alexander in favor. Jim Monteverde voted in  
3 favor. Laura, you -- I'm sorry, you're not sitting on it.  
4 Wendy in favor. Jason voted in favor. Brendan Sullivan  
5 votes in favor. All five affirmative votes.

6           [All vote YES]

7           BRENDAN SULLIVAN: The special permit is granted.

8           RANDA GHATTAS: Thank you very much.

9           MATTHEW LARUE: Thank you.

10          BRENDAN SULLIVAN: Good luck.

11          WENDY LEISERSON: This is Wendy Leiserson. I will  
12 be turning things over to Laura again. Thank you very much.

13          BRENDAN SULLIVAN: Thank you.

14          WENDY LEISERSON: You're welcome.

15          BRENDAN SULLIVAN: Stay well.

16          CONSTANTINE ALEXANDER: Thanks, Wendy.

17          BRENDAN SULLIVAN: Thank you very much for your  
18 time again.

19          WENDY LEISERSON: Sure.

20          LAURA WERNICK: Thank you, Wendy.

21          WENDY LEISERSON: You're welcome.

22

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(8:39 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Jim Monteverde, Laura Wernick and Jason  
Marshall

BRENDAN SULLIVAN: Okay. Who's presenting it?

Sam?

SAM KACHMAR: Mr. Chairman, my name is Sam  
Kachmar. I'm from SKA. I'll be presenting the case. I'm  
here with our clients, Dan and Elizabeth Sterner.

BRENDAN SULLIVAN: Okay. It's yours.

SAM KACHMAR: Okay. I'd like to let Dan and  
Elizabeth introduce themselves, and then I'll run us through  
the drawings.

BRENDAN SULLIVAN: Sorry, yep.

DANIEL STERNER: Hey, everyone. We're -- I'm Dan  
Sterner. This is my wife, Elizabeth Libert. We're the  
owners of 43 Reservoir Street. Elizabeth has been a  
Cambridge resident off and on since 2007. I've lived here  
since 2011. We purchased this house in 2016, and we've been  
kind of slowly renovating it, trying to be sensitive to the  
historical nature of the neighborhood.

1           And we're proposing to put a garage in the side  
2 yard setback, and that's the project before you this  
3 evening. And I'm going to turn it over to Sam Kachmar to  
4 speak about the project.

5           SAM KACHMAR: Thanks, Dan. Olivia, could you  
6 bring up the drawings? Thank you very much. My name is Sam  
7 Kachmar. I'm a Principal here at SKA. I'm here with Mike  
8 Fields, Axel Ramirez and Steven Hoheb from our studio  
9 representing Dan and Elizabeth. Thank you, Members of the  
10 Board, for your time. We'll take you through our request.

11           Here on the first slide, on the left you can see  
12 the photograph of the existing conditions of the house.

13           Then on the right you can see a render of the main  
14 house with the proposed carriage house pushed further down  
15 and back into the site.

16           Next slide, please?

17           On this slide, you can see an existing axonometric  
18 of Reservoir Street, with the carriage house set in the  
19 driveway.

20           Next slide, please?

21           And on this sheet, you can see the proposed  
22 carriage house to replace the existing carriage house, set



1 further into the property and moving further back from the  
2 adjacent properties on Reservoir Street, and keeping it on  
3 the same plane as the existing nonconforming carriage house.

4 Next slide, please?

5 On this sheet, you can see the existing  
6 streetscape photo on the top, and the proposed streetscape  
7 render on the bottom -- not really much changed from the  
8 front from the street side.

9 Next slide, please?

10 And on this sheet, you can see the existing zoning  
11 calculations for the property. The existing FAR for the  
12 house is 0.2. We're raising it to 0.25, approximately half  
13 of the allowable FAR of 0.5 in the A-1 District.

14 The existing open space on this lot is 83 percent,  
15 and we're reducing the open space to 77 percent, still well  
16 above the 50 percent requirement in the A-1 District.

17 Next slide, please?

18 On this sheet, you can see our shadow studies for  
19 the property. By pushing the carriage house further back  
20 into the property, we move the shadows cast into the  
21 neighbors' property further into their back yard, bringing  
22 additional light into the immediate back yard.

1           Next slide, please?

2           On this slide, you can see the significant site  
3 plan for the house.

4           Next slide, please?

5           And on this slide, you can see the proposed site  
6 plan. The existing carriage house is outlined in blue. And  
7 the proposed carriage house, in the same plane, showing how  
8 we're pushing the structure further back into the property  
9 in the yard.

10           The site plan also shows the proposed location for  
11 a dry well and French drains to improve the site drainage on  
12 the property.

13           Next slide, please?

14           Here you can see the grading plan from the  
15 landscape architect.

16           Next slide, please?

17           On this slide, you can see the landscape layout  
18 from the landscape architect. Please note there are a  
19 couple of trees missing from the left-hand side of the  
20 landscape plan that were agreed upon with neighbors on  
21 Monday afternoon, after these drawings had been submitted to  
22 the City.

1           They have since been added to the landscape plan.

2           Next slide, please?

3           On the upper left-hand side of this sheet, you can  
4 see the existing carriage house plan. And in the center,  
5 you can see a rendering of the proposed carriage house. And  
6 in the center bottom, you can see the plan of the proposed  
7 carriage house with the green line representing the side  
8 yard setback and the red line representing the property  
9 line.

10           Next slide, please?

11           And on this slide, you can see on the upper left  
12 the roof plan on the existing carriage house. And in the  
13 center, you can see the rendering of the proposed carriage  
14 house.

15           And in the bottom, you can see the upper level of  
16 the proposed carriage house, with the green line showing the  
17 side yard setback and the red line showing the property line  
18 where we're seeking relief.

19           Next slide, please?

20           On this sheet you can see the existing carriage  
21 house roof plan on the left, and an axon of the proposed  
22 carriage house in the center, and the roof plan on the

1 carriage house on the bottom center. We tried to keep the  
2 roofline of the proposed carriage house low by utilizing a  
3 hip roof and dormers, so not to make it too tall to the  
4 neighbors.

5 Next slide, please?

6 On this slide, you can see the existing east  
7 elevation in the upper left, an existing photo of the  
8 carriage house in the upper right. On the lower left you  
9 can see a proposed rendering of the carriage house. On the  
10 lower right you can see the proposed elevation, with the  
11 side yard setback on the property line highlighted in red.

12 Next slide, please?

13 On this slide, you can see the south elevation in  
14 the upper left. On the upper right, you can see the  
15 existing photo. On the lower left you can see the proposed  
16 render of the carriage house. On the lower right, you can  
17 see the proposed elevation.

18 Next slide, please?

19 On this slide, you can see the existing west  
20 elevation in the upper left, the existing photo on the upper  
21 right. On the lower left you can see the proposed render,  
22 and on the lower right you can see the proposed elevation at

1 the side yard setback and the property line highlighted in  
2 the middle.

3 Next slide, please?

4 On this slide you can see the existing north  
5 elevation in the upper left, and the existing photo in the  
6 upper right. Lower left you can see the proposed rendering,  
7 and on the lower right you can see the proposed elevation.

8 Next slide, please?

9 Here you can see the existing site survey.

10 Next slide, please?

11 And on this slide, you can see the existing photos  
12 of the carriage house. We should have six letters of  
13 support in the file from surrounding neighbors, including  
14 direct abutters.

15 We reviewed the existing carriage house with the  
16 Historical Commission and it was approved to be demolished  
17 without a hearing.

18 Thank you for your time and I'd be glad to hear  
19 the insights of the Board.

20 BRENDAN SULLIVAN: One of the I guess questions --  
21 I'll open this up to discussion is why the accessory  
22 apartment?

1           SAM KACHMAR: To be able to have my client's  
2 parents for extended visits.

3           BRENDAN SULLIVAN: I mean, I guess my question is,  
4 is that an accessory apartment with parking, or is it a  
5 structure for parking with an accessory apartment above?  
6 And why the need for an accessory apartment?

