

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY MAY 19, 2022
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Constantine Alexander
Slater W. Anderson
Wendy Leiserson
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: Brendan Sullivan, Wendy Leiserson, Jim
5 Monteverde, Laura Wernick, Slater W.
6 Anderson, Matina Williams, and Jason
7 Marshall

8 BRENDAN SULLIVAN: Welcome to the May 19, 2022
9 meeting of the Cambridge Board of Zoning Appeal. My name is
10 Brendan Sullivan, and I am the Chair for tonight's 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 May 27,
19 2020.

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 might change based on the number of
12 speakers, at the discretion of the Chair.

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

15 OLIVIA RATAY: Jim Monteverde?

16 JIM MONTEVERDE: Present.

17 OLIVIA RATAY: Slater Anderson?

18 JIM MONTEVERDE: Here.

19 OLIVIA RATAY: Wendy Leiserson?

20 WENDY LEISERSON: Present.

21 OLIVIA RATAY: Laura Wernick?

22 LAURA WERNICK: Present.

1 OLIVIA RATAY: Gus Alexander?

2 CONSTANTINE ALEXANDER: Present.

3 OLIVIA RATAY: Brendan Sullivan?

4 BRENDAN SULLIVAN: Present and audible.

5 There are a number of continued cases for tonight.

6 The first case -- the order of the events for the continued

7 cases is we will hear, 30 Cameron first. We will go to 133

8 Fayerweather Street second. Third on the agenda will be 38

9 Mt. Pleasant Street, fourth on the agenda will be 213

10 Harvard Street, and fifth on the continued will be 204

11 Fayerweather Street, so that you can plan your next few

12 minutes.

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2 (6:03 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 154682 -- 30 Cameron Avenue. Yes, good evening, Madam
8 Chair, and Members of the Board. My name is Attorney David
9 Gluck (phonetic), on behalf of 30-32 Cameron Ave, LLC, with
10 regards to what was originally an application for a
11 dimensional variance under Article 5, Section 5.31.

12 If you remember previously, as it related to this
13 property, which is two-story, four-family residential
14 dwelling, which has six parking spaces on site, the initial
15 proposed build that was subject to the initial application.

16 It had a request for an additional third floor to
17 add living space to be added to the top two units, Units #3
18 and #4, as well as additional floor space in a basement to
19 accommodate the first and second units that were located on
20 the first floor.

21 Since that time, the plans which have been
22 submitted to the Board have been modified. The third-floor

1 portion of the proposed build has been -- has essentially
2 been terminated, and the interest here is to move forward
3 with the demolition and renovations of the first and second
4 floor of the property, and the four units, as well as to
5 move forward, if I may -- I don't know if I can have access
6 to show the in-plan, if I may share my screen?

7 So if you go down to the second -- this is the
8 renovation construction at 30 Cameron Ave -- the second
9 screen, #2.

10 Just bringing you to this, essentially in the
11 basement the idea would be to have two windows facing the
12 street side to renovate an area for a utility room in the
13 rear of the dwelling, as well as storage in the front, and
14 then to provide for two bathrooms in the basement as well.

15 So the idea would be -- and actually, if I can
16 direct your attention down to Tab #5, or Screen #5, bringing
17 you down to the basement level, you'll see that between the
18 top of the plate and the top of the subfloor, it's roughly 6
19 feet 11 inches for the height of the basement.

20 The idea here, and for the Board's consideration
21 would be to have an area that could accommodate those two
22 units on the first floor for Unit #2 and #3 that would fall

1 within a possible -- or fall within an exemption in the
2 Article 2 of the definitions, identifying gross floor area,
3 and what it does include and what it doesn't include.

4 In this case, it states that "Gross floor area
5 shall not include any basement or cellar living space in any
6 other type of structure with the issuance of the special
7 permit.

8 "In granting such a special permit, the permit
9 granting authority may approve the exemption of a portion of
10 gross floor area located in the basement or cellar from a
11 calculation of GFA, provided the permit granting authority
12 finds that the use is occupying such exempted GFA support
13 the character of the neighborhood or district in which the
14 applicable lot is located."

15 At the present time, the gross floor area of the
16 dwelling is 3416 feet. The lot area is 5415 feet. What
17 we're seeking in modifying this build is essentially to seek
18 relief per -- could be a special permit -- in order to have
19 an exemption and maintain the same gross floor area, as I
20 imagine many other residential dwellings in Cambridge do, in
21 order to allow for some extra additional space, as well as
22 to accommodate the utility rooms in the [16:18 audio

1 unclear] area.

2 CONSTANTINE ALEXANDER: This is Gus Alexander,
3 member of the Board.

4 DAVID GLUCK: Sure.

5 CONSTANTINE ALEXANDER: The fact -- the petition
6 is for a variance. That's what we have, a request for a
7 variance. What are you talking about a special permit for?

8 DAVID GLUCK: So we -- we're looking to switch
9 from a variance, and not move forward on a variance for
10 additional gross floor area.

11 CONSTANTINE ALEXANDER: I'll defer to the Chair,
12 but I think you have to readvertise and start all over
13 again. You just can't come to the hearing with a case
14 that's supposed to be a variance, and on the fly ask us to
15 change it with a special permit.

16 Sorry. In my view, anyway.

17 BRENDAN SULLIVAN: Attorney Gluck, well, there's a
18 couple issues that I have: number one that I received the
19 new drawings on Monday. And I reviewed them Monday and the
20 -- actually Tuesday.

21 And I guess the question I have, well what are
22 they asking for? And because there was really no narrative

1 as to what the basement is going to be used for. So you can
2 obviously go to the drawing, you see that there's two
3 utility rooms and open space, two bathrooms and storage.

4 So it appears that it's going to be finished
5 storage space. Is that correct?

6 DAVID GLUCK: I mean, that -- as it would stand
7 now, it would essentially just be nonuse able space.

8 BRENDAN SULLIVAN: Okay. All right. So -- all
9 right, so I think you can do that as-of-right. You can
10 finish off the space and do it as-of-right. I believe that
11 you're already permitted for the two bathrooms, which --
12 again -- you can do as-of-right.

13 The other issue that I have is that if you're
14 asking for relief, and potentially it's special permit, that
15 you really need to refile --

16 DAVID GLUCK: Yeah.

17 BRENDAN SULLIVAN: -- for a special permit, as Mr.
18 Alexander said. The other issue is that if you want to say
19 continue with the variance request with a modified plan, à
20 la the one that's before us, which was filed on Monday then
21 we don't have a dimensional form reflecting the changes,
22 because you've eliminated the third floor.

1 And as per your presentation, the basement was
2 never FAR, so that dimensional form -- the dimensional
3 numbers are going to change, and yet a new submittal hasn't
4 been changed.

5 So there seems to be some defect in the
6 application, à la the new plan before us.

7 DAVID GLUCK: Thank you, Mr. Chair.

8 BRENDAN SULLIVAN: Am I clear?

9 DAVID GLUCK: Very clear. I think at this point
10 it would just be a matter of if I'm -- you know, with this
11 modified plan, it -- we're not looking to move forward on
12 the variance.

13 However, what I would -- I think what we would
14 like to do is to review, if necessary, an application, or to
15 go forward with an application for a special permit if we
16 need to.

17 BRENDAN SULLIVAN: Right. And again, the other --

18 DAVID GLUCK: This --

19 BRENDAN SULLIVAN: The other flipped coin of that
20 -- flip of the coin on that is that if we were to continue
21 with this application as -- you know, as a -- again, asking
22 for a continuance and to modify this, Mr. Alexander cannot

1 be here until October.

2 You would probably be heard sooner on a new
3 application for the special permit, if that would be
4 appropriate, but also to bring the paperwork, the
5 dimensional form up to, you know, proper standing, that's
6 all, and have a proper application so that -- you know,
7 again, going forward, these may be units sold, and the
8 documentation has to be ironclad for potential buyers of the
9 space.

10 DAVID GLUCK: Okay. So --

11 BRENDAN SULLIVAN: So we're asking, I think, for a
12 -- let us continue this matter, all right?

13 And then I think what we need to do then is to
14 have you guys huddle, and then in consultation with the
15 Commissioner is to come back with a new application, à la
16 either, well, you're going to need to resubmit the -- an
17 appropriate dimensional form, anyhow.

18 DAVID GLUCK: Understood, yep.

19 BRENDAN SULLIVAN: Okay. So let me make a motion,
20 then, to --

21 JIM MONTEVERDE: Mr. Chair, I think the proponent
22 would like to be heard.

1 BRENDAN SULLIVAN: Yes, absolutely, Jim. Jim
2 Monteverde?

3 JIM MONTEVERDE: No, I think the proponent is
4 waving his hand on the screen.

5 BRENDAN SULLIVAN: Oh, I'm sorry.

6 CONSTANTINE ALEXANDER: On our screen.

7 BRENDAN SULLIVAN: Anybody want to be heard on
8 this matter, Board members? No? Okay.

9 JIM MONTEVERDE: There's -- Mohammed Bellal is --

10 BRENDAN SULLIVAN: Okay.

11 JIM MONTEVERDE: -- waving his hand around.

12 JASON MARSHALL: Yeah, Mr. Chair, I see it as
13 well. It looks like the applicant is asking to be heard.

14 JIM MONTEVERDE: Yeah, I can't tell if he's on
15 mute, but --

16 DAVID GLUCK: There's two people with the same --
17 called in with the same --

18 JIM MONTEVERDE: Line.

19 DAVID GLUCK: -- line, it seems like. There's no
20 audio. You're muted.

21 BRENDAN SULLIVAN: There's -- either that or
22 they're on mute.

1 JIM MONTEVERDE: Right.

2 DAVID GLUCK: Now --

3 JIM MONTEVERDE: There we go.

4 BRENDAN SULLIVAN: Okay.

5 JIM MONTEVERDE: Mohammed, you can unmute
6 yourself?

7 BRENDAN SULLIVAN: Mr. Bellal? He's on unmute.

8 JIM MONTEVERDE: Yeah, he's just got to unmute
9 himself.

10 BRENDAN SULLIVAN: David, are you reaching him at
11 all?

12 DAVID GLUCK: Yeah, he's --

13 BRENDAN SULLIVAN: Mr. Bellal, you're on mute, if
14 it's okay --

15 DAVID GLUCK: His mic isn't working.

16 LAURA WERNICK: He has to say something. He
17 hasn't said anything yet. Say something.

18 DAVID GLUCK: He is.

19 JIM MONTEVERDE: He is.

20 LAURA WERNICK: Okay, okay.

21 DAVID GLUCK: I'm not getting him.

22 LAURA WERNICK: I'm sorry, we cannot --

1 MOHAMMED BELLAL: I can see them only, but not
2 hearing them -- Mr. David Gluck. Are you guys hearing me?

3 COLLECTIVE: Yes.

4 MOHAMMED BELLAL: Okay. Good afternoon, sir. And
5 thank you everybody. Thank you for helping me out here. I
6 just have -- I just have -- that is in my mind. My house is
7 posted as a two-story building.

8 As my attorney explained already, I don't want to
9 go on too long, but my -- I am feeling pain only one thing
10 (sic): Across my house is the #45 house number, Cameron
11 Ave. It's the same location.

12 They don't have that -- like I have, they get the
13 approved extension without the zoning, they get the
14 basement, pool, with the two bathrooms, two bedrooms, and I
15 do not get even basement finished, need to go Zoning or need
16 to go, or I can do it, I just don't understand what I have
17 to do and they don't have to do, and why is I am looking --

18 BRENDAN SULLIVAN: I believe you're asking for
19 relief under the Ordinance, and it appears that --

20 JIM MONTEVERDE: No, I don't think that -- I don't
21 think it's the proponent who was just talking. Because he's
22 still waving his hand.

1 BRENDAN SULLIVAN: Yeah. I don't know who --

2 DAVID GLUCK: That is the -- that's the architect,
3 Lou Colton, who is here for a second.

4 BRENDAN SULLIVAN: All right. Let me make a
5 motion, then, to continue this matter. It's going to have
6 to be in October.

7 CONSTANTINE ALEXANDER: I think it's going to be
8 --

9 BRENDAN SULLIVAN: October 6. Continue this
10 matter until October 6, 2022, at 6:00 p.m. on the condition
11 that the petitioner change the posting sign and maintain it
12 for a period of 14 days prior to October 6. The design
13 should reflect the new date of October 6, 2022, at 6:00 p.m.

14 Any new submittals regarding this petition should
15 be in the file by 5:00 p.m. prior to the October 6 hearing...
16 By the Monday, by -- I'm sorry, that any new submittal be in
17 the file by 5:00 p.m. on the Monday prior to the October 6
18 hearing.

19 On the motion, then, to continue this matter?

20 CONSTANTINE ALEXANDER: I vote in favor.

21 BRENDAN SULLIVAN: Jim Monteverde?

22 JIM MONTEVERDE: In favor.

1 BRENDAN SULLIVAN: Laura Wernick?

2 LAURA WERNICK: In favor.

3 BRENDAN SULLIVAN: Jason Marshall?

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

5 BRENDAN SULLIVAN: Yes, in favor.

6 [All vote YES]

7 BRENDAN SULLIVAN: The matter is continued until
8 October 6. Okay, thank you very much.

9 DAVID GLUCK: Thank you.

10 BRENDAN SULLIVAN: Laura, thank you.

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2 (6:17 p.m.)

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

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 163050, 133 Fayerweather Street. Mr. Anderson?

8 DAN ANDERSON: Thank you, just got presenter
9 status. Good evening, Mr. Chair, and members of the Board.
10 I'm here on the continuance of 133 Fayerweather.

11 As per comments from the Board and neighbors, we
12 went through a difficult redesign, extensive conversations
13 with immediate abutters and "representage" (sic) of plans to
14 previous neighbors.

15 Essentially, we heard very clearly that there was
16 a sense that there was more FAR than was thought to be
17 supported on the site, and that specifically any abutters
18 were in objection to a full three -- third story to the
19 structure.

20 So the presentation in front of us suggests a
21 traditional gallbladder roof reconfiguration replacing the
22 existing hip roof with a few dormers, and with the reduction

1 in gross floor area from the previous presentation. The
2 gable roof structures, the dormers and overall appearance of
3 the house is very fitting with the neighborhood, very
4 similar to the single-family structure directly across the
5 36 Fayerweather.

6 And interestingly enough, will, if approved, have
7 the exact same FAR with its 0.87. So we saw increase in
8 asking for relief from GFA.

9 We're not asking for any change in height. It's
10 fully conforming. It's conforming to front and rear yard
11 setbacks, and we have an increase, although be it a decrease
12 from the previous application, but the gable roof ends on
13 the two sides are an increase in area in those nonconforming
14 setbacks.

15 And we still have a change in windows, which I
16 think are appropriate. They remove some larger, double
17 windows that were facing into abutters' yards.

18 We did have a couple letters of support that were
19 submitted, but I think in review with Mr. Donton (phonetic)
20 behind and the owners at 127, while they appreciated the
21 changes and felt that it was a better fit for the
22 neighborhood, we still did not gain their full support, but

1 we're here back with our best foot forward presenting this
2 as an amended, revised request for a special permit.

3 CONSTANTINE ALEXANDER: Mr. Anderson?

4 DAN ANDERSON: Yep.

5 CONSTANTINE ALEXANDER: Mr. Alexander on the
6 Board. I'm looking at the dormers. And there are two 15-
7 foot-wide dormers, both on the same side of the building.

8 DAN ANDERSON: Yeah.

9 CONSTANTINE ALEXANDER: Under our Dormer
10 Guidelines, unless I'm mistaken, you have to aggregate those
11 two. And so you have 30 feet of dormers, when the Dormer
12 Guidelines say you cannot have more than 15 feet. Am I
13 mistaken?

14 DAN ANDERSON: No, you may be correct. I guess
15 the application -- and those, we could make a modification.
16 They seem to be in better scale with the building, but if we
17 needed to reduce those to conform with the Dormer
18 Guidelines, we'd be happy to.

19 Otherwise, I guess the expectation was that we'd
20 be asking -- I don't believe that there is a variance
21 required or -- with that modification be allowed under the
22 special permit, should you feel that it's fitting.

1 CONSTANTINE ALEXANDER: Speaking only, obviously,
2 for myself, I would be much more comfortable and much more
3 likely to vote in favor should you reduce the size of the
4 dormers, with the result that there's one -- there's only 15
5 foot of dormer, width of dormer, not 30 feet.

6 It's too -- to me, it's too great a departure from
7 the Dormer Guidelines, although I understand the
8 architectural reasons why you designed it as you have.

9 DAN ANDERSON: Understood and appreciated. Thank
10 you.

11 BRENDAN SULLIVAN: Any other questions by members
12 of the Board? Who's sitting on this case?

13 JIM MONTEVERDE: Just to expound on Mr.
14 Alexander's comments, I would agree with Mr. Alexander that
15 if we can agree that the dormers will be reduced in size, so
16 they're an aggregate of no more than 15 feet, I could
17 support the balance of the proposal.

18 Okay. Slater Anderson?

19 SLATER ANDERSON: Yeah, I concur with that
20 opinion. Okay. Who else is on, Wendy?

21 WENDY LEISERSON: I have no questions.

22 BRENDAN SULLIVAN: I may differ on this, even

1 though I would not -- I would differ, but not oppose your
2 request for reducing of it.

3 This harkens back to a case oh, maybe a year or so
4 ago, where we had basically two units -- one unit already
5 had a 15-foot dormer that was granted.

6 The second condo unit shared the third-floor roof
7 area underneath it, and wanted to put their dormer à la next
8 to complement the neighborhood, and we wrestled with that.
9 That precipitated me to actually reach out to the Planning
10 Board and said that this was somewhat of a unique case; that
11 if it was a single house, we would probably not allow 30
12 feet of dormer on one side or the front or the back or
13 something like that, and it came back that probably.

14 However, this is a little bit different, because
15 we basically have two units -- two townhouses, if you will,
16 side-by-side. And that, you know, how does a 15-foot-dormer
17 where now one side is only going to have seven-and-a-half
18 feet, and the other side is only going to have seven-and-a-
19 half feet..

20 And does that make sense to the interior of the
21 building, and the functionality of a building when you've
22 only got a dormer that is seven-and-a-half-feet wide, as

1 opposed to one that number one, I think fits the building
2 architecturally, and also functionally?

3 So I think it has a good form, and I think that it
4 functions well. So that would be my thought on that,
5 anyhow. So --

6 CONSTANTINE ALEXANDER: Could we hear from Mr.
7 Anderson what his views are and your comment? If you had 2
8 seven-and-a-half-foot dormers rather than two 15-foot
9 dormers, what would be the eff in terms of the floor layout
10 and the usability of the building, with regard to the third
11 floor?

12 DAN ANDERSON: So they could in fact be reduced.
13 It would -- I'm not sure whether seven-and-a-half feet would
14 be the exact number that I would pick. I understand that
15 it's half of the 15.

16 For functional reasons, those dormers probably
17 could be reduced by about three feet without impacting the
18 layout of the proposed floor plan, if that were acceptable.
19 That would be a pretty easy modification to make.

20 I guess my question would be one of order, which
21 is could this be approved conditional on that? I understand
22 the time constraints, and would like ideally not to continue

1 it, but if there is an opportunity to say that the dormers,
2 rather than being 15 and -- length were 12 feet in length,
3 that would certainly support the interior layoff, and I
4 think still be in keeping with the architectural style that
5 we were trying to achieve from the exterior.

6 JIM MONTEVERDE: Well, just an observation, I'm
7 looking at -- Dan, your sheet A1.2?

8 DAN ANDERSON: Yes.

9 JIM MONTEVERDE: The third-floor plan, and I don't
10 know that I follow that logic, looking at how the spaces are
11 configured. Yeah, it's over on the right-hand side.

12 DAN ANDERSON: Sure.

13 JIM MONTEVERDE: In other words, the sleeping area
14 doesn't use the dormer, there's a chair in the dormer. The
15 bedroom in total -- I can't tell the dimensions of the
16 bedroom in total, with or without the dormer, but this
17 doesn't seem to suffer if the dormer is -- in terms of
18 function or functionality -- if those dormers are reduced to
19 -- I mean, pick a number, whether it's seven-and-a-half feet
20 or something -- some other number.

21 But there's -- I'm not following the argument that
22 -- because the space looks fully functional. There's -- I'm

1 not following the argument that -- because the space looks
2 fully functional, almost without the dormer.

3 DAN ANDERSON: Sure. So this is Dan Anderson.
4 Yeah, I guess what I was looking at was saying that the
5 removal of that space where the chair sits and flushing up
6 the inner side of the dormer, inner cheek wall of the dormer
7 --

8 JIM MONTEVERDE: Yeah.

9 DAN ANDERSON: -- with the closet would
10 effectively keep the same layout functionally without large
11 detriment. But you are correct, it could come in further.
12 The cheek walls could come in a bit more from the sides as
13 well. So it is somewhat arbitrary. I just was picking
14 three feet as being about the distance that that --

15 JIM MONTEVERDE: Right.

16 DAN ANDERSON: -- that that took up. So no
17 argument. Again, if it was acceptable to be at seven-and-a-
18 half feet, I'm quite sure we can make that work out. I
19 think that we might -- we definitely would in either case
20 lose one window.

21 JIM MONTEVERDE: Right.

22 DAN ANDERSON: Yeah.

1 SLATER ANDERSON: I was going to the same place.
2 I actually had that same plan up on my screen, and yeah. I
3 think if you aligned with the two windows -- so, you know, I
4 think proportionate and centered, it is going to be more
5 than three feet.

6 But I think seven-and-a-half, to Brendan's point,
7 I kind of agree with that. Like, it seemed like kind of a
8 limited amount of space to have much function.

9 So whatever that comes out to be, whether that's
10 four feet or whatever, I'm amenable to reduction on both
11 sides, and each dormer down to -- you know, somewhere
12 between eight to 10 feet on each dormer, it sounds like.
13 Maybe 10 to 12, sorry. 10 to 12 is probably each dormer.

14 So you have two windows --

15 DAN ANDERSON: Yes.

16 SLATER ANDERSON: -- as you described, yeah.

17 DAN ANDERSON: Thank you. I think that's
18 absolutely achievable, and I'd be at the discretion of the
19 Board to say if they're -- you know, are they two 12-foot
20 dormers or two, we're more than happy to be complying.

21 BRENDAN SULLIVAN: I'd say possibly two 12-foot
22 because if we take that three-foot where the chair is away,

1 square that off and then you're back to 12 feet for that
2 dormer, that does that seem acceptable?

3 DAN ANDERSON: Yes, that does.

4 CONSTANTINE ALEXANDER: I'd like to hear from
5 other members of the Board on that. Jim, how do you feel
6 with regard to 12-foot dormers, or would you like smaller
7 dormers, for the reasons you expressed earlier?

8 JIM MONTEVERDE: Yeah, I could still -- I still see the
9 validity for the smaller window. I mean, seven-and-a-half
10 feet or whatever, seven-and-a-half feet probably gives you
11 enough length for a couch or some other furnishing set up
12 there.

13 But I could go along with the rest of the Board if
14 there's a sentiment that they could be slightly larger, but
15 I'm kind of comfortable at the seven-and-a-half or around
16 that number.

17 BRENDAN SULLIVAN: Yeah, Jim, what about the
18 headroom, though? I mean, you're taking -- you know,
19 obviously in the front --

20 JIM MONTEVERDE: Yeah, I know. Oh, I'm looking --
21 yeah. I'm just looking at the way the -- again, the plan --
22 I mean, I'm taking the plan that from, you know, from -- on

1 either side of the bed there seems to be -- and I can't tell
2 in the section, but whether that's all -- you know, full
3 height space that you could walk around, and it just looks
4 like a generous amount of space.

5 And I don't think that the dormer by itself is
6 contributing really to the livability. It's a nice feature,
7 and I don't deny that, and I think the smaller size would
8 work.

9 So -- but I don't want to hold us up. So if
10 anybody else feels -- the Board feels around a 10-foot
11 dormer on each side will work, well, then, I could do that
12 just to reach a conclusion.

13 CONSTANTINE ALEXANDER: I would support 10-foot
14 dormers.

15 JIM MONTEVERDE: Okay.

16 CONSTANTINE ALEXANDER: 10-foot in width each
17 dormer. If the petitioner will accept that, I think for me
18 it's a go.

19 DAN ANDERSON: Thank you. That is entirely
20 acceptable.

21 CONSTANTINE ALEXANDER: I'm sorry?

22 DAN ANDERSON: Agreed, and it is entirely

1 acceptable.

