

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY OCTOBER 6, 2022

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

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

City Employees
Olivia Ratay, Zoning and Building Associate



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

2 * * * * *

3 (6:00 p.m.)

4 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
5 Leiserson, Jim Monteverde, Laura Wernick,
6 Slater W. Anderson, and Matina Williams

7 BRENDAN SULLIVAN: Welcome to the October 6, 2022
8 meeting of the Cambridge Board of Zoning Appeal. My name is
9 Brendan Sullivan, and I am the Chair for tonight's meeting.

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

19 This meeting is being video and audio recorded and
20 is broadcast on Cambridge television Channel 22.

21 There will also be a transcript of the
22 proceedings.

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

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

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

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

13 OLIVIA RATAY: Jim Monteverde?

14 JIM MONTEVERDE: Present.

15 OLIVIA RATAY: Laura Wernick?

16 LAURA WERNICK: Present.

17 OLIVIA RATAY: Slater Anderson?

18 SLATER ANDERSON: Present.

19 OLIVIA RATAY: Andrea Hickey?

20 ANDREA HICKEY: Present.

21 OLIVIA RATAY: Wendy Leiserson?

22 WENDY LEISERSON: Present.

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OLIVIA RATAY: Matina Williams?

MATINA WILLIAMS: Present.

OLIVIA RATAY: Brendan Sullivan?

BRENDAN SULLIVAN: Present and audible.

1 * * * * *

2 (6:01 p.m.)

3 Sitting Members: Brendan Sullivan, Jim Monteverde, Laura
4 Wernick, and Slater W. Anderson

5 BRENDAN SULLIVAN: First case we'll call tonight
6 is BZA No. 154682 -- 30 Cameron Avenue. Anybody from the
7 petitioner wish to speak? We are in receipt of
8 correspondence from Lewis Colten, C-o-l-t-e-n.

9 "As the representative for Mohammed Bellal, I am
10 requesting a continuance of the hearing that is to take
11 place today at 30 Cameron Street. Should you have any
12 questions, please let me know.

13 "Lewis Colten, AIA, CBO."

14 On the motion, then, to continue this matter to
15 December 1, 2022, on the condition that the petitioner
16 change the posting sign to reflect the new date of December
17 1, 2022, and the new time at 6:00 p.m. Also, that said sign
18 must be maintained and visible the public at least 14 days
19 prior to the December 01, 2022 hearing.

20 Also, should there be any changes to any of the
21 filing application material that is not currently in the
22 file, that said new submittals must be in the file 5:00 p.m.

1 on the Monday prior to December 1, 2022. And I believe we
2 do have a waiver of the sign.

3 So on the motion, then, to continue the matter to
4 December 1, Andrea Hickey? Or Jim Monteverde, sorry.

5 JIM MONTEVERDE: In favor of the continuance.

6 BRENDAN SULLIVAN: Laura Wernick?

7 LAURA WERNICK: In favor of the continuance.

8 BRENDAN SULLIVAN: Slater Anderson?

9 SLATER ANDERSON: In favor.

10 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

11 [All vote YES]

12 BRENDAN SULLIVAN: Four affirmative votes, the
13 matter is continued to December 1, 2022.

14 LAURA WERNICK: So I think that's it for me,
15 Brendan, so I'm going --

16 BRENDAN SULLIVAN: Yeah.

17 LAURA WERNICK: -- to check out.

18 BRENDAN SULLIVAN: Thank you, thank you.

19 JIM MONTEVERDE: Yeah, I think that was the only
20 one for me as well for this evening.

21 BRENDAN SULLIVAN: Thank you. And for everything.

22 JIM MONTEVERDE: All right. Thank you all. Bye-

1 bye.

2 LAURA WERNICK: Bye.

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2 (6:03 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The next case we will hear is
7 No. 170145 -- 10 Van Norden Street.

8 SHANNA BOUGHTON: Good evening. Shanna Boughton
9 on behalf of the petitioner, John Denehy.

10 BRENDAN SULLIVAN: Yes. Okay. If you will just
11 give a very brief background to this --

12 SHANNA BOUGHTON: Sure.

13 BRENDAN SULLIVAN: -- Shanna, only because some
14 new members that have not sat on the previous cases, even
15 though it is a case not heard. So if you could briefly just
16 describe where we are up from the beginning to up to date.

17 SHANNA BOUGHTON: Absolutely, thank you. And good
18 evening. I am joined this evening by Mr. Denehy, the
19 petitioner, who's here, as well as Sam Kachmar, the
20 architect. This is a request for a special permit pursuant
21 to 10.40 for the property at 10 Van Norden Street. And this
22 is a request to approve the addition of a dormer of the

1 third floor of the property.

2 When Mr. Denehy purchased the property and in the
3 process of renovating the property, he discovered that there
4 were some structural issues with the integrity on the third-
5 floor roof as a result of a fire that had occurred from the
6 prior owner. The property generally was in a poor condition
7 and not well maintained by the prior owner.

8 Now, Mr. Denehy was previously represented by
9 another architect, and he relied on the architect in
10 informing him that a special permit was not required to add
11 the dormers to the third floor, because there was not a
12 change in the floor area ratio.

13 We then discovered that that was inaccurate
14 information. There was some prior back and forth with the
15 prior architect and with the Building Department, at which
16 point Mr. Denehy ceased all work and submitted his
17 application for a special permit.

18 The floor area ratio, we did submit the
19 dimensional table, and I will have Mr. Kachmar walk us
20 through that, as well as the proposed exterior renovation.
21 And there is only a change of 0.04 in the floor area ratio.

22 So the existing condition is 0.56 and the change

1 in the requested condition would go to a 0.60. The square
2 feet would change from 2212 square feet to 2377 square feet,
3 a change of 165 square feet.

4 I would also submit -- and I can save this for
5 after a set -- under the Bjorkman case that this is not an
6 intensification of an existing non-conformity.

7 So we believe -- and in Bjorkman they actually
8 dealt with the same issue, but in that case, it was a garage
9 that was going beyond the setback requirement. And in the
10 Bjorkman, the Supreme Court did state that certain
11 intensifications are not non-conformities. And in there
12 they do mention addition for a dormer.

13 So I think the Bjorkman case is applicable in this
14 instance, but Bellota is also informative because the
15 question is whether or not there will be a substantial
16 detriment to the neighborhood. In this case, the difference
17 in the 0.04 of the floor area ratio is not a substantial
18 detriment to the neighborhood.

19 I will leave -- hope we've addressed the concerns
20 of the neighbors, and the Board will see there were some
21 oppositions filed. We believe that those have been
22 addressed through Mr. Kachmar, and the changes that we're

1 making to the exterior. And so, I will turn it over to him
2 first so he can kind of walk you through our proposed
3 changes to the exterior.

