

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 24 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Constantine Alexander
Andrea A. Hickey
Wendy Leiserson
Jim Monteverde
Laura Wernick
Slater W. Anderson

City Employees
Olivia Ratay, Zoning and Building Associate



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

2 * * * * *

3 (6:00 p.m.)

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

8 BRENDAN SULLIVAN: Welcome to the February 24,
9 2022 meeting of the Cambridge Board of Zoning Appeals. My
10 name is Brendan Sullivan, and I am the Chair for tonight's
11 meeting.

12 This meeting is being held remotely, due to the
13 statewide emergency orders limiting the size of public
14 gatherings in response to COVID-19, and in accordance with
15 Governor Charles D. Baker's Executive Order of March 12,
16 2020 temporarily amending certain requirements of the Open
17 Meeting Law; as well as the City of Cambridge temporary
18 emergency restrictions on city public meetings, city events,
19 and city permitted events, due to COVID-19, dated May 27,
20 2020.

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

1 Cambridge.

2 There will also be a transcript of the
3 proceedings. All Board members, applicants, and members of
4 the public will please state their name before speaking.
5 All votes will be taken by roll call.

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

10 Generally you will have up to three minutes to
11 speak, but that might change based on the number of
12 speakers.

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

15 OLIVIA RATAY: Andrea Hickey?

16 ANDREA HICKEY: Present.

17 OLIVIA RATAY: Wendy Leiserson?

18 WENDY LEISERSON: Present.

19 OLIVIA RATAY: Slater Anderson?

20 SLATER ANDERSON: Present.

21 OLIVIA RATAY: Jim Monteverde?

22 JIM MONTEVERDE: Present.

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OLIVIA RATAY: Laura Wernick?

LAURA WERNICK: Present.

OLIVIA RATAY: Gus Alexander?

CONSTANTINE ALEXANDER: I'm present.

OLIVIA RATAY: And Brendan Sullivan?

BRENDAN SULLIVAN: And Brendan Sullivan present.

1 * * * * *

2 (6:02 p.m.)

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

6 BRENDAN SULLIVAN: First meeting that I'm going to
7 call tonight is Case No. 153014 -- 26 Bellis Circle, #26.
8 Sarah?

9 SARAH RHATIGAN: Good evening. This is Sarah
10 Rhatigan from Trilogy Law, 12 Marshall Street in Boston.
11 And I'm here representing the petitioners, who are the
12 owners of this property, Tom Culotta and Mary Custic, who I
13 believe should be on the meeting.

14 I was just going to ask if we could just confirm
15 that they're signed in as panelists?

16 COLLECTIVE: They're on.

17 SARAH RHATIGAN: They're on. Okay, great. Thank
18 you. And we should also have Grady Ragsdale, the design
19 professional, or architect? Grady, if you could just
20 identify yourself?

21 [Pause]

22 Sorry, with technology here I see he's asking for

1 a link. Tom and Mary, if you could assist just so I can
2 continue the presentation?

3 Thank you very much for hearing this case this
4 evening. This is actually the first time that this
5 particular Case Number has been presented to the Board. You
6 may recall the petitioners in this property being presented
7 to you previously as a variance application.

8 The property's located at 26 Custic -- I'm sorry,
9 say Mary's last name, sorry -- 26 Bellis Circle in
10 Cambridge.

11 And Olivia, would you mind bringing up the image
12 of the site plan for us?

13 Just to remind the Board of the nature of this
14 application, Tom and Mary reside in the structure that's
15 number 26 on this site plan, and this is on Bellis Circle,
16 which is a road that takes a bend here.

17 And this is a property that consists of four
18 separate structures that are part of a condominium
19 association. Tom and Mary live in Number #26, and they have
20 been working very hard to design a modest addition to allow
21 for them to improve the living space and add one useable
22 bedroom to allow for their elderly folks to move in with

1 them.

2 And as the file -- I'm sure if the Board Members
3 have been reading some of the correspondence in the file,
4 one of the reasons that we filed a new application we
5 revised design is that we've made some modifications in
6 order to bring this in as a special permit, as opposed to a
7 variance.

8 At the first hearing of the Board, we spent quite
9 a bit of time talking about some of the elements of the
10 variance, of a hardship, and at the last hearing it was
11 described by Board Members that we really were hoping that
12 we could find ways to modify the plan to bring this under a
13 special permit standard, which is what we've done.

14 So the site plan that you're looking at now is not
15 the current filed plans. I don't believe -- I think this is
16 the earlier version.

17 If you could advance to -- let's see, Olivia if
18 you could advance further in the slides?

19 [Pause]

20 I'm sorry. I think you may -- it's difficult
21 because you have it -- just apologize, just one minute here.

22 [Pause]

1 The plans should be dated October 18.

2 OLIVIA RATAY: These are.

3 SARAH RHATIGAN: So this should be --

4 OLIVIA RATAY: These are dated October 18.

5 SARAH RHATIGAN: Yes. Thank you, Olivia. So the
6 site plan -- excuse me, let me just get to my page,
7 apologies. And do we have -- is Grady on now?

8 [Pause]

9 So the site plan showing the revised plans --
10 sorry, Olivia, can you just go slowly through? I'm looking
11 for the site plan that shows the addition. Thank you. The
12 number -- page number 6, this is the new design. Thank you.
13 So I'm looking for the site plan that shows the addition in
14 that orientation.

15 BRENDAN SULLIVAN: Sarah --

16 SARAH RHATIGAN: Mr. Sullivan, I'm sorry for not
17 having the page number at hand. Once we get to the right
18 spot in our presentation, I think this will go smoothly.

19 JIM MONTEVERDE: I didn't find one in the set,
20 Sarah, so in the sequence of drawings, I didn't find a site
21 plan. I saw this drawing that's on the screen now, first
22 floor, and then the second floor, but not corresponding site

1 plan for the proposed condition.

2 SARAH RHATIGAN: There was one filed. And I'm
3 looking at the -- I'm looking at --

4 JIM MONTEVERDE: No.

5 SARAH RHATIGAN: -- my filed copy of it right now.
6 This is a duplicate copy of the originals that were filed
7 with the plans. You did not find it, Mr. Monteverde?

8 JIM MONTEVERDE: No, I'm going to go back to the
9 top of everything and start again. But no, I looked before,
10 I didn't find it.

11 SARAH RHATIGAN: Okay. Just bear with me. I've
12 got to -- I've got my files in here.

13 JIM MONTEVERDE: Looking at it there.

14 SARAH RHATIGAN: I'm puzzled as to how that can
15 be. I am looking at page 46 of the 72-page .pdf that's
16 posted on the online website. That's in the link from the
17 City's Agenda.

18 JIM MONTEVERDE: Oh, sorry. Yeah, there it is.

19 SARAH RHATIGAN: It's page -- do you see that?

20 JIM MONTEVERDE: Yeah.

21 SARAH RHATIGAN: Page 46? And Olivia, if you are
22 able to --

1 JIM MONTEVERDE: That's it. It's on --

2 SARAH RHATIGAN: -- go to --

3 JIM MONTEVERDE: -- it's on the screen.

4 SARAH RHATIGAN: Yes, page 46. It is on the
5 screen, thank you. Sorry. It's been a moment there.

6 Okay. So this is the revised design. And what
7 we've done is the addition is now located entirely out of
8 the rear setback, and it is slightly -- it is slightly
9 closer to the boundary with 1618 Bellis Circle. But it is
10 in a conforming location, so it's seven and a half feet from
11 that property line.

12 And the reason for doing this was trying to meet
13 all of the dimensional requirements of the ordinance. The
14 only noncompliance that we have is an increase in FAR that
15 is modest.

16 The increase in FAR -- I'm sorry, the increase in
17 gross floor area is 476 square feet. And it's bringing us
18 from 0.40 GFA to a 0.425 GFA.

19 There's some discussion in an opposition letter
20 from our neighbor about whether or not this truly qualifies
21 for a special permit. Just one thing I wanted to clarify
22 with the Board: This was very, very carefully reviewed with

1 the Commissioner, Mr. Singanayagam, and this does qualify
2 for a special permit. This is a single-family structure.
3 It's not townhouse. It is not connected in any way the
4 neighboring properties.

5 And under Cambridge's ordinance under the revised,
6 amended ordinance that's number Section 8.22.22.d, this
7 proposal falls squarely within the confines of the special
8 permit, where it's at preexisting, legally nonconforming
9 structure that is being -- that its existing nonconformity
10 in terms of GFA is being modestly increased in order to
11 achieve the design goals. And the relief that we're
12 requesting is a special permit.

13 You can also tell from the record that this has
14 been a huge really difficult situation with the neighbor,
15 and what I'm referring to by "the neighbor" most importantly
16 is the owner at 16-18 Bellis Circle, who's stated some
17 pretty strong opposition to the application.

18 And so we want to be able to respond to that, but
19 just to point out that there has really been no willingness
20 to kind of discuss this.

21 And there's been pretty strong opposition from the
22 outset that there were suggestions that there was going to

1 be nothing that was going to satisfy the neighbor
2 immediately to the right.

3 And under the circumstances, my clients felt that
4 they really wanted to proceed with a modest addition, trying
5 to keep this within, you know, within Zoning conformity to
6 the best of their abilities, which are the plans that we're
7 going to show you.

8 So if you could start with Slide #47, Olivia, and
9 then just run through the views of the images of the
10 existing home? And we're just going to run through this.

11 So the house that we're talking about is the
12 yellow structure. And if you see on the left the closest
13 structure that's sort of on the edge there is the front
14 building is the owner who has opposed the application.

15 The back structure, the white house, is actually
16 an owner who's submitted a very nice letter of strong
17 support for the application. I believe it's Dr. Erica Bial.
18 And I believe that that letter should be in the file and
19 hope the Board Members have read that.

20 Next images, please?

21 There have been some concerns, if you just look --
22 this is an image taken from the back -- from the back of the

1 property. That's from Danehy Park. There have been some
2 concerns that the addition was going to --quote, unquote--
3 "block views of the park. This is a little difficult to
4 see, but the yellow house is Tom and Mary's house.

5 The house to the right, the white structure there,
6 is the rear house, the sort of pinkish structure that's
7 right in the middle is the home of the folks who have been
8 opposing this, and they have a very good view of directly of
9 the park.

10 And the addition that's being proposed is not
11 going to be blocking that view.

12 Next image, please?

13 These are just showing all the windows that look
14 back at the park, even with the Culotta's plans for an
15 addition. And I'm going to ask that you advance the slides
16 to the plan set.

17 [Pause]

18 I'm sorry. I'm seeing some -- seeing a lot of
19 texts clarifying that my description of which house was
20 which is inaccurate. Was -- Grady, was that you who was
21 texting me?

22 GRADY RAGSDALE: Um--

1 SARAH RHATIGAN: Was that yes?

2 GRADY RAGSDALE: The pink -- no, can you hear me?

3 SARAH RHATIGAN: Yes.

4 GRADY RAGSDALE: Yeah, okay. Yeah, no, that was
5 not me, but I think they were just simply saying that --

6 BRENDAN SULLIVAN: Grady, introduce yourself for
7 the record, please?

8 GRADY RAGSDALE: Oh, I'm sorry. I'm Grady
9 Ragsdale. I'm the architect who's assisting Tom and Mary on
10 this project, as part of NEDC's Design Team. And I was just
11 stating that I think somebody was just trying to correct
12 Sarah that the house to the -- that you can see on the
13 right-hand side is 18 Bellis. And the houses between 18
14 Bellis and 26 are across the street.

15 SARAH RHATIGAN: Oh, they're across -- they're
16 across Bellis Circle from there? Thank you.

17 SARAH RHATIGAN: Yep. Thanks for clarifying.

18 GRADY RAGSDALE: Mm-hm.

19 SARAH RHATIGAN: Okay. So if you could begin at
20 slide number 6?

21 Okay. So this is showing -- there's no basement
22 level for this addition. So if you see the angled room at

1 the back on the first-floor level, it's going to provide a
2 larger living area. Again, the angled back wall of the
3 building is in order to keep the addition within the allowed
4 setback for the rear setback along the lot.

5 BRENDAN SULLIVAN: How does this --

6 SARAH RHATIGAN: yes.

7 BRENDAN SULLIVAN: -- differ than the original
8 submission, where you are requesting a variance?

9 SARAH RHATIGAN: So the original submission had
10 the back of the addition extending into the rear setback.

11 BRENDAN SULLIVAN: Okay. Yep.

12 SARAH RHATIGAN: And so there was an encroachment
13 into the rear. It wasn't substantial, I mean it was
14 approximately -- my recollection is about eight feet into
15 the setback. And it was a little further off of the side
16 yard, so that it was approximately I believe three feet in
17 from where the addition is located now. But it was
18 extending, you know, further nonconforming into the rear
19 setback.

20 BRENDAN SULLIVAN: Okay. All right. Thank you.

21 SARAH RHATIGAN: And we can show a design
22 progression of how the design has changed. There were also

1 some other options that were considered.

2 We may need to share our screen to be able to show
3 the various options that were looked at over time. So if
4 Board Members would like to see that, we'll be happy to do
5 that.

6 If you could advance to the next slide?

7 And this is just showing the second-floor level.
8 And, you know, the goal has been, again, to try to create
9 one additional bedroom up at the top floor, and to do so in
10 a way that can maintain the existing bathroom in its current
11 location and not disturb the master bedroom.

12 Essentially, it's trying to be an addition that's
13 as minimal in terms of changing the interior structure of
14 the existing home and also as modest in size as possible.

15 Could you go to the elevations, beginning at 9?
16 And this is showing the elevation view from the rear of the
17 house.

18 Next page, please?

19 This is the view where the -- if you were looking
20 from the -- from the --

21 GRADY RAGSDALE: Parking -- parking --

22 SARAH RHATIGAN: -- opposite side.

1 GRADY RAGSDALE: Mm-hm.

2 SARAH RHATIGAN: What's that, Grady?

3 GRADY RAGSDALE: This is the parking lot side.

4 SARAH RHATIGAN: Yeah. From the opposite side
5 from the neighbor, so from the interior condominium owner.

6 And then this is the view from 18 Bellis Circle.
7 I just wanted to mention in terms of privacy concerns, the
8 new addition is showing some high windows that are not --
9 you know, not at all level where people will be looking
10 straight out. Those windows are also small to avoid much
11 light spill. They're just to allow for some light and air
12 to be able to get into that new space.

13 Next slide, please?

14 And this is the view from the front of the house.
15 So the new addition portion is on the left, where it says,
16 "Hardie Shiplap Siding." So this is just the view from the
17 street, if you were to be, you know, cutting straight
18 through the property.

19 Next view, please?

20 This is just a cross section. And if you could go
21 to 15?

22 Wanted to just look a little bit about in terms of

1 whether there's any, you know, shading and light concerns.

2 So on the left is just a picture from the back yard looking
3 at the rear of the house, the -- essentially the right
4 corner, which is where the location of the addition would
5 be.

6 So you can see the white house is the house that's
7 owned by the family that has opposed the application most
8 strenuously.

9 And one thing we wanted to just point out is that
10 in terms of light in this area, there are some very large
11 trees, which are the reason for the photos on the right.
12 These are quite, you know, quite large trees that provide
13 shade, which is very nice. But they also, you know, shade
14 that house -- the existing, without an addition being in
15 place.

16 The next page, page 16, Grady, could you help us
17 just walk through the shadow studies that you've presented
18 here?

19 GRADY RAGSDALE: Sure. I mean, the goal was to --
20 this is obviously existing conditions. And again, we can't
21 show every moment of every day during the course of the
22 year, but we try to show the same time during, you know, the

1 four seasons -- you know, January 1, April 1, July 1 and
2 October 1 and just the only times of day when shadows would
3 be an issue for neighbors on that side, 18 and further down.

4 So we're just trying to show here kind of how late
5 afternoon before the true -- actually, you know, sometimes
6 sun is behind the trees, but it shows kind of the shadow
7 late in the day on a, you know, daylight day for each of
8 those times of the year.

9 And just to show -- this one shows -- is to show
10 what kind of shadows are cast, you know, prior to the --
11 prior to the addition being on.

