

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 14 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair  
Jim Monteverde, Vice Chair  
Constantine Alexander  
Laura Wernick  
Matina Williams  
Jason Marshall

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 Jim Monteverde, Laura Wernick, Matina  
6 Williams and Jason Marshall

7 BRENDAN SULLIVAN: Welcome to the April 14, 2022,  
8 meeting of the Cambridge Board of Zoning Appeals. My name  
9 is Brendan Sullivan, and I am the Chair for tonight's  
10 meeting.

11 This meeting is being held remotely, due to the  
12 statewide emergency orders limiting the size of public  
13 gatherings in response to COVID-19, and in accordance with  
14 Governor Charles D. Baker's Executive Order of March 12,  
15 2020, temporarily amending certain requirements of the Open  
16 Meeting Law; as well as the City of Cambridge temporary  
17 emergency restrictions on city public meetings, city events,  
18 and city permitted events, due to COVID-19, dated March 27,  
19 2022.

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

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

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

6           Members of the public will be kept on mute until  
7 it is 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 may change based on the number of speakers.

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

14           OLIVIA RATAY: Jason Marshall?

15           JASON MARSHALL: I'm here, and I hope I'm audible.

16           OLIVIA RATAY: Yep. Laura Wernick?

17           LAURA WERNICK: Here.

18           OLIVIA RATAY: Jim Monteverde?

19           JIM MONTEVERDE: Present.

20           OLIVIA RATAY: Matina Williams?

21           [Pause]

22           CONSTANTINE ALEXANDER: Had this problem before.

1 OLIVIA RATAY: Yeah. Gus Alexander?

2 CONSTANTINE ALEXANDER: I'm here and in the room.

3 OLIVIA RATAY: Brendan Sullivan?

4 BRENDAN SULLIVAN: Present, audible.

5 OLIVIA RATAY: We just need Matina.

6 BRENDAN SULLIVAN: Matina in?

7 OLIVIA RATAY: She's not in. I'm going to call  
8 her.

9 BRENDAN SULLIVAN: Waiting for one Member to sign  
10 in.

11 [Olivia Ratay on the phone "She'll be right on."]

12 BRENDAN SULLIVAN: Matina?

13 OLIVIA RATAY: She's logging on. She's not on  
14 yet.

15 BRENDAN SULLIVAN: Oh, okay.

16 [Pause]

17 BRENDAN SULLIVAN: Matina, are you on mute?

18 CONSTANTINE ALEXANDER: There she is.

19 MATINA WILLIAMS: I'm here. Sorry I'm late.

20 BRENDAN SULLIVAN: Great, okay.

21

22

\* \* \* \* \*

(6:04 p.m.)

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

BRENDAN SULLIVAN: First case I'm going to call is  
Case No. 162034 -- 5 Buckingham Place. Mr. Heuer?

TAD HEUER: Good evening, and welcome Mr. Chairman  
and members of the Board. Tad Heuer at Foley Hoag on behalf  
of the applicant, Buckingham Browne & Nichols School.

As discussed at last month's hearing, BB&N is  
requesting a Use Variance authorizing the School to utilize  
Parcel 5 Buckingham Place for a primary school in earlier  
educational uses.

As the Board is aware, this is the same relief  
that BB&N requested, and it was granted unanimously by the  
Board in 2020 for its property at the Upper School, which is  
over on Jerry's Landing in Western Cambridge.

As the Board recalls during the hearing last  
month, two of our neighbors at 7 Buckingham Place and 4  
Buckingham Street had some initial questions about the  
proposed change of use, and whether it would have an impact

1 on the property. The Board granted a continuance to enable  
2 discussions to occur between those neighbors and the school.

3 I am pleased to report that per usual, the Board's  
4 wisdom in this regard was entirely justified.

5 We did have productive further discussions with  
6 those neighbors. They've been reassured with respect to the  
7 relief that's been requested, and as you hopefully have seen  
8 and we actually forwarded to you all, both sets of neighbors  
9 somehow submitted letters of support to the Board,  
10 expressing full support for the relief being sought.

11 To recap briefly the reasons we're requesting  
12 relief, as we detailed last month and, in the petition, BB&N  
13 intends to use 5 Buckingham primarily for consolidating  
14 existing Lower School administrative staff and uses that are  
15 currently located in two small, former residential  
16 structures that are located directly across the small and  
17 accepted public way that is -- private way that is  
18 Buckingham Place.

19 These are kind of a miscellany of uses. They're  
20 Admissions, a Staff lunchroom, some faculty offices, some  
21 faculty meeting places, lactation facility, things of that  
22 nature.

1           With respect to the four variance criteria, I'm  
2 not going to go over the presentation we gave last month.  
3 I know the Board wants to get onto its other continued cases  
4 with its main Agenda.

5           But as to those four criteria, briefly for the  
6 benefit of the Chair and making a motion, a literal  
7 enforcement of the provisions of the Ordinance would  
8 preclude BB&N from using 5 Buckingham to resolve this  
9 current need that they have to ensure that it can provide  
10 both additional programmatic space and additional green  
11 space within a very limited campus footprint.

12           This is a problem that has been acute for years,  
13 but became particularly acute when responding the pandemic  
14 distancing restrictions.

15           And as you might imagine, those have now become  
16 the new normal baseline for school planning. Nobody wants  
17 to have to go back to try to jury rig a system  
18 in the event that there is a future similar event.

19           And the inability for them to be able to  
20 consolidate those uses here would add a significant  
21 educational and financial hardship for the School and for  
22 its youngest learners who are in that Lower School.



1           The property is preexisting, nonconforming. It's  
2 constructed significantly into its rear setback. The  
3 parking is also preexisting, nonconforming. The spots are  
4 located in the front yard setback. It's on an unaccepted  
5 public way.

6           Desirable relief may be granted without  
7 substantial detriment to the public good, because the use of  
8 the parcel for primary School uses is entirely compatible  
9 with the neighborhood in which it's located. It's a short,  
10 dead-end way.

11           The majority of the property is on it and already  
12 owned by BB&N and used for primary school purposes. They  
13 have been for decades, and in some cases over a century.

14           I do think it's important just to mention briefly  
15 again that now that the intensity of the use of the street  
16 or the intensity of the use of the campus is going to change  
17 as a result of the relief being granted, there is not going  
18 to be an increase in the number of students or the number of  
19 Staff, that's going to stay the same.

20           This is merely moving around pieces inside of the  
21 campus, in order to make sure that its being used most  
22 efficiently and, you know, under the new types of

1 restrictions that they need to plan for.

2           Again, there's no dimensional relief being sought  
3 here. And there's no parking relief being sought here,  
4 which are two of the things you might usually expect to see.  
5 It's purely a use relief.

6           And finally, desirable relief may be granted  
7 without substantial detriment to the public good, or  
8 nullifying or substantially derogating from the intent and  
9 purpose of the Ordinance, because the Institutional Use  
10 Regulations, which is why we're here on a variance -- that's  
11 Section 4.52 -- and can that their purpose is a couple;  
12 it's, "to protect residential neighbors from unlimited  
13 expansion of institutional activities" -- that's a quote.  
14 Here there is no unlimited expansion.

15           It's to minimize the development of activities  
16 which are, "different from and incompatible with activity  
17 patterns customarily found in lower density residential  
18 neighborhoods." Here the existing pattern on Buckingham  
19 Place is, as it's been for over a century, that of a  
20 children's day care and primary school.

21           And the third is, "To provide a framework to allow  
22 institutions which are compatible with residential neighbors

1 to locate and expand there." That's also a quote. And here  
2 access would come exclusively to this parcel from Buckingham  
3 Place, which is already utilized primarily exclusively by  
4 BB&N, with the exception of the 202 neighbors, because it  
5 owns four of the parcels on the north and east sides.

6 And granted relief wouldn't cause congestion,  
7 hazards, substantial change in neighborhood character or  
8 anything of the sort.

9 So in sum, we believe that the School's request  
10 for relief here meets the requirements of the Ordinance.  
11 It's reasonable and tailored to the existing neighborhood.  
12 It has the full support of the neighbors, who had originally  
13 had some questions, and would relieve a significant  
14 financial and educational hardship for the School.

15 For those reasons, we would ask for the Board's  
16 favorable vote, and we're of course happy to answer any  
17 questions the Board may have.

18 BRENDAN SULLIVAN: Great, thank you. Let me open  
19 it up to the Board. Mr. Alexander, any questions?

20 CONSTANTINE ALEXANDER: No questions.

21 BRENDAN SULLIVAN: Jim Monteverde, any questions?

22 JIM MONTEVERDE: No questions.

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

3           MATINA WILLIAMS:  No questions.

4           BRENDAN SULLIVAN:  And Jason?

5           JASON MARSHALL:  No questions.

6           BRENDAN SULLIVAN:  And the Chair has no questions.  
7  Let me open it to public comment.  Any members of the public  
8  who wish to speak should now click the button that says,  
9  "Participants," and then click the button that says, "Raise  
10 hand."

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

14           [Pause]

15           There appears to be nobody calling in.  I'll close  
16 that portion of the public comment.  We are in receipt of  
17 two letters from Attorney Michael Wiggins, and it's  
18 addressed to the Chair.

19           "With respect to the above referenced petition,  
20 we, Griberg Wolf and Steven Short and sweet, owners of the  
21 abutting residence of 4 Buckingham Street, hereby state that  
22 we have reviewed application material on file, and have

1 conferred with BB&N to our satisfaction regarding the  
2 proposed educational use for the property, and that we  
3 support the relief requested by BB&N."

4 There is also correspondence to the Chair --  
5 again,

6 "With respect to the above referenced petition,  
7 which is 162034, 5 Buckingham Place, we, Alain Curaudeau and  
8 Veronique Curaudeau, owners of the abutting residence at 7  
9 Buckingham Place, hereby state that we have reviewed the  
10 application material on file and have conferred with BB&N to  
11 our satisfaction regarding the proposed educational use for  
12 the property, and that we support any relief they request by  
13 BB&N."

14 And I apologize if I butchered that name, but it's  
15 coming from an Irishman who can't speak French very well.  
16 So I will close the public comment on that, and Mr. Heuer,  
17 your presentation is complete?

18 TAD HEUER: It is indeed, Mr. Chair.

19 BRENDAN SULLIVAN: Okay. I will open it one more  
20 time to any questions, or are we ready for a motion?

21 CONSTANTINE ALEXANDER: I'm ready for a motion.

22 BRENDAN SULLIVAN: Okay. Everybody ready for a

1 motion?

2 Let me make the motion, then, to grant the relief  
3 requested, which is to allow the use of the parcel known as  
4 5 Buckingham Place for educational uses, as per the  
5 application, the supporting statements, and the dimensional  
6 form as enclosed, initialed by the Chair.

7 The Board finds that the literal enforcement of  
8 the provisions of the Ordinance would indeed involve a  
9 substantial hardship to the petitioner.

10 The Board finds that a literal enforcement would  
11 create a substantial financial, educational, and logistical  
12 hardship to BB&N, a non-profit educational institution that  
13 has operated on Buckingham Place for over 130 years.

14 The Board finds that a literal enforcement would  
15 prohibit BB&N from using the parcel for primary school uses.

16 The Board finds that without the ability to  
17 utilize 5 Buckingham for educational uses, it will be  
18 exceptionally educationally and financially challenging  
19 general for the school to restructure its existing century-  
20 old campus for a post pandemic future that will require not  
21 only additional on-campus educational problematic space, but  
22 increased and on-campus outdoor space and green space as

1 well, even as enrollment remains constant.

2           The Board finds that the petitioner finds a need  
3 to disburse and relocate essential administrative uses,  
4 including admissions, Staff dining, faculty offices, without  
5 further major hardship of disrupting existing educational  
6 offering, due to the lack of space.

7           The Board finds that the hardship is in fact owing  
8 to the site and location of the existing structure, the fact  
9 that it predates the existing ordinance, and that it is  
10 encumbered by the existing ordinance, which governs the  
11 existing location.

12           The Board finds that obtaining the additional on-  
13 campus educational space and increased on-campus outdoor  
14 space and green space required without the ability utilize  
15 the approximate structure like 5 Buckingham will create a  
16 significant financial and educational hardship for the  
17 School, its students and its staff.

18           The Board finds that desirable relief may be  
19 granted without substantial detriment to the public good.

20           The Board finds that the use of the parcel for  
21 primary school uses is entirely compatible with the  
22 immediate neighborhood in which it is located. Buckingham

1 Place has for over a century been predominantly an  
2 institutional use for educational purposes.

3 The Board finds that the proposed use would, as  
4 Council has said, contravene the objective of the City's  
5 institutional growth management plan, and I quote, "All else  
6 being equal, concentration of new institutional activities  
7 in areas of existing institutional development is preferred  
8 to dispersion or scattered growth of those new activities."

9 There will not be any detriment to the public  
10 good, owing to detrimental increases and pedestrian travel,  
11 vehicular traffic, or parking, because the reuse of 5  
12 Buckingham will involve the consolidation of existing Staff  
13 offices from other locations on the Lower School campus, as  
14 opposed to adding additional Staff.

15 No substantial change from the current vehicular  
16 uses of Buckingham Place is anticipated.

17 The Board also finds that the petitioner will  
18 maintain the existing property features, including the  
19 garden, and that the transition of 5 Buckingham as part of  
20 the BB&N campus will be imperceivable to the neighbors --  
21 imperceptible.