2 CONSTANTINE ALEXANDER: Okay.

3 BRENDAN SULLIVAN: Wendy, your thoughts?

4 WENDY LEISERSON: I'm going to defer to the more
5 experienced Board members here, and if you find 10 feet
6 acceptable, I would be fine with that.

7 BRENDAN SULLIVAN: Okay. Great. Thank you,
8 Wendy. Slater? 10-foot?

9 SLATER ANDERSON: Yeah, that's fine.

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

14 If you are calling in by phone, you can raise your
15 hand by pressing *9 and unmute or mute by pressing *6, and
16 we'll ask that you speak for three minutes or less.

17 There appears to be nobody calling in by phone,
18 then there was no current -- I'm sorry, there is one person
19 calling in.

20 OLIVIA RATAY: Adam Soroca.

21 ADAM SOROCCA: Well, Board, I'll just speak on
22 behalf of the abutters. I understand the direction you're

1 headed, but the abutters do not support the third floor in
2 any way, shape, or form. I understand you're looking to
3 reduce the dormers.

4 I speak for the 127-129 Fayerweather, as well as
5 Mr. Jerry (phonetic), behind. There was just no support
6 from the abutters on a third floor.

7 I definitely appreciate that, you know, the
8 applicant changed the look and feel. That was welcome, but
9 this idea of a third floor was not okay. So go ahead on
10 record with that.

11 BRENDAN SULLIVAN: Thank you for your comments.
12 And that is that sum and substance of any call-in, and a
13 correspondence. So I will close public comment, and take it
14 back to Dan. Any further comments, dan?

15 DAN ANDERSON: So I appreciate Adam's
16 participation, we have made every effort to respond. I
17 think in our field that a half story was a reasonable
18 accommodation, given the attempt to make this building feel
19 a little bit more of a fit for the neighborhood.

20 Obviously, we're asking for a little bit of
21 additional living space, but really not much more to add.
22 Thank you.

1 BRENDAN SULLIVAN: Thank you. All right, members
2 of the Board, Mr. Alexander?

3 CONSTANTINE ALEXANDER: Well, I'm a little bit
4 puzzled by the height issue, which is all of a sudden --
5 third floor, which all of a sudden has arisen. I'm very
6 comfortable with the reduced dormer size, and make it a
7 condition of relief, should we vote for it.

8 But the height -- I mean, the building is going to
9 meet the zoning requirements of our city. We're not
10 supposed to be more than 35 feet high; they will have the
11 form in, you've got what is being proposed is what, 32, 33
12 feet?

13 BRENDAN SULLIVAN: Thirty-four.

14 CONSTANTINE ALEXANDER: 34 feet. I have a problem
15 not granting relief, with regard to the height of a building
16 that complies with a variance, unless I have some more
17 evidence, and I don't have it.

18 So long way of saying I intend to vote in favor of
19 granting the requested variance on the condition that the
20 dormers on the third floor -- each of the dormers on the
21 third floor -- be no wider than 10 feet.

22 BRENDAN SULLIVAN: Okay. Wendy, your thoughts,

1 comments?

2 WENDY LEISERSON: Yes, I understand Mr.
3 Alexander's legal point there, and concur with that with
4 regard to height. And I wish we could hear more with regard
5 to the neighbors' opposition to understand if it's simply
6 the height, or if it's because the requested FAR has to go
7 into the third story, if that's what they're talking about.

8 Because we are significantly increasing the gross
9 floor area, which I understand is, you know, already
10 nonconforming, but I wish I had an understanding of more of
11 the nuances of the neighbors' opposition with this redesign.

12 BRENDAN SULLIVAN: Okay. I don't know how we can
13 address that adequately. It is over the GFA now, and it's
14 0.64 going to a 0.87, and in a 0.5 zone. Dan, how much does
15 the third floor add if you have that number?

16 DAN ANDERSON: Yes, so we are at -- if I can pull
17 up my -- so it ends up being, I believe, roughly a 30 --
18 well, 0.5 to 0.87. I think that it is a delta of 0.37
19 percent.

20 So, you know, I think that the challenge here was
21 that it's a very -- the existing roof is a very low hip
22 roof, which does not have any GFA. So it's fairly atypical.

1 We initially looked at just say, hey, could we
2 reconfigure that roof and add dormers as a first pass, but
3 because there's not even existing sufficient headroom, the
4 adding a dormer didn't work.

5 So our -- the first directive that I had been
6 given was to say, well, what would be the possibility of
7 finding additional gross area, and obviously we came back
8 with a scheme that was not happy for the neighbors that I
9 think the Board members expressed reasonable objection or
10 speculative thoughts about.

11 And so we -- in trying to address my dual demands
12 of my client looking and asking me to create a, you know,
13 three-bedroom layout for a house like this, and all the
14 programmatic pieces that I was asked to, and with the
15 request of the neighbors to have an a more traditionally
16 formed, architecturally appropriate style to the
17 neighborhood. This is where we ended up.

18 As I said previously, this building ends up being
19 very similar in style now to 136 Fayerweather across the
20 street, and ends up with exactly the same FAR of 0.87.

21 So we're in a neighborhood where there are
22 already, I'd say the majority of the houses are over the

1 0.5, and so I kind of look to the Board to say does this
2 overall project seem to fit the criteria of the special
3 permit to be not out of character with the zoning and
4 characteristics of the neighborhood.

5 BRENDAN SULLIVAN: Okay.

6 DAN ANDERSON: So I think what I'm suggesting is
7 that it's a good fit.

8 WENDY LEISERSON: So I'm just looking back at the
9 minutes from the last meeting when, you know, the neighbors
10 -- more neighbors were on the line.

11 And I see Slater, one of your concerns was -- or
12 one of your observations was with regard to the impact of
13 the sun study on the rear neighbors. And I wonder if,
14 Slater, if your concern has been mollified by the new
15 design?

16 SLATER ANDERSON: Thanks for reminding me of that.
17 My reaction from looking at the old design to the new design
18 was that there was a lot of volume reduced on the third
19 floor with the half story. So I'm not as concerned about
20 that now, but I -- Dan Anderson's welcome comment on it.

21 DAN ANDERSON: Yeah. So thank you for that. We
22 did update the sun shadow studies, and I think that they're

1 included in the packet. I think that we'd happily look at
2 that, it's at the end of the packet, probably slide 15, 16,
3 somewhere around -- actually 18 and 19. We do have reduced
4 sun impact in the new.

5 And the one piece that I point out, it's not
6 typical for our sun shadow studies to include trees. But
7 there are three or four very large trees which are placed in
8 accurate positions at the rear, which particularly in, you
9 know, between basically May and October, impact those
10 shadows, particularly to the rear abutters significantly.

11 But otherwise, you know, I think that it falls
12 really with minimal increase over the existing.

13 The other piece that -- we did do some street
14 views before and after, which are -- if you look at Slides
15 16 and 17, you can see from the streetscape the relative
16 impact of size and scale, particularly vis-à-vis 127, 129,
17 which kind of towers over our structure.

18 If you go to Slide 17, it shows the proposed in
19 scale.

20 So the increased ridge height is really forward
21 towards Fayerweather Street and away from Chilton, so
22 there's really some impact, but very, very limited impact of

1 that proposed roof profile.

2 WENDY LEISERSON: Thank you for explaining the
3 reduced impact of the sun study. I don't think I have any
4 further questions at this moment.

5 BRENDAN SULLIVAN: Okay. Slater, your thoughts?

6 SLATER ANDERSON: Yeah, no, I go to Gus's comment,
7 which we've seen often, which is that -- you know, the issue
8 of the third floor is someone could build a third floor by
9 right here at a lower FAR.

10 So, you know, I don't think the height is a reason
11 to oppose the proposal. I think it's a reasonable
12 improvement.

13 A 0.87 in a B District over two units is not --
14 we've seen this, you know, it seems to fit proportionally in
15 the pattern of the street, and so I'm fine with it.

16 BRENDAN SULLIVAN: Okay. Jim Monteverde?

17 JIM MONTEVERDE: I concur. I'm comfortable with
18 it, with the reduced dormers and seeing the photographs and
19 I think it's a reasonable fit in the neighborhood, both its
20 adjacent neighbors and what appears in the other photos
21 across the street.

22 So I can support it, with the condition that the

1 dormers be reduced.

2 BRENDAN SULLIVAN: Let me make a motion, then, to
3 grant the relief requested as per the application, according
4 to statements and the dimensional form as submitted.

5 The Board finds that it appears that the
6 requirements of the Ordinance cannot be met without the
7 granting of the special permit.

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

12 The Board finds that continued operation of or
13 development of adjacent uses, as permitted in the Zoning
14 Ordinance, would not be adversely affected by the nature of
15 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, in fact the Board finds that
20 the new design, the interior layout of the -- I'm going to
21 say it's the new construction -- that the amenities of the
22 structure will be up to date, and it will increase the

1 health and safety of the occupants.

2 And the Board finds that the proposed use would
3 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 housing for all income groups
6 and a safe environment, as and that the updating of systems
7 in the new construction will be of benefit to any occupant.

8 Additionally, under 8.22d, in all likelihood
9 districts the Board of Zoning Appeal may grant a special
10 permit for the alteration or enlargement of a preexisting
11 dimensionally nonconforming, detached single-family dwelling
12 or a two-family dwelling, but not the alteration or
13 enlargement of a nonconforming use..

14 Provided that there is no change in use, and that
15 any enlargement or alteration of such preexisting,
16 nonconforming detached single-family dwelling, not otherwise
17 permitted in 8.221, not the alteration or enlargement of a
18 preexisting nonconforming use..

19 Provided that there is no change in use, and that
20 any enlargement or alteration of such preexisting,
21 nonconforming detached single-family or two-family may only
22 increase a preexisting dimensional nonconforming conformity,

1 but does not create a new dimensional nonconformity.

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

8 The Board finds that the granting of the special
9 permit is contingent on the fact that the two dormers as
10 shown shall be reduced not to exceed 10 foot in length each;
11 that also that the petitioner and architect furnish a new
12 dimensional form reflecting such changes in the drawings.

13 On the motion to grant the special permit, Mr.
14 Alexander?

15 CONSTANTINE ALEXANDER: I vote in favor, based on
16 the condition you propose, that the dormer -- each of the
17 two dormers -- will not be more than 10 feet wide.

18 BRENDAN SULLIVAN: Wendy Leiserson?

19 WENDY LEISERSON: In favor, with the same
20 condition.

21 BRENDAN SULLIVAN: Jim Monteverde?

22 JIM MONTEVERDE: In favor, with the same

1 condition.

2 BRENDAN SULLIVAN: Slater Anderson?

3 SLATER ANDERSON: In favor with just a minor
4 clarification that Brendan said; there will be an updated
5 dimensional form, there will be updated plans as well.

6 BRENDAN SULLIVAN: Oh, correct. Absolutely. Yes.
7 Thank you. Brendan Sullivan yes to granting the special
8 permit.

9 [All vote YES]

10 Five affirmative votes, the special permit is
11 granted with the conditions. Thank you, Mr. Anderson.

12 DAN ANDERSON: Thank you. Have a good evening.

13 SLATER ANDERSON: Thanks, everybody, bye.

14 CONSTANTINE ALEXANDER: Bye, Slater.

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2 (6:48 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, and Wendy Leiserson

5 BRENDAN SULLIVAN: The Board will now hear Case
6 No. 149665 -- 38 Mount Pleasant Street.

7 CONSTANTINE ALEXANDER: Mount Pleasant.

8 BRENDAN SULLIVAN: Yeah, it's the old one. It's
9 the special permit. The Board is in receipt of
10 correspondence sent to Maria Pacheco from Attorney Chris
11 Alphen.

12 "At a minimum, we would seek a continuance. There
13 was a small chance the applicants would modify the plan and
14 would want to be heard at a July hearing. I will submit a
15 formal request for a continuance, or you can accept this e-
16 mail as a request for the same. We will accept this e-mail
17 as the same."

18 On the motion, then, to continue this matter until
19 July 14? This matter will be heard -- will be rescheduled
20 to be heard on July 14, 2022 at 6:00 p.m. or later, on the
21 condition that the petitioner change the posting sign to
22 reflect the new date of July 14, 2022 at 6:00 p.m.; and that

1 be maintained for 14 days prior to the July 14 hearing.

2 Also, that any new submittals pertinent to this
3 particular application be in the file by 5:00 p.m. on the
4 Monday prior to the July 14 hearing.

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

7 CONSTANTINE ALEXANDER: I vote in favor of that.
8 I'll make the observation that I will not be able to attend
9 that hearing. So there will only be four members sitting on
10 the case.

11 BRENDAN SULLIVAN: Okay. Jim Monteverde?

12 JIM MONTEVERDE: I vote in favor of the
13 continuance.

14 BRENDAN SULLIVAN: Wendy Leiserson?

15 WENDY LEISERSON: In favor of the continuance.

16 BRENDAN SULLIVAN: And Andrea, I'm not sure if
17 you're on the -- she is not. Brendan Sullivan voting in
18 favor.

19 [All vote YES]

20 On the four affirmative votes to continue, the
21 matter is continued until July 14.

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2 (6:50 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall and Matina Williams

6 BRENDAN SULLIVAN: The next matter to be heard is
7 213 Harvard Street, BZA Case No. 154221. I need you for a
8 minute, that's all. There is correspondence in the file
9 from Minkoo Kang, M-i-n-k-o-o K-a-n-g, regarding 213 Harvard
10 Street continuation.

11 "Dear Maria and Ranjit Singanayagam, I am
12 requesting a continuance of the zoning hearing relating to
13 213 Harvard Street. We are on the docket for May 19, and
14 would like to request to be put on a later date. Please let
15 me know if you have any other questions or concerns.

16 "Thank you. Best,
17 Minkoo Kang."

18 There is a request to be -- to continue this
19 matter. There's also in the file correspondence from Pankaj
20 Mehta, and Nicole Aschkoff.

21 "Dear BZA, we are residents of 217 Harvard #3R.
22 We would like to speak regarding the hearing of Case No.

1 154221.

2 "We have previously submitted detailed comments.
3 despite repeated requests for meetings, we have been unable
4 to discuss our concerns with 213 regarding the new plans for
5 the last five months. For this reason, we would appreciate
6 if the BZA could look at our prior submissions and we could
7 address the Board directly. Thank you for your time."

8 I'm not sure if Pankaj and Nicole are on the line.
9 They've asked for a continuance, and so we're not going to
10 open up the case tonight for discussion on the merits of the
11 case.

12 All I can say is that you really need to have a
13 correspondence with the petitioner, and that we will at the
14 continued date, then any of the comments that you have will
15 then be heard.

16 We are going to continue this matter to?

17 OLIVIA RATAY: July 28.

18 BRENDAN SULLIVAN: This matter is going to be
19 continued to July 28 continue this matter to July 28, 2022,
20 at 6:00 p.m. on the condition that the petitioner change the
21 posting sign to reflect the new date of July 28, 2022, at
22 ptjrrc6:00 p.m., and it be maintained for a period of 14

1 days prior to the July 28 hearing.

2 Also, that any new submittals not currently in the
3 file be submitted by 5:00 p.m. on the Monday prior to the
4 July 28, 2022 hearing.

5 On the motion to continue this matter, Mr.
6 Monteverde?

7 JIM MONTEVERDE: I vote in favor of the
8 continuance.

9 BRENDAN SULLIVAN: Wendy Leiserson?

10 WENDY LEISERSON: I vote in favor of the
11 continuance.

12 BRENDAN SULLIVAN: All right. Who else is
13 sitting? Huh? Laura? I don't think Laura's --

14 JIM MONTEVERDE: I don't think she's here.

15 JASON MARSHALL: Mr. Chair, I think it's me and
16 Matina.

17 BRENDAN SULLIVAN: Jason?

18 JASON MARSHALL: And Jason Marshall, yes, in favor
19 of the continuance.

20 BRENDAN SULLIVAN: Okay. Matina, are you on the
21 line too?

22 MATINA WILLIAMS: Yes, I'm here.

1 BRENDAN SULLIVAN: Okay. Matina Williams on the
2 motion to continue this matter?

3 MATINA WILLIAMS: I vote in favor of the
4 continuance.

5 BRENDAN SULLIVAN: And Brendan Sullivan yes.

6 [All vote YES]

7 On the five affirmative votes, the matter is
8 continued until what date did I say, July?

9 JIM MONTEVERDE: July 28.

10 BRENDAN SULLIVAN: 28. Thank you.

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2 (6:55 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, and Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: Okay. The next matter to be
7 heard is Case No. 165060 -- 204 Fayerweather Street. I
8 would just ask for Staff to give me the lineup. So it's Jim
9 Monteverde, Wendy Leiserson, Jason, and Matina? Great.

10 [1:04:00 from the transcriptionist - thank you!
11 This hugely helps, where the paragraph above always comes
12 before we take the votes pages later, thank you very much!]

13 Case No. 165060 -- 204 Fayerweather Street. Mr.
14 Rafferty?

15 JAMES RAFFERTY: Thank you, good evening, Mr.
16 Chair, members of the Board. Pardon me on second. My
17 apologies. For the record, my name is James Rafferty. I'm
18 representing the applicants this evening, Tom and Keya
19 Dannenbaum, D-a-n-n-e-n-b-a-u-m.

20 Mr. and Mrs. Dannenbaum purchased this house
21 within the past year on Fayerweather Street. It's around
22 the corner from their current home on Alpine Street. They

1 have been living in the neighborhood for several years.
2 They're raising their two daughters here, and this is a home
3 that they're very excited about making into their permanent,
4 long-term residence.

5 They have a long attachment to the neighborhood,
6 and particularly to the City of Cambridge. So this
7 opportunity, as you know, comes about not too often in the
8 current real estate market.

9 The Dannenbaums explored a number of approaches
10 with the house, and the record of the case might reflect the
11 fact that initially they did explore a removal of the house
12 at the Historical Commission.

13 They altered their plans, and have decided to
14 modify the existing house, and they have been at this
15 process for an extremely long period of time, and I would
16 suggest they have exemplified what might be considered the
17 gold standard of abutter outreach.

18 They have hosted meetings at the property, they
19 have gone door-to-door, they've done their best to explain
20 to everyone what their proposal involves.

21 I think the best way to begin the proposal would
22 be for us to take a look at the cover sheet of the plans

1 A0.0, if it's possible for Ms. Ratay to place that? And on
2 the left here, you see the site plan, the survey of the
3 existing conditions.

4 It's a somewhat conventional two-family house
5 found throughout this Res B neighborhood, with an asphalt
6 driveway extending the length of the property to a two-car
7 garage in the rear.

8 The house has two nonconformities. It exceeds the
9 allowable FAR, and it also has nonconforming front setback.
10 The applicant is seeking two special permits.

11 The first special permit under Section 8.22.2d is
12 intended to allow for an expansion of the house, pursuant to
13 the so-called Bellalta case that allows special treatment
14 for one- and two-family properties, and requires a
15 determination by the Board that the proposed plans are not
16 substantially more detrimental to the neighborhood.

17 In this case, Mr. and Mrs. Dannenbaum are
18 converting a two-family house to a single-family house. So
19 the intensity of the use goes down just by the change in the
20 number of dwellings.

21 And if we could go to the second drawing, I think
22 it further explains it. Thank you. And after this

1 explanation, I'm going to defer to the project and
2 architect, Mr. Kennard, and his staff.

3 But I just wanted to point out from a zoning
4 perspective what's occurring here. And the site plan tells
5 the story. Because, as I noted, there are two special
6 permits that the applicants are seeking.

7 The first special permit involves an 8.22.2d
8 special permit that will allow for alterations to a single-
9 family house, for a nonconforming single-family house,
10 provided that there are no new nonconforming conditions
11 created.

12 The second special permit would allow for the
13 conversion of the two-car garage to an accessory dwelling
14 unit.

15 What's taking place from a site plan perspective
16 here is also relevant to the findings the Board will have to
17 be making ultimately about the impact on the neighborhood.
18 You'll notice that the driveway that extends the entire
19 length of the lot is essentially cut in half under this
20 proposal.

21 The Dannenbaums will only provide parking space
22 for one vehicle, since they only have one dwelling and

1 that's all that's required of them under the Ordinance.

2 It's also the case that what was previously an asphalt
3 driveway will now become green open space, increasing the
4 open space on the lot and the permeability on the lot.

5 You can see by this plan as well areas where
6 existing portions of the house are being removed. They're
7 depicted in yellow. So existing rear porches and footprints
8 are being brought in.

9 The two areas in blue show where the footprint of
10 this house is expanding. At the bottom of the page, the
11 larger roof reflects the one-story mudroom addition to the
12 property. It should be noted that the proposed mudroom is
13 within the required setback.

14 In the opposite corner, there is a small, two-
15 story addition that is also within the required setback. So
16 what makes the case a special permit case is because the
17 property -- the most significant change to this property is
18 occurring at the third floor.

19 The house today would be described as a two-and-a-
20 half story structure with an attic storage. The proposed
21 addition to the third floor involves reconstructing the
22 roof, and putting more gross floor area in the third floor.

1 In fact, most of the addition's square footage associated
2 with the house is contained in the third floor.

3 I think at this point it might be appropriate for
4 Mr. Dannenbaum -- excuse me, for Mr. Kennard -- to take you
5 through those changes, both in elevation and floor plan, if
6 that's deemed appropriate.

7 BRENDAN SULLIVAN: Yes, if you want to run through
8 it quickly.

9 JAMES RAFFERTY: Right. So Mr. Kennard, the one
10 last thing I should mention, the third floor does represent
11 an increase in height of the structure. But it is below the
12 allowable 35 feet in height. So dimensionally, there are no
13 new nonconformities being created. And this represents an
14 increase in GFA of the allowable FAR.

15 I'm sorry, are you -- is Joseph present?

16 JOSEPH KENNARD: Here.

17 JAMES RAFFERTY: Thank you. Maybe you could just
18 quickly go through the elevations, particularly drawing the
19 Board's attention to the focus you had on the side of the
20 house facing the driveway, the fenestration and how the
21 concerns about privacy from that abutter, which have been
22 expressed to you through the process, manifested themselves

1 in your design.

2 JOSEPH KENNARD: Certainly. Hi, I'm Joseph
3 Kennard with K and Tom Dannenbaum, residents. We just
4 doubly, as Jim said, did a significant neighborhood outreach
5 and a survey of about 54 houses in the neighborhood, and we
6 also talked several times with the Historic Commission to
7 best understand how we can fit in the neighborhood well.

8 So if you look at the front elevation drawings on
9 here, I believe I can take control of that?

10 JIM MONTEVERDE: But if you could give a page
11 number, Ms. Ratay would do that. There you go.

12 JOSEPH KENNARD: So yeah. Try -- I can't see the
13 page, though, try page 9. There you go. The one you saw
14 before is the superimposed or existing structure on the
15 proposed structure.

16 But so the front façade was the area of focus to
17 keep it contextual with the neighborhood, the key thing
18 being you'll see these three bays on the first floor and
19 three bays on the second floor, which you see on a lot of
20 the porches in the neighborhood.

21 The open first-floor porch was very important, and
22 you're seeing that where you're seeing the window C as our

1 setback, and the elevated entry porch. You'll see that
2 consistent throughout the neighborhood.

3 We added about five feet in height to get the
4 third-floor space to be usable, not too dissimilar to the
5 one you were just looking at earlier on the agenda. We
6 pushed it back.

7 You can see on that east elevation, we pushed that
8 back 12 feet. Currently it sits about six feet back on the
9 third floor, so six feet back. We pushed it back 12 feet,
10 so that from the street it's not as imposing as it looks
11 from this elevation.

12 I think there might be a perspective view that
13 shows it better, if you scroll up to the earlier page?
14 Yeah, right there, page 4. So you can see that center view
15 proposal north how the third floor is reducing its impact by
16 pushing it back that extra 12 feet.

17 On the side elevations, we can look at the overlay
18 on page, let's see, 11? Yeah. So what you're seeing here
19 is our attempt to make the side elevations, which have
20 neighbors on each side less intrusive than they previously
21 were. That large window up top is actually a stairwell, so
22 it doesn't really look into a space, and the back windows

1 are pushed back an extra six feet or so from where the
2 structure currently is.

3 And if you go to the next page 12, you'll see a
4 similar thing on the west elevation. The dotted lines
5 represent the windows that are on there now, and open
6 porches, and then obviously the windows with the letters in
7 them show the current window configuration.

8 So our goal was to keep privacy for the neighbors,
9 better privacy than was there, and also for Kay and Tom to
10 enjoy their residence.