12 You can see in some of these -- certainly in
13 January, when the sun is low earlier in the day, and since,
14 you know, the trees and building are casting a shadow on 18
15 pretty early, same thing with July and October. So that it
16 does get -- it already gets sun shading from the existing
17 buildings from trees right now. So we wanted to kind of
18 establish that as kind of a benchmark.

19 You can go to the next one.

20 And this is just showing the addition. So you can
21 see it's same time of day, same times of the year. And, you
22 know, similar -- you know, similar shading on it, you know,

1 during the course of the year.

2 So, the point is, you know, we're trying to
3 establish that it's not a dramatic change. You know, this
4 addition is not a dramatic change from existing, you know,
5 knowing that the trees and the existing building are already
6 casting shadows on the neighbors.

7 SARAH RHATIGAN: And the -- Olivia, I think the
8 most recent submission, the supplementation submission,
9 should be in here as well, which has some renderings, which
10 we'd like to show you as well.

11 [Pause]

12 Thank you. So we had some revised renderings just
13 to show the new design. This is a view from -- essentially
14 from the street.

15 Next page?

16 This is a view that is taken from the house that's
17 two to the left of our house. This is another neighbor who
18 had expressed some concern about a loss of view. This is
19 just showing you what the view will be like with an
20 addition.

21 There still is, you know, a view of Danehy Park.
22 I would also just point out that typically we don't think of

1 zoning as preserving --quote, unquote-- "views." This
2 addition would be quite a distance away from that owner as
3 well.

4 Next page?

5 This is just a different angle of the same --
6 essentially the same location, which is two houses over from
7 ours. And the last view, please?

8 And this is a view of the addition taken from
9 behind, from Danehy Park. And again, this one I think
10 provides the best support for the notion that the home at 18
11 Bellis Circle is still going to have quite a good view of
12 Danehy Park. They're not going to be crowded. We're
13 providing a full setback on that side of the lot, conforming
14 to Zoning.

15 And, you know, we're really hopeful that this
16 Board can see the project as the modest one that we think it
17 is. And in terms of special permit requirements, we're I
18 think meeting all of those. So there's no way in which this
19 addition is going to be generating traffic, causing
20 nuisance, changing the nature of the neighborhood.

21 The -- we're not going to be, you know, destroying
22 the operation of neighboring properties, and we shouldn't

1 have concerns about privacy.

2 We would point out that the owners could plant
3 some quite large, you know, evergreen trees along the border
4 of this property, if this were something that, you know,
5 they wanted to do, regardless of whether or not they put up
6 an addition.

7 So the, you know, the fact of having an addition
8 in this location is -- should not be, you know, a hindrance
9 to the neighbors.

10 The -- I mean, the other thing we just would like
11 to point out again to the Board is that the petitioners are
12 just the sorts of homeowners that we're hoping that the
13 Board will feel sympathetic to, in the sense that they are,
14 you know, long-term Cambridge residents trying to
15 essentially, you know, improve their home in such a way to
16 allow for additional families to live with them and, you
17 know, just the sorts of folks that we're trying to make
18 some, you know, very -- you know, to allow for some relief
19 in order to allow for them to do that.

20 GRADY RAGSDALE: Okay.

21 SARAH RHATIGAN: We'd be happy to take questions
22 at this point?

1 BRENDAN SULLIVAN: Well, let me open it to the
2 Board and see if anybody has any questions. Any Members of
3 the Board? Mr. Alexander, any questions?

4 CONSTANTINE ALEXANDER: Not been addressed is the
5 fact that you're relying basically on 8.22.2d.

6 THE REPORTER: Gus, could you speak into your mic,
7 please?

8 CONSTANTINE ALEXANDER: I'm sorry. You're relying
9 on basically Section 8.22.2d, justifying the granting of
10 relief. That's the statutory interpretation or adoption of
11 the Bellalta case. And then our zoning ordinance says that
12 under our 8.22.2d, is that it's a proviso.

13 We have to make a finding that the alteration or
14 enlargement shall not be substantially more detrimental than
15 the existing conforming structure to the neighborhood. And
16 I'm still -- I'm wrestling with that.

17 You are going to diminish the views among the
18 structures, and I can understand what a neighbor in this
19 condominium complex would have a problem. That problem
20 doesn't mean that you're not going to get your relief, but
21 it's troubling to me is all I can say.

22 If you have more words you want to add to deal

1 with that, I would appreciate it.

2 SARAH RHATIGAN: Yeah, so the -- I would respect -
3 - I mean, you're not saying that this is detrimental, but to
4 the extent that you're suggesting that it's detrimental, the
5 addition -- the addition --

6 CONSTANTINE ALEXANDER: That's the issue.

7 SARAH RHATIGAN: -- I mean, it is an addition, of
8 course, right?

9 CONSTANTINE ALEXANDER: If it's substantially more
10 detrimental, you're not entitled to relief. Well, you've
11 got to convince us --

12 SARAH RHATIGAN: I -- I --

13 CONSTANTINE ALEXANDER: -- that it's not --

14 SARAH RHATIGAN: -- right.

15 CONSTANTINE ALEXANDER: -- substantially more
16 detrimental.

17 SARAH RHATIGAN: Right. And I think that the
18 issue is that we don't see any detriment to the neighbors.
19 You know, the -- certainly not a substantial detriment the
20 neighbors. Homes have additions, have modest additions, you
21 know, added all the time. And this is an area where there's
22 quite a lot of land around everyone's structures.

1 This is not a situation where we're building
2 within a setback, extending into a setback, you know,
3 extending up over allowable he is. It's -- you know, we're
4 talking about something like a, you know, a three-foot
5 increase towards the left lot line, and --

6 CONSTANTINE ALEXANDER: But you are increasing the
7 gross floor area to the extent --

8 SARAH RHATIGAN: Yes, yep.

9 CONSTANTINE ALEXANDER: -- our ordinance?

10 SARAH RHATIGAN: Yes, yeah. Yes, we are. And we
11 would argue that it is really a modest increase.

12 CONSTANTINE ALEXANDER: Okay.

13 BRENDAN SULLIVAN: Andrea, any questions, comment
14 at this point?

15 ANDREA HICKEY: Yes. I just sort of -- I had one
16 question for Counsel. So where this is sort of a
17 freestanding, single-family structure, but it is part of a
18 condominium, can -- within their condominium units just put
19 on an addition like this, or do the owners also need
20 permission from the condo trustees?

21 SARAH RHATIGAN: The -- I think that one, they
22 have obtained permission from the condominium trustees.

1 ANDREA HICKEY: Mm-hm.

2 SARAH RHATIGAN: And the original application had
3 the signatures of all the condo trustees included. And I
4 believe that the record on this submission includes letters
5 of support from I believe at least two of the other owners.
6 But we are aware and have confirmed that the other owners
7 all in support of the project.

8 Your question, you may ask, as I would expect you
9 to ask, whether a condominium amendment would be required
10 once this is constructed? I haven't actually looked at the
11 condominium documents to see if they require that. But it
12 probably will be advisable.

13 But in answer to your question, all the owners on
14 this condominium land have given their consent and their
15 approval. And I've got their strong support.

16 ANDREA HICKEY: All right. Are those signoffs--
17 quote, unquote-- " in the special permit file, or in the
18 variance file?

19 SARAH RHATIGAN: Um--

20 ANDREA HICKEY: I guess that's my question.

21 SARAH RHATIGAN: I will take a look. If they are
22 just in the -- so again, I know that the letters of support

1 that -- I believe that there are two letters of support.

2 Mary, maybe you could just confirm for us while
3 we're talking -- I believe that two of the strong letters of
4 support are from owners within the condominium association,
5 and I hope that you would agree that that qualifies as
6 essentially the assents?

7 If the third owners need to, you know, confirm
8 that their previous consent is also attached to the special
9 permit application, we will make sure to do that as well.

10 ANDREA HICKEY: Yeah. I think it is important
11 that the special permit application does contain all of the
12 assents or support -- you know, a letter of assent, even if
13 it's not in sort of a condo-recordable type format --

14 SARAH RHATIGAN: Mm-hm.

15 ANDREA HICKEY: -- would be sufficient for my
16 purposes for this case. But I do think it's important that
17 the assents of all unit owners do appear in the special
18 permit file.

19 SARAH RHATIGAN: Mm-hm.

20 ANDREA HICKEY: And that those be sort of
21 considered part of this file if they're not there already.

22 SARAH RHATIGAN: Okay.

1 ANDREA HICKEY: So that's all --

2 SARAH RHATIGAN: Would you --

3 ANDREA HICKEY: -- have at this time.

4 SARAH RHATIGAN: -- would you be willing to accept
5 that your decision, you know, if you were to support this
6 application would be contingent on us, you know, providing
7 that if it's not already in the file?

8 ANDREA HICKEY: I would be satisfied with that,
9 but I would defer to the Chair in terms of protocol whether
10 that's an acceptable way to bring documents from one related
11 case to another.

12 SARAH RHATIGAN: Okay. Thank you.

13 CONSTANTINE ALEXANDER: I would suggest to the
14 Chair that if we do that, that there's a time limit that
15 these consents must be part of this case within X time, not
16 just, you know, whenever. Otherwise, everything's in limbo.

17 BRENDAN SULLIVAN: It would have to be a condition
18 of granting relief that it be submitted at a new time. But
19 Wendy, any questions? Comments?

20 [Pause]

21 JIM MONTEVERDE: Wendy, you're on mute.

22 BRENDAN SULLIVAN: Oh, is it?

1 WENDY LEISERSON: Sorry. The answer is yes, I do
2 have some questions. Can you hear me now?

3 COLLECTIVE: Yes.

4 WENDY LEISERSON: Okay. So I am wrestling with
5 this case, and as the lawyers in this crowd know, and the
6 Zoning Board, of course, 8.22.2d is the relatively new
7 provision, and hasn't had a lot of interpretations thus far.

8 So I did wonder whether it applies at all to this
9 unit. It is a dwelling unit, it's detached, and a single
10 family occupies it. But it is, you know, within a condo
11 development.

12 And, you know, even according to the Master Deed,
13 it is listed as a unit for which the owners have no right to
14 change anything on the exterior without the permission of
15 the condo association.

16 And to me legally that, you know, there's not a
17 definition of, "single-family dwelling" so in our ordinance
18 per se, it's a matter of interpretation based on what we
19 have here.

20 But I think that it does not have all the rights
21 that a typical single-family dwelling would have, as I think
22 was contemplated by Bellalta.

1 But even if I put aside that for the moment, I
2 think that this section requires several things. It
3 requires that it applies -- that this is either a single-
4 family or a two-family dwelling unit. Like I said, I have
5 questions on that.

6 And then it requires that there's no new,
7 nonconforming dimension. You have the revised plans to show
8 that you qualify for that.

9 But then we come to the question that Gus raised
10 about is it substantially more detrimental to the
11 neighborhood? And I did walk around this neighborhood. And
12 it's a little very dense neighborhood. And I also want to
13 note for the record that the neighbors who opposed this did
14 not oppose the creation of this condo unit, because they
15 preexisted. Their house was there before these four
16 dwellings were there.

17 And because the Master Deed was filed in 2005 and
18 these owners, the owners of the opposing unit or owners who
19 are opposing this lived in the area since 2000. And they
20 allowed the variance infringements in order that this
21 dwelling could be created in the first place.

22 And as such, I think this gets us to a policy

1 question as well, which is I think Gus raised this in the
2 variance case, which is that here we have something that was
3 developed -- a piece of property that was developed, they
4 came before -- the developer came before the Zoning Board
5 and asked for, you know, to build something that was
6 nonconforming. And now that nonconformity is being used to
7 create an additional -- like an extension of that
8 nonconformity.

9 And I don't think that the special permit, you
10 know, the ability to petition for a special permit under
11 8.22.2.d anticipates sort of a free ride. I do think that
12 this question of what a detriment [is] is important?

13 And we can argue about what is substantially more
14 detrimental or not, but I have my concerns there, especially
15 given the history, and especially given that this neighbor
16 who now opposes this had already waived opposition for the
17 creation of the unit that is existing now.

18 And then I would say that -- let's assume, though,
19 that we agree that it's not substantially detrimental. We
20 still have to look at the criteria of section 10.43, Special
21 Permit Criteria.

22

1 And in that case, I would say that, you know, the
2 reason why homeowners are wanting to take advantage of the
3 special permit as opposed to variance is, of course, because
4 it's a lower hurdle.

5 And the finding that we have to make is that it's
6 not detrimental to the public interest. And I would say
7 that I'm troubled here as well, especially if you look at
8 Section E there. Because the purpose of the Zoning
9 Ordinance is to prevent overcrowding, prevent congestion,
10 conserve value, yadayada. There's a lot of other things
11 there.

12 And as I mentioned, this is a very dense
13 neighborhood. This particular lot might not be, but it is
14 addictive very dense neighborhood as a whole.

15 And I don't think shade from trees is equivalent
16 to shade from buildings. So I'm unpersuaded by the argument
17 that, well, they could block their view by putting up trees,
18 as opposed to putting a building there. I would much
19 rather, and I think they would much rather look at trees
20 than a building. So I don't find that to be a reasonable
21 comparison.

22 And while we don't necessarily specifically think

1 about view under the Zoning Ordinance, we do think about
2 value and the conservation of value. And I think it would
3 be hard to sell anyone the idea that view and impairment of
4 view does not affect negatively value.

5 Do you have any response to those concerns?

6 SARAH RHATIGAN: I do. Thank you. Just one thing
7 I first wanted to clarify, and then I'll try to respond as
8 best I can, so there were two letters of opposition.

9 And just to clarify, one is from the owners of --
10 in this view the house, the white house that you can see in
11 the view. And that's 18 Bellis Circle. That house was
12 constructed after this development, or at least that's my
13 understanding.

14 And I believe -- and Tom and Mary can just make
15 sure I'm right on this -- my understanding is that that
16 developer actually had to reply with requesting some relief,
17 either a variance or special permit or both? And in fact,
18 you know, Tom and Mary lived there previous to that, and
19 they assented to the construction of the neighboring
20 development.

21 WENDY LEISERSON: Okay, thank you for clarifying.

22 SARAH RHATIGAN: Yeah, no problem. It's not --

1 you know, it's a little confusing. The other thing to point
2 out is that the home that Tom and Mary purchased in that
3 development was developed previously. It was not actually -
4 - it didn't actually request a variance or any zoning
5 relief.

6 The nonconforming FAR is a little bit of a
7 mystery, honestly. The Building Department or the
8 Commissioner wasn't clear exactly how it was that the
9 property was able to be constructed with over the required
10 FAR. Not the, you know, fault of Tom and Mary the owners,
11 they had no idea, they didn't even know what FAR was,
12 honestly.

13 And -- but it is more than, you know, it was
14 constructed with building permits, you know, duly issued,
15 signed off on, it's existed for more than 10 years so under
16 -- you know, legally statutorily this is a preexisting,
17 nonconforming property.

18 WENDY LEISERSON: Yes. I agree with that. Ok.

19 SARAH RHATIGAN: So just in terms of, you know,
20 who came first? Mary and Tom were there first in a -- you
21 know,

22 WENDY LEISERSON: Visa one of the owners? Or one

1 of the buildings, you're saying?

2 SARAH RHATIGAN: I'm sorry, what was your --

3 WENDY LEISERSON: Well, you said there are two
4 opponents, and one of them was there beforehand, and one of
5 them was not, correct?

6 SARAH RHATIGAN: Yeah. So two houses away, those
7 folks have been there for longer. So yes.

8 WENDY LEISERSON: Mm-hm.

9 SARAH RHATIGAN: So, to the extent that you are --

10 WENDY LEISERSON: And the other one you were
11 saying that there was going to be --

12 SARAH RHATIGAN: Yeah, yes, exactly, yeah, yep.
13 And in terms of the -- whether this falls under a special
14 permit standard and how you define the property. So the
15 Bellalta case is -- obviously it's common law, you know,
16 case law that has precedent -- precedential -- you know,
17 some precedential value, but in this case, Cambridge has
18 amended its ordinance and it's provided specific language.

19 And my understanding of this -- and I think others
20 would agree -- is that where this Board has specific
21 ordinated language to interpret that is what is
22 dispositive, unless there were a court decision that were to

1 say, "Cambridge, your ordinance is, you know,
2 unconstitutionally or contrary to law."