4 BRENDAN SULLIVAN: Mr. Denehy, did you hire a
5 contractor, or did you act as the General Contractor
6 yourself?

7 [Pause]

8 You're on mute. You'll have to unmute yourself,
9 if you will. Okay.

10 JOHN DENEHY: I acted as a General Contractor
11 myself.

12 BRENDAN SULLIVAN: So when you came down and got a
13 building permit initially to do what?

14 JOHN DENEHY: To renovate the entire house. I was
15 aware from one of the neighbors that there were several
16 electrical fires in the neighborhood, and I determined that,
17 you know, given those circumstances I wanted to rewire the
18 entire house; I would not want to suffer the same fate that
19 had occurred. So I started remodeling the house.

20 BRENDAN SULLIVAN: Okay.

21 SHANNA BOUGHTON: Sorry, Mr. Sullivan, I don't
22 want to inter-- I just want to also mention, because that

1 has also been a little bit of a misconception in the
2 neighborhood, that none of the permits were pulled.

3 And we did also meet with Ranjit as well just to
4 confirm what was pulled. But there was a building permit
5 pulled for the installation of kitchens and bathrooms.
6 Asbestos permit was pulled, plumbing permit, electrical
7 permit, siding permit, windows permit.

8 So I just want to make the Board aware of that as
9 well, and we did have a subsequent meeting with Ranjit, and
10 I see he's on here as well to confirm that.

11 BRENDAN SULLIVAN: But again, what we're being
12 asked is to approve -- give our imprimatur to something that
13 has already been done. The -- I don't have any questions,
14 obviously; I have reviewed the file quite extensively.

15 And other than the past history, setting that
16 aside, I guess the question that I keep asking myself is if
17 this proposal had come down before us, before the work,
18 before the third floor went through its transformation,
19 would we have approved it? Would I have approved it?

20 And in its current form, current shape, I'm not
21 there yet. I can't say that I would have approved it.
22 Something could be done up there, but I'm not sure that I

1 would have approved it in its current form.

2 So I would ask Olivia to pull down the Dormer
3 Guideline on page 5, the lower right-hand corner. And the
4 Dormer Guidelines, which we respect and try to follow quite
5 closely, because it is the policy, they're basically saying
6 no to that.

7 And the whole west side of that house is what that
8 looks like. So total disregard of the Dormer Guidelines.

9 And also, on the east side extending that dormer
10 all the way out to the front. Obviously, now the front has
11 been modified, has been softened and has brought up to make
12 it look like probably what it should have before the work
13 was done. But anyhow, those are my thoughts; those are my
14 comments.

15 I'll open it up to the Board. Any -- Laura,
16 Laura's not here; Andrea, any questions or comments?

17 ANDREA HICKEY: Not at this time. Thank you.

18 BRENDAN SULLIVAN: Wendy Leiserson?

19 WENDY LEISERSON: Not at this time either. I
20 think you played out the situation well.

21 BRENDAN SULLIVAN: Slater Anderson?

22 SLATER ANDERSON: I mean, I think you captured

1 what I would say, which was if it had come before us, this
2 plan would not have received approval as constructed, for a
3 variety of violations to the Dormer Guidelines.

4 BRENDAN SULLIVAN: Okay. Matina, any questions or
5 comments at this time?

6 MATINA WILLIAMS: No. No questions at this time.
7 Thank you. I agree with what's been said.

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

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

15 SAM KACHMAR: Mr. Chairman?

16 BRENDAN SULLIVAN: Yes.

17 SAM KACHMAR: Will we be presented the opportunity
18 to go through the drawings at our presentation, or are we
19 not going to be allowed the opportunity?

20 BRENDAN SULLIVAN: If the Board Members have any
21 -- I'll give you, sure, I'll give you that opportunity since
22 Board members appear not to have any questions at this time,

1 but yes. The short answer to your question: Yes. There's
2 somebody calling in.

3 OLIVIA RATAY: KHL?

4 [Pause]

5 OLIVIA RATAY: You're muted.

6 KAREN HUDSON LOUNSBURY: Hello. Is that better?

7 BRENDAN SULLIVAN: Yes, if you go ahead.

8 KAREN HUDSON LOUNSBURY: Hi. My name is Karen
9 Hudson Lounsbury, and I'm the former owner of 8 Van Norden
10 Street directly next door to this property. And I am the
11 one who actually informed Mr. Denehy about the fires,
12 because we had just suffered a house fire where we lost
13 everything.

14 And we followed the proper procedure. And I told
15 him that, you know, getting permits was very difficult in
16 Cambridge. That was the extent of our conversation.

17 I'm against what he did for the -- you know, same
18 reason when we approached the Board, Constantine Alexander
19 -- and I quote from his, our minutes from our meeting of
20 11/07/2019, he said, "Excuse me, we've got a big problem at
21 the outset, so I do not want to get into any discussion."

22 He then after our lawyer said okay, he said, "The

1 problem is this: Are you familiar with the Dormer
2 Guidelines that are proposed by the Community Development?
3 Probably not, and I don't want to -- and I don't think the
4 architect is."

5 So from there we were allowed to sit with our
6 architect and redo the Dormer Guidelines, and we got a 12-
7 foot dormer approved.

8 And I think that adding an entire third floor is
9 not acceptable -- you know, knowing that the Guidelines are
10 there. And as a contractor, you know, he should know that
11 the permits needed to be pulled.

12 BRENDAN SULLIVAN: Okay. Thank you.

13 KAREN HUDSON LOUNSBURY: Thank you for listening.

14 BRENDAN SULLIVAN: Yep. That seems to be the sum
15 and substance of anybody calling in. There has been a lot
16 of correspondence, both pro and con against the project --
17 some con about the process being followed.

18 There is also some comment about the structure not
19 conforming what is typical in the neighborhood, but that
20 appears to be softened by what the new architect has
21 proposed. I'm not going to read all of the correspondence
22 -- it's in the file, and the Board has reviewed it all, and

1 it runs the gamut of reasons for and reasons against.

2 I will close the public comment part of the
3 meeting and turn it back to Shanna.

4 SHANNA BOUGHTON: Yeah, sure. Mr. Sullivan, I
5 just would like to say that these new plans were sent after
6 the initial oppositions were filed. And as you pointed out,
7 it did address the concerns, which were mostly with the
8 aesthetic of the exterior. And I think this would be a
9 great opportunity, then, for Mr. Kachmar to walk us through
10 the proposed plans.

11 Also, I will note that 8 Van Norden Street has
12 been sold. It was sold on September 28. I understand that
13 Ms. Hudson is the prior owner. We did also reach out to the
14 new owners and provided the elevations to them.

15 And I will say that the consensus of the
16 neighborhood is that they were all in agreement with the
17 proposed new plans that Mr. Kachmar will walk you through,
18 and that they don't want this property just sitting there
19 stagnant again.