22 The Board finds that desirable relief may be



1 granted without nullifying or substantially derogating from  
2 the intent and purpose of the Ordinance.

3 The Board finds that this is introducing a  
4 compatible activity into the neighborhood, and the existing  
5 activity patterns on Buckingham Place, and has been for  
6 decades, one that reflects the activities of a children's  
7 day care and primary school.

8 The Board finds that it would not cause congestion  
9 or substantial change in established neighborhood character,  
10 for the same reason additional traffic generated in the  
11 neighborhood is anticipated to be quite minimal.

12 The Board finds that continued operation of or  
13 development of adjacent uses, or the integrity of the  
14 adjoining residential neighborhood would not be adversely  
15 affected by the grant of this variance.

16 And the Board notes the letters of support from  
17 the immediate abutters in favor of granting of this  
18 variance.

19 On the motion, then, to grant the variance and the  
20 relief being requested, Mr. Alexander?

21 CONSTANTINE ALEXANDER: I vote in favor of  
22 granting the variance.

1 BRENDAN SULLIVAN: Mr. Monteverde?

2 JIM MONTEVERDE: I vote in favor of granting the  
3 variance.

4 BRENDAN SULLIVAN: Matina Williams?

5 MATINA WILLIAMS: I vote in favor of granting the  
6 variance.

7 BRENDAN SULLIVAN: Jason Marshall?

8 JASON MARSHALL: Yes, in favor of granting the  
9 variance.

10 BRENDAN SULLIVAN: Yes, in favor.

11 [All vote YES]

12 BRENDAN SULLIVAN: Five affirmative votes. The  
13 variance is granted.

14 TAD HEUER: Thank you, Mr. Chair. Appreciate it.  
15 Thank you for your time.

16 BRENDAN SULLIVAN: Yes. Good luck with it.

17 MATINA WILLIAMS: Goodnight, guys.

18 BRENDAN SULLIVAN: Goodnight. Matina, thank you.

19 CONSTANTINE ALEXANDER: Thank you, Matina.

20 MATINA WILLIAMS: Oh, thank you. Sorry I was  
21 late.

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(6:19 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No.  
155114 -- 33 Webster Avenue.

DAN ANDERSON: Mr. Chair and Board, this is Dan  
Anderson, I'm a partner at Anderson Porter Design.

On behalf of my client, I'd submitted written  
requests for continuance, and I'm hoping we can find a good  
time to schedule a next appearance. My client has been  
going through a variety of design alternatives, but has not  
yet arrived at something that's either shareable with the  
neighbors for comment, or to present to the Board.

BRENDAN SULLIVAN: Okay. Do we have a date?

OLIVIA RATAY: For three cases, we could do June  
9?

BRENDAN SULLIVAN: June 9?

OLIVIA RATAY: Mm-hm.

BRENDAN SULLIVAN: Dan, June 9, are you aware of  
that? Is that fine?

1 DAN ANDERSON: June? That should work fine.

2 BRENDAN SULLIVAN: June 9, 2022.

3 CONSTANTINE ALEXANDER: And it's a case not heard?

4 BRENDAN SULLIVAN: This is a case heard.

5 CONSTANTINE ALEXANDER: Oh, I'm sorry, a case  
6 heard. It is a case heard.

7 BRENDAN SULLIVAN: There were three cases -- three  
8 separate cases that we have heard been continued, and we'll  
9 hear again. Now, who sat on those cases?

10 JASON MARSHALL: I sat on it.

11 JIM MONTEVERDE: I believe I did as well.

12 CONSTANTINE ALEXANDER: I did as well.

13 BRENDAN SULLIVAN: And I did.

14 LAURA WERNICK: And I did as well. So I think the  
15 five that are here. Oh, okay, great. That makes it easier.  
16 Are all five of us available on June 9?

17 JIM MONTEVERDE: I am.

18 LAURA WERNICK: It works for me.

19 JIM MONTEVERDE: Yep, works for me.

20 JASON MARSHALL: That's fine.

21 CONSTANTINE ALEXANDER: Yep.

22 BRENDAN SULLIVAN: Okay. And Dan, it works for

1 you also?

2 DAN ANDERSON: Mm-hm.

3 BRENDAN SULLIVAN: So let me make a motion, then,  
4 to grant the relief requested. I'm sorry --

5 DAN ANDERSON: No.

6 BRENDAN SULLIVAN: Excuse me, grant --

7 DAN ANDERSON: That would save us all a lot of  
8 time.

9 JIM MONTEVERDE: Bingo.

10 LAURA WERNICK: You got it!

11 BRENDAN SULLIVAN: Any other night for that. Let  
12 me make a motion, then, to grant the request for a  
13 continuance to June 9, 2022, on the condition that the  
14 petitioner change the posting sign to reflect the new date  
15 of June 9, 2022, and the new time of 6:00 p.m.

16 We have waiver in the file.

17 Also, that in case there is any new submittals  
18 regarding this particular case that they be in the file by  
19 5:00 p.m. on the Monday prior to the June 9, 2022, hearing.

20 CONSTANTINE ALEXANDER: I would just make it clear  
21 this these new submittals by the petitioner or his  
22 representatives -- I mean, if a citizen of the city wants to

1 make a submittal, they don't have to meet at that time.

2 BRENDAN SULLIVAN: Right. We would encourage it  
3 as soon as possible before our meeting, so that the Board  
4 has a chance --

5 CONSTANTINE ALEXANDER: Right.

6 BRENDAN SULLIVAN: -- to review it, but that the  
7 petitioner is bound by 5:00 p.m. on the Monday prior to June  
8 9.

9 On the motion, then, to continue this matter to  
10 June 9, Mr. Alexander?

11 CONSTANTINE ALEXANDER: I vote in favor.

12 BRENDAN SULLIVAN: Jim Monteverde?

13 JIM MONTEVERDE: I vote in favor.

14 BRENDAN SULLIVAN: Laura?

15 LAURA WERNICK: I vote in favor.

16 BRENDAN SULLIVAN: Jason?

17 JASON MARSHALL: Yes, in favor of the continuance.

18 BRENDAN SULLIVAN: Yes, in favor of the  
19 continuance to June 9, 2022 at 6:00 p.m.

20 [All vote YES]

21 BRENDAN SULLIVAN: We're going to have to do this  
22 two more times, Dan, just for the record.

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DAN ANDERSON: Yep.

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(6:22 p.m.)

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

BRENDAN SULLIVAN: BZA Case No. 155115 -- 35  
Webster Avenue. And you have requested a continuance for  
that matter also.

On the motion, then, to continue No. 155115 -- 35  
Webster Avenue to June 9, 2022 at 6:00 p.m. on the condition  
to the petitioner change the posting sign to reflect the new  
date of June 9 and the new time of 6:00 p.m. Any new  
submittals regarding this case should be in the file by 5:00  
p.m. on the Monday prior to June 9.

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

CONSTANTINE ALEXANDER: I vote in favor.

BRENDAN SULLIVAN: Mr. Monteverde?

JIM MONTEVERDE: I vote in favor.

BRENDAN SULLIVAN: Laura?

LAURA WERNICK: I vote in favor.

BRENDAN SULLIVAN: And Jason?



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JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: Yes, and the matter is  
continued until June 9, 2022.

[All vote YES]

Okay.

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(6:24 p.m.)

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

BRENDAN SULLIVAN: Case No. 155116 -- 35 Webster  
Avenue. And again, at the end there was a couple letter in  
the file requesting a continuance to this matter.

Let me make a motion, then, to continue No. 155116  
to June 9, 2022, at 6:00 p.m. on the condition that the  
petitioner change the posting sign to reflect the new date  
of June 9, 2022, and the new time of 6:00 p.m.; that any new  
submittals regarding this case be in the file by 5:00 p.m.  
on the Monday prior to June 9, 2022.

And that's about it, I guess. So Mr. Alexander,  
on the motion to continue?

CONSTANTINE ALEXANDER: I vote to continue.

BRENDAN SULLIVAN: Jim Monteverde?

JIM MONTEVERDE: I vote to continue.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: I vote to continue.

BRENDAN SULLIVAN: And Jason?

1 JASON MARSHALL: Yes, in favor of the continuance.

2 BRENDAN SULLIVAN: Yes, in favor of the  
3 continuance.

4 [All vote YES]

5 BRENDAN SULLIVAN: Affirmative vote of five. The  
6 matter is continued to June 9. See you then.

7 DAN ANDERSON: Thank you very much. Goodnight.

8 BRENDAN SULLIVAN: Yep.

9 CONSTANTINE ALEXANDER: Goodnight.

10 BRENDAN SULLIVAN: Five minutes to go.

11 JASON MARSHALL: Mr. Chair, do we have a motion  
12 break now until 7:00?

13 BRENDAN SULLIVAN: We have four minutes.

14 JASON MARSHALL: Oh, four minutes. Can I bring a  
15 quick matter to your attention in four minutes' time that's  
16 not substantive, more procedural?

17 BRENDAN SULLIVAN: Yes.

18 JASON MARSHALL: It's a request. So about maybe a  
19 month or so ago, I sent a letter to Maria and to Ranjit on a  
20 procedural issue where, as you know, oftentimes this doesn't  
21 involve any particular case, but oftentimes, there are  
22 matters that come before the Board that are requests for a

1 variance, and the question is whether we can consider them  
2 as special permits?

3 I analyzed that from a legal perspective for my  
4 own benefit, and if you want to put pen to paper on that and  
5 provide a legal memorandum that discusses that as an issue,  
6 again it was really to sort of help my thinking around it,  
7 and I sent it to Maria and Ranjit. I don't know if it would  
8 be helpful for the Board to see it if you want to see it.

9 So a request I would have, if you think it's  
10 appropriate, subject to maybe talking to Ranjit would be to  
11 post it in materials for a future meeting.

12 You know, again, I say that understanding that  
13 people might not want to look at it. It's a legal memo, so  
14 I understand if Members of the Board or the public would  
15 elect not to spend their free time reading a legal memo.

16 But, you know, I did the work, and if it's  
17 helpful, I would just offer to put that on the website or  
18 make it available to the Board and to the public.

19 BRENDAN SULLIVAN: Great.

20 CONSTANTINE ALEXANDER: Jason, this is Gus  
21 Alexander. I responded to that letter. Did you get my  
22 response?

1           JASON MARSHALL: No, I didn't send the letter out  
2 to anybody but Maria and to Ranjit.

3           CONSTANTINE ALEXANDER: Maria distributed it to  
4 the Board.

5           JIM MONTEVERDE: It was circulated, yeah.

6           JASON MARSHALL: Oh, okay.

7           CONSTANTINE ALEXANDER: It was circulated.

8           JIM MONTEVERDE: The Board saw it.

9           JASON MARSHALL: I didn't -- I wasn't on the  
10 distribution, I don't think for that. So.

11           CONSTANTINE ALEXANDER: I'll ask Maria to send you  
12 a copy of the letter.

13           JASON MARSHALL: Okay. Well, thanks for letting  
14 me know that. I guess I would, you know, reiterate if it's  
15 appropriate and may be helpful to post on the website or  
16 post with future materials as well, so it's out there.

17           BRENDAN SULLIVAN: Yes. Education is always a  
18 successful thing. So thank you for your --

19           JASON MARSHALL: Okay.

20           BRENDAN SULLIVAN: -- due diligence on that. It's  
21 always helpful.

22           JASON MARSHALL: Thanks for considering.

1           BRENDAN SULLIVAN: We have a couple more minutes  
2 before it becomes T-Mobile's night at the opera for the next  
3 three cases. The live theater is wonderful.

4           Okay, are we ready to go?

5           CONSTANTINE ALEXANDER: I'm ready.

6           BRENDAN SULLIVAN: Is it 6:30?

7           OLIVIA RATAY: One minutes.

8           CONSTANTINE ALEXANDER: 6:29, it's not quite  
9 there.

10          OLIVIA RATAY: It's 6:30 now.

11          CONSTANTINE ALEXANDER: Now it's 6:30, exactly.

12          BRENDAN SULLIVAN: Mr. Brillard, are you in  
13 residence? You are. Okay.

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2 (6:29 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.  
7 163462 -- 955 Massachusetts Avenue. Mr. Braillard?

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

11 We're here on behalf of the applicant, T-Mobile  
12 Northeast, LLC, in connection with an Eligible Facilities  
13 Request and special permit application for the Board to  
14 modify an existing wireless communications facility located  
15 on the building at 955 Massachusetts Ave.

16 What we're proposing to do here is replace the  
17 existing nine-panel antennas with nine new like-kind panel  
18 antennas to replace VR use with additional RR (sic) use on  
19 the facility.

20 The antennas will be located in the same location,  
21 which are all located on the penthouse, which is set back  
22 from the edge of the building, and all of the new antennas

1 that will be located in the same location will be also  
2 painted to match the color of the penthouse in the building,  
3 as we proposed in the plans and on the photo simulations in  
4 the application package.

5 I don't think there was any -- I met -- I did meet  
6 with the CDD Staff and the Planning Board did not feel like  
7 they needed to discuss this from a design standpoint because  
8 of the fact that it was stepped partially back from the  
9 rooftop edge, and the photo sims looked good to them.

10 So I think that's all I have to report on this  
11 application, but certainly here to answer any questions that  
12 the Board and the public may have here.