3 So the Bellalta case did come before. But now
4 that Cambridge has a statute, has an ordinance in place,
5 it's the language of the ordinance that is being interpreted
6 in this case. And the ordinance requires --

7 WENDY LEISERSON: Here in the -- sorry, please go
8 ahead. Go ahead.

9 SARAH RHATIGAN: -- the ordinance refers to
10 structures. And "structure" is defined in the ordinance,
11 right? And I'm just going to read the definition, then,
12 2.00: "A combination of materials assembled at a fixed
13 location to give support or shelter, such as a building,
14 bridge, trussell, tower, framework, et cetera, flagpole or
15 the like." I just, you know, skimmed through the others.

16 When we talk about single-family, a single-family
17 dwelling, you're right that that isn't defined in the
18 ordinance. And when it's not defined in the ordinance, my
19 understanding is you look to state building code for the
20 definition.

21 And I looked up in Mass Regulations definitions of
22 -- it doesn't say, "Single-family" but it says, "One- family

1 and two-family dwellings."

2 And I'm reading now from 780 CMR3602. So,
3 "Dwelling, one-family: A building containing one dwelling
4 unit with not more than five lodgers and boarders." And
5 then, "A dwelling unit" [without 'single-family' or 'two-
6 family dwelling unit'] is a single unit providing complete,
7 independent living facilities for one or more persons,
8 including permanent provisions for living, sleeping, eating,
9 cooking and sanitation."

10 And I understand what you were referring to in
11 terms of condominium ownership and ba-pa-da, but, you know,
12 the facts of reading -- interpreting the statute and -- I'm
13 sorry, interpreting this ordinance using the definitions
14 that we've got, black and white definitions, there's really
15 nothing to do, there's nothing that's concerned about are
16 you in a condominium?

17 I mean, for example there's single-family
18 homeowners who are part of homeowners' associations, where
19 they don't have the right to build an addition without the
20 permission of their neighbors, or there may be other
21 restrictions on properties that prevent owners from doing
22 anything that they want to do with their property.

1 But that's not dispositive on whether or not this
2 structure constitutes a single-family structure that would
3 fall under the 8.22.2d.

4 That's the best I can do on that concern. I feel
5 like this is very, very clear and as I mentioned, I did have
6 a, you know, discussion with the Commissioner about this,
7 and my understanding is that that's his interpretation as
8 well. And, in fact, you know, the reason for this petition
9 coming to you again is a special permit.

10 The -- I'm sorry, I know I had some other notes
11 here.

12 BRENDAN SULLIVAN: Does that sort of answer it,
13 Wendy?

14 WENDY LEISERSON: I mean, it's a reply. Yes. I
15 think -- I don't want to take up the time to debate about
16 condos and setbacks and zoning -- you know, the whole
17 shebang. But I know that Counsel has done her diligence in
18 researching the question. Thank you.

19 BRENDAN SULLIVAN: If it's any consolation, I did
20 go through some of the issues you raised with the
21 Commissioner, to make sure that it was a proper filing, and
22 we deemed it to be such that they could apply previously for

1 a variance, and that and that because of the change and
2 putting in some of the addition that they could now apply
3 for the special permit under that section.

4 So, again, I also raised some issues about the
5 nature of the condominium, and whether or not it was
6 somewhat clear or was there an issue? And he felt that
7 Bellalta would for the findings, Bellalta would cover this
8 particular application. So.

9 WENDY LEISERSON: Thank you. That's helpful.

10 BRENDAN SULLIVAN: Okay. I haven't spoken yet.
11 And I think from the very beginning, what somewhat bothered
12 me was that it would have an effect on the other houses and
13 the site view.

14 And I understand that the Chus -- or the Wus
15 rather -- are no longer living there, but somebody will.

16 And I sort of go back to one of the little nuggets
17 that was presented to us -- and it was probably by, but
18 anyhow the Blackman case -- Blackman versus the Board of
19 Appeals in Barnstable. And I've been citing this recently
20 because I think it's very pertinent, where it says that --
21 again, the power to vary an application must be sparingly
22 exercised, and only in rare instances and under exceptional

1 circumstances particular in their nature, and with due
2 regard to the main purpose of a zoning ordinance to reserve
3 the property rights of others.

4 I think that the issues that were raised by the
5 Wus, and also, I believe by Mr. Wong and Ms. Thomas, are
6 somewhat valid. So I'm not there yet, as that it will not
7 be more detrimental. So anyhow, that being said, let me
8 open it to -- oh, Slater's not on this one. Oh, Jim, I'm
9 sorry, I missed you.

10 Any comments, questions at this time, Jim?

11
12 JIM MONTEVERDE: No questions. My only comment
13 is, you know, I recall the discussion in the previous
14 hearing when it was here as a variance. So I appreciate
15 what the proponents have done this evening in pulling the
16 building footprint to the allowed lines and building within
17 that. So at the moment, I don't have any objection to it,
18 based on what I see tonight and what I reread of the
19 previous comments.

20 So that's all I have as commentary. Thank you.

21 BRENDAN SULLIVAN: Thank you. All right. Let me
22 open it to public comment. Any member of the public who

1 wishes to speak should now click the button that says,
2 "Participants," and then click the button that says, "Raise
3 hand."

4 If you are calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6. And
6 we will allow you up to three minutes to speak. And I would
7 ask Staff to monitor the time.

8 OLIVIA RATAY: Leah Kerr?

9 BRENDAN SULLIVAN: Mr. Kerr? Or Ms. Kerr?

10 ADAM KERR: Yes, hi, Board. This is Adam Kerr. I
11 live next door to Mary and Tom at 27 Bellis Circle. I'm a
12 resident of Cambridge for almost 50 years. I have lived in
13 this next to them for 16 years, know Cambridge very well.

14 Just my comments on this: really, I know Mary and
15 Tom have gone through the process with the Board, worked
16 with the Legal Team.

17 I can speak for, you know, the neighborhood in the
18 sense that they've gone door to door pretty much almost
19 everyone in the neighborhood is on board with this. There's
20 one family that's obviously not, and that's why we're having
21 this discussion.

22

1 But, you know, it's pretty much 99 percent that
2 are into this and want to do it, 1 percent don't.

3 So, you know, I just want to echo the 99 percent
4 that would love for, you know, this to go forward, don't see
5 a lot of downside. It seems like a reasonable project.
6 I've never spoken with the Wus about their issues. They
7 were kind of, you know, difficult neighbors to -- in a lot
8 of ways anyway.

9 So, you know, I hope that you're able to, you
10 know, get this through and we can move forward and live our
11 lives and not have to deal with this anymore. Because it
12 seems like a reasonable project, not a lot of downside, good
13 upside for Mary and Tom. I don't see destruction in value,
14 I see enhancement in value.

15 So that's just my perspective. Thank you --

16 BRENDAN SULLIVAN: All right, thank you.

17 ADAM KERR: -- for listening to me.

18 OLIVIA RATAY: Mary Custic?

19 NICOLE BARNA: Hi. This is actually Nicole
20 Barna. I don't know why it said Mary Custic. I guess maybe
21 she e-mailed me the link, so apologies there, anyway. This
22 is Nicole Barna. I live at 29 Bellis, so just kitty-

1 corner.

2 I guess I just wanted to comment quickly on Wendy,
3 the woman on the Zoning Board, who had a couple of questions
4 around the timing of the different developments on Bellis
5 Circle.

6 And just to clarify, the gray house that you see
7 in the picture, which is the Wu's house, is the newest house
8 really that's been built on Bellis Circle.

9 So up until recently, this area was all an empty
10 lot -- you know, a grassland lot on Bellis Circle. And so
11 Mary and Tom's association was built, I think, in the 2000-
12 ish timeframe. But these houses, the gray houses on the
13 right, were built much later.

14 So, you know, we -- the neighborhood permitted
15 those houses to be built I think using a variance, as Wendy,
16 had managed -- had messaged. However, obviously I think
17 this is the time that, you know, we would like to support
18 Mary and Tom in obtaining this variance.

19 And so I would just also confirm what Adam said,
20 which is we don't see any detriment to this renovation here
21 on Bellis Circle. We think it's only going to support the
22 value of the neighborhood in increasing the property values.

1 I think as this picture shows on the screen, the house,
2 number 18, the Wus' house, still would have a view to the
3 park with this more modest renovation.

4 So that's my perspective: again, we very much
5 support the renovation for Mary and Tom.

6 BRENDAN SULLIVAN: Thank you. Nobody else calling
7 in? There is in the file letters from Emily Kerr, from
8 Erica Bial, B-i-a-l at 16 Bellis Circle in support. There
9 are -- there is correspondence -- Kate Childs and Stuart
10 Kane, 24 Bellis Circle in support... Michael Siegel, who is
11 the President of the Bellis Circle Neighborhood Association
12 -- reiterates his support, there is correspondence from
13 Nicole Barna and [1:00:21 audio unclear] 29 Bellis Circle,
14 and that is the sum and substance of the correspondence.

15 Also -- sorry, there is not -- there is also a
16 letter from the Wus, who reiterate their previous opposition
17 and restate their grounds for opposing it.

18 I will close public comment. Sarah, any last
19 words?

20 SARAH RHATIGAN: No, thank you.

21 BRENDAN SULLIVAN: I will close the presentation
22 part of it, and then let the Board discuss it among

1 themselves. Mr. Alexander, your thoughts?

2 CONSTANTINE ALEXANDER: My thoughts. Something
3 about this case just troubles me. And by that, I mean the
4 idea of granting relief. But I have to say that I can't
5 enunciate what it is. And so with some reluctance, I am
6 going to be in favor. I'm going to -- I vote in favor.

7 BRENDAN SULLIVAN: Jim Monteverde?

8 JIM MONTEVERDE: As I said before, I appreciate
9 the changes they made to the current scheme, and I support
10 it.

11 BRENDAN SULLIVAN: Andrea Hickey?

12 ANDREA HICKEY: So under the lower bar, so to
13 speak, of the Special Permit Criteria, I would support
14 tonight's petition. I do as well appreciate the efforts to
15 kind of revise from the presentation that was made at the
16 variance petition. So at the moment, I would be in support
17 of this under Special Permit Criteria.

18 BRENDAN SULLIVAN: Okay. Wendy Leiserson?

19 WENDY LEISERSON: Well, I still struggle with the
20 -- my legal questions around this. But I defer to the
21 Chair's interpretation of this, and I accept the conversions
22 that both Counsel and the Chair have had with the

1 Commissioner in interpreting the applicability of this.

2 And I cannot deny that most of the neighborhood is
3 in support. Of course, zoning is not a popularity, you
4 know, contest. And there -- what often is the case is one
5 out of many neighbors is most affected.

6 Whether they are considered to be "good neighbors"
7 or not is irrelevant in a way, because we're talking about
8 the property value of that house, not the personal value of
9 the owners to the neighborhood.

10 That said, I think that, again, under the lower
11 hurdle of the special permit, I would reluctantly support it
12 as well. And it's not personal to the petitioners at all,
13 either. I'm sure you're lovely people. And I am
14 sympathetic to the desire to expand and have additional
15 family to your home.

16 BRENDAN SULLIVAN: So you would not be in favor of
17 the granting relief?

18 WENDY LEISERSON: No. I said I would reluctantly
19 grant it.

20 BRENDAN SULLIVAN: Let me make a motion, then, to
21 grant the relief requested, to construct the addition to a
22 preexisting, nonconforming, detached single-family structure

1 as per the application dated 10/18/21 and initialed by the
2 Chair and the supporting documents as submitted.

3 The Board finds that it appears that the
4 requirements of the ordinance can be met. It appears that
5 traffic generated or patterns of access or egress resulting
6 from what is being proposed would not cause congestion,
7 hazard, or substantial change in established neighborhood
8 character.

9 The Board finds that continued operations of or
10 development of adjacent uses, as permitted in the zoning
11 ordinance, would not be adversely affected by what is being
12 proposed use.

13 That there would not be any nuisance or hazard
14 created to the detriment of the health, safety and/or
15 welfare of the occupant of the proposed use, or to the
16 citizens of the city.

17 The Board finds that the proposed use would not
18 impair the integrity of the district or adjoining district,
19 or otherwise derogate from the intent and purpose of the
20 ordinance.

21 In furtherance, under Section 8.22.2d, the Board
22 may grant a special permit for the alteration or enlargement

1 of an existing preexisting dimensional nonconforming
2 detached single-family dwelling not otherwise permitted in
3 Section 8.22.1, provided that there is no change in use, and
4 that any enlargement or alteration of such preexisting,
5 nonconforming, detached single-family dwelling or two-family
6 dwelling may only increase a preexisting dimensional
7 nonconformity, but does not create any new dimensional
8 nonconformity.

9 In order to grant such a special permit, the Board
10 is required to find that the alteration or enlargement shall
11 not be substantially more detrimental than the existing
12 nonconforming structure to the neighborhood. And that the
13 alteration or enlargement satisfy the criteria in Section
14 10.43.

15 In furtherance of granting the special permit, one
16 of the conditions is that all of the signatures to the condo
17 association express their support that they are in favor of
18 the application and that Counsel has advised the Board that
19 all four are in favor, have expressed support, and we take
20 that and will incorporate that into our decision.

21 That the document so stating that support by all
22 four and signed by all four shall be in the file --

1 CONSTANTINE ALEXANDER: I'd say 20 days -- you
2 know, for any decision you would render.

3 BRENDAN SULLIVAN: -- prior to actually my signing
4 the decision.

5 CONSTANTINE ALEXANDER: Yeah. That's in 20 days.

6 BRENDAN SULLIVAN: Yeah, okay. So prior to my
7 signing the decision. So on the motion, then, to grant the
8 special permit as per the application? Mr. Alexander?

9 CONSTANTINE ALEXANDER: As I said before, I vote
10 in favor with some reluctance.

11 BRENDAN SULLIVAN: Andrea Hickey?

12 ANDREA HICKEY: I would vote in favor, but subject
13 to the approval of all the other unit owners being submitted
14 with the special permit file by a date to be determined I
15 guess by you, Mr. Chair. That would be my only condition.

16 BRENDAN SULLIVAN: Yeah. It would be in the -- it
17 would have to be in the file prior to my signing the
18 decision.

19 ANDREA HICKEY: So on that basis, I would support
20 the granting of the special permit.

21 BRENDAN SULLIVAN: Okay. Jim Monteverde?

22 JIM MONTEVERDE: I vote in favor of the special

1 permit.

2 BRENDAN SULLIVAN: Wendy Leiserson?

3 WENDY LEISERSON: I vote in favor of the special
4 permit.

5 BRENDAN SULLIVAN: And the Chair, based on some
6 new information that we received and correspondence from
7 some of the letters in support, somewhat reluctantly, but I
8 will vote in support of granting the special permit.

9 So five affirmative votes, the special permit is
10 granted. Good luck.

11 COLLECTIVE: Thank you very much.

12 BRENDAN SULLIVAN: Sarah? Sarah, are you still
13 there?

14 SARAH RHATIGAN: Yes. I'm sorry. I was muted. I
15 am.

16 BRENDAN SULLIVAN: All right. Just some
17 housekeeping.

18 SARAH RHATIGAN: Yes.

19 BRENDAN SULLIVAN: Regarding Case #127988, which
20 was the original case requesting a variance, do I hear a
21 motion, then, to withdraw that application from the
22 petitioner?

1 SARAH RHATIGAN: Yes. A request to withdraw that
2 petition, please.

3 BRENDAN SULLIVAN: Okay. On the motion, then, for
4 the Board to accept the withdrawal from the petitioner? Jim
5 Monteverde?

6 JIM MONTEVERDE: Jim Monteverde in favor.

7 BRENDAN SULLIVAN: Mr. Alexander?

8 CONSTANTINE ALEXANDER: In favor.

9 BRENDAN SULLIVAN: Andrea Hickey?

10 ANDREA HICKEY: Andrea Hickey in favor.

11 BRENDAN SULLIVAN: And Wendy Leiserson?

12 WENDY LEISERSON: Wendy Leiserson in favor.

13 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

14 [All vote YES]

15 CONSTANTINE ALEXANDER: Excuse me, Mr. Chair. To
16 be protective of the petitioner, if for some reason one of
17 those members doesn't sign the document where you're
18 conditioned on, this will not be granted -- relief will not
19 be granted for the special permit, and [1:10:23
20 indiscernible -- asked for it? -- then-will] have been
21 withdrawn, so they have no recourse.