11 JAMES RAFFERTY: Thank you, Joseph. The second
12 aspect of the application involves a special permit, which
13 seeks to allow for the conversion of the accessory two-car
14 garage into a dwelling unit.

15 I know the Board is familiar with the provisions
16 of Article 4, that allow for the conversion to take place
17 within structures, provided that the envelope of the
18 existing structure is not expanded. That is the case with
19 this garage.

20 The floor plans of the apartment are further down,
21 maybe the last stages, if Ms. Ratay is able to go all the
22 way down there to the last page in this middle -- the last

1 drawing.

2 Oh, what is it, just 14?

3 JOSEPH KENNARD: 14, yes.

4 JAMES RAFFERTY: Fourteen, thank you. So to
5 quickly explain. You can see the structure is
6 nonconforming, accessory structure. But the design here
7 involves no openings on the walls that face the side or the
8 rear abutter, and the only opening would be occurring into
9 the yard itself, where the -- the homeowners' yard. So
10 impacts of privacy would be literally nonexistent.

11 And the floor plan you can see in the bottom right
12 here is a simple studio floor plan.

13 The accessory structure is intended to accommodate
14 visiting grandparents. Both sets of grandparents do not
15 live in the area. One actually does -- doesn't even live in
16 the country.

17 And the idea here is not to have any type of a
18 rental unit, per se, but to have a simple, studio-style
19 apartment to allow visiting grandparents and family when
20 they come long distances, intending to stay for a bit.

21 And so it's definitely intended to be accessory in
22 the truest meaning of the word, not intended to be a short-

1 term rental, not intended to serve as a consistent apartment
2 for someone who would be living full-time in the space --
3 very much an accessory use used only occasionally when
4 family members would be visiting.

5 So it's for those reasons that we're seeking the
6 two special permits.

7 The special permit dealing with the main structure
8 of course is a reflection of the 8.22.2d case, and we
9 believe that the record in the case reflects that there's
10 extensive neighborhood support for this application. 14
11 neighbors have sent letters in support of the effort here,
12 and they are all contained in the file.

13 There is also a letter from a City Councillor who
14 is familiar with the neighborhood and many of the nearby
15 residents. And there's also, admittedly, a neighbor who has
16 concerns. And the concerns are set forth in correspondence.
17 There has been efforts to address those concerns by the
18 applicant, and I just want to point out two things.

19 The chief concern that was noted in the
20 correspondence in the file from the abutter talks about the
21 most concern is health and environmental safety, and wants
22 assurances that measures will be utilized to control and

1 mitigate lead, asbestos, dust, and other toxic debris.

2 I've discussed this, both with Mr. Kennard and the
3 owners, and they don't believe there is any toxic debris in
4 house, but nonetheless, the Dannenbaums share that
5 commitment to a healthy workplace here. So all efforts will
6 be undertaken to make that happen.

7 The objecting letter also notes that there's an
8 objection to the request to reduce the off-street parking by
9 one. I just want to note there is no such request present
10 in the application. The house, by turning it into a single-
11 family need only provide a single parking space.

12 And the special permit that authorizes the
13 accessory dwelling unit, as Board members probably know, do
14 not require -- does not require a vehicle as well.

15 The final concern cited in the letter is that the
16 existing privacy light and air that the open space between
17 the two properties provides will be eradicated by the
18 proposed mudroom bump out. The proposed mudroom bump out is
19 within the setback. It is one story, and the author of the
20 letter makes no mention of the expansion of the open space
21 resulting from the reduction in size of the garage, which --
22 the size of the driveway, which I would suggest more than

1 mitigates any impact on open space and air and light that
2 the conforming mudroom might provide.

3 So for the reasons set forth in the application
4 based on plans submitted, we would request that both special
5 permits be approved by the Board.

6 BRENDAN SULLIVAN: Great. Thank you. Let me open
7 it to comments by the members of the Board. Jim Monteverde,
8 any comments?

9 JIM MONTEVERDE: No comments, thank you.

10 BRENDAN SULLIVAN: Wendy Leiserson, any comments,
11 or questions?

12 WENDY LEISERSON: No questions, and I appreciate
13 the careful consideration of and design to meet the
14 neighbors' concerns. Thank you.

15 BRENDAN SULLIVAN: Matina, any questions at this
16 time?

17 MATINA WILLIAMS: No questions at this time.

18 BRENDAN SULLIVAN: Jason Marshall?

19 JASON MARSHALL: No questions at this time, Your
20 Mr. Chair.

21 BRENDAN SULLIVAN: I will open it up to public
22 comment. Any member of the public who wishes to speak

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

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

6 OLIVIA RATAY: James and Siri McNulty?

7 BRENDAN SULLIVAN: Mr. McNulty:

8 JAMES AND SIRI MCNULTY: Hi, hi, we're here.

9 Hello, hello. Can you hear us?

10 BRENDAN SULLIVAN: Yes.

11 JAMES AND SIRI MCNULTY: Oh, okay. Okay, great.

12 Thank you very much. I'm Siri McNulty, and I'm here with my
13 husband, James. And we own the property at 208-201

14 Fayerweather right next to the Dannenbaums. We just wanted
15 to -- we put a lot of thought and time and preparation into
16 what we'd like to say tonight, and just in response to Mr.
17 Rafferty.

18 A little background history about our home: We
19 bought the house in 1999 with Jamie's uncle, Larry Brayman.
20 He was a quadriplegic for 50 years, and we wanted him to be
21 closer to our family.

22 He worked for the Cambridge Inspectional Services

1 for many years, served on various Boards in Boston as an
2 advocate to ensure access in affordable housing.

3 When we bought the building, we sled it
4 specifically because he loved the style, liked the scale of
5 the houses, location, neighbors, and the light, which
6 allowed him to enjoy his dream of having a solarium. He'd
7 lived in East Boston for, you know, pretty much all of his
8 adult life, and his dream was to have a garden and a
9 solarium in the back.

10 So he had hired Van Valkenburgh, noted landscape
11 architect, which we completely supported. We wanted to make
12 him happy in the last years.

13 So in deference to this, when we configured --
14 when we renovated our house, we -- you know, were very much
15 in deference to the allowed FAR.

16 We preserved the integrity of the two-family house
17 during the renovation, and it was a very well-thought-out
18 project which was, you know, respective (sic) of the
19 neighbors. We didn't change anything other than, you know,
20 what we were allowed to do.

21 We spoke about this on many occasions, the project
22 of the Dannenbaums. He was not in favor of it, because it

1 would -- you know, affect our -- our light and air and our
2 garden in the back, and the light of the solarium.

3 He's not here to speak for himself, he passed away
4 last December, and right now his sister Mary, who's 94,
5 lives upstairs. He made a lot of significant contributions
6 to the community, and, you know, we're just sort of passing
7 on what he had told us at the very end.

8 And I also want to state that we really do
9 appreciate the neighbors, the Dannenbaums, reaching out to
10 us with all of their proposals. We're very much in support
11 of the run-down house being renovated on the street-facing
12 façade, the congruence with the other houses. The neighbors
13 have been, you know, rightfully concerned with that.

14 But we are the direct abutters, and we're impacted
15 the most. We have to consider the size of the house. It's
16 already very close proximity to ours. And we'd like to just
17 address the following issues:

18 First of all, as we understand it, the intent of
19 maintaining 50 percent FAR is to keep the conformity of the
20 construction to the scale of the neighborhood, so people can
21 enjoy more light, air and green space.

22 There are a couple few houses we've seen over the

1 years; they were originally taller than our bungalows, but
2 in the renovations, they've retained the original height and
3 the FAR.

4 Many of these did exceed the 50 percent now
5 required, but the Dannenbaums' house currently has 64
6 percent of the FAR. The addition of the third floor
7 increases square footage to a 77 percent FAR.

8 And we understand, of course, their right to build
9 upward to a height of 35 feet, but this FAR increase is
10 significant, and the larger, taller buildings, they do
11 affect the abutter's light and air and enjoyment of their
12 house. And we have a significantly smaller house, which
13 will bear the brunt of this.

14 We really would like to ask why does the FAR exist
15 at all, if it's subject to circumventing zoning laws, and
16 with the special permit process?

17 We really would like an explanation of why this is
18 -- you know, we've watched a lot of these hearings as well,
19 and it seems like just consistently this is being allowed,
20 why have an FAR? That is our first question.

21 The second consideration is that considering the
22 main house they're asking for an expansion in a third floor

1 in the FAR increase we, you know, do have questions about
2 the additional mudroom needing to be added to the side of
3 the building.

4 It does eliminate a parking space, I know that was
5 addressed by Mr. Rafferty, but people who come to the house,
6 you know, this occupies another spot.

7 Regarding the ADU, we feel that turning an
8 existing garage into an ADU will have unwanted consequences
9 in the future. A garage and an ADU are two separate
10 entities, to be used for completely different purposes.

11 BRENDAN SULLIVAN: If you could wrap it --

12 SIRI MCNULTY: It increases the density of the
13 living space and allows more occupants and traffic into the
14 neighborhood. It's a whole separate dwelling unit, and we
15 feel it sets a precedent for others to convert their garages
16 into ADUs, which can be in the future used as rental units
17 or condos.

18 I understand Mr. Rafferty said that that's not
19 happening here, but, you know, down the line it can happen
20 in other properties. It sets a precedent, there would be
21 nothing to prevent future residents or other people from,
22 you know, converting into --

1 JAMES MCNULTY: We have three in our --

2 SIRI MCNULTY: There are three back, there are
3 three garages in our back yard. We don't, obviously, own
4 them but -- and they are very --

5 BRENDAN SULLIVAN: Can you wrap up your comments,
6 please. Just wrap them up now.

7 SIRI MCNULTY: -- and they are very -- anyway, we
8 would not like to set a precedent for that.

9 BRENDAN SULLIVAN: Great.

10 SIRI MCNULTY: So.

11 BRENDAN SULLIVAN: Thank you very much.

12 SIRI MCNULTY: Thank you.

13 OLIVIA RATAY: Tien-Yi Lee?

14 TIEN-YI LEE: Hello? Hello, can you hear me?

15 BRENDAN SULLIVAN: Yes.

16 TIEN-YI LEE: Hi. My name is Tien-Yi Lee. I'm
17 here with my husband, David Miller. We live at Ivy Street,
18 and we -- our house is actually directly across from 204-
19 206. And we actually look at the front of their house every
20 single day out our windows. So we are a direct abutter.

21 We have found the Dannenbaums to be extremely
22 respectful and responsive, friendly, courteous, kind in

1 every way throughout this process. And so we are in
2 complete support of them getting the permits they need to
3 renovate their home.

4 I do want to point out that this home is gutted
5 currently and -- you know, and vacant, and it has been for
6 going on close to two years. And at this point, it is a
7 real blight to our neighborhood.

8 A week ago, I came home and there were three cops
9 outside of the house, because apparently someone had stashed
10 some stolen mopeds in the back. And so I find it very
11 distressing that their project has been held up and held up.

12 I understand the concerns of various neighbors,
13 but I do feel that they've gone above and beyond what could
14 be expected to address neighbors' concerns.

15 And regarding the parking, we've never had any
16 problems with parking on our street. We have, you know, we
17 have a car that we park on the streets -- sometimes we park
18 both of our cars on the street. It's never been a problem.

19 And so I really don't see any reason at this point
20 to keep holding up their project. They are wonderful
21 family. They would be a true asset to our neighborhood.

22 We can't wait to have them across the street from

1 us. We have two kids who can't wait to meet their kids, and
2 I really feel like they are -- they would be an asset and
3 their renovated house would be an asset to our neighborhood.

4 BRENDAN SULLIVAN: Thank you.

5 OLIVIA RATAY: Nancy Beams?

6 BRENDAN SULLIVAN: Nancy?

7 NANCY BEAMS: Okay. Yes? I'm sorry, I didn't
8 realize how to unmute myself. I live at 2 Ivy Street, right
9 below Tien-Yi, and I too look directly at this house from my
10 kitchen window, and I watch it every day.

11 And I can't say enough about what the Dannenbaums
12 have -- what they've done to accommodate the neighbors and
13 show them what they're doing. And I think they have waited
14 long enough to build their home. And I'm all for, and I do
15 support them moving in and starting the building as soon as
16 possible.

17 BRENDAN SULLIVAN: Thank you.

18 NANCY BEAMS: Okay.

19 OLIVIA RATAY: Melissa Brodrick?

20 BRENDAN SULLIVAN: Melissa?

21 MELISSA BRODRICK: Yep. Can you hear me now?

22 BRENDAN SULLIVAN: Go ahead. Go ahead. You'll

1 have up to three minutes to comment.

2 MELISSA BRODRICK: Okay. And you can hear me?

3 BRENDAN SULLIVAN: Yes.

4 MELISSA BRODRICK: Sorry. I didn't recognize
5 that. I'm Melissa Brodrick. I am an abutter to an abutter
6 on the 211 Fayerweather Street across and diagonal to the
7 current property that we're talking about. And I am here to
8 express my support for this project moving forward.

9 As other people have said, I had initial concerns
10 with the plans for the property, and feel that the
11 Dannenbaums were very responsive to my concerns and to the
12 concerns of others, so much so that they changed architects.
13 They, you know, held meetings, as was mentioned; that they
14 shared multiple plans with me.

15 So I feel like their process was transparent, it
16 was collaborative, and while I'm saddened to hear that it
17 doesn't have unanimous support and recognize that I'm across
18 the street, not next door, I do support this project, and
19 just wanted to let you know that. So that's it from me.

20 BRENDAN SULLIVAN: Thank you.

21 OLIVIA RATAY: Martin Benoit?

22 MARTIN BENOIT: Sorry, can you hear me now?

1 MARTIN BENOIT: Yes.

2 BRENDAN SULLIVAN: Yes. Thank you. My name is
3 Martin Benoit. I live at 17 Copley Street. The direct
4 abutter directly behind 204 Fayerweather. My wife and I
5 wrote in a letter of support. We live here with our two
6 children -- there's other units in this building -- the
7 garage is directly on our rear property line. And I just
8 wanted to cover two points.

9 Generally, what everyone has said: This process
10 has gone on a very long time. They bought a property that
11 was already gutted, so they didn't have a lot of options.

12 I think they've been incredibly patient and
13 incredibly kind, and have done as much as is humanly
14 possible to satisfy as many people as possible, and to
15 navigate all the crosscurrents.

16 When there was the idea of demoing, other people
17 said, "Don't demo it, just build it higher." So, you know, I
18 think that's partly where this got us. I didn't know about
19 the 35-foot rule, but as I look at it, the house to the west
20 is no taller than them. Our structure and a couple of the
21 other ones in Copley are no taller. So it's not really out
22 of scale to the neighborhood.

1 I think they've done a really good job overall
2 with that.

3 On the garage, my initial reaction I think is like
4 everyone else; you wonder where it's going to lead. But in
5 fairness, I would say that since the very beginning when
6 they first designed the house itself, one of the things that
7 set off the neighbors was that they wanted an at-grade
8 entrance. They have elderly family, they need -- you know,
9 handicap access if you will, they needed a graded entrance,
10 and everyone opposed that, and they came back to the porch.

11 So partly the idea of having this little accessory
12 unit in the back, which will be through that grade, you
13 know, that has been consistent. That's an issue in terms of
14 family that's been there since the beginning, and the access
15 has been there since the beginning.

16 I really appreciate and applaud that they are not
17 adding any windows, two sides or three sides of that
18 structure, and that I would also say given the topography of
19 the backs of the yards and the way their property slopes
20 down from Fayerweather, it's actually below grade from us on
21 Copley, and all these back yards are pretty heavily treed
22 between the three or four properties.

1 I think it's pretty private and pretty secluded,
2 so I don't really see it as being a problem for anyone.

3 And lastly, they're turning that big structure
4 into a single-family. So to have some occasional visiting
5 elderly relatives or anyone else, this is still going to be
6 at most two families or two occupants on the whole property.

7 BRENDAN SULLIVAN: Great. Thank you.

8 MARTIN BENOIT: The last little point I would
9 throw out and be done is not only do they have one car, but
10 they bicycle everywhere. So I think it is pretty believable
11 that that car will sit in that driveway, and that if
12 anything we will see them using bikes, which seems to be the
13 direction the City's trying to go. Thank you.

14 OLIVIA RATAY: Jennifer Nashel?

15 JENNIFER NASHEL: Hello. I'm Jennifer Nashel. I
16 am at 200 Fayerweather Street. I'm a direct abutter on the
17 other side. And just also chiming in to express my husband
18 and my strong support for this project.

19 As many people have echoed, the Dannenbaums have
20 shown incredible perseverance, I think, despite meeting
21 several obstacles over the course of planning their house
22 remodel, and we've been particularly taken with their

1 civility in dealing with those obstacles.

2 The design that they've settled on has taken into
3 account neighbors' concerns, as others have mentioned. And
4 I believe that ultimately, they've settled on a design that
5 will complement and elevate the landscape on our block.

6 We've been living next to this vacant house for
7 years at this point. And even before it was vacant, it was
8 in very poor repair for the 10 years that we have been
9 living in this house.

10 I think that as a neighborhood, we need to be able
11 to look beyond any short-term inconvenience that we'll
12 experience during this project, and to see that any small
13 sacrifice will be well worth it in order to live next to a
14 family who is interested in our community and strengthening
15 the fabric of our neighborhood.

16 We give our very full support to this building
17 project, and hope that this will at last be approved without
18 any further delay, and allow this loving family to finally
19 feel fully welcomed onto this street.

20 BRENDAN SULLIVAN: Great. Thank you. That is the
21 end of the public comment part of the program. There is in
22 the file some 15 letters of support, a letter -- some of the

1 people have also called in.

2 There is also a letter of support from Alanna
3 Mallon, Vice Mayor of the City. I don't need to read all of
4 this, where it's lengthy. And I will close the public
5 comment part.

6 The Siri and James McNulty raised an issue as to
7 the whys on the FAR and some of the other issues and some of
8 the dimensional variants.

9 In response, that this is an application for a
10 special permit, and under 8.222d, the Bellalta decision
11 reports have found -- it's really a recent decision -- that
12 for one- and two-family homes, that the Board is allowed a
13 great deal of latitude and discretion in approving projects,
14 and that one- in two-family homes should be considered sort
15 of a special category and warrant such latitude and
16 discretion by the Board of Zoning Appeal in granting relief
17 from the Ordinance.

18 And I'll leave it at that. Mr. Rafferty, any
19 comments?

20 JAMES RAFFERTY: No, thank you, Mr. Chairman. I
21 know we've gone long. I just want to point out that as set
22 forth in the application, I think the Criteria under 4.221

1 for the accessory apartment have been met, notably that the
2 structure was in existence before 2019.

3 It's greater than 1800 square feet, and the
4 apartment is less than 900 square feet, and there's not more
5 than one accessory apartment on the lot. All the criteria
6 are present in the application.

7 Similarly, as noted in the testimony, the public
8 record, the changes in the site plans and the support that
9 the project enjoys.

10 BRENDAN SULLIVAN: I would say that the Board
11 should have the ability to conclude that these alterations
12 will not be substantially more detrimental than the existing
13 nonconforming structure to the neighborhood.

14 Neighborhood support is widespread and consistent
15 with the manner in which this house has been designed, and
16 the sensitivity that's been expressed to the neighbors and
17 their concerns. So with that, we would urge the Board to
18 grant the requests.

19 BRENDAN SULLIVAN: Let me open it to Board
20 comment. Jim Monteverde, any additional comments?

21 JIM MONTEVERDE: No comments, thank you.

22 BRENDAN SULLIVAN: Wendy Leiserson, any additional

1 comments before we take it to a vote?

2 WENDY LEISERSON: The only comment I would have
3 would be to say that despite the impact on the FAR, that
4 this design frankly in my mind improves some of the
5 nonconformities with regard to the setbacks, and certainly
6 the open space.

7 So -- and the height is not a nonconformity. So I
8 think that despite the impact on the FAR, I don't have any
9 concerns regarding the design of this building in that
10 regard.

11 And the Board could consider a condition with
12 regard to renting the accessory structure, if that were a
13 concern that the Board shared. Thank you.

14 BRENDAN SULLIVAN: Thank you. Matina Williams,
15 any comments, concerns, questions?

16 MATINA WILLIAMS: None at this time.

17 BRENDAN SULLIVAN: Jason Marshall, any further
18 comments before I take it to a vote?

19 JASON MARSHALL: Yeah, thanks, Mr. Chair. I find
20 the applicants' outreach to neighbors to be extraordinary.
21 I think your responsiveness is extraordinary, and I think
22 it's all the more extraordinary, given that this is a

1 special permit request and not a variance request.

2 And I'll echo the Chair's comments to some extent
3 on the special permit standard. And state law directs us to
4 apply that standard to existing single- and two-family
5 households that are nonconforming. And that's what we're
6 doing here.

7 And I agree with the Chair, I find that the
8 incremental increase in FAR does not create substantially
9 more -- it's not substantially more detrimental to the
10 neighborhood.

11 With regard to the accessory unit, I think the
12 neighbor that spoke in opposition raises a very reasonable
13 policy question. I believe that policy question to have
14 been settled and discussed at the City Council level.

15 And the ordinance allows for this conversion.
16 Certainly, that policy discussion can take place again. But
17 the forum isn't here, it would be at the City Council. So I
18 am comfortable, Mr. Chair, in supporting the special permit
19 applications. Thank you.

20 BRENDAN SULLIVAN: Without condition, Wendy had
21 raised an issue of adding the future rental of it. I guess
22 I just my thought, and you just touched on it, is that the

1 City Council when they brought in the accessory apartment
2 ordinance provision, I think assumed that it was probably
3 going to be for rental.

4 How a landowner uses the accessory unit and the
5 comings and goings of people, the intensity, or the lack of
6 intensity I think changes, whether the person is, you know,
7 paying for or not paying for it.

8 Short-term rentals they would have to register --
9 and I was wondering if any members of the Board have any
10 strong feelings whether that condition should be imposed or
11 not.

12 JAMES RAFFERTY: Mr. Chair, I could offer that I
13 discussed this possibility with the Dannenbaums, and
14 explained that in a prior case on occasion the Board has
15 placed a provision against short-term rentals, or the need
16 to comply with the city's short-term rental policies would
17 be a good condition.

18 It is absolutely acceptable, because there's no
19 likelihood or desire to turn this into an Airbnb with people
20 coming and going under the short-term rental policies that
21 are permitted.

22 BRENDAN SULLIVAN: Okay, Wendy?

1 WENDY LEISERSON: Yes. I'm sorry, to clarify I
2 meant with regard to the short-term rentals. I don't have a
3 problem with the other option.

4 BRENDAN SULLIVAN: All right. Let me make a
5 motion, then, to grant the relief requested, as per the
6 application, the supporting documents, and the drawings
7 contained therein.

8 The request for the special permit under Section
9 5.314 for -- and the related subsections for Accessory
10 Apartment, 8.22d and criteria of 10.40 Special Permit, the
11 Board finds that a special permit will normally be granted
12 where provisions of this Ordinance are met.

13 The Board finds that the requirements of the
14 Ordinance cannot be met without the granting of the special
15 permit.

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

20 The Board finds that continued operations of or
21 development of adjacent uses, as permitted in the Zoning
22 Ordinance, would not be adversely affected by the nature of

1 the proposed use.

2 The Board finds that there would not be any
3 nuisance or hazard created to the detriment of the health,
4 safety and/or welfare of the occupant of the proposed use,
5 and as a matter of fact the Board finds that the proposed
6 design renovation of the house improvement with up-to-date
7 systems will be a huge increase to the health, safety, and
8 welfare of any occupant of the proposed use.

9 And that the proposed use would not impair the
10 integrity of the district or adjoining district, or
11 otherwise derogate from the intent and purpose of the
12 Ordinance to provide housing for peoples of all income
13 levels, and also families.

14 In furtherance, the Board finds that under 8.222d,
15 in all districts, the Board may grant a special permit for
16 the alteration or enlargement of a preexisting dimensionally
17 nonconforming, detached single-family or two-family dwelling
18 not otherwise permitted in Section 8.22.1 above, but not the
19 alteration or enlargement of a preexisting, nonconforming
20 use..

21 Provided that there is no change in use, and that
22 any enlargement or addition of such preexisting,

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

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

12 The Board grants the special permit on the
13 condition, in agreement by the applicant, that there be no
14 short-term rentals on the structure as per the Short-term
15 Rental Ordinance in the city, and that they no intentions of
16 enjoying such protection from that ordinance.

