BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING THURSDAY

AUGUST 18, 2022
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Andrea A. Hickey
Wendy Leiserson
Laura Wernick
Jason Marshall

City Employees
Peter McLaughlin

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* * * * *

(6:00 p.m.)

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

BRENDAN SULLIVAN: Welcome to the August 18, 2022 meeting of the Cambridge Board of Zoning Appeal. My name is Brendan Sullivan, and I am the Chair for tonight's meeting.

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

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

There will also be a transcript of the

proceedings.

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

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

Generally, you will have up to three minutes to speak, but that may change based on the number of speakers, and at the Chair's discretion.

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

PETER MCLAUGHLIN: Peter McLaughlin, ISD Staff, present and accounted for. Laura Wernick?

LAURA WERNICK: Sorry, I couldn't get myself unmuted. Yes, I'm here.

PETER MCLAUGHLIN: Thank you. Jason Marshall?

JASON MARSHALL: Here.

PETER MCLAUGHLIN: Thank you. Wendy Leiserson?

WENDY LEISERSON: Here.

PETER MCLAUGHLIN: Sorry, Wendy. Thank you.

Andrea Hickey?

ANDREA HICKEY: Andrea Hickey, present.

PETER MCLAUGHLIN: Thank you. And Brendan Sullivan?

BRENDAN SULLIVAN: Present, and audible. Before we start tonight's meeting, just a couple of notes for those listening in.

The 808-812 Memorial Drive case is being withdrawn. Also on the regular agenda, Case No. 181674 -- 25 Suffolk Street, that is also going to continue. And 21 Loomis Street, that also will continue. However, I will call those cases at the designated time, and allocate a time when it will be reheard.

But for those who are interested in those cases, no need to hang on, but you're surely welcome.

* * * * *

(6:03 p.m.)

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

BRENDAN SULLIVAN: First case I'm going to call tonight is Case No. 170145 -- 10 Van Norden Street. Is the petitioner present?

[Pause]

SKA? Mr. Denehy? Somebody from 10 Van Norden Street?

PETER MCLAUGHLIN: Sorry.

SHANNA BOUGHTON: Good evening.

PETER MCLAUGHLIN: Yeah, they're -- we have them, Brendan. Should I pull up the file?

BRENDAN SULLIVAN: Yeah. Are they -- is the petitioner audible?

SHANNA BOUGHTON: Good evening. Shanna Boughton on behalf of the applicant, and the petitioner should be on -- John Denehy -- along with our architect, Sam Kachmar.

SAM KACHMAR: Yeah, we're here, Mr. Chairman. This is Sam Kachmar from Sam Kachmar Architects.

BRENDAN SULLIVAN: Somehow, you're not coming up on the screen.

SAM KACHMAR: I know. We can't see -- normally we have a Gallery View of everybody, and it seems like that's not --

PETER MCLAUGHLIN: Do I make them panelists? Do I have to make them panelists?

THE REPORTER: They need to be panelists.

SAM KACHMAR: Yep. Yes.

PETER MCLAUGHLIN: Okay. All right. Okay.

SAM KACHMAR: Here it is -- come again? I believe there's -- yeah, there we go.

PETER MCLAUGHLIN: Sorry about that. I'm new at this, so. There you go.

BRENDAN SULLIVAN: Okay. When we met the last time back in June, and I had an issue with the dimensional form, which was not correct.

And I asked at that time of Shanna Boughton, B-o-u-g-h-t-o-n, who was Counsel to Mr. Denehy that that form reflect what the condition of the house was before the fire, before the work began, and what it is today. And I asked that that form be submitted, along with any other changes by

5:00 p.m. on last Monday.

The dimensional form just came in this afternoon at 2:58. So I'm not prepared to hear the case tonight because of a late filing.

I had also asked in the transcripts that it -- we be given enough time for Inspectional Services -- most specifically the Commissioner to go over the numbers. So you're aware of that?

SHANNA BOUGHTON: Yes, we are. And we have updated the renderings and plans, and those were timely submitted. And in those plans, the difference of the FAR is in there. And the difference is from a 0.56 to a 0.60.

So if the Board would entertain today, we would like to just proceed and at least go through the plans with the Board, and then after that time if the Board still wishes to continue, we understand.

BRENDAN SULLIVAN: Well, let me -- I'll -- I have an objection going forward only because the form -- the dimensional form -- was not timely filed. You've had since June to get that form in, and it came in at 2:58 this afternoon.

I don't -- I can't get my head around the problem

with this entire project here, and why it's so difficult. However, that is my tact.

Let me give it to the Board. Laura, Jason, Wendy and Andrea, if you're aware of the issue -- and I actually think some of you were on this case back in June -- and I had asked for the dimensional form to be updated on our form, not contained within the drawings.

And SKA knows very well our procedure and our requirement to have that dimensional form submitted on -- you know, the proper stationery.

SAM KACHMAR: Okay.

BRENDAN SULLIVAN: Laura, I'm not prepared to go forward. However, what are your thoughts?

LAURA WERNICK: Well, I'm inclined to agree with you. What were the other changes in the dimensional form -- to the ones that were made? Were any other changes made besides the -- that error?

SHANNA BOUGHTON: No. That's is the only change that’s there. And again, it's a very -- it's a 0.4 difference in the floor area ratio.

And why would be helpful to go forward today and at least let Mr. Kachmar go through the plans with you is

because we would like at least to get some feedback today if anything on the changes that have been made over the last two months. And we would keep it brief, but that is really the only change, and it's very de minimis.

And we would really welcome some feedback from the Board, so that --

BRENDAN SULLIVAN: Well, one of the --

SHANNA BOUGHTON: -- if there are other changes --

BRENDAN SULLIVAN: Right, and one of the --

SHANNA BOUGHTON: You can provide them at the next hearing.

BRENDAN SULLIVAN: -- one of the problems is, Shanna, is that if we were to open this up tonight, it's going to be a case heard. You would have to get the same five members back again, which could kick this down the road quite a bit.

So that's my hesitation of opening it up as a case heard, and the availability of the same five members to assemble on the same night within a reasonable time. So.

LAURA WERNICK: So when could it be heard if it's not heard this evening? When would the next available opportunity to hear the case be?

SAM KACHMAR: We're glad to be very brief and address the issues with the dimensional form, if we can just speak for a couple minutes?

BRENDAN SULLIVAN: Yeah, let me --

LAURA WERNICK: It's just a matter of the timing. If we get it started --

SAM KACHMAR: Of course --

LAURA WERNICK: -- and then have to do a continuation, it could be a couple --

SAM KACHMAR: I totally get that and want to be respectful of the Board's time, of everyone's time and just try to be as efficient as we can in the process, for sure.

BRENDAN SULLIVAN: October -- to answer your question, Laura, October 6 would be the next available.

LAURA WERNICK: Yeah. So do others have an opinion on this?

BRENDAN SULLIVAN: So anyhow --

LAURA WERNICK: Jason --

BRENDAN SULLIVAN: -- the next available would be October 6.

LAURA WERNICK: -- Wendy --

BRENDAN SULLIVAN: -- whether or not all five of

us are available on October 6, but let me go to Jason. Jason, your thoughts on the issue?

JASON MARSHALL: Well, I'll actually start with the October 6 date, because I will not be available on October 6, which that may counsel toward not beginning to hear the substance of the case, because then that would move you beyond the October 6 date.

BRENDAN SULLIVAN: Right. And then the next available date after that is October 27.

JASON MARSHALL: Okay.

BRENDAN SULLIVAN: So. But on the issue of proceeding or not proceeding, Jason your thought regarding the -- what I perceive as a late filing of the dimensional form?

JASON MARSHALL: Yeah. I mean, you know, the Chair of this Board has identified a procedural issue that prevents us in his view, and I share his view, from acting on the case tonight.

So my view is actually -- it's more around administrative efficiency. I don't see a whole lot of efficiency gained in beginning the case if we're from the outset saying we're not going to act on it.

I do understand, Sam, your point and the point that was made about getting some preliminary feedback. But I don't know that that's the best use of the Board's time. It does seem like the dimensional form could have been submitted, there was plenty of time to do that.

So I'm inclined to agree with the Chair that it's probably most efficient to continue the case.

BRENDAN SULLIVAN: Okay, Wendy?

WENDY LEISERSON: I concur with what Jason Marshall just said.

BRENDAN SULLIVAN: Great. Andrea?

ANDREA HICKEY: I concur as well, and my reasoning is that I view the dimensional form as a form that in a way allows the public who may not be adept at reading plans to sort of see in a succinct place and location what the request is.

Now, granted, if the number is de minimis, perhaps that should be given some consideration. But I always sort of err on giving the public sort of full opportunity to review the ask.

And I see the dimensional form as something that's important to the public to have advance opportunity to

review. If we sort of void that in this case, then we sort of head down a slippery slope of other things we might waive that we're missing from the dimensional form in other cases.

So unfortunately, I would not support hearing the case tonight. I think we should sort of stick to the rules here, however, de minimis the numerical sort of differential is. So I would concur with you, Mr. Chair, that we should not hear the case this evening.

BRENDAN SULLIVAN: Okay. Laura, I started with you. Are you -- any further thoughts on --

LAURA WERNICK: No further thoughts. I don't really see -- I'm less concerned, to tell you the truth, about the change to the FAR and where it's presented than I am about -- you know, I don't see any point in doing this if we're still going to be -- regardless, we're going to be waiting until October -- until near the end of October.

And I don't think it makes sense to present things now, and then we won't remember -- I won't remember two months from now what the issues were, certainly. So I prefer to not hear it this evening.

BRENDAN SULLIVAN: Great. Okay. Thank you. All right. So you've heard the sentiment of the Board.

So -- I don't know, Sam, did you want to make a very brief --

SAM KACHMAR: The only thing I'd like to say, Mr. Chairman -- and I don't know if it changes anyone's mind, I imagine it doesn't but -- we've spoken to pretty much every abutter and everyone on the street who has any interest in this case.

So I would say that any bit of the public that cares either in opposition or in support of this case is well aware, and has had these drawings circulated to them, and has met with our firm on multiple occasions.

So maybe there would be a way to say that a lot of people are involved that want to be in this particular case, but that's all I'll say on there. If you want us to present, we will. If you don't want us to present until October, we'll wait until then.

BRENDAN SULLIVAN: Yeah, I -- again, I take a hard -- not a hard line, just it's part of the submittal. It's in the record. I asked for this to be filed timely and it was not, plain and simple.

And so, I'm not prepared to go forward with it tonight.

So I'm going to make a motion, then, to continue this matter until October 6, 2022 at 6:00 p.m. on the condition that the petitioner change the posting sign to reflect the new date of October 6, and the time of 6:00 p.m.

That any new submittal's different than what's in the file now be in the file by 5:00 p.m. on the Monday prior to the October 6 hearing.

That the -- we have received a waiver, so that's not an issue.

Any other conditions by members of the Board?

[Pause]

There appears none. On the motion, then, to continue this matter to October 6? Laura Wernick?

LAURA WERNICK: I vote in favor of continuing until October 6.

BRENDAN SULLIVAN: All right. Jason Marshall?

JASON MARSHALL: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Yes, in favor of the continuance.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor of the continuance.

BRENDAN SULLIVAN: And Brendan Sullivan yes too, in favor of the continuance.

[All vote YES]

On the five affirmative votes, the matter is continued until October 6, 2022 at 6:00 p.m. See you then.

SAM KACHMAR: Thank you very much, Mr. Chairman.

* * * * *

(6:17 p.m.)