13 CONSTANTINE ALEXANDER: Okay. Mr. Chair?

14 BRENDAN SULLIVAN: Yes.

15 CONSTANTINE ALEXANDER: Can I just ask a question?

16 BRENDAN SULLIVAN: Yes.

17 CONSTANTINE ALEXANDER: This site is in a  
18 residential zone district. And under our Ordinance, we have  
19 to make certain findings. You've dealt with that in your  
20 written materials, so why don't you briefly summarize for  
21 the benefit of those who are in the audience --

22 ADAM BRAILLARD: Sure.



1           CONSTANTINE ALEXANDER:  -- why you meet the  
2 requirements of the Ordinance.

3           ADAM BRAILLARD:  Sure.  Let me just get to that  
4 section.  The -- yeah, so this is located in the Residential  
5 C-2B Zoning District, and under the plan for the City's  
6 Ordinance under Section 4.32(g) Footnote 49, one of the  
7 requirements when you're in a residential zone is to show  
8 the nonresidential uses predominating the area.

9           We would say that the -- we did this analysis a  
10 long time ago.  This is when the application, or when the  
11 installation was initially installed, and the Board at that  
12 point found that nonresidential uses did predominate.

13           And we still -- obviously -- believe that that's  
14 the case, not only because of the existing  
15 telecommunications facility that's there, but also because  
16 of a lot of the nonresidential uses that are also there at  
17 UPS or on the zone.

18           As an insurance, there's Workers Compensation  
19 Research Institute, Keller Williams Realty in the area  
20 that's also located in the building at 955.  There's  
21 Dumpling House I think across the street, John Nick's Auto  
22 Service.

1           And like I said in the prior decisions, the Board  
2 has previously found nonresidential uses do predominate in  
3 this area.

4           BRENDAN SULLIVAN: Let me open it to questions  
5 from the Board. Mr. Monteverde, any questions?

6           JIM MONTEVERDE: No questions, thank you.

7           BRENDAN SULLIVAN: Laura, any questions?

8           LAURA WERNICK: No questions.

9           BRENDAN SULLIVAN: Jason, any questions?

10          JASON MARSHALL: No questions at this time.

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

19           [Pause]

20           There appears to be nobody calling in. We are not  
21 in -- any communications in the file. Any Board has not  
22 opined on it, so I will close the public comment part.

1 Anything else to add, Adam, of the application?

2 ADAM BRAILLARD: No, thank you, Mr. Chair.

3 BRENDAN SULLIVAN: Yep. Any questions by the  
4 Board, or ready for a motion?

5 JIM MONTEVERDE: Ready for a motion.

6 CONSTANTINE ALEXANDER: Ready for a motion.

7 BRENDAN SULLIVAN: Okay. Granting the special  
8 permit for the telecommunication facility, the Board shall  
9 consider the scope of or limitations imposed by any license  
10 secured from any state or federal agency having jurisdiction  
11 over such matters.

12 The Board finds that the applicant meets all the  
13 requirements imposed by governmental authorities having  
14 jurisdiction over the proposed facility.

15 The Board shall consider the extent to which the  
16 visual impact of the various elements of the proposed  
17 facility is minimized to the use of existing mechanical  
18 elements on the building through the use of materials, that  
19 in texture and color blend with the materials to which the  
20 facilities are attached, and other effective means to reduce  
21 the visual impact of the facility on the site.

22 And the Board finds that the proposed facility,

1 the changes will have no additional visual impact on the  
2 existing facility and the building.

3 The Board finds that where it's proposed to erect  
4 a facility in any residential zone, the extent to which  
5 there is demonstrated public need for the facility at the  
6 proposed location, the existence of alternative functionally  
7 suitable sites in nonresidential locations, the character of  
8 the prevailing uses in the area, and the prevalence of other  
9 existing mechanical systems and equipment carried on or  
10 above the roof of nearby structures.

11 The Board may grant a special permit to erect such  
12 a facility in a residential zone, only upon a finding that  
13 nonresidential use would predominate in the vicinity of the  
14 proposed facility's location, and that the telecommunication  
15 facility is not inconsistent with the character, that does  
16 not prevail in the surrounding neighborhood --

17 CONSTANTINE ALEXANDER: Does prevail, or not --

18 BRENDAN SULLIVAN: It does.

19 CONSTANTINE ALEXANDER: -- does prevail.

20 BRENDAN SULLIVAN: -- that does prevail, I'm  
21 sorry... Is not considered inconsistent with the character  
22 that does prevail in the surrounding neighborhood. Thank

1 you. And I think that that has been touched on and we can  
2 vote in the affirmative of that.

3 The applicant appears/complies with the special  
4 permit criteria set forth in Section 10.43 of the Ordinance.

5 The Board finds that the requirements of the  
6 Ordinance can be met with the granting of the special  
7 permit.

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

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

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

20 The Board notes that there are existing  
21 telecommunication facilities on the building, and it appears  
22 that no adverse communication has been received to its ill

1 effect.

2 The Board finds that the proposed installation  
3 would not impair the integrity of the district or adjoining  
4 district, or otherwise derogate from the intent and purpose  
5 of the Ordinance to provide telecommunication facilities to  
6 the citizens of the city.

7 Also, on the previous -- I would also make the  
8 motion to include any other conditions which abound to the  
9 telecommunication facility previous, and to the new one, as  
10 per the original and the existing relief that has been  
11 granted.

12 And I would add that there was also some language,  
13 Adam, that you are so well aware of about the work proceed  
14 in accordance with the plan and that whole narrative  
15 regarding the, "and as much as the health effects and  
16 transmission of electromagnetic energy is a matter of  
17 ongoing societal concern, that that be incorporated into  
18 this decision, as it was in the previous decision regarding  
19 this facility by reference."

20 The Board is fine by that. And Adam, you're okay  
21 with that.

22 That the work proceed in accordance with the

1 application, supporting statements, photo simulations  
2 initialed by the Chair. On the motion, then, to grant the  
3 special permit as per the application, Mr. Alexander?

4 CONSTANTINE ALEXANDER: I vote in favor?

5 BRENDAN SULLIVAN: Mr. Monteverde?

6 JIM MONTEVERDE: I vote in favor.

7 BRENDAN SULLIVAN: Ms. Wernick?

8 LAURA WERNICK: I vote in favor.

9 BRENDAN SULLIVAN: Jason Marshall?

10 JASON MARSHALL: Yes, in favor.

11 BRENDAN SULLIVAN: And [Brendan Sullivan] in  
12 favor.

13 [All five vote YES] bral5

14 On five affirmative votes, the special permit is  
15 granted.

16 ADAM BRAILLARD: Thank you.

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(6:45 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No.  
164599. Adam?

ADAM BRAILLARD: Yes, Thank you, Mr. Chair. Adam  
Brillard. For the record, Adam Brillard at Prince Lobel  
Tye Law Firm at One International Place in Boston, on behalf  
of the applicant, would be T-Mobile Northeast LLC.

This is a request to hear an Eligible Facilities  
Request and a special permit from the Board to modify an  
existing telecommunications facility that's located at 25  
Eight Street, which is the building -- one of the Cambridge  
Housing Authority buildings. It's located in a Residential  
C-1 Zoning District.

The proposal, similar to the last case, there is  
currently nine panel antennas on the façade of the building  
at three different locations, and the proposal is to replace  
those nine panel antennas with nine new like-kind antennas  
at the same locations.



1           Those antennas will be painted to match the façade  
2 of the building, which has been redone and the -- also we're  
3 proposing to replace the remote radio units which would be  
4 installed out of view on the other side of the parapet.

5           We're also going to replace one cabinet, the one  
6 radio cabinet from the center of the rooftop of the  
7 building, with two smaller cabinets with the same footprint  
8 as that prior cabinet.

9           Like I said, all the panels will be painted to  
10 match the matted finish, they're consistent color to match  
11 the neutral sign.

12           With respect, in the anticipation of the question,  
13 I think I'll go through it now, which is the analysis that  
14 we believe is compatible with that nonresidential uses  
15 predominate (sic) in this area.

16           The Board has found in prior special permit  
17 applications that nonresidential uses predominate. Also,  
18 there is other non, or there are other nonresidential uses  
19 in the vicinity -- a funeral home, religious facilities,  
20 public library, Cambridge school administration.

21           Also there are, I think there's another wireless  
22 communication facility on the roof, and also this facility

1 is on the roof. So we believe that nonresidential uses  
2 still continue to predominate in the vicinity.

3 We also believe that the facility is very similar  
4 to what is existing, and that it is not inconsistent with  
5 the character that does prevail in the surrounding  
6 neighborhood.

7 BRENDAN SULLIVAN: Okay, thank you. Let me  
8 editorialize here for a moment. I think that is one  
9 requirement that is a throwback from an earlier day on --  
10 regarding telecommunication facilities in residential  
11 neighborhoods.

12 And I think that really should be taken out,  
13 because of the prevalence and the necessity of having  
14 telecommunication facilities everywhere in the city.

15 CONSTANTINE ALEXANDER: I agree, but I think  
16 that's the responsibility of the City Council.

17 BRENDAN SULLIVAN: But that's the -- that's  
18 something that the Community Development Planning, City  
19 Council as to do. I think that that's something that is --  
20 anyhow, time-worn and isn't really necessarily applied very  
21 well anymore.

22 Mr. Alexander, any questions?

1           CONSTANTINE ALEXANDER: No questions.

2           BRENDAN SULLIVAN: Jim Monteverde, any questions?

3           JIM MONTEVERDE: No questions.

4           BRENDAN SULLIVAN: Laura Wernick, any questions?

5           LAURA WERNICK: No questions, thank you.

6           BRENDAN SULLIVAN: Jason Marshall any questions?

7           JASON MARSHALL: No questions, Mr. Chair.

8           BRENDAN SULLIVAN: Then I'll open it up to public  
9 comment. Any member of the public who wishes to speak  
10 should now click the button that says, "Participants," and  
11 then click the button that says, "Raise hand."

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

15           [Pause]

16           There appears to be nobody calling in. We are in  
17 receipt of communication from the Planning Board dated April  
18 13.

19           "The Planning Board reviewed the BZA application  
20 to modify the existing wireless communications facility, and  
21 decided to forward the following comments to the BZA:

22           "'The applicant provided revised materials to the

1 Board on 04/11/22. The Board reviewed it during the  
2 meeting, and by and concluded that the revisions have  
3 addressed most of the comments in the attached Memo from the  
4 Community Development. Hence, the Board decided to forward  
5 a positive recommendation to the BZA to consider the revised  
6 proposal for the installation."

7 Their communication regarding 25 Eighth Street:

8 "The proposal involves modification of an existing  
9 wireless antenna installation at the Truman Apartments, 25  
10 Eighth Street. Nine panel antennas will be replaced with nine  
11 new panel antennas, and three remote radio units will be  
12 replaced with six new remote radio units. All antennas will  
13 be façade-mounted in the same location as the existing  
14 antennas, and will be painted to match the color of the  
15 façade.

16 "Since the antennas are located on the buildings'  
17 side elevations, rather than a recessed penthouse, the  
18 installation is quite visible from surrounding streets.  
19 Additionally, the replacement antennas all have varying  
20 dimensions, and appear to interrupt the carpet line when  
21 viewed from grade, which draws further attention to the  
22 modification.

1           "The following are suggested design improvements  
2 that should be considered: Antennas should be moved down  
3 the façade, to achieve a 45-degree setback plane, so that  
4 the antennas do not visually interrupt the parapet line.

5           "Since the replacement antennas all have varying  
6 sizes, if feasible, consider utilizing antenna covers --  
7 sheaths -- so that the sheaths, s-h-e-a-t-h-s, so that the  
8 new antenna have similar dimensions or more symmetrical  
9 layout can be achieved.

10           "Reduce the length of all unused pipe mount  
11 sections. Setback, all are used as far as possible from the  
12 façade.

13           "Remove all unused mounting brackets where  
14 possible.

15           "All exposed cables should be concealed. If this  
16 is not feasible, ensure all exposed cables and wires are  
17 tightly fixed to the façade and the antennas.

18           "All painted materials, including cabling, should  
19 have a consistent matte finish."

20           Mr. Brailard, are you in agreement with those  
21 conditions?

22           ADAM BRAILLARD: Yes, we are. We certainly

1 addressed a number of those to the meeting with the Planning  
2 Board on the twelfth.

3 But, you know, absolutely the one that we had a  
4 concern with is the covering of the sheathing of one of the  
5 antennas are -- we've talked about this at this level -- our  
6 engineering team is really concerned how that affects the  
7 antenna without it being significantly bigger and more  
8 weighted in weight load.

9 And so, you know, we can look at that in more  
10 detail, but to the extent feasible. You know, I don't know  
11 if we could agree to actually doing that with the plan.

12 I did speak with one of the engineers on record  
13 again, and the concern wasn't necessarily the weight, but  
14 the -- you know, how you could fit the cover to the antenna  
15 without having to wrap all of the antennas and the three  
16 antennas together, similar to, like Huron Ave.

17 And so that was our concern. And so we don't  
18 believe that that's feasible at this time.

19 BRENDAN SULLIVAN: Okay. And again, I think that  
20 what they're asking for is if it's feasible?

21 ADAM BRAILLARD: Right.

22 BRENDAN SULLIVAN: So I think that you'll have

1 your client make a good faith effort to address that, and if  
2 it's not feasible, then it just can't be done.

3 ADAM BRAILLARD: Yep, understood.

4 BRENDAN SULLIVAN: Yeah. Okay. Other than that,  
5 the other suggestions you can incorporate into the final  
6 installation? The other conditions, the other suggestions  
7 that they've made?