20 Mr. Denehy can't do anything for his past
21 behavior, but -- again -- to punish him for the past
22 behavior, I don't see how that gets us anywhere. We're

1 supposed to apply what the standard is here. And the
2 standard here is whether or not there's any intensification
3 of the non-conformity. And I don't see how a 0.04 is an
4 intensification.

5 And then the next step is whether or not there's a
6 substantial detriment to the neighborhood. So I'm just
7 going to respectfully disagree and put that out there again.

8 And I would like Mr. Kachmar to walk us through so
9 that you can see what the property looks like -- what it
10 looked like previously, what it currently looks like and how
11 Mr. Denehy wants to correct the exterior. And I think it
12 does go with the aesthetics of the neighborhood.

13 BRENDAN SULLIVAN: Okay. Sam?

14 SAM KACHMAR: Yep. Olivia, could you bring up the
15 drawings briefly? We'll make it very quick just so we can
16 get to the other discussion.

17 Good evening, members of the Board. My name is
18 Sam Kachmar. I'm here from SKA regarding 10 Van Norden
19 Street and our client, John Denehy. On this first sheet you
20 can see the house before it was ever renovated, where it did
21 have a third floor with many areas that were over five feet,
22 but of course you can see what happened in the middle

1 picture in the renovation where it was renovated not to meet
2 the FAR requirements. Everyone understands that; that's why
3 we're here.

4 And then on the right you can see what we've
5 proposed in an effort to try to resolve this without
6 necessarily tearing down a bunch of existing material,
7 creating additional carbon footprint, how we can try to
8 solve from what's here.

9 We were not involved in the previous iterations of
10 the project; we've been brought in to try to resolve what's
11 here, and that's what we're working to do as best we can.

12 If you can go to the next sheet, please, Olivia?

13 Here's just an outline of the neighborhood. You
14 can see the houses are relatively similar. There's a series
15 of two-families built in the 1920s. Many of them are still
16 in that condition, others have been renovated and then sold
17 off as condos.

18 Next sheet, please?

19 Here you can see the existing FAR of the house,
20 which is 0.56. We are seeking only a de minimis amount of
21 0.04 in terms of increase, but that is also because that's
22 already sort of been built.

1 And I understand that that is also both an issue
2 here tonight to be discussed, but it is an element that is
3 not substantially large, I would say, in this particular
4 case. It is two areas along the sides of each of the third
5 floor.

6 Our existing open space is not changing. You
7 know, we're well over that around 40 percent. And if you
8 take us to the next sheet, please, Olivia? Then here we had
9 our shadow studies, and no shadows are affecting the
10 neighbors in any substantially detrimental way.

11 Next sheet, please?

12 Now here you can see the existing house on the
13 left, and then on the right you can see the proposed
14 renovation. And I acknowledge fully that that third-floor
15 roof or dormer is not ideal.

16 What -- we are trying to work within the context
17 of what has been built so far and we think that from the
18 street, the view of this is significantly softened, and we
19 have tried to work with multiple different neighbors from
20 the neighborhood as to what they want to see go forward.
21 And this was what we arrived at with that.

22 If you could take us to the next sheet, Olivia?

1 From the streetscape, you know, right now you've
2 kind of got this very sort of shallow pitched roof, which I
3 think we can all agree with does not fit in within the
4 neighborhood.

5 What we proposed now on the lower portion of that
6 is to extend that dormer to mimic both the left and the
7 right houses in there, so that we do provide that sense of
8 continuity across the neighborhood, and of this for those
9 housing stock that is there.

10 What this will do is it will allow two -- you
11 know, good units to be updated within the Cambridge housing
12 stock which currently kind of needs it.

13 Next slide, please?

14 Lower level, there's no zoning relief request
15 there.

16 Next slide, please?

17 First floor, we're keeping the footprint of the
18 house exactly the same. You know, we've reorganized it, but
19 there's no additions or no relief request here.

20 Next slide, please, Olivia?

21 Same thing along with the second floor. And then
22 if you'll take us to the next slide to the third floor?

1 Here's where we're seeking relief in the area, and two of
2 the bedrooms up on the third floor, which were an attic
3 previously and were not finished, but did count partially as
4 FAR, which is why it's a relatively de minimis request of
5 0.40.

6 Next slide, please?

7 Here you've added the roofline, which while it is
8 shallow, you know, it's there. And so, that's where we were
9 brought in to try to work with it.

10 If you'll take us to the next slide, please?

11 I think the shallowness of the roof is
12 significantly softened by what we've addressed in the front
13 elevation. And this was something that we've worked with a
14 lot on multiple different neighbors in the neighborhood as
15 to what would be appropriate or what people would like to
16 see on this project.

17 And so I don't think -- even though the roofline
18 is not really attractive from the drone perspective or an
19 aerial perspective or from a helicopter, from the street and
20 what the human experience is on that on a day-to-day basis I
21 think is quite similar to the houses that flank it on either
22 side.

1 On this south elevation, you can see that from the
2 top left you get the existing elevation, on the bottom left
3 you get the houses that exist today. Top right you have a
4 proposed rendering, and the bottom right you have our
5 proposed elevation.

6 Next slide, please, Olivia?

7 I think most of these other elevations, while I
8 can go through them, are not particularly relevant. Most of
9 them are the ones to the streetscape.

10 So we can go to the next slide. And then this is
11 the back yard, which most neighbors don't have much interest
12 in.

13 And then to the next slide. And in the side yard,
14 and this neighbor has 100 percent full support.

15 And then the next slide, Olivia, if you would
16 please.

17 And that's our presentation. We have a survey,
18 and we have additional photos after this, but that's more
19 for Board discussion if they want.

20 Thank you very much for your time, and I hope that
21 was short enough. Thank you, Mr. Chairman.

22 BRENDAN SULLIVAN: Thank you. And again, the one

1 I have to wrestle with is I think that the history obviously
2 can't be ignored, and -- again, it just defies how, again
3 you mentioned that they came down for a number of permits,
4 you listed them, but that the work that was done far exceeds
5 what was applied for.

6 And because it would never have been approved --
7 the permit would never have been issued by Inspectional
8 Services for what was done. So I don't think you're coming
9 into this with clean hands, by any means. And so, now we
10 are wrestled with, okay, we have this, what do we do with
11 it?

12 And, you know, the easy answer is we -- more than
13 a slap on the wrist type thing, but it's also what do we do
14 and what do we tell the other people who, as the previous
15 caller stated, do the right thing?

16 Come down, apply, go through the bureaucracy and
17 finally wind up with a project that they are maybe not
18 totally satisfied with, but that they can live with, because
19 that was the process and that was the procedure.