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

BRENDAN SULLIVAN: The Board will now hear Case No. 172691 -- 808-812 Memorial Drive. Anybody here representing the petitioner? You're on.

PETER MCLAUGHLIN: Who would that be? Peter Daly?

BRENDAN SULLIVAN: Well, or Jane Carbone, Peter Daly or Jane. Anyhow, we are in receipt of correspondence dated August 12, 2022.

"Dear Members of the BZA, HDHCT Holdings, LLC, care of HRI, Homeowner's Rehab, would like to withdraw our signage variance case 808-812 Memorial Drive. Thank you for your time.

"Sincerely,

"Jane Carbone, C-a-r-b-o-n-e

Director of Development."

On the motion, then, to accept the withdrawal as requested by the petitioner? Laura Wernick?

LAURA WERNICK: I vote in favor of accepting the

withdrawal.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Yes.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN: And the matter is -- on five affirmative votes is withdrawn.

* * * * *

(6:19 p.m.)

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

BRENDAN SULLIVAN: Next case that we will hear is 177687 -- 40 Valentine Street. Will?

SHILEI ZHOU: Oh, sorry, Mr. Chairman. I was mute.

BRENDAN SULLIVAN: Okay. Do you want to present your case, tell us what you'd like to do?

SHILEI ZHOU: Yeah. Thanks, Mr. Chairman. So I'm here today for -- my name is Shilei Zhou and for the 40 Valentine Street. Today I'm seeking for both variances and the special permit for my residence -- again, 40 Valentine Street, Cambridge.

I will start with the special permit. It's a set of the window configurations I want to change with my current resident. So the other window opening is not -- most of them are only on the faces that already have windows.

The issue is all the windows I try to change, they

are within the setback -- either the real setback or the -- it's where my neighbors set back. So that requires -- you know, the relief. That's why I'm asking for a special permit.

And that would be on the -- my second-floor bathroom, third floor bathroom picture window above the sliding door into the back yard, and also the first floor, the living room window from the two panels to three panels, to bring in more natural light. And that will be the three special permits I'm seeking today.

And the variance would be the addition on the third floor.

So the townhouse is one of the [(indiscernible; Zoom distortion) work, so we have -- think of picture of one side's higher, the other side's lower.

So what I'm asking for the variance is, like, raise the rear-side roof to the same height as the front, so we can create more headroom on the third floor. And I think actually using that as a bedroom for my growing family. So that is the purpose of the variance.

And a lot of variance will cause the raising of the roof, so -- and I'm also asking a -- two new windows

within bedrooms. So that's pretty much the variance and the special permits I'm asking for today.

BRENDAN SULLIVAN: Okay. Thank you. Let me open it up to members of the Board. Laura, have you any questions of the petitioner?

LAURA WERNICK: Not at this time, thank you.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Not right now, Mr. Chair. Thanks.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: Not at this time, thank you.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: I have no questions, but I wanted to ask, I'm not seeing any part of the file appear in my -- on my screen. Is the -- are the files going to be shared this evening as they typically would, or am I not accessing it correctly?

BRENDAN SULLIVAN: Yeah, no. I think we're having technical difficulty here. I don't know if Peter could pull up the file.

PETER MCLAUGHLIN: 40 Valentine, correct?

BRENDAN SULLIVAN: Correct, yeah.

PETER MCLAUGHLIN: Hm. I don't know what you would like to see.

BRENDAN SULLIVAN: If you could pull up the file itself?

PETER MCLAUGHLIN: This is the file.

BRENDAN SULLIVAN: It's not coming up on the screen.

PETER MCLAUGHLIN: But I scanned --

ANDREA HICKEY: Perhaps just to open the file to show the dimensional form to start, and then if we want to refer to any part of the interior file, we can ask you to advance the screen?

PETER MCLAUGHLIN: Sure.

BRENDAN SULLIVAN: Should be coming up on the screen.

PETER MCLAUGHLIN: Hold on. I don't know why it's not coming up. Because I shared the screen. I don't know what I mean did, but --

[Technical difficulties conversation]

PETER MCLAUGHLIN: It's up already. Sorry. Oh, you can't share the whole thing?

[Technical difficulties conversation continues]

ANDREA HICKEY: Okay. I can see it on my end now.

PETER MCLAUGHLIN: Yep.

ANDREA HICKEY: I don't have any particular question about this case, I just wanted to make sure that we were able to sort of show this, so members of the public can see if we're referring to any documents or plans. Thank you.

BRENDAN SULLIVAN: Great. Thank you. Let me open it to public comment. Any member of the public who wishes to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

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

[Pause]

There appears to be nobody calling in. We are in receipt of communication from John Hainer -- J-o-n H-a-i-n-e-r.

"Dear Members of the Board,

"My name is Jon Hainer, H-a-i-n-e-r, sorry, and I am the owner of a townhouse at 38 Valentine Street. My

neighbor, Mr. Shilei Zhou, has petitioned your Board for a Zoning Appeal on his property at 40. His townhouse is connected to mine, with a common inner wall.

"I spoke along this row (sic). Desirable relief may be granted without nullifying or substantially derogating from the intent and purpose of the ordinance to allow people to improve their property, make them far more energy-efficient, and to make better use of the interior space, complying with today's standards."

Any other condition to be added, or reason for granting relief? So on the motion, then, to grant the variance, Laura Wernick?

LAURA WERNICK: In favor of granting the relief.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Great motion, Mr. Chair. Jason Marshall yes, in favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Yes, in favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes, in favor. The variance is granted.

Now on the special permit, which would be the addition and alteration of some windows, the Board finds that the requirements of the Ordinance can be met with the granting of the special permit.

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

The Board references a letter from an abutter saying that this would be consistent with additional -- I'm sorry -- neighboring properties.

The Board finds that the proposed work would not alter the traffic patterns associated with the single-family dwelling, it would not change.

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

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

And that the proposed use would not impair the

integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the ordinance.

Also the Board notes the letter from an abutter regarding the shadow study which was submitted, and also the care of some trees, which are part of the deed to these properties, and that the care -- which the petitioner will take for those amenities, and also addressing those issues.

On the motion, then, to grant the special permit, Laura Wernick?

LAURA WERNICK: Laura Wernick votes in favor of granting the special permit.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes, in favor.

[All vote YES]

BRENDAN SULLIVAN: The special permit to add

windows and change the existing window configuration is granted as per the plan initialed by the Chair. Goodnight. Thank you.

SHILEI ZHOU: Thank you.

* * * * *

(6:19 p.m.)

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

BRENDAN SULLIVAN: All right. Going to the regular agenda, the Board will hear Case No. 182043 -- 88 Spring Street.

Mr. Rapp?

ALEXANDER RAPP: Hello. Can you hear me?

BRENDAN SULLIVAN: Yes. All right. If you'd proceed?

ALEXANDER RAPP: Sure. We have a --

BRENDAN SULLIVAN: You've got to introduce yourself for the record, though.

ALEXANDER RAPP: My name is Alexander Rapp. I'm the co-owner of 88 Spring Street, along with my wife, Sarah Christopher, who's also on the call. We have an attached townhouse, one of five. These are -- I believe -- much older than the ones you just referenced in your previous case -- perhaps 100 years older.

We -- at some point in the past 30 years, we

believe someone carved out a roof deck into the attic space. It unfortunately for us leaks, has caused some interior damage to our house, and is more or less useless for the -- given its location far up in the attic.

And so, the proposed solution here -- we believe the right solution here -- is just to cover it back up and restore the house to the original floor plan through the use of a shed dormer, so that as the proposal -- that will add a few square feet.

Of course, there's -- so those are square feet that were originally part of the house that we're taking away. So we're adding them back, and since it's a nonconforming home, we have to come here to talk about that.

BRENDAN SULLIVAN: Okay. Let me open it to the questions by the Board. Laura, any questions for the petitioner?

LAURA WERNICK: No questions at this time.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: No questions at this time.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: No questions at this time.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: I have no questions.

BRENDAN SULLIVAN: Okay. And I have no questions either. Let me open it to public comment. Any members of the public who wish to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

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

SAM KACHMAR: Yes, sir, Mr. Chairman?

BRENDAN SULLIVAN: Yes.

SAM KACHMAR: This is not our project.

BRENDAN SULLIVAN: Sorry?

SAM KACHMAR: We are not part of this project, Mr. Chairman.

BRENDAN SULLIVAN: Somebody want to -- I'm sorry, you're coming in kind of muted. Does somebody want to comment on Spring Street?

SARAH CHRISTOPHER: I'm Sarah Christopher. I'm Alex's wife, 88 Spring Street. I just -- can I just add a couple of things to our petition?

BRENDAN SULLIVAN: Yep.

SARAH CHRISTOPHER: So I just wanted to say we've

lived here since 2005.

We have two daughters -- our 10-year-old and a 14-year-old, and right now they share a room. So the project that we're doing is hoping to turn the existing attic space into a bedroom for a 14-year-old.

And we feel like this would be -- you know, a great -- even though it's not a lot of space, it would make a big impact on our family and our ability to continue to stay here for a long time. We love living here. So I just wanted to add that.

BRENDAN SULLIVAN: Okay. It sounds like it'll add to domestic tranquility?

SARAH CHRISTOPHER: Definitely. [Laughter]

BRENDAN SULLIVAN: Okay.

SARAH CHRISTOPHER: Particularly between the 10-year-old and the 14-year-old.

BRENDAN SULLIVAN: Calling in? No? All right, there's nobody calling in. We are in receipt of communication from Vice-Mayor to the Board.

"We accept this letter as strong support for Case No. 182043, homeowners Alex Rapp and Sarah Christopher wish to enclose their current attic space for a dormer, and

restore the space to its original floor plan, to better accommodate their family.

"They've been longtime residents of Cambridge, and in active community members in the neighborhood involved as parents, with a child in the Cambridge Public Schools.

"They have received approval from the neighbors and gone through the necessary channels to make sure their dormer renovation does not negatively impact their direct abutters.

"Please grant this variance to Sarah and Alex, so they can modify their home to fit their family and add invaluable square footage to their family home.

"Thank you,

"Alanna Mallon,

Vice-Mayor."

And I will close public comment. Anything else to add? Seems pretty simple? Okay. I'll open it back to the Board. Laura, any questions? Laura? Jason? Laura, questions?

LAURA WERNICK: I do not have any questions. Thank you.

JASON MARSHALL: Ready for a vote.

BRENDAN SULLIVAN: Ready for a motion?

LAURA WERNICK: Ready for a motion.

ANDREA HICKEY: Ready.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, it is a variance. Again, somewhat similar to the previous case, this seems like a worthwhile endeavor that -- whoever did it, it probably was a good idea, but it is a horrendous maintenance problem.

Let me make a motion that you grant the relief requested as per the supporting statements, the dimensional form and the drawings initialed by the Chair. That the work comply with the drawings as submitted.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner, because it would preclude the petitioner from potentially adding invaluable interior space that was there historically was removed to create an outdated landing area, which over the years had created innumerable weather-related issues, keeping it -- keeping the rain out and the elements, and creating a maintenance problem.

The Board finds that the hardship is owing to the

shape of the lot, the fact that the structure was built prior to the existing ordinance, and in fact as such is encumbered by it, so that any additional square footage which had been lost and now is trying to be regained without require some relief from this Board.

The Board finds that this request is a fair and reasonable request.

The Board finds that the desirable relief may be granted without substantial detriment to the public good, and that it -- relief may be granted without nullifying or substantially derogating from the intent and purpose of this ordinance, to allow the petitioner to modify the home to provide for some additional living space for a growing family.