22 I would think you would want to be sure that

1 before this case -- the variance case -- is dismissed, you
2 want to be sure that there's no need for the variance,
3 because the special permit is all locked up?

4 SARAH RHATIGAN: Mr. Alexander, I believe that we
5 have the last unit owners' assent by e-mail? Mary, can you
6 confirm that's what your text was confirming?

7 CONSTANTINE ALEXANDER: If you have it, fine. I
8 just want to be sure that you're not --

9 SARAH RHATIGAN: I believe we do. Is that
10 correct, Mary?

11 MARY CULOTTA: Yes. I sent you an e-mail --

12 SARAH RHATIGAN: Okay.

13 MARY CULOTTA: -- with the approval from Libby
14 McDonald, yes.

15 SARAH RHATIGAN: Okay, great. Thank you. Yep.
16 So thank you for being concerned for our protection on that,
17 Mr. Alexander. But we should be all set. We'll get those
18 assents into the file, you know, in the next day or so.

19 CONSTANTINE ALEXANDER: Good, good.

20 BRENDAN SULLIVAN: All right. Thank you. So on
21 that motion --

22 SARAH RHATIGAN: Thank you very much.

1 BRENDAN SULLIVAN: -- the case has been withdrawn.

2 WENDY LEISERSON: Mr. Chair, this is Wendy
3 Leiserson, I was only on for those cases, so I will bid you
4 goodnight.

5 BRENDAN SULLIVAN: Goodnight. Thank you.

6 CONSTANTINE ALEXANDER: Thank you, Wendy.

7 JIM MONTEVERDE: Thank you.

8 BRENDAN SULLIVAN: Stay well.

9 WENDY LEISERSON: And you too.

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1 * * * * *

2 (7:08 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now
7 hear Case Number 154854 -- 22 Water Street. Mr. Braillard?

8 ADAM BRAILLARD: Thank you, Mr. Chair, Members of
9 the Board. Adam Braillard with Prince Lobel Tye. We're at
10 One International Place in Boston.

11 ANDREA HICKEY: Excuse me for just one moment.
12 Mr. Chair, this is Andrea Hickey. I don't think I am on
13 this case. I'm happy to sit. But I think the only other
14 case I'm on for is Blanchard?

15 BRENDAN SULLIVAN: Yes. On this particular case:
16 Brendan Sullivan, Gus Alexander, Jim Monteverde, Laura, are
17 you online?

18 LAURA WERNICK: Yes. Yes, I am.

19 BRENDAN SULLIVAN: Yes, and Slater, you're on?

20 SLATER ANDERSON: I am here.

21 BRENDAN SULLIVAN: Tuned in. Okay. Andrea, you
22 can have a reprise for a few moments.

1 ANDREA HICKEY: All right. I will still be on,
2 but not actively participating. Thank you.

3 BRENDAN SULLIVAN: Thank you.

4 ANDREA HICKEY: I'm sorry to interrupt, Counsel.

5 BRENDAN SULLIVAN: No, that's keeping us honest.
6 That's great.

7 ANDREA HICKEY: All right.

8 BRENDAN SULLIVAN: Okay. Mr. Brailard, you were
9 on.

10 ADAM BRAILLARD: Sure, thank you. And I apologize
11 if I'm [1:12:57 indiscernible lying] a little bit, just
12 please let me know and I'll go off video.

13 So I'm here on behalf of the applicant Starry,
14 Inc. Starry is a little bit different than a typical
15 wireless communications carrier. Starry is an FTC-licensed
16 wireless internet provider which provides high-speed, low-
17 cost Broadband Internet services to its customers.

18 But by doing that, it does need to install similar
19 type communications facilities on -- generally on rooftops
20 of buildings.

21 We've been in front of this Board I think about a
22 year ago, but I just wanted to remind the Board what Starry

1 is all about.

2 So with me tonight is Joe Pereira. I'm not -- I
3 know that he's logged in, Olivia. He might be logged in
4 under my name, because I forwarded him the information. But
5 Joe is Project Manager for this as well as a number of other
6 sites in Cambridge, and is on to answer any technical
7 questions that the Board may have.

8 We're here in front of the Board for a special
9 permit to install wireless internet access facility on the
10 rooftop of the building located at 22 Water Street in
11 Cambridge. It's located in the PUD-6 Zoning District.

12 Basically -- and I'll be brief because I know that
13 there's a lot on the Agenda -- the installation consists of
14 small-scale antennas attached to the existing screening on
15 the rooftop of the building.

16 The average size of the antennas is about 15
17 inches, so relatively small compared to traditional
18 telecommunications facilities.

19 We've met with the -- we filed the application
20 back in November. We met with the Planning Staff, the CDD
21 and the Planning Board twice. The first time we met with
22 them in early January, they did have a concern with the

1 design. We had originally proposed to install the antennas
2 above the screening, so that you could see the antennas, and
3 then they penetrated the sky from the ground.

4 So we redesigned and were able to install the
5 antennas on the cases. The reason why we hadn't done that
6 before is that there was concern from the landlord of going
7 in front of the screen. But we were able to get them to
8 approve that.

9 And we also propose to paint all of the equipment
10 that's in front of the screen to match the aluminum
11 screening.

12 So we met back with the Planning Staff last week,
13 and they favorably recommended the design too to the Zoning
14 Board, basically stating that it does not appear to be
15 visible from the ground level, basically it's all small-
16 scale antennas at about 160 feet in the air.

17 We filed updated photo simulations and plans mid-
18 last week, and were in front of the Board. So I think
19 that's really it, unless the Board has some questions for
20 our proposal.

21 BRENDAN SULLIVAN: Any questions by any Members of
22 the Board regarding the application?

1 [Pause]

2 No? Hearing none. Okay. Let me just go through
3 the pro forma. Under Section 4. --

4 ADAM BRAILLARD: Mr. Chair, sorry.

5 BRENDAN SULLIVAN: -- 4.32d, Footnote 49, the
6 Board of Zoning Appeals shall consider the scope of or
7 limitations imposed by any limitations imposed by any
8 license secured from any state or federal agency have
9 jurisdiction over such matters.

10 Your submittal states that your applicant meets
11 all of the requirements imposed by the government, and
12 having jurisdiction over the proposed facility, and that
13 this is an existing location that is being upgraded with new
14 technology to provide the necessary coverage to the subject
15 area of Cambridge, and there are no limitations in that
16 license.

17 The Board shall also consider the extent to which
18 the visual impact of the various elements of the proposed
19 facility is minimized through the use of existing mechanical
20 elements on the building roof or other features of the
21 building as support and background.

22 Through the use and materials that in texture and

1 color blend with the materials to which the facilities are
2 attached or other effective means to reduce the visual
3 impact of the facility on the site.

4 And the Planning Board and Community Development
5 did critique the original application and have now improved
6 the revised plan.

7 The Board finds that the applicant proposes to
8 install a facility within the PUD-6 Zoning District. To the
9 extent that the City considers their PUD a residential
10 district, the applicant has provided that nonresidential
11 uses predominate in the area.

12 It is bounded by major commercial highways. Also
13 there are major buildings, commercial, industrial, and also,
14 a Mass Bay Transportation industrial railway adjacent to
15 this, so that -- sub note 45 regarding the -- 49 regarding
16 the residential district -- I would find does not apply in
17 this instance.

18 Further, the applicant through the submission
19 complies with the Special Permit Criteria and that the
20 requirements of the ordinance appears to be able to be met.
21 And, furtherance, that there would be other requirements
22 that appear to be met.

1 Let me -- seeing how there's no other questions by
2 Members of the Board, let me open it to public comment. Any
3 member of the public who wishes to speak should now click
4 the button that says, "Participants," and then click the
5 button that says, "Raise hand."

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

8 [Pause]

9 There appears to be nobody calling in.

10 Correspondence that we have is from the Planning Board dated
11 February 16. The Planning Board had previously recommended
12 a redesign of the wireless communication equipment
13 installation to improve the visual appearance to complement
14 the architecture of the building.

15 The Planning Board reviewed the revised
16 installation proposal during a meeting on February 15, 2022,
17 and found it to be more aesthetically appropriate, because
18 the equipment no longer appears to be visual from ground
19 level.

20 Board Members also noted that this proposal is to
21 accommodate a new wireless communication provider in the
22 city, which is good for Cambridge.

1 The Planning Board decided to forward a positive
2 recommendation to the BZA to consider the revised proposal
3 for the installation. That is the sum and substance of any
4 communication. I will close public comment part.

5 Any other questions by Members of the Board? Any
6 further comments by Mr. Brailard? None?

7 CONSTANTINE ALEXANDER: None.

8 BRENDAN SULLIVAN: None. Okay. Let me, then,
9 make a motion to grant the relief requested as per the
10 application and the drawings, supporting statements, and the
11 visual signed and initialed by the Chair.

12 The Board finds that under 10.43, the requirements
13 of the ordinance can be met.

14 The Board finds that traffic generated or patterns
15 of access or egress would not cause congestion, hazard, or
16 substantial change in established neighborhood character.

17 The proposed installation will not obstruct the
18 existing right of way or pedestrian access, and will not
19 change the daily conditions of access, egress, traffic,
20 congestion, hazard, or character of the neighborhood.

21 The Board finds that continued operation of or
22 development of adjacent are, as permitted in the zoning

1 ordinance, will not be adversely affected by the nature of
2 the proposed use.

3 The Board finds that the modification of the
4 existing facility will blend in with the existing
5 characteristics of the building and the surrounding
6 neighborhood.

7 And the Board notes the letter of support from the
8 Planning Board and is incorporated by reference.

9 The Board finds that the surrounding properties
10 and general public will benefit from the potential to enjoy
11 an improved wireless facility.

12 The Board finds that there would not be any
13 nuisance or hazard created to the detriment of the health,
14 safety and/or welfare of the occupant of the proposed use,
15 or to the residents of the city.

16 The Board finds that the proposed use will benefit
17 the city and promote the safety and welfare of its
18 residents, businesses and drivers by providing reliable,
19 state-of-the-art, digital wireless data services.

20 The Board finds that the proposed location of the
21 facility is necessary for the effective deployment of the
22 applicant's network.

1 The Board finds that the proposed facility will
2 reserve and increase the amenities of the city by enhancing
3 telecommunication services.

4 The Board finds that the proposed install will not
5 impair the integrity of the district or adjoining district,
6 or otherwise derogate from the intent and purpose of the
7 ordinance.

8 The applicant's submittal shows that the facility
9 is designed to blend in with the existing characteristics.
10 The design result is a minimal impact on the underlying and
11 adjacent zoning district, and is consistent with the purpose
12 of the ordinance.

13 The Board also finds that the proposal will
14 contribute to the security, safety from fire, flood, panic
15 and other dangers by providing more reliable wireless
16 coverage with emergency 999 enhanced emergency services.

17 In furtherance, the Board finds that the work --
18 that based upon the information presented to the Board, if
19 we grant the relief requested as described in the
20 petitioner's submitted material and the evidence before the
21 Board that the work proceed in accordance with the plans
22 submitted by the petitioner, as initialed by the Chair.

1 That upon completion of the work, the physical
2 appearance and visual impact of the proposed work be
3 consistent with the photo simulations submitted by the
4 petitioner, and initialed by the Chair.

5 That the petitioner at all times maintain the
6 proposed work, so that its physical appearance and visual
7 impact will remain consistent with the photo simulations
8 previously referred to.

9 That should the petitioner cease to utilize the
10 equipment approved tonight for a continuous period of six
11 months or more, it promptly thereafter remove such equipment
12 and restore the building on which it is located to its prior
13 condition and appearance, to an extent reasonably
14 practicable.

15 The petitioner continue to comply with the
16 conditions imposed by the Board with respect to previous
17 special permits granted to the petitioner, with regard to
18 the site in question.

19 That In as much as the health effects of the
20 transmission of electromagnetic energy waves is a matter of
21 ongoing societal concern and scientific study, the special
22 permit is also subject to the following conditions:

1 That the petitioner shall file with the
2 Inspectional Services Department each report it files with
3 the federal authorities regarding electromagnetic energy
4 waves emissions emanating from all of the petitioner's
5 equipment on the site.

6 Each such report shall be filed with the
7 Inspectional Services Department no later than 10 business
8 days after the report has been filed with the federal
9 authorities.

10 Failure to timely file any such report with
11 Inspectional Services shall ipso facto terminate the special
12 permit granted tonight.

13 That in the event that any the federal authorities
14 notify the petitioner that its equipment on the site,
15 including but not limited to the special permit granted
16 tonight, fails to comply with the requirements of law or
17 governmental regulations -- whether with regard to the
18 emissions of electromagnetic energy waves or otherwise --
19 the petitioner, within 10 business days of receipt of such
20 notification of such failure, shall file with the
21 Inspectional Services Department a report disclosing in
22 reasonable detail that such failure has occurred, and the

1 basis for such claimed failure.

2 The special permit granted shall ipso facto
3 terminate if any of the petitioner's federal licenses is or
4 are suspended, revoked or terminated.

5 That to the extent a special permit has
6 terminated, pursuant to the foregoing paragraphs a) and b),
7 the petitioner may apply to this Board for a new special
8 permit, provided that the public notice containing such
9 application discloses in reasonable detail that the
10 application has been filed because of the termination of the
11 special permit, pursuant to paragraphs a) or b) above.

12 Any such new application shall not be deemed a
13 repetitive petition, and therefore will not be subject to
14 the two-year period during which repetitive petitions may
15 not be filed.

16 That within 10 business days after receipt of a
17 building permit for the installation of the equipment
18 subject to this petition, the petitioner shall file with the
19 Inspectional Services Department a sworn affidavit of the
20 person in charge of the installation of equipment by the
21 petitioner of the geographical area that includes Cambridge
22 stating that:

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a)

he or she has such responsibility, and that
he or she has such responsibility, and that

b)

that the equipment being installed pursuant
to the special permit, will comply with all federal safety
rules, and will be situated and maintained in locations with
appropriate barricades and other protections, such that
individuals, including nearby residents and occupants of
nearby structures, will be sufficiently protected from
excessive radiofrequency radiation under federal law.

Any other conditions? That sort of covers it,
doesn't it?

On the motion then, to grant the special permit
for the installation of the telecommunications facility at
22 Water Street, Mr. Alexander?

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: Jim Monteverde voting in favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: Voting in favor.

BRENDAN SULLIVAN: Slater Anderson?

1 SLATER ANDERSON: Slater Anderson voting in favor.

2 BRENDAN SULLIVAN: And the Chair, Brendan
3 Sullivan, votes in favor.

4 [All vote YES]

5 BRENDAN SULLIVAN: The special permit is granted.
6 Thank you, Adam.

7 ADAM BRAILLARD: Thank you very much.

8 BRENDAN SULLIVAN: And we return to our regular
9 Agenda for the night. And Mr. Monteverde will be chairing
10 the first case, 23 Blanchard Road.

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(7:26 p.m.)

Sitting Members: Constantine Alexander, Jim Monteverde,
Slater Anderson, Andrea Hickey, and Laura
Wernick

JIM MONTEVERDE: Okay, so the Board calls Case No.
159662 -- 23 Blanchard Road. Is there anyone here wishing
to be heard? Katherine Mahoney, are you on the line? Can
you unmute yourself?

KATHERINE MAHONEY: Can you hear me now?

JIM MONTEVERDE: There you go.

KATHERINE MAHONEY: Okay. I don't know how to put
my picture on, but that's okay.

JIM MONTEVERDE: No, you don't have to, we'll do
that for you, so.

KATHERINE MAHONEY: Okay, great.

JIM MONTEVERDE: Olivia, could you bring up that
file, please?

[Pause]

Thank you. Katherine, can you see the screen?

KATHERINE MAHONEY: Yes, I can.

JIM MONTEVERDE: Okay. So if you want any other

1 views, just let us know which one you'd like to flip to.