17 On the motion to grant a special permit, Jim
18 Monteverde?

19 JIM MONTEVERDE: In favor.

20 BRENDAN SULLIVAN: Wendy Leiserson?

21 WENDY LEISERSON: In favor.

22 BRENDAN SULLIVAN: Jason Marshall?

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JASON MARSHALL: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: Yes, in favor.

BRENDAN SULLIVAN: Brendan Sullivan yes, in favor.

[All vote YES]

Five affirmative votes. The special permit is granted. Good luck.

JAMES RAFFERTY: Thank you very much. Good evening.

1 * * * * *

2 (7:40 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: Why don't we start the regular
7 agenda? The Board will hear Case Number No. 171153 -- One
8 Brattle Square. Mr. Braillard?

9 ADAM BRAILLARD: Thank you, Mr. Chairman, and
10 members of the Board. For the record, Adam Braillard, an
11 Attorney with Prince Lobel Tye for the applicant, T-Mobile
12 Northeast LLC.

13 We're here in connection with a special permit,
14 seeking a special permit from the Board of Zoning Appeal to
15 modify an existing wireless communications facility located
16 on the rooftop of the building located at One Brattle
17 Square.

18 One Brattle Square is located within the Business
19 B Zoning District. It's also within the Harvard Square
20 Overlay.

21 We did receive a certificate of Certificate of
22 Non-Applicability from the Historic Commission after we

1 filed, and what we're proposing to do is replace six panel
2 antennas with -- sorry, six panel antennas and one microwave
3 dish antenna with nine new, lifetime panel antennas, and
4 also install eight remote radio units.

5 All of the new antennas will be painted to match
6 the existing façade of the penthouse of the building,
7 consistent to what's there now.

8 And we believe that the proposal falls within
9 Section 6409 of the Middle Class Tax Relief and Jobs
10 Creation Act of 2012, because we're not proposing to
11 substantially change the physical dimensions of the existing
12 site.

13 Also, we believe that the proposal complies with
14 the requirements set forth in the City's code Section
15 4.32g1, footnote 49.

16 The proposal, or the existing facility and the
17 proposal of the building are not located within a
18 residential zoning district, and we believe the proposal is
19 not inconsistent with the character, and that does prevail
20 with the surrounding neighborhood.

21 BRENDAN SULLIVAN: All right. You're aware of the
22 Planning Board comments?

1 ADAM BRAILLARD: We are, yes.

2 BRENDAN SULLIVAN: Okay. For the edification of
3 the Board and anybody who may be listening in, the Board is
4 in receipt of correspondence from May 18 from the Planning
5 Board.

6 The Planning Board reviewed the BZA application to
7 modify the existing wireless communication facility during a
8 meeting on May 17. The Board has no significant concerns
9 with the proposed modifications, and decided to forward the
10 attached memo from the Community Development Department to
11 the BZA.

12 The Community Development Department dated May 13;
13 the proposal involves modification of the existing T-Mobile
14 antenna installation on the mechanical penthouse at One
15 Brattle Square.

16 Six panel antennas and one microwave dish antenna
17 currently installed on the penthouse façade will be replaced
18 with nine new antennas and additional remote radio units.
19 All antenna and supporting equipment will be painted to
20 match the penthouse.

21 While the site is quite visible within the Harvard
22 Square Conservation District and additional antennas are

1 proposed, staff have minimal concerns with the proposal.

2 The antennas are located on the penthouse façade, which is
3 appropriate, and the stepback building massing tends to lend
4 itself to accommodating rooftop appurtenances.

5 The view from Brattle Square will also be improved
6 as the antenna are being removed from the southeast
7 elevation.

8 If some improvements were to be made,
9 consideration could be given to utilize the antenna cover
10 sheets so that the new antennas all have similar dimensions,
11 and a more symmetrical layout can be achieved, slightly
12 moving the antennas down the penthouse façade to avoid the
13 horizontal joint line, only if cables can be fully concealed
14 and not hung over the parapet, utilizing the smallest
15 mounting brackets available, so that the antennas can be
16 mounted as close to the surface of the building as possible.

17 Adam, any comments on their --

18 ADAM BRAILLARD: We did talk about these a little
19 bit. Certainly, the applicant is more than willing to
20 review those, and if feasible comply.

21 One of the concerns we do have when we've talked about it in
22 front of this Board before is the thought of sheathing some

1 of the smaller antennas so that they look like -- to make
2 them larger, to be consistent with the other antennas.

3 And the concerns that the engineers have had there
4 are how that sheathing would be safely secured to the
5 antennas, because you can't necessarily install that
6 sheathing right on the antennas, they would have to be
7 mounted somehow to the building, and then wrap around the
8 antenna. And then at some point, you are making the antenna
9 look much, much bigger than it needs to.

10 So that was the only issue that we had with -- not
11 an issue, but concern, but we did say that we would further
12 evaluate it.

13 BRENDAN SULLIVAN: Yeah. I think this issue has
14 come up before, and I think that it has been determined that
15 it's not an easy, snap-on, snap-off type of application and
16 that can interfere, actually, with the performance of some
17 of the antenna and so that's -- well --

18 ADAM BRAILLARD: Yeah.

19 BRENDAN SULLIVAN: -- let me throw this out and
20 that you will address the concerns to the best of the
21 ability to, and that as long as it does not impact the
22 functionality of the equipment.

1 The Board is also in receipt of correspondence
2 from the Cambridge Historic Commission regarding the
3 certificate of non-applicability.

4 "The Cambridge Historical Commission hereby
5 certifies that the work described below does not involve any
6 activity requiring issuance of a building certificate of
7 appropriateness or hardship to modify the existing wireless
8 telecom facility by replacing panel antennas, adding remote
9 heads and upgrading equipment within the existing rooftop
10 shelter."

11 And that is the sum and substance of
12 correspondence from the staff. Let me open it. Any
13 comments from members of the Board? Jim?

14 JIM MONTEVERDE: No comments, thank you.

15 BRENDAN SULLIVAN: Wendy?

16 WENDY LEISERSON: No comments.

17 BRENDAN SULLIVAN: Jason?

18 JASON MARSHALL: No comments, thank you.

19 BRENDAN SULLIVAN: Matina?

20 MATINA WILLIAMS: No comments.

21 BRENDAN SULLIVAN: And I have no comments. Let me
22 open it to public comment. Any members of the public who

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

4 If you are calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6, and
6 we ask that you take no more than three minutes to comment.

7 There's nobody calling in. I will close the
8 public comment portion of the hearing. Anything else to
9 add, Adam, regarding this application?

10 ADAM BRAILLARD: Mr. Chairman, no. Thank you very
11 much.

12 BRENDAN SULLIVAN: Are we ready for a motion?

13 JIM MONTEVERDE: Ready, ready.

14 BRENDAN SULLIVAN: The Board of Zoning Appeals
15 shall consider the scope or limitations imposed by any
16 license secured from any state or federal agency having
17 jurisdiction over such matters from the applicant.

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

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

10 The applicant's design minimizes the visual impact
11 of the building as panel antennas associated with the
12 proposed facilities will be installed in the façade of the
13 penthouse of the building and painted to match the color of
14 the façade.

15 The proposed replacement antennas will be painted
16 to match the color of the existing building, therefore
17 minimizing any visual impacts.

18 The proposed facility is not being erected in any
19 residential zone, so that is not applicable.

20 Further, the Board has to find that the
21 application conforms to Section 10.43 of the Ordinance for
22 granting of a special permit. The Board finds that the

1 requirements of the Ordinance cannot be met until the
2 granting of the special permit.

3 The Board finds that traffic generated or patterns
4 of access or egress would not cause congestion, hazard, or
5 substantial change in the established neighborhood
6 character.

7 The Board finds that there's already existing
8 telecommunication facilities on the roof, and that there is
9 not to be any hazard created or substantial change in the
10 established neighborhood character.

11 The Board finds that continued operation of or
12 development of adjacent uses, as permitted in the Zoning
13 Ordinance, would not be adversely affected by the nature of
14 the proposed use, in fact it would be enhanced by the
15 upgrade of equipment.

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 finds that there is existing
21 telecommunication facilities up there now, and there has
22 been no evidence of any nuisance or hazard created by that,

1 and that any upgrade shall also appear not to create any
2 nuisance or hazard. And that issue, obviously, will be
3 addressed in further comments.

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

9 In furtherance, the Board finds that based upon
10 the information presented to the Board, that we grant the
11 requested relief as described in the petitioner's submittal
12 material, signed, and initialed by the Chair, and the
13 evidence before the Board of the following conditions:

14 That the work proceed in accordance with the plans
15 submitted by the petitioner, and initialed by the Chair.

16 That upon the completion of the work, the physical
17 appearance and visual impact of the proposed work be
18 consistent with the photo simulations submitted by the
19 petitioner and initialed by the Chair.

20 That the petitioner at all times maintain the
21 proposed work so that its visual appearance and visual
22 impact remain consistent with the photo simulations

1 previously referred to.

2 That should the petitioner cease to utilize the
3 equipment approved tonight for the continuous period of six
4 months or more, it promptly thereafter remove such equipment
5 and restore the building on which it is located to its prior
6 condition and appearance, to the extent reasonably
7 practical.

8 That the petitioner continue to comply with the
9 conditions imposed by the Board with respect to previous
10 special permits granted to the petitioner with regard to the
11 site in question.

12 Further, that in as much as the health effects of
13 the transmission of electromagnetic energy waves is a matter
14 of ongoing societal concern and scientific study, the
15 special permit is also subject to the following conditions:

16 That the petitioner shall file with the
17 Inspectional Services Department each report it files with
18 the federal authorities regarding electromagnetic energy
19 waves emissions emitting from the petitioner's equipment on
20 the site.

21 Each such report shall be filed with the
22 Inspectional Services Department no later than 10 business

1 days after the report has been filed with the federal
2 authorities.

3 Failure to timely file any such report with the
4 Inspectional Services Department shall ipso facto terminate
5 the special permit granted tonight.

6 That in the event that at any time the federal
7 authorities notify the petitioner that its equipment on the
8 site, including but not limited to the special permit
9 granted tonight, fails to comply with the requirements of
10 law or governmental regulations -- whether with regard to
11 the emissions of electromagnetic energy waves or otherwise -
12 - the petitioner, within 10 business days of receipt of such
13 notification of such failure, shall file with the
14 Inspectional Services Department a report disclosing in
15 reasonable detail that such failure has occurred, and the
16 basis for such claimed failure.

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

20 That in the event that a special permit has
21 terminated, pursuant to the foregoing paragraphs a) and b),
22 the petitioner may apply to this Board for a special permit,

1 provided that the public notice containing such application
2 discloses in reasonable detail that the application has been
3 filed because of a termination of the special permit,
4 pursuant to paragraphs a) or b) above.

5 Any such new application shall not be deemed a
6 repetitive petition, and therefore will not be subject to
7 the two-year period during which repetitive petitions may
8 not be filed.

9 That within 10 business days after receipt of a
10 building permit for installation of the equipment subject to
11 this petition, the petitioner shall file with the
12 Inspectional Services Department a sworn affidavit of the
13 person in charge of the installation of equipment by the
14 petitioner of the geographical area that includes Cambridge
15 stating that:

16 a) he or she has such responsibility, and

17 b) that the equipment being installed pursuant to
18 the special permit will comply with all federal safety
19 rules, and will be situated and maintained in locations with
20 appropriate barricades and other protections, such that
21 individuals, including nearby residents and occupants of
22 nearby structures, will be sufficiently protected from

1 excessive radiofrequency radiation under federal law.

2 On the motion to grant the special permit as per
3 the application, Jim Monteverde?

4 JIM MONTEVERDE: In favor.

5 BRENDAN SULLIVAN: Wendy Leiserson?

6 WENDY LEISERSON: In favor.

7 BRENDAN SULLIVAN: Matina Williams?

8 MATINA WILLIAMS: In favor.

9 BRENDAN SULLIVAN: Jason Marshall?

10 JASON MARSHALL: In favor.

11 BRENDAN SULLIVAN: In favor.

12 [All vote YES]

13 BRENDAN SULLIVAN: With the five affirmative
14 votes, the special permit is granted.

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2 (7:56 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: Okay. Onto the next one.

7 After we get through with the telecom, I feel like not
8 talking for the rest of the night. Comes with the
9 territory. Mr. Braillard -- oh, let me open up the matter.

10 The Board will now hear Case No. 171694 -- 179
11 Sidney Street.

12 ADAM BRAILLARD: Thank you, Mr. Chairman, and
13 members of the Board. For the record, Adam Braillard,
14 attorney with Prince Lobel Tye for the applicant, T-Mobile
15 Northeast LLC.

16 We're here in connection with a special permit
17 before the Board to -- similar to the other site to modify
18 an existing wireless communications facility located on the
19 rooftop of the building at 179 Sidney Street, also known as
20 80 Erie Street.

21 The building is located within the Special
22 District 10 Zoning District. The proposal is to remove six

1 panel antennas and nine TMAS, or what they call, Tower
2 Mounted Antennas, (sic)" which are the small kind of like
3 the RRUs, and replace those with six new, like-kind panel
4 antennas and six new radio units.

5 The applicant also proposes to add one fake --
6 faux -- vent pipe on the rooftop of the building to
7 accommodate the new -- one of the new antennas on the old
8 receptor.

9 The applicant believes that this proposal,
10 consistent with the large one, falls under the -- under
11 Section 6409 of the Middle Class Tax Relief and Job Creation
12 Act of 2012 because the proposal -- the proposed changes do
13 not substantially change the physical dimensions of the
14 existing base station or site.

15 And also, the proposal complies with Section
16 4.32g, on footnote 49, and Section 1043 of the City's code.

17 The site is -- like I said, is located in the
18 Special District 10, not within a residential district, and
19 we believe that the site is not inconsistent with the
20 character that does prevail in the surrounding neighborhood.

21 BRENDAN SULLIVAN: All right. You're aware of the
22 Planning Board correspondence dated May 18?

1 ADAM BRAILLARD: Yes.

2 BRENDAN SULLIVAN: Let me read it for the record.

3 "The Planning Board reviewed this BZA application
4 to modify the wireless communication facility during a
5 meeting on May 17, and decided to forward the following
6 comments to the BZA.

7 "The Board decided to forward the BZA via attached
8 memo from the Community Development Department to consider
9 the suggestions noted in the memo to reduce the visual
10 impacts of the installation.

11 "The communique from Community Development
12 proposal involves modifications of the existing T-Mobile
13 antenna installation on the rooftop of 179 Sidney Street.
14 Six panel antenna and nine Tower Mounted Amplifiers will be
15 replaced with six new antenna and six new remote radio
16 units.

17 "The antenna will either be installed on the
18 penthouse façade or concealed within faux vent pipes on the
19 rooftop. While this is an existing installation, there is
20 already an array of antenna and faux vent pipes installed in
21 this building, all with varying sizes, shapes, and finishes.

22 "Overall, the rooftop installation is highly

1 visible, and due to the variety of structures and antenna
2 has a visually obtrusive appearance.

3 "The proposed replacement antenna closest to Erie
4 Street will be installed within two setback faux vent pipes,
5 which does have a clean and less obtrusive appearance when
6 compared to the other carriers' antennas.

7 "The façade mounted replacement antenna on the
8 stair head house and penthouse façades appear to be getting
9 wider and deeper though, which draws further attention to
10 the installation.

11 "To gain a better understanding of the changes,
12 the staff has also requested that all building elevations be
13 provided. The following are specific suggestions to help
14 reduce the visual impacts of the installation.

15 "Overall, a holistic review of all carriers'
16 antennas should be undertaken to determine if there are
17 alternative approaches to multiple end pipes and antennas
18 being installed.

19 "This could include consideration of expanding the
20 stair head house to accommodate a larger stealth enclosure
21 for all antennas and equipment.

22 "For the façade mounted panels, the smallest

1 mounting brackets available should be utilized, so that the
2 antennas can be mounted as close to the façade as possible."

3 That's probably possible, is it not, Adam?

4 ADAM BRAILLARD: Yes, that is. And that's --

5 BRENDAN SULLIVAN: "Reduce the length of the
6 unused pipe mount section and remove all unused mounting
7 brackets where possible --

8 ADAM BRAILLARD: Yep.

9 BRENDAN SULLIVAN: -- if that applies to you,
10 right?

11 ADAM BRAILLARD: That's correct, yes.

12 "All exposed cables should be concealed. If this
13 is not feasible, ensure all exposed cables and wires are
14 tightly fixed to the façade and the antennas." That's
15 doable?

16 ADAM BRAILLARD: That is agreeable and doable,
17 yes.

18 BRENDAN SULLIVAN: "All painted materials,
19 including cabling, should have a consistent matte finish."
20 that's doable?

21 ADAM BRAILLARD: Correct. That's doable.

22 BRENDAN SULLIVAN: So it appears that except for

1 the other one, which is a total review of the -- what's
2 going on up there, and that involves other carriers, their
3 suggestions 2, 3, 4 and 5 are all doable and part of a
4 condition of granting of the special permit, to the extent
5 possible.

6 ADAM BRAILLARD: That's correct.

7 BRENDAN SULLIVAN: Yes? Okay. Any questions by
8 members of the Board? Jim Monteverde?

9 JIM MONTEVERDE: No questions, thank you.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 WENDY LEISERSON: No questions.

12 BRENDAN SULLIVAN: Jason Marshall?

13 JASON MARSHALL: No questions.

14 BRENDAN SULLIVAN: And Matina Williams, any
15 questions on this?

16 MATINA WILLIAMS: No questions.

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

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

1 we'll allow up to three minutes to comment.

2 DONALD GROSSMAN: Donald Grossman?

3 BRENDAN SULLIVAN: Yes.

4 OLIVIA RATAY: He's not on.

5 BRENDAN SULLIVAN: There appears to be nobody
6 calling in, and there was no other further correspondence
7 from any agency. The Board ready for a motion?

8 JIM MONTEVERDE: Ready.

9 BRENDAN SULLIVAN: Let me make a motion, then, to
10 grant the special permit with the following consideration:

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

14 Enclosed in the application is the applicant's FCC
15 license. The application meets all -- the meets all
16 requirements imposed by governmental authorities having
17 jurisdiction over the proposed facility, included --
18 including by the FCC to provide wireless communications
19 equipment in this market.

20 The Board finds -- shall consider the extent to
21 which the visual impact of the various elements of the
22 proposed facility is minimized through the use of existing

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

7 And the Board acknowledges and the applicant has
8 acknowledged compliance as best as possible with Community
9 Development Recommendations noted 2,3,4 and 5 to reduce the
10 visual impact.

11 This is not in a residential district, it's
12 important to note Special District 10 so that footnote
13 regarding residential districts does not apply.

14 Also, that the applicant must comply with Section
15 10.43. The Board has to find that it meets that criteria
16 for granting of the special permits. It appears that the
17 requirements of the Ordinance cannot be met until the Board
18 grants a special permit.

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

1 The Board finds that there is existing
2 installations of telecommunication facilities on the roof
3 area, and that there has not been any traffic generated or
4 patterns of access or egress which would not cause
5 congestion, hazard, or substantial change in the established
6 neighborhood character.

7 The Board finds that continued operation of or
8 development of adjacent uses, as permitted in the Zoning
9 Ordinance, would not be adversely affected by the nature of
10 the proposed use, in fact it would be enhanced by the
11 upgrade of the telecommunication equipment.

12 The Board finds that there is not any nuisance or
13 hazard created to the detriment of the health, safety and/or
14 welfare of the occupants of the proposed use, or to the
15 citizens of the City.

16 And the Board finds that there is existing
17 telecommunication facilities, and it appears that there has
18 not been any nuisance or hazard created by that facility,
19 and it's confident that there will not be any by the
20 addition of the new equipment.

21 The Board finds that the proposed installation
22 would not impair the integrity of the district or adjoining

1 district, or otherwise derogate from the intent and purpose
2 of the ordinance to provide updated telecommunication
3 facilities to the general public.

4 In furtherance, the Board finds that based upon
5 the information presented, the Board grants the requested
6 relief as described in the as described in the petitioner's
7 submitted materials and the evidence before the Board on the
8 following conditions:

9 That the work proceed in accordance with the plans
10 submitted by the petitioner, as initialed by the Chair.

11 That upon completion of the work, the physical
12 appearance and visual impact of the proposed work be
13 consistent with the photo simulations submitted by the
14 petitioner, and initialed by the Chair.

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

19 And should the petitioner cease to utilize the
20 equipment approved tonight for a continuous period of six
21 months or more, it promptly thereafter remove such equipment
22 and restore the building on which it is located to its prior

1 condition and appearance, to an extent reasonably
2 practicable.

3 That the petitioner continue to comply with the
4 conditions imposed by the Board with respect to the previous
5 special permits granted to the petitioner, with regard to
6 the site in question.

7 And in as much as the health effects of the
8 transmissions of electromagnetic energy waves is a matter of
9 ongoing societal concern and scientific study, the special
10 permit is also subject to the following conditions:

11 That the petitioner shall file with the
12 Inspectional Services Department each report it files with
13 the federal authorities regarding electromagnetic energy
14 waves emissions emitting from all of the petitioner's
15 equipment on the site.

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

19 Failure to timely file any such report with the
20 Inspectional Services Department shall ipso facto terminate
21 the Special Permit granted tonight.

22 That in the event that at any time federal

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

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

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

21 Any such new application shall not be deemed a
22 repetitive petition, and therefore will not be subject to

1 the two-year period during which repetitive condition --
2 petitions may not be filed.

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

10 a) he or she has such responsibility, and

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

18 On the motion to grant the special permit as per
19 the application and the supporting material, Jim Monteverde?

20 JIM MONTEVERDE: In favor.

21 BRENDAN SULLIVAN: Wendy Leiserson?

22 WENDY LEISERSON: In favor.

1 BRENDAN SULLIVAN: Matina Williams?

2 MATINA WILLIAMS: In favor.

3 BRENDAN SULLIVAN: Jason Marshall?

4 JASON MARSHALL: In favor.

5 BRENDAN SULLIVAN: In favor.

6 [All vote YES]

7 BRENDAN SULLIVAN: Five affirmative votes, the
8 special permit as per the application is granted. Thank
9 you, Adam.

10 ADAM BRAILLARD: Thank you, members of the Board
11 and Mr. Chair.

12 JASON MARSHALL: Brendan, we've got to -- we have
13 to figure out a way for you to incorporate that language by
14 reference in the future.

15 BRENDAN SULLIVAN: Yeah.

16 JASON MARSHALL: It's quite a bit.

17 BRENDAN SULLIVAN: Yeah, I tried, and I think it
18 came down that they would like it to be said out loud. I
19 know it, it's -- I get wordy.

20 JASON MARSHALL: Well, thank you for doing it.

21 BRENDAN SULLIVAN: I get tongue tied. All right.
22 Moving along.

1 * * * * *

2 (8:12 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 165280 -- 131 Sherman Street.

8 OLIVIA RATAY: They're not on yet.

9 BRENDAN SULLIVAN: Fernando? Mr. Dalfior?

10 ERIC ZACHRISON: Sorry, I'm Eric Zachrison
11 (phonetic), I'm the architect for the project. I believe
12 Fernando is on, but I can commence the presentation if you
13 like.

14 BRENDAN SULLIVAN: All right. I'm sorry, say
15 who's speaking?

16 ERIC ZACHRISON: My name is Eric Zachrison, 9
17 Sackville Street in Charlestown. I am the architect for the
18 project. I can flip it.

19 BRENDAN SULLIVAN: All right. Who's presenting
20 the case?

21 ERIC ZACHRISON: I am.

22 BRENDAN SULLIVAN: Okay. All right. Go ahead,

1 then.

2 FERNANDO DALFIOR: Fernando Dalfior is here now
3 too.

4 ERIC ZACHRISON: Am I able to share my screen, or
5 will you present the drawings?

6 BRENDAN SULLIVAN: Yep. Okay.

7 ERIC ZACHRISON: So the proposed project is to
8 replace the existing restaurant at 131 Sherman Street with -
9 - or renovate the existing building within its existing
10 envelope, and renovate it into a single-family home.

11 The project, the zoning is Residential B, and so
12 would comply in many ways, except for the fact that by
13 changing the use of this from a restaurant into a
14 residential, a number of items get revised. And so we have
15 some kind of side yard conditions.

16 We have a few -- and so we were told that we need
17 to get a variance in order to change the use from commercial
18 space on three levels into a residential space -- into a
19 single-family home.

20 So what you see here is the proposed basement
21 plan. It is currently a kitchen and storage. We would
22 convert that into a family room and a game room.

1 On the right, we would convert the kitchen and
2 dining area into a garage, living room, dining and then the
3 upper floors from office space and a privacy dining area
4 into bedrooms.