8 ADAM BRAILLARD: Yes, absolutely. We've lowered  
9 the --

10 BRENDAN SULLIVAN: Some of them actually are quite  
11 benign, probably, and probably easy enough to do.

12 ADAM BRAILLARD: Sure. Yeah, absolutely. We can  
13 lower the antennas to meet that 45-degree setback plane,  
14 which I think is, it's kind of a new design protocol in the  
15 city, which I think is really interesting.

16 And we've been able to achieve that, and we reduce  
17 the length of any unused pipe mods, which we've done and set  
18 back the area use as far back from the façade as feasible,  
19 which we've done.

20 Remove any unused brackets: Yes, or hide or  
21 remove any enclosed wires concealed by the facility. Yes,  
22 we will do that, and paint to match the consistent matted

1 finish.

2 BRENDAN SULLIVAN: Okay, great. Any questions by  
3 Members of the Board at all?

4 CONSTANTINE ALEXANDER: No questions.

5 JIM MONTEVERDE: No questions.

6 JASON MARSHALL: No questions.

7 LAURA WERNICK: No questions.

8 BRENDAN SULLIVAN: Are we ready for a motion?

9 LAURA WERNICK: Yes.

10 JIM MONTEVERDE: Yes.

11 BRENDAN SULLIVAN: Okay. Let me make a motion,  
12 then to the applicant.

13 The Board shall consider the scope of limitations  
14 imposed by any license secured from any state or federal  
15 agency having jurisdiction over such matters.

16 The applicant has included the applicant's FCC  
17 license.

18 The applicant meets all requirements imposed by  
19 governmental authorities having jurisdiction over the  
20 proposed facility, including by the FCC to provide wireless  
21 communications in this market area.

22 The Board shall consider the extent to which the



1 visual impact of the various elements of the proposed  
2 facility is minimized through the use of existing mechanical  
3 elements on the building's roof or other features of the  
4 building as support and background through the use of  
5 materials that in texture and color blend with the materials  
6 to which the facility are attached, or other effective means  
7 to reduce the visual impact of the facility on the site.

8 The Board finds that the applicant's design  
9 minimizes the visual impact of the proposed facility.

10 The Board references the communication from the  
11 Planning Board regarding 25 Eighth Street, and the  
12 suggestions as to improvements over the submitted design,  
13 the agreement by the applicant that they will try to comply  
14 to the best as possible, with the suggestions made by the  
15 Planning Board.

16 And the previous dialogue incorporated and  
17 presentation by Council is incorporated by reference.

18 Where it is proposed to erect such a facility and  
19 as any residential zoning district, the extent to which it  
20 is demonstrated -- that there is a big demonstrated public  
21 need for the facility at the proposed location. The  
22 existence of alternative, functionally suitable sites in

1 nonresidential locations, the character of the prevailing  
2 uses in the area, and the prevalence of other, existing  
3 mechanical systems and equipment carried on or above the  
4 roof of nearby structures.

5           The Board of Zoning Appeal may grant the special  
6 permit to erect such a facility in a residential zone only  
7 upon the finding that nonresidential uses predominate in the  
8 vicinity or the proposed facilities, and that the  
9 telecommunication facility is not inconsistent with the  
10 character that does prevail in the surrounding neighborhood.

11           The Board finds that the applicant does propose to  
12 install a facility within the C-1 Zoning District, and that  
13 the Board does find that there is an existing  
14 telecommunications facility on the building --

15           [Simultaneous speech]

16           -- residential uses do not predominate in the  
17 area.

18           That the Board finds that the applicant complies  
19 with the Special Permit Criteria set forth in Section 1043  
20 of the Ordinance.

21           The Board finds that the requirements of the  
22 Ordinance can be met. Traffic generated or patterns of

1 access or egress resulting from what is being proposed would  
2 not cause congestion, hazard, or substantial change in the  
3 established neighborhood character.

4 The Board finds that the existence of a previous  
5 telecommunication facility on the site, and that no ill  
6 effect or adverse effect has come from that facility. This  
7 is merely an upgrade of an existing facility.

8 The Board finds that continued operation of or  
9 development of adjacent uses, as permitted in the Zoning  
10 Ordinance, would not be adversely affected by the nature of  
11 the proposed use for the following reasons -- and again, I  
12 reference that it is an existing facility being upgraded.

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

17 The Board finds that, again, as previously stated,  
18 this is an existing facility and no adverse effect from such  
19 facility has been demonstrated.

20 The Board finds that the proposed use installation  
21 would not impair the integrity of the district or adjoining  
22 district and derogate from this ordinance.

1           There's also some additional --

2           The Board finds that incorporated by references,  
3 any of the conditions that were previously attached to the  
4 existing facility, that the wording in the last part, that  
5 the Chair moves that based upon the information presented,  
6 the Board grant the relief requested, regarding the  
7 petitioner's materials and evidence before the Board --  
8 signed and initialed by the Chair -- and that regarding that  
9 the facility should cease to remain in operation, they'd be  
10 removed in a timely fashion.

11           And that the additional language regarding the  
12 societal concern about the emissions of radiofrequency, that  
13 that language known to the petitioner's Council, also be  
14 incorporated as a condition of the granting of this special  
15 permit, as was a condition of the previous grant.

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

18           CONSTANTINE ALEXANDER: Did you open the matter up  
19 to public testimony?

20           BRENDAN SULLIVAN: I'm sorry?

21           CONSTANTINE ALEXANDER: Did you open the matter up  
22 to public testimony?

1 BRENDAN SULLIVAN: Oh, okay. I didn't do that?

2 OLIVIA RATAY: You did.

3 CONSTANTINE ALEXANDER: Huh?

4 BRENDAN SULLIVAN: I did, yeah, I did.

5 CONSTANTINE ALEXANDER: Okay.

6 BRENDAN SULLIVAN: Yeah, because I --

7 CONSTANTINE ALEXANDER: I vote in favor.

8 BRENDAN SULLIVAN: Yeah, okay. Mr. Monteverde?

9 JIM MONTEVERDE: I vote in favor.

10 BRENDAN SULLIVAN: Laura Wernick?

11 LAURA WERNICK: I vote in favor.

12 BRENDAN SULLIVAN: Jason Marshall?

13 JASON MARSHALL: Yes, in favor of the special  
14 permit.

15 BRENDAN SULLIVAN: Brendan Sullivan in favor of  
16 the special permit.

17 [All five vote IN FAVOR].

18 BRENDAN SULLIVAN: Five affirmative votes. The  
19 special permit is granted.

20 ADAM BRAILLARD: Thank you.

21 BRENDAN SULLIVAN: One more time.

22

\* \* \* \* \*

(7:02 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No.  
165052 -- 20 Sidney Street. Adam?

ADAM BRAILLARD: Thank you, Mr. Chair and Members  
of the Board. The final T-Mobile matter for tonight. For  
the record, Adam Brailard, Attorney at Prince Lobel Tye at  
One International Place in Boston for the applicant, T-  
Mobile Northeast LLC here in connection with an Eligible  
Facilities Request for a special permit from the Board to  
modify an existing telecommunications facility located at 20  
Sidney Street at the Le Meridien, Boston-Cambridge hotel on  
the rooftop there. It's located in the Cambridge  
Revitalization Development District.

The proposal here is to replace six panel antennas  
with nine new like-kind antennas and replace nine remote  
radio units with six remote radio units.

The interesting design here, there are typically  
in any telecommunications installation there's either three

1 or four sectors.

2 In this case, there's three alpha, beta, and gamma  
3 sectors. The alpha and beta sectors are concealed. They're  
4 façade-mounted, but they're concealed behind an enclosure  
5 similar to -- I would say Huron Ave, but that's another  
6 telecom installation where it has it concealed.

7 So those two sectors have -- the antennas are  
8 concealed. We're going to be replacing the two antennas  
9 that are inside each of those concealed locations with three  
10 antennas and increasing the depth of the concealment by  
11 about a little bit less than a foot.

12 And then the third sector, which also has two  
13 panels on it, we're going to be replacing those antennas  
14 with three new antennas and actually moving this sector a  
15 little bit further into the more center of the rooftop, also  
16 on the façade of the penthouse.

17 The alpha and beta sectors were more -- are  
18 generally a little bit more visible, and that's why they're  
19 concealed. The gamma sector, the antennas will be painted  
20 to match, as they are now, but those are not visible from  
21 any public street, as the photo simulations show.

22 So that's really the extent of the changes here.

1 The -- which is in the Cambridge Revitalization Development  
2 District, which I don't believe is in the residential  
3 district, although there are certainly a number of  
4 nonresidential uses that we built to predominate here.

5 The facility, based on the plans -- the proposed  
6 facility will be designed with modifications of the  
7 installation, very consistent to what is existing there.  
8 And so we feel that the facility is not going to be  
9 inconsistent with the character that does prevail in the  
10 surrounding neighborhood.

11 BRENDAN SULLIVAN: Adam, is this all sort of  
12 upgrades for the 5G?

13 ADAM BRAILLARD: It is, yes.

14 BRENDAN SULLIVAN: Yeah, okay. All right. Any  
15 questions by Members of the Board?

16 CONSTANTINE ALEXANDER: No questions.

17 JIM MONTEVERDE: No questions.

18 BRENDAN SULLIVAN: Let me open it up to public  
19 comment. Any member of the public who wishes to speak  
20 should now click the button that says, "Participants," and  
21 then click the button that says, "Raise hand."

22 If you're calling in by phone, you can raise your



1 hand by pressing \*9 and unmute or mute by pressing \*6, and  
2 you'll have up to three minutes in which to comment.

3 [Pause]

4 There appears to be nobody calling in. We are in  
5 receipt of communication from the Planning Board regarding  
6 20 Sidney Street.

7 "The proposal involves modification of an existing  
8 wireless antenna installation on the rooftop of 20 Sidney  
9 Street, Planning Board Special Permit 152. Six panel  
10 antennas will be replaced with nine new panel antennas, and  
11 nine remote radio units will be replaced with six new remote  
12 radio units.

13 "The alpha and gamma sector antennas will be  
14 concealed behind the existing stealth, which will be  
15 enlarged. The beta sector antennas will be relocated to the  
16 southeast penthouse façade. All antennas and supporting  
17 equipment will be painted to match the façade.

18 "Staff has no concerns with the modest  
19 modification to this existing antenna facility. The large  
20 stealth enclosure will not have a significant impact on the  
21 public realm, and the beta sector antennas, which face  
22 Franklin Street and the parking garage are well set back

1 from the façade and will not be visible.

2 "One design suggestion that could improve the  
3 appearance of the stealth enclosure is to incorporate some  
4 vertical or horizontal lines to match the panelization of  
5 the penthouse enclosure."

6 Mr. Braillard, if you want comment on that  
7 suggestion?

8 ADAM BRAILLARD: Sure. I think what the Staff is  
9 referring to is that the penthouse does have some vertical  
10 and horizontal lines that probably make up a concrete  
11 installation.

12 And I don't think that the applicant has any  
13 concern with when it is replacing this stealth design to  
14 incorporate that into the paint context to the extent that  
15 the Board would prefer.

16 A lot of times, we -- every time in Cambridge  
17 here, we paint to match. Generally, it's a consistent matte  
18 finish, all one color.

19 But we can -- we can -- we can try to match that  
20 grout -- those grout lines, so to speak, which we have done  
21 in the past, certainly in a lot of different locations.  
22 Just not a lot of plans in Cambridge.

1           Although recently I think we had a site where we  
2 agreed to match the brick-and-mortar grout line on a  
3 chimney. And so we can agree to that, yeah.

4           BRENDAN SULLIVAN: Okay. Some kind of an applique  
5 or something, I guess. We'll let Engineering come up with  
6 that feature. Okay. That is the sum and substance of any  
7 correspondence. I will close public comment. Any questions  
8 by Members of the Board at all?

9           CONSTANTINE ALEXANDER: No questions.

10          BRENDAN SULLIVAN: Ready for a vote?

11          LAURA WERNICK: No questions.

12          JASON MARSHALL: Ready for a vote.

13          BRENDAN SULLIVAN: Okay. Let me make a motion  
14 that we grant the special permit as per the application,  
15 according to material in the photo simulation initialed by  
16 the Chair.

17                 The Board finds that the Board of Zoning Appeals  
18 shall consider the scope of or limitations imposed by any  
19 license secured from any state or federal agency having  
20 jurisdiction over such matters enclosed, hearing (sic) that  
21 the applicant's FCC license...

22                 The Board find that the applicant meets all

1 requirements imposed by any governmental authority having  
2 jurisdiction over the proposed facility.

3 The Board shall consider the extent to which the  
4 visual impact of the various elements of the proposed  
5 facility is minimized through the use of existing mechanical  
6 elements on the building's roof or other features of the  
7 building as support and background through the use [in]  
8 materials that in texture and color blend with the materials  
9 to which the facility are attached, or other effective means  
10 to reduce the visual impact of the facility on the site.

11 The Board finds that the proposed facility will  
12 have no additional visual impact of the existing facility  
13 and the building.

14 The Board notes the Planning Board's comments.  
15 They are supportive of the installation, and one suggestion  
16 that the applicant/petitioner try to replicate some of the  
17 installation's features that are in the concrete face of the  
18 building.