2 KATHERINE MAHONEY: Okay, great.

3 JIM MONTEVERDE: You want to walk us through your
4 proposal?

5 KATHERINE MAHONEY: Oh, I'm sorry. Yes. This is
6 a --

7 JIM MONTEVERDE: You know what the special permit
8 conditions are, correct?

9 KATHERINE MAHONEY: Yes, this is a --

10 JIM MONTEVERDE: Go right ahead.

11 KATHERINE MAHONEY: -- a special permit for 23
12 Blanchard Road, which is my home since I've -- since 1964,
13 and lived in Cambridge, born in Cambridge. And every one of
14 the rest of the family is deceased, and I would like to move
15 back into Blanchard Road. But it needs some repairs.

16 So this is what I've proposed: Is putting a new
17 front door, the front of the lot -- a new front door,
18 because I think the steps and things are out of code.

19 And putting up -- pushing out in the back part of
20 the yard a structure that's attached to the kitchen with a
21 bathroom and a laundry room on the first floor, and to redo
22 the bathroom on the second floor, and to make a master

1 bedroom on the second floor also.

2 JIM MONTEVERDE: Okay. And you're asking for
3 relief for a Table of Dimensional Requirements? I'm
4 assuming [that your setbacks from the property lines] (sic)?

5 KATHERINE MAHONEY: Yes, they are.

6 JIM MONTEVERDE: And you're -- looking at the
7 diagram we have up on the screen, I'm assuming it's not the
8 front porch, it's the rear addition, is that correct?

9 KATHERINE MAHONEY: The rear addition, yes.

10 JIM MONTEVERDE: So you don't have the -- you're
11 following the same line as the existing house, but you don't
12 have the -- you don't have the setback requirement on the
13 addition, on the side yard? Is that correct?

14 KATHERINE MAHONEY: On the -- no, not going on the
15 side, just to the back.

16 JIM MONTEVERDE: So the rear yard setback?

17 KATHERINE MAHONEY: To the rear, yes.

18 JIM MONTEVERDE: Okay. Okay. Do you have
19 anything else to add?

20 KATHERINE MAHONEY: No, I would just like to
21 mention that, you know, it was a home that we had since '64.
22 And, you know, I'm now a senior citizen myself, and I would

1 like to do the -- you know, change the house to consider
2 myself a senior citizen and beyond, so I can stay there.

3 JIM MONTEVERDE: Yeah. And -- excuse me if you
4 said this in your presentation, but what will the addition
5 toward the rear allow you that you don't have now?

6 KATHERINE MAHONEY: Oh, that I don't -- a larger
7 kitchen and a place to put a table -- basically a table.

8 JIM MONTEVERDE: Okay. All right. Oh, great,
9 yes. That's helpful. Thank you.

10 KATHERINE MAHONEY: Okay.

11 JIM MONTEVERDE: Yeah. There are also some
12 windows that are in the side yard setback. You're not
13 moving any windows?

14 KATHERINE MAHONEY: I'm not.

15 JIM MONTEVERDE: So it's really just the window
16 that's in the dining room, that's in the side yard setback?

17 KATHERINE MAHONEY: Yes. Yes. Yes. Yep.

18 JIM MONTEVERDE: Okay. Is there anything else?

19 KATHERINE MAHONEY: No, not that I can think of.

20 JIM MONTEVERDE: Okay.

21 KATHERINE MAHONEY: I think that's basically it.

22 JIM MONTEVERDE: All right. Thank you. Members

1 of the Board?

2 KATHERINE MAHONEY: All right.

3 JIM MONTEVERDE: Anybody have any comments or
4 questions?

5 CONSTANTINE ALEXANDER: I have no comments or
6 questions.

7 JIM MONTEVERDE: Thank you. Andrea? Are you on
8 this one?

9 ANDREA HICKEY: Yes, I'm on this one, and I have
10 no comments or questions.

11 JIM MONTEVERDE: Slater?

12 SLATER ANDERSON: No comments or questions.

13 JIM MONTEVERDE: And Laura?

14 LAURA WERNICK: No questions, thank you.

15 JIM MONTEVERDE: All right. Then the Vice-Chair
16 moves to accept or favor the request for a special permit at
17 23 Blanchard Road, subject to the work to proceed in
18 accordance with the plans submitted by the petitioner and
19 initialed by the Vice-Chair.

20 CONSTANTINE ALEXANDER: Excuse me, Jim, open the
21 matter to --

22 JIM MONTEVERDE: Oh, sorry. Public testimony.

1 Sorry. Trying to speed right along. Are there any members
2 of the public who wish to speak on this matter?

3 [Pause]

4 Olivia, do you see anybody waiting to be heard?

5 OLIVIA RATAY: No.

6 JIM MONTEVERDE: Okay. Then back to my speech.

7 KATHERINE MAHONEY: All right.

8 JIM MONTEVERDE: So the Chair moves that the Board
9 accept the request for the special permit for 23 Blanchard
10 Road, and that subject to the condition that the work
11 proceed in accordance with the plans submitted by the
12 petitioner and initialed by the Vice-Chair. And I will call
13 the Board Members for a vote.

14 Gus?

15 CONSTANTINE ALEXANDER: I vote in favor.

16 JIM MONTEVERDE: Thank you. Andrea?

17 ANDREA HICKEY: Yes, I'm in favor.

18 JIM MONTEVERDE: Thank you. Slater?

19 SLATER ANDERSON: Slater Anderson in favor.

20 JIM MONTEVERDE: And Laura?

21 LAURA WERNICK: Voting in favor, please.

22 [All vote YES]

1 JIM MONTEVERDE: All right. Matter accepted.

2 Thank you.

3 KATHERINE MAHONEY: All right. Thank you all very
4 much.

5 JIM MONTEVERDE: You're welcome.

6 CONSTANTINE ALEXANDER: Thanks.

7 JIM MONTEVERDE: Bye-bye.

8 KATHERINE MAHONEY: Bye-bye. And I will turn the
9 golden scepter back over to you, Mr. Sullivan?

10 BRENDAN SULLIVAN: Thank you, Jim. Well done.

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(7:33 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Slater Anderson, and Laura
Wernick

BRENDAN SULLIVAN: The Board will now hear Case
No. 159906 -- 168 Hampshire Street.

ANDREA HICKEY: Mr. Chair, this is Andrea Hickey
speaking. I am signing off. Should a conflict come up, or
if I'm needed during the night, someone could call me on my
cell phone, I'm happy to step in.

BRENDAN SULLIVAN: You're the best. Thank you.

ANDREA HICKEY: Thank you.

JIM MONTEVERDE: Thank you.

ANDREA HICKEY: Have a good evening.

BRENDAN SULLIVAN: Stay well.

JIM MONTEVERDE: Goodnight.

ANDREA HICKEY: Thanks.

SLATER ANDERSON: Thanks. Goodnight.

ANDREA HICKEY: All right.

BRENDAN SULLIVAN: Mr. Rungta? Brookline Bagel
Factory?

1 GOPAL RUNGTA: Unmute. Yeah, I'm sorry, I was
2 unmuted. I'm not, like, very tech-savvy. I apologize.

3 BRENDAN SULLIVAN: That's okay. No problem. If
4 you would introduce yourself for the record and tell us what
5 you would like to do.

6 GOPAL RUNGTA: Yeah. My name is Gopal Rungta.
7 I'm a Cambridge resident the last 12 years, when we moved
8 from Florida. And I've been in the industry pretty much the
9 last 40 years, and I had three restaurants in Cambridge. I
10 was part of MIT Dining. I had one in Student Center, I had
11 one in CambridgeSide Mall, and the Mall had closed due to
12 COVID. And I have one on Magazine Street, 114 Magazine
13 Street, left.

14 And this is where we are planning to put a bagel
15 shop, coffee shop, small -- for the locals living down
16 there; a small joint, a Cambridge resident, a Cambridge,
17 small, family-run business and we need your support.

18 BRENDAN SULLIVAN: The nature of the business is
19 that you're going to open up a bagel retail store, you're
20 going to produce the bagels on location?

21 GOPAL RUNGTA: Hold on. Your question is if we
22 are going to bake the bagels in the location?

1 CONSTANTINE ALEXANDER: The question -- is it just
2 takeout, it's like a grocery store, or will --

3 GOPAL RUNGTA: No.

4 CONSTANTINE ALEXANDER: -- people come in, order a
5 bagel and sit down somewhere in the premises and eat the
6 bagels?

7 GOPAL RUNGTA: The bagels will be coming from
8 outside. It's not a grocery store. It's like we're going
9 to have quick-oven toasters, they bake it, make sandwiches
10 and coffee. And we have a few seating for people to sit
11 down, do their homework -- students -- and just have a
12 breakfast or lunch.

13 BRENDAN SULLIVAN: And the hours of operation?

14 GOPAL RUNGTA: Hours of operation? I mean, if you
15 look at it, normally a bagel shop opens at, like, 7:00 or
16 6:00 in the morning, they close at 3:00.

17 But what I'm trying -- like, if I'm putting in
18 sandwiches, I would like to open until, like, 9:00, 10:00.
19 That's the idea, which is crossing my mind up and down. I'm
20 not 100 percent about it. That's the game plan right now.

21 BRENDAN SULLIVAN: Seven days a week?

22 CONSTANTINE ALEXANDER: Five days a week?

1 GOPAL RUNGTA: Sorry, sir?

2 CONSTANTINE ALEXANDER: Will you be open seven
3 days a week?

4 GOPAL RUNGTA: That's the idea. Again, seven days
5 a week. But, again, at the same time it might be six days
6 closing on Mondays, but yes for now the idea is seven days.

7 BRENDAN SULLIVAN: Not going to really hold you to
8 it, just trying to get an overview as to the operation.

9 GOPAL RUNGTA: I understand, certainly.

10 BRENDAN SULLIVAN: -- focus in on the details, but
11 just want to get an overview. Previous use of this location
12 was a dry cleaner.

13 GOPAL RUNGTA: Yep.

14 BRENDAN SULLIVAN: Is that correct?

15 GOPAL RUNGTA: Yes, sir, and before the dry
16 cleaners, the building came up in front of me around seven
17 or eight years ago. There used to be a Taco Bell there.

18 CONSTANTINE ALEXANDER: Used to be a Kentucky
19 Fried Chicken.

20 GOPAL RUNGTA: That was -- I think that was
21 opposite, where 7-Eleven is.

22 BRENDAN SULLIVAN: Right.

1 GOPAL RUNGTA: If I'm not mistaken. I'm not 100
2 percent certain.

3 BRENDAN SULLIVAN: Okay.

4 CONSTANTINE ALEXANDER: What about trash
5 collection, for people who come in? Are there going to be
6 receptacles, so they can deposit their trash and not have it
7 on the street?

8 GOPAL RUNGTA: Can you hold on for one minute with
9 me? I'm not -- I'm having a little hard time hearing. Hold
10 on. Just one minute.

11 [Pause]

12 I can hear you better now. Go ahead.

13 BRENDAN SULLIVAN: Give me a second. Any
14 questions by any Members of the Board? Jim?

15 JIM MONTEVERDE: No questions, thank you.

16 BRENDAN SULLIVAN: Slater, any questions at this
17 time?

18 SLATER ANDERSON: No questions.

19 BRENDAN SULLIVAN: Laura?

20 LAURA WERNICK: No questions. No questions.

21 BRENDAN SULLIVAN: All right. Let me open it to
22 public comment. Any members of the public who wish to speak

1 should now click the button that says, "Participants," and
2 then click the button that says, "Raise hand."

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

6 [Pause]

7 There appears to be nobody calling in. We are in
8 receipt of communication from a Mr. Andrew Groh, G-r-o-h,
9 306 Columbia. He lives on Columbia Street in Cambridge.

10 "I am writing to support zoning relief for The
11 Bagel Factory. It's a wonderful addition to the
12 neighborhood, and I and many of my neighbors have been
13 looking forward to it. Please approve the relief they
14 request."

15 I have correspondence from Alan Sadun, S-a-d-u-n,
16 24 Union Street.

17 "I live 1500 feet from the proposed bagel place,
18 and support allowing it to open. I assure you that when the
19 bagel place opens, I will make those bagels disappear very
20 quickly." He is a bagel aficionado.

21 A correspondence from Shane Woolley, W-o-o-l-l-e-
22 y.

1 "Please approve the special permit for Brookline
2 Bagel Factories in Cambridge - languishes in an inhospitable
3 bagel desert" and stop the bagel [1:43:20 indiscernible]
4 approve the permit."

5 Correspondence from Alex Wang -- W-a-n-g, 45
6 Market Street, who also is in favor of a bagel location.

7 Correspondence -- that is the sum and substance of
8 the correspondence. I will close the public comment.

9 There are some other requirements that you have to
10 meet under 11.30:

11 In considering the application for a special
12 permit for the fast-order food establishment, and an
13 automobile-oriented fast-food establishment, the Board shall
14 find in addition to the other criteria specific to Section
15 1040 that the following requirements are met:

16 The operation of the establishment shall not
17 create traffic problems -- and the presentation is that it
18 will not.

19 That it will not reduce available parking.

20 That it will not threaten the public safety in the
21 streets or sidewalk, or that it will encourage or produce
22 double parking on the adjacent public streets.

1 And I will request the petitioner that you pay
2 special attention to that if people are calling in to pick
3 up their bagels and whatever else you're selling there that
4 they not double park and not encourage it or discourage it
5 and have them pull them around the corner.

6 The Board finds that the physical design,
7 including colors and use of materials, shall be compatible
8 with and sensitive to the visual and physical
9 characteristics of other buildings, public spaces and uses
10 in the particular location.

11 The Board finds that -- and you're not requesting
12 any sign really from the sign ordinance, so whatever sign
13 you put up there will be in compliance with the sign
14 ordinance.

15 The Board finds that the establishment fulfills a
16 need for such a service in the neighborhood, and the Board
17 refers back to the letters of communication to the Board
18 from neighbors who fully support the location and the need
19 for such at this location.

20 The establishment will attract patrons primarily
21 from walk-in trade, as opposed to drive-in automobiles, and
22 the presentation is that it be neighborhood and walk-in

1 trade.

2 The establishment shall, to the greatest extent
3 feasible, utilize biodegradable materials in packaging the
4 food and utensils and other items provided for consumption.
5 And you attest to the fact that your wrappings and utensils
6 and everything will be biodegradable, yes?

7 GOPAL RUNGTA: Yes, please.

8 BRENDAN SULLIVAN: Okay.

9 The establishment shall provide convenient,
10 suitable, and well-marked waste receptacles and encourage
11 patrons to dispose of all packaging materials, utensils and
12 other items provided with the sale of food.

13 You will also provide receptacles inside the
14 establishment, and is it possible to provide a receptacle
15 outside, in case somebody wanders out the door and has a
16 wrapper or something like that they could dispose of? Is
17 that possible?

18 GOPAL RUNGTA: Yes, sir.

19 BRENDAN SULLIVAN: The establishment complies with
20 all state, local requirements applicable to ingress, egress
21 and use of all facilities on the premises for handicapped
22 and disabled persons?

1 GOPAL RUNGTA: Yes, sir.

2 BRENDAN SULLIVAN: Okay. If there are no other
3 further questions by Members of the Board per this special
4 permit, 0.44 (sic), I'll make a motion, then, to grant the
5 permit.

6 THE REPORTER: Please speak into the mic?

7 JIM MONTEVERDE: Can't --

8 BRENDAN SULLIVAN: Sorry?

9 JIM MONTEVERDE: Can't hear you.

10 BRENDAN SULLIVAN: Oh, I'm sorry. The Board finds
11 it appears that the ordinance -- the requirements of the
12 ordinance can be met with the granting of the special
13 permit.

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

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

22 The Board finds that there would not be any

1 nuisance or hazard created to the detriment of the health,
2 safety and/or welfare of the occupant of the proposed use,
3 or to the citizens of the city.

4 The Board finds that the proposed use would not
5 impair the integrity of the district or adjoining district,
6 or otherwise derogate from the intent and purpose of the
7 ordinance.

8 On the motion, then, to grant the special permit
9 to operate a bagel shop at 168 Hampshire Street? Mr.
10 Alexander?

11 CONSTANTINE ALEXANDER: I vote in favor.

12 BRENDAN SULLIVAN: Jim Monteverde?

13 JIM MONTEVERDE: I vote in favor of the special
14 permit.

15 BRENDAN SULLIVAN: Slater Anderson?

16 SLATER ANDERSON: I vote in favor.

17 BRENDAN SULLIVAN: Laura Wernick?

18 LAURA WERNICK: I vote in favor.

19 BRENDAN SULLIVAN: And the Chair, Brendan
20 Sullivan, votes in favor.

21 [All vote YES]

22 BRENDAN SULLIVAN: Four (sic) affirmative votes;

1 the special permit is granted. Good luck, Mr. Rungta.