5 Here on the second floor, there's a large flat
6 roof area and an office space that would become a primary
7 bedroom, with en-suite bathroom and a secondary bedroom with
8 secondary bathroom in the very top floor, which is currently
9 accessed only externally, would have a new internal stair
10 that would get you to the second floor, or get you to the
11 third floor and just have a small bedroom up there.

12 BRENDAN SULLIVAN: On the site now, the -- does
13 not have access to any parking, is that correct?

14 ERIC ZACHRISON: That is correct.

15 BRENDAN SULLIVAN: All right. And so, but you are
16 creating parking -- off-street parking space?

17 ERIC ZACHRISON: That is correct. You are
18 correct. We're creating a garage space.

19 BRENDAN SULLIVAN: Correct. Okay.

20 FERNANDO DALFIOR: Yep. Excuse me, the garage
21 exists already. We're going to, you know, remodel it. I
22 believe they've been -- they were using it as a storage in

1 the past.

2 BRENDAN SULLIVAN: Okay.

3 FERNANDO DALFIOR: And there is the curb cut there
4 already.

5 BRENDAN SULLIVAN: So you're just basically
6 repurposing the existing space?

7 FERNANDO DALFIOR: Yes. I think it used to be --
8 back in the day it used to be a single-family residence, and
9 then that was converted into a commercial on the first
10 floor. And now we're just trying to convert it back to
11 Residential B --

12 BRENDAN SULLIVAN: Is this for --

13 FERNANDO DALFIOR: -- as a single bed.

14 BRENDAN SULLIVAN: Is this Fernando speaking?

15 FERNANDO DALFIOR: Yes.

16 BRENDAN SULLIVAN: Yeah, all right. If you could
17 just introduce yourself for the record, give your address.

18 FERNANDO DALFIOR: Yeah, Fernando Dalfior, the
19 owner of 131 Sherman.

20 BRENDAN SULLIVAN: Great. Thank you, Fernando.
21 All right, is there anything else to add?

22 ERIC ZACHRISON: It's a, you know, pretty

1 straightforward project, single-family, we're not increasing
2 the footprint, nor the building height.

3 Trying to do a little bit of green space on that
4 existing deck. We're going to decrease the size a little
5 bit. You know, that's pretty much the only outdoor space
6 that we have there now.

7 Removing the exterior stairs, and put one of the
8 stairs inside the building, and adding -- leaving living
9 space, like expanding the living space into the basement as
10 well.

11 BRENDAN SULLIVAN: Okay. Did you have any
12 outreach to the neighbors at all, or --

13 FERNANDO DALFIOR: No.

14 BRENDAN SULLIVAN: There is no --

15 FERNANDO DALFIOR: No, I have not.

16 BRENDAN SULLIVAN: -- there is no correspondence
17 in the file.

18 ERIC ZACHRISON: No. We didn't.

19 BRENDAN SULLIVAN: Okay. Anything else to add at
20 this point? You don't have to, you'll have a chance once
21 again, we'll come back to you.

22 ERIC ZACHRISON: Yeah, I don't think --

1 BRENDAN SULLIVAN: Okay. Let me open it to the
2 Board for discussions. Jim Monteverde, questions, or
3 comments?

4 JIM MONTEVERDE: Yes, just one. I'm looking at
5 the Level 2 plan and the proposed roof deck at 400 plus
6 square feet. Could you describe what's the intended use for
7 that roof deck?

8 FERNANDO DALFIOR: Yes. The roof deck actually
9 exists as right now. You can see all along the Sherman
10 Street. The purpose of the deck is to create outdoor living
11 space, since, you know, we are right on the lot lines and
12 two, you know, we have two frontages on this -- on Sherman
13 and the side street.

14 JIM MONTEVERDE: Mm-hm.

15 FERNANDO DALFIOR: So basically, we just have a
16 tiny little stall on the back, and nowhere to have any
17 outdoor space besides expanding to that second-floor
18 decking.

19 JIM MONTEVERDE: Okay. So will that be furnished
20 in some way or left open? How will you use it?

21 FERNANDO DALFIOR: Open. The idea is to add some
22 green space, some planters and put some plants along the

1 railing. So that's -- that was the concept that we're going
2 to go with.

3 JIM MONTEVERDE: Okay. Thank you.

4 ERIC ZACHRISON: Thank you.

5 BRENDAN SULLIVAN: Wendy, any questions?

6 WENDY LEISERSON: No questions.

7 BRENDAN SULLIVAN: Jason, any questions at this
8 time?

9 JASON MARSHALL: No questions.

10 BRENDAN SULLIVAN: Matina, questions?

11 MATINA WILLIAMS: No questions.

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

16 If you are calling in by phone, you can raise your
17 hand by pressing *9 and unmute or mute by pressing *6, and
18 we ask that you take no more than three minutes to comment.

19 [Pause]

20 There appears to be nobody calling in. There is
21 no correspondence in the file. I will close the public
22 comment portion of the hearing. Is there anything else that

1 you wish to add at this time, Fernando? Or -- you don't
2 have to.

3 FERNANDO DALFIOR: No, no, no, not at this time,
4 unless you have any questions.

5 BRENDAN SULLIVAN: Okay. Any member of the Board
6 have any other questions, or are we ready for a motion for a
7 motion?

8 JIM MONTEVERDE: Ready.

9 JASON MARSHALL: Yeah, ready.

10 BRENDAN SULLIVAN: Okay. This is a variance. Let
11 me make a motion, then, to grant the variance as per the
12 application and the drawings contained therein. That the
13 work be consistent with the drawings that are submitted, the
14 supporting statement and also the dimensional form.

15 The Board finds granting the relief for Section
16 5.31, 5.26 conversion, and Section 8.22.3 nonconforming
17 structure.

18 And the criteria of Section 10.30 granting of the
19 variance, the Board finds that a literal enforcement of the
20 provisions of the Ordinance would involve a substantial
21 hardship to the petitioner.

22 The Board finds that the existing structure is a

1 restaurant, which was converted from a single-family home
2 many, many years ago, a neighborhood institution, and that
3 in order to reconvert it back into a residence and to comply
4 with the FAR open space and setback requirements, it would
5 be quite punitive to require the petitioner to remove
6 sections of the building in order to comply with those
7 sections of the Ordinance.

8 The Board finds that the hardship is owing to the
9 size of the lot, the shape and size of the existing, which
10 predates the existing ordinance, and as such is encumbered
11 by the Ordinance and the requirements thereof.

12 The Board finds that desirable relief may be
13 granted without substantial detriment to the public good.
14 The Board finds that the conversion of a restaurant back to
15 its original intent as a single-family resident would be an
16 attribute to the neighborhood, and be more consistent with
17 the character of the neighborhood.

18 That the desirable relief may be granted without
19 nullifying or substantially derogating from the intent and
20 purpose of this ordinance, to allow fair and reasonable use
21 of the property and the repurposing and conversion of an
22 existing commercial building back to a code-compliant use as

1 a residence.

2 The Board grants the variance on the condition
3 that -- again, as stated, that the work be consistent with
4 the drawings initialed by the Chair and supporting
5 statements.

6 On the grating of the variance, Jim Monteverde?

7 JIM MONTEVERDE: Jim Monteverde voting in favor.

8 BRENDAN SULLIVAN: Wendy Leiserson?

9 WENDY LEISERSON: Voting in favor.

10 BRENDAN SULLIVAN: Jason Marshall.

11 JASON MARSHALL: In favor.

12 BRENDAN SULLIVAN: Matina Williams?

13 MATINA WILLIAMS: In favor.

14 BRENDAN SULLIVAN: And Brendan Sullivan yes.

15 [All vote YES]

16 Five affirmative votes, the variance as per the
17 application is granted. Good luck.

18 FERNANDO DALFIOR: Thank you.

19 ERIC ZACHRISON: Thank you.

20 BRENDAN SULLIVAN: You're welcome.

21

22

1 * * * * *

2 (8:24 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 163850, 1075 Cambridge Street. Mr. Kelley or Mr.
8 Anderson? Mr. Stetson?

9 ROBERT STETSON: Good evening.

10 BRENDAN SULLIVAN: Representing?

11 ROBERT STETSON: Good evening. Robert Stetson,
12 I'm an attorney at Bernkopf Goodman. I represent Clover
13 Food Labs. With me this evening is Chris Anderson from
14 Clover, and I believe also Taylor Harper, who designed the
15 space.

16 Clover is seeking a special permit to extend its
17 current kitchen into the former BISq restaurant space at
18 1075 Cambridge Street. This is within --

19 BRENDAN SULLIVAN: Before we -- I don't want to
20 take your thunder, but I just want to raise a couple of
21 issues.

22 ROBERT STETSON: Sure.

1 BRENDAN SULLIVAN: Are you aware of the comments
2 by a couple of the neighbors?

3 ROBERT STETSON: We --

4 BRENDAN SULLIVAN: Mr. Anderson, are you aware of
5 the comments?

6 CHRISTOPHER ALPHEN: Yes.

7 ROBERT STETSON: We are aware of those comments,
8 yes.

9 BRENDAN SULLIVAN: I think they're significant,
10 and I was just wondering whether or not you're going to
11 address those, and whether -- has there been outreach to the
12 neighbors regarding some of their -- the issues that they
13 have raised?

14 ROBERT STETSON: We intend to address those issues
15 tonight in some fashion. However, we are happy to address
16 them further with the neighbors after tonight's meeting, if
17 there are any additional inquiries by the Board.

18 BRENDAN SULLIVAN: Okay.

19 ROBERT STETSON: But I do want -- we are aware of
20 them. We did learn of the comments this week, and Mr.
21 Anderson is prepared to address them during his brief
22 comments.

1 BRENDAN SULLIVAN: Okay. I guess the thought that
2 I have is that if we go through the hearing, it's going to
3 be a cash, and you're going to have to reassemble the same
4 five members of the Board.

5 The alternative would be to address these issues,
6 and then come back to the Board with something that's more
7 memorialized as far as a statement of understanding and
8 agreement as to how you're going to operate not only the
9 proposal, the proposed applicant space, but also the
10 existing.

11 And it seems to be the existing where it's sort of
12 -- you know, the rub is coming in, because, obviously,
13 there's a fear of the unknown with an expansion of existing
14 issues, let's put it that way.

15 And so just in the interest of getting this to a
16 resolution sooner, not knowing when we would continue this,
17 and whether or not we could assemble the five-member Board
18 could be an issue.

19 Let me just poll the members of the Board. Jim,
20 are you aware of the correspondence from the neighbors?

21 JIM MONTEVERDE: No.

22 BRENDAN SULLIVAN: Jim Monteverde?

1 JIM MONTEVERDE: I'm sorry. No, I'm not.

2 BRENDAN SULLIVAN: Okay. Wendy, are you aware of

3 --

4 WENDY LEISERSON: Yes.

5 BRENDAN SULLIVAN: Yes, okay.

6 WENDY LEISERSON: Yes, I'm aware of the
7 opposition.

8 BRENDAN SULLIVAN: I don't know how to put this,
9 but do you feel that they should be addressed outside of
10 this and then come back to us, or that we should hear the
11 hearing, and then hash those issues out, and then
12 potentially they may have to come back or not?

13 WENDY LEISERSON: I believe that the concerns
14 weren't satisfaction, and I -- unless the counsel for the
15 petitioner can represent that those concerns have been
16 satisfied, I would like to -- I think it probably behooves
17 both parties, or all parties, if they continue and come back
18 with some solid ground achieved, rather than --

19 BRENDAN SULLIVAN: Okay.

20 WENDY LEISERSON: -- risk a further delay.

21 BRENDAN SULLIVAN: Jason, are you aware of the
22 letters of opposition?

1 JASON MARSHALL: I -- yeah, I am aware. I think
2 they raise serious concerns. It's of course -- it's up to
3 the applicant as to whether you want to seek a continuance.
4 I think it probably would be more efficient to do so.

5 And to the Chair's point, you may be able to come
6 back sooner than later, if we had to reassemble the five
7 Board members here tonight. But, again, it's your choice.

8 BRENDAN SULLIVAN: Okay. Matina, are you aware of
9 the letters of opposition?

10 MATINA WILLIAMS: I'm aware of the letters of
11 opposition.

12 BRENDAN SULLIVAN: And your thought on either
13 going through with the hearing tonight or continuing and
14 letting basically a bottom line coming back to us?

15 MATINA WILLIAMS: I mean, it's best if they -- you
16 know, go back, address the issues, and be heard sooner than
17 not address the issues and the continuance.

18 BRENDAN SULLIVAN: Yep.

19 MATINA WILLIAMS: But again, it's their choice.

20 BRENDAN SULLIVAN: Okay. All right. So Mr.
21 Stetson, and I guess Mr. Anderson, what are your -- again,
22 we can --

1 ROBERT STETSON: Well, I think having heard from
2 the Board, we're going to take your queues, and we thank you
3 for your thoughtfulness on this, and we will move to
4 continue at the Board's convenience.

5 BRENDAN SULLIVAN: I think it better be sooner.

6 OLIVIA RATAY: June 30, that's two --

7 BRENDAN SULLIVAN: June 30 would be the earliest.
8 Mr. Anderson, does June 30 work for you?

9 CHRIS ANDERSON: And just to be clear, what would
10 be -- being heard now, what would be the -- not the
11 consequence, but what would delay things versus coming back
12 on June 30?

13 BRENDAN SULLIVAN: Well, that's a -- let me see.
14 Jim Monteverde, would you be available on the thirtieth?

15 JIM MONTEVERDE: Yes.

16 BRENDAN SULLIVAN: Wendy, would you be available
17 on the thirtieth of June?

18 WENDY LEISERSON: I'm checking my calendar.

19 BRENDAN SULLIVAN: I'm going to ask the same
20 question of Jason and Matina. If you can check your
21 calendars.

22 MATINA WILLIAMS: Let's see.

1 JASON MARSHALL: I'm available on the thirtieth.

2 BRENDAN SULLIVAN: Okay. Matina, are you
3 available on the thirtieth?

4 MATINA WILLIAMS: I want to say that I'm not
5 available. I have pending stuff. So.

6 BRENDAN SULLIVAN: Okay.

7 WENDY LEISERSON: I am available.

8 BRENDAN SULLIVAN: Okay. It does bump up against
9 the fourth of July sort of on weekend type thing. So that's
10 -- so one member would not be available?

11 Or you could be heard by a four-member Board, if
12 we were to continue then. You would need all four votes for
13 the -- whereas if you were heard by a five-member board,
14 then you could get four out of four. We need four out of
15 five votes.

16 CHRIS ANDERSON: What would be the other proposed
17 dates?

18 BRENDAN SULLIVAN: I'm sorry?

19 CHRIS ANDERSON: What would be the other proposed
20 dates to be heard?

21 BRENDAN SULLIVAN: After June 30 would be
22 fourteenth of July?

1 OLIVIA RATAY: Or the twenty-eighth.

2 BRENDAN SULLIVAN: The fourteenth of July or the
3 twenty-eighth. So Jim, on the fourteenth or twenty-eighth
4 of July?

5 JIM MONTEVERDE: I'm available for either.

6 BRENDAN SULLIVAN: Okay, Wendy, fourteenth or the
7 twenty-eights of July?

8 WENDY LEISERSON: I'm available on the fourteenth
9 -- not clear, but could be available on the twenty-eighth.

10 BRENDAN SULLIVAN: Okay. Jason, fourteenth and
11 twenty-eighth?

12 JASON MARSHALL: I'm available on the fourteenth.
13 I am not available on the twenty-eighth.

14 BRENDAN SULLIVAN: Matina on the fourteenth of
15 July?

16 MATINA WILLIAMS: It looks like I'm available for
17 both of them.

18 BRENDAN SULLIVAN: Okay. So if we were to
19 continue it, we could be heard on the thirtieth. If we
20 heard the case, and we needed to continue it, it would be
21 July 14? So it's your call.

22 CHRIS ANDERSON: So again, today we're coming back

1 on another date, and the thirtieth would be the soonest,
2 right?

3 BRENDAN SULLIVAN: That would be the soonest,
4 correct. And if we were to hear the case and continue it,
5 then it kicks it off until the fourteenth of July.

6 CHRIS ANDERSON: If you hear it tonight, right,
7 then it would postpone to the fourteenth?

8 BRENDAN SULLIVAN: Then the first available would
9 be the fourteenth.

10 CHRIS ANDERSON: Okay. I'd like to hear it
11 tonight, then.

12 BRENDAN SULLIVAN: Okay. All right. So then
13 we'll pencil you in tentatively for the fourteenth. Okay.
14 Took longer to discuss it than to hear the case. Okay, Mr.
15 Stetson, you're on.

16 ROBERT STETSON: Thank you very much. As you all
17 know, Clover is seeking a special permit to extend its
18 current kitchen into the former BISq Restaurant space at
19 1075 King Street. This is within the same building, and
20 it's adjacent to the Clover space.

21 I'd like to make just three points for the Board's
22 consideration with regard to Special Permit Case Number.

1 First, this is a space expansion only, not an operations
2 expansion. It's about 1500 square feet, but currently
3 Clover's kitchen is undersized for its current operation.
4 Basically, it operates a cooking operation and a baking
5 operation out of an undersized kitchen space.

6 But it can only be one or the other at any given
7 time. When Clover is cooking, it shuts down the baking, and
8 essentially stores it in the corner. When it's baking, it
9 has to shut down the cooking, and it has to set up the
10 baking operation. This is inefficient, and it causes a lot
11 of strain on both baking equipment, as well as Clover's
12 operation.

13 By moving the baking equipment into the former
14 BISq space, it will essentially operate in a more permanent
15 location, and we can hope to eliminate that efficiency.

16 Second, and I'll let Mr. Anderson speak to this
17 more concretely, but we don't believe there will be any
18 increase in the parking or the traffic needs or the delivery
19 issues that were raised by the two abutters, because Clover
20 will not be allowing patrons into the former BISq space.

21 We actually expect that deliveries, which --
22 again, was the central issue raised by abutters -- we expect

1 deliveries to decrease, because by having some additional
2 room, we'll have also some additional room for storage. So
3 overall, the hope is that there will not just be, you know,
4 no increase from the prior use as a restaurant, but actually
5 a reduction in the current and existing use and operation of
6 Clover.

7 And ironically, if this were -- if this baking
8 portion of the location were designed to simply serve as a
9 retail bakery serving patrons, which would likely be a more
10 intense use in terms of deliveries and parking and traffic,
11 the bakery would be permissible in this zone.

12 And the last point, in terms of the Special Permit
13 Criteria that I wanted to bring up is that really Clover's
14 central mission is to be environmentally conscious.

15 And we hope that this special permit will support
16 that mission. One of the main tenets at Clover is locally
17 sourced goods, locally sourced food. Having that baking
18 operation open to the public, basically being able to walk
19 on the street, watch your bread being baked from locally
20 sourced ingredients, and then you can walk next door and buy
21 the sandwich freshly made that you just watched being baked,
22 is really the type of transparency that Clover's operation

1 really strives for.

2 And so with that, I'd like to hand it over to Mr.
3 Anderson to make a couple of points in particular about the
4 abutters' concerns. Thank you.

5 CHRIS ANDERSON: Thanks, Robert. I appreciate it.
6 And just highlighting what Robert said is that we would be
7 moving the existing bakery equipment and the existing bakery
8 operation into that space, so it would have a permanent
9 home, so we don't have to fold it up and clean it and put it
10 away and break it back out again.

11 It also solves another concern of ours, which in
12 baking you have a lot of flour going everywhere, which is an
13 allergen and a contaminant, and another use for isolating
14 the bakery on the former BISq space is to be able to control
15 the flour and baking into that space and isolate it down.

16 There's no intended -- we don't want to make any
17 changes to the façade or the exterior of the building.
18 We're looking to keep all that intact, and as Robert said,
19 making it visual and transparent for all our customers that
20 come by and to be able to see the bread being made and
21 coming to our restaurants and then enjoy that on a daily
22 basis.

1 Our hopes are to reduce traffic on Cambridge
2 Street with reduced curbside and also the patrons that used
3 to frequent BISq, and/or another restaurant in that space.
4 We do want to recognize the delivery issues that we've had
5 on Elm Street.

6 Back in 2012, we had several vendors that did not
7 comply with the Noise Ordinance of Cambridge, and several of
8 those vendors had recurring issues. We were penalized in
9 2012, and we took that very seriously.

10 From that, we changed our relationship with our
11 vendors, and also expectations with our management team.
12 And for over a decade, we haven't had any further issues
13 with deliveries.

14 Recently, there's been two new vendors coming out
15 of COVID that had -- are new to us and our operations. And
16 those two vendors have come in with two citations. Since
17 then, we have instituted a three-strike policy and our
18 terminating relationship with vendors that cannot comply
19 with the Noise Ordinance set forth by the City of Cambridge.

20 The City of Cambridge has been increasingly
21 difficult for residents and also business owners to operate
22 in, as a lot of Cambridge Street has been taken up by patio

1 dining and curbside pickup, and also all of Webster has
2 turned from parking to bike lanes, and it has really caused
3 a constriction for residents and parking.

4 And our hopes is by moving the existing bakery
5 over into the space that we could free up storage to hold
6 more product, so we can decrease the amount of deliveries
7 that we're taking in. It's advantageous to both the
8 abutters and also Clover, as it reduces burden on operations
9 receiving many small deliveries each day and rolling those
10 up into bigger deliveries, which will decrease traffic on
11 Elm Street, which has been the pinch point in that area for
12 a long time.

13 I also just want to call out during COVID, a lot
14 of restaurateurs, it was very difficult for us, and many of
15 us have developed a delivery program, which is now part of
16 our business. So many patrons during Clover did not come
17 in, they ordered takeout, and/or we had to reach the
18 customers where they were.

19 So we, like many, many other restaurants, started
20 doing delivery programs. And that function of putting food
21 into boxes and stickering them and delivering them takes up
22 more space.

1 And that's one of the reasons why we want to move
2 the bakery, as well as to create that space for our delivery
3 program.

4 Coming out of COVID in a post COVID landscape, I
5 think habits are permanently changed. And sales have not
6 materialized back to pre-COVID levels, and I don't think
7 they will be, as people's habits have changed long-term.

8 And I think delivery will be a needed business for
9 us to reach our consumers that are now staying at home. So
10 from there, a lot of those are -- that is where the space is
11 needed.

12 So we take our business and operations very
13 seriously. We're mission oriented. We're all about local
14 ingredients, environmental issues, and we also take the
15 issues and concerns of our abutters very seriously.

16 BRENDAN SULLIVAN: Okay. When I open it to public
17 comment, perhaps they will call in and we will hear from
18 them. If not, then I will read some of the comments that we
19 have received into the record.

20 But is there anything else, Mr. Stetson, that you
21 want to add at this time? You'll have a chance to rebut or
22 comment later in the proceedings also.

1 ROBERT STETSON: Nothing further at this time, Mr.
2 Chair.

3 BRENDAN SULLIVAN: Let me open it to comments by
4 the Board. Jim Monteverde, any --

5 JIM MONTEVERDE: No questions, no comments. Thank
6 you.

7 BRENDAN SULLIVAN: Okay, Wendy, any comments, or
8 questions at this time?

9 WENDY LEISERSON: Yes, I do have a question, which
10 is you mentioned a three-strike policy, is that three-strike
11 policy written into your contracts with your vendors?

12 ROBERT STETSON: No. We currently have an at-will
13 relationship with our vendors, but I'd be more than happy to
14 put something in writing. We're serious about and
15 committing to that.

16 BRENDAN SULLIVAN: Okay.

17 WENDY LEISERSON: And do you have any comments
18 about -- have you read the letters from your -- you said you
19 have read the letters, correct? From --

20 ROBERT STETSON: Correct, yes.

21 WENDY LEISERSON: -- neighbors. Why do you think
22 that they've characterized the interactions with you the way

1 they have? Or with your staff, whoever it is they're
2 talking about?

3 ROBERT STETSON: I think the area is a really
4 challenging area. You have a question commercialized zone
5 business abutting in the same street as a residential
6 building.

7 And like I spoke of the constraints earlier with
8 all the reduced parking, it's a real challenge for business
9 owners and also residents to find parking and operate.

10 I think it's created further congestion onto that
11 street of Elm Street, which is the front-facing of those
12 abutters, and I do believe that this move will help increase
13 capacity and reduce the receiving, which is the primary
14 issue with our abutters.

15 We'll also reduce foot traffic from our Clover
16 employees, as those employees that come in through the
17 employee entrance on Elm Street will now be able to come
18 through the front door on Cambridge Street to operate the
19 bakery.