7           SAM KACHMAR: The need for an accessory apartment  
8 comes from the client's parents visiting for extended  
9 periods of time. And so this would allow for separate  
10 spaces for our clients to be able to have their parents  
11 visit their grandchildren in the area.

12           CONSTANTINE ALEXANDER: How big would the  
13 accessory apartment be?

14           SAM KACHMAR: I believe it's 700 square feet.  
15 It's under the 900 allowable by the accessory dwelling unit.

16           CONSTANTINE ALEXANDER: So that's the other  
17 question I was getting at.

18           SAM KACHMAR: Yeah.

19           CONSTANTINE ALEXANDER: Perfect.

20           SAM KACHMAR: It's an accessory dwelling unit, and  
21 it meets all the -- we reviewed those elements with Ranjit.

22           BRENDAN SULLIVAN: Section 4.22,

1 "Accessory Apartments" --

2 SAM KACHMAR: Mm-hm.

3 BRENDAN SULLIVAN: -- and the purpose of this  
4 section, "Accessory Apartments" is to allow for the creation  
5 of accessory apartments in all districts. Many large  
6 existing single- or two-family dwellings or other accessory  
7 buildings on their lots are underutilized.

8 SAM KACHMAR: Yep.

9 BRENDAN SULLIVAN: Alterations of these buildings  
10 to provide one additional dwelling unit on the lot would be  
11 prohibited in most cases, due to the existing floor area  
12 ratio and/or lot area per dwelling unit requirement, Section  
13 5.31.

14 So I guess the purpose of the accessory apartment  
15 is to basically allow greater flexibility in the use of  
16 space in existing large houses, and/or existing carriage  
17 houses that, you know, dot the landscape around the city and  
18 that no longer have carriages, aren't suitable to really  
19 park a car in because of their structure.

20 And so we have occasionally granted relief to  
21 convert those existing buildings into an accessory  
22 apartment.

1           Obviously, you're losing that protection here by a  
2 very small structure, and once that structure comes down,  
3 then obviously you have to comply with all of the prevalent  
4 zoning ordinances.

5           SAM KACHMAR: Right. And that's why we we're  
6 seeking a variance instead of a special permit.

7           BRENDAN SULLIVAN: Right. And then it's a very  
8 large lot. And I guess the other question is is why can't  
9 you build it to conform to the side yard setback?

10          SAM KACHMAR: Right. Well, we could, quite  
11 heavily. The reason to try to pursue it as a variance is  
12 that the driveway initially runs along the side of the  
13 property line.

14          And if we move the structure within zoning  
15 compliance, we create more impermeable space, we create more  
16 driveway essentially. We get a longer driveway. We take  
17 down more of the tree canopy within the property.

18          So the goal of keeping the carriage house, you  
19 know, kind of in within where the existing one is is to  
20 allow to make that as a reduced impact as possible, as well  
21 as to sort of push it slightly downhill so as to not impede  
22 on neighbors in the area, whom we have met with multiple



1 times, both in person and over the phone.

2 BRENDAN SULLIVAN: Yeah. I'm not convinced that  
3 an as-of-right solution isn't warranted. But anyhow, that's  
4 -- I understand, obviously.

5 SAM KACHMAR: Yeah.

6 BRENDAN SULLIVAN: On that existing structure,  
7 that is very, very challenging. In fact, it drops off  
8 dramatically, and really would qualify for wetlands at most  
9 of the season.

10 But anyhow.

11 SAM KACHMAR: We looked at a few different options  
12 where we either expanded the existing carriage house and  
13 pursued that as a special permit -- you know, where it's an  
14 existing nonconformity in a side yard setback. But, you  
15 know, we're well below the allowable FAR, and we could  
16 extend that.

17 But that didn't seem like that was going to be as  
18 beneficial to the overall project. So that was where we  
19 looked at the possibility of rebuilding it new by pushing it  
20 a little bit further down the site.

21 CONSTANTINE ALEXANDER: I have a question.  
22 Section 4.22.21, which Brendan has already cited --

1 SAM KACHMAR: Mm-hm.

2 CONSTANTINE ALEXANDER: That's for the conditions  
3 -- yeah, the conditions for the construction of a building  
4 that's going to have -- or it's for a building that's going  
5 to have an accessory apartment?

6 SAM KACHMAR: Mm-hm.

7 CONSTANTINE ALEXANDER: The first condition is  
8 that the building containing the accessory apartment has  
9 been in existence since, on or before February 1, 2019.

10 SAM KACHMAR: Mm-hm.

11 CONSTANTINE ALEXANDER: You've been in existence  
12 since that, on or before. So I don't know how you meet that  
13 requirement/satisfy that requirement?

14 SAM KACHMAR: Well, I think if we were pursuing  
15 that direction, that would fall under a special permit. And  
16 that's why we're seeking a variance for building a new  
17 structure within the side yard setback.

18 CONSTANTINE ALEXANDER: I'm sorry, you are. I  
19 thought it was a special permit.

20 SAM KACHMAR: No, it's not a special permit.  
21 We're seeking a variance.

22 CONSTANTINE ALEXANDER: Accessory apartment?

1           SAM KACHMAR: Yeah. Right -- as a variance,  
2           whereas normally if we were doing it within the existing  
3           structure, we'd be seeking a special permit for that.

4           CONSTANTINE ALEXANDER: And what's the -- and how  
5           do you satisfy the requirements for a variance, as far as  
6           the accessory apartment?

7           SAM KACHMAR: Right. And so due to the nature of  
8           the slope of the grade on that property, to try to move a  
9           structure inboard within the zoning setbacks would require a  
10          lot of grading. And it would create more, like, water  
11          issues for some of the other neighbors.

12          So our goal is to keep the amount of impermeable  
13          space that we'd be adding on there, and as limited as  
14          possible and increase the overall drainage of the site by  
15          adding dry wells in there.

16          If we moved it, then we have to just add more  
17          driveway. And that just seemed like not the greatest good  
18          for the property overall. The more sort of permeable space  
19          we can keep on that property, the sort of better the  
20          property operates for the city as a whole, in our opinion.

21          CONSTANTINE ALEXANDER: Of course, if we allow  
22          this to happen, this accessory apartment could be a B&B.

1 SAM KACHMAR: Could be what? I'm sorry, sir.

2 CONSTANTINE ALEXANDER: It could be used as a --

3 JIM MONTEVERDE: Airbnb. An Airbnb.

4 SAM KACHMAR: Certainly. That would be a risk it  
5 could be used as an Airbnb. I do not believe that's our  
6 client's intent, and I will certainly allow them to speak to  
7 that, but.

8 CONSTANTINE ALEXANDER: Okay.

9 DANIEL STERNER: Not our intent.

10 BRENDAN SULLIVAN: Jason, any comments at this  
11 time?

12 JASON MARSHALL: Sorry. Always a delay coming off  
13 camera. I appreciate the presentation. You know, SKA it  
14 was really helpful to actually see the different renditions.  
15 And we've actually come to in other cases I appreciated the  
16 SKA work that you've done.

17 I -- in reviewing the case beforehand, and even  
18 now, given the discussion, I am wrestling still with the  
19 legal standards for a variance. And I got to be a little  
20 stickler about it, because the state statute requires us to  
21 press this issue. And maybe you can help me out. I am  
22 struggling with what the substantial hardship is here.

1           And in reading the application, I think it cited  
2 too if the relief is not granted, then it would force you to  
3 cut down a tree and hug the carriage house closer to the  
4 property.

5           And that's -- you sort of lose me there. I don't  
6 understand how that creates a substantial hardship. You  
7 know, it seems like, you know, you still can make beneficial  
8 use of your property without the specific design. And to me  
9 that goes more to the size of what you're looking to do than  
10 it being a hardship.

11           So maybe there's another way to characterize it,  
12 but as the application stands now, I'm struggling to be able  
13 to check that box under the statute.