2 GOPAL RUNGTA: Thank you, sir. Thank you very
3 much.

4 Got it!

5 COLLECTIVE: [Laughter]

6 LAURA WERNICK: Cute.

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2 (7:45 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case
7 Number 157017 -- 69 Chilton Street.

8 TIM BOOMER: Hi, this is Tim and Isa. We'll be
9 representing this project. My name is Tim Boomer and I've
10 owned -- well, we've owned -- 69 Chilton Street since 2016.

11 It's the upstairs condo of a two-family condo
12 association building, and we're asking for a special permit
13 for the addition of a 15-foot dormer with proposed windows
14 in a setback for the addition of a bedroom and a bathroom.

15 ISA BOOMER: We are expecting our first child, a
16 girl, due July 4. And in summary, we have two reasons to
17 seek additional space.

18 One is the fact that we both work from home and we
19 don't see that changing in the foreseeable future.

20 And two is the fact that our families live abroad,
21 and with the arrival of our child, we will be expecting a
22 lot of visitors. So we need both an office and space for

1 grandparents.

2 TIM BOOMER: We have worked with an architect,
3 Paul Mahoney -- he's a local architect -- throughout the
4 whole process. He worked with us on the design and on the
5 application, and he was planning to do the presentation with
6 us today.

7 Paul also volunteers to lead youth groups and to
8 provide housing in disadvantaged areas, and he was asked to
9 go away this week to Appalachia to work on some projects.

10 So he did talk us through the application, and
11 we're going to represent ourselves today.

12 BRENDAN SULLIVAN: All right. Thank you. Chilton
13 Street? Sorry to interrupt you.

14 TIM BOOMER: No problem.

15 CONSTANTINE ALEXANDER: Sure. I think --

16 [Side conversation, Brendan and Constantine]

17 BRENDAN SULLIVAN: Well, maybe I'll have Olivia
18 pull it up on the -- we can download the -- I had a couple
19 questions initially on it for Mr. Mahoney. Mr. Mahoney is
20 the architect?

21 TIM BOOMER: That's correct, yeah. Paul Mahoney.
22 I believe there were two questions which were passed on,

1 which Olivia passed on to us a couple of days ago.

2 BRENDAN SULLIVAN: Okay. Somehow it got
3 misplaced, so.

4 [Pause]

5 Well, that's okay. Could I have -- Olivia, if you
6 could pull a -- elevation of the dormer? The proposed
7 elevation, left elevation where it says, "option" that the -
8 - at the very top of the roof it shows 15 feet.

9 I had asked Mr. Mahoney what the dimension was at
10 the very bottom. And he's indicated that it is "twenty foot
11 seven". So in my eyes, that's a 20'7" dormer, going by the
12 extreme now.

13 In his correspondence dated today, you stated that
14 the sloped extensions are for aesthetics, allowing for a
15 sloped, shingled side of the dormer.

16 But if the Board feels this is not beneficial, the
17 slope extension beyond 15 can be eliminated, so the dormer
18 is 15 feet at the top and at the eave, at the bottom.

19 And you're in agreement with that?

20 TIM BOOMER: Yeah, that's correct. This was
21 really an aesthetic thing to try and help it blend in.
22 We're indifferent, as long as we can prepare the additional

1 space. So we're happy either way.

2 BRENDAN SULLIVAN: So that it has -- does it have
3 any beneficial space on the inside at all, or not?

4 TIM BOOMER: No. It's not being included in the
5 floor plan that we've done, so we're assuming now. It was -
6 - in discussion, we just originally discussed the deeper
7 dormer, and when Paul was drawing it up, he suggested this
8 might be a way to make it look more attractive from the
9 outside.

10 BRENDAN SULLIVAN: Okay.

11 CONSTANTINE ALEXANDER: The reason for the Q: Is
12 that -- you may not be aware -- the City has dormer
13 guidelines; not legally required, but we strongly enforce
14 them. And one of those requirements is that the dormer
15 can't be more than 15 feet in length.

16 BRENDAN SULLIVAN: Okay.

17 CONSTANTINE ALEXANDER: That's the reason why, as
18 Mr. Sullivan is pointing out, that we've got to cut back the
19 angle. It may be nice for aesthetics, but it doesn't work
20 from the City's point of view.

21 TIM BOOMER: Okay. I mean, we're happy either
22 way. It's not a -- it's not crucial to the planning.

1 BRENDAN SULLIVAN: Okay. Well, we'll see what the
2 other Members of the Board -- how they feel on what is
3 proposed.

4 The other issue was that you were listed as the
5 owner of 69 Chilton Street Condominium Association, and I
6 have asked if it was a condominium association that the
7 other owners -- we also require their approval.

8 Correspondence came back today to the City of
9 Cambridge. "We the undersigned, representing the 6971
10 Chilton Street Condominium Association acknowledge and agree
11 to the proposed renovations by the owner of Unit 69, as set
12 out in the Condo Association meeting held on February 22,
13 2022, whose minutes have been approved and signed on
14 February 24.

15 "The main points on the renovation include the
16 addition of a dormer structure per the plan, the addition of
17 skylights and windows per the plan, the addition of a
18 bathroom to the third floor of the property per the plan."

19 And the -- Tim Boomer, you have signed it and
20 Frederic Boutaud -- B-o-u-t-a-u-d, 71 Chilton Street has
21 also initialed it.

22 So those are the two issues that I had was the

1 length of the extreme of the dormer, and also, the Condo
2 Association makeup and their approval. So both are in the
3 file.

4 Any questions by Members of the Board? Mr.
5 Alexander?

6 CONSTANTINE ALEXANDER: With the modification you
7 just talked about regarding the length of the dormer, I have
8 no problem, I'm in favor.

9 BRENDAN SULLIVAN: All right, Jim Monteverde, any
10 questions at all, or?

11 JIM MONTEVERDE: Just one question. I think if I
12 recall, don't the dormer guidelines also suggest that the
13 top of the dormer be set down from the roof, the main roof
14 ridge?

15 BRENDAN SULLIVAN: Well, it is.

16 JIM MONTEVERDE: And I'm looking at your section,
17 but --

18 BRENDAN SULLIVAN: Yeah. The dormer guidelines
19 call for it coming down the ridge. However, there's
20 somewhat of an exception to that, where that you can go to
21 the ridge if you come in three foot six on either side, and
22 the they've actually called for it to be line with the

1 outside wall.

2 JIM MONTEVERDE: Yeah, exactly. Right. And I
3 think that's the case here.

4 BRENDAN SULLIVAN: Which it is, or --

5 JIM MONTEVERDE: Yeah. And I see from the section
6 that the proposed section basically gives you a ceiling
7 height of right at the ridge of 7'4.5" So I assume you can't
8 come down from the main ridge, because you'll be starting to
9 pinch your head height at the outside edge of the wall.
10 Correct?

11 BRENDAN SULLIVAN: That's right.

12 JIM MONTEVERDE: Yeah. Okay. Thank you. That's
13 the only question I had.

14 BRENDAN SULLIVAN: I'm just trying to read through
15 this thing quickly, Jim. "The preferred setback should not
16 be -- should be at least one foot from the ridge. If,
17 however, the dormer meets the recommended setback for side
18 and front walls, the dormer may start at the ridge beam."

19 And they're actually -- the dormer meets the
20 extended setback for the side, which is 3'6" and it really
21 should be up 1'6" from the walls.

22 The dormer roof may start at the ridge line. This

1 does not appear to come up 1'6". It lines up with the
2 outside wall of the house, so that is one deviant from the
3 guideline on that issue.

4 It's somewhat difficult to understand, and I think
5 our architects will want to go to the outside wall.

6 JIM MONTEVERDE: Right, exactly.

7 BRENDAN SULLIVAN: You know? And it makes it kind
8 of a funny detail on the inside also. So I would allow some
9 latitude on that issue, anyhow. Slater, any questions,
10 comments?

11 SLATER ANDERSON: No, you've -- we were right on
12 the same wavelength. I was curious about the width
13 questions, or the shape of that dormer and its compliance.
14 And I don't have an issue with it extending to the exterior
15 wall of the ridge there, for practical reasons. So all
16 good. Thank you.

17 BRENDAN SULLIVAN: Okay. And you would be in
18 favor of -- at the gutter line that would only be 15 feet
19 and not more?

20 SLATER ANDERSON: Yes, that's -- yeah, I agree
21 with that.

22 BRENDAN SULLIVAN: Okay. Right.

1 SLATER ANDERSON: Correct. You bring it into
2 compliance.

3 BRENDAN SULLIVAN: Okay. Laura?

4 LAURA WERNICK: I'm the same, bringing it into to
5 the 15-foot compliance, I'm fine.

6 BRENDAN SULLIVAN: Okay. 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 will have up to three minutes to speak.

13 JIM MONTEVERDE: Okay. There's nobody that's
14 calling in. The Board has expressed their opinion. I make
15 the motion, then, to grant the relief requested to allow for
16 the construction of a dormer, as per the application. The
17 drawings and the supporting statements and dimensional forms
18 submitted are accepted and initialed by the Chair.

19 CONSTANTINE ALEXANDER: Brendan, the application
20 shows the dormer with the base to be more than 15 feet. So
21 subject to that not being the case; that the length of the
22 dormer be 15 feet top to bottom.

1 BRENDAN SULLIVAN: And side to side, correct, yes.
2 That will be incorporated by reference as a condition.

3 The Board finds that it appears that the
4 requirements of the ordinance can be met.

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

9 The Board finds that continued operations of or
10 development of adjacent uses, as permitted in the zoning
11 ordinance, would not be adversely affected by the nature of
12 the proposed use.

13 There would not be any nuisance or hazard created
14 to the detriment of the health, safety and/or welfare of the
15 occupant of the proposed use, or to the citizens of the
16 city.

17 And that the proposed use would not impair the
18 integrity of the district or adjoining district, or
19 otherwise derogate from the intent and purpose of the
20 ordinance.

21 In furtherance, the Board also may grant a special
22 permit for the alteration or enlargement of a preexisting

1 dimensionally nonconforming, detached single-family
2 dwelling, not otherwise permitted in 8.22.1, provided that
3 there was no change in use, and that any enlargement or
4 alteration of such preexisting, nonconforming detached
5 single-family or two-family dwelling may only increase a
6 preexisting dimensional nonconformity, but does not create
7 any new dimensional nonconformity.

8 In order to grant such special permit, the Board
9 is required to find that the alteration or enlargement shall
10 not be substantially more detrimental than the existing
11 nonconforming structure to the neighborhood, and that the
12 alteration or enlargement satisfies the criteria as stated
13 in Section 10.43 for the granting of a special permit.

14 On that motion, anybody who was in favor?

15 CONSTANTINE ALEXANDER: I'm in favor.

16 JIM MONTEVERDE: Yep, Jim Monteverde voting in
17 favor.

18 SLATER ANDERSON: Slater Anderson in favor.

19 LAURA WERNICK: Laura Wernick voting in favor.

20 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

21 [All vote YES]

22 BRENDAN SULLIVAN: Five affirmative votes with the

1 one caveat that the dormer not exceed 15 feet at the top,
2 and also, at the gutter line or at the eave line, and so
3 noted. The Chair votes in favor and five affirmative votes;
4 the special permit is granted. Good luck.

5 TIM BOOMER: Thank you very much.

6 ISA BOOMER: Thank you.

7 TIM BOOMER: Really appreciate your time.

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2 (7:59 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case
7 Number No. 159243 -- 7 Oakland Street.

8 GIOVANNI BERLANDA-SCORZA: Good evening. Can you
9 hear me?

10 BRENDAN SULLIVAN: Yes.

11 CONSTANTINE ALEXANDER: Yes.

12 GIOVANNI BERLANDA-SCORZA: Good evening. My name
13 is Giovanni Berlanda, and I'm the owner of the property at 7
14 Oakland Street.

15 I purchased the property in 2014 after living five
16 years in the neighborhood, and I did a large renovation with
17 the help of Stephen Hiserodt, which is also the architect
18 helping me tonight for this project.

19 We designed that house to have an open space on
20 the third floor open to the living room below and two
21 bedrooms on the first floor for my wife and for the two
22 children.

1 The first child was born in 2015 and the other in
2 2019. However, in 2021 we got the third child, which is now
3 three months old, so we need to rethink how we organize the
4 space in the house, because the single -- because the
5 bedroom in the first floor is not big enough for having
6 three children sleeping in it.

7 So we are thinking of using the space on the third
8 floor as our master bedroom, so the three children can share
9 the two bedrooms on the first floor.

10 I'm also committed to install an electrical solar
11 system on the roof that will be created with the addition we
12 are asking the special permit for, because I'm trying to cut
13 back on burning natural gas for heating in the house to try
14 to limit CO2 emissions.

15 Stephen will help me describe to the Board the
16 project and the thinking that went behind the what we are
17 trying to achieve.

18 [Pause]

19 GIOVANNI BERLANDA-SCORZA: I'm not hearing Stephen
20 yet.

21 STEPHEN HISERODT: Can you --

22 BRENDAN SULLIVAN: Could you pull up maybe the

1 third floor?

2 STEPHEN HISERODT: Can you hear me now?

3 BRENDAN SULLIVAN: Yes.

4 STEPHEN HISERODT: Okay. We're asking for a
5 special permit in accordance with Section 8.22.2d, which is
6 as we know, the -- basically increasing an existing
7 nonconformity. The only nonconformity we have that we are
8 affecting is the front yard setback.

9 BRENDAN SULLIVAN: Is this Steve speaking?

10 STEPHEN HISERODT: Excuse me?

11 BRENDAN SULLIVAN: Yes. Is this Stephen speaking?

12 STEPHEN HISERODT: Yes, it is. This is Stephen.

13 BRENDAN SULLIVAN: All right. If you could please
14 introduce yourself.

15 STEPHEN HISERODT: I'm sorry.

16 BRENDAN SULLIVAN: Okay.

17 STEPHEN HISERODT: Steve Hiserodt from DH
18 Architects.

19 BRENDAN SULLIVAN: Okay. Just continue.

20 STEPHEN HISERODT: Olivia, were you by chance able
21 to put in the illustrative sketches that I provided? Okay.
22 I guess since I have the feeling that this will come down to

1 a discussion on dormers and dormer guidelines, there are
2 some mitigating circumstances that led us to the design that
3 we ended up with.

4 We originally -- the original goal, or Giovanni's
5 original goal was to put an entire third floor on. And as
6 we went through the process -- and we have the available
7 square footage -- we realized after doing some solar
8 analysis, that we would have impacted his neighbor to the
9 south side, which that house is over three feet away.

10 And it would have impacted --

11 GIOVANNI BERLANDA-SCORZA: It's on the north side.

12 STEPHEN HISERODT: -- it would have impacted his
13 solar exposure. [So I can't operate the mouse, can I for
14 pointing?] The top figure is sort of a massing what the
15 original plan was. But it shed too much shadow on the
16 neighbors' solar panels on their roof.

17 So we rejected that scheme, which left us the only
18 place to develop as the south side of Giovanni's roof. We
19 considered putting a flat roof addition up there, but that
20 would have been I think worse for the existing form of the
21 house.

22 And where we landed was if you scroll down to the

1 bottom massing is a dormer with the full length of the roof
2 in that section. Really, the only way to give them the
3 space needed, which obviously does not reflect the dormer
4 guidelines. It's 21'8" long. It's a little tight on the
5 edges.

6 But given our removal of any development on the
7 south side so our neighbor wasn't affected, we didn't have
8 much other surface to deal with.

9 With respect to the dormer guidelines, we -- if we
10 go to the site context section for Dormer Guidelines, it
11 states that interior lots will not be looked at as carefully
12 as, say, corner lots more visible lots. We are on an
13 interior lot.