And given today's housing market, that established families behooves the city and is a benefit to the city for established families to stay in the neighborhood, in their residence, and that this will enhance the -- well, the benefit of the city, actually, to allow for some additional space.

On the motion, then, to grant the variance, as per the application, Laura Wernick?

LAURA WERNICK: I vote in favor. Laura Wernick votes in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Brendan Sullivan in favor.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the variance for the work is granted. Good luck.

ALEXANDER RAPP: Thank you.

* * * * *

(6:47 p.m.)

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

BRENDAN SULLIVAN: The Board will now hear Case No. 181674, which is 25 Suffolk Street. The Board is in receipt of communication dated August 11.

"Dear Board, please be informed that this office represents Siyu Kalla, S-i-y-u-k-a-l-l-a, of 25 Suffolk Street. Please accept this correspondence as a formal request to continue the Board's hearing set for August 18, 2022 until the next available public hearing.

"This request would delay the opening of the public hearing of the applicant's application until that date. For grounds therefore, the applicant states their Counsel is unavailable on the evening of August 18 for a family matter.

"We look forward to working with the Board."

"Very truly yours,

"Christopher Alpen, Esquire."

I will make a motion, then, that we continue this

matter to October 6, 2022 at 6:00 p.m. as a case not heard, on the condition that the petitioner -- I think we have a waiver, so that is complied with -- that any new submittals be in the file by 5:00 p.m. on the Monday prior to the October 6 date…

That the posting sign be changed to reflect the new date of October 6, 2022 6:00 p.m.

On the motion to continue this matter, Laura Wernick?

LAURA WERNICK: In favor of continuing.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes, this matter is continued until October 6, 2022 at 6:00 p.m.

* * * * *

(6:49 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 182526 -- 27 Jay Street. Edrick?

LAURA WERNICK: We're a few minutes ahead of schedule, does that make a difference, Mr. Chair?

BRENDAN SULLIVAN: Oh, I'm sorry, I'm not -- 6:50. I am. I have to wait 10 minutes. Thank you. Thank you. We get wrapped up in this and keep going. Rarely are we ahead of time, so.

Okay, it being 7:00, let me recall Case No. 182526 -- 27 Jay Street. Edrick?

EDRICK VANBEUZEKOM: Hi. This is Edrick vanBeuzekom. I'm the architect for this project representing Treetop Investments, LLC. Do you need my address or anything? No. Can you hear me?

BRENDAN SULLIVAN: Yes. Oh, yeah.

EDRICK VANBEUZEKOM: Okay. All right. Okay. So the project -- this project's at 27 Jay Street. It's a

wood-frame house, which is in very poor condition, and had been illegally converted into a two-family. So it's really only been listed as a single-family house.

And the developers purchased this house last year and are converting it back to a single-family house. And as part of the work, basically we want to open up the space and change windows.

The house is nonconforming to FAR. It's also nonconforming to all the setback requirements, except for the left side of the property.

The areas where -- there is a portion of the house which falls within the setbacks, where we are also changing windows, but most of the changes we're making are in the setbacks.

And perhaps the easiest thing would be to toggle between the two site plans to give you a quick overview of the changes in the windows?

Yeah.

So here's the existing house. The -- you can see where the existing windows are currently on the house. You can also see the dashed lines, which indicate the setbacks. And the -- well, anyways if you toggle to the next drawing,

I'll explain what we're doing.

So here you can see basically on the walls on the upper side of the plan closest to the lot line where the house is alibi skewed in relation to the lot line, as you can see.

There's two windows that we're moving. One is in the stair, at the bottom of the stairs, and the other one is in the entry. The two windows over in the kitchen area are existing, so we're simply replacing those.

At the rear of the house, we're adding some windows on the back wall to bring some light in as well as not wall facing the left side of the house. These are all in the rear yard setback.

And then moving toward the front along that side of the house, there's new windows -- basically for the living area, as well as the living room, where we're really trying to open it up and have more window space. It's pretty straightforward.

The -- we're also adding some windows in the basement with a window well -- one of which is within the setbacks. The other is in the rear. You can see on this plan where we show there's a window well for -- that's for a

basement egress.

And if we want to scroll down to the second-floor plan, we can give you a quick overview.

That's the basement. There's the first floor.

Next one?

Okay. Right there. So here at the second floor, basically we're -- the two bedrooms that you see in the front, we're matching the windows below in the living room, doing a similar thing in the rear at the master bedroom.

The block of three windows matches what's below, and then the single window in the back is centered on the pair that we have in the dining room below.

We're not adding any windows on the right side of the house, which is the top of the plan here. There is a small existing window in the -- what's in the master bathroom right there. That's just being replaced again. And we're replacing windows in the front where you see the bathroom.

And we are replacing all the windows in the bay windows as well, though they're essentially in the existing openings. I think we're making them a little bit taller than what's there.

If you can scroll down to the next drawing.

Yeah. Here you see the elevations. There's the front of the house. You can see what we've done with the windows there.

Scroll down a little bit more.

You can see the rear of the house. The pair of windows at the bottom there is in the dining room. The one above is the master bedroom.

And then scrolling farther down, this is the side where we're making the most changes. And so new siding on the house. Basically, it's a complete renovation. You can also see here where we've added basement windows.

So that's basically the scope of what we're doing. One sort of odd thing in the zoning dimensional table that you might notice is that the gross floor area is shown as being reduced by a small amount.

I just want to explain what that's about. That's simply because there's an attic space that has a small portion of area that's currently got over -- there we go -- the attic space has a small area down the center of it that's over five feet in ceiling height, so we counted that toward the FAR.

We are changing to a cathedral ceiling up on the second floor there, eliminating the attic space. So that reduces the floor area very slightly.

So that's basically the extent of the project, if anybody has any questions?

BRENDAN SULLIVAN: All right. Let me open it up to the Board. Laura, any questions?

LAURA WERNICK: No questions. Thank you.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: No questions, Mr. Chair.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: I have no questions, thank you.

BRENDAN SULLIVAN: I have -- yeah, the only question I have is sort of an informational one. Erik, what type of windows are you expecting these days?

EDRICK VANBEUZEKOM: I believe the developer is using Andersen Windows on this, which is --

BRENDAN SULLIVAN: Yeah. The 400 series or something?

EDRICK VANBEUZEKOM: Yeah. Yeah.

BRENDAN SULLIVAN: Okay. No, no, just -- just -- that's fine. Just a point of information for me, that's all.

EDRICK VANBEUZEKOM: Yeah. It's a LEED -- issue with all windows, so those seem to be the easiest to get at the moment.

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

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

[Pause]

There appears to be nobody calling in. We aren't, I believe, in receipt of any communication for or against the proposal, so I'll close the public comment part, send it back to you, Edrick, for any last words of wisdom that you wish, or --

EDRICK VANBEUZEKOM: No, I --

BRENDAN SULLIVAN: Not necessary? Okay.

EDRICK VANBEUZEKOM: Pretty simple project. I

think the developer's really, you know, cleaning up an eyesore here. So I know in brief conversations I had with some of the neighbors when I was first over there looking, they were pretty pleased to see something happening with this house.

BRENDAN SULLIVAN: Well, it surely needs something. And --

EDRICK VANBEUZEKOM: Okay.

BRENDAN SULLIVAN: -- you know, I'm glad of somebody who is going to take it on. So I'll close the presentation part. Any questions of the Board, or should we -- ready for a motion?

LAURA WERNICK: I'm ready for a motion.

JASON MARSHALL: Ready.

BRENDAN SULLIVAN: Yep. Okay. Let me make a motion, then, for a special permit to relocate the windows on the north façade and adding and relocating window openings on the south and west façade, moving the basement egress window and window wells on the rear façade.

Relief is granted as per the supporting statements, dimensional form, and the drawings, and that the work comply with the drawings initialed by the Chair.

Seeking relief for a special permit under 8.22.d: Under 8.22.d in all districts, the Board of Zoning Appeal may grant a special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family dwelling or two-family dwelling not otherwise permitted in 8.22.1, but not the alteration or enlargement of a preexisting, nonconforming use.

Provided that there is no change in use, and that any enlargement or alteration of such preexisting, nonconforming detached single-family dwelling or two-family dwelling may only increase a preexisting dimensional nonconformity, but does not create a new dimensional nonconformity.

In order to grant the special permit, the Board of Zoning Appeal is required to find -- and does find -- that the alteration or enlargement shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and that the alteration or enlargement satisfies the criteria in 10.43.

10.43 granting of a special permit: Special permits will normally be granted where specific provisions of this ordinance are met.

It appears that the requirements of the Ordinance can be met. That traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character.

Continued operation of or development of adjacent uses, as permitted in the Zoning Ordinance, would not be adversely affected by the nature of the proposed use.

There would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupant of the proposed use -- in fact, it would be enhanced by a newly refurbished, up to date structure, which would make a far more energy-efficient and code-compliant structure.

The Board finds that the proposed use would not impair the integrity of the district -- in fact, it would enhance it and the streetscape, or the adjoining district, or otherwise derogate from the intent and purpose of the Ordinance to allow homeowners to modify, update their structure to current Standards, and allow them to be more energy-efficient.

The addition of these windows, relocation of them, will allow for better fenestration, light into the building,

and far more energy-efficient.

On the motion, then, to grant the special permit as per the application, Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the special permit as per the application, is granted.

EDRICK VANBEUZEKOM: Great. Thank you very much.

* * * * *

(7:12 p.m.)

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

BRENDAN SULLIVAN: Well, we're running -- again, a little bit ahead of time here. The Chief of Staff to my right here is encouraging me to keep up the pace.

It being 7:15, let me call Case No. 18214 -- 21 Loomis Street. Is the petitioner on the line? There appears to be nobody calling in.

There is correspondence received by the Board dated Wednesday October -- August 17, 2022.

"Dear/to Ms. Pacheco:

"I would like to ask t Board for a continuance on hearing No. 182714.

Thanks, regards, Eamon Fee."

The matter will be continued until the next available date -- it is -- so it could be October 6. Yeah, October 6, 2022, at 6:00 p.m.

Let me make a motion, then, to grant the continuance request to October 6, 2022 at 6:00 p.m. on the

condition that the petitioner change the posting sign to reflect the new date of October 6, 2022 at 6:00 p.m., and that any new submittals be in the file by 5:00 p.m. on the Monday prior to the October 6 hearing.

That I would also request that the petitioner furnish a shadow study on the potential, if any, effect, that the proposed work might have on adjoining properties.

Second of all, there is correspondence what has just come in from the abutter on the left, Roxanne Leary Spartichino, and I would ask that the petitioner be attentive to that correspondence and possibly reach out to the next-door neighbor on the left.

On the right, there is also correspondence which has come in from Alisa Lemberg -- A-l-i-s-a L-e-m-b-e-r-g -- and Michael Stone, who have raised some issues regarding the projects, and also some methods to possibly ease their life while this work is going on -- potential work going on.

And I would ask that the petitioner address those issues to Alisa and Michael also, prior to the October 6 hearing, so that they have a chance with both abutters on either side -- have a chance, then, to convey their thoughts to the Board regarding those discussions.

On the motion, then, to continue this matter to October 6, 2022, Laura Wernick?

LAURA WERNICK: Sorry. Laura Wernick votes in favor of continuance.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: Yes.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: Yes.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes.

BRENDAN SULLIVAN: Yes.

[All vote YES]

BRENDAN SULLIVAN: On five affirmative votes, this matter is continued to October 6.

Next up will be Foster Place, but we have to wait until 7:30.

* * * * *

(7:30 p.m.)

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

BRENDAN SULLIVAN: It being 7:30, the Board will hear Case No. 183414 -- 7 Foster Place. Ms. Booz?