20 WENDY LEISERSON: And have you reached out to your
21 neighbors about this petition? Have you spoken to them?

22 ROBERT STETSON: I have not. I just received the

1 letters through the portal yesterday, so I haven't had a
2 chance to physically reach out to them.

3 But like I did in 2012, I opened all those to
4 conversations and coffee. You know, it's a mutual
5 relationship for business owners and residents to live
6 together and operate successfully and be in agreement and
7 peace. So I believe in that.

8 WENDY LEISERSON: Okay, thank you. No more
9 questions at this time.

10 BRENDAN SULLIVAN: Matina, any questions, or
11 comments at this time?

12 MATINA WILLIAMS: No. I think everything I was --
13 had concern with Wendy asked. So thank you.

14 BRENDAN SULLIVAN: Jason, any questions, or
15 comments at this time?

16 JASON MARSHALL: Yeah, just a few. And it is
17 easier going after Wendy asked her questions. Mr. Anderson,
18 I have -- I mean, some of this -- I have some of the similar
19 concerns that, that Wendy shared.

20 And I'm trying to square, I think your comment's
21 in good faith, and it must be really difficult to run a
22 restaurant, particularly now, and I do take as good faith

1 that you've tried to be responsive.

2 I'm having a hard really hard time squaring that
3 with the comments that are in the record. So more
4 discussion about that will be helpful, hearing from
5 neighbors, and then hearing your response I think will be
6 helpful.

7 Separate from that, just to get a little more of
8 the sort of lay of the land, so you're moving the baking
9 operations, you're not expanding but you're moving it? Is
10 that correct?

11 CHRIS ANDERSON: Yeah. So the bakery itself sits
12 within the kitchen, and then when the bakery bakes, it
13 unfolds, so we bake bread, and then all the equipment gets
14 consolidated into the corner.

15 We're looking to just take that equipment and put
16 it in the BISq space, so that we can permanently set it up
17 and we don't have to unfold it and fold it again.

18 And also, when you do fold it up into the corner,
19 it takes up space. So we're looking to utilize the BISq
20 space, which we were leasing to a restaurant and just
21 recapture that space now that they're not there into putting
22 our bakery --

1 JASON MARSHALL: Yeah, I think I can --

2 CHRIS ANDERSON: inner that location.

3 JASON MARSHALL: -- I think I can understand the -
4 - I think I understand the need. Would the move -- could
5 you at least theoretically, would that lead to more
6 production of the baked goods?

7 CHRIS ANDERSON: I mean, sure. It's in a spot now
8 where you could operate it longer periods of time. I mean,
9 we could operate it for longer periods of time in its
10 existing space, we would just have to, you know, give and
11 take the existing production around it so it's more of,
12 like, moving operations around to run them.

13 JASON MARSHALL: Yeah. You don't have to start
14 and stop anymore, so you could -- you could have -- you
15 could have more production. But, you know, I'm not sure if
16 you will, but you could?

17 CHRIS ANDERSON: In theory, yes.

18 JASON MARSHALL: Yeah. All right. I'm just --
19 I'm just trying to -- I'm trying to get you, this isn't a
20 "gotcha" question, I'm just trying to get to whether or not
21 because the standard requires us to look at traffic and
22 congestion, whether this could lead to more deliveries, if

1 there is more production. I don't know if there's the
2 correlation there.

3 So that's where my question's going to.

4 CHRIS ANDERSON: Yeah. And -- and if it was
5 curbside pickup from our delivery program, that would drive
6 more traffic, yes. But we've actually seen a shift from
7 folks coming in to pick up their at-home meal boxes to
8 actually being delivered to the household.

9 When we originally started our curbside program,
10 the City of Cambridge was very generous and actually gave us
11 the majority of the street on Elm Street, which I do have
12 some remorse for the residents that abut us on Elm Street.
13 But it was our only way to generate revenue for that
14 restaurant.

15 So since then, we've given those parking spaces
16 back that were reserved for curbside onto Elm Street, and
17 most of those meal deliveries now are delivered versus
18 pickup.

19 JASON MARSHALL: All right. Thanks for the
20 response. That's all I have for now, Mr. Chair. Thanks.

21 BRENDAN SULLIVAN: I guess if I'm rethinking of
22 what the proposal is, is that I'm thinking rather than an

1 expansion of your business, it may happen they grant relief.

2 But rather than you becoming a bigger company,
3 that by your grabbing this space next to your operation,
4 that it will be more efficient use of your operation.

5 Is that maybe a correct characterization of it?

6 CHRIS ANDERSON: Yes, Mr. Chair. I mean, I think
7 "expansion" might give it the wrong kind of feel. I think
8 that what we're looking to do is broaden the area which is
9 permitted under the special permit to that space.

10 When we originally got that building, we just
11 couldn't afford the tall rent, and that's why we subdivided
12 it. I think the intent was to have the special permit cover
13 that whole area.

14 You know, coming out of this and being an
15 operations guy, I have a simple analogy of just when you
16 remove locks out of the river, the river can move faster.
17 So a lot of eliminating congestion touches receiving,
18 actually reduces labor, which reduces the amount of people
19 that need to be in the building, which then is all due to
20 congestion.

21 And our hopes are that the building becomes more
22 efficient, and there's less congestion there -- again, which

1 ties into this whole theme of less people, less operations,
2 and my intent is to have less receiving, and there's
3 additional storage capacity and things are flowing a lot
4 better.

5 BRENDAN SULLIVAN: All right. Are you on site
6 most of the time?

7 CHRIS ANDERSON: Correct.

8 BRENDAN SULLIVAN: You are? All right. Let me
9 open it to public comment, and -- yeah. Any member of the
10 public who wishes to speak should now click the button that
11 says, "Participants," and then click the button that says,
12 "Raise hand."

13 If you are calling in by phone, you can raise your
14 hand by pressing *9 and unmute or mute by pressing *6, and I
15 will give you up to three minutes in which to comment.

16 DAVID BUCK: David Buck.

17 BRENDAN SULLIVAN: Dave Buck?

18 DAVID BUCK: Yes, hi. Can you hear me?

19 BRENDAN SULLIVAN: Yes.

20 DAVID BUCK: Okay. Are you supposed to see me
21 too?

22 BRENDAN SULLIVAN: Sorry?

1 DAVID BUCK: Are you supposed to be able to see me
2 also?

3 BRENDAN SULLIVAN: No, that's okay. As long as we
4 hear you.

5 DAVID BUCK: Okay. Yeah. So I'm one of the
6 people who submitted comments, and -- and so I think I -- I
7 can say that -- that what Chris and the other person have
8 said apply to the period of time not -- in the fairly near
9 future, when we're still getting out of the pandemic.

10 And of course, we don't know if that will ever
11 really end, but I'm thinking a little more long-term than
12 that.

13 Because though I would not expect traffic to do an
14 abrupt upturn from -- from the change that's proposed, but
15 what I do think, that over a period of three to five or --
16 well, maybe two to five to more years -- partly because
17 there is new construction on the other side of Clover,
18 there's the new building going up right next to that,
19 there's a building that apparently is not fully occupied
20 right across the street from that building, there's going to
21 be even more pressure on this area here in terms of traffic,
22 in terms of people, and to me it seems like it's going to be

1 too much.

2 I do have trouble believing -- you know, I can
3 certainly state that putting the bakery in a new space
4 certainly makes sense for the business. By the way, I have
5 a lot of respect for Clover's products.

6 But also, just the fact that in addition to the
7 moving the bakery, they've said there is going to be a café,
8 meeting spaces and offices. I have trouble believing that
9 that would not involve more traffic from employees -- maybe
10 employees who don't normally work in the building -- as well
11 as, as well as vendor representatives, not necessarily
12 deliveries, but vendor representatives.

13 Second of all, with the boxed lunches, I -- and I
14 recognize that they're not increasing the number of spaces
15 in the restaurant seating, but I think really that their
16 boxed lunch business could really grow significantly.

17 To me it seems that they are going to have the
18 capacity to make that happen, and I have trouble believing
19 that all of that is going to be covered by deliveries. I
20 would think that after a period of time, after people are
21 less -- less hesitant to go out for their meals, that there
22 would be a lot more people driving to the location to pick

1 up their lunches, or maybe sit in the café, I'm not sure.

2 So that's essentially what I have to say. And
3 again, it is partly because of the two new buildings in the
4 area that are right directly across from the -- right almost
5 next to the Clover location. I have trouble believing it's
6 just not going to create a more serious capacity issue.

7 Thank you.

8 BRENDAN SULLIVAN: Great. Thank you. There seems
9 to be nobody else calling in. There is correspondence from
10 Colby Swettberg, and he's a longtime owner and resident of
11 Elm Street, across the street from Clover.

12 "I'm writing to voice my opposition to the
13 proposed expansion of Clover. The plans to expand are
14 extremely concerning, since we have to deal with their
15 constant traffic, trash, noise, loud music, and rude
16 employees. I assume that this expansion will increase
17 delivery activity on Elm Street.

18 "Their vendors make a habit of delivering outside
19 of hours stipulated by the new Noise Ordinance, before 7:00
20 a.m. on weekdays and before 9:00 a.m. on weekends and
21 holidays.

22 "We also listen to Clover's own vans making noise

1 as early as 4:00 a.m. We have recently complained to the
2 Licensing Commission, et cetera."

3 So that is one comment. There is also pictures,
4 actually, and comments by Michael Noll, who said that the
5 photo was taken on April 18 demonstrating two photos, the
6 traffic issues on Cambridge Street.

7 He mentions that Clover occasionally parks their
8 vehicles in residential parking spots overnight on Elm
9 Street, and he fears that the expanding kitchen will
10 increase deliveries and make situations worse.

11 BRENDAN SULLIVAN: And there is other
12 correspondence also. What time do your employees arrive for
13 work?

14 CHRIS ANDERSON: The restaurant opens at 7:00. So
15 some folks are in there at 6:00, 6:30. And the restaurant
16 closes at 10:00, and there's folks in there closing down the
17 restaurant thereafter, and then the bakery happens
18 overnight.

19 BRENDAN SULLIVAN: Okay. Well, creating noise
20 disturbance at 4:00 in the morning is not acceptable, and I
21 was subjected to that with the fire station across the
22 street from me, where deliveries were coming at 4:30 in the

1 morning, and it can be quite disconcerting. And after
2 repeated requests and assurances, it still continued.

3 But anyhow, can you assure us for the record and
4 granting of the special permit that what would be the
5 earliest that anybody will be arriving at the location?

6 CHRIS ANDERSON: Um --

7 BRENDAN SULLIVAN: Or, if somebody arrives
8 earlier, that they be very, very quiet, and not noticeable
9 at all?

10 CHRIS ANDERSON: Absolutely. So we have some
11 folks entering at 5:00 just preparing for the open and
12 kitchen. That is behind the restaurant. And then we have
13 the bakery team that bakes overnight, which leaves probably
14 between 2:00 and 4:00 in the morning.

15 BRENDAN SULLIVAN: Okay, and --

16 CHRIS ANDERSON: They've got to have that --

17 BRENDAN SULLIVAN: And while they're there,
18 they're totally inside, no doors open, no windows open?
19 Even during the summer months, is that correct?

20 CHRIS ANDERSON: No doors and no windows are open.
21 No, we run the air conditioner at that point. And if it was
22 -- the bakery was in the BISq space, it would be over on the

1 Cambridge side away from Elm Street.

2 Employees do leave occasionally to take a smoke
3 break. And our smoking policy is over by Dunkin Donuts on
4 Cambridge Street. So it's on the other side of the building
5 two block over from us.

6 BRENDAN SULLIVAN: And deliveries?

7 CHRIS ANDERSON: There's no deliveries before
8 7:00. And -- well, that's where we had those two
9 violations. Those two deliveries that were spoken of by the
10 letters have been addressed by the Licensing Commission, and
11 they have been dealt a severe warning, with stating that if
12 there's another delivery within the next 30 rolling days,
13 that they would be terminated, our relationship with them
14 would be terminated, and it's very, very serious.

15 BRENDAN SULLIVAN: Okay. All right. Well, again,
16 I would implore you to, if you haven't ready -- and this is
17 public record -- is to read the letters, take them into
18 consideration, take them to heart, and I get the sense that
19 you are a very responsible person, you run a good operation,
20 however, it does have its adverse impact on the people who
21 have to live next to Clover and its surrounds.

22 I will close the public comment part and reading

1 of any letters. Mr. Stetson, any comment before we take it
2 back to the Board?

3 ROBERT STETSON: Only one comment, Mr. Chair, is
4 that, you know, we see this as not just a way to cut down
5 on, you know, some of the overnight baking operation and
6 moving the baking operation more towards Cambridge Street,
7 but it's also we believe a -- you know, a much less intense
8 use for that space, as opposed to if this was a retail
9 bakery, for instance, which is permissible in that space.

10 And so, you know, really the whole idea here is
11 just to have this baking operation in service of the
12 existing restaurant. Thank you.

13 BRENDAN SULLIVAN: Great. Thank you. Let me
14 close the presentation part and turn it over to the Board.
15 Jim Monteverde, comments?

16 JIM MONTEVERDE: I have no comments, thank you.

17 BRENDAN SULLIVAN: Wendy Leiserson, any comments?

18 WENDY LEISERSON: My only comment is I actually
19 like Clover, and applaud its mission, but I am concerned
20 about how to -- I know the Licensing Commission has
21 jurisdiction over, you know, enforcing the noise ordinances
22 and, I mean, the other complaints that have been made.

1 But I just wonder if there was any way to assure
2 the neighbors, because they are saying that this has been
3 going on for a long time, and it's one thing to -- I mean
4 it's, it doesn't seem to me that they're satisfied that they
5 don't have to continue to be vigilant and report violations.

6 So I'm just wondering if the Board has any
7 creative suggestions about how to satisfy the neighbors'
8 concerns.

9 BRENDAN SULLIVAN: Okay. I think that the
10 Licensing is probably the heavy hand here, and that they're
11 jurisdiction over the operation could probably outweigh
12 whatever, you know, there would be more immediate by them
13 than any other conditions that we imposed.

14 But they were granted a special permit back in
15 July 29, 2011, and it was to seek -- to open up a hub of
16 operations at 302 Elm Street that would include a large
17 kitchen and café as well as meeting spaces and offices.

18 And they were taking over an existing bakery, so
19 that the -- they were permitted back then by the Board, and
20 this is sort of taking over some additional space.

21 I think what's gone wrong is probably the impact
22 and maybe some bad behavior, potentially by some employees

1 who were inconsiderate.

2 Also, I think that obviously vendors who just do
3 their own thing, but I think that Chris, you have probably
4 tried to address those issues to the best of your ability,
5 or potential ability. But maybe you can top that ability a
6 little bit more and be more responsive, to avert these and
7 avoid these things in the future.

8 Wendy, does that seem to make sense, or?

9 WENDY LEISERSON: Yes. I -- I -- I understand
10 what you're suggesting. And perhaps something as little as
11 having your -- if you don't already, not only having your
12 three-strike policy with regard to vendors, but also posting
13 the neighborliness policy in your -- for your staff to
14 comply with, if you don't already.

15 BRENDAN SULLIVAN: Okay. I think probably, Chris,
16 I don't know, do you have some kind of posting inside for
17 employees, rules of behavior type thing regarding being
18 sensitive and respectful of our neighbors?

19 If you could just sort of remind employees number
20 one, and then so I think what Wendy is asking -- are you
21 looking for a policy, Wendy, to be inserted into the
22 decision, or for vendors and delivery materials?

1 WENDY LEISERSON: Not necessarily. I'm just
2 expressing the desire that there be something concrete to
3 offer your neighbors to show that you are, like, visibly
4 show that you are responded to them.

5 BRENDAN SULLIVAN: So it's the sense of the Board
6 potentially granting the special permit, but we do it with
7 sort of encouragement to ameliorate any other concerns and
8 past bad behavior. Does that sum it up?

9 WENDY LEISERSON: Yes, thank you.

10 BRENDAN SULLIVAN: Okay. Matina, any questions at
11 this time, any further comments?

12 MATINA WILLIAMS: No.

13 BRENDAN SULLIVAN: Jason, any further comments at
14 this time? Ready for a motion?

15 JASON MARSHALL: Yeah, just briefly I think the
16 fact that you're not changing the use here is key, at least
17 to my decision.

18 And then to the conversation that just took place,
19 you know, I think Chris, I hear you committing to being a
20 good neighbor. It seems like you have made efforts
21 recently, particularly with vendors. Hopefully you'll do
22 the same with any employees. And that's encouraging.

1 You know, inevitably, it seems like Clover will be
2 back before this Board at some point in time. I would
3 expect and hope that the Board will pay close attention to
4 how Clover has interacted with neighbors. Certainly, if I'm
5 on that case, I will be disappointed if some of the same
6 concerns come up again.

7 BRENDAN SULLIVAN: Great. Let me make a motion,
8 then, to grant the special permit as per the application.
9 Supporting statements, dimensional forms and the drawings
10 contained in the application and initialed by the Chair.

11 The Board finds that the requirements of the
12 Ordinance cannot be met unless we grant the special permit.

13 The Board finds that traffic generated or patterns
14 of access or egress would not cause any additional
15 congestion, hazard, or substantial change in established
16 neighborhood character by the accumulation of this
17 particular space by the existing operation.

18 The Board finds that continued operation of or
19 development of adjacent uses, as permitted in the Zoning
20 Ordinance, would not be adversely affected by the nature of
21 the proposed use, which is the expansion of the operation
22 into the adjoining space by existing equipment, potentially

1 new equipment, into the space to make a more efficient
2 operation.

3 The Board finds that nuisance or hazard would not
4 be created to the detriment of the health, safety and/or
5 welfare of the occupants of the proposed use.

6 The Board finds that testimony has shown that with
7 the addition of additional square footage, that it would
8 make the operation far more efficient, probably much safer
9 for the workers in the business.

10 The Board finds that the proposed use would not
11 impair the integrity of the district or adjoining district.

12 The Board finds that there is an existing
13 operation there, an identical operation, and that it has not
14 impaired the integrity of the district, and that the
15 granting of the special permit would not derogate from the
16 intent and purpose of the Ordinance. The purpose of the
17 Ordinance would be to allow for the business, small
18 business, to expand to increase the efficiency of their
19 operation.

20 On the motion, then, to --

21 WENDY LEISERSON: Mr. Chair? I'm sorry, I
22 apologize for being out of order, but I wonder if you could

1 also add one of the findings or however you want to put it
2 was that we were represented that there would be no
3 significant increase in the amount of delivery traffic, and
4 in fact anticipated reduction in the amount of deliveries
5 within the space for storage.

6 BRENDAN SULLIVAN: Yeah, as further presentation?

7 WENDY LEISERSON: Yes.

8 BRENDAN SULLIVAN: Okay. So noted and
9 incorporated by reference. So Wendy's comments. On the
10 motion, then, to grant the special permit, Jim Monteverde?

11 JIM MONTEVERDE: In favor.

12 BRENDAN SULLIVAN: Wendy?

13 WENDY LEISERSON: In favor.

14 BRENDAN SULLIVAN: Matina?

15 MATINA WILLIAMS: In favor.

16 BRENDAN SULLIVAN: Jason Marshall?

17 JASON MARSHALL: In favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

19 [All vote YES]

20 Five affirmative votes, the special permit is
21 granted. Okay.

22 ROBERT STETSON: Thanks to the Board for your time

1 and consideration.

2 CHRIS ANDERSON: Thank you as well.

3 MATINA WILLIAMS: Can we have two minutes?

4 BRENDAN SULLIVAN: We can have five minutes.

5 MATINA WILLIAMS: Thank you.

6 BRENDAN SULLIVAN: The Board will convene in five
7 minutes.

8 MATINA WILLIAMS: Thank you.

9 (BREAK)

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(9:15 p.m.)

Sitting Members: Sitting Members: Brendan Sullivan, Jim
Monteverde, Wendy Leiserson, Jason
Marshall, and Matina Williams

BRENDAN SULLIVAN: Okay, we're all here. The
Board will hear Case No. 170043 -- 281 Concord Avenue.

JAMES HEFFERNAN: Good evening to the Board, this
is Attorney Jim Heffernan for Rich May, P.C. on behalf of
Cathy Wang.

BRENDAN SULLIVAN: Okay in reviewing the
application, before we get into the merits of it, the
application is a Special Permit for a Change in Use and
Occupancy, 281 Concord Avenue.

And the original Certificate of Occupancy was in
the basement was for storage; first-floor office space,
second floor office space.

And now you want to pivot to private and corporate
events to use as space on the first floor in the garden
area, such as wedding showers, baby showers, birthday
parties and so forth.

And you're seeking relief under 4.35 -- 1-1

1 commercial recreational establishment, Section 4.35g, a
2 nightclub; and Article 10, Section 10.40. Is that correct,
3 Mr. Heffernan?

4 JAMES HEFFERNAN: That is partially correct. And
5 I apologize, I got on board this week and got up to speed,
6 and upon seeing the agenda, seeing the nightclub part, I was
7 surprised by that and that is a mistake. There is no
8 intention to open a nightclub here. That use should be
9 stricken from the applicant.

10 BRENDAN SULLIVAN: Okay. One of the criteria,
11 Section -- Article 4, Section 4.35.1.1, commercial
12 recreation establishment, that under Zoning Ordinance
13 6.36.511, you are required to provide parking, one space for
14 every 400 square feet.

15 There is approximately 2800 square feet there now,
16 so you would have to provide a lot of parking. And it
17 obviously appears that not able to provide that parking.
18 However, the application is not seeking relief for parking.

19 So even if we were to grant the relief, well let's
20 put it this way -- if we were to entertain granting of the
21 relief we couldn't, because you'd be in violation of that
22 section of the parking requirement.

1 So where I'm going is that it would appear that
2 you should continue this matter, and you may require a new
3 filing to seek relief under 6.36, and the reasons why you
4 cannot comply, and the reason why we should grant the
5 special permit for relief from that particular section, as
6 well as the other sections that you're applying for, and
7 also that to modify the fact that you're not seeking relief
8 for 4.35, which would be a nightclub.

9 JAMES HEFFERNAN: Understood. And I appreciate
10 your care and attention to this. With your suggestion to
11 continue from hearing the prior hearing, is the June 30 a
12 possibility or are we -- do we have time to modify for
13 relief under the parking?

14 BRENDAN SULLIVAN: Well, you would have to -- a
15 new filing would be that you would have to file it
16 immediately.

17 JAMES HEFFERNAN: Yeah.

18 BRENDAN SULLIVAN: Maybe Monday-ish or so, and
19 there has to be an advertising for it.

20 OLIVIA RATAY: It's for Case --

21 BRENDAN SULLIVAN: June 30, and they would be able
22 to file and readvertise? Because it has to be readvertised

1 for two weeks prior. So it would be tight, but you probably
2 could do it.

3 JAMES HEFFERNAN: Okay. So if we're -- just to
4 rehash it, if I got a call filing in by Monday regarding the
5 parking, it's tight, but we can make it on June 30?

6 BRENDAN SULLIVAN: Correct. I would have to
7 double check with Maria Pacheco, where she's really the guru
8 on this, and -- but it appears that that would work for the
9 June 30. What I will do is to keep the case alive, I will
10 continue this case, so that we don't run afoul of the
11 repetitive petition instruction.

12 JAMES HEFFERNAN: Uh-huh.

13 BRENDAN SULLIVAN: And then review it over the
14 weekend, obviously, and you might even have conversation
15 with Maria tomorrow evening, actually, so that she can leave
16 that spot open for you.

17 JAMES HEFFERNAN: Understood. Understood. I
18 really appreciate your --

19 BRENDAN SULLIVAN: And also a new application to
20 clearly state exactly what the proposed operation will be.
21 Because the nightclub does raise issues.

22 And also, you're saying you just were on board the

1 last few days or so?

2 JAMES HEFFERNAN: Yeah, let me clarify that all I
3 too. I -- you know, I represent Cathy for quite some time.
4 She is a -- I'm biased because she is a good person. I
5 don't usually just jump on anything for a random client, and
6 -- I think -- she understood this was a simpler process than
7 it is, and so I was happy to jump on board, because I do
8 know the site, and I know her well.

9 BRENDAN SULLIVAN: Okay.

10 JAMES HEFFERNAN: But hearing about your concerns
11 about parking, what you're saying to me makes a lot of
12 sense.

13 BRENDAN SULLIVAN: Right. And what you want to do
14 is review the correspondence and the letters in the file,
15 the public record anyhow. So --

16 JAMES HEFFERNAN: Yes.

17 BRENDAN SULLIVAN: -- if you need any help, or see
18 if there's any additional ones. All right.

19 JAMES HEFFERNAN: Yep. And we have reviewed
20 those, and we were prepared to answer a number of those
21 concerns. But you're raising a very critical point about
22 parking.