14           SAM KACHMAR: I think the way we look at it is  
15 where the hardship falls is that by paving more area on the  
16 site, which -- you know, we could do by right\*-, it's  
17 certainly well below the open space calculations. It's a  
18 good-sized lot and has a fair amount of grass and trees on  
19 it, to make a long story short.

20           If we make more impermeable area, we then create  
21 more runoff down reservoir hill towards Huron Ave. And by  
22 doing that, we create a substantial detriment to the rest of

1 the neighborhood. And I guess the hardship in our opinion  
2 was more towards the neighborhood than specifically towards  
3 our clients.

4 So what we are trying to take into consideration  
5 is sure, we could move the carriage house over within the  
6 zoning setbacks, but by doing that, we create a lot more  
7 driveway space, because then we have to create a three-  
8 point-turn, and then we have to build it back out, and  
9 everything, as opposed to being able to come straight down  
10 the driveway and drive right into the garage.

11 And so our hope and our thought was given the  
12 Cambridge Tree Ordinance has given the hope to sort of  
13 protect allowed permeable space, that that's something we  
14 could pursue with this project.

15 JASON MARSHALL: Yeah, and I think that's where I  
16 got caught up. Maybe it was the phraseology of forcing you  
17 to cut down a tree, even if you're going to -- you know, the  
18 ordinance. Of course you wouldn't be forced to do that, you  
19 could choose not to pursue the project at all. So maybe  
20 that --

21 SAM KACHMAR: Sure.

22 JASON MARSHALL: -- maybe that's what tripped me

1 up. I'm trying to -- I'm trying to understand better not  
2 only how it would be a hardship obviously to the current  
3 occupants, but anyone who would live there.

4 And maybe it falls more into, you know, impeding  
5 the ability to, you know, replace a structure that's in need  
6 of rehabilitation, you know, and make better use. So that -  
7 - just to the extent we get to a vote, I think there would  
8 need to be some other rationale for that than what is  
9 currently in the record is what I'm saying.

10 SAM KACHMAR: Completely understood.

11 BRENDAN SULLIVAN: Jim Monteverde, any comments at  
12 this time?

13 JIM MONTEVERDE: Yeah, I have the same issue with  
14 the request, relative to the property line. I'm looking at  
15 the survey, which I'm assuming is an existing survey.  
16 That's the BZA sheet 301. And am I correct that with the  
17 new garage -- this is the current garage, correct? This is  
18 the single vehicle.

19 SAM KACHMAR: Yeah, it's the current one. Right.  
20 Yep.

21 JIM MONTEVERDE: And in the new garage position,  
22 don't you wipe out the three trees that are behind and

1 beside the 10-inch maple, 20-inch maple, 10-inch willow?  
2 Don't those trees come out just to make the new double car  
3 garage?

4 SAM KACHMAR: The 10-inch tree and the 20-inch  
5 maple would come out. And in the plan, you can see where  
6 we're planting out the rest of that site, with a lot of  
7 other arbor vitaes, other maples to replace that and  
8 increase the actual tree area.

9 JIM MONTEVERDE: Yep. I appreciate it. So I  
10 think the position of it, just the fact you're pushing the  
11 garage back further, is what will take the trees out. If  
12 you do step away from the property line, I would certainly  
13 be willing to support it.

14 And as far as the paving, you could certainly do  
15 that in impervious paving. I'm looking at the survey again  
16 -- calls it a brick paver. The photograph looks like it's  
17 now a bituminous paver. You could certainly introduce some  
18 type of impervious paver if you were worried about the  
19 amount of, you know, cover that you have on ground surface,  
20 hard surface.

21 SAM KACHMAR: Right. So -- yeah, currently it's  
22 asphalt. And, you know, right now you come down and you go



1 straight into the garage. So if we slide it down towards  
2 where it says, like, "proposed inspection port" --

3 JIM MONTEVERDE: Yep.

4 SAM KACHMAR: Then you almost enter the garage  
5 from where on that garage element the arrow points up. So  
6 that would make that sort of turn coming around into there  
7 would add -- you know, a fair amount impervious area.

8 Not that we don't have the ability to do that on  
9 the lot; it just seemed like not really the right direction  
10 or the right thing to do if we can keep it a straight shot  
11 on the driveway.

12 JIM MONTEVERDE: Yeah. That's my concern is just  
13 --

14 SAM KACHMAR: Yeah, understood.

15 JIM MONTEVERDE: With aiding the variance. That's  
16 all. I wouldn't -- I would be much -- I would be in favor  
17 of everything else if you could get it from the -- get the  
18 required setback.

19 SAM KACHMAR: Yeah.

20 JIM MONTEVERDE: Setback I have an issue.

21 SAM KACHMAR: Yeah. I understand that. We looked  
22 at those it and pursuing, like, a special permit and

1 extending the garage. But it seemed like given the  
2 condition of the structure that it was better to try to  
3 build new from start.

4 JIM MONTEVERDE: Thank you.

5 SAM KACHMAR: Thank you.

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

8 LAURA WERNICK: I guess I had the same kind of  
9 concern as Jim and Jason both mentioned, and I understand  
10 the hardship -- the kind of discussion about the hardship on  
11 the neighbors, but if you built a smaller, you know, a one-  
12 car garage, a smaller garage you'd be doing less impervious  
13 pavement.

14 So it just feels a little bit incongruous, you're  
15 building a much larger structure and then saying, "Oh, well,  
16 we don't want to shift it away because it's going to create  
17 more impervious surface." So I would certainly like to --

18 SAM KACHMAR: Sorry, go ahead.

19 LAURA WERNICK: I'm sorry?

20 SAM KACHMAR: Just that part of this locating of  
21 the structure also came from some conversations with  
22 neighbors. Over where it says, "Residence B and Residence

1 A-1," there's a neighbor pretty close to that lot line on  
2 the back side.

3 And they didn't -- you know, obviously don't  
4 really want a structure kind of plopped in the back in their  
5 back yard in there. And that was, you know, part of the  
6 siting or part of the -- you know, there's an existing  
7 garage here now, what if we just slide that back or kind of  
8 keep it tucked over here on the side?

9 BRENDAN SULLIVAN: Well, if you're looking at what  
10 is there now, I can only imagine what is proposed. The  
11 garage, the proposed garage is going to be used by the main  
12 house or the carriage house or both? Or --

13 SAM KACHMAR: It could be used by both, providing  
14 both one parking space for the accessory unit, as well as a  
15 parking space for the main house.

16 BRENDAN SULLIVAN: All right. Laura, have you  
17 coupled?

18 LAURA WERNICK: I'm finished, thank you.

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

1           If you are calling in by phone, you can raise your  
2 hand by pressing \*9 and unmute or mute by pressing \*6, and  
3 you have up to three minutes to speak.

4           [Pause]

5           There appears to be nobody calling in. There are  
6 some -- a number of letters in support. John Gilmore, who  
7 lives at 47 Reservoir Street has reviewed the plan, and he  
8 has no problem.

9           He did note that the architect -- the landscape  
10 architect has met with him and Mrs. Gilmore on several  
11 occasions to discuss the plans. They have kindly agreed to  
12 mitigate the effects of the changes on our property through  
13 fencing and planting of trees and shrub. There is a  
14 correspondence from Maggie Currier, 207 Lakeview Avenue.

15           There is a correspondence from Greg and Jamie  
16 Porreca on 57 Reservoir, Unit 1; Hilary and Dan Rasmussen on  
17 8 Hubbard Park Road; Jeffrey Libert and Mardee Brown, who  
18 live at 11 Garden Terrace. They are in favor. Todd Goulet,  
19 20 Madison Street in favor. Lauren Carter (phonetic) on 111  
20 Village Road in favor.

21           Sum and substance of the correspondence; I will  
22 close the public comment at this time.

1           So you're asking for a variance, and basically the  
2 only violation is the side yard setback, is that correct?

3           SAM KACHMAR: That is correct. We're well below  
4 the allowable FAR. We're -- you know, well below the, or  
5 well above the open space requirements in there. The only  
6 thing is the side yard setback.