20 As opposed to somebody who just -- and again, I
21 don't know who the architect was, but if he's a Registered
22 Architect, he should know better.

1 SHANNA BOUGHTON: He is, Mr. Sullivan, and that is
2 in the file. You will see the letter that is in there. And
3 I understand your position. I understand that the bad
4 behavior cannot be excused but again, I'm trying to
5 understand looking at this now why the Board still would not
6 approve it based on what the standard is.

7 BRENDAN SULLIVAN: Well, we have the Dormer
8 Standard Guidelines and that's a standard also, which we pay
9 great attention to, we have great respect for, come out of
10 Community Development. Why not take the west side of that
11 building and put -- restore it back to a 15-foot dormer, as
12 per the Dormer Guidelines?

13 SHANNA BOUGHTON: So that's actually a question I
14 just had, because I noticed that Ms. Hudson mentioned the 12
15 feet. And I thought it was 15 feet. So I'm going to ask,
16 Mr. Denehy, is your Project Manager, Mr. Dan Harding, with
17 you?

18 JOHN DENEHY: Yes.

19 SHANNA BOUGHTON: Because I'm wondering what is
20 the current width of the dormer. Are we talking about just
21 a few --

22 DAN HARDING: It looks like it's 22 feet.

1 ANDREA HICKEY: I'm sorry, I wasn't able to hear
2 the response, if the respondent could speak up a little.

3 DAN HARDING: Can you hear me?

4 ANDREA HICKEY: That's better.

5 JOHN DENEHY: What was the question?

6 SHANNA BOUGHTON: I'm asking how -- I'm trying to
7 figure so that the Board can know what the current feet is
8 for the dormer? Because if the Guidelines are 15 feet, I'm
9 just trying to bring to the Board's attention how much
10 additional feet we have on both sides.

11 JOHN DENEHY: Well, it's the length of the house.
12 So --

13 BRENDAN SULLIVAN: 28 feet.

14 JOHN DENEHY: 28 -- yes, 28 feet.

15 SAM KACHMAR: And Mr. Chairman, I would say that
16 while our client certainly proceeded with this work without
17 appropriate permits, they were advised by their previous
18 architect that they did not need an inspectional permit.
19 And when it was brought to their attention that they did,
20 they did cease work without a stop work order.

21 They did not -- they did that of their own accord
22 and of their own choice, and then seeked (sic) out

1 appropriate assistance and help on this.

2 BRENDAN SULLIVAN: Well, whatever.

3 SAM KACHMAR: Of course. I understand it's not an
4 excuse. I only want to project the reasons and the -- and
5 what occurred in that light.

6 BRENDAN SULLIVAN: Okay. Let me -- I'm more
7 interested, actually, in Board members. Andrea, what are
8 your thoughts?

9 ANDREA HICKEY: So if I could ask Olivia to bring
10 up the dimensional form for us for a moment? And if I could
11 ask Mr. Kachmar, in the column where it lists, "Existing
12 conditions" are those the existing conditions prior to any
13 work having been done or after the sort of unauthorized work
14 was done?

15 SAM KACHMAR: So those existing conditions are
16 before any of the unauthorized work was being done.

17 ANDREA HICKEY: Okay.

18 SAM KACHMAR: The ask is for 0.04 additional floor
19 area ratio than what existed before anything was ever
20 touched on this house.

21 The work started; the third-floor roofline was
22 built. The previous architect had conveyed to our client

1 that they did not need any kind of special permit, so they
2 proceeded with work. And then once they realized they did
3 need a special permit, they ceased work, which is where we
4 are now.

5 And while the design is not something that we
6 would have created from -- you know, initially, we're trying
7 to work both with what's there and also trying to respect
8 what we can about the neighborhood aesthetic.

9 ANDREA HICKEY: All right. That answers one of my
10 questions. My follow-up question is still regarding the
11 dimensional information. So under, "Requested conditions"
12 do the numbers in this column include this 28-foot dormer?

13 SAM KACHMAR: They do.

14 ANDREA HICKEY: Okay. I just wanted to be clear
15 on that.

16 SAM KACHMAR: Most of the third floor was already
17 over five feet -- you know, from the earlier photos in
18 there. And there were areas on the wing walls that were
19 under five feet, so they did not count as FAR. As the pitch
20 of that roof was increased, those areas on both the right
21 and left side became applicable as FAR, as they are now over
22 five feet.

1 ANDREA HICKEY: All right. So really, if this
2 came to me in the first instance with an ask for a 28-foot
3 dormer, hands-down, my reply would have been no, scale it
4 back.

5 SAM KACHMAR: Understood.

6 ANDREA HICKEY: So --

7 SAM KACHMAR: And I hear that.

8 ANDREA HICKEY: So that's really all I have to say
9 at this point, Mr. Sullivan. I'll defer back to you.

10 BRENDAN SULLIVAN: Okay, Wendy Leiserson?

11 WENDY LEISERSON: Yes, thank you. I too am
12 struggling with the precedent that this sets without, you
13 know, trying to second-guess who's responsible here for the
14 mistake.

15 And so, I think the question I have is it was
16 reliance by the contractor, Mr. Denehy, and -- you know,
17 typically when there is a professional negligence here, you
18 know, that would be between the contractor and the architect
19 to resolve -- the original architect, obviously.

20 And I'm not sure that our role as a Zoning Board
21 -- I mean that's not -- our role is to protect the policies
22 and laws of the city, and to protect the process and the

1 integrity of the process.

2 And even being sympathetic to Mr. Denehy's
3 situation here, he is a more skilled professional -- he's
4 not the average landowner who doesn't understand the world
5 of permits.

6 And this is something -- you know, I'm just not
7 sure that I'm comfortable with the Zoning Board being asked
8 to remedy the error that was made and sacrifice the
9 standards of the city with regard to the Dormer Guidelines.
10 Because it is quite clear that this would not have been
11 approved.

12 SAM KACHMAR: I completely agree with that. I
13 think the thing that we struggled with as an architecture
14 firm when we were brought in on this was --

15 BRENDAN SULLIVAN: I've been asked --

16 SAM KACHMAR: -- what's it about?

17 BRENDAN SULLIVAN: All right, who's speaking, Sam?

18 SAM KACHMAR: Yep.

19 BRENDAN SULLIVAN: I would let Wendy finish her
20 sentence.

21 SAM KACHMAR: Oh, I'm sorry. Wendy, were you not
22 finished? I'm sorry.

1 WENDY LEISERSON: No, I paused, so you go ahead.
2 I might have more to say later, but go ahead, Sam.

3 SAM KACHMAR: The thing that we were struggling
4 with was, you know, this has been built, this has been
5 sided, this had window -- you know, it had a roof on it.

6 Is it beneficial to tear all that stuff down and
7 throw it in the dumpster and then put a dormer separately?
8 And we're just not sure. I think we're here having that
9 discussion and asking that question as well.