1 BRENDAN SULLIVAN: All right. Good. Any comments
2 by members of the Board regarding the continuing of this
3 matter? Jim, any?

4 JIM MONTEVERDE: No comment.

5 BRENDAN SULLIVAN: Wendy, Jason, Matina, any
6 comments?

7 COLLECTIVE: No comment.

8 BRENDAN SULLIVAN: Okay. Let me make a motion,
9 then, to continue this matter, Case No. 170043, 281 Concord
10 Avenue, to June 30, to June 30, 2022 at 6:00 p.m. on the
11 condition that the petitioner change the posting sign to
12 reflect the new date of June 30, 2022 and the new time of
13 6:00 p.m., that that any new submittals pertaining to this
14 particular case, #170043 that is not any new submittals and
15 changes to the documents, that they be in the file be by
16 5:00 p.m. on the Monday prior to the June 30 hearing.

17 Also, that the petitioner signed a waiver of the
18 statutory requirement for a hearing and a decision to be
19 rendered thereof. Maria can send that to Jim, and you can
20 sign it please and e-mail it back.

21 And I would ask that it be in by 5:00 p.m. a week
22 from Monday, so through all of next week you send that back.

1 And that is a condition to the continuing of this matter.

2 MATINA WILLIAMS: Mm-hm.

3 BRENDAN SULLIVAN: On the motion, then, to
4 continue this matter to June 30, Jim Monteverde?

5 JIM MONTEVERDE: In favor.

6 BRENDAN SULLIVAN: Wendy?

7 WENDY LEISERSON: In favor.

8 BRENDAN SULLIVAN: Jason?

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

10 BRENDAN SULLIVAN: Matina Williams?

11 MATINA WILLIAMS: Yes, in favor of the
12 continuance.

13 BRENDAN SULLIVAN: Brendan Sullivan yes in favor.

14 [All vote YES]

15 BRENDAN SULLIVAN: On the five affirmative votes,
16 this matter is continued until June 30, 2022, at 6:00 p.m.

17 See you then.

18 JAMES HEFFERMAN: Thank you very much.

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2 (9:24 p.m.)

3 Sitting Members: Sitting Members: Brendan Sullivan, Jim
4 Monteverde, Wendy Leiserson, Jason
5 Marshall, and Matina Williams

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 170035 -- 238 Brookline Street. Mr. Rose? Mr. Hodgman?

8 THOMAS ROSE: My name is Thomas Rose. I'm the
9 architect representing the Hodgmans.

10 BRENDAN SULLIVAN: Okay. It's yours. What was
11 the issue?

12 THOMAS ROSE: The issue was just really to, you
13 know, the construction has been finished. There were some
14 minor changes to the exterior of the building, and we
15 submitted the documents showing them. This is two windows
16 that were added, and also a roof terrace that was changed to
17 a roof deck, a rear entrance.

18 BRENDAN SULLIVAN: And how did this happen?

19 THOMAS ROSE: It's just during the process of
20 construction the client made some changes.

21 BRENDAN SULLIVAN: Went outside the drawings that
22 were approved?

1 THOMAS ROSE: Correct. All the changes were made
2 within the setbacks. I don't see really any issue with it,
3 but obviously there is some. So we just want to change the
4 documents and upgrade the drawings.

5 BRENDAN SULLIVAN: Well, when you were granted a
6 variance, back in 2019 any changes to that relief, even
7 though it may be compliance, still requires further relief
8 to amend that case, basically.

9 That's the policy -- always has been the policy of
10 the Board, and actually not of the Board, but of the
11 Department of Inspectional Services and the Commissioner.

12 THOMAS ROSE: Correct.

13 BRENDAN SULLIVAN: Let me open it to comment. Jim
14 Monteverde, any comments?

15 [Pause]

16 Jim?

17 JIM MONTEVERDE: Sorry. No comment.

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

20 WENDY LEISERSON: No comments right now.

21 BRENDAN SULLIVAN: Okay. Jason?

22 JASON MARSHALL: No comment.

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

3 MATINA WILLIAMS: Not really, no.

4 BRENDAN SULLIVAN: Okay.

5 MATINA WILLIAMS: Because you -- if I understood,
6 his just said the changes just happened. They --

7 JIM MONTEVERDE: Wow.

8 BRENDAN SULLIVAN: -- were granted original
9 relief, and during construction, the owner, I guess, made
10 some changes, and felt that that was, I guess, okay and
11 didn't realize that -- I guess, I don't want to put words
12 into your mouth, but -- didn't realize that they were going
13 outside of what was approved, and that would require an
14 amendment to the original variance that was granted.

15 MATINA WILLIAMS: And the architect didn't know?
16 Changes were --

17 BRENDAN SULLIVAN: I don't know. Mr. Rose, were
18 you?

19 THOMAS ROSE: No, we were aware of that. We were
20 aware we'd have to -- so we're going through the process.

21 BRENDAN SULLIVAN: Yeah.

22 MATINA WILLIAMS: Hm.

1 WENDY LEISERSON: Matina, do you have more to say,
2 because I have the old case, at a prior case, that might
3 address what you're asking about.

4 MATINA WILLIAMS: Okay.

5 WENDY LEISERSON: Would like me to chime in at
6 this point?

7 MATINA WILLIAMS: Sure.

8 WENDY LEISERSON: Sure. So the one thing I didn't
9 am a little concerned about is when I looked back at the
10 original decision that Gus Alexander wrote up, in the
11 narrative it does say that, you know, the case started in
12 2019.

13 The petitioner was working with his neighbors to
14 address concerns, you know, that the case had been continued
15 a number of times in order to try to accommodate the
16 abutting neighbors. The plans had gone through a number of
17 iterations.

18 You know, based on the facts that were listed by
19 the Chair at the time in that prior decision, I find it
20 difficult to understand why the petitioner would not have
21 understood, based on his own statement about how many times
22 the plans had been revisited and how many delays there were...

1 Why the petitioner would have thought it would be okay to
2 simply make changes, and then ask for forgiveness.

3 ROY HODGMAN: You know, it's -- it's -- it just,
4 it's very normal during construction that you see
5 opportunity. So it's -- I didn't think it was going to be a
6 huge issue to, you know, submit some changes. I mean, it's
7 just it happens all the time.

8 MATINA WILLIAMS: But this is submitting changes
9 afterwards, though. You went and did it.

10 ROY HODGMAN: I didn't realize I'd have to have
11 given permission before I made those changes. I just
12 thought, you know, it was part of, you know, we would submit
13 it as an as-built when the job was finished.

14 BRENDAN SULLIVAN: Well, being in the trade, I
15 think you either -- you always run it by the Building
16 Inspector that you're making these changes, because knowing
17 ultimately down at the end of the road, he is going to have
18 to look at the relief that was granted, the drawings that
19 the relief was based on, and are there any changes to that?

20 So, you know, you may have kicked the can down the
21 road, but eventually it might have to face up to it. And
22 here we are, tonight. So -- and I know that maybe it was a

1 decision that let's keep going and not stop construction,
2 and so on and so forth.

3 I don't know if that was a decision that was made
4 then, and -- you know, the lens for forgiveness instead of
5 permission now. It doesn't happen all the time. It
6 shouldn't happen all the time.

7 Anything else? Who was it, Matina? Anything
8 else, Matina or Wendy?

9 ROY HODGMAN: Hi. I'm Roy, the petitioner or
10 owner of the property.

11 BRENDAN SULLIVAN: Yep.

12 ROY HODGMAN: We'll give you a little bit more
13 color about what's going on here. During the course of
14 construction and in viewing the building process, we
15 identified two areas in the house that were darker than they
16 might otherwise be if we had added windows. We decided to
17 add windows, or we decided to draw windows into the plan to
18 see what it would be like to build them.

19 The builder that we worked with was in contact
20 with the Building Department in March of 2021 to notify them
21 or ask for permission to make these changes.

22 And it's my understanding that he got a response

1 back saying it was fine. So he proceeded to build the two
2 extra windows and change the back patio to a porch, and it
3 was only upon the final inspection months later that we
4 learned that this was a problem.

5 Previously, we thought there had been approval
6 from I think it's the Building Department -- I'm not sure to
7 whom the builder submitted these changes.

8 But he seemed to think that he had gone through
9 the correct process with the City to notify them that there
10 were going to be these two extra changes.

11 BRENDAN SULLIVAN: Okay.

12 ROY HODGMAN: Another good point -- so I also,
13 Wendy you brought up earlier the history of this case.
14 Yeah. It was continued a bunch. We worked with our
15 neighbors quite a bit. The two changes that we're talking
16 about here do not face the neighbors that we were having all
17 these discussions with.

18 And the two neighbors that we do face, the changes
19 face, the windows face: One of them has written a letter in
20 support of the change to the case today, it faces out on
21 Brookline Street.

22 And the other one we haven't heard from, and

1 haven't -- it hasn't been an issue with that yet.

2 BRENDAN SULLIVAN: Anything else, Matina or Wendy
3 at this time?

4 MATINA WILLIAMS: No, I'm all set. That shines
5 some light on some things.

6 BRENDAN SULLIVAN: Let me open it to public
7 comment. Any members of the public who wish to speak should
8 now click the button that says, "Participants," and then
9 click the button that says, "Raise hand."

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

13 ROY HODGMAN: "Rac?"

14 RUTH CARRETTA: Hi. Actually, it's Ruth Carretta
15 and --

16 CARLOS SALAMANCA: Carlos Salamanca. We're the
17 abutters from 99 Allston Street.

18 RUTH CARRETTA AND CARLOS SALAMANCA: -- and let's
19 see. Let's see. In -- we were the folks as Roy Hodgman had
20 said that they had done a lot of the negotiations about the
21 final design of the house.

22 We -- even with the final design, we still were

1 not satisfied, we still felt that the increase in the size
2 of the house was still a lot larger than what we felt that
3 that was much larger than what we had -- let's see, what
4 would have wanted to see and impacted, you know, the
5 enjoyment of our house.

6 It's true that the Board at the time in May of
7 2020, or March of 2020 -- you know, I think had decided that
8 overall that the petitioners would still be able to go
9 through with the plan, and so, you know, we -- let's see --
10 we were still disappointed with that outcome.

11 But fast forward, let's see, it's true that the
12 windows that were added do not impact us. So, you know,
13 that is indeed fine.

14 But one thing I was -- when I was taking a look at
15 the BZA application that Wendy had referenced it looked to
16 me like the total gross area of the house was much bigger
17 than what had been originally approved, but not much bigger,
18 I should say. 145 square feet larger.

19 And we were not sure where that was, where that
20 space was added. So that was a question that we had.

21 And two, the issue of the need to do this also
22 seemed to have to do with, let's see grading and drainage

1 issues. And so, let's see, we've also noticed that we've
2 had some additional problems with additional pools' filling
3 of the water in our back yard, and we didn't know if the --
4 let's see, what was done in order to accommodate, you know,
5 some of the drainage issues and grading issues might be
6 causing that.

7 Maybe not, it could be -- it could be our other
8 neighbor that also abuts our property, that also made some
9 significant changes that could be causing it.

10 But, you know, we were curious today to hear, you
11 know, kind of where that square footage is and if that was
12 indeed something that would impact us, and also that some of
13 the drainage and let's see grading issue adjustments --

14 So look forward to some input, and thank you.

15 CARLOS SALAMANCA: I have a comment. You know,
16 when we went in front of the City and, you know, our
17 neighbors, the ones submitting the petition tonight, got
18 permission to go forward, we did the best to explain that
19 what they were going to do was going to cause inconveniences
20 for us.

21 In the end, in spite of what we said, the City
22 went ahead and gave them permission to do what they've

1 stated on paper. I'm frankly not surprised that in the
2 middle of it all without consulting the City, they made
3 changes that weren't in agreement with what they had told
4 the City that they would do.

5 So I wasn't -- I had expected the City, if
6 anything, to send an inspector in, you know, while the work
7 was being done, to make sure that they were following
8 through with -- what they had agreed they were going to do.

9 And I'm surprised by the reaction of the Board now
10 this finds out that they in fact went beyond what they had
11 agreed to do, and are surprised that they did things
12 without, you know, pretty much leaving the City in the dark
13 until now.

14 BRENDAN SULLIVAN: Thank you.

15 ROY HODGMAN: I think we can respond to a couple
16 of those points, if that's okay?

17 BRENDAN SULLIVAN: Well, let me go through the --

18 ROY HODGMAN: Sure.

19 BRENDAN SULLIVAN: -- all the comments, and then
20 you can. That's the end of the people calling in. If you
21 just want to respond to the last comments?

22 ROY HODGMAN: Sure. Carlos, in response to the

1 question, the statement about leaving the city in the dark,
2 our intention was not to dupe the City or intentionally
3 mislead our building plans or anything like that.

4 We did draw up new plans, submit them to -- I
5 don't even know, some part of the City, and it is my belief,
6 I operated under the assumption that when our builder said
7 that the changes were approved and okayed by the city, that
8 it was all right to do that.

9 If I had known at the time that it was -- that was
10 not the right process to add two windows and change the
11 patio to a porch, we would have done it differently. But
12 that I didn't know.

13 I learned this later when the inspector did come
14 to verify that we had built the stuff the way that we said
15 we were going to build it. And when it wasn't up to what
16 they were expecting, this whole process triggered.

17 So as much as we can, we were trying to follow the
18 right process with the City to make sure that the building
19 that we wanted to build and the changes to that building
20 were done in accordance with whatever procedures were
21 necessary to make these things happen.

22 About this extra square footage, Tom can explain

1 where that comes from.

2 THOMAS ROSE: Well, that's when you change the
3 terrace, the entry terrace changed to the deck. So a deck
4 with a roof over it becomes part of the FAR calculation. So
5 that's where the calculation... We thought we had a little bit
6 of a buffer to cover that, but we're just a little over the
7 allowable FAR.

8 BRENDAN SULLIVAN: And how many square feet does
9 that add, Tom?

10 THOMAS ROSE: Idvt-- one second, I just have to
11 look. I believe we're two square feet over the allowable.
12 It added about seven -- give me a second, I just want to be
13 careful here.

14 BRENDAN SULLIVAN: I'm going to ask staff to pull
15 up A3-1.

16 ROY HODGMAN: Yeah.

17 BRENDAN SULLIVAN: Okay. Thank you.

18 ROY HODGMAN: So it's approximately -- it's three-
19 sixths by about seven, seven-and-a-half feet, so seven point
20 five feet, so --

21 BRENDAN SULLIVAN: 30, 30 some odd square feet?

22 ROY HODGMAN: Right.

1 BRENDAN SULLIVAN: Just going back, A3-1 shows a
2 window there. That was added?

3 ROY HODGMAN: Yes. Correct.

4 BRENDAN SULLIVAN: Then, so that's the nature of
5 the relief being requested tonight, and the modification to
6 the grant.

7 Sheet A3-2?

8 ROY HODGMAN: That's the other window, yes.

9 BRENDAN SULLIVAN: That window was added, and also
10 the deck was maybe expanded, and that the roof was applied
11 over it?

12 THOMAS ROSE: No, the roof was there as part of
13 the original. It was going to be just stepping on to, like
14 --

15 BRENDAN SULLIVAN: I'm sorry, the roof was always
16 there?

17 ROY HODGMAN: Yes, yeah.

18 BRENDAN SULLIVAN: Okay. But how does -- was that
19 square footage not -- I think it's in your application.

20 THOMAS ROSE: Because it was a terrace. It was
21 graded up to a terrace, as an entry terrace. You know, so
22 we didn't -- I didn't include that in the original

1 calculation.

2 BRENDAN SULLIVAN: Okay. So it's the addition of
3 the --

4 THOMAS ROSE: The steps.

5 BRENDAN SULLIVAN: -- the platform?

6 THOMAS ROSE: The platform and the steps.

7 BRENDAN SULLIVAN: Yeah. Which basically then
8 triggers the far calculation?

9 THOMAS ROSE: Correct.

10 BRENDAN SULLIVAN: Okay. And those are the only
11 basically three changes?

12 THOMAS ROSE: Correct.

13 BRENDAN SULLIVAN: Okay. All right. I will close
14 the -- well, no, there was one letter from Brian Albrecht,
15 A-l-b-r-e-c-h-t dated May 12.

16 "We are writing in support of the petition set
17 forth in Case No. 170035. The changes made during construction
18 to the rear deck are minor and kept within the original
19 design principle. In our opinion, the changes have no
20 impact to the surrounding neighborhoods.

21 "Thank you.

22 "Brian and Jennifer Albrecht."

1 BRENDAN SULLIVAN: And that is the abutter. That
2 is the sum and substance of the communication. Any
3 comments? I will close the public comment part. Any
4 questions by members of the Board? Jim?

5 WENDY LEISERSON: I'm sorry, go ahead.

6 BRENDAN SULLIVAN: Go ahead, Wendy. Yep. Any
7 comments or questions?

8 WENDY LEISERSON: I just have one question. Mr.
9 Rose, were you present during the project, did you help the
10 builder to redesign this plan?

11 THOMAS ROSE: Yes, I did.

12 WENDY LEISERSON: So you knew at the time this was
13 built, even if the builder and the homeowner did not, that
14 this would have to go back to the Zoning Board, did you not?

15 THOMAS ROSE: Yes.

16 WENDY LEISERSON: Yes. So my only comment would
17 be even though this may be minimal, I'm uncomfortable with
18 the attitude that a change could be made, knowing that you
19 will have to go back to the Board --

20 THOMAS ROSE: Oh, we --

21 WENDY LEISERSON: -- for forgiveness.

22 THOMAS ROSE: We thought we had. We've had -- you

1 know, we had, our contractor had submitted some of the
2 information, and we felt we had -- we were okay with this.

3 WENDY LEISERSON: But you were present during the
4 original Zoning case, correct?

5 THOMAS ROSE: Correct.

6 WENDY LEISERSON: Right. And you said earlier
7 tonight that this happens all the time, you have to go back
8 when changes are made to the Zoning Board, that that's what
9 I understood you to have said earlier.

10 THOMAS ROSE: No, I said -- what I meant was that,
11 you know, changes during construction process, things
12 change. That happens all the time.

13 WENDY LEISERSON: Yes, yes, that does. Yes.
14 Okay, thank you.

15 BRENDAN SULLIVAN: Wendy -- I'm sorry, Jason, any
16 comments, questioning? (sic)

17 ROY HODGMAN: No, I -- well, let me ask this. You
18 brought up a submittal from the contractor. Is that in the
19 record anywhere. I don't think I saw that.

20 BRENDAN SULLIVAN: It is not in the record right
21 now.

22 ROY HODGMAN: So we have been working with this

1 contractor to get -- I was anticipating a question like this
2 -- we've been working with him for weeks to get his copy of
3 this submission.

4 And what we have from him is that on March 26 of
5 2021, the application for house modifications were submitted
6 from #113138, and they were approved and sent back to him,
7 so then he decided to move forward with the modifications.

8 This -- I have it in a text message from him, but
9 I don't have a copy of this communication between him and to
10 whomever he submitted this application for modifications.

11 JONATHAN MILLER: It's a frustrating file to act
12 on.

13 THOMAS ROSE: Yeah.

14 ROY HODGMAN: Yeah. I mean, listen, I don't -- in
15 no way does any of this make me happy. I wish we had
16 figured out earlier on that that particular process was not
17 the right way to go about making some modifications and
18 addressed this at the time.

19 I apologize that I didn't know then that it was
20 going to be a larger deal than it is. I wish we had solved
21 it at that time, but we haven't, so I want to try to make it
22 right.

1 JASON MARSHALL: It's not a "no big deal" type of
2 a case. And I haven't been on the Board for a very long
3 time, but I haven't seen a case like this come up. So it's
4 not run-of-the-mill. It's just not a --

5 ROY HODGMAN: Right.

6 JASON MARSHALL: -- not a regular occurrence, so.

7 THOMAS ROSE: I don't think anybody said it would
8 be run of the mill here.

9 JASON MARSHALL: No, but, you know, it seemed
10 like, the beginning of their presentation made it seem like
11 it was not a big deal.

12 And as the questions have come up, and we've had
13 discussion, it's -- it's not de min-- it's not de minimis.
14 So I'm going to leave it there.

15 BRENDAN SULLIVAN: Wendy, any questions? Or any
16 further comments?

17 WENDY LEISERSON: Not at this time, no.

18 BRENDAN SULLIVAN: Okay. Jim? Can I ask you, Jim
19 Monteverde?

20 JIM MONTEVERDE: No. I have no further questions,
21 thank you.

22 BRENDAN SULLIVAN: All right. I will make a

1 motion to grant the relief to amend BZA Case No. 017217 -- 4019
2 (sic), and to allow for the addition of two windows, and for
3 the deck and the stair, Drawing A as shown on the drawing
4 A31 and A32.

5 The Board finds that a literal enforcement of the
6 provisions of the Ordinance would involve a substantial
7 hardship, because it would require the petitioner to remove
8 the two windows in question and also the deck in order to
9 comply with the tenants and the granting of the original
10 application back in 2019.

11 The Board finds that the hardship is related to
12 the fact that the size of the lot, the structure that -- the
13 size of the structure that is sited on the lot, and that,
14 which predates the existing ordinance, and as such that the
15 structure is encumbered by the ordinance, and any
16 modification, albeit the one that triggered the initial
17 request for a variance and any modification of the court
18 ordinance, would be difficult for the homeowner to comply
19 with doing -- knowing the encumbrance of the existing
20 ordinance.

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

1 The addition of the windows and the back deck
2 would have no detriment to the public good, or nullifying
3 and that desirable relief may be granted without substantial
4 detriment to the public good, or nullifying or substantially
5 derogating from the intent and purpose of the Ordinance,
6 which is to allow some modifications to single-family homes,
7 to add some fenestration into the interior of the house, and
8 also to allow for a safe entry/exit from the structure by
9 means of a deck with a suitable platform.

10 On the motion, then to amend the original case,
11 and to incorporate the changes as a part of it, Jim
12 Monteverde?

13 JIM MONTEVERDE: I vote in favor.

14 BRENDAN SULLIVAN: Wendy Leiserson?

15 WENDY LEISERSON: I'm struggling with this one.

16 BRENDAN SULLIVAN: Shall I come back to you?

17 WENDY LEISERSON: Yes, please. Yeah.

18 BRENDAN SULLIVAN: Jason Marshall?

19 JASON MARSHALL: In favor.

20 BRENDAN SULLIVAN: Matina?

21 MATINA WILLIAMS: In favor.

22 BRENDAN SULLIVAN: Back to Wendy.

1 WENDY LEISERSON: I'm going to vote in favor, but
2 if -- but I do not like setting this precedent for asking
3 for forgiveness.

4 BRENDAN SULLIVAN: Okay. I think that the -- my
5 feeling on it is that to deny it would I think in my way
6 would be, you know, would be -- well, I think somewhat
7 punitive and to the homeowner that would have to remove the
8 two windows and the decking, and would have really a great
9 deal of hardship and effect on the home, and that the
10 existence of them is somewhat minimal, if any.

11 The actions are not de minimis, but the effect of
12 it I think to me is minimal. So I will vote for in support
13 of granting the variance to amend the original case.

14 [All vote YES]

15 BRENDAN SULLIVAN: Five affirmative votes, the
16 variance is granted.

17 ROY HODGMAN: Thank you.

18 THOMAS ROSE: Thank you.

19 WENDY LEISERSON: Thank you, Chair, for putting
20 into words what I could not. Thank you.

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(9:53 p.m.)

Sitting Members: Sitting Members: Brendan Sullivan, Jim
Monteverde, Wendy Leiserson, Jason
Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No.
170524, 11 Gray Gardens East. This is to be scheduled for
8:00. Is it 8:00 yet?

JIM MONTEVERDE: [Laughter]

PETER BEMIS: Oh, yeah.

BRENDAN SULLIVAN: Just barely.

JIM MONTEVERDE: Just about, yeah.

BRENDAN SULLIVAN: Just barely.

JIM MONTEVERDE: Was that a.m. or p.m., yeah?

WENDY LEISERSON: 8:00 somewhere.

BRENDAN SULLIVAN: It is 8:00 somewhere, you're
right. Okay. Case No. 170524 -- 11 Gray Gardens East. Mr.
and Mrs. Davis or Bemis, who's presenting?