7           BRENDAN SULLIVAN: And as far as the accessory  
8 apartment, you can put that in there as-of-right?

9           SAM KACHMAR: That is correct, sir.

10          BRENDAN SULLIVAN: A little bit of a hard time  
11 connecting the dots on that one, because you're not putting  
12 it into an existing structure, because the existing  
13 structure is coming down; you're creating a new structure.  
14 So the only request that you're asking for is for a side  
15 yard setback?

16          SAM KACHMAR: We're asking for the side yard  
17 setback, and I believe in the application it says, "to be  
18 used as an accessory dwelling unit?"

19          BRENDAN SULLIVAN: And you're asking for relief  
20 from Section 55.31 and Article 8, which is --

21          SAM KACHMAR: .22.

22          BRENDAN SULLIVAN: -- 8.223.

1           SAM KACHMAR: Correct, sir. I don't know how that  
2 gets you to the -- how does that get you to the accessory  
3 apartments?

4           BRENDAN SULLIVAN: The accessory apartment would  
5 be allowable by a special permit if we were converting  
6 garage, but because we're seeking a variance for the new  
7 structure, that's part of what we're seeking as a variance.  
8 Sorry if I'm misunderstanding.

9           JASON MARSHALL: Yeah. I mean, I think you'd have  
10 to come back to get the special permit or to seek the  
11 special permit. That's how I'm reading it. I mean, you  
12 could seek the variance tonight, but I think you'd have to -  
13 -

14           SAM KACHMAR: Could I -- we spoke with the  
15 Building Commissioner about this. Because originally, we  
16 had applied for both a special permit and a variance.

17                   And we got on the phone with Maria and Ranjit, and  
18 he said just to apply for a variance for this, because a  
19 variance would cover all of those things.

20                   And so that was why we -- we actually amended it  
21 from a special permit and a variance to just a variance  
22 application, per Maria and Ranjit telling us to just amend

1 that that way. And I believe Ranjit's on this call, if he  
2 wants to speak to that.

3 BRENDAN SULLIVAN: Because they'd have a higher  
4 standard?

5 SAM KACHMAR: Correct, yep.

6 BRENDAN SULLIVAN: I don't know. I just --  
7 discussion by the Board? Comments? Some direction?

8 JIM MONTEVERDE: Vote?

9 BRENDAN SULLIVAN: Jim, your thoughts again on if  
10 I can go back to you?

11 JIM MONTEVERDE: Yeah, I'm unfortunately not in  
12 favor.

13 BRENDAN SULLIVAN: Can't hear you.

14 JIM MONTEVERDE: I don't find the --

15 BRENDAN SULLIVAN: Jim, you have to turn up the  
16 volume.

17 JIM MONTEVERDE: Oh, sorry. No, I just have to  
18 bring down my headphone, my microphone. I'm not --  
19 requested for the side yard setback. I don't see the  
20 hardship in locating it the required distance away. I think  
21 I can deal with the impervious or pervious pavers to deal  
22 with the -- you know, ground being able to absorb some

1 water. So I'm not favoring it.

2 BRENDAN SULLIVAN: Okay.

3 DANIEL STERNER: Could I speak to that for a  
4 second? I'm sorry if I'm speaking out of turn here. I'm  
5 Dan, the owner. So -- and I don't know if this qualifies,  
6 I'm not an expert here, as a hardship and I guess we're  
7 looking for a hardship that's particular to my lot, rather  
8 than to any of my neighbors.

9 And, you know, I wish they were here this evening.  
10 You can see it right here on the survey where it says,  
11 "Keeler and Bishop." So they're the home that's kind of  
12 right there. We're going to be looking at the lovely  
13 carriage house if I move it into the middle of my property.

14 So, you know, prior to me buying this house, there  
15 was a woman here, Suzanne Deutsch, who lived here since 1948.  
16 And she lived here from 1948 until she passed, I think, in  
17 2014. We bought the house in 2016.

18 And then we had this big meeting. When I moved  
19 in, I went to all the neighbors. They wanted me to take  
20 down a dead tree that was on the kind of the south side of  
21 the property, but they all told me how they viewed what they  
22 called -- they called this, "the hollow." My big -- I call



1 it, "the jungle." My big forest in my back yard.

2 And it's -- and they all kind of view it as this,  
3 like, you know, it's my property, right? But they view it  
4 as this, like, neighborhood amenity. It's been there. It's  
5 this big open space.

6 And we tried to be sensitive to that in locating  
7 this structure, which is why we tried to tuck it along the  
8 property line as best we could, rather than putting it at  
9 the right middle of an open space that we have, let all my  
10 neighbors enjoy.

11 And then my neighbors to the other side, John  
12 Gilmore, you read his letter. We spent a lot of time with  
13 them and his wife, Elizabeth, is a really avid gardener.  
14 And she's taken to calling my new driveway, "The helipad."

15 And so I don't really want to have to increase  
16 the size of the helipad any further, because I think that's  
17 going to upset her more.

18 So I don't know if that qualifies as a hardship.  
19 And I apologize if it doesn't. That was a lot of the thrust  
20 here was to try to kind of --

21 ELIZABETH LIBERT: Work with our neighbors.

22 DANIEL STERNER: To -- yeah, to be kind of

1 respectful of these people that we've developed a  
2 relationship with over the last five years. I get that I  
3 have space to do more or less whatever I want on my  
4 property.

5 We were trying to solve for a lot of problems  
6 here, and a lot of different opinions. But we landed on  
7 something where, you know, John supported us.

8 You know, I was hoping that David Keeler and  
9 Georgie Bishop would show up this evening. But I know that  
10 I have their support. They want me to solve some drainage  
11 issues in the back and plant some plants.

12 So that really is the genesis of kind of why we're  
13 asking for the relief to locate the structure. Thank you.

14 BRENDAN SULLIVAN: Okay. Thank you. Jim, I'm  
15 sorry, have you compared your thoughts or --

16 JIM MONTEVERDE: No. I'm still where I was.

17 BRENDAN SULLIVAN: Okay. Laura? What are your  
18 conclusions?

19 LAURA WERNICK: Well, I appreciate Dan's last  
20 comment there. I think that's very -- to my mind that's  
21 very important. I'm put off by the size and the scale of  
22 the project, I guess. And that's influencing me. It seems

1 that all the talk of trying to hide it away and minimize  
2 impervious surface while you're trying to build a  
3 significant new structure on your site is kind of trying to  
4 have it both ways.

5 So I'm conflicted here, but I guess I'm ready to  
6 support the project as it's proposed.

7 BRENDAN SULLIVAN: Okay. Jason, your big thoughts  
8 before we take it to a vote?

9 JASON MARSHALL: I can't promise big thoughts, but  
10 I do, Dan, appreciate the additional background. And I  
11 think that you and your team have appreciated this in good  
12 faith, and tried to resolve issues that have arisen.

13 I mean, the discussion tonight, it raises a couple  
14 questions about the substantial hardship is still a  
15 question. I think it needs to be thought through or refined  
16 a little bit.

17 It does seem to still go to the inability to fit  
18 the accessory structure elsewhere on the lot. Has to do --  
19 it seems at least at this point maybe because of size rather  
20 than something relating to the shape, you know, of the lot.

21 And then the question that came up earlier was  
22 around the accessory apartment. So, you know, I don't think

1 I'm prepared to support it. You know, you may want to  
2 pursue a continuance to run some of those issues down --  
3 that's your choice.

4 But I don't think based on what's in the record  
5 that I would vote to support, if it came to that -- you  
6 know, subject to the motion that the Chair would put  
7 forward.

8 BRENDAN SULLIVAN: Okay. All right, I have not  
9 chimed in. I guess the -- my thought is that what is  
10 probably driving this, obviously, is that the existing  
11 structure is a detriment and of no value whatsoever. So we  
12 need to replace it with something. And yes, it would be  
13 nice to have a place to park your cars.