14 Olivia, if you go to the next page?

15 If we look at the actual exposure from -- first
16 we're on a dead-end street, so there's very little traffic
17 on the street. It's a very narrow street, you can hardly
18 see the tops of any of the buildings. Most of the buildings
19 are three-story, triple-decker, flat-top buildings except
20 for Giovanni's building and his neighbor.

21 But you see the pictures, the photos on the left
22 basically illustrate how little of his house is actually

1 visible from the public way. And it's only visible for a
2 distance of about 60 feet at the most, 30 feet at the least.

3 BRENDAN SULLIVAN: I appreciate where you started
4 off and where you've wound up; however, and -- but if you
5 are appraised of the dormer guidelines and the dormer
6 guidelines call for a dormer not to exceed 15 feet, and
7 you're at 21'7", and --

8 STEPHEN HISERODT: Yeah.

9 BRENDAN SULLIVAN: -- -- and the other dimension I
10 had looked for was the edge of your proposed dormer, the
11 edge of the roof. And I didn't get that. What you
12 basically submitted was just a six-inch overhang.

13 STEPHEN HISERODT: Yes.

14 BRENDAN SULLIVAN: How far in from the edges of
15 the existing roof is the proposed dormer?

16 STEPHEN HISERODT: You mean from the front face of
17 the dormer, or from the sides?

18 BRENDAN SULLIVAN: Well, from the side walls of
19 the dormer?

20 STEPHEN HISERODT: Yeah, it's only six inches in.
21 Very short distance.

22 BRENDAN SULLIVAN: No, it's got to be more than

1 six inches. That's the overhang of the proposed roof of the
2 dormer for the side wall. The side wall of the dormer to
3 the outside edge of the existing roof?

4 STEPHEN HISERODT: To the -- oh, the outside of
5 the roof, or the wall that the roof is supported by? I
6 usually dimension it to the wall that the roof is supported
7 by, so that the roof overhang is about a foot. So we have
8 18 inches from the edge of roof to the dormer wall.

9 BRENDAN SULLIVAN: I'm sorry, how much was that
10 again?

11 STEPHEN HISERODT: 18 inches -- one foot, six
12 inches.

13 BRENDAN SULLIVAN: One-foot-six, okay.

14 STEPHEN HISERODT: So we're a little shy in that
15 respect.

16 BRENDAN SULLIVAN: But I'm reading the dormer
17 guidelines, and you saw where it says, "15 feet." I know
18 that you're accentuating one positive aspect of the dormer
19 guidelines in the site view, but that doesn't square with
20 the length of the dormer that is proposed, which I think is
21 excessive, and I don't see -- what are you basically doing?
22 You're increasing the size of the room at the third floor?

1 STEPHEN HISERODT: Yes.

2 BRENDAN SULLIVAN: Basically the size -- so it's
3 not changing the length, and it's basically a bedroom with a
4 full bathroom? Is that what the proposed uses will be?

5 STEPHEN HISERODT: Yeah. It's a master bedroom
6 and --

7 BRENDAN SULLIVAN: A master bedroom?

8 STEPHEN HISERODT: And bathroom.

9 BRENDAN SULLIVAN: And --

10 STEPHEN HISERODT: The dormer has to encompass
11 that bathroom area, or the ceiling will not be high no to
12 put a bathroom there.

13 BRENDAN SULLIVAN: But the bathroom is functional
14 now, and you're not --

15 STEPHEN HISERODT: It is functional as sort of a
16 secondary bathroom, but it is very tight.

17 BRENDAN SULLIVAN: Okay.

18 GIOVANNI BERLANDA-SCORZA: The bathroom -- if I
19 can add extra information -- is so tight that you can only
20 have one person inside it at a time. If we look at the
21 drawing, you will see that there's really no space to move
22 in the bathroom the way it is now. You can stay between the

1 toilet and the sink, but you cannot be there two adults.

2 BRENDAN SULLIVAN: Yeah. So it increases the --
3 from side to side, it's an increase of how many feet? The
4 width of the room?

5 STEPHEN HISERODT: From side to side, oh, the
6 master bedroom?

7 BRENDAN SULLIVAN: Yeah, the master bedroom.

8 STEPHEN HISERODT: Oh, from side to side. Right
9 now, there's only about eight feet of space that is --

10 BRENDAN SULLIVAN: From say to the stairway to the
11 opposite wall?

12 STEPHEN HISERODT: So it's an additional six feet.
13 So you get about 12 feet of usable space with the door in
14 there.

15 BRENDAN SULLIVAN: Okay. Let me open it to any
16 comments or questions by the Board. Mr. Alexander?

17 CONSTANTINE ALEXANDER: I cannot support what's
18 being proposed. The departure from the dormer guidelines is
19 too severe. I hear your reasons why, and I'm -- we've done
20 this before, and I'm prepared to accept something that's --
21 in excess of the dormer guidelines, but not to the extent
22 you're proposing.

1 So I'm not in favor of granting relief to the
2 petitioner.

3 BRENDAN SULLIVAN: Jim Monteverde, any comments or
4 questions?

5 JIM MONTEVERDE: No, I would agree with the
6 previous comments.

7 BRENDAN SULLIVAN: And Slater Anderson, any
8 comments, questions?

9 SLATER ANDERSON: No, I -- again, I'm aligned with
10 your thinking on -- you know, on this. The dormer is bigger
11 than what we're -- the guidelines allow for. But I also
12 have some sympathy for the challenges. And it sounds like
13 it's not an FAR issue, necessarily, right? That's not my
14 understanding?

15 STEPHEN HISERODT: No, we've got -- we're well
16 below the --

17 SLATER ANDERSON: Yeah, yeah.

18 STEPHEN HISERODT: -- allowable FAR.

19 SLATER ANDERSON: And I respect not wanting to
20 impact your neighbors by going with, you know, on the other
21 side to, you know, mitigate. So those are my thoughts.

22 STEPHEN HISERODT: Well, I mean, if we could under

1 the same section of the zoning code put a flat-roof addition
2 on there, it seems to me in this case, anyway, that we're
3 sort of -- we're being penalized by the fact that we're
4 trying to put a dormer there instead of a full third-story
5 addition, which wouldn't be impacted by the dormer
6 guidelines.

7 BRENDAN SULLIVAN: Well, you know, it may be a
8 rethinking of the design. But anyway. Laura Wernick, any
9 comments or questions at this time?

10 LAURA WERNICK: No, I'm trying to cut it back
11 slightly. And it's -- you know, I am sympathetic to the
12 need for the space and the tightness of the space. And I'm
13 not seeing an easy way to do that, certainly. I would not
14 like to see a flat roof on this building. I think that
15 would be not beneficial to anyone.

16 So if there's some way to pull it back slightly,
17 make it not quite as long, get a little closer to the 15
18 foot, I would like to see that kind of option.

19 STEPHEN HISERODT: Giovanni, would you be willing
20 to consider taking another look and continue for if that is
21 an option? I guess I should make sure the Board is okay
22 with that as a possibility, continuing to investigate?

1 GIOVANNI BERLANDA-SCORZA: Yeah, I would agree
2 with that. We need to rethink how we organize the space
3 inside and see what we can do.

4 BRENDAN SULLIVAN: Okay. Let me, then --

5 STEPHEN HISERODT: Is the Board amenable to that
6 solution?

7 BRENDAN SULLIVAN: Yes, yes. No, I think that's a
8 wise course of action on your part. Let me make a motion,
9 then, to continue this matter to allow the petitioner and
10 the architect to reconsider the proposal and also consider
11 the comments of the Members of the Board to be cognizant of
12 the dormer guidelines and try to pull in.

13 And again, you know, looking at the elevation, you
14 know, it could be that the whole roof -- the whole third
15 floor -- and again, it's going to be maybe more work and
16 what have you, but it could also maybe shift a little bit
17 toward the back, which will allow you to go sort of lateral
18 rather than side to side.

19 But anyhow, that's -- I'll leave that up to you.

20 We are available -- April 28 would be the first
21 available. Mr. Alexander, are you available on the twenty-
22 eighth?

1 CONSTANTINE ALEXANDER: I am.

2 BRENDAN SULLIVAN: Jim, are you available on the
3 twenty-eighth?

4 JIM MONTEVERDE: I will be.

5 BRENDAN SULLIVAN: Slater, are you available on
6 the twenty-eighth?

7 SLATER ANDERSON: I will be. And I will concur
8 with what you said, I think. Pulling the front -- the
9 street side of the dormer back is what I think is the right
10 approach on that. So --

11 BRENDAN SULLIVAN: Thank you. Laura. Are you
12 available on April 28?

13 LAURA WERNICK: Yes, I am. I expect to be.

14 BRENDAN SULLIVAN: And the petitioner and the
15 architect are available on the twenty-eighth to come back?

16 STEPHEN HISERODT: Yes.

17 GIOVANNI BERLANDA-SCORZA: Yes.

18 BRENDAN SULLIVAN: Okay. Let me make a motion,
19 then, to continue this matter to April 28, 2022 at 6:00 p.m.
20 on the condition that the petitioner change the posting sign
21 to reflect the new date of April 28 and the time of 6:00
22 p.m.

1 That the petitioner sign a waiver to the statutory
2 requirement for a hearing and a decision to be rendered
3 thereof, and that said waiver and the form can be obtained
4 from Maria Pacheco. She can send it to you if you could
5 send it or Giovanni sign it and send it back. And that be
6 in the file by a week from Monday --

7 STEPHEN HISERODT: Okay.

8 BRENDAN SULLIVAN: -- by 5:00 p.m. on a week from
9 Monday. And to the extent that there may be new plans or
10 dimensional form submittals, that they be in the file on the
11 Monday by 5:00 p.m., the Monday prior to the April 28
12 hearing. Any other conditions?

13 On the motion, then, to continue this matter, Mr.
14 Alexander?

15 CONSTANTINE ALEXANDER: I vote in favor.

16 BRENDAN SULLIVAN: Jim Monteverde?

17 JIM MONTEVERDE: I vote in favor.

18 BRENDAN SULLIVAN: Slater on the continuance?

19 SLATER ANDERSON: In favor of the continuance.

20 BRENDAN SULLIVAN: Laura on the continuance?

21 LAURA WERNICK: I vote in favor of the
22 continuance.

1 BRENDAN SULLIVAN: And the Chair, Brendan
2 Sullivan, votes yes on the continuance.

3 [All vote YES]

4 This matter is continued until April 28 at 6:00
5 p.m. See you then.

6 STEPHEN HISERODT: Thank you.

7 GIOVANNI BERLANDA-SCORZA: Thank you.

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2 (8:17 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case
7 Number 159893 -- 31 Healey Street. Mr. Rafferty?

8 JAMES RAFFERTY: Good evening, Mr. Chairman and
9 Members of the Board. For the record, James Rafferty
10 appearing on behalf of the applicants, Frances Arnold and
11 Robert Stern.

12 This is an application by Ms. Arnold and Mr.
13 Stern to put a small kitchen addition on the first floor of
14 their home on Healey Street.

15 The home is located under the Residence A-2
16 Zoning District and the application seeks to allow for an
17 increase in a preexisting nonconformity, namely the gross
18 floor area of the house today exceeds the allowed FAR.

19 We've applied for a special permit pursuant to
20 the provisions of 8.22.2b. The proposed work is consistent
21 with the criteria under that provision, insofar as there is
22 no change in use and that there is no new nonconformities

1 created, and that this addition will not be more detrimental
2 to the neighborhood than the existing condition.

3 If you've had an opportunity to see the floor
4 plan, you can see it really is a somewhat narrow addition
5 towards the rear, totaling slightly more than 325 square
6 feet.

7 And the proposal will allow for a modern redo of
8 the kitchen. If you look at the existing floor plan and the
9 proposed floor plan, it's not particularly ambitious or
10 overly grand scheme, it just creates a little more
11 efficiency and room.

12 So we're seeking the special permit. I would
13 suggest that all of the criteria, in addition to the
14 criteria in Section 8.22.2D as set forth in our supporting
15 statement for the proposal also meets the criteria under
16 Section 10.40 for the granting of the special permit, for
17 the reasons we cited therein.

18 BRENDAN SULLIVAN: Good. Very concise. Thank
19 you. Any questions by the Members of the Board? Mr.
20 Alexander?

21 CONSTANTINE ALEXANDER: No questions, other than
22 to complement Mr. Rafferty on the conciseness.

1 COLLECTIVE: [Laughter]

2 BRENDAN SULLIVAN: I'm not sure if that's being
3 critical or just a characterize. But anyhow --

4 JAMES RAFFERTY: I may be having a problem with my
5 connection. I thought I heard -- I thought I did heard Mr.
6 Alexander say something about "complimenting Mr. Rafferty."

7 CONSTANTINE ALEXANDER: [Laughter]

8 JAMES RAFFERTY: That's not something I'm
9 accustomed to hearing, but perhaps I missed it.

10 BRENDAN SULLIVAN: Mr. Monteverde, any questions
11 or comments at this time?

12 JIM MONTEVERDE: I have no questions, thank you.
13 I have no questions, thank you.

14 BRENDAN SULLIVAN: Slater, any questions or
15 comments?

16 SLATER ANDERSON: No questions or comments, thank
17 you.

18 BRENDAN SULLIVAN: Laura, any comments or
19 questions?

20 LAURA WERNICK: No. None at this time, thank you.

21 BRENDAN SULLIVAN: Then let me open it to public
22 comment. The Board -- any members of the public who wish to

1 speak should now click the button that says, "Participants,"
2 and then click the button that says, "Raise hand."

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

6 [Pause]

7 There appears to be nobody calling in. the Board
8 is in receipt of correspondence dated February 23 from
9 Victoria and Matt Sutton, 54 Buckingham Street.

10 "We live at 54 Buckingham across the street from
11 Doctors Bob Stern and Fran Arnold of 31. They have briefed
12 us on their kitchen renovation and showed us the
13 architectural drawings. We wholeheartedly support their
14 plan with no reservations."

15 There is correspondence from Tom and Anne Anninger,
16 who live at 26 Healey Street.

17 "We are writing about the above case which is
18 before you. We have examined the plans for the new kitchen
19 provided to us by the proponents. These plans are
20 thoughtful and carefully considered. No concern about their
21 impact on us. They represent an improvement for 31 Healey
22 Street and [2:25:24 indiscernible]

1 Correspondence from Caroline Whitney:

2 "I am the next-door neighbor at the corner of
3 Healey and Buckingham. Fran and Bob have shown me where
4 they wish to do their kitchen renovations. It will not
5 interfere with my house, nor my buildings as the expansion
6 of the kitchen stretches into their back yard and does not
7 obstruct my property in any way."

8 Correspondence from Barbara Lloyd, 25 Healey
9 Street, writes in support, "-- completely in keeping with
10 the outside style of the house, and frankly will even look
11 better than -- since they will be eliminating the outside
12 stairs, which you can see from the street, and will replace
13 them with windows in that wall."

14 Sum and substance of the correspondence. I will
15 close public comment. Any last couple of words, Mr.
16 Rafferty?

17 JAMES RAFFERTY: No, thank you, Mr. Chair.

18 BRENDAN SULLIVAN: Thank you. That's wonderful.
19 Thank you. Let me make a motion, then, to grant the special
20 permit as per the application, plans and supporting
21 documents as submitted and initialed by the Chair.

22 The Board finds that it appears that the

1 requirements of the ordinance can be met under 10.43.

2 Traffic generated or patterns of access or egress
3 resulting from what is being proposed would not cause
4 congestion, hazard, or substantial change in the established
5 neighborhood character.

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

9 There would not be any nuisance or hazard created
10 to the detriment of the health, safety and/or welfare of the
11 occupant of the proposed use. As a matter of fact, the
12 redesign of the kitchen area will allow for better
13 circulation and be an asset to any occupant of the house.

14 The proposed use would not impair the integrity of
15 the district or adjoining district, or otherwise derogate
16 from the intent and purpose of the ordinance.

17 And the Board notes the letters of support of
18 immediate abutters.

19 In furtherance, the Board shall grant a special
20 permit for alteration or enlargement of a preexisting
21 dimensionally nonconforming, detached single-family
22 dwelling, provided that there is no change in use, and that

1 any enlargement or alteration of such preexisting,
2 nonconforming detached single-family dwelling may only
3 increase a preexisting dimensional nonconformity, but does
4 not create any new dimensional nonconformity.