10 Because certainly we can go down to a smaller
11 dormer and we can make that happen, but is that beneficial
12 to the carbon footprint standpoint, is that beneficial to
13 the neighborhood overall in terms of additional construction
14 time, and noise and bothersomeness just above construction
15 in general, or is it more beneficial to keep it as is?

16 And I think we're asking that question --

17 BRENDAN SULLIVAN: Sam, Sam --

18 SAM KACHMAR: -- as much as we are --

19 BRENDAN SULLIVAN: -- that's all very nice and
20 very laudatory but it comes down to dollars and cents.

21 SAM KACHMAR: Yep. I agree.

22 BRENDAN SULLIVAN: It's down to dollars and cents.

1 SAM KACHMAR: Mm-hm.

2 BRENDAN SULLIVAN: Wendy, anything else?

3 WENDY LEISERSON: Well, this is a property that is
4 going to be on the market, correct? This is not your home,
5 is that right, Mr. Denehy?

6 JOHN DENEHY: Could I speak?

7 WENDY LEISERSON: Yeah.

8 JOHN DENEHY: Unfortunately, I'm going through a
9 divorce, and I have been ordered to sell all my property.
10 And I was planning on moving in here.

11 And so, I'm really put in a very, very difficult
12 position because I also work a full-time job -- 70 hours a
13 week and, you know, I'm in jeopardy of going into
14 bankruptcy. And I'm just trying to -- you know, I'm here at
15 the mercy and I'm trying to do the best I can.

16 I'm working at my other job 70 hours a week trying
17 -- you know, to make a phone call about removing -- you
18 know, trying to get the property cleaned up. And I just
19 want to satisfy everybody and deliver a finished product
20 that just, you know, I'm in here at the mercy of the Board.

21 And I'm asking, you know -- pleading, you know --
22 that the property has been sitting for two years. And I

1 have no intention of doing anything wrong. And it's my
2 intention to rectify the situation. And I take full
3 responsibility. It wasn't my intention to deliberately do
4 this.

5 And there was quite a bit of fire damage when we
6 opened things up. And, you know, I think -- first thing I
7 said when I took this property over that the plan was, I was
8 going to rewire it.

9 And I was -- you know, that was the first decision
10 I made, and I removed the asbestos shingles, and I have
11 tried to do everything that was required of me. And
12 obviously, I got bad information from my architect.

13 And so, I'm here at the mercy of the Board. But,
14 you know, I'm going to go bankrupt, I'm going to go
15 bankrupt. It is what it is.

16 BRENDAN SULLIVAN: Okay.

17 WENDY LEISERSON: Well, I am very sympathetic to
18 your situation. I'm just trying to figure out what -- where
19 my duty is bound, I guess is how to put it. Yeah.

20 JOHN DENEHY: I would like to say one other thing,
21 you know --

22 WENDY LEISERSON: Yeah.

1 WENDY LEISERSON: -- the previous caller, you
2 know, spoke out with me and she lives in Woburn and she --
3 she sold her house and doesn't live in the city anymore.

4 But when she was over at the house, I shoveled her
5 snow for her in front of her house that time, when she
6 needed the shovel. And so, you know, I kind of -- I didn't
7 want to do anything that would offend her. And it wasn't my
8 intention to offend her, so I just want to state that for
9 the record.

10 BRENDAN SULLIVAN: Okay, to Wendy?

11 WENDY LEISERSON: I do have another question,
12 which is the neighbors who were originally -- filed these
13 oppositions, why do we not have all of those neighbors, have
14 they given us written retractions of their opposition?

15 SHANNA BOUGHTON: We tried.

16 BRENDAN SULLIVAN: No, they have not.

17 SHANNA BOUGHTON: Yeah, we tried. We reached out
18 to them. Sam and myself both reached out, Mr. Denehy
19 reached out directly. And unfortunately, they -- some of
20 them were just nonresponsive and some of them I heard were
21 pleased with just the new elevations that we've submitted.

22 We've -- John is quite close to Bill Zylicz who's

1 the other neighbor, I think he's at -- is it 12? 12 Van
2 Norden, I believe. So to the right. He's been at long-
3 standing resident of that house. And he had indicated he's
4 fully in support and spoke with the neighbors and they said
5 yeah, now with the new elevations by Sam they're pleased
6 with that.

7 But unfortunately, none of them were willing to
8 file formal retractions, but we did try.

9 WENDY LEISERSON: Thank you.

10 SAM KACHMAR: We did meet with one of the
11 neighbors as well that wanted to meet and review the
12 drawings and discuss them. He was an architect on the
13 street. And then we did.

14 SHANNA BOUGHTON: Yes, across the street. Yeah.

15 SAM KACHMAR: Yeah. And we made adjustments to
16 the drawings and to the design based upon his feedback, and
17 then resubmitted those things to them as well. So we have
18 been certainly trying to work with the neighborhood in the
19 best capacity that we can.

20 SHANNA BOUGHTON: And after the initial meeting as
21 well, Mr. Denehy went directly in the neighborhood to speak
22 with the neighbors as well and, you know, took into account

1 what they said. I mean, the main thing was it just looked
2 like a shed, as it is right now, was plopped on the top. So
3 that was the main thing. And then when they saw the plans
4 that Sam did, I think that addressed the main issue that
5 they had.

6 WENDY LEISERSON: Certainly, I can see the
7 improvement that's proposed.

8 SHANNA BOUGHTON: Yes, of course.

9 WENDY LEISERSON: I do wonder if any of my
10 colleagues on the Board who have more building expertise or
11 architectural expertise have further comments, though? So
12 I'm going to cede and think over your responses. Thank you.

13 BRENDAN SULLIVAN: Okay. Well, we'll turn it over
14 to two other experts: Slater, and then Matina. Slater, any
15 comments?

16 SLATER ANDERSON: Well, I mean I think I pretty
17 much feel what I felt before, that -- you know, just I'm not
18 sure what -- I mean, asking to bless this with something
19 that we would never have approved.

20 So it's -- you know, I'm not moved on this. I
21 don't know what the remedy really is. I respect that
22 tearing it out seems pretty punitive, but you know we --

1 everyone else has to live by these rules, you know. And so,
2 that's kind of where I'm at right now.

3 BRENDAN SULLIVAN: Okay. Matina, any thoughts?
4 We're looking for some guidance, Matina.

5 MATINA WILLIAMS: I agree with everything that's
6 been said, that, you know, if this would have come to us, or
7 come to the Board that it wouldn't have been approved.

8 And knowing that these contractors in the
9 business, I think that sort of speaks volumes that there
10 should have been a no and, you know, you look at your
11 neighbors now and say, "We scaled back to match" if there
12 was a knowing. So I'm in agreement that I -- it's -- I
13 can't approve it.