14 So potentially one parking area, one parking spot  
15 doesn't do it, we should do two. Well, if we're going to do  
16 that, then we need more than potentially a parking garage.  
17 And so let's do a grander building.

18 To me, this is really building a house on that  
19 site. And that's where it became an accessory apartment,  
20 and then it just sort of think grew from there.

21 That then gets part of a master landscape plan.  
22 And so the landscape architect gets involved. And again,

1 the wonderful plan. And very accomplished, but I think then  
2 it became a very nice back yard, side yard, and that's what  
3 sort of drove it...

4 Except for the fact that let's kick this as far to  
5 the side yard as we can, because then what it does is it  
6 impedes or takes away from our usable open space, and that  
7 the area facing the garage to the right of it -- if we were  
8 to maintain that 15-foot required setback, would almost  
9 become useless space, and render itself to leaves in the  
10 fall and vegetation during the rest of the year and so on  
11 and so forth.

12 So I think that is -- and yes, I'm not speaking  
13 for you, Sam, but I think that's maybe what drove all of  
14 this. And that if we were to kick it to the side, as close  
15 as we could possibly get, which is what, five feet, is that  
16 what you're proposing?

17 SAM KACHMAR: It's 5'9" away from the property  
18 line, and that's what we're proposing to keep it -- within  
19 the same line, and possibly --

20 BRENDAN SULLIVAN: The streetscape, it makes for  
21 an easier entryway egress, and then it allows us also to  
22 park the cars, obviously, behind the house, which they may

1 be there most of the time, and occasionally this weekend,  
2 you know, you may park a car in the garage or something like  
3 that. So.

4 I think the structure itself is excessive. I  
5 think it's -- and especially when you're asking for relief  
6 and the hardship. I just haven't reconciled the hardship  
7 fact, other than that what is proposed before us -- even  
8 though I think it's excessive -- I think works for the site,  
9 works for accessibility to the structure, which is a direct  
10 shot in off of Reservoir Street, and then allows for  
11 additional parking of vehicles behind the house.

12 Where does that leave me? I'm still troubled by  
13 the size of the structure. But --

14 JASON MARSHALL: The size of the structure is 20 x  
15 30, I believe?

16 BRENDAN SULLIVAN: Sorry?

17 SAM KACHMAR: I believe it's 20 feet x 30 feet on  
18 the structure for the garage.

19 BRENDAN SULLIVAN: Yeah, and again I go back to my  
20 original comment, is --

21 SAM KACHMAR: Sure.

22 BRENDAN SULLIVAN: Is it a garage with an

1 accessory apartment, or is it really meant to have an  
2 accessory apartment with a garage underneath?

3 SAM KACHMAR: Mm-hm.

4 BRENDAN SULLIVAN: And you can say, well they go  
5 hand in hand.

6 SAM KACHMAR: Yeah.

7 BRENDAN SULLIVAN: You know? I don't know in that  
8 neighborhood, you know, how many other -- now, I know that  
9 there are garages in that neighborhood, but are they of this  
10 size, and do they have an accessory apartment to it? I dare  
11 say that they don't.

12 So I think that this here would be somewhat  
13 different and somewhat unique in the neighborhood.

14 SAM KACHMAR: If I may respectfully disagree on  
15 that one, only in the sense that there are some carriage  
16 houses and structures within the neighborhood that I would  
17 say dwarf what we have proposed in there. And, you know,  
18 there's a wide variety of them.

19 But I would say that there is many two-car garages  
20 with a floor above them, you know, tucked throughout. You  
21 know, and some of them have sold off in separate properties.  
22 Like the one down on Worthington just around the corner on

1 Lakeview, you know --

2 BRENDAN SULLIVAN: They didn't ask for relief on  
3 the zoning.

4 SAM KACHMAR: No, no, no, you're correct. I'm  
5 sorry. I'm not meaning to be argumentative; I'm only saying  
6 I think there are a fair amount of garages of that size.

7 BRENDAN SULLIVAN: Okay.

8 SAM KACHMAR: I hope that's --

9 BRENDAN SULLIVAN: All right. Shall I make it to  
10 a vote? There's an option. I can make a motion to grant,  
11 or you can continue this, rethink it, and then come back.

12 SAM KACHMAR: Can I ask a question, Mr. Chairman?

13 BRENDAN SULLIVAN: Yes.

14 SAM KACHMAR: If we tried to renovate the existing  
15 structure as a special permit and kept part of the existing  
16 structure and then built the remainder of the new garage  
17 with that, would that change the dynamic of the request and  
18 push us into special permit territory, as opposed to a  
19 variance?

20 BRENDAN SULLIVAN: Well, I'd have to see it.

21 SAM KACHMAR: Of course, of course. I wouldn't  
22 mean at this hearing. I just mean, like, where --



1           BRENDAN SULLIVAN: It's a different standard.

2           SAM KACHMAR: Exactly. Right. It is the non-  
3 detriment to the neighborhood, as opposed to the hardship,  
4 of course.

5           BRENDAN SULLIVAN: I mean, you could visit that  
6 scenario.

7           SAM KACHMAR: Would it be okay if I just ask my  
8 client real quickly the question? Of course, we're not in  
9 person, so I'll just do it live here, if it's okay?

10          BRENDAN SULLIVAN: Well, did you want to talk to  
11 Dan or Elizabeth?

12          SAM KACHMAR: Yep. I have no problem doing it in  
13 public. Dan, essentially if we take a vote and it gets  
14 voted down, we're dead in the water for two years on the  
15 project.

16          DANIEL STERNER: We'd like to continue. And we're  
17 going to reduce the size of the project, like what we want  
18 anyway. I don't know if we're talking about this accessory  
19 unit, that we don't want, Sam.

20                 So, and then we're just going to reapply with the  
21 garage and we'll have this conversation all over again.

22 Let's just move on and continue. Thank you.

1           SAM KACHMAR: Okay. Mr. Chairman, I think we'd  
2 like to seek a continuance, if that would be okay.

3           BRENDAN SULLIVAN: All right. The date? The  
4 earliest date would be March 24.

5           CONSTANTINE ALEXANDER: We have four cases that  
6 night, right? Don't we have three --

7           OLIVIA RATAY: That one's April 14.

8           CONSTANTINE ALEXANDER: Oh, I'm sorry. You're  
9 right, you're right.

10          BRENDAN SULLIVAN: So March 24?

11          DANIEL STERNER: March 24, yes, works.

12          BRENDAN SULLIVAN: Jim, are you available on March  
13 24? I'm going to ask the same question of Laura and Jason?

14          JIM MONTEVERDE: Yes, I am.

15          BRENDAN SULLIVAN: Laura?

16          LAURA WERNICK: I'm wondering if we can't push it  
17 to the fourteenth, just so that it's the same night as the  
18 other one? I'm not sure. I've got a lot of balls up in the  
19 air during the end of March, the beginning of April.

20                 So I just would prefer to kind of keep them  
21 together, if possible, on the fourteenth of April.

22          BRENDAN SULLIVAN: Um--

1           LAURA WERNICK: I think that was the date we had  
2 proposed for the earlier continuance.

3           SAM KACHMAR: The twenty-fourth was one of them,  
4 and then April was another.

5           BRENDAN SULLIVAN: I'm sorry?

6           OLIVIA RATAY: We've got April 28, but it can't be  
7 the fourteenth.

8           SAM KACHMAR: Okay.

9           BRENDAN SULLIVAN: Not April 14, but it could be  
10 April 28, Laura.

11          SAM KACHMAR: Prefer March 24, if possible.

12          BRENDAN SULLIVAN: I'm sorry. Wait a minute.  
13 Laura, are you available -- I'm sorry -- on the twenty-  
14 fourth of March?

15          LAURA WERNICK: I'm just not sure at this point.  
16 I've got some travel plans that have not been pinned down  
17 yet.