19 The -- it's not necessarily in a residential zone,  
20 it's in --

21 CONSTANTINE ALEXANDER: It's in the --

22 BRENDAN SULLIVAN: -- Resident -- Revitalization?

1           CONSTANTINE ALEXANDER: District, Development  
2 District, yep.

3           BRENDAN SULLIVAN: But the Board will note the  
4 Cambridgeport -- it's in the Cambridgeport Revitalization  
5 Development District. The Board notes that it is just off  
6 of Central Square, and that the Board can safely state that  
7 the installation -- that regarding the installation, that  
8 the residential does not predominate in the immediate area,  
9 and also notes that this is an existing -- it is an  
10 amendment to an existing facility.

11           The Board finds that traffic -- regarding the  
12 criteria in Section 10.43, the Board finds that the  
13 requirements of the Ordinance can be met.

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

18           The Board finds that it is an existing facility,  
19 and no adverse effect from the existing facility has been  
20 noted, and does not anticipate any regarding the change in  
21 the as proposed.

22           The Board finds that continued operation of or

1 development of adjacent uses, as permitted in the Zoning  
2 Ordinance, would not be adversely affected by the nature of  
3 the proposed use.

4           The Board finds that there would not be any  
5 nuisance or hazard created to the detriment of the health,  
6 safety and/or welfare of the occupants of the proposed use,  
7 or the citizens of the city.

8           And again, the Board notes that it is a-- we do  
9 have an existing telecommunications facility and no adverse  
10 communications have been received to the -- regarding the  
11 existing facility, and none is anticipated with the new  
12 amended features.

13           The Board finds that the proposed installation  
14 will not impair the integrity of the district or adjoining  
15 district, or otherwise derogate from the intent and purpose  
16 of the Ordinance to provide telecommunication facilities to  
17 the citizens of the city.

18           Further, the Board notes the previous grant to the  
19 telecommunication facility at this location, and any  
20 conditions imposed upon the previous are incorporated as  
21 part of the granting of the relief to this facility and this  
22 proposal.

1           And that the Board finds that the work [is] to  
2 proceed with the plans submitted by the petitioner and the  
3 photo simulations initialed by the Chair.

4           And that regarding Sections 1-6 and 6 a) b) and c)  
5 regarding the health effects on the transmission of the  
6 electromagnetic energy waves, that that language and the  
7 previous conditions regarding the maintainings (sic) of the  
8 structure of the telecommunication facility be incorporated  
9 by reference into this decision.

10           On the motion, Mr. Alexander?

11           CONSTANTINE ALEXANDER: I vote in favor?

12           BRENDAN SULLIVAN: Mr. Monteverde?

13           JIM MONTEVERDE: I vote in favor.

14           BRENDAN SULLIVAN: Laura Wernick?

15           LAURA WERNICK: I vote in favor.

16           BRENDAN SULLIVAN: Jason Marshall?

17           JASON MARSHALL: Yes, in favor.

18           BRENDAN SULLIVAN: And Brendan Sullivan yes.

19           [All vote YES]

20           BRENDAN SULLIVAN: Five affirmative votes, the  
21 special permit is granted. Goodnight.

22           ADAM BRAILLARD: Thank you. Have a good night.

\* \* \* \* \*

(7:16 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No.  
162174 -- 35 Lawrence Street. David?

[Pause]

David?

DAVID FENCHEL: Yes, hi. Can you hear me?

BRENDAN SULLIVAN: Yep.

DAVID FENCHEL: Okay.

BRENDAN SULLIVAN: Hi good evening. Yep. It's  
your presentation.

DAVID FENCHEL: Okay. My name is David Fenchel.  
I'm the architect representing Ashley and Josh Zisson of 35  
Lawrence Street. We are requesting to expand two existing  
dormers from about five feet wide to less than 15 feet.

A special permit is necessary because of an  
existing violation that exceeds the maximum FAR, and because  
of an existing minimum large setback violation at both side  
yards and rear yard.



1           The proposal adds 65 gross square feet, which is  
2 an increase in area of about 2.64 percent.

3           We are also requesting to alter and add windows  
4 and a patio door in existing nonconforming walls in the back  
5 half of the building. A special permit is necessary because  
6 of an existing violation that doesn't meet the minimum yard  
7 setback at both side yards and rear yard.

8           The proposed work will not create a new  
9 dimensional nonconformity, and it will not be substantially  
10 more detrimental than the existing nonconforming structure.

11           The proposed windows and patio door improve access  
12 to daylight and fresh air, and it is in keeping with the  
13 general existing building fenestration.

14           The proposed window alterations' enlargement of  
15 existing dormers does not create a new dimensional  
16 nonconformity, and it satisfies Section 10.43, Criteria for  
17 special permits.

18           The proposed work does not affect traffic pattern.  
19 The proposed work does not change the use of the existing  
20 building, and does not change the density. It does not  
21 negatively impact neighbors' privacy, access to daylight in  
22 fresh air, and it does not impede views or cast shadows on

1 adjacent properties.

2 The proposed use does not change in the use or  
3 density of existing.

4 The proposed work does not impair the integrity of  
5 the neighborhood, and it is in keeping with the overall  
6 style, fenestration, and general massing of the existing  
7 building.

8 CONSTANTINE ALEXANDER: Okay. Mr. Chair, can I  
9 ask a question about the Dormer Guidelines. I think you  
10 alluded to them in your presentation, sir. And I think you  
11 said that the dormers as you proposed to modify them will  
12 not be longer than 15 feet, is that correct?

13 DAVID FENCHEL: That's correct.

14 CONSTANTINE ALEXANDER: Well, what about just for  
15 round out the discussion, the other requirements of our  
16 Dormer Guidelines, in terms of setting down from the  
17 roofline and up from the front, are you -- will you be in  
18 compliance with those as well?

19 DAVID FENCHEL: Yes, sir.

20 CONSTANTINE ALEXANDER: Thank you.

21 BRENDAN SULLIVAN: Okay. Mr. Monteverde, any  
22 questions?

1 JIM MONTEVERDE: No questions, thank you.

2 BRENDAN SULLIVAN: Laura, any questions?

3 LAURA WERNICK: No questions, thank you.

4 BRENDAN SULLIVAN: Jason Marshall any questions?

5 JASON MARSHALL: No questions at this time, Mr.

6 Chair.

7 BRENDAN SULLIVAN: Okay. And I have -- Brendan

8 Sullivan -- have no questions. Let me open it to public

9 comment. Any member of the public who wishes to speak

10 should now click the button that says, "Participants," and

11 then click the button that says, "Raise hand."

12 If you are calling in by phone, you can raise your

13 hand by pressing \*9 and unmute or mute by pressing \*6, and

14 you will have up to three minutes in which to comment.

15 [Pause]

16 There appears to be nobody calling in. We are in

17 receipt of communication from Andrew Janjigian and Melissa

18 Rivard, 53 Lawrence Street, #2.

19 "We are next-door neighbors to our friends, Josh

20 and Ashley Zisson, who live at 35 Lawrence Street. We are

21 writing on their behalf to say that we are happy to support

22 the renovation project. Please let us know if you have any

1 further questions."

2 And that is the sum and substance of any  
3 communication. I will close the public comment part.  
4 Anything else to add, David, at all?

5 DAVID FENCHEL: No, thanks. Very much.

6 BRENDAN SULLIVAN: Thank you, you covered it well.  
7 Any questions by Members of the Board, or ready for a  
8 motion?

9 JIM MONTEVERDE: I'm ready for a motion.

10 BRENDAN SULLIVAN: Okay. Let me make a motion,  
11 then, to grant the relief requested, and this is a special  
12 permit to expand two existing dormers to alter and add  
13 windows and a patio door in existing nonconforming walls as  
14 per the drawings submitted, supporting statements and  
15 dimensional form signed and dated by the Chair.

16 The Board finds that it appears that the  
17 requirements of the Ordinance can be met.

18 The Board finds that traffic generated, or  
19 patterns of access or egress would not cause congestion,  
20 hazard, or substantial change in the established  
21 neighborhood character.

22 The Board finds that continued operation of or

1 development of adjacent uses, as permitted in the Zoning  
2 ordinance, would not be adversely affected by the nature of  
3 the proposed use.

4           There wouldn't be any nuisance or hazard created  
5 to the detriment of the health, safety and/or welfare of the  
6 occupant of the proposed use, or the citizens of the city.

7           The Board finds that the proposed use would not  
8 impair the integrity of the district or adjoining district,  
9 or otherwise derogate from the intent and purpose of the  
10 ordinance, to provide adequate space, safe space, and to  
11 allow petitioners, homeowners to improve their properties to  
12 modern standards.

13           Relief is also being requested under Section 8.222  
14 (d) and that actually finds that the Board may grant a  
15 special permit for the alteration of or enlargement of a  
16 preexisting, dimensionally nonconforming, detached single-  
17 family, not otherwise submitted in Section 8.221, but not  
18 the alteration or enlargement of a preexisting,  
19 nonconforming use, provided there was no change in use.

20           And that any enlargement or alteration of such  
21 preexisting, nonconforming detached single-family dwelling  
22 may only increase an existing dimensional nonconformity, but

1 does not create a new dimensional noncompliant.

2 In order to grant, the Board is required to find,  
3 and does find, that the alteration or enlargement shall not  
4 be substantially more detrimental than the existing  
5 nonconforming structure to the neighborhood, and that the  
6 alteration or enlargement satisfies the criteria in Section  
7 10.43, as previously stated.

8 On the motion to grant the relief requested, the  
9 special permit, Mr. Alexander?

10 CONSTANTINE ALEXANDER: I vote in favor.

11 BRENDAN SULLIVAN: Mr. Monteverde?

12 JIM MONTEVERDE: I vote in favor.

13 BRENDAN SULLIVAN: Laura Wernick?

14 LAURA WERNICK: I vote in favor.

15 BRENDAN SULLIVAN: Jason Marshall?

16 JASON MARSHALL: Yes, in favor of the special  
17 permit.

18 BRENDAN SULLIVAN: And Brendan Sullivan yes in  
19 favor.

20 [All five vote IN FAVOR]

21 BRENDAN SULLIVAN: Five affirmative votes, the  
22 special permit is granted.

1                   DAVID FENCHEL: Thank you very much.

2                   BRENDAN SULLIVAN: Yep. Goodnight.

3                   CONSTANTINE ALEXANDER: The next case is 7:30. I'm  
4 just going to take a break for a second. Okay?

5                   BRENDAN SULLIVAN: We're going to take possibly a  
6 10-minute break before the next case, which is Perry Street.

7                   [BREAK]

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(7:30 p.m.)

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

BRENDAN SULLIVAN: Shannon? Nathaniel?

SHANNON AND NATHANIEL FINLEY: Yes, we're here.

BRENDAN SULLIVAN: Okay.

SHANNON AND NATHANIEL FINLEY: So --

BRENDAN SULLIVAN: If you would introduce yourself  
for the record.

SHANNON FINLEY: Okay. My name is Shannon Finley.  
And this is my husband, Nathaniel.

NATHANIEL FINLEY: Hi, I'm Matt Finley.

SHANNON AND NATHANIEL FINLEY: I am the -- we are  
the owner of the 10 Perry, and I am also the Architect of  
record on the set for Tiny Desk Designs.

We are asking for a special permit to add a --  
approximately a two-foot-five, four-foot-eight double home  
window with obscured glass in it on a wall that sits over  
the side yard setback. And this will be in a laundry room.

I don't -- this window won't cause any further



1 encroachment on the side yard setback, and the neighbor that  
2 is directly opposite this new window has been informed of  
3 the project, shown drawings, and has actually submitted a  
4 letter in support of the addition of the window.

5 BRENDAN SULLIVAN: Okay. Olivia, could you just  
6 pull up exactly --

7 SHANNON AND NATHANIEL FINLEY: Right. And the  
8 window is in keeping with the style of all the other windows  
9 in the house.

10 BRENDAN SULLIVAN: Okay. Shannon, I noticed that  
11 there was no dimension on the window. So we can assume that  
12 the scale will govern the size of the proposed window?

13 SHANNON AND NATHANIEL FINLEY: Yes. In the plan,  
14 it actually calls out the exact size unit and the  
15 dimensions. So it's two-foot-two.

16 BRENDAN SULLIVAN: Oh, I see. Two-foot-two by  
17 four-eight roughly? Yeah, okay. All right. I did -- now I  
18 see it. Yeah. Okay. All right. Great. So anything else  
19 to add to it?

20 SHANNON AND NATHANIEL FINLEY: I believe that's  
21 about it.

22 BRENDAN SULLIVAN: Okay. Let me open it up to

1 comments by the Board. Mr. Alexander?

2 CONSTANTINE ALEXANDER: My only comment is I want  
3 to congratulate the petitioner, where you decided to use  
4 obscure glass. Often people have regular glass, and  
5 neighbors object because of privacy, and we have to go back  
6 and forth. You've anticipated that, and congratulations.

7 Otherwise, I have no comments.

8 SHANNON AND NATHANIEL FINLEY: Thank you.

9 BRENDAN SULLIVAN: Jim Monteverde, any questions,  
10 comments?

11 JIM MONTEVERDE: No questions, no comments.

12 BRENDAN SULLIVAN: Laura, any questions, comments?

13 LAURA WERNICK: No questions. Thank you.

14 BRENDAN SULLIVAN: Jason, any questions, comments?

15 JASON MARSHALL: No questions. Similar to Gus, I  
16 was going to comment the applicants for the advanced work  
17 that they did in engaging neighbors. It really shows in the  
18 record.