14 BRENDAN SULLIVAN: Okay.

15 SHANNA BOUGHTON: Thank you.

16 BRENDAN SULLIVAN: I guess my proposal would be to
17 -- on the west side is to put in a 15-foot dormer. And
18 that's what I would propose. It means that we would
19 continue this matter tonight, ask you to go back, huddle,
20 discuss the 15-foot dormer, have you come back to us and
21 say, "We don't want to do it, we stand by our petition that
22 is before us tonight" and then we will then take that to a

1 vote.

2 SHANNA BOUGHTON: And Mr. Sullivan, are you just
3 suggesting it on the west side only?

4 BRENDAN SULLIVAN: I'm suggesting it on the west
5 side.

6 SHANNA BOUGHTON: Okay.

7 SAM KACHMAR: Mr. Chair --

8 SHANNA BOUGHTON: I mean I would --

9 BRENDAN SULLIVAN: So, now, again, let me --
10 Andrea, does that resonate with you at all? Does it make
11 any kind of sense, or do you have a counterthought?

12 ANDREA HICKEY: Yeah. To me it certainly makes
13 sense on the west side. I'd like to hear what Mr. Anderson
14 my colleague, has to say about any other parts of this
15 renovation.

16 BRENDAN SULLIVAN: Slater?

17 SLATER ANDERSON: Yeah, well, I'm not sure that I
18 agree with what Brendan said, but I -- the east side with
19 that current dormer all the way flush with the front façade,
20 I mean, I would like to see the -- I think it's maybe a
21 three-foot setback, three-foot-six, whatever it is in the
22 guidelines? I'd like to see that setback. That wouldn't

1 impact those stairs that are coming up. It looks like
2 there's a stairwell there.

3 It would impact what looks like a bathroom but,
4 you know, I'd like to see -- I'd prefer to see the dormer on
5 the west side and whatever's on the east side sort of align
6 with that setback from what was the original front gable.
7 That's my view.

8 ANDREA HICKEY: Thank you. That's sort of
9 articulating what was happening in my head with an
10 architect's words. I agree that the other dormer really
11 should be pushed back. And I'd like to see that as well.
12 Thank you.

13 SAM KACHMAR: Just so we have clarity, we're
14 understanding we'd like to see what was the sort of original
15 roofline of the house in terms of the slope of that pitch,
16 and then the dormers pushed back the three foot six from
17 there, with the dormer on the west side conforming to the
18 Dormer Guidelines, and while on the right on the east side
19 maybe having a little bit of leeway in there to accommodate
20 the stairs going up to the third floor? Does that sound
21 correct?

22 BRENDAN SULLIVAN: That --

1 SLATER ANDERSON: Yes.

2 BRENDAN SULLIVAN: -- sounds correct to me.

3 ANDREA HICKEY: Yes.

4 SAM KACHMAR: Yep. I agree with that.

5 ANDREA HICKEY: And I agree with that as well.

6 BRENDAN SULLIVAN: Okay. Let me make a motion,
7 then, to continue this matter to December 1. Sam, does that
8 give you enough time to prepare drawings and documents?

9 SAM KACHMAR: We can have it done by next week.

10 BRENDAN SULLIVAN: The first available is December
11 1. Now, let me ask, Andrea, we keep pulling you back. Are
12 you available on December 1?

13 ANDREA HICKEY: Yes, Mr. Chair. I am indeed
14 available.

15 BRENDAN SULLIVAN: Thank you, thank you, thank
16 you. Wendy, are you available December 1?

17 WENDY LEISERSON: Yes.

18 BRENDAN SULLIVAN: Slater Anderson? December 1?

19 SLATER ANDERSON: I believe so. Let me check my
20 calendar real quick here, so.

21 BRENDAN SULLIVAN: Matina, I'm going to ask you
22 the same question.

1 SLATER ANDERSON: Yeah. Yeah, I'm good.

2 BRENDAN SULLIVAN: All right, Matina?

3 MATINA WILLIAMS: Yes, I'm available.

4 BRENDAN SULLIVAN: Thank you.

5 MATINA WILLIAMS: You're welcome.

6 BRENDAN SULLIVAN: And I'm available too. So we
7 have the five members going. I'm going to make a motion,
8 then, to continue this matter to December 1, 2022, at 6:00
9 p.m. on the condition that the petitioner change the posting
10 sign to reflect the new date of December 1, 2022 and the new
11 time of 6:00 p.m.

12 Such sign shall be maintained and visible to the
13 public at least 14 days prior to the December 1, 2022
14 hearing. Any new submittals not in the file tonight shall
15 be in the file -- supporting statements, dimensional forms,
16 shall be in the file by 5:00 p.m. on the Monday prior to
17 December 1, 2022.

18 Any other conditions, members of the Board? Okay.
19 So on the motion, then, to continue this matter to December
20 1, Andrea Hickey?

21 ANDREA HICKEY: Yes. I vote in favor of the
22 continuance.

1 BRENDAN SULLIVAN: Wendy Leiserson?

2 WENDY LEISERSON: In favor.

3 BRENDAN SULLIVAN: Slater Anderson?

4 SLATER ANDERSON: In favor.

5 BRENDAN SULLIVAN: Matina Williams?

6 MATINA WILLIAMS: In favor of the continuance.

7 BRENDAN SULLIVAN: In favor.

8 [All vote YES]

9 BRENDAN SULLIVAN: Five affirmative votes; the
10 matter is continued until December 1, 2022. See you then.

11 SHANNA BOUGHTON: Thank you.

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2 (6:47 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 181674 -- 25 Suffolk Street. Counselor ALPHEN?

8 CHRISTOPHER ALPHEN: Thank you, Mr. Chairman.
9 Attorney Christopher Alphen - Blatman, Bobrowski, Haverty &
10 Silverstein. My office is in Cambridge. With me are the
11 folks from SKA, Karina and Sam. And also with me are the
12 applicants, who are in Utah hiking, currently on their
13 honeymoon.

14 They're before you tonight because they're looking
15 to add an accessory apartment to their family home. 24 --
16 25 Suffolk is currently improved with a two-family, one-
17 bedroom unit. And they're looking to add an accessory
18 apartment so that they can have their mother move in full-
19 time -- Siyu's mother.

20 So in order to do that, we need a special permit
21 under Section 4.22 to convert an existing detached garage
22 into the accessory apartment. And Section 4.22.3 allows the

1 Board to alter setback requirements. But when you extend a
2 non-conforming exterior wall, the Board does not have that
3 ability.

4 And we are extending non-conforming walls.
5 They're non-conforming because they don't meet the left side
6 setback, and we'll be extending the left side setback. And
7 they don't meet the distance required between two buildings
8 on property under Section I think it's 5.34.