MAGGIE BOOZ: Hello. Can you hear me?

BRENDAN SULLIVAN: Yes. Yep.

MAGGIE BOOZ: I don't see everyone's pictures on the screen, I'm not sure if everyone's on or not, so I'm just looking at the application pages. Did you want me to go ahead and present?

BRENDAN SULLIVAN: Yes, go ahead, Maggie.

MAGGIE BOOZ: Okay. My clients recently purchased 7 Foster Place, and they are doing some work on the building and are hoping to remove a porch -- a small, open porch that's on the left side of the building, the south side of the building, with a side door leading out to the exterior.

There are three doors on the house right now -- the front door, the side door that I'm mentioning, and then rear doors. So they're hoping to eliminate that left-hand

side door, which really just doesn't lead to anywhere, and construct a one-story addition at the back rear corner of the house, which would be a bathroom at the first floor.

There is currently a bathroom in the first floor, but it's right in the middle of the public space of the building, between -- essentially between a dining room and a kitchen.

So we're requesting permission to construct this addition. It comes closer to the rear yard setback than the house does currently, although that isn't really the side in question. The side in question is the south side, the left side.

So you can see here the first-floor plan -- the existing first-floor plan with the porch off the left side and the door. And you can see also the -- the current full bath that kind of spans between the kitchen and the dining room, with a chimney in between.

The current space of the yard of the house is off of the deck, which is where there are two sets of doors. And for a very small house, there really isn't any need to have another door, and there is a need to try to make the first floor as livable as possible.

As it turns out, which I didn't realize when filing for the application, the rear yard setback isn't -- as I said, isn't the one in question. The side yard setback is.

And that's that -- where we're protruding out that four feet, which is just slightly more than the bay that's on the left side now off of the dining room, that's the violating side.

So we feel that it's a minimal -- a minimal intervention on the site to achieve really decent living space and get the bathroom out of the central part of the plan.

BRENDAN SULLIVAN: Okay. Can we pull up the dimensional form? I'm just wondering where the violation -- the additional violation is? I notice that there is a supporting statement for granting of the special permit, but I didn't see one for the -- for the variance and the pleadings for the granting of a variance in the submittals.

MAGGIE BOOZ: There was an extra page that was added that we submitted to -- directly to Maria.

BRENDAN SULLIVAN: Is it on your stationery?

MAGGIE BOOZ: Yeah, this is it, the variance

statement.

BRENDAN SULLIVAN: Yeah, okay. Oh, all right. I see it. It's up in the fold. Okay.

MAGGIE BOOZ: Oh, okay. So we're in an A-2 Zoning District on this side. You know, the A-2 District is always, always difficult I think because it's really written for much larger buildings on much larger pieces of land, of which -- of course -- there are a lot in the A-2 District. But the Marsh District properties, which are tiny, tiny, have the same requirements.

So, you know, in any other district of smaller lots, like the Marsh District has, one would expect that there would be a seven-and-a-half-foot side yard setback, but it isn't a seven-and-a-half-foot side yard setback in that district, because it's A-2.

So, you know, I feel -- I feel a lot of times when I've worked on buildings in the Marsh District, and I've worked on quite a few now -- that the Regulations are sort of out of whack with the size of the properties and buildings. These are very, very small, and this is just a -- you know, it was a worker's cottage.

So that 8.2 feet I believe we have on the left

side in our proposal is a -- you know, is -- it would be generous in, you know, in any Residence B District and in any district that normally has smaller buildings and smaller lots. So we're at 8.2 or -- you know, currently it's at 12.2.

And that's not to the bay. So that -- we were measuring to the foundation. The bay doesn't actually have a foundation underneath it. So that 12.2 is -- you know, is from the -- not the bay itself, but the wall that we're adding onto.

Yes.

BRENDAN SULLIVAN: Okay. If you could pull up the dimensional form. Just trying to figure out where the new violation is. I just sort of scanned through it, but --

MAGGIE BOOZ: So that left side where it says, "Setbacks in feet, left side existing conditions 12.2" --

BRENDAN SULLIVAN: All right. Okay. All right. So that's a new violation --

MAGGIE BOOZ: That.

BRENDAN SULLIVAN: -- right there.

MAGGIE BOOZ: That's it.

BRENDAN SULLIVAN: Okay.

MAGGIE BOOZ: That's it right there.

BRENDAN SULLIVAN: All right. All right. Any questions by members of the Board? Laura?

LAURA WERNICK: So that is the difference between the existing -- the depth of the existing deck and the depth of the bathroom? The new bathroom? Is that --

MAGGIE BOOZ: No, no.

LAURA WERNICK: No?

MAGGIE BOOZ: Well, the -- it's the difference between the southern property line, the left side property line, and the side wall of the house --

LAURA WERNICK: Right.

MAGGIE BOOZ: -- but not the side wall of the bay that exists there now. So there's that little bumped bay --

LAURA WERNICK: Okay.

MAGGIE BOOZ: -- off of the dining room --

LAURA WERNICK: Okay.

MAGGIE BOOZ: -- but it doesn't have a foundation underneath it, so we were just going to the foundation. So that's -- yeah, you can see it clearly on the plot plan. 12.2 is to the side wall of the house.

LAURA WERNICK: Okay.

MAGGIE BOOZ: And that deck measures about three-and-a-half feet I think off of the building. We're proposing that rear addition to be four feet off the building.

LAURA WERNICK: Yep. Okay. Thank you.

MAGGIE BOOZ: Mm-hm.

BRENDAN SULLIVAN: Jason, any questions?

JASON MARSHALL: Yeah. I think I have a brief clarifying question. If you could go -- Peter, if you could go back to the variance statement, please? I think it's either page 4 or 5. Yep, there it is. And this is -- I guess -- to be in lieu of the regular form. So I'm just getting my grounding.

MAGGIE BOOZ: Mm-hm.

JASON MARSHALL: The -- in B, there's reference to narrowness and it looks like vegetation. Just to clarify, would I be correct in concluding that the reason for the hardship could then be related to shape and topography potentially?

MAGGIE BOOZ: Yeah. I mean, although -- so here's what happened. We submitted for a variance. And I thought it was because of both the side and the rear yard setbacks.

But Ranjit called me and said he didn't think there was a variance needed, because we were already in violation at the rear, which is where the vegetation is that's in question, or dimensioned in that statement.

And I said, "Okay, I didn't know that we wouldn't have to have a variance for the rear yard setback." But I said, "But we still have a violation on the left side." And they sort of went back and forth and then got back to me and said, "Okay, you're right, we do need a variance on the left side."

JASON MARSHALL: Yeah. Yeah. No, I think we --

MAGGIE BOOZ: On the left side.

JASON MARSHALL: Yeah, because -- yeah, I mean, he's referring to a -- I guess a newer, relatively newer provision.

MAGGIE BOOZ: It's a new --

JASON MARSHALL: Yeah.

MAGGIE BOOZ: -- it's a newer provision.

JASON MARSHALL: Yeah.

MAGGIE BOOZ: Exactly.

JASON MARSHALL: So -- I mean, I'm --

MAGGIE BOOZ: So.

JASON MARSHALL: I'm ask --

MAGGIE BOOZ: Yeah.

JASON MARSHALL: No, I'm asking intentionally, and I've referenced this earlier in the meeting and several meetings. It's -- my view is we can't grant a variance based on lot size.

That's not in the statutory criteria, and people can take a different view than I do, but that's my reading, which is why I just wanted to understand that if we granted it -- and for me, my vote would be based on it being shape or topography -- some other criteria being that --

MAGGIE BOOZ: The strict language of a zoning variance; that is --

JASON MARSHALL: Right.

MAGGIE BOOZ: -- shape and topography of the lot.

JASON MARSHALL: Yeah.

MAGGIE BOOZ: And it has --

JASON MARSHALL: That's what makes it unique, yeah.

MAGGIE BOOZ: Yeah.

JASON MARSHALL: Yeah.

MAGGIE BOOZ: And yes, because we don't have the

opportunity to simply do a classic ell addition that, you know, the telescoping --

JASON MARSHALL: Right --

MAGGIE BOOZ: -- addition that would have been done in the 19th century or something, we don't have the opportunity to do that because of the shape of the lot. That is it indeed, yes.

JASON MARSHALL: I mean, you may -- and not to get -- not to go too sideways, I think you made valid points earlier or fair points around maybe considering the dimensional requirements more largely for the district and even might go one step further.

And for me -- and I've said this before, it's -- I think local zoning boards should have the discretion to grant variances based on lot size, but --

MAGGIE BOOZ: Mm-hm.

JASON MARSHALL: -- the legislature hasn't in their wisdom deemed that yet part of the criteria, in my view. So --

MAGGIE BOOZ: Right. I understand.

JASON MARSHALL: Anyway.

MAGGIE BOOZ: Huh. Interesting.

JASON MARSHALL: Thank you for indulging me.

MAGGIE BOOZ: Mm-hm. Thank you.

BRENDAN SULLIVAN: Wendy, any questions at this time?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Andrea, any questions?

ANDREA HICKEY: I have no questions, Mr. Chair.

BRENDAN SULLIVAN: I don't have any questions. I guess the only comment I would make is that I think Maggie, you're correct in saying that this area really doesn't -- well, let's put it this way, the Ordinance for the City really doesn't hit this particular area at all. I mean, these are all little, small worker's categories that were built back in the early 1800s was it, or --

MAGGIE BOOZ: Yeah.

BRENDAN SULLIVAN: -- or something and long before anybody thought of zoning and whatever. And that -- I mean, it's a lovely, lovely area. And these are gorgeous, nice, little compact houses.

But, you know, over time those four walls can be kind of narrow. And the space becomes very restrictive and

constrictive. And so, to bring any of these structures -- these lovely homes up to some kind of modern standards or livability, does -- obviously -- bump into some ordinance or some requirements that, you know, you say, "Well, geez, well what can I do as of right?" And you really can't really do much.

MAGGIE BOOZ: Yep.

BRENDAN SULLIVAN: I sort of found your comment categorizing the existing little bathroom there as awkwardly and unhygienically located.

MAGGIE BOOZ: Mm-hm.

BRENDAN SULLIVAN: And I said, "Well, that probably sums it right up." But yeah, no, these -- and again, we have over the years, and I think we've represented a lot of the people who have come down and had -- just had to tweak these things a little bit one way or another to make them far more livable and up to today's standards.

And so, I think that any relief is de minimis, a and any relief is warranted in this case.

So Andrea, did I ask you -- I think I did, and you had nothing further to ask?

ANDREA HICKEY: Correct. I have nothing further.

Thank you.

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

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

Apparently, nobody's calling in. We are in receipt of correspondence dated August 15 from Cally Burns, C-a-l-l-y Burns.

"To whom it may concern,

"I am a neighbor who lives at 8 Foster Place, directly across Foster Place from Carolyn" --

MAGGIE BOOZ: Carolyn.

-- "and Michael Bradley. I'm writing in full support of the request for the BZA to allow the construction of the proposed addition.

"The alteration and design will have low visible impact on the existing structure and greatly enhance the interior space of the house.

"The proposed changes are in line with similar

changes made at 9 Foster Place, and that structure was renovated about 12 yes, ago."

There is also correspondence from Mary Louise and George Kent.

"We are writing in support of Michael and Karen Bradley's plans to change the house, which they recently purchased. We have looked at the architect's drawing, and think the changes are reasonable and appropriate. We hope that you will approve these plans and allow them to proceed with the work."

We are also in receipt of a Certificate of Appropriation from the Half-Crown Marsh Neighborhood Conservation District.