19 SHANNON AND NATHANIEL FINLEY: Thank you.

20 BRENDAN SULLIVAN: Well, Nat, I think you hired a  
21 pretty good architect, then.

22 CONSTANTINE ALEXANDER: [Laughter]

1           BRENDAN SULLIVAN: Give you kudos for hiring the  
2 right person. Let me open it to public comment. It was  
3 probably a nationwide search, was it --

4           SHANNON AND NATHANIEL FINLEY: Yeah.

5           BRENDAN SULLIVAN: -- to get that good architect?  
6 Any member of the public who wishes to speak should now  
7 click the button that says, "Participants," and then click  
8 the button that says, "Raise hand."

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

12           There was nobody calling in. We are in receipt of  
13 communication from Alice Lee and Luke Deming of 12 Perry  
14 Street, #2.

15           "Our neighbors, Matt and Shannon Finely at 10  
16 Perry Street, have personally met with us, the owners, and  
17 residents of 12 Perry, #2, to discuss the addition of their  
18 new window, and we have no issues or concerns with their  
19 proposal.

20           "We understand the window will be in direct view  
21 through our patio doors, yet still believe it will have no  
22 effect on our quality of life."

1           The Board is in receipt from Alice Lee and Lou  
2 Deming.

3           "Our neighbors, Matt and Shannon have personally  
4 met with us to discuss the addition of their new window. We  
5 have no issues or concerns with their proposal."

6           There's communication from Betsy Adam:

7           "I've just received a notice of a Zoning Public  
8 Hearing regarding my neighbors' request to add a new window.  
9 I support the proposed addition."

10          And final communication from Jeffrey Birg, B-e-r-  
11 g:

12          "I have no objection to the work proposed at 10  
13 Perry, as described in the petition for special permit Case  
14 No. 161813."

15          Okay. Your presentation complete?

16          SHANNON AND NATHANIEL FINLEY: Yes.

17          BRENDAN SULLIVAN: No parting words? Okay. I  
18 will close the presentation part. Any comments by the  
19 Board, and you're questions, or ready for a motion?

20          CONSTANTINE ALEXANDER: I'm ready for a motion.

21          JIM MONTEVERDE: Ready.

22          LAURA WERNICK: Ready.

1           BRENDAN SULLIVAN: Okay. Let me make a motion,  
2 then, to grant the special permit as per the application  
3 for, the drawings, supporting statements and the dimensional  
4 form as submitted to add a new, double-hung window with  
5 obscure glass into a first-floor laundry room that sits over  
6 the side yard setback, and as per the drawings and initialed  
7 and dated by the Chair.

8           The Board finds that it appears that the  
9 requirements of the Ordinance can be met.

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

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

17           There would not be any nuisance or hazard created  
18 to the detriment of the health, safety and/or welfare of the  
19 occupants of the proposed use.

20           And that the proposed use would not impair the  
21 integrity of the district or adjoining district, or  
22 otherwise derogate from the intent and purpose of the

1 Ordinance.

2 In furtherance, the petitioner is seeking relief  
3 under Section 8.222d) that the Board may grant a special  
4 permit for the alteration or enlargement of a preexisting  
5 dimensionally nonconforming, detached single-family or two-  
6 family dwelling, not permitted in Section 8.22-1, above, but  
7 not the alteration or enlargement of a preexisting,  
8 nonconforming use, provided that there is no change in use...

9 And that and any enlargement or alteration of such  
10 preexisting, nonconforming, detached, single-family dwelling  
11 or two-family may only increase a preexisting, dimensionally  
12 nonconformity, but does not -- nonconformity, but does not  
13 create any new dimensional nonconformity.

14 The Board may grant a special permit upon a  
15 finding, and the Board does find that the alteration or  
16 enlargement shall not be substantially more detrimental than  
17 the existing, nonconforming structure to the neighbor, and  
18 that the alteration or enlargement satisfies the criteria as  
19 stated in Section 10.43, as previously stated.

20 That the work comply with the drawings as  
21 submitted, and the supporting statements and dimensional  
22 form, initialed by the Chair.

1                   On the motion to grant the special permit, Mr.  
2 Alexander?

3                   CONSTANTINE ALEXANDER: I vote in favor.

4                   BRENDAN SULLIVAN: Mr. Monteverde?

5                   JIM MONTEVERDE: I vote in favor.

6                   BRENDAN SULLIVAN: Laura Wernick?

7                   LAURA WERNICK: I vote in favor.

8                   BRENDAN SULLIVAN: Jason Marshall?

9                   JASON MARSHALL: Yes, in favor.

10                  BRENDAN SULLIVAN: And Brendan Sullivan yes.

11                  [All five vote YES]

12                  On the affirmative vote of five Members, your  
13 special permit is granted. Good luck.

14                  SHANNON AND NATHANIEL FINLEY: Thank you very  
15 much.

16                  BRENDAN SULLIVAN: Thank you for your nice  
17 presentation.

18                  SHANNON AND NATHANIEL FINLEY: Thanks.

19                  BRENDAN SULLIVAN: There's going to be a 20-minute  
20 break in the action until 8:00.

21                  OLIVIA RATAY: 7:45.

22                  CONSTANTINE ALEXANDER: 7:45.

1                   BRENDAN SULLIVAN:  Oops.  I'm sorry, 7:45.  7:45.

2   Six minutes.  I don't have Longfellow.

3                   CONSTANTINE ALEXANDER:  You should.

4                   OLIVIA RATAY:  I had it.

5                   BRENDAN SULLIVAN:  Thanks.

6                   [BREAK]

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2 (7:30 p.m.)

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

6 BRENDAN SULLIVAN: Okay. We're back in operation  
7 again. The Board will now hear Case No. 162489 -- 1  
8 Longfellow Road. Is there anybody here representing the  
9 petitioner who would like to speak?

10 There appears to be none. We are in communication  
11 from Sam Kachmar. Correspondence states,

12 "May I please request continuing the case of 1  
13 Longfellow Road to April 28, 2022, on behalf of my client,  
14 Hao Wang?"

15 I will entertain, then, the request for a  
16 continuance. Mr. Alexander, on the motion to continue this  
17 matter?

18 CONSTANTINE ALEXANDER: I would support a motion  
19 to continue this matter until 6:00 p.m. on the twenty-eighth  
20 of April.

21 BRENDAN SULLIVAN: Mr. Monteverde?

22 JIM MONTEVERDE: I agree to the continuance.

1 BRENDAN SULLIVAN: Laura Wernick?

2 LAURA WERNICK: I agree to the continuance.

3 BRENDAN SULLIVAN: And Jason Marshall on the  
4 continuance?

5 JASON MARSHALL: Yes.

6 BRENDAN SULLIVAN: And Brendan Sullivan will make  
7 five affirmative votes to continue this matter until April  
8 28, 2022, at 6:00 p.m. on the condition that the petitioner  
9 change the posting sign to reflect the new date of April 28,  
10 2022, and the new time of 6:00 p.m.; that the petitioner  
11 sign a waiver to the statutory requirement for a hearing and  
12 a decision to be rendered thereof.

13 [All five vote YES]

14 BRENDAN SULLIVAN: Such waiver must be in the file  
15 by 5:00 p.m. on a week from Monday.

16 That any new submittals regarding the application,  
17 supporting statements, dimensional form or drawings be in  
18 the file by 5:00 p.m. on the Monday prior to April 28, 2022.

19 Anything else to add?

20 On the motion, then, all five Members of the Board  
21 have voted in favor. The matter is continued until April  
22 28.

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Now we have 12 minutes before the next case of  
Number 124 Dudley.

1 \* \* \* \* \*

2 (8:00 p.m.)

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

6 BRENDAN SULLIVAN: Okay. It being 8:00, the Board  
7 will hear Case No. 160120, 124 Dudley Street. The  
8 petitioner will introduce themselves for the record and  
9 present their case.

10 GILBERT PILI: Thank you, Mr. Chairman. My name  
11 is Gilbert Pili. I am the property owner and petitioner.

12 My wife, Laura, and I are here tonight with our  
13 designer, Tova Greenberg and our Principal Contractor, Steve  
14 Greenberg, to apply for a special permit on our home at 124  
15 Deming Street in North Cambridge. It's on the corner of  
16 Dudley and Clay Street. It is an existing, nonconforming  
17 structure according to the statute built in 1891.

18 We seek to add a second floor over the existing  
19 kitchen and extend the existing dormer on the K Street side  
20 to full width of the structure, and add windows and  
21 skylights to the existing and new structure.

22 The footprint of the house would remain the same,

1 and the interior square footage would increase by 223 from  
2 1320 to 1551. Thanks to the Board for your consideration.

3 We've been residents in this house for over 20  
4 years and intend to remain so once construction is complete.  
5 We do truly love the house. We've shared the plans with our  
6 neighbors, letters of support with one Addendum we can speak  
7 to later and has been included in our application.

8 According to the special permit, the revisions  
9 retain the same house footprint, which we believe will not  
10 cause any additional street congestion. We believe the  
11 changes planned are in accord with the character of the  
12 house and the neighborhood.

13 We believe the additions will not affect adjacent  
14 uses, and we have reached out to our neighbors and will  
15 continue conversations with them to minimize disruption,  
16 impact of the addition, as well as minimize safety and  
17 health of the neighborhoods during and after construction.

18 We believe the additions will not impair the  
19 integrity of any adjoining districts, and we believe the  
20 construction is consistent with the Urban Design Objectives.

21 Our designer, Tova, will walk you through next the  
22 details of the proposed plan.

1 TOVA GREENBERG: Hi, everybody. Is somebody going  
2 to share the plans?

3 [Pause]

4 GILBERT PILI: Yep.

5 TOVA GREENBERG: So this is the -- this is just  
6 the site plan, and the footprint will remain unchanged. So  
7 there really isn't, I think, anything to talk about here.  
8 Looking at the -- as Gil said, the property's on the corner  
9 of Dudley and High Street. It's a one-and-three-quarter-  
10 story shingled house, with a one-story kitchen wing at the  
11 rear.

12 If you go to the elevations -- there we go -- you  
13 can clearly see that one-story addition, the one-story  
14 kitchen section on the back.

15 Next slide, please?

16 There's the meat. We are proposing -- and you can  
17 see outlined on the second floor, so really where the -- all  
18 the additions are happening -- so we've got the bedroom  
19 going in over the kitchen, and then what's called, "Bedroom  
20 #2," we're extending it across from the dotted line to meet  
21 the front of the bathroom dormer, adding a total of 20  
22 square feet to that small bedroom at the rear.

1           CONSTANTINE ALEXANDER: Excuse me, could you just  
2 stop at the dormer?

3           TOVA GREENBERG: Mm-hm.

4           CONSTANTINE ALEXANDER: The proposed modification  
5 to the dormer... You're familiar with the fact that we have  
6 Dormer -- the City has Dormer Guidelines?

7           TOVA GREENBERG: Yep.

8           CONSTANTINE ALEXANDER: And --

9           TOVA GREENBERG: Maybe -- let's go to the next  
10 slide, so we can be looking at it. So the dormer -- we are  
11 proposing to extend the dormer the full length of this -- of  
12 the -- on the Clay Street elevation.

13           CONSTANTINE ALEXANDER: You mean your dormer --  
14 the length of the dormer will be in excess of the Dormer  
15 Guidelines?

16           TOVA GREENBERG: Yes.

17           CONSTANTINE ALEXANDER: Okay. Is there any reason  
18 why you can't comply with the Dormer Guidelines? We're  
19 talking about what, a foot -- two feet?

20           TOVA GREENBERG: So if you go back to the plan on  
21 the previous page, we could, but this bedroom is tiny. And  
22 complying with the Dormer Guideline would put a jog in that

1 back corner of that bedroom, making it a very awkward shape  
2 and more expensive to build.

3 GILBERT PILI: Easier to waterproof and insulate  
4 as well.

5 TOVA GREENBERG: Yes, and as Steve points out, the  
6 waterproofing and insulation detail will also be easier if  
7 we can just extend the roofline and the wall straight to the  
8 back to the corner.

9 Excellent question, thank you.

10 CONSTANTINE ALEXANDER: Okay. Well, I've been  
11 speaking only for myself, and probably just for myself, I'm  
12 troubled by the fact that you can't comply with the Dormer  
13 Guidelines as to length.

14 We've had this case, this issue many times before,  
15 and generally we don't look with favor. Not all the time,  
16 but don't look with favor on dormers that will exceed the 15  
17 feet.

18 Is there any reason why you can't come up with  
19 some solution that leads to a 15-foot dormer and satisfy  
20 what your client wants?

21 TOVA GREENBERG: I -- Gil, would you like to  
22 speak, or would you like me to speak to that?



1           GILBERT PILI: Yeah, I mean the dormer, we could  
2 certainly shorten the dormer to meet the 15 feet length, but  
3 it does leave a gap after the -- to the end wall.

4           If you show the exterior again, this area down  
5 below, there would be a gap on that right side that is  
6 probably more difficult structurally, and more difficult to  
7 waterproof.

8           So the, you know, we can certainly do the 15-foot.  
9 It just would become an awkward structure for the house.

10          TOVA GREENBERG: Also to point out that while  
11 technically a dormer, it is on the -- it's only on the  
12 second floor, right? We're not actually dormering the --  
13 you know, we're not creating a large --

14          GILBERT PILI: Yeah.

15          TOVA GREENBERG: -- what you would normally  
16 consider -- you know, we're not shed dormering the whole  
17 roof up to create an integrated whole 'nother story.