18          BRENDAN SULLIVAN: Okay. So then we're into  
19 April. April 28?

20          LAURA WERNICK: I think that's better for me.

21          JASON MARSHALL: Is the fourteenth available,  
22 where we have the other continued case? Is that, or is it

1 booked after that?

2 OLIVIA RATAY: Well yeah, that's free -- 35  
3 Webster.

4 BRENDAN SULLIVAN: Yeah. Well, it's sort of a --  
5 it's a tight schedule on the fourteenth.

6 CONSTANTINE ALEXANDER: We have already four cases  
7 on that night.

8 BRENDAN SULLIVAN: Four continued cases.

9 CONSTANTINE ALEXANDER: Four continued cases,  
10 that's right.

11 SAM KACHMAR: We'll be quick.

12 BRENDAN SULLIVAN: Yep.

13 SAM KACHMAR: We will be as efficient as we can.

14 BRENDAN SULLIVAN: I'm sorry?

15 SAM KACHMAR: I said if you squeeze us in, we'll  
16 be very efficient with your time, if possible. Promise.

17 LAURA WERNICK: Well, that's what they all said.

18 SAM KACHMAR: We present pretty quickly and  
19 efficiently, I try to. We can be quicker if you guys want  
20 us to. We try to show everything as well.

21 BRENDAN SULLIVAN: I don't know. Let me -- Laura,  
22 you're still checking, is that correct? So you're --

1           LAURA WERNICK: No, I can do the fourteenth, I'm  
2 just uncertain of the March 24. I'm just uncertain. And it  
3 looks like be another couple weeks before I get that pinned  
4 down, so.

5           SAM KACHMAR: Can we tentatively do March 24?

6           BRENDAN SULLIVAN: No, the fourteenth is booked.

7           LAURA WERNICK: You can tentatively do the twenty-  
8 fourth, and if I'm not there, then you would just have four.

9           BRENDAN SULLIVAN: You have the option, then, to  
10 go with four members if Laura's not here on the twenty-  
11 fourth, Sam.

12           SAM KACHMAR: I do not imagine you guys are going  
13 to vote, you know, the same way on another -- yeah, I mean I  
14 think that's --

15           BRENDAN SULLIVAN: But you would need four  
16 affirmative votes.

17           SAM KACHMAR: Yeah. I don't think it's going to  
18 be a contested case. You know, in some ways it's more about  
19 the legality and how we frame this hardship or the special  
20 permit for that.

21           BRENDAN SULLIVAN: All right. So shall we  
22 continue this until the fourteenth?

1 SAM KACHMAR: Twenty-fourth.

2 BRENDAN SULLIVAN: The twenty-fourth?

3 SAM KACHMAR: Yes.

4 BRENDAN SULLIVAN: Now, now this is for this  
5 particular case.

6 SAM KACHMAR: Yes.

7 BRENDAN SULLIVAN: If you decide to go to the  
8 special permit, it's going to be a new case.

9 SAM KACHMAR: Mm-hm. We did initially apply for a  
10 special permit and a variance, and it was amended to become  
11 a variance. So could we maybe talk to maria and Ranjit and  
12 see if we could amend it back to a variance and special  
13 permit?

14 BRENDAN SULLIVAN: But it's going to require a new  
15 publication. It's going to be --

16 SAM KACHMAR: Yeah, of course.

17 BRENDAN SULLIVAN: -- readvertised, I think.

18 CONSTANTINE ALEXANDER: Since the date has been  
19 advertised --

20 SAM KACHMAR: Yep.

21 CONSTANTINE ALEXANDER: -- of the parent case, we  
22 can't change the nature of the relief.

1           SAM KACHMAR: Of course. I'll talk to Maria and  
2 Ranjit and see what the right procedure is to do that, if we  
3 go that route.

4           BRENDAN SULLIVAN: Or the alternative is to talk  
5 to Ranjit and Maria tomorrow and if you wanted to file for a  
6 -- well, again, I don't know how fast you can put those  
7 documents together.

8           SAM KACHMAR: Very quickly.

9           BRENDAN SULLIVAN: Quickly?

10          SAM KACHMAR: Yep.

11          BRENDAN SULLIVAN: Why don't we mark this up,  
12 then, for March 24 as a continued case.

13          SAM KACHMAR: Okay.

14          BRENDAN SULLIVAN: And then see how this evolves,  
15 or the special permit case evolves. And if the special  
16 permit has to be a new case and refiling, and it's not ready  
17 on March 24, we can continue this matter if you wish to the  
18 special permit case, which keeps the case alive. Does that  
19 sound okay?

20          SAM KACHMAR: Sounds very reasonable, Mr.  
21 Chairman.

22          BRENDAN SULLIVAN: Let me make a motion, then, to

1 continue Case #154869, March 24, 2025 (sic) on the condition  
2 that the petitioner sign a waiver to the statutory  
3 requirement for a decision to be rendered on this case and  
4 filing.

5 That such waiver shall be in the file -- signed  
6 and in the file by a week from Monday.

7 That any new plans be in the file by 5:00 p.m. on  
8 the Monday prior to March 24.

9 That the signed -- the posting sign be changed to  
10 reflect the new date of March 24 and the new time of 6:00  
11 p.m.

12 On the motion to continue this matter until March  
13 24, 6:00 p.m., Mr. Alexander?

14 CONSTANTINE ALEXANDER: I vote in favor.

15 BRENDAN SULLIVAN: Jim Monteverde?

16 JIM MONTEVERDE: [Jim Monteverde] I vote in favor.

17 BRENDAN SULLIVAN: Laura?

18 LAURA WERNICK: I vote in favor.

19 BRENDAN SULLIVAN: And Jason? Name and address  
20 Jason Marshall yes in favor of the continuance.

21 BRENDAN SULLIVAN: Brendan Sullivan votes in  
22 favor.



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[All vote YES]

BRENDAN SULLIVAN: The matter is five affirmative votes -- the matter is continued until March 24 at 6:00 p.m. Thank you.

SAM KACHMAR: Thank you, Mr. Chairman.

1 \* \* \* \* \*

2 (9:26 p.m.)

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

6 BRENDAN SULLIVAN: The next case we will hear is  
7 Case No. 156992 -- 88 Garden Street. Mr. Rafferty?

8 JAMES RAFFERTY: Good evening, Madam Chair. For  
9 the record, my name is James Rafferty. I'm appearing on  
10 behalf of the applicant this evening. Present with me are  
11 Robert Ketterson -- K-e-t-t-e-r-s-o-n and Kristin Hill. Mr.  
12 Ketterson and Ms. Hill are the owners of this property. It  
13 has been their home for a few years now.

14 Also present is Ryan Nevidomsky, from the  
15 architectural firm of Catherine Truman Associates. Ms.  
16 Truman is also present. And Lauren Harder, the Project  
17 Manager, is also present.

18 This is a somewhat unique case in several  
19 respects. The house itself at 88 Garden Street, some Board  
20 Members may recall, is actually a house that is on the  
21 National Register of Historic Properties.

22 It was designated in 1964. It also happens to be

1 a house -- one of the few houses that by virtue of a  
2 preservation easement that the Historical Commission's  
3 jurisdiction extends not simply to the exterior, but to  
4 several rooms inside the house.

5 This was the home of the famed botanist, Aca Grey.  
6 He used to be located across the street in the corner of  
7 Linnaean and Garden Street, where the Botanical Gardens are.  
8 And Professor Gray was a big deal, as we say in the botany  
9 world. And his house got moved.

10 And what's before you tonight is a case that has  
11 some relevance to a case that the Board heard in 2006. And  
12 at that time, the Board granted a variance that permitted  
13 the reconstruction of a portion of the property that was in  
14 disrepair -- a studio and a one-car garage.

15 Back then, the Bellalta case had not come into  
16 existence, so this reconstruction on the same footprint of  
17 this portion of the home required a variance.

18 And in January of '06, recognizing the hardship  
19 associated with the historic nature of the house, the --  
20 this Board, two members are continuing to sit this evening  
21 that were there in 2006, granted the variance.