"Half-Crown Neighborhood Conservation District hereby certifies that the construction described below is not incongruous to the historic aspect or architectural character of the building or district, to construct the one-story addition at the southwest corner of the house in accordance with plans dated 05/24/202, titled, 'Bradley Residence' submitted by Smart Architecture.

"The plans and specifications referenced above are incorporated into the certificate, which is binding on the

applicant, and all improvements shall be carried out as described therein."

Date of Certificate: June 14, 2022, Case #HCM544.

That is the sum and substance of the correspondence dated. I will close the public comment portion, turn it back to Maggie. Anything else to add?

MAGGIE BOOZ: I think my clients have contacted all the abutting neighbors, or tried to. And I -- my understanding was that you would have received letters from a couple of them, and that's exactly what you have.

BRENDAN SULLIVAN: Great, thank you.

MAGGIE BOOZ: Then there was no -- there were no objections from anyone else.

BRENDAN SULLIVAN: So there are two requests. One is the variance to construct the small, one-story bathroom and pantry addition to the southwest rear corner of the house.

Any questions by any members of the Board, or ready for a motion?

LAURA WERNICK: I'm ready.

JASON MARSHALL: Yep, ready.

BRENDAN SULLIVAN: Let me make a motion, then, to

grant the relief requested, the variance.

The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner, because it would preclude the petitioner from making an alteration to the interior layout of the structure, eliminating a rather misfunctional, dysfunctional bathroom in the house, placing it to the side, which is far enough more functional.

That does require a bump out, in order to accommodate a code-compliant layout, and that has the need for a variance.

The Board finds that the hardship is owing to the shape of the lot, which is quite substandard -- also does have some topographical issues. That entire area has a very, very high water table, and that the location of this in any other spot would be problematic.

The Board finds that the existing house is -- was built long prior to the enactment of the zoning ordinances. It predates the current zoning ordinances, it predates the current zoning ordinance for the district, and as such is encumbered by it and the requirements, which would be impossible to conform to.

The Board finds that the requested work is de minimis and a fair and reasonable request. The Board also notes the letters of support from abutting properties.

The Board finds that desirable relief may be granted without substantial detriment to the public good, and it would not nullify or substantially derogate from the intent and purpose of this ordinance, to allow homeowners to bring their properties up to current standards -- code-compliant amenities, and add to the housing stock and the streetscape of the district in which it is located.

On the motion, then, to grant the variance as per the request, Wendy Leiserson?

WENDY LEISERSON: I vote in favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Laura Wernick?

LAURA WERNICK: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes; the

variance is granted.

On the special permit to add one window to the existing two windows at the west façade and make all three windows the same size and slightly different configurations, let me make a motion to grant the request for the special permit and note the supporting statements, where the petitioners have stated that the existing windows are mismatched and out of alignment -- and as such the proposal would add greatly to the aesthetic value of the house and appreciation of the surrounding properties.

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

Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in the established neighborhood character; in fact the Board references letters from abutting properties and stating that the participated work would be an enhancement to the neighborhood.

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

There would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupants of the proposed use -- in fact, it would be enhanced by the relocation adding addition of some windows, which would add better fenestration into the property.

And that the proposed use would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the ordinance, allowing homeowners to adjust their property to better living space, to allow for a much more pleasing and better living space.

On the motion, then, to grant the special permit, Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan, yes.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes, the special permit is also granted. Good luck.

* * * * *

(7:52 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 183921 -- 14 Regent Street.

Mr. Rafferty? Regent Street?

JAMES RAFFERTY: Good evening, Mr. Chair and members of the Board. For the record, my name is James Rafferty. I'm an attorney with offices located at 907 Massachusetts Avenue in Cambridge. I'm appearing this evening on behalf of the applicant, 14 Regent Street, LLC.

Present with me this evening is the property owner, Christopher Griffin. In addition to Mr. Griffin, the Project Architect, Annem Chan Waiy is also present. This is an applicant --

BRENDAN SULLIVAN: Yep.

JAMES RAFFERTY: I'm sorry, thank you. This is an application to allow for a three-story addition to a nonconforming two-family structure on Regent Street in North Cambridge, in a Residence B Zoning District.

The existing house is nonconforming in three aspects. Its side yard does not conform. Its GFA exceeds the allowable FAR, and its height is slightly in excess of 35 feet.

The application seeks a special permit pursuant to Section 8.22.2.d to increase two of the nonconforming -- the existing nonconforming features. It doesn't, however, create any new nonconforming features.

The relief being sought involves the increase of GFA to accommodate the new three-story addition.

There's also a height impact here, not because the height of the addition exceeds the 35-foot height limit, but the addition contains a lower level with a sunken patio.

And the definition of "building height" in the Ordinance requires a calculation affecting the mean grade of the property. So the mean grade of the existing house gets altered when the grade is accounted for based upon the lower-level patio.

So it is not the case that the physical mass of the building is increasing, and it's not the case that the addition actually is increasing, it just so happens that the calculation means that the height of the building by the

definition in the Zoning Ordinance changes.

But since the height of the building is currently nonconforming -- admittedly only slightly -- it does qualify for the special permit for both the increase in height and the increase in gross floor area.

Ms. Chan Waiy is present, and can walk the Board through design, if interested. It should be noted that all other aspects of the home will be conforming. The open space, 40 percent in that district, is being maintained. And two vehicle parking space can be accommodated on the site.

Happy to have Ms. Chan Waiy address the design if it's deemed appropriate.

BRENDAN SULLIVAN: All right. Let me open it to -- let's see if the members of the Board have any questions. Laura, any questions?

LAURA WERNICK: Sorry. Having trouble with my mouse today. I have no questions.

BRENDAN SULLIVAN: Jason, any questions?

JASON MARSHALL: No questions, Mr. Chair.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: No questions.

BRENDAN SULLIVAN: I have no questions either. Let me open it to public comment. Any member of the public who wishes --

JAMES RAFFERTY: If I may, before we begin, I neglected to point out that in reviewing our dimensional form, we discovered that we overstated the requested conditions. It says on the dimensional form it's 3,188. That overstates it by 50 square feet. It's actually 3,130. Ms. Chan Waiy brought that to my attention.

So it's an error in overstatement, so I would presume the Board would recognize that as not a deficiency for purposes of proceeding. It's less of an addition than depicted in the requested condition's GFA.

BRENDAN SULLIVAN: So the new number is 31--

JAMES RAFFERTY: The new number is 3,131. And that number is depicted on the plan from the plan set on page C1, that was prepared by Ms. Chan Waiy in the plan set. But somehow, there seems to have been an error in preparing the dimensional form, but the incorrect number was included.

So the proposed number is 3,132.

BRENDAN SULLIVAN: Okay. All right. Thank you. Let me open it to public comment. Any members of the public who wish to speak should now click the icon that says, "Participants." And then click the button that says, "Raise hand."

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

Mr. Smith?

DANIEL SMITH: Yes? Can you hear me?

BRENDAN SULLIVAN: Yes.

DANIEL SMITH: The plans call for enclosing the front porch, which is inside the front setback.

BRENDAN SULLIVAN: If you could just identify yourself for the record, please?

DANIEL SMITH: Oh, yes. Daniel Smith, 45 Regent Street, Cambridge, Massachusetts.

BRENDAN SULLIVAN: Yes.

DANIEL SMITH: I was saying that the drawings call for enclosing the front porch, which is only set back a little over four feet from the street.

And I guess technically it's not changing the

front setback, but it seems like a bit of an encroachment to make an interior space out of what's now an exterior porch. That's my only comment.

Other than that, I don't have any objection to the proposal. Thank you.

BRENDAN SULLIVAN: Thank you. The -- Mr. Rafferty can correct me if I misspeak, but the existing porches are included in the floor area ratio, because they have a covering over them. The enclosing of them can be done by way of a special permit application. Is that correct, Mr. Rafferty?

JAMES RAFFERTY: That's correct. There is no change in the setback, because of the covering, nor is there a change in the GFA.

BRENDAN SULLIVAN: Right.

JAMES RAFFERTY: The special permit covers the entire renovation, but the setback -- the front setback is established at the location of the current footprint of the porch, which has not changed.

BRENDAN SULLIVAN: All right. Okay. Anybody else calling in?

[Pause]

There appears to be nobody else calling in. There is no correspondence in the file. And so, I will close the public comment portion, turn it back to Mr. Rafferty for any final words.

JAMES RAFFERTY: No thank you, Mr. Chair. I think the application is fairly straightforward. It will represent an improvement.

The property has not been renovated in many years, and I do know the applicant's engaged in extensive outreach as early as March of this year when they first acquired the property, and as recently as the past week, when notices have been mailed out. And the responses were favorable for most people that were contacted.

BRENDAN SULLIVAN: Right. Thank you. Let me open it to the Board. Any questions, comments by members of the Board, or shall I take it to a motion?

WENDY LEISERSON: I'm ready for a motion.

ANDREA HICKEY: Motion.

BRENDAN SULLIVAN: -- Hearing -- all right, okay. Let me make a motion, then, to grant the relief requested, which is a special permit to enclose the existing front porches and construct a three-story addition on the right

side of a nonconforming two-family dwelling to add three window, preexisting, nonconforming left side of the building as per the application and the drawings, and supporting statements in the application.

The Board -- I'll make a motion, then, to grant the special permit on the condition that the work comply with the drawings signed and initialed by the Chair -- also the supporting statements and the dimensional form as submitted.

The Board finds that it may grant the special permit for the alteration or enlargement of a preexisting dimensionally nonconforming, detached single-family dwelling or two-family dwelling not otherwise permitted in Section 8.22.1, but not the alteration or enlargement of a preexisting, nonconforming use.

Provided that there is no change in use, and that any enlargement or alteration of such preexisting, nonconforming detached single-family dwelling or two-family dwelling may only increase a preexisting dimensional nonconformity, but does not create a new dimensional nonconformity.

In order to grant the special permit, the Board of

Zoning Appeal is required to find -- and does find -- that the alteration or enlargement shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and that the alteration or enlargement satisfies the criteria in Section 10.43.

10.43, the Board finds that it appears that the requirements of the ordinance can be met.

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

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

The Board finds that there would not be any nuisance or hazard created to the detriment of the health, safety and/or welfare of the occupant of the proposed use -- in fact the rehabilitation, addition and code-compliant aspects of the proposal would enhance the health, safety and welfare and the enjoyment and livability of the structure for any inhabitant.

The Board finds that the proposed use would not

impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the ordinance to provide homeowners to bring their structures up to code-compliant, up to modern-day energy efficiency.

This proposal will do that and is within the nature of the ordinance to provide housing and to increase the housing stock as an amenity, and to improve the streetscape of the neighborhood.

On the motion, then, to grant the special permit as per the application, Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: Jason Marshall.

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: And Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: Five affirmative votes of the Board, the special permit as per the application is granted.

JAMES RAFFERTY: Thank you very much.

* * * * *

(8:05 p.m.)

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

BRENDAN SULLIVAN: The Board will hear Case No. 183930 -- 18 Brattle Street. Mr. Rafferty?

JAMES RAFFERTY: Thank you again, Mr. Chairman. For the record, Attorney James Rafferty on behalf of the applicants.

The applicant is Cava Mezze Grill doing business as Cava -- the new fast-food or cook-serve establishment in Harvard Square.

Board members are probably aware a few years ago, amendments to the retail or use sections of Article 4 reclassified what had been called, Fast Food -- Fast Order Food into Quick Service. The thinking might have been that fast food had a certain connotation that was no longer as applicable.