9 So because we're making an extension of those two
10 non-conformities when we're making the conversion of the
11 accessory apartment, we need a variance for those items.

12 And then an additional just sort of the Board
13 should kind of think of this as an aside: We are making
14 modifications to the existing deck behind the dwelling, and
15 the existing deck was approved by a variance. So it is
16 conforming and legal with a variance, but we need either a
17 variance or a modification to that existing variance, which
18 was granted in 1995.

19 So with that I will have the group from SKA go
20 over the plans.

21 BRENDAN SULLIVAN: Let me ask one question. Is
22 the existing structure coming down?

1 CHRISTOPHER ALPHEN: The existing garage?

2 BRENDAN SULLIVAN: Yes.

3 CHRISTOPHER ALPHEN: No. It's being -- it is
4 being renovated. The main walls of the garage are staying
5 put.

6 BRENDAN SULLIVAN: And is it being expanded?

7 KARINA MELO: Correct.

8 CHRISTOPHER ALPHEN: It is being expanded, yes.

9 BRENDAN SULLIVAN: Okay. All right. So you're
10 changing the existing accessory building by making it
11 larger?

12 CHRISTOPHER ALPHEN: That's accurate, yep.

13 BRENDAN SULLIVAN: Okay. Okay.

14 CHRISTOPHER ALPHEN: So why don't we go through
15 the plans?

16 KARINA MELO: Olivia, if you can -- thank you very
17 much -- get in there --

18 BRENDAN SULLIVAN: Introduce yourself for the
19 record, please.

20 KARINA MELO: Good evening, members of the Board.
21 I'm Karina Melo from SKA. I would like to provide a brief
22 introduction of the project. Our clients, Siyu and Ryan,

1 are looking into renovating this existing dilapidated garage
2 and converting it into an accessory dwelling unit so we can
3 provide space for a growing family, and also to add
4 additional space so they can bring one of their parents to
5 live with them.

6 Starting from this cover page you'll find on the
7 top left an existing photo of the garage into the top right,
8 a proposed render of the accessory dwelling unit.

9 Next slide, please?

10 Here you'll find on the left an existing render of
11 the garage and to the right a proposed render of the
12 accessory dwelling unit.

13 Next slide, please?

14 Here you'll find to the left an existing site plan
15 with the required setbacks highlighted in red. And to the
16 right the proposed site plan, again with the setbacks
17 highlighted in red. If you please note that the existing
18 garage is set back from the main property two feet. In the
19 proposed plan, we are pushing that wall six inches, so it
20 becomes two inches away from the main property.

21 Next slide, please?

22 Here you'll find our far calculation, where we're

1 going from an existing FAR of 0.59 to a proposed FAR of
2 0.74. Included is our open space calculation, where we're
3 going from an open space of 45 percent to a proposed open
4 space of 41 percent.

5 Next slide, please?

6 Here you'll find our shadow studies showing no
7 impact to the abutters.

8 Next slide, please?

9 Here you'll find on the bottom center a proposed
10 floor plan of the lower level for the accessory dwelling
11 unit.

12 Next slide, please?

13 In this slide you'll find on the top left an
14 existing floor plan of the garage, and on the bottom center
15 a proposed floor plan for the first-floor accessory dwelling
16 unit.

17 Next slide, please?

18 In this slide you'll find on the top left an
19 existing roof plan of the garage into the bottom center of
20 the proposed floor plan of the accessory dwelling unit.

21 Next slide, please?

22 Here you'll find at the top left an existing

1 elevation of the garage. And on the bottom right a proposed
2 elevation of the accessory dwelling unit, showing the total
3 height of 15 feet, which is the required by Zoning
4 guidelines.

5 Next slide, please?

6 Here you'll find on the top left an existing
7 elevation of the garage looking from the left side yard and
8 on the bottom right a proposed elevation of the accessory
9 dwelling unit.

10 Next slide, please?

11 Here you'll find on the top left an existing
12 elevation of the garage looking from the rear yard and on
13 the bottom right a proposed elevation of the accessory
14 dwelling unit.

15 Next slide, please?

16 Here you'll find on the top left an existing
17 elevation looking to the garage from the right yard setback.
18 And on the bottom right you're going to find a proposed
19 elevation of the accessory dwelling unit.

20 Next slide, please?

21 This is the end of our presentation. Thank you so
22 much for hearing us. Please feel free to scan this for a

1 bigger render of the proposed work. And below you'll find
2 supplementary pages for your reference, which includes the
3 certified floor plan, and additional photos of the existing
4 garage as it stands today.

5 Thank you.

6 CHRISTOPHER ALPHEN: Mr. Chairman, you will note
7 that we've gotten several letters in support from persons in
8 interest.

9 And I would like to make a note that we received a
10 letter in support from the Cambridge Housing Authority,
11 which is the most direct abutter that shares two -- two
12 boundaries with the property. And they sent in a letter
13 that said,

14 "The accessory building borders the Cambridge
15 Housing Authority's property line and is in poor condition.
16 Replacing it with a newer building will improve the
17 residents' views from 116 Norfolk Street and prevent any
18 health and safety risks that could occur if the current
19 accessory building deteriorates further.

20 "This block is located within a quarter mile of
21 Central [Red] Square Station and eight bus lines. It is a
22 great location for housing.

1 "We support the conversion of the defunct
2 accessory building into an apartment."

3 And that's signed by the attorney for Cambridge
4 Housing Authority.

5 BRENDAN SULLIVAN: So, Counselor, you're asking
6 for relief for an accessory apartment, the extension of a
7 non-conforming structure, dimensional requirements, a
8 variance and a special permit?

9 On the number of dwelling units: two, requested
10 conditions would be three. Number of parking spaces: two.
11 So you're not asking for a parking -- relief from the
12 parking ordinance?

13 CHRISTOPHER ALPHEN: Correct.

14 KARINA MELO: Accessory.

15 CHRISTOPHER ALPHEN: Because their two parking
16 spaces are required for the two units.

17 BRENDAN SULLIVAN: But they're -- under the
18 Accessory Unit Ordinance you don't have to provide parking
19 for it.

20 KARINA MELO: Correct.

21 CHRISTOPHER ALPHEN: Exactly, Mr. Chair.

22 BRENDAN SULLIVAN: All right, okay. So again,

1 reading back through the Ordinance Section 4.22, provides
2 the purpose of permitting accessory apartments. It states
3 as relevant, "The purpose of this subsection is to allow for
4 the creation of accessory apartments in all districts. Any
5 large existing single- and two-family dwellings or other
6 accessory buildings on their lots are underutilized."

7 So I think that the spirit of 4.22 was some of the
8 larger bones in sort of A districts -- A1, A2 districts --
9 were/supported large families. The families' younger
10 members have gone one.