22 And what's before the Board now, candidly, is a

1 case that I don't completely understand the reason the  
2 applicant has been directed to apply for a further variance.

3 We are proposing a conforming addition in the rear  
4 of the house, a one-story addition on this studio portion  
5 that was reconstructed. It's about 500 square feet, 512  
6 square feet of additional GFA. It's an addition with a  
7 covered walkway connector. It's depicted in on the plan  
8 A0.0. The site plan shows it.

9 It's -- so it's a conforming addition to a  
10 nonconforming structure. But what I -- yeah, is that --  
11 that's A0.0. Yes. That depicts it. And you can see -- you  
12 can see the face of the house, it's on the corner -- the  
13 face of the house onto Garden Street is to the left.

14 And then along the right on the Madison Street  
15 side, you see the extension of the house. And the area  
16 where the cursor is right now, that's where this  
17 reconstructed studio site specific.

18 And the hashed area behind it is the area where  
19 we're putting on the addition, the diagonal hash. The  
20 different shaded hash to the left of that area, if the  
21 cursor could go a little bit to the left, that work is an  
22 addition to the house that was not part of the variance. So

1 we were informed that that would be an as-of-right work.

2 So the variance is necessary because of the  
3 addition to the portion of the structure that received the  
4 variance in 2006.

5 In my experience, I have not been of the opinion  
6 that a structure that receives a variance then can never be  
7 altered without returning to the Board decades later, as in  
8 this case.

9 This is a conforming addition, well below what's  
10 allowed. But we have been advised that the original --  
11 since this is a represented change from the original  
12 variance -- that we need to seek another variance in this  
13 case.

14 But what was suggested what we needed is an  
15 amendment to the variance. And I'm sure Board Members know  
16 such an instrument doesn't exist. So we have applied for an  
17 additional variance to construct the area in the rear of  
18 this studio.

19 And the studio was the subject of the variance in  
20 2006. And thus we have been directed to seek another  
21 variance for this work.

22 BRENDAN SULLIVAN: So the Commissioner's feeling

1 is because the proposed work touches an area that was  
2 subject to granting a variance that then triggers that this  
3 has to also receive a variance?

4 JAMES RAFFERTY: Yes. And we discussed it at  
5 length. And I think the rationale I can follow it. I  
6 think, personally, I have a little trouble with it.

7 But in terms of its logic, but since the original  
8 variance, the 2006 variance -- like all variances --  
9 conditioned the relief upon a set of plans, a particular set  
10 of plans. And those plans did not show this addition. That  
11 this represents an alteration to those -- to that variance.

12 But like I said, what we have here is a conforming  
13 edition. The variance that was before the Board in 2006,  
14 the only reason for the variance, which today could be done  
15 by special permit -- the only reason for the variance was  
16 because of the front setback.

17 And the original footprint, the whole house along  
18 Madison Street has little in the way of setback. And that's  
19 the historic footprint of the house.

20 So at that time, the variance was granted in that  
21 volume, that studio -- that one-story volume was  
22 reconstructed on the very same footprint in 2006. So we're

1 putting a slight addition on the rear, plus the covered  
2 walkway.

3 So adding to the variance -- adding to a portion  
4 of the house that represents a deviation from the plan cited  
5 in the variance, I think I've characterized the  
6 Commissioner's position correctly.

7 But at any rate, we are here because of the  
8 direction we received, and we're asking for the Board to  
9 find, as they did in 2006, that the historic nature of the  
10 house supports a second finding of hardship, based on the  
11 findings that were made in 2006.

12 BRENDAN SULLIVAN: Any work on the house would  
13 require Cambridge Historical review?

14 JAMES RAFFERTY: Yes. And thank you for pointing  
15 that out. And we have received -- because of the  
16 designation of the house that the entire house, the work was  
17 reviewed.

18 We received a Certificate of Appropriateness in  
19 November, 2021 for all of this work as well as a portion of  
20 the interior work. As I noted, some of the cabinetry in the  
21 home -- thanks to a preservation easement that was granted  
22 by a prior owner -- these were Professor Gray's cabinets.

1           He kept his botanical instruments or specimens in  
2 these cabinets, so now the Kettersons get to gaze upon them  
3 and use them. I don't think they bought this themselves,  
4 but I think they found alternative uses for this cabinet.

5           But under this preservation easement, someone from  
6 the Historical Commission has the ability once a year to  
7 come in and look at the cabinet. So we brought Mr. Sullivan  
8 through a few months ago, and he looked at that. There were  
9 a few other.

10           There's some other features of the interior that  
11 address. Point being, Mr. Sullivan, to your very pertinent  
12 question, this underwent extensive review by the Historical  
13 Commission in review that they have, or purview that they  
14 have no other property. Interior restoration work also was  
15 subject to their approval.

16           And candidly, we spent nearly 90 percent of the  
17 time dealing with the Historical Commission involving the  
18 interior work in the very sensitive nature.

19           There are some other exterior alterations that  
20 were reviewed -- windows and openings, and such. Yes. We  
21 have a Certificate of Appropriateness, and we do have in the  
22 file two letters of support from nearby abutters.



1           BRENDAN SULLIVAN: Okay let me query the Board.

2           Mr. Alexander, any questions?

3           CONSTANTINE ALEXANDER: No. No questions.

4           BRENDAN SULLIVAN: Jim Monteverde, any questions?

5           Comments?

6           [Pause]

7           Jim's on mute. Laura, any comments, questions?

8           LAURA WERNICK: No questions. Thank you.

9           BRENDAN SULLIVAN: Jason, any questions, comments?

10          JASON MARSHALL: Oh, I probably could talk for a  
11 long time with Jim about the very interesting procedural  
12 issue. You know, maybe for another day, Jim I -- you know,  
13 Bellalta, to help clarify things, where we're seeing sort of  
14 additional questions. It's raised.

15          But in any event, we don't need to reset here, I  
16 think. You know, you can't get more direct, on point  
17 precedent for a variance than having already granted it for  
18 the same property for the same thing. So no questions here,  
19 Mr. Chairman.

20          BRENDAN SULLIVAN: Well, I think Mr. Rafferty was  
21 wise. He could either contest the decision of the  
22 Commissioner, and then eventually wind up back here, or just

1 go straight to here. So I think that was probably the  
2 thinking.

3 Jim Monteverde, any questions, comments?

4 JIM MONTEVERDE: [Jim Monteverde], no questions.  
5 Thank you.

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

10 If you are calling in by phone, you can raise your  
11 hand by pressing \*9 and unmute or mute by pressing \*6. And  
12 you'll have up to three minutes to speak.

13 [Pause]

14 Apparently nobody is calling in. There is  
15 correspondence from two neighbors -- Laurent and Rumiko  
16 Adamowicz, who live at 84 Garden Street. And they have  
17 reviewed the plans. They've shared them, and they are in  
18 favor.

19 There is correspondence from Charles Downer, and  
20 plans were developed with a reputable Cambridge  
21 architectural firm, and are proposed to be done in a  
22 tasteful fashion, consistent with the existing structure.

1           In my view, the proposed changes to the home and  
2 the yard represent an improvement to the existing  
3 conditions. And he is in favor.

4           There's also correspondence from the Cambridge  
5 historical with a Certificate of Appropriateness, and as  
6 part of their Certificate of Appropriateness, they  
7 constructed a new basement stair on the east elevation,  
8 construct a flat-roof addition in the rear courtyard with a  
9 covered walkway to the driveway.

10           And so they are in favor. The work here is shown  
11 by the plans, and that is all interior work, and that is the  
12 sum and substance of any correspondence.

13           Mr. Rafferty, any final few words?

14           JAMES RAFFERTY: No, thank you, Mr. Chair.

15           BRENDAN SULLIVAN: Good. Let me make a motion,  
16 then, to grant the relief requested, which is to construct a  
17 covered porch and a conforming rear addition for a portion  
18 of a single-family dwelling.