This is a fast casual restaurant, as used in the parlance of the restaurant industry these days. Cava in this location of Harvard Square is in the recently completed

and renovated Abbot block. The building was totally redone, and new additions installed. And in fact, it has recently received a Restoration of Preservation Award from the Historical Commission.

This space on Brattle Street is the former retail space for what was a women's apparel store called Tess. It has a distinctive storefront with bowed windows.

One of the conditions of the special permit in fact, by the Planning Board approving the renovation was to retain the geometry and appearance of that storefront, and that has been done in this case.

The applicant, because they have more than 10 locations, they are required to obtain this special permit. In Harvard Square, if you have fewer than 10 spaces and you meet the definition of quick service the use is now permitted as of right.

But there are seven Cava restaurants in the Greater Boston area. One of them is in Kendall Square, and it's been there for about a year and a half. A few others are in Boston and Fenway and the Back Bay and Prudential Center.

This application is providing a type of cuisine

that's fairly unique to Harvard Square. It's a Greek-based, Mediterranean style cuisine.

The three founders have their origins in working with their families' restaurants and working with grandparents and uncles, who are big aficionados of Greek food. It's proven to be a very successful concept, so there are several outlets in western -- in the western part of the country, including California and Colorado.

This location is in the space of approximately 2000 square feet, a few square feet less than 2000. The application was reviewed by the Harvard Square Advisory Committee last evening. They have provided a report.

In their review and discussion of the case, they had three suggestions for this Board's consideration, and we would note that we have amended the floor plan in this case to reflect the change.

The amendment was a late one just filed today, but you'll note in the report of one of the proposed suggestions they provided was that the restaurant, which the original plan was five seats, in one of the bowed windows that that be doubled to two seats -- another section with five additional seats for a total of 10 seats.

And that is the new plan.

I have to commend Mr. McLaughlin for his skillfulness. That is the plan that was filed but a few hours ago. And the change -- and the only change to this plan, and with what's in the submission is the seats at the top, which you see at the counter. I'm looking and I'm noticing that there are four seats there.

So -- but the objective was not to -- not to -- to put seating there. In the previous iteration, that was an area where items were going to be stored for pickup, and the view expressed at the Advisory Committee was that that was a welcoming look.

The storefront was so distinctive that it would -- it would enhance both the patron experience and the pedestrian experience to have seating there, and it was also felt that some additional seats in the restaurant would be a good thing.

So representatives from Cava are here. Happy to discuss any of the aspects of the operation, including deliveries, hours of operation and the like. So, we're happy to --

BRENDAN SULLIVAN: Thank you.

JAMES RAFFERTY: -- respond.

BRENDAN SULLIVAN: Let me open it to members of the Board. Laura, any questions of the petitioner?

LAURA WERNICK: No. I don't have questions.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Mr. Rafferty, so "Cava" refers to a delicious Spanish sparkling wine. Will they be serving any Cava here, or is this just the -- is this just the Greek or Mediterranean food?

JAMES RAFFERTY: Well, they don't have a liquor license, but perhaps they aspire to one. That would be news to me. But I see my client, Ms. Nostrand, is on the call. So maybe she could address whether there's future plans. I would be surprised if that were the case.

MOLLY NOSTRAND: We don't currently have plans to get a liquor license, but we do have a couple of locations that do serve here.

BRENDAN SULLIVAN: Molly, Molly if you could just introduce yourself for the record, that's all.

MOLLY NOSTRAND: Oh yeah, sure. This is Molly Nostrand. I'm an interior designer for Cava. And -- yeah, so we do have a liquor license. A couple of locations serve

beer, but we are not looking for one for this location.

JASON MARSHALL: Okay.

BRENDAN SULLIVAN: Great. Thank you.

JASON MARSHALL: Fellow lovers of Cava like me will have to go elsewhere. Okay. Thank you for answering my question.

BRENDAN SULLIVAN: Wendy, any questions?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: I have no questions.

BRENDAN SULLIVAN: And I have no questions either. Let me open it to public comment. Any members of the public who wish to speak should now click the button that says, "Participants," and then click the button that says, "Raise hand."

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

[Pause]

Nobody calling in. We are in receipt of communication from the Community Development Department from the Harvard Square Advisory.

"The Harvard Square Advisory Committee met on Wednesday, August 17, to discuss the special permit application by Cava Mezze Grill for a quick service food establishment that meets the definition of a Formula Business.

"A meeting was conducted pursuant to the provision of Section 20.50 of the Cambridge Zoning Ordinance in advance of the applicant's request for a special permit from the Board of Zoning Appeal.

"After discussion, the committee decided to forward report to the BZA with a positive recommendation, with 10 members present voting in favor and one abstaining.

"The applicant proposes to operate a Quick Serve Food Establishment -- previously called a Fast Order Food Establishment. While Fast Order/Quick Service Food Establishments are allowed as ordered in the Bay Zoning District Business B, the use requires a special permit from the BZA because it qualifies as a Formula Business, and is located in the Harvard Square Overlay District.

"The proposed business occupies 1995 square feet of gross floor area. It is proposed to be primarily carry-out with five counter seats inside this establishment.

Committee members were generally supportive of the proposed food use in this location, and recommended that the use be approved.

"Committee members also appreciated the design of the storefront, which maintains the character of the building and the curved glass storefront windows.

"Committee members voted to transmit the following specific comments for the BZA's consideration if granting a special permit: More interior seating would be desired.

"It is suggested that the counter seating should be included in both bay windows, rather than having one bay dedicated to carryout orders. This would help provide a greater activation of the storefront, particularly in colder months, when people will want to eat indoors.

"Committee members noted that there was no street parking or loading directly in front of the establishment, and had concerns that customers or delivery services making car pickups might have difficulty stopping nearby. If cars stop in the travel lanes, it would disrupt traffic, and could be an enforcement problem for the city.

"It was noted that third-party pickup and delivery has become common for many Harvard Square businesses, and

the operator may not be able to fully control this type of activity. But it remains a strong concern for some members.

"The operator could try to make drivers aware that there is no stopping directly in front.

"Later business hours would be preferred to promote nighttime activity. After hours, storefronts should have a significant amount of lighting to promote a feeling of safety.

"Members ask that a rendering of the storefront at night be created. The operator should be responsible for ensuring that trash and food containers and bags do not result in litter in public space.

"The operator indicated that in other locations, they have Staff participate in collecting trash in public areas throughout the day, and would be willing to do so here.

"There were no comments from the public.

"Respectfully submitted,

"Jeff Roberts,

"Director of Zoning and Development,

"Community Development Department."

So, going back and forth, the new drawing reflects

the additional seating. Is that right, Mr. Rafferty?

JAMES RAFFERTY: That's correct. The drawing on the screen filed today is in direct response to the request that additional seating be added in that second storefront window.

BRENDAN SULLIVAN: And as far as the pickup of takeout, that is obviously an ongoing concern everywhere in Harvard Square, not necessarily this particular location. And somehow it manages to work itself out somehow.

JAMES RAFFERTY: We did indicate to the Advisory Committee that the applicant was willing to post signage in the premises, indicating that double parking, parking in the travel lane, is prohibited to help create awareness about that issue.

BRENDAN SULLIVAN: Okay. So they would -- we would encourage that. The hours of operation?

JAMES RAFFERTY: Well, currently the hours of operation are until 10 percent. But as the Commission -- the Board knows, it will be necessary to obtain a Common Victualler License at the License Commission.

And the specifics of those hours, the Advisory Committee expressed the view that later hours are actually

seen as favorable. I think the applicant indicated they were prepared to explore that.

Their current proposal would have them closing at ten o'clock in the evening, but they're a service business and acknowledge that if demand existed beyond ten o'clock, they would be willing to explore it.

I think the opening hour of 10:30 or 11:00 in the morning is unlikely to change, since there current isn't any breakfast provided at the establishment.

BRENDAN SULLIVAN: Yeah, and that -- all that sort of has to be a business decision too as to whether it's feasible or not.

And one of the other criteria is the trash, which I think is also listed in the requirements that we have to find also.

JAMES RAFFERTY: Correct.

BRENDAN SULLIVAN: All right. That is the sum and substance of any communication. I will close that portion. Anything else to add, Mr. Rafferty, before we take it back to the Board?

JAMES RAFFERTY: No, just -- just in terms of completeness, we did represent to the Advisory Committee

that a condition regarding signage on the third-party pickups and a commitment for Staff to police the area in front of the establishment to pick up trash would be acceptable conditions to be attached to the special permit, if this Board found them to be appropriate.

BRENDAN SULLIVAN: Okay. All right. Let me take it back to the Board. Laura, do you have any questions, comments?

LAURA WERNICK: I do not.

BRENDAN SULLIVAN: All right. Jason, any comments?

JASON MARSHALL: No comments, Mr. Chair.

BRENDAN SULLIVAN: Wendy?

WENDY LEISERSON: No comments.

BRENDAN SULLIVAN: Andrea?

ANDREA HICKEY: No comments.

BRENDAN SULLIVAN: Okay. Let me make a motion, then, to grant the relief being requested for a special permit to operate a quick serve food establishment as per the application, supporting statements and the drawings as submitted.

And also, I incorporate by reference the Community

Development correspondence from the Harvard Square Advisory Committee.

And the Board has to make some findings. In considering the application for a special permit, as fast-food order or quick serve food establishment, the Board shall find in addition to the other criteria specified in Section 10.40, that the following requirements are met:

The operator of the establishment shall not create traffic problems. Probably established that it may not, and it would be indistinguishable from all the other traffic problems down there.

That it would not reduce available parking. And I may add editorially because there isn't any threat to the public safety in the streets or sidewalks, and that is probably a non-issue regarding this establishment.

Encourage or produce double parking on the adjacent public streets, and the petitioner has pledged to post signage that no double parking is allowed, and also third-party pickup will also be encouraged not to double park. And the petitioner will make a good faith effort to enforce that.

The Board finds that the physical design,

including colors and use of materials of the established zone shall be compatible with and sensitive to the visual and physical characteristics of the other buildings, public spaces, and uses in the particular location. And the Board references the letter from the Harvard Square Advisory Committee to that point.

The establishment fulfills a need for such a service in the neighborhood or in the city. My feeling, and potentially the other Board members find that as far as fulfilling a need -- again, I reference back to the Harvard Square Advisory Committee encouraging this particular establishment to go in; I always find that the marketplace decides the need, and as testimony has shown tonight from our Counsel that this is a different type of offering than currently now in the Square.

The establishment will attract patrons primarily from walk-in trade or opposed drive-in or automobile-related trade. However, should the Board find specifically that the district with which the establishment is proposed to be located does not have significant pedestrian traffic, this requirement need not be met. Does have significant pedestrian traffic, but that it will attract patrons from a

walk-in.

Establishment shall to the greatest extent feasible utilize biodegradable materials and packaging and food and the utensils, other items provided for consumption thereof. The petitioner complies with that requirement? Yes, I see. Is nodding yes.

The establishment shall provide convenient, suitable and well-marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils and other items provided with the sale of food. And you shall comply with that

And the establishment complies with all state local requirements applicable to ingress, egress, and use of facilities on the premises for handicap and disabled persons.

There is no barrier to a handicap person entering the establishment?

JAMES RAFFERTY: That's correct.

BRENDAN SULLIVAN: That's correct. Yes. Okay.

So it appears that the requirements of 10.30 have been met.

Under 10.43, it appears that the requirements of

the Ordinance can be met.

It appears that traffic generated, or patterns of access or egress would not cause congestion, hazard, or established -- or substantial change in the established neighborhood character.