18          GILBERT PILI: Yeah, if you could, if you go back  
19 to the existing elevations, just to show the difference,  
20 currently there's quite a bit of water damage just on the  
21 existing dormer, due to the way it's structured, and the  
22 fact that it doesn't extend there.

1           So that's a constant weather issue on that  
2 existing building.

3           CONSTANTINE ALEXANDER: I hear you, and I'm still  
4 troubled by the length of the dormer, but I'll wait to hear  
5 from my fellow Board Members to see if they're troubled as  
6 well. But thank you.

7           TOVA GREENBERG: I mean, I think it if came down  
8 to it, and that was your primary objection, we would be --  
9 we would certainly work with you to make it work.

10          So all right, going back to our proposed, the  
11 alley elevation shows the addition on the rear above the  
12 kitchen. Because it's on the alley side, there are no  
13 windows on that side of the house, and instead there's just  
14 a skylight in that bedroom.

15          And then we're adding -- yeah, what's? We're  
16 adding a skyl -- yeah, so then we're adding skylights in the  
17 existing roof, two on the alley side. This is a new  
18 bathroom that's going in the existing space. The right of  
19 it is over this --

20          GILBERT PILI: Yeah.

21          TOVA GREENBERG: Did we get rid of the one over  
22 the stairs?

1 GILBERT PILI: There's one over the stairs, yep.

2 TOVA GREENBERG: And then on the street side,  
3 there's also an additional new skylight. Right. Yeah.  
4 Proposed new skylight on the left there. That's it! Any  
5 other -- what other questions can we answer?

6 BRENDAN SULLIVAN: When I first looked at the  
7 this, and I had the same concerns that Mr. Alexander had,  
8 that it seemed like an awful lot going on -- and went back  
9 and double checked to make sure that you did qualify for a  
10 special permit but, and the Dormer Guidelines, obviously,  
11 are exceeded.

12 But then I guess the question that I had is, when  
13 does an addition become a dormer and when does a dormer  
14 become an addition?

15 And because this is primarily at the second level,  
16 it probably is somewhat of a hybrid in that the roof  
17 extends, but it's really mostly the second floor, not a  
18 traditional dormer, which would be on top of the roof.

19 So to me, this sort of puts it in the category of  
20 an addition as opposed to a dormer that the Dormer  
21 Guidelines somewhat addresses, even though it appears to be  
22 -- there's a lot going on there, but it's really at the

1 second floor, not necessarily at the third floor. So that  
2 was my conclusion.

3 CONSTANTINE ALEXANDER: I'm not sure that answers  
4 my concerns, but I hear you. And there's merit to what  
5 you're saying. I'd be interested in hearing from the other  
6 Members of the Board.

7 BRENDAN SULLIVAN: Yeah.

8 LAURA WERNICK: Yeah, I have to say, Gil, this --  
9 my reaction is the same as Brendan's. It felt like calling  
10 this a dormer was a real misnomer.

11 GILBERT PILI: Mm-hm.

12 LAURA WERNICK: That it's an addition that  
13 required rooves, but it's not -- it didn't seem to me to be  
14 a dormer in the traditional sense --

15 JIM MONTEVERDE: Yeah.

16 LAURA WERNICK: -- in the traditional sense of the  
17 word.

18 JIM MONTEVERDE: I agree. I mean, I initially saw  
19 the -- you know, 17-foot dimension and was concerned, but  
20 I'm comfortable with it as an extension of the -- you know,  
21 with the houses below and where the current dormer is. It  
22 seems like a very logical extension of all of those, to

1     simplify the massing. And then once you put that all  
2     together, really, I don't think it fits the dormer  
3     definition. So I'm comfortable with it.

4             LAURA WERNICK: I think also to cut it back in any  
5     way would add -- obviously -- add construction complexity,  
6     but visual complexity as well, as well as reducing the size  
7     of an already small room.

8             JIM MONTEVERDE: Yeah.

9             GILBERT PILI: Mm-hm.

10            BRENDAN SULLIVAN: And as far as the interior --

11            JASON MARSHALL: Brendan, can I just hit on that  
12     point real quick?

13            BRENDAN SULLIVAN: Yeah.

14            JASON MARSHALL: And Brendan, I appreciate your  
15     point, I hadn't thought about it that way. I actually had  
16     approached this through the lens of the special protections  
17     that state law provides to single and two-family houses in  
18     terms of increasing existing nonconformities.

19            And I was inclined not to see the Dormer  
20     Guidelines as an impediment because of state law  
21     protections. I had some discomfort with rejecting the  
22     request because of Guidelines itself.

1 I also think, you know, at the hearing tonight  
2 that the applicants and the representatives have made a case  
3 for why it may be warranted, just in its own right as well.

4 BRENDAN SULLIVAN: Okay. Let me open it to public  
5 comment. Any other member of the public who wishes to speak  
6 should now click the button that says, "Participants," and  
7 then click the button that says, "Raise hand."

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

11 [Pause]

12 There appears to be nobody calling in. There is a  
13 volume of correspondence going back and forth, and I'm  
14 trying to make some sense of it. Are there any actual  
15 letters in support, or is this -- I see that you have, Laura  
16 and Gil you have really reached out to your neighbors --

17 GILBERT PILI: Mm-hm.

18 BRENDAN SULLIVAN: -- and gone the extra step, and  
19 I'm just wondering if there's any response from any of them,  
20 either pro or con, or if you have any of those here?

21 GILBERT PILI: Yes. We do have four letters of  
22 support from our neighbors.

1           And we have a fifth one for our abutter at 122  
2 Dudley Street. She did express some late concern over  
3 shadow in the late afternoon. She expressed the concern  
4 kind of at the height or the low point of winter, at which  
5 the sun was quite low in the sky. But we did visit with her  
6 in person, and talked through with her concerns.

7           The other correspondents you may have seen in  
8 there is some additional information that we wanted to pass  
9 along to her about sun height, you know, during different  
10 parts of the year, as well as some pictures of the where the  
11 sun kind of sits in that alleyway space between our two  
12 houses.

13           So we're committed to working with her, and in  
14 doing as much as we can to alleviate any concern she has  
15 during the construction.

16           She also had a concern over dust during  
17 construction. So we've committed to filtering windows and  
18 air conditioning units with her and, you know, any other  
19 things she proposes to alleviate those things.

20           So, you know, we're just in continued talks with  
21 her. We wanted to make sure that information was in her  
22 application.

1           BRENDAN SULLIVAN: Okay. And that would be Diana?

2           GILBERT PILI: That's Diana Philips, yes.

3           BRENDAN SULLIVAN: Okay. And her address is -- I  
4 don't know if she has correspondence back to us or not, or -  
5 - this was all verbal going back and forth between both  
6 parties?

7           GILBERT PILI: This was verbal, yes. We've -- she  
8 initially signed the letter of support, and then called back  
9 and was concerned. So we've been just doing verbal talks  
10 since then. And then we also just put down some proposals  
11 in writing of things we could do.

12           BRENDAN SULLIVAN: Okay. All right. I see,  
13 actually, this way at the back of the folder here there is a  
14 petition and a statement that you have drafted. You have  
15 given it to your neighbors. And the underside gives my  
16 support, and 123 Dudley, #3, 123 Dudley, #2, 116 Dudley.  
17 [Support,] sounds great, good luck.

18                   And then on your correspondence to Diana,

19                   "We want to work with you to alleviate the impact  
20 of additional floor as many as possible. With our tight  
21 property line, we'll do what we can to minimize impact to  
22 you. While we must remain committed to our project, some



1 things we can do potentially we are to do below, and we are  
2 open to any other idea painting the side of the house facing  
3 the alleyway, potential improvements to the alleyway itself,  
4 garden space and fence improvements, potential skylight/tube  
5 lighting options, and reasonable improvements you would  
6 propose that would maximize light or improve the alleyway  
7 space."

8 So you're trying to make an effort to address any  
9 of the concerns that she may have?

10 GILBERT PILI: Yeah. That's right.

11 BRENDAN SULLIVAN: I'm sorry. There is apparently  
12 one person calling in. We will accept that call.

13 OLIVIA RATAY: Matt Kehoe?

14 BRENDAN SULLIVAN: Matt?

15 MATT KEHOE: Hi, there. Yeah. I'm the  
16 neighboring property across the street on Dudley Street up  
17 119. I just wanted to comment that I'm in full support of  
18 all these proposed plans.

19 I wasn't able to sign any paperwork to forward  
20 along, but again, I'm in full support and happy to  
21 accommodate.

22 BRENDAN SULLIVAN: Great. Thank you. Anything

1 else? Anybody else calling in?

2 OLIVIA RATAY: No, I don't think so.

3 BRENDAN SULLIVAN: No? I will close, then, the  
4 public comment and submittal portion. Anything else to add,  
5 petitioner, to the proposal at all?

6 GILBERT PILI: No. Thank you for your time.

7 BRENDAN SULLIVAN: All right. I will close, then,  
8 the presentation part, and the Board will discuss it among  
9 themselves and take a motion. Mr. Alexander, your thoughts?

10 CONSTANTINE ALEXANDER: Well, my comments  
11 regarding the Dormer Guidelines have been satisfied by more  
12 knowledgeable fellow Board Members when it comes to matters  
13 of architecture. So I'm withdrawing any objection to it.  
14 And I intend to vote in favor.

15 BRENDAN SULLIVAN: Okay. Jim Monteverde, any  
16 comments?

17 JIM MONTEVERDE: No, I'm fine.

18 BRENDAN SULLIVAN: Laura, any additional comments  
19 at all?

20 LAURA WERNICK: No, thank you.

21 BRENDAN SULLIVAN: All right, Jason, any  
22 additional words?

1 JASON MARSHALL: No. No, no --

2 BRENDAN SULLIVAN: Okay.

3 JASON MARSHALL: No further comments, Mr. Chair,  
4 thanks.

5 BRENDAN SULLIVAN: All right. And I have nothing  
6 else to add. Let me make a motion, then, to grant the  
7 special permit, as per the application, the supporting  
8 statements and the dimensional form and the drawings  
9 contained in the application signed and dated by the Chair.

10 The Board grants the special permit, provided that  
11 it conform to those three documents, especially the drawings  
12 as submitted for the addition of a second-floor over the  
13 existing first floor, and extend the second-floor element as  
14 per the drawings, the additional windows, and skylights in  
15 the existing structure to be altered.

16 The Board finds that it appears that the  
17 requirements of the Ordinance can be met. That traffic  
18 generated or patterns of access or egress would not cause  
19 congestion, hazard, or substantial change in the established  
20 neighborhood character.

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

1 Ordinance, would not be adversely affected by the nature of  
2 the proposed use.

3 There would not be any nuisance or hazard created  
4 to the detriment of the health, safety and/or welfare of the  
5 occupants of the proposed use, or to the citizens of the  
6 city.

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

11 The petitioner is also seeking relief under  
12 Section 8.22.2 d) and the Board finds that the Board may  
13 grant a special permit for the alteration or enlargement of  
14 a preexisting dimensionally nonconforming, detached single-  
15 family or two-family dwelling, not permitted in Section  
16 8.22.1, but not the alteration or enlargement use, provided  
17 that there is no change in use...

18 And that any enlargement or alteration of such  
19 preexisting, nonconforming detached single-family dwelling  
20 may only increase a preexisting dimensional nonconformity,  
21 but does not create any new dimensional nonconformity.

22 The Board may grant a special permit on the

1 finding, and the Board does find, that the alteration or  
2 enlargement shall not be substantially more detrimental than  
3 the existing nonconforming structure to the neighborhood,  
4 and that the alteration or enlargement satisfies the  
5 criteria as stated in Section 10.43, as the Board has  
6 previously stated that it does comply with that section of  
7 the Ordinance.

8 On the motion to grant the special permit, Mr.  
9 Alexander?

10 CONSTANTINE ALEXANDER: I would amend the motion  
11 to state that it provided that the work proceed in  
12 accordance with the plans that were submitted by the  
13 petitioner.

14 BRENDAN SULLIVAN: Okay. Correct. Okay. Yep.

15 CONSTANTINE ALEXANDER: With that, I'll approve.  
16 I vote in favor.

17 BRENDAN SULLIVAN: All right. Jim Monteverde?

18 JIM MONTEVERDE: I vote in favor.

19 BRENDAN SULLIVAN: Jason Marshall?

20 JASON MARSHALL: Yes, in favor of the special  
21 permit, incorporating Gus's amendment.

22 BRENDAN SULLIVAN: Great, thank you. Laura

1 Wernick?

2 LAURA WERNICK: Yes, in favor, with the  
3 incorporation.

4 BRENDAN SULLIVAN: And Brendan Sullivan in favor  
5 of granting the special permit.

6 [All five vote YES]

7 BRENDAN SULLIVAN: Five affirmative votes. The  
8 special permit for the work is granted.

9 CONSTANTINE ALEXANDER: Good luck.

10 GILBERT PILI: Thank you so much.

11 TOVA GREENBERG: Thank you so much.

12 GILBERT PILI: Thank you.

13 BRENDAN SULLIVAN: Yep.

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(8:21 p.m.)

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

BRENDAN SULLIVAN: The Board will now hear Case  
No. 159132 -- 39 Regent Street.

TAYLOR FERGUSON: Good evening, Mr. Chairman,  
Members of the Board. Taylor Ferguson, Contractor  
representing the homeowner for 39 Regent Street seeking a  
special permit for a proposed rooftop deck and extension of  
an existing chimney.

BRENDAN SULLIVAN: It's a various, I believe.