5 In order to grant the special permit before us,
6 the Board is required to find and does find that the
7 alteration or enlargement shall not be substantially more
8 detrimental than the existing nonconforming structure to the
9 neighborhood, and that the alteration or enlargement
10 satisfies the criteria in Section 10.43, as previously
11 stated.

12 On the motion?

13 JAMES RAFFERTY: Mr. Chair? Mr. Chair, my
14 apologies but just one modest factual correction. This is a
15 two-family dwelling, not a single-family dwelling.

16 BRENDAN SULLIVAN: So noted. And the -- we will
17 change the record. Thank you. On the motion to grant the
18 special permit, Mr. Alexander?

19 CONSTANTINE ALEXANDER: I vote in favor.

20 BRENDAN SULLIVAN: Mr. Monteverde?

21 JIM MONTEVERDE: I vote in favor of the special
22 permit.

1 BRENDAN SULLIVAN: Mr. Slater?

2 SLATER ANDERSON: Slater Anderson votes in favor?

3 BRENDAN SULLIVAN: Laura?

4 LAURA WERNICK: I vote in favor.

5 BRENDAN SULLIVAN: And Brendan Sullivan votes in
6 favor also.

7 [All vote in YES]

8 On the affirmative vote of five Members, the
9 special permit is granted. Goodnight. Thank you.

10 JAMES RAFFERTY: Thank you. Have a good evening.

11 LAURA WERNICK: Is that the fastest we've ever
12 done this?

13 JAMES RAFFERTY: Who, me?

14 LAURA WERNICK: I just asking is that the fastest
15 vote that we've ever had on this kind of issue? Pretty darn
16 quick.

17 JIM MONTEVERDE: It's quick. Appropriate.

18 JAMES RAFFERTY: Efficiency is a trademark of an
19 effective lawyer. Thank you all very much.

20 LAURA WERNICK: Never heard that one before.

21 JAMES RAFFERTY: You can tell I'm not getting paid
22 by the hour.

1 JIM MONTEVERDE: Yeah, that's --

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

4 JIM MONTEVERDE: Goodnight.

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2 (8:26 p.m.)

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

6 BRENDAN SULLIVAN: And the Board will hear Case
7 No. --

8 LAURA WERNICK: Thank you.

9 BRENDAN SULLIVAN: -- 145143 -- 602 Huron Avenue.
10 Mr. Worthington?

11 BOND WORTHINGTON: Good evening, Mr. Chair and
12 Members of the Board. Bond Worthington, address 110A Inman
13 Street, Cambridge, Mass.

14 I'm here on behalf of my clients, Carl Levine,
15 Sharon Duncan and Thomas Potter. They are the homeowners
16 and residents of the project.

17 What we're proposing is a small addition to the
18 rear of the structure to allow us to create a code-compliant
19 stair -- actually more than code-compliant, a more gentle
20 stair that will allow them to -- not only them to age in
21 place within the structure, but have elderly visitors visit
22 them and also younger visitors and make a more safe

1 experience getting between the three living floors of the
2 building.

3 We are at the -- we have a -- there's a
4 preexisting nonconformity. The existing FAR is 0.61. The
5 proposed is 0.65. We believe the dormer -- the rear
6 addition otherwise complies with zoning, and we don't
7 believe we're creating another new nonconformity. And we
8 also feel the addition will not be a detriment to the
9 neighborhood.

10 CONSTANTINE ALEXANDER: I just have a question.
11 Looking at the -- I mean the advertisement makes it really
12 ho-hum. Construct a rear addition to provide code-compliant
13 egress stair for certain units.

14 But then I look at the plans; I thought I saw a
15 second-story deck being added. Am I right?

16 BOND WORTHINGTON: That's correct. That should
17 have been included in the summary of the project.

18 CONSTANTINE ALEXANDER: Yes, it should have been.

19 BOND WORTHINGTON: I apologize. The decks -- the
20 deck is not in a setback. The deck is being counted towards
21 FAR. It's still a pretty modest increase in FAR. It -- you
22 know, that should have been mentioned in the summary. It's

1 a pretty small -- it's a pretty small deck. It is 8' by 9'.

2 CONSTANTINE ALEXANDER: It's just that this Board
3 can be very sensitive to erecting decks on houses because of
4 potential privacy issues for the neighbors.

5 BOND WORTHINGTON: Understood. I believe all the
6 neighbors have similar plans and are in support of the
7 plans.

8 CONSTANTINE ALEXANDER: Okay.

9 BOND WORTHINGTON: We have I think something like
10 15 letters of support.

11 BRENDAN SULLIVAN: Okay. Any questions? Mr.
12 Alexander, any --

13 CONSTANTINE ALEXANDER: Not besides the one I just
14 asked.

15 BRENDAN SULLIVAN: Jim Monteverde, any questions?

16 JIM MONTEVERDE: No questions, thank you.

17 BRENDAN SULLIVAN: Slater, any questions?

18 SLATER ANDERSON: No questions.

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

21 LAURA WERNICK: No questions. Thank you.

22 BRENDAN SULLIVAN: Then let me now open it to

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

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

7 [Pause]

8 BRENDAN SULLIVAN: There appears to be nobody
9 calling in. We are in receipt of correspondence dated
10 February 24 from Joyce Feuerstein, who lives at 600 Huron
11 Avenue.

12 "Dear Cambridge Zoning Board, I totally support
13 the zoning request submitted by the owners of 602 Huron
14 Avenue, and I fully support the City issuing a building
15 permit for the construction application submitted.

16 "I a direct neighbor, and the majority owner of
17 598-600 Huron Avenue. Do not hesitate to call if you have
18 any questions."

19 There is also some correction by Mr. Worthington,
20 which we will accept. I was wondering, I would ask you --
21 you're basically correcting some of the dimensional form --
22 if you could redo the application form that is required to

1 reflect the new numbers? If you could do that? You
2 submitted an original dimensional form, correct?

3 BOND WORTHINGTON: That's correct.

4 BRENDAN SULLIVAN: All right. And then you
5 submitted some corrections to that?

6 BOND WORTHINGTON: Because a question was asked
7 about the FAR not being stated as a ratio or a percentage.
8 So then I was asked to send an e-mail about that, which is
9 what that correction is.

10 BRENDAN SULLIVAN: Okay. I guess what I'm saying
11 is if you could redo the dimensional form to reflect those
12 changes, rather than just the correspondence? If you could
13 do that? Yes?

14 BOND WORTHINGTON: Yes, I can do that.

15 BRENDAN SULLIVAN: Yeah, okay. Awesome. There
16 was also correspondence from Chart, C-h-a-r-t, Joseph, 594
17 Huron Avenue. Seen the proposed plans and he supports the
18 project.

19 Also correspondence from 1214 High Street, Timothy
20 M-e-r-t-o-n, Merton. He has also supported the project.
21 Joan Walther, W-a-l-t-h-e-r, 15 Park Avenue has seen the
22 drawings and she supports the project.

1 Gabriela Romanow, 1010 Memorial Drive. She's
2 writing to support the plan's changes.

3 And there is correspondence from Resident 23 High
4 Street, Phyllis M -- I can't read the writing, sorry.

5 And correspondence from 29 High Street, also in
6 support.

7 There's support from 25 High Street.

8 Correspondence from Lea Blanchard, 588 Huron
9 Avenue.

10 And from Ameer Moustafa at 9 Fountain Terrace,
11 also in support.

12 And in support from 15 High Street.

13 And also from 129 Holworthy Street.

14 And also, from 60 -- no, that's your
15 correspondence. Okay. So you polled the neighborhood, and
16 it appears that they were all in support. Ready for a
17 motion, any Board?

18 JIM MONTEVERDE: Ready.

19 BRENDAN SULLIVAN: Okay. Let me make a motion,
20 then, to grant the special permit as per the drawings
21 submitted in the application and the supporting documents,
22 with the one caveat that Mr. Worthington, that you resubmit

1 a new dimensional form reflecting the changes that you have
2 made by -- through correspondence.

3 The Board will grant the special permit because it
4 appears that the requirements of the ordinance can be met.
5 Traffic generated or patterns of access or egress would not
6 cause congestion, hazard, or substantial change in the
7 established neighborhood character.

8 The continued operation of or development of
9 adjacent uses, as permitted in the zoning ordinance, would
10 not be adversely affected by the nature of the proposed use.
11 Nuisance or hazard would not be created to the detriment of
12 the health, safety and/or welfare of the occupants of the
13 proposed use.

14 In fact, the redesign and the staircase will in
15 fact be a benefit to any occupant as a code-compliant and
16 much safer entry and exit from the building.

17 The Board finds that the proposed use would not
18 impair the integrity of the district or adjoining district,
19 or derogate from the intent and purpose of the ordinance,
20 for their reasonable use of the property and allow the
21 property owner to bring certain aspects up to code.

22 The Board also may grant a special permit for the

1 alteration or enlarging of a preexisting dimensionally
2 nonconforming, detached single-family or two-family, not
3 otherwise permitted in Section 8.22.1, provided that there
4 is no change in use, and that any enlargement or alteration
5 of such preexisting, nonconforming detached single-family or
6 two-family dwelling may only increase a preexisting
7 dimensional nonconformity, but does not create any new
8 dimensional nonconformity.

9 The Board may grant the special permit provided
10 that the Board find that the alteration or enlargement shall
11 not be substantially more detrimental than the existing
12 nonconforming structure to the neighborhood, which the Board
13 finds, and that the alteration or enlargement satisfies the
14 criteria in Section 10.43 previously stated.

15 On the motion to grant the special permit, Mr.
16 Alexander?

17 CONSTANTINE ALEXANDER: I vote in favor.

18 BRENDAN SULLIVAN: Mr. Monteverde?

19 JIM MONTEVERDE: Jim Monteverde in favor of the
20 special permit.

21 BRENDAN SULLIVAN: Slater Anderson?

22 SLATER ANDERSON: Slater Anderson in favor of the

1 special permit.

2 BRENDAN SULLIVAN: Laura Wernick?

3 [Pause]

4 BRENDAN SULLIVAN: Laura?

5 LAURA WERNICK: Did I freeze up here?

6 JIM MONTEVERDE: Yep.

7 LAURA WERNICK: Okay.

8 JIM MONTEVERDE: Here you go.

9 BRENDAN SULLIVAN: And Brendan Sullivan, Chair in
10 favor.

11 LAURA WERNICK: Can you hear me?

12 JIM MONTEVERDE: Yep.

13 BRENDAN SULLIVAN: Yes.

14 LAURA WERNICK: Okay. I'm voting -- Laura Wernick
15 voting in favor.

16 BRENDAN SULLIVAN: Yes, okay, thanks. And Brendan
17 Sullivan, Chair, votes in favor.

18 [All vote YES]

19 BRENDAN SULLIVAN: Five affirmative votes; the
20 special permit is granted. Thank you.

21 BOND WORTHINGTON: Thank you.

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1 * * * * *

2 (8:37 p.m.)

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

6 BRENDAN SULLIVAN: Moving right along, the Board
7 will now hear Case Number 159954 -- 50 Gold Star Road. Mr.
8 Landry? Gold Star Road?

9 PAUL SMITH: Yes. Hi, can you hear me?

10 BRENDAN SULLIVAN: Yes.

11 PAUL SMITH: Yes. Hi, Mr. Chairman and Members of
12 the Board. My name is Paul Smith. I'm one of the owners of
13 50 Gold Star Road. We're just here to seek a variance for
14 gross floor area and by adding a 15-foot dormer to the right
15 side of the building, as well as a second-floor porch, not
16 to exceed the first-floor existing porch in dimensions,
17 which is a -- second floor is a little bit smaller, and also
18 looking for a Juliet balcony on the third floor up in the
19 master bedroom.

20 BRENDAN SULLIVAN: Okay.

21 JON LANDRY: So also this was originally a two-
22 family. We're making it a single-family now. And we added

1 parking. So we're lessening the congestion of the
2 neighborhood and it is a development project. We're just
3 asking for -- we don't think it would harm the
4 neighborhood's character.

5 BRENDAN SULLIVAN: Okay. Any questions by Members
6 of the Board? Mr. Alexander? Jim Monteverde any questions?

7 JIM MONTEVERDE: No questions.

8 BRENDAN SULLIVAN: Slater?

9 SLATER ANDERSON: No questions.

10 BRENDAN SULLIVAN: And Laura, any questions?

11 LAURA WERNICK: Nope. No questions.

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

16 If you are calling in by phone, you can raise your
17 hand by pressing *9 and unmute or mute by pressing *6, and
18 you'll have up to three minutes in which to speak. There
19 appears to be nobody calling in.

20 [Pause]

21 There appears to be nobody calling in. There is
22 no correspondence in the file. You've spoken to your next-

1 door neighbors, have you?

2 JON LANDRY: Yes sir.

3 PAUL SMITH: We have.

4 BRENDAN SULLIVAN: And nobody had opposed?

5 PAUL SMITH: That's correct.

6 BRENDAN SULLIVAN: As far as what's been
7 communicated to us? It also appears that the house can use
8 some tender loving care?

9 JOHN LANDRY: Yes.

10 PAUL SMITH: Absolutely.

11 BRENDAN SULLIVAN: And would be an asset to the
12 neighborhood.

13 PAUL SMITH: Yes, it will.

14 BRENDAN SULLIVAN: Let me make a motion, then, to
15 grant the special permit. It appears that the requirements
16 of the ordinance can be met.

17 Traffic generated or patterns of access or egress
18 would not cause congestion, hazard, or substantial change in
19 the established neighborhood character.

20 The Board finds that continued operation of or
21 development of adjacent uses, as permitted in the zoning
22 ordinance would not be adversely affected by what is being

1 proposed use. There would not be any nuisance or hazard
2 created to the detriment of the health, safety and/or
3 welfare of the occupants of the proposed use, in fact that
4 the proposal that is before us, the alterations would be an
5 asset to any occupants of the premise.

6 The Board finds that the proposed use would not
7 impair the integrity of the district or adjoining district,
8 or otherwise derogate from the intent and purpose of the
9 ordinance.

10 In furtherance, the Board may grant a special
11 permit for the alteration or enlargement of a preexisting
12 dimensionally nonconforming -- and this is a, is it about
13 single or -- it's a two-family that's going to be made into
14 a single?

15 JON LANDRY: Correct, correct.

16 BRENDAN SULLIVAN: We may grant a special permit
17 for a dimensionally nonconforming, detached single-family
18 not otherwise permitted in Section 8.22.1, but not the
19 alteration for a nonconforming use, provided that there is
20 no change in use and that any enlargement or alteration of
21 such preexisting, nonconforming detached single-family
22 dwelling may only increase a preexisting dimensional

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

3 In order to grant the special permit, the Board of
4 Zoning Appeals may find that the alteration or enlargement
5 shall not be substantially more detrimental to the existing
6 nonconforming structure to the neighborhood, and that the
7 alteration or enlargement satisfies the criteria in Section
8 10.43, as previously stated.

9 On the motion then to grant the special permit as
10 per the application, Mr. Alexander?

11 CONSTANTINE ALEXANDER: I vote in favor.

12 BRENDAN SULLIVAN: Mr. Monteverde?

13 JIM MONTEVERDE: I vote in favor.

14 BRENDAN SULLIVAN: Slater Anderson?

15 SLATER ANDERSON: Slater Anderson in favor.

16 BRENDAN SULLIVAN: Laura on the motion?

17 LAURA WERNICK: I vote in favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan, the
19 Chair, votes in favor.

20 [All vote YES]

21 Five affirmative votes. The special permit is
22 granted.

1 JON LANDRY: Thank you. Thank you, Mr. Chairman
2 and Members of the Board.

3 BRENDAN SULLIVAN: Goodnight.

4 COLLECTIVE: Goodnight.

5 BRENDAN SULLIVAN: And that's a wrap.

6 JIM MONTEVERDE: All right.

7 COLLECTIVE: Thanks, everybody.

8 JIM MONTEVERDE: Goodnight, everybody.

9 LAURA WERNICK: Goodnight.

10 JIM MONTEVERDE: Thank you. Bye-bye.

11 LAURA WERNICK: Thank you all.

12 [8:43 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
_____ day of _____, 2021.

Notary Public
My commission expires:
July 28, 2028

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