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

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

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

And the Board incorporates the correspondence from the Community Development Department and Harvard Square Advisory Committee to further reinforce that requirement that there would not be any impairment associated with this particular proposal.

On the motion, then, to grant the special permit as per the application and drawings contained therein, Laura Wernick?

LAURA WERNICK: In favor.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Andrea Hickey.

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

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

JAMES RAFFERTY: Thank you very much and have a nice evening.

* * * * *

(8:25 p.m.)

Sitting Members: Brendan Sullivan, Wendy Leiserson, Laura Wernick, and Jason Marshall

BRENDAN SULLIVAN: The Board will now hear Case No. 182544 -- 27 Walker Street. Mr. Walker?

BRAD WALKER: Thank you, Mr. Chairman. Can you hear me?

BRENDAN SULLIVAN: Yes. Yep.

BRAD WALKER: Yeah. Just waiting for the screen to refresh. My name is Brad Walker. I am the architect for 27 Walker Street. Joining us on the call are the homeowners, Leah Thiffault and Justin Bennett.

Will you be able to change the screen that I'm seeing to pause it?

BRENDAN SULLIVAN: Yes.

BRAD WALKER: So this is an attached single-family house, a house that's divided left and right. I am just proposing a fairly substantial interior renovation of the house, with relatively minor exterior changes.

The only change is pertaining to the Board this evening happening in the back yard behind a fence. The

front of the house we'll be doing some -- front and the sides of the house we'll be doing repairs to existing siding, downspouts and some other work.

And I'm happy to say we're going to be refurbishing all of the original windows, and not replacing them.

In the rear of the house, there is a more contemporary bank of -- let's call them picture windows that we are going to replace with a kind of similar bank of picture windows. And that triggers two elements of concern for this Board.

Similar to a project you heard a few minutes ago, we would like include in the replacement of windows -- and you might see this on the second of our drawing sets -- a window well. We'd like to lower the grade. The page after this you might see it best.

And so, in lowering the grade, we triggered the recalculation of the height of the house. We are not in any way increasing the height of the house, but we are lowering the grade in front of those windows that you see kind of front and center, in order to get good daylight into what will become a basement family room in this project.

And in so doing that, you can see in the red text the existing noncompliant height of the house as measured increases relatively modestly. I think it increase three and a half feet, if I'm looking at my numbers right. Two feet, two inches. I'm sorry.

Also, you can see in this image that in this area there is a covered porch to the right of those windows proposed.

And if you don't mind switching back to one previous slide of the plan? There we go.

We're in the zone that's patched red there. And the existing conditions are two covered porches in a fenced, covered areaways -- one, a stair that leads up to the first floor from the garden level, so about half a flight up and one a stair that leads about half a flight down.

Both of those porch roofs will be removed to be replaced with the geometry that you see in a diagonal grid pattern. Instead, that diagonal grid pattern is about three square feet larger than the red shaded area.

And so, that increases the gross square feet of the house under cover. The porch is under cover. So we would be asking for a variance for that dimensional

nonconformity as well.

And the third thing that we can see on this drawing is what you see is a proposed shed. The back yard of this house will be enclosed with a six-foot high fence. It is still enclosed now, but it will be a new fence.

And we would like to put a long shed along the side of that fence, such that it looks like a fence from left and right. It was showing on the drawing you were at.

Go down a little. At the lower left corner, you see a big rectangle that says, "Proposed shed." So that shed is to be used for bicycles -- the family has got three bicycles -- trash storage and garden storage and children's toys to be used in the yard. We would like to be able to put those entirely in one shed. That changes. Now, the shed is the long rectangle where the proposed shed is.

Up higher, in black ink -- right there -- so that long rectangle with the word in it is the proposed shed, right against the property line, where it's not supposed to be. It's supposed to be five feet from the property line. And we would like to put it up against the property line so it cannot further encumber the play area in the back yard, detail it exactly like a six-foot-high fence from either

side.

So from the abutter's side or from the client's side it will look like essentially a fence, and we can store trash, bicycles, garden equipment and children's playthings all in that one shed.

If it's -- I understand that there are within your Zoning Code, there's limitations to the size of bicycle sheds that can be up against the property line -- trash sheds that can be up against the property line. We would prefer not to subdivide it inside, but if that's a condition, we can certainly manage that.

But the request here is to just treat that entire side inside the gate, inside the owner's yard, as one long shed that looks like fence.

So those are the three requests; one about the building height, one about the gross square footage relative to the change in shape of a porch roof, and one about the location of a shed up against the property line instead of in the middle of the garden.

ANDREA HICKEY: Mr. Chair, this is Andrea Hickey speaking.

BRENDAN SULLIVAN: Yes.

ANDREA HICKEY: I just realized that I have a conflict in this case, so I am not going to be able to participate. My apologies. I just realized it.

BRENDAN SULLIVAN: Okay. Mr. Walker, what that means is that if you wish to proceed, you would need four affirmative votes. Normally we would have a five-member Board; you would need to receive four of the five affirmative votes. With one member recusing herself, you would need all four members -- remaining members -- to approve of your plan.

The alternative would be to continue this matter -- yeah. It would be a case, but you could -- you'd have to refile and ask for a five-member Board. And that would be September -- well, no, because they have to be advertised. So you wouldn't -- it would kick it up until October.

BRAD WALKER: Thank you, Mr. Chair. I understand. This is for us a time-sensitive matter, and hoping to get started in a construction window opportunity we have. I'm wondering if we can continue the discussion, and if the Board or Board members seem to have serious concerns, we could ask for a continuance later on in the hearing.

But if we feel like we're going in a positive

direction, I'd like to keep going.

BRENDAN SULLIVAN: Okay. All right. That's fine. Sure. Go ahead.

BRAD WALKER: So I had no further comments.

BRENDAN SULLIVAN: Okay. Laura Wernick, any comments at this time, questions?

LAURA WERNICK: I had more of a I guess logistical question about the shed. How do you -- whereas the door to the shed? How does that work with the stair that's adjacent?

BRAD WALKER: So it would be -- I'm sorry, Laura. On the plan north side of the drawing we're looking at, there would be multiple doors along the long side of the shed facing to the owner's garden.

Again, some for bikes, they have a kind of -- I'm not sure what you call it, but a family bike with a kid's trailer behind it, kind of long --

LAURA WERNICK: Mm-hm.

BRAD WALKER: -- and garden equipment and children's playthings. So I think multiple doors along --

LAURA WERNICK: -- the long face.

BRAD WALKER: -- the plan side of that rectangle.

BRENDAN SULLIVAN: The height of the shed is six feet?

BRAD WALKER: Yeah. It would -- it would really be detailed to look exactly like the fence, and we would even, I think, try to detail it to conceal the existing closed doors.

LAURA WERNICK: Do you have any kind of section through it or elevation showing that at this point, or none?

BRAD WALKER: Well, I think the elevation drawing shows that -- yeah. There you see a section through the shed on the --

LAURA WERNICK: Mm-hm, okay.

BRAD WALKER: -- far drawing, and you see how it lines up with the fence and very faintly you see the gate into the yard, from this angle up towards the driveway and the street.

LAURA WERNICK: Okay.

BRENDAN SULLIVAN: So is it in that location where the shrubbery is now? Is that --

BRAD WALKER: No. Do you see in the photograph you're looking at now, there's a sort of a step in the brick towards the back?

BRENDAN SULLIVAN: Yes. Ah, okay.

BRAD WALKER: That is the approximate location of where the gate would be. And then the shed itself is beyond that -- quite a bit beyond that, I'm sorry. And in the sort of swath where you see the shrubbery.

BRENDAN SULLIVAN: Okay.

LAURA WERNICK: And the -- how tall is the existing fence?

BRAD WALKER: The existing fence is -- it varies, but it's also six feet tall in the back --

LAURA WERNICK: Okay.

BRAD WALKER: -- lower here in the back.

LAURA WERNICK: Okay.

BRAD WALKER: Back-to-back with the neighbor.

BRENDAN SULLIVAN: So the proposed shed would not be any taller than the fence?

BRAD WALKER: Correct.

BRENDAN SULLIVAN: Okay.

LEWIS WEITZMAN: That's all I have.

BRENDAN SULLIVAN: Anything else?

LAURA WERNICK: No further questions.

BRENDAN SULLIVAN: Okay. Jason, any questions?

JASON MARSHALL: Yeah, I do. One question. Peter, can you go to the supporting statement for a variance, please?

[Pause]

Yeah. So I understand the practical rationale for the project. I guess on the -- on the part -- really focusing more on Part B right now, on the statutory basis, I guess actually maybe I'm interested in other members of the Board whether anyone else paused at B here, or whether it was just me?

WENDY LEISERSON: Jason, this is Wendy Leiserson. Yes, I had the same question I think you're about to ask.

JASON MARSHALL: Okay. Yeah.

So, Mr. Walker, I mean, the question is just trying to get a better sense of -- and again, there may be other questions for clarifications for this sheet here, but on B it's -- if you could provide any further rationale for how the hardship relates to soil condition, shape or topography, and that hardship isn't affecting generally the zoning district -- even just looking at these two explanations here or poor lighting in the basement and insufficient storage… just going to the last point here on

that it's not affecting generally the zoning district, I would venture to think that many properties -- if not most -- have insufficient storage and poor lighting.

So any further explanation here would be very helpful for me.

BRAD WALKER: I may not fully understand the nuance of your responsibilities, but to us at least the relationship to topography, in that we would like to get more daylight into a playroom for the family, and sort of, to do that -- obviously, without adding on for the house -- we can do that in basement space by lowering the topography adjacent to that in a sort of wind -- we're calling it a day window-level sort of lowered areaway that you saw in the other drawing.

JASON MARSHALL: And when you say, "lowering the topography," what do you mean by that?

BRAD WALKER: We are lowering the ground plane against the house. So in this elevation drawing, if you look essentially to the left and right of that window system, you see the existing ground plane.

But in the elevation in the middle, you see where it says, "New window well excavation" in red -- red text.

We're dropping down the grade in that area in order to bring more daylight and an actual basement door into that space.

Now, there is a basement door currently. It's on the side of the house and we'll be getting rid of that in favor of this one. But those are the things that trigger the change in the calculation of building height under the Dimensional requirements.

Again, we're not changing anything about the actual height of the building, but we are lowering the topography or lowering the grade there in order to get better use of the property.

LAURA WERNICK: And Jason, if I can interrupt --

JASON MARSHALL: Yeah, please.

LAURA WERNICK: -- I assume that the storage is the outdoor family storage? That there's no --

BRAD WALKER: Yeah.

LAURA WERNICK: No --

BRAD WALKER: The storage --

LAURA WERNICK: -- room --

BRAD WALKER: -- is not --

LAURA WERNICK: -- for --

BRAD WALKER: -- in reference -- our article was

about the shed.

LAURA WERNICK: Yeah, okay. Thank you.

JASON MARSHALL: All right. Thank you for your response. I have to consider that further, and maybe if Wendy has questions, that may help as well. Thanks.

BRENDAN SULLIVAN: Wendy, any comments?

WENDY LEISERSON: Well, I think, as Jason said, I'm sympathetic to the practical problems that you're trying to solve and feeling a little bit like my hands are tied by the language and the strict threshold of hardship that the law requires.

And I'm not sure that -- I mean often projects propose lowering the grade in order to expand livable space. So I'm not sure how this case differs with its statutory requirements, how the topography of the land or the shape of the structures makes it different enough to grant a variance. Yeah.