PETER BEMIS: Good evening. It's Peter Bemis
here, Engineering Design Consultants.

BRENDAN SULLIVAN: Okay.

PETER BEMIS: Can you hear me, Mr. Chairman?

1 BRENDAN SULLIVAN: Yep. The floor is yours.

2 PETER BEMIS: Great. Thank you very much. So I
3 would like to start off by saying Peter Bemis, Engineering
4 Design. So I'm here on behalf of the Davis family, owners
5 of 11 Gray Gardens East.

6 But I definitely want to distinguish myself from
7 the previous petition, because we do have a situation where
8 a project was built with a flaw, if you will, not compliant
9 with a plan.

10 But it is the plan itself that was the flaw in
11 this case. The Board approved a plan drafted by a Gene
12 Brooks Landscapes back in March of '21, and it reflected
13 setbacks to a dwelling, and that is the specific relief that
14 the Board granted.

15 There was a two-foot and a four-foot six setback,
16 it was defined on that plan. And you have a five-foot side
17 yard setback for the spa.

18 And the circumstances that we found when we did
19 our field as built for this project, we did find that the
20 spa was indeed built four-sixths from the house, because
21 there's a facet in the house, so they took that as the
22 closest setback to the spa, and then they also held that

1 two-foot setback.

2 But then that pushed the spa closer to a boundary
3 line -- unwittingly to a boundary line, because when the
4 landscape architect, or landscaper, whoever drew this, they
5 put the tie distance at about the midpoint of the spa at
6 five feet, and not at its closest point.

7 So from our way of thinking, it's a geometry
8 exercise, and one that they failed miserably at. And
9 unfortunately, there was no sealed document here. There
10 wasn't a plan by an engineer or by a surveyor. It would
11 have given the Zoning Board the assurance that the
12 mathematics of the proposal were correct.

13 So that's really the difference between the last
14 petition and this petition. The properties are separated by
15 a six-foot stop gate fence. There is a garage on the
16 abutting property, that's about a foot from the lot line,
17 based upon the survey work that we did.

18 And when you look at the physical plan that the
19 landscaper drew, you would conclude that what they built is
20 correct. And I'm not -- thank you, you can illustrate my
21 drawings. I apologize for not having that up to start with.

22 But you can see probably in the second plan it has

1 more detail. Thank you. It shows those dimensions that
2 I've just described to you.

3 Again, it's showing the 7.4 to the building when
4 you're parallel to the midpoint, if you take that closest
5 facet that's shown there on the building line, that's four-
6 six. And your decision said no closer than four-six, and
7 two feet.

8 So the contractor was given a contract by a
9 homeowner, and from my perspective executed that contract to
10 the best of his abilities. But then when he was required to
11 get an as-built, he hired our firm to do to that work, and
12 we had to inform him that he didn't comply with zoning.

13 We did bring that the attention of the Building
14 Inspector, and that's how we got involved in filing this
15 petition on behalf of the homeowners.

16 So again, to recap, you've got a minimum setback
17 for a structure like the spa of 10 feet. You did waive it
18 to four-six and two feet, and the expectation was that you
19 would be complying with a five-foot side yard setback.

20 But in this case, that couldn't be observed,
21 because geometrically that was impossible. They are off by
22 0.6 feet from the water line of the spa.

1 And I hope that you would see the difference
2 between this petition and the one before us. And I hope
3 that you would see the difference between this petition and
4 the one before us. I know a couple members didn't seem too
5 happy with the previous one, and I would hope that you find
6 this one in proper keeping, and thank you for your time.

7 BRENDAN SULLIVAN: And you're probably thinking,
8 "Boy, why do we have to follow them?"

9 PETER BEMIS: Well, I was thinking that, Mr.
10 Chairman, regrettably, all night, while you were doing all
11 those other petitions. [Laughter].

12 BRENDAN SULLIVAN: So then to avert this problem,
13 who got the contractor started? Did he sort of just go by
14 the plan, or was it the landscape architect who --

15 PETER BEMIS: Oh, I don't know who hired who. The
16 Davises are here, if you want to promote them so they can
17 special.

18 BRENDAN SULLIVAN: And I don't want to belittle
19 the thing, but I'm just wondering if -- I mean I got the
20 sense it was probably all done in good faith and everything
21 like that, and just --

22 PETER BEMIS: Yeah. That's my conclusion as well

1 Mr. Chairman. And again, from our perspective, we do this
2 in a lot of communities.

3 When we come in to go to a Board like yours and
4 ask for relief, it's based upon a ground survey, so that we
5 can represent the dimensions that are shown on the plan.
6 And it's sealed as well.

7 What I looked at the for the plan that was used
8 for the contract document, it's not sealed by the license,
9 individual, and has dimensions on it that aren't even tied
10 down properly. So to me, the project was destined to
11 failure. When I look back at it, and -- you know, a
12 backward, you know, look.

13 But all I can say is from the time that we found
14 that we -- they were in the Zoning violation, everyone's
15 been, obviously upset about it and looking for relief from
16 this Board.

17 So it's just disappointing to follow the last
18 case, where I think that -- they might have been looking for
19 forgiveness. We're not looking for forgiveness, we're
20 looking for recognition that what was done to start this
21 project is really what's at fault, not the execution. Thank
22 you.

1 BRENDAN SULLIVAN: Jim Monteverde, any questions?

2 JIM MONTEVERDE: Well, my only thought is did the
3 -- has the contract to lay the work out, I mean, I would
4 assume that it gets laid out first? There's control lines
5 are set?

6 PETER BEMIS: Yes, sir, so if you --

7 JIM MONTEVERDE: -- at some point?

8 PETER BEMIS: Yes.

9 JIM MONTEVERDE: I'm sorry, go ahead.

10 PETER BEMIS: No, I was going to say yes. And
11 that's what I'm getting at is they observe that four-six
12 distance from the -- that closest point to the building.
13 I'm sorry that we didn't label that.

14 We prepared the document that you have as part of
15 the as-built when we submitted the building. So this is the
16 way you would illustrate it to the Building Inspector, to
17 show them the setbacks. So that other distance is four-six.

18 JIM MONTEVERDE: Okay, but I guess I'm -- what I'm
19 asking -- the question I'm asking is did the -- at the
20 beginning, the outset of construction when someone was
21 mobilizing and laying things out, they didn't realize it was
22 a dimensional bust at that point?

1 PETER BEMIS: I don't think they would have
2 realized it, sir. If you look at the drawing that was done
3 -- and I'm not sure if staff can bring that up -- the plan
4 done by Gene Brooks Landscapes, but this very much appears
5 to be the same, the same drawing when you look at it. It's
6 about two feet off of the corner of the garage.

7 That's why I'm saying dimensionally it's very,
8 very close --

9 JIM MONTEVERDE: Yeah.

10 PETER BEMIS: -- to what it was supposed to be.
11 So we do comply with everything, except for that side yard
12 setback. In other words, it's more off the house in the
13 body there, but it's still four-six off of the closest point
14 on the -- on the north side of the building.

15 JIM MONTEVERDE: Okay. Thank you.

16 PETER BEMIS: Yes, sir.

17 BRENDAN SULLIVAN: Wendy, any questions?

18 WENDY LEISERSON: I just wanted to make a couple
19 of comments, which is in do see distinctions between this
20 case and the prior case.

21 One is that in the original decision approving
22 this plan, I don't find in the decision narrative that there

1 was opposition by neighbors or multiple continuances and
2 negotiations, such that the homeowner would have been, you
3 know, primed to have to deal with neighbors and the Zoning
4 Board.

5 And the second point I would make is that there is
6 no opposition now, and there was no opposition then. So I
7 do see that this is a good faith, clearly good faith. There
8 was no redesign here. It was simply an error. So those are
9 my comments.

10 BRENDAN SULLIVAN: Great. Thank you. Jason.

11 JASON MARSHALL: I agree with Wendy. I also
12 appreciate Mr. Bemis' presentation and the explanation.
13 Thank you.

14 BRENDAN SULLIVAN: Matina?

15 MATINA WILLIAMS: No comments. I do agree with
16 Wendy and Jason. And I did -- I really did appreciate the
17 presentation.

18 BRENDAN SULLIVAN: Okay. Thank you. I sat on the
19 original case, and there was no problem with it. It is --
20 it has therapeutic value to it, for health reasons, and it's
21 not just recreational, there's a component to that, but it's
22 also tucked way around the back of the house -- lovely

1 house, lovely landscape, and at a cul-de-sac.

2 And it's really not noticeable at all. It has no
3 impact on really anybody, other than the residents who add
4 the positive impact.

5 Let me open it to public comment. Any members of
6 the public who wish to speak should now click the button
7 that says, "Participants," and then click the button that
8 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 we would ask three minutes limit for comments.

12 There's nobody calling in. We are in receipt of
13 correspondence from Larry Nathanson/Nathanson
14 (pronunciation)

15 "To the Board of Zoning Appeal, I am long-term,
16 1935, resident of #3 Gray Gardens East, a neighbor of
17 Thaddeus and Juliana Davis at #11 Gray Gardens. A surveying
18 technicality has resulted in less than applied for side yard
19 setback between the Davis's approved plunge pool and their
20 property lines.

21 "Since the plunge pool itself is entirely on their
22 property and it will be used for exercise and physical and

1 mental health maintenance, I can believe that the Davises
2 should granted a variance in this case.

3 "In addition, I doubt that the variance will
4 result in any possible infringement on property use by any
5 of the neighbors or property owners involved in this case.

6 "Larry Nathanson, MD.

7 3 Gardens East."

8 And that is the sum and substance of any
9 communication. I will close the public comment. Anything
10 else to add? You don't have to. Peter?

11 PETER BEMIS: No, sir. I'm all set, thank you.

12 BRENDAN SULLIVAN: Okay. Back to the Board, ready
13 for a motion?

14 JIM MONTEVERDE: Ready.

15 BRENDAN SULLIVAN: Let me make a motion, then, to
16 grant the relief requested, which is to modify the spa plans
17 approved in BZA Case No. 107421. The Board finds that a
18 literal enforcement of the provisions of the Ordinance would
19 involve a substantial hardship to the petitioner, because it
20 would require the petitioner to [be] removing sections of
21 spa and surrounding material in order to comply with the
22 setback requirements.

1 The Board finds that the requirements requiring
2 that action would be somewhat punitive, and onerous to
3 impose upon the homeowner.

4 The Board finds that the hardship is owing to the
5 size of the lot, the siting of the house on the lot, which,
6 though the lot having plenty of areas, the siting on the
7 lot, which predates the existing ordinance and as such is
8 encumbered by the requirements of the ordinance, and as such
9 any structure of this nature, which is very tight in
10 dimensions, would require some relief from the ordinance.

11 The Board finds that desirable relief may be
12 granted without substantial detriment to the public good.
13 The Board finds that the location of the spa has absolutely
14 no effect on the public good whatsoever, and as testimony
15 has shown from abutting properties, it's hardly noticeable,
16 and have no effect on adjoining properties.

17 The Board finds that desirable relief may be
18 granted without nullifying or substantially derogating from
19 the intent and purpose of the Ordinance.

20 The Board finds that the adjoining properties are
21 substantially away from this structure, and that has no
22 effect on them whatsoever, and that the granting of this

1 would be fair and reasonable relief from the ordinance, and
2 also the modification to the plan, and on the condition that
3 the plan be initialed by the Chair and incorporated as the
4 as-built document.

5 Jim Monteverde on the granting of the modification
6 -- granting of the variance to modify the original
7 application?

8 JIM MONTEVERDE: I vote in favor.

9 BRENDAN SULLIVAN: Wendy Leiserson on the motion?

10 WENDY LEISERSON: In favor.

11 BRENDAN SULLIVAN: Jason Marshall?

12 JASON MARSHALL: In favor.

13 BRENDAN SULLIVAN: Matina?

14 MATINA WILLIAMS: In favor.

15 BRENDAN SULLIVAN: Yes.

16 [All vote YES]

17 BRENDAN SULLIVAN:

18 On the five affirmative votes, the variance to
19 modify the original case is granted. Good luck.

20 PETER BEMIS: Thank you very much.

21 MATINA WILLIAMS: Thank you.

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(10:08 p.m.)

Sitting Members: Sitting Members: Brendan Sullivan, Jim
Monteverde, Wendy Leiserson, Jason
Marshall, and Matina Williams

BRENDAN SULLIVAN: The Board will hear Case No.
165777 -- 50 Church Street. Ting-Ho Tam or Barry Tam?

BARRY TAM: Hello? How's everybody doing today?

BRENDAN SULLIVAN: Yes. Okay. It's your
presentation.

UNIDENTIFIED SPEAKER: It's up to you.

BARRY TAM: Yes. So we have a presentation. So
we -- I know it's been a long night. We will try to keep it
brief. So a short introduction about ourselves. We're here
today to seek approval of a special permit to operate our
bubble tea shop as a formal business in the Harvard Square
District.

And we're looking to open and operate the bubble
tea shop, called "Gong Cha." And this will actually be our
very first store as businessowners.

TING-HO TAM: So the space we are currently --

BRENDAN SULLIVAN: Just introduce yourself for the

1 record, that's all.

2 BARRY TAM: Hi. My name is Barry. This is my
3 cousin Ting-Ho.

4 TING-HO TAM: My name is Ting.

5 BRENDAN SULLIVAN: Okay.

6 BARRY TAM: We're both owners of Gong Cha. So
7 like I said, the space that we're currently going to be
8 occupying was once tenanted by Dado Tea.

9 They were operating it for over the past 15 years,
10 and then due to unforeseen circumstances of COVID,
11 unfortunately we had to shut down our operations.

12 Dado Tea previously did serve bubble tea drinks,
13 which is also the same business model that we are serving as
14 well. And we're just both excited, enthusiastic, and happy
15 to resume providing bubble tea drinks to the Harvard Square
16 community for many years to come.

17 TING-HO TAM: Okay. So, like, a little bit about
18 ourselves and Gong Cha. Gong Cha is famous for its
19 Taiwanese-style bubble tea. It was founded in 2006 in
20 Taiwan.

21 And in 2019, Gong Cha was actually acquired by TA
22 Associates, and this is a private equity firm based in

1 Boston. They have their headquarters at the John Hancock
2 building in Back Bay. And we're actually really localized,
3 and we're established in Boston.

4 And a fun fact about Gong Cha, it's Chinese for
5 offering the best tea to the emperor. It also represents
6 teas and beverages of the highest and finest quality.

7 And we also want to dedicate the [4:19:19
8 indiscernible] buying our quality tea drinks to the Harvard
9 Square community.

10 BRENDAN SULLIVAN: Okay.

11 BARRY TAM: What makes us unique is that, you
12 know, we provide quality tea, quality products and quality
13 services, as well as -- selected approved suppliers and
14 vendors.

15 And most of our tea leaves are sourced
16 specifically and directly from Taiwan.

17 BRENDAN SULLIVAN: What are your hours of
18 operation?

19 BARRY TAM: From 11:00 a.m. to 11:00 p.m. But we
20 will be having our operations start at 9:30 for our
21 preparation work --

22 BRENDAN SULLIVAN: Yep.

1 BARRY TAM: -- getting the teas, prepare our
2 bubble, so that way we can open at 11:00 a.m.

3 BRENDAN SULLIVAN: And that's no more intense than
4 the previous occupant?

5 BARRY TAM: Yes.

6 BRENDAN SULLIVAN: Just about the same? Okay.

7 BARRY TAM: Yes, sir.

8 BRENDAN SULLIVAN: All right. Good. Any
9 comments, Jim Monteverde?

10 JIM MONTEVERDE: No comments, thank you.

11 BRENDAN SULLIVAN: Wendy, any comments, questions?

12 WENDY LEISERSON: What were the hours of operation
13 of the prior business?

14 BARRY TAM: It's 11:00 a.m. to 11:00 p.m.

15 WENDY LEISERSON: And that is what Dado Tea was as
16 well?

17 BARRY TAM: I'm not sure what Dado Tea was before;
18 we weren't here during that time. But we are subject to
19 change our hours, in terms of traffic and how busy the days
20 are.

21 WENDY LEISERSON: Okay. Thank you.

22 BRENDAN SULLIVAN: Jason, any questions, comments?

1 JASON MARSHALL: No comments or questions at this
2 time, thanks.

3 BRENDAN SULLIVAN: Matina?

4 MATINA WILLIAMS: No comments.

5 BRENDAN SULLIVAN: Okay. And I don't have any
6 either. Let me open it to public comment. Any member of
7 the public who wishes to speak should now click the button
8 that says, "Participants," and then click the button that
9 says, "Raise hand."

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

13 There appears to be nobody calling in. We are in
14 communication -- receipt of communication from Sarah Scott,
15 the Community Development Department.

16 "Last night the Harvard Square Advisory Committee
17 discussed the special permit application by Gong Cha to
18 operate a Formula Business, fast-order, quick service food
19 establishment at 50 Church Street.

20 "The Harvard Square Advisory Committee supports
21 the application, and notes -- noted that the business will
22 be replacing a similar -- similar establishment.

1 We recommend that the BZA approve the special
2 permit, with the condition that the signage remain as
3 presented in the application, specifically Harvard Square
4 Advisory Committee members expressed a desire to maximize
5 window transparency to maintain abstinence and connection
6 between the public realm and the anterior space. Nine
7 members voted in favor of this recommendation; one member
8 abstained.

9 "From Sarah Scott."

10 There is also correspondence from Sean Hope.

11 "Writing to express our strong support for
12 approval of the tea shop at 50 Church Street. Due to the
13 devastating impact of COVID on retail environment, the
14 Square desperately needs unique and interesting places to
15 visit and shop."

16 And he goes on to say that he will also be opening
17 up a store adjacent to it, and that he approves this
18 application.

19 There is correspondence from Ben Gram, who is a
20 General Manager of the Sinclair -- strong support. There is
21 Time Techno, the Swiss Watchmaker, who is voicing support,
22 Passim also and voicing support. So it sounds like

1 everybody is -- and also from Phil Cunningham, who is the
2 Property Manager, who is in support for the operation.

3 I will close the public comment part. Anything
4 else to add to your presentation. You don't have to.

5 BARRY TAM: No, I just wanted to conclude that,
6 you know, if any of our neighbors are here tonight, you
7 know, we would just like to extend our warmest welcome, and
8 --

9 BRENDAN SULLIVAN: Okay.

10 BARRY TAM: We're two young men that are looking
11 forward to opening our first store here in Harvard Square.

12 BRENDAN SULLIVAN: Thank you. In considering the
13 application for a special for fast-order or quick-served
14 food, the Board of Appeals shall find in addition to other
15 criteria expressed in Section 10.40, that the following
16 requirements are met:

17 The operation of the establishment shall not
18 create traffic problems. I think the Board can find that it
19 will not.

20 It will not reduce any available parking, mostly
21 walk-in trade.

22 It will not threaten the public safety in the

1 streets or the sidewalks, and it will not encourage or
2 produce double parking or the adjacent public streets.

3 The physical design, including colors and use of
4 materials of the establishment shall be compatible with and
5 sensitive to the visual and physical characteristics of
6 other buildings, public spaces and uses in the particular
7 location.

8 You will maintain the existing signage. Can we
9 get a commitment for that?

10 BARRY TAM: Right. If you could pull it up.

11 BRENDAN SULLIVAN: You may change the lettering,
12 but I think what they're looking for is the size and the
13 impact of that signage.

14 BARRY TAM: Yeah. I'm not sure if Olivia Ratay
15 could share our -- we do have exterior signage in the
16 application. I think it's on page 11, or page 5. Yep. So
17 --

18 BRENDAN SULLIVAN: Yeah. Okay. So --

19 BARRY TAM: As you can see, we're keeping the
20 existing bracket. We're just going to replace it with the
21 similar dimensions of the sign.

22 BRENDAN SULLIVAN: Great. Okay. Thank you. The

1 establishment feels a need for such a service in the
2 neighborhood or in the city.

3 And I think the Board can find that the tea
4 establishment services not only the Asian community, the
5 fast-growing Asian community, but also those who like good,
6 healthy food, and the letters of support from adjoining
7 businesses, solidifies that feeling that there is a big for
8 such service in the neighborhood.

9 The establishment will attract patrons primarily
10 from walk-in trade, as opposed to automobile or related
11 trade, and the Board will find that it is a similar
12 establishment as was there before, and that the environments
13 of Harvard Square do support walk-in trade.

14 The establishment shall utilize biodegradable
15 materials and packaging, and food and utensils and other
16 items provided for consumption. Can you agree to that, that
17 you will provide biodegradable materials? You're not
18 serving any food, so there's really -- the containers, the
19 cups that you're providing, you know, are they
20 biodegradable?

21 BARRY TAM: Well, our -- we use plastic cups, but
22 we use paper straws and plastic straws. But we also have

1 designated trash bins and recycle bins. And behind the
2 back, we have compost there. We also have a trash
3 compactor, and a cardboard compressor.

4 BRENDAN SULLIVAN: Okay. The establishment shall
5 provide convenient, suitable, and well-marked waste
6 receptacles to encourage patrons properly to dispose of all
7 packaging materials, utensils and other items provided with
8 the sale of food.

9 You're not providing food, but with the sale of
10 the product. So you have attested to the fact that you are.

11 The establishment complies with all state local
12 requirements applicable to egress and ingress, and the use
13 of all facilities on the premises for handicap and disabled
14 patrons, persons. And so you can establish that fact, that
15 it complies with that. And that's it.

16 Other than that, the requirements of Article
17 10.40, the Board finds that it appears that the requirements
18 of the Ordinance cannot be met without the -- well, can be
19 met, even with a granting of the special permit.

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

1 character.

2 The Board finds that continued operation of or
3 development of adjacent uses, as permitted in the Zoning
4 Ordinance, would not be adversely affected by the nature of
5 the proposed use. And we also cite the letters of support
6 from adjoining businesses, who welcome the addition of this
7 establishment.

8 The Board finds that there would not be any
9 nuisance or hazard created to the detriment of the health,
10 safety and/or welfare of the occupants of the proposed use,
11 or the citizens of the city.

12 And that the proposed use would not impair the
13 integrity of the district or adjoining district, or
14 otherwise derogate from the intent and purpose of the
15 Ordinance.

16 BRENDAN SULLIVAN: On the motion, then, to grant
17 the special permit, Jim Monteverde?

18 JIM MONTEVERDE: In favor.

19 BRENDAN SULLIVAN: Wendy Leiserson.

20 WENDY LEISERSON: In favor, both in law and to
21 please the teenagers in my life.

22 COLLECTIVE: Thank you.

1 BRENDAN SULLIVAN: Jason Marshall?

2 JASON MARSHALL: In favor.

3 BRENDAN SULLIVAN: Matina?

4 MATINA WILLIAMS: In favor.

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

7 [All vote YES]

8 BRENDAN SULLIVAN: five affirmative votes, the
9 special permit is granted.

10 COLLECTIVE: Thank you.

11 BRENDAN SULLIVAN: Good luck.

12 COLLECTIVE: Thank you guys, appreciate it.

13 BRENDAN SULLIVAN: Yep, you'll see Wendy down
14 there.

15 WENDY LEISERSON: [Laughter] No, Wendy's not
16 allowed to go with the teenagers anymore.

17 COLLECTIVE: We welcome everybody. Thank you,
18 guys.

19 WENDY LEISERSON: Thank you. Good luck.

20 COLLECTIVE: Please visit us.

21 BRENDAN SULLIVAN: Good luck.

22 COLLECTIVE: Thank you.

1 BRENDAN SULLIVAN: And that's it, folks.

2 JIM MONTEVERDE: All right. Thank you very much.

3 BRENDAN SULLIVAN: Thank you very much.

4 JASON MARSHALL: Ladies and gentlemen, Mr. Chair,
5 good work, everybody.

6 MATINA WILLIAMS: Thank you.

7 JIM MONTEVERDE: Goodnight.

8 WENDY LEISERSON: Have a good night.

9 MATINA WILLIAMS: Have a good night. Bye.

10 BRENDAN SULLIVAN: Bye. Everybody stay well.

11 WENDY LEISERSON: You too.

12 MATINA WILLIAMS: You too.

13 [10:21 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.

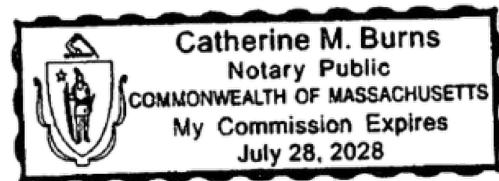
In witness whereof, I have hereunto set my hand this 31st day of May, 2022.



Notary Public

My commission expires:

July 28, 2028



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