19           The proposed covered porch addition complies with  
20 all the setbacks and all the dimensional requirements in a  
21 Residence A-2 zone.

22           The Board finds that a literal enforcement of the

1 provisions of the ordinance would involve a substantial  
2 hardship to the petitioner, because it would prevent them to  
3 put on this very modest addition, which is an improvement to  
4 that particular siting on the lot, and also as an attribute  
5 to the existing structure.

6 The Board finds that the Board, in Case No. 9220  
7 found a hardship existed, and they allowed the addition and  
8 the maintenance to replace, and the historical significance  
9 of this particular structure.

10 The Board finds that the hardship is owing to the  
11 shape of the lot, and that is abutted on two streets as a  
12 front yard setback. Also the expansiveness of the  
13 structure, which creates somewhat of a challenge.

14 And that also it is encumbered by a historical  
15 landmark by the Cambridge Historical Commission, which has  
16 granted their Certificate of Appropriateness.

17 The Board finds that desirable relief may be  
18 granted without substantial detriment to the public good,  
19 and that relief may be granted without nullifying or  
20 substantially derogating from the intent and purpose of the  
21 ordinance to allow people to expand their residences for  
22 just purpose, that we find this is de minimis, that the

1 covered porch and addition amounts to less than 10 percent  
2 increase of the gross floor area.

3 On the motion then, to -- and that the work comply  
4 with the submittals, the drawings which are designed and  
5 initialed by the Chair, and also, the supporting statements  
6 and the dimensional forms.

7 On the motion to grant the variance, Mr.  
8 Alexander?

9 CONSTANTINE ALEXANDER: In favor.

10 BRENDAN SULLIVAN: Jim Monteverde?

11 JIM MONTEVERDE: Jim Monteverde in favor.

12 BRENDAN SULLIVAN: Laura? Laura Wernick?

13 [Pause]

14 Jason Marshall?

15 JASON MARSHALL: Jason Marshall yes in favor.

16 BRENDAN SULLIVAN: Laura?

17 LAURA WERNICK: Yes in favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan yes in  
19 favor.

20 [All vote YES]

21 BRENDAN SULLIVAN: Five affirmative votes. The  
22 variance is granted. Good luck.

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JAMES RAFFERTY: Thank you, Mr. Chair and Members.  
Have a good evening.

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2 (9:42 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 157013 -- 30-32 Crescent Street. Mr. Rafferty?

8 JAMES RAFFERTY: Thank you, Mr. Chair. The  
9 applicants have filed a request with the Board seeking a  
10 continuance on this case. There are ongoing conversations  
11 with abutters, and in order to facilitate a better  
12 understanding, the applicant is requesting that the matter  
13 be continued by the Board at the later date.

14 BRENDAN SULLIVAN: All right. What's the earliest  
15 date? April 28 would be the earliest date.

16 JAMES RAFFERTY: Okay. If that's the earliest  
17 date, I -- like most applicants, this would -- my client  
18 would prefer to come back as soon as the Board can hear us.  
19 But I understand the demands on your schedule, and if that's  
20 the earliest date.

21 BRENDAN SULLIVAN: There's a long line.  
22 Unfortunately --

1           JAMES RAFFERTY: Yeah. You're a very popular  
2 group, there's no question.

3           BILL SCOTT: Sometimes yes, and sometimes not so  
4 popular.

5           JAMES RAFFERTY: Well, everyone wants to see you,  
6 we know that.

7           BRENDAN SULLIVAN: April 28 is a case not heard,  
8 so anybody can sit on it. On a motion, then, to continue  
9 this matter until April 28, 2022 at 6:00 p.m. on the  
10 condition -- and this will be Counsel sign a waiver for the  
11 statutory requirement for a hearing and a decision to be  
12 rendered thereof.

13           That such a waiver be in the file by a week from  
14 Monday. Failure to do so would render the case to be  
15 denied.

16           That the posting sign be changed to reflect the  
17 new date to April 28, 2022 at 6:00 p.m.

18           And that any new submittals be in the file by 5:00  
19 p.m. on a Monday prior to the April 28 hearing. All those  
20 in favor of the continuance? We already did that, right,  
21 Gus?

22           CONSTANTINE ALEXANDER: Well, yeah.



1 BRENDAN SULLIVAN: On these conditions.

2 CONSTANTINE ALEXANDER: I'm in favor of the  
3 continuance, with these conditions imposed.

4 BRENDAN SULLIVAN: Okay. Jim?

5 JIM MONTEVERDE: Jim Monteverde in favor of the  
6 continuance.

7 BRENDAN SULLIVAN: Yeah. Laura?

8 LAURA WERNICK: Laura Wernick in favor of the  
9 continuance.

10 BRENDAN SULLIVAN: And Jason?

11 JASON MARSHALL: Jason Marshall yes to the  
12 continuance.

13 BRENDAN SULLIVAN: And Brendan Sullivan yes.

14 [All vote YES]

15 BRENDAN SULLIVAN: Five affirmative votes, the  
16 matter is continued.

17 JAMES RAFFERTY: Thank you again.

18 BRENDAN SULLIVAN: Goodnight.

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2 (9:44 p.m.)

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

6 BRENDAN SULLIVAN: The next case the Board will  
7 hear is BZA-156403. We have a request from the petitioner.  
8 There is correspondence from Wang, the petitioner. "Since  
9 submitting my variance and special permit application, I've  
10 engaged all my direct neighbors on Longfellow Road and  
11 Channing Circle. Many neighbors have given me support  
12 letters and given me constructive suggestions.

13 "As a result of amicably working with all my  
14 neighbors, I decided to remove the variance portion. I will  
15 not build a double stairway. Instead, I will only apply for  
16 a special permit.

17 "Additionally, I wanted to apply for a special  
18 permit for an accessory use, and the following Monday I will  
19 file a new application that only continues the special  
20 permit for miscellaneous and sundry items."

21 So if he is going to have -- he is going to file a  
22 new application if he wishes to continue this case here.

1 What's the date? April 28.

2 So on the motion then to continue this matter  
3 until April 28 at 6:00 p.m., on the condition that the  
4 petitioner sign a waiver to the statutory requirement for a  
5 hearing and a decision to be rendered thereof.

6 Such waiver be in the file by the week from  
7 Monday.

8 Failure to provide such waiver will be a de facto  
9 denial of the relief requested.

10 That the petitioner change the posting sign to  
11 reflect the new date of April 28, and the time of 6:00 p.m.

12 Any new submittals shall be in the file by 5:00  
13 p.m. on the Monday prior to the April 28, 2022 hearing.

14 All those in favor? Mr. Alexander?

15 CONSTANTINE ALEXANDER: In favor.

16 BRENDAN SULLIVAN: Jim Monteverde?

17 JIM MONTEVERDE: Jim Monteverde in favor.

18 BRENDAN SULLIVAN: Laura Wernick?

19 LAURA WERNICK: Laura Wernick in favor.

20 BRENDAN SULLIVAN: Mr. Marshall?

21 JASON MARSHALL: Jason Marshall yes to the  
22 continuance.

1           BRENDAN SULLIVAN: And Brendan Sullivan in favor  
2 of the continuation.

3           [All vote YES]

4           BRENDAN SULLIVAN: Five affirmative votes, the  
5 matter is continued until April 28. And that concludes the  
6 Agenda for tonight.

7           JIM MONTEVERDE: Excellent, thank you all.  
8 Goodnight, everybody.

9           LAURA WERNICK: Goodnight, thank you.

10          BRENDAN SULLIVAN: Stay well.

11 [9:47 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.

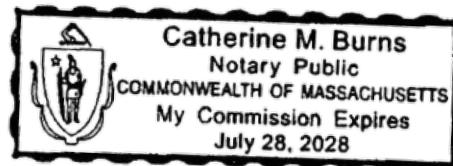
In witness whereof, I have hereunto set my hand this fourth day of February, 2022.



Notary Public

My commission expires:

July 28, 2028



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