BRENDAN SULLIVAN: Yeah, it's a --

BRAD WALKER: I'm not --

BRENDAN SULLIVAN: -- struggle. It's just --

BRAD WALKER: -- because I think we just saw this two applications prior where the Board did approve this very

same concept. So I'm not sure if we're doing something different, if I haven't used the right words to describe the hardship?

BRENDAN SULLIVAN: No, I think what we struggle with on the -- speaking for myself, maybe other members of the Board -- that what is before us seems a fair and reasonable request and use of the property. But we have a few legal standard that we have to come up to and legal justification that we have to meet.

Changing the topography is sort of somewhat of a misread of our charge. Variances shall be granted where the hardship is related to the soil conditions, the shape of the lot -- meaning that it has an unusual shape -- and topography, so that you have a change in grade -- natural change in grade.

BRAD WALKER: Mm-hm.

BRENDAN SULLIVAN: And as such that you could say as of right build say in the back left corner of the house. However, at that back level corner of the house, the grade dramatically drops off.

And so, it makes it impractical, horrendously expensive, and just not worthwhile to put an addition there

because of the topography and the amount of excessive work that would be required to support whatever you wanted to do. So then you come down to the Board and say, "That is a hardship. That's an inherited hardship with the natural terrain."

However, I could do it over on the right side of the structure, because the topography there -- the plane of the ground is more level, more conducive to a developer. That would be where we can hang our hat basically and say that you have met the criteria based on topography; that there is unusual topographical element there that we recognize, and as such that is an inherent hardship.

Changing the topography, lowering the grade, access into the basement, and so on and so forth doesn't necessarily address the legal standard or finding that we have to make.

Jason, Wendy, Laura, have I stated that somewhat correctly, or --

WENDY LEISERSON: Yes, I -- this is Wendy Leiserson -- yes, I believe so.

And also, I think the other case that the petitioner is referring to is a special permit case, not a

variance case, unless we're referring -- thinking of two different cases. But -- so the legal standard was different in that case, and that is why you're hearing us hesitate here.

BRENDAN SULLIVAN: Jason?

JASON MARSHALL: Yeah, I was going to -- well, Brendan, I think you stated it incredibly well as helpful articulation. I was going to come off mic and say the same thing Wendy did. I think at least one of the cases you're thinking of was Regent Street, and that did come under a special permit where they don't have to demonstrate hardship.

I think the difference there was that was a detached residence, and this is attached, which is why I think you need to come under the variance. So just wanted to explain the difference there on the standard.

BRENDAN SULLIVAN: I guess on this particular case before us, that justification could be that there is a desire to utilize the basement space for family members, it becomes a desirable element for -- I'm going to use the vernacular: "playroom," "gathering room," "TV room," "media room" -- whatever, gathering room -- outside of the main

body of the house, where people are tending to work from home more often, and that you sort of seek out a non-usable space for your own turf, away from sort of the other members who are doing whatever they're doing, so that you look around in the basement, and obviously it has standard windows.

And I think that what Mr. Walker is saying is that we need to increase that amount of air and light getting into the basement to make that space far more usable, far more pleasant, and also healthier, so that by -- you know -- digging down and having an area that they can access, get in and get out of safely and capture a lot of light -- obviously and fenestration makes it worthwhile and useable.

The shed, they are blossoming all over the place because of the plethora of bicycles that people are using, and also just normal lawn equipment, garden equipment, outdoor equipment, tools, and so on and so forth.

And I don't have a problem with this one, because it's going to be the same height as the fence, and sort of maybe it's an element of that fence, and I think it's pretty nondescript in that -- in its usage, and also in its form.

However, getting back to the requirements for the

variance, it could very well be that we find that the unusual shape of the lot, the location of the house on the lot -- which is encumbering the house, which was built prior to the existing ordinance, and as such the existing ordinance is encumbering the house -- and restricting the house to be able to expand or make use of valuable square footage, and as such the request before us to allow for this excavation and the lowering of the grade accomplishes that end. That would be my thought.

I don't know if other members of the Board concur or not. But that was me.

WENDY LEISERSON: I would concur with that. You know, I think it is a health and wellness issue to be able to have adequate light for creating the space with adequate light.

JASON MARSHALL: And Mr. Chair, I mean look, we have hearings because the beginning and the end of these cases, it's not just the application, we have these hearings to explore the issues further, to get clarifications and to hear from the public. So I do want to hear whether there's any public comment.

But I may be able to get there as well, given your

helpful explanation, and depending on how the motion is articulated.

BRENDAN SULLIVAN: Yeah. Okay. Wendy, any other further comments before I put it up to public comment?

WENDY LEISERSON: I think I --

BRENDAN SULLIVAN: I'm looking for some help and guidance here.

WENDY LEISERSON: -- I'm contemplating your comments about the topography -- the shape of the house and its position on the lot as reasonable hardships. I guess I am curious to know if -- I mean, if there was any reason why we would still hesitate, what would be the impact? Is it just the -- just so I can make sure I understand what the impact of the plans is?

It is simply the light of the windows, or is it also the egress? Is there any compromise that the architect might suggest that would make it easier or more palatable to the Board? I don't know, I'm asking.

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

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

Taylor?

TAYLOR LOWE: Yes, hi.

BRENDAN SULLIVAN: Hi.

TAYLOR LOWE: My name is Taylor -- hi. Thank you for letting me speak. My name is Taylor Lowe. I am -- my partner and I are the homeowners who are immediately adjoining 27 Walker Street. So we're attached. We share the same building.

And I just wanted to, you know, say that as the people who are most immediately attached and connected, you know, we have absolutely no objections and we fully support this.

And part of what has drawn us to this street is its potential -- increasing potential for it being a family street. And I feel like the modifications that are being proposed are in support of that future for the street.

And so, as a homeowner and a very vested, attached homeowner, you know, I would really hope to see that this project goes through, and adds to -- yeah, the next

generation for Walker Street.

BRENDAN SULLIVAN: Thank you for taking the time to call in. That's the sum and substance of the calls in. And there is a correspondence in the file from George Soule -- S-o-u-l-e, Soule.

"Dear Board of Zoning Appeal,

This letter is in support of the proposed renovation to the residence at 27 Walker. We live at 30 Walker, and the owners of 27 Walker have shared their proposed plans with us.

"We are pleased to provide our full support to our neighbor's plan."

"Respectfully, Nan and George Soule" -- S-o-u-l-e.

That is the sum and substance. I will close the public comment part, send it back to Mr. Walker. Any comments that you'd like to make addressing any concerns, questions by the Board?

BRAD WALKER: I very much appreciate the consideration of what are I think quite modest requests to make this continue to work as a house for a family with young children.

The allowance of light and air and a direct

connection from a basement family room to a back yard, what will be largely play space and social space, I think is probably evident to anyone that those are nice features, with a fenced back yard for a family with young children.

So we hope that that is seen as a net positive, both for the neighborhood and for the homeowner in that it increases the livability of this house for families in our current times.

And it's -- as we said, triggered by a dimensional method of calculation. We're not actually making the building any higher.

I think maybe it was Ms. Wernick who asked if there was a way to dig out less? It's really actually quite modest if you look at the elevation drawing. It's the -- the preponderance of the excavation is just the width of the door and a little bit of clearance next to the door.

And then one foot seven inches of area well, dry window well, in front of the lower windows to get them down to sort of a reasonable level inside that playroom space.

And again, that just triggers the way the net average grade is calculated.

WENDY LEISERSON: Thank you. That was my

question.

BRAD WALKER: I'm sorry.

WENDY LEISERSON: That's all right. And thank you for reminding me of what those dimensions were.

BRENDAN SULLIVAN: Okay. So it's back now to the four of us. Wendy, Jason, Laura, any further comments or -- are we --

WENDY LEISERSON: I am satisfied by your explanation of how the structure and placement on the lot --

BRENDAN SULLIVAN: I forget what I said.

WENDY LEISERSON: [Laughter]

BRENDAN SULLIVAN: Just the musings of a feeble mind. But thank you.

WENDY LEISERSON: Maybe it could be read back to us.

COLLECTIVE: [Laughter]

BRENDAN SULLIVAN: Thank you. Jason? Your thoughts here?

JASON MARSHALL: No, I don't have anything further than what I added to before, Mr. Chair. I think -- I think a motion appropriately fashioned focusing on shape, you know, could probably get us there.

BRENDAN SULLIVAN: Okay. And Laura, I think you voiced your okay with whatever I had said? So.

LAURA WERNICK: [Laughter] Yeah. And it is such a minimal excavation.

BRENDAN SULLIVAN: If I could play the tape back again, you know? All right, let me make a motion, then, to grant the relief request of a variance to construct the window well in a rear yard and reconstruct an existing second-floor deck with the extended roof…

And a shed for storage of bicycles and trash as per the application, supporting statements, dimensional form and drawings submitted, the drawings initialed by the Chair, on the condition that the work comply with the drawings as submitted.

The Board finds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner, because it would preclude the petitioner from utilizing much-needed space in the basement.

That the proposed work of lowering the grade, allowing for a code-compliant entry into the basement and exit would be a safety concern that's being addressed.

That additional windows along that adds to the

fenestration, bringing much-needed air and light into that section of the basement, which is used for a family room/viewed by members of the family.

And that also complies with the building code requirement for amount of fenestration/air, light coming into a useable space, useable living space.

The Board finds that the hardship is owing to the shape of the lot, the location of the structure on the lot, which was placed there -- predates the existing ordinance, as such is encumbered by the ordinance, and so that any addition to this particular petitioner -- petition, a net of 23 square feet, which the Board finds is a fair and reasonable request and quite de minimis.

That the proposal will address a number of issues that are directly related to the placement of the house on the lot and the hardship that that has created to any person who occupies this home.

The Board finds that desirable relief may be granted without substantial detriment to the public good. And that this will actually improve the living conditions for the residents of the family and are in line actually with the character of the neighborhood.

Desirable relief may be granted without nullifying or substantially derogating from the intent and purpose of this ordinance to allow homeowners fair and reasonable use of their property, to the expansion of living space into the basement, which is actually a -- now a public policy created by the City Council to encourage more useable space within existing structures.

And it also allows for families to stay in their home and enjoy it in an expanded space, and also allows for better distancing of family members, which is a societal concern, given COVID-19.

On the motion, then, to grant the request for the variance, as per the application? Laura Wernick?

LAURA WERNICK: Yes, in favor of granting.

BRENDAN SULLIVAN: Jason Marshall?

JASON MARSHALL: In favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Brendan Sullivan in favor.

[All vote YES]

BRENDAN SULLIVAN: On the four affirmative votes, the variance for the work is granted.

BRAD WALKER: Thank you very much.

BRENDAN SULLIVAN: Good luck. And that concludes tonight. Thank you all and the supporting cast, who are wonderful. Thank you.

COLLECTIVE: Thank you, Mr. Chair.

JASON MARSHALL: Thanks, Mr. Chair. Thank you, Peter.

ANDREA HICKEY: Well done, Mr. Chair.

BRENDAN SULLIVAN: Well, it's the supporting cast that's -- you know, that makes it all happen. Plus our Chief of Staff McLaughlin here was wonderful. Thank you. Goodnight. Stay safe.

COLLECTIVE: Goodnight. Thank you.

[9:03 p.m. End of Proceedings]

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.

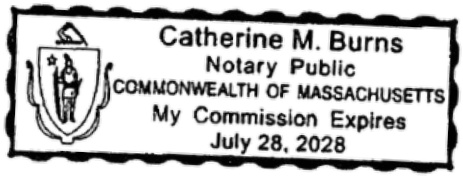
I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this 2nd day of September, 2022.

Notary Public

My commission expires:

July 28, 2028



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