TAYLOR FERGUSON: Variance -- sorry, variance.

BRENDAN SULLIVAN: Correct?

TAYLOR FERGUSON: Yep, so.

BRENDAN SULLIVAN: Yeah, okay. Yep.

TAYLOR FERGUSON: Do you want to go through the  
plans?

BRENDAN SULLIVAN: Oh, yeah, yep. It's your  
presentation.

TAYLOR FERGUSON: Yep. So we're not changing

1 anything about the footprint of the building.

2 We are looking to create access through Unit #3,  
3 which per the Master Deed that the homeowners, you know,  
4 when they purchased the property were granted roof rights,  
5 and have been able to -- they're allowed to build the roof  
6 deck, hence why they purchased the property in the first  
7 place.

8 So we're proposing to build this 382-square-foot  
9 rooftop deck that will allow for them to enjoy some more  
10 outdoor space, and further enjoy their property.

11 BRENDAN SULLIVAN: Okay.

12 TAYLOR FERGUSON: With that being said, we've got  
13 to exterior the chimney that currently exists from three  
14 feet to 10 feet to accommodate the deck itself.

15 BRENDAN SULLIVAN: Okay. Taylor, would you read  
16 supporting statements on the dimensional form? I see some  
17 flaws in it.

18 TAYLOR FERGUSON: Absolutely.

19 BRENDAN SULLIVAN: And the original submittal had  
20 -- you know, a lot of N/A --

21 TAYLOR FERGUSON: Yep.

22 BRENDAN SULLIVAN: -- which I think you designate



1 as probably nonapplicable. When I see that, my N/A is not  
2 adequate.

3 TAYLOR FERGUSON: Gotcha yes.

4 BRENDAN SULLIVAN: So I think you have amended  
5 that, but I still don't get there where some of the  
6 dimensional numbers -- you know, are really somewhat  
7 lacking. And it may be not fully understanding what we're  
8 looking for. You know, the ratio is 0.46 and then you have  
9 requested a 0 number of units existing three request at 0.

10 TAYLOR FERGUSON: Right. So I --

11 BRENDAN SULLIVAN: So --

12 TAYLOR FERGUSON: -- I'm sorry to --

13 BRENDAN SULLIVAN: -- some of that --

14 TAYLOR FERGUSON: Yeah.

15 BRENDAN SULLIVAN: -- some of that is, you know,  
16 not correct. But I think the meat of the issue is really  
17 the request for the variance and the legal standard --

18 TAYLOR FERGUSON: Mm-hm.

19 BRENDAN SULLIVAN: -- that you have to meet. And  
20 again, it may be a misread on your part of it, and the  
21 requirements that you have to comply with and satisfy. But  
22 number 1 is a literal enforcement of the provisions of the

1 Ordinance would involve a substantial hardship, otherwise to  
2 the petitioner for the following reasons: The Master Deed  
3 allows for a roof deck to be built by right for the unit-  
4 free owner.

5 Well, that maybe all well and good for the Master  
6 Deed, but that does not usurp the compliance with the  
7 ordinance. And regardless of whatever the Master Deed says,  
8 it could give her the world with a fence around it, and if  
9 it doesn't comply with Zoning, it doesn't comply with  
10 Zoning.

11 The second part is the hardship suffered by the  
12 unit owners at the property was purchased in part to have  
13 the ability to build a roof deck, and that's where if she  
14 had an attorney representing her, and she made that  
15 statement that that's why she was buying it because the --  
16 if it was presented to her, she could build the deck, well  
17 that's misinformation, that's faulty information, that's  
18 just bad information.

19 The provisions of the Ordinance is that if we were  
20 to deny this, that it would involve a substantial hardship  
21 on her, and then you have to state what that hardship is.

22 TAYLOR FERGUSON: Mm-hm.

1           BRENDAN SULLIVAN: And again, it may be a misread.  
2 The Ordinance requires -- and relief from the Ordinance  
3 requires that the finding that the hardship is owing to the  
4 following circumstances relating to the soil condition,  
5 shape or the topography of such land or structures, and  
6 especially affecting such land or structures, but not  
7 affecting generally the zoning district.

8           In other words, that there is something very  
9 unique about this particular house in this particular  
10 location that has some sort of soil conditions, the shape of  
11 the lot or the topography of the lot, which is precluding  
12 the petitioner from building an as-of-right deck.

13           And the response was the roof deck does not affect  
14 the soil condition, shape, or topography.

15           That answer really doesn't address what the  
16 hardship is. And so again, it's sort of a non-response to a  
17 very direct legal question.

18           The c) desirable relief may be granted without  
19 substantial detriment to the public good, and the answer is  
20 the roof deck does not cause substantial detriment to the  
21 public good, because it is for the unit owner to enjoy, and  
22 is not accessible for the public.

1           One of the things that we look at when we see  
2 decks above the even first floor, second floor, third floor  
3 especially -- especially roof decks -- is the effect that  
4 that may have on adjoining properties.

5           And I've always been very reluctant to grant decks  
6 even at the third level. I'm not even sure how many were  
7 granted on a roof, what the effect of that has.

8           And basically, what you're asking is taking the  
9 living space and putting it outside the building, especially  
10 as high as a roof, where voices, music -- anything echoes  
11 and carries quite a bit, and can disrupt the neighborhood  
12 character.

13           You know, it's -- we always worry that it may not  
14 have a benign effect, and that it may have an adverse  
15 effect. And, you know, Samantha may be a to lovely person -  
16 - I'm sure she is -- and will have a very benign existence  
17 up there, but she may not always own that unit.

18           And other people may come along and decide that  
19 it's a party deck or a noisy deck, or that people congregate  
20 up there, you know, people's windows are open in the  
21 summertime or what have you, and it just becomes a noise  
22 factor and an annoyance factor.

1           That's where that part of the ordinance and the  
2 standard that we have to come to addresses.

3           The other one is relief may be granted without  
4 nullifying or substantially derogating from the intent and  
5 purpose of the Ordinance, and the answer is the unit owner  
6 has the right to build pertinent Master Deed. Well, she may  
7 as far as the condo documents, but not according to Zoning.

8           Those are my thoughts. And I basically just don't  
9 feel that she has met the Standard, and in order for me to  
10 vote in the affirmative to grant this variance. But I will  
11 let other Members of the Board chime in, and you can absorb  
12 all of that.

13           Mr. Alexander?

14           CONSTANTINE ALEXANDER: I'm not -- I cannot  
15 support this petition, for the reasons that basically  
16 Brendan has touched on. We have many cases -- not many, we  
17 have a lot of cases involving the proposed roof decks.  
18 We're very skeptical as a Board as to whether we should  
19 permit them.

20           I think particularly so in the first slide that  
21 you put up; it looks like a very densely populated  
22 neighborhood. And if you're going to have a 300-plus-foot

1 deck on the top floor that can interfere with the privacy of  
2 the neighbors, and so there -- and it could be noisy, that  
3 would affect the ability of the neighbors to enjoy their  
4 premises. It's much too much.

5 And I'm sorry if you're -- that the petitioner  
6 believed because in the deed it says you can have a roof  
7 deck, that's the end of the story. It's not. You've got to  
8 look at the legal obligations and requirements.

9 And they are very clear. You don't get there  
10 because you -- because you have access -- you have exclusive  
11 right to put a deck on the third floor. I'm troubled too by  
12 the chimney, which is now going to go up to 10 feet high.  
13 That to me is troublesome as well.

14 Bottom line, I am not going to vote in favor of  
15 granting the relief being sought.

16 BRENDAN SULLIVAN: Jim Monteverde?

17 JIM MONTEVERDE: I concur with the both of you. I  
18 share the same concerns.

19 BRENDAN SULLIVAN: Laura?

20 LAURA WERNICK: Yes, I don't have any further I  
21 think I could add to what's already been said.

22 BRENDAN SULLIVAN: Jason Marshall?

1           JASON MARSHALL: Thanks, Mr. Chair. Mr. Ferguson,  
2 I think as I heard the Chairman articulate it, it appears  
3 that your application is at best incomplete, and at worst  
4 legally infirm, and it does seem strikingly without a basis  
5 to grant the relief requesting.

6           For me, I don't even get down to the third prong  
7 in terms of its impact on the public good. I don't see how  
8 you meet the first two prongs of hardship, and how that  
9 hardship relates to, you know, the factors including  
10 topography, soil, et cetera.

11           There's just not a basis for us to grant the  
12 relief. So on that, I would -- I don't intend to support  
13 the request.

14           BRENDAN SULLIVAN: Okay. Mr. Ferguson, any retort  
15 at all? I mean, it appears that there is no support for the  
16 proposal before us.

17           TAYLOR FERGUSON: In the event that we have plans  
18 revised to a smaller-sized roof deck and involve a legal  
19 team to further answer these questions, I mean, it's quite  
20 clear that, you know, I'm the builder here, I'm not a  
21 lawyer, so when it does come to following these legal terms  
22 and information, it seems like I definitely dropped the ball

1 there.

2 That being said, would it fall back under  
3 consideration if we reduce the size of the deck and we're  
4 able to find letters of support within the neighborhood?

5 BRENDAN SULLIVAN: Not to me, because I think that  
6 just the very presence of a deck up there, and the legal  
7 standard of proving hardship to me is going to be a very,  
8 very high, if not impossible, bar to come up with.

9 I can't -- and again, I've been here for a long  
10 time. Heard hundreds of cases and reasons for hardship, and  
11 I can't think of one that would, you know, get me to saying  
12 yes for this particular case, and how she could satisfy the  
13 legal requirement for hardship.

14 So I for one Member would say it's really not  
15 having to do with size as much as it is that the very  
16 presence of it -- anyhow.

17 TAYLOR FERGUSON: Alrighty. Thank you for your  
18 feedback, and enjoy the rest of your day.

19 BRENDAN SULLIVAN: All right. Let me make a  
20 motion, then, to -- and I will do this in the affirmative --  
21 to grant the requested variance from the Ordinance to build  
22 a roof deck as per the plans submitted, the supporting



1 statements and the dimensional form.

2 The Board finds that a literal enforcement of the  
3 provisions of the Ordinance would involve a substantial  
4 hardship to the petitioner.

5 The Board finds that the hardship is owing to  
6 circumstances relating to the soil condition, shape or  
7 topography of such land or structures and affecting --  
8 especially affecting such land or structure, but not  
9 generally -- but not affecting generally the zoning district  
10 in which it is located.

11 The Board finds that desirable relief may be  
12 granted without substantial detriment to the public good,  
13 and that the granting of this variance would not nullify or  
14 substantially derogate from the intent and purpose of the  
15 Ordinance.

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

18 CONSTANTINE ALEXANDER: I vote in -- I'm against  
19 that granting the variance.

20 BRENDAN SULLIVAN: Okay.

21 CONSTANTINE ALEXANDER: For the reasons that are  
22 previously expressed.

1 BRENDAN SULLIVAN: Jim Monteverde?

2 JIM MONTEVERDE: I vote in opposition to granting  
3 the variance.

4 BRENDAN SULLIVAN: Okay. Laura Wernick?

5 LAURA WERNICK: I vote against granting the  
6 variance.

7 BRENDAN SULLIVAN: And Jason Marshall?

8 JASON MARSHALL: I vote no to the requested  
9 relief.

10 BRENDAN SULLIVAN: I vote no to the requested  
11 relief.

12 [All five vote NO]

13 BRENDAN SULLIVAN: The Board needs to make some  
14 findings. The Board finds that the petitioner has failed to  
15 satisfy the requirements. That it would involve a  
16 substantial hardship to her, that the hardship failed to  
17 state that the hardship is owing to the soil, shape, or  
18 topography of the land, and that it affects this particular  
19 structure.

20 That the Board also finds that granting of this  
21 relief may be of substantial detriment to the public good,  
22 and the imposition to the privacy of the adjoining

1 properties.

2 And that the Board also finds that the granting of  
3 the relief would nullify and substantially derogate from the  
4 intent and purpose of the Ordinance.

5 All those in favor of the reasons for the denial?  
6 Mr. Alexander?

7 CONSTANTINE ALEXANDER: I am in favor.

8 BRENDAN SULLIVAN: Mr. Monteverde?

9 JIM MONTEVERDE: I am in favor.

10 BRENDAN SULLIVAN: Laura Wernick?

11 LAURA WERNICK: I'm in favor, the reasons stated.

12 BRENDAN SULLIVAN: Jason Marshall?

13 JASON MARSHALL: Yes, in favor.

14 BRENDAN SULLIVAN: And Brendan Sullivan yes, in  
15 favor of the reasons for denial.

16 [All vote YES]

17 The variance is denied. It's closed.

18 And that's it, folks.

19 JIM MONTEVERDE: Thank you all.

20 BRENDAN SULLIVAN: Thank you.

21 LAURA WERNICK: Thank you.

22 CONSTANTINE ALEXANDER: Thank you.

1 JIM MONTEVERDE: Goodnight, everybody.

2 LAURA WERNICK: Goodnight.

3 BRENDAN SULLIVAN: Excellent, tonight. You did  
4 good.

5 [08:37 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.

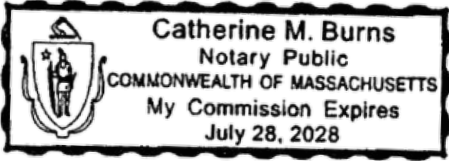
In witness whereof, I have hereunto set my hand this 19th day of April, 2022.



Notary Public

My commission expires:

July 28, 2028



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