11 And the -- Mom and Dad are probably left, or
12 possibly one of the parents are left to a very large home.
13 And so that was the underutilized part of it.

14 Some of them had carriage houses, which no longer
15 have carriages. And those were underutilized, and they felt
16 that it would be beneficial to provide some housing. And I
17 thought it was always a good thing to have at least somebody
18 in a very large home other than a single, elderly person or
19 two, and there was a benefit to all.

20 But in this particular case, this is not a large
21 existing one or two, and it's not being underutilized. So
22 I'm just wondering if it doesn't go against the spirit of

1 why we have the Accessory Apartment Ordinance, and to allow
2 it.

3 The other thing is that the -- it's one thing if
4 we were to allow it in the existing structure; it does
5 provide expansion of it, provided that it conforms to the
6 other dimensional requirements under 5.31 and of course that
7 now triggers the variance, which then triggers the hardship.

8 And you state that the hardship is related to the
9 shape of the lot. And again, I don't find where the shape
10 of this particular lot is unusual. If you look directly
11 across the street, it's a mirror image of the lot across the
12 street without a garage, and -- you know, narrow rectangular
13 lots predominate in that entire area.

14 As far as the existing structure's dilapidated
15 condition and so forth, I -- you know, and again this was
16 built in another time and era and became a maintenance
17 problem over the years and has deteriorated. Last month we
18 had a very similar case up in Rindge Avenue that I'm sure
19 you're very familiar with, and they decided to take the
20 structure down and create green space, which I thought was
21 the right thing to do.

22 So I'm torn between the purpose of this, even

1 though it's for a family member, which -- you know, you --
2 it's a two-family, you could either take over the entire
3 house, or that this be sort of an addition but part of the
4 first-floor unit. I'm just wondering if the ultimate aim of
5 this is not short-term rentals.

6 CHRISTOPHER ALPHEN: It certainly isn't under our
7 circumstances. The applicants just got married, and they're
8 expecting to expand their family at some point in time in
9 the near future. I don't want to speak too far -- too much
10 for them.

11 But you know, I did think about what the Chairman
12 said about, you know, the purpose and intent of the section.
13 And I really do think that buildings like the building they
14 have here -- and I read it as "or other accessory buildings
15 on their lots" and I think that that first sentence where it
16 says, "many large existing single- and two-family dwellings"
17 well that's when you're talking about adding an accessory
18 apartment within a building.

19 And I think when it says, "the other" or "other
20 accessory buildings" I don't think that they're necessarily
21 referring to large accessory buildings. I think they're
22 talking about these accessory buildings, these detached

1 garages that are just sitting there and are just undeniably
2 an eyesore to folks.

3 And we have a housing crisis in Massachusetts.
4 The applicants have an issue where, you know, without this
5 additional housing, they're not going to be able to live in
6 the home anymore with their expanding family and Siyu's
7 mother move in.

8 So I think this is exactly what this section was
9 meant to give relief to and provide additional housing and
10 transform these structures that nobody wants.

11 As far as the hardship goes, I think, Chairman
12 made a fine point this this may not be a shape issue, but it
13 certainly is an existing structure issue, considering the
14 distance between the property lines -- the age of the
15 structure and so on.

16 So I understand your point, and I understand why
17 you struggle with it. But I think this is a unique
18 situation where this is the reason for the ordinance; to try
19 to create additional housing and transform these accessory
20 buildings that are not being utilized. And this certainly
21 is not being utilized.

22 BRENDAN SULLIVAN: Yeah. It's funny, because we

1 struggle with coming up with the proper language to grant
2 variances, and Marks' fourth or fifth edition is rife with
3 that size of lot.

4 It is not a criteria -- even though I think it's,
5 to me -- and again I'm editorializing here -- I think it's
6 absolutely pertinent to why people are being constrained by
7 the ordinance. But the courts have found that shape rules
8 the day and not size. And I really think it could be a
9 combination of both.

10 But I think -- I'm just being the devil's
11 advocate. I wanted to get -- elicit a response to both of
12 those questions that I had from you.

13 Let me open it up to the Board. Andrea Hickey,
14 any questions at this time or comments?

15 ANDREA HICKEY: Well, I can't say that I disagree
16 with Counsel's interpretation of accessory buildings not
17 necessarily having to be large accessory buildings. Sort of
18 conceptually, I don't have an issue with the ask here. My
19 concern is that this not turn into an Airbnb hotel.

20 And, Mr. Chair, I defer back to you whether we
21 have the authority to make conditions that that use would
22 not be sanctioned by any finding that we make. Is that

1 something -- a condition we're able to make?

2 BRENDAN SULLIVAN: We have imposed that condition
3 in the past that the proposal before us states that it will
4 be a separate apartment -- a separate entrance, separate in
5 all ways separated by a party wall to be used by a family
6 member, however those situations, conditions change over
7 time; and that eventually it may very well be, hopefully a
8 long, long time in the distance where it becomes now an
9 available apartment.

10 However, I think that short-term rentals changes
11 the character of the neighborhood, and that a more permanent
12 rental -- traditional rental unit -- would be the order of
13 the day, and we could impose that condition that it be a
14 traditional and not -- sorry, a traditional rental, whatever
15 that is.

16 I don't know what that yardstick is, but that it
17 not be turned into a short-term rental, because that does
18 change the character of the neighborhood.

19 ANDREA HICKEY: Mr. Chair, when you say, "a
20 traditional rental," do you envision included in that
21 definition that it not necessarily need be a family member
22 residing in the unit?

1 BRENDAN SULLIVAN: Absolutely. That's correct.

2 That's exactly correct. Because I envision it --

3 ANDREA HICKEY: Right.

4 BRENDAN SULLIVAN: -- way down the road,
5 hopefully, many, many, many years from now that it may be
6 available for rental.

7 ANDREA HICKEY: Right. I just wanted to clarify
8 that, because --

9 BRENDAN SULLIVAN: Yes. I would not restrict it
10 to a family member.

11 ANDREA HICKEY: -- right. I personally would not
12 want to impose that condition, and I'm not sure whether we
13 could. So --

14 BRENDAN SULLIVAN: We -- that would exceed, I
15 think, our authority.

16 ANDREA HICKEY: Right. Right. So I'm inclined to
17 approve this request with the caveat that it be conditioned
18 upon its not being used as a short-term rental. That's all
19 I have. Thank you, Mr. Chair.

20 BRENDAN SULLIVAN: Great. Thank you. Slater, any
21 comments?

22 SLATER ANDERSON: I tend to concur. I mean,

1 overall, this is a small, primary residence with a dated,
2 dilapidated garage that has limited utility but is -- you
3 know, has some grandfathered rights that -- you know,
4 recognize they want to utilize.

5 Also, given the setting that there isn't -- you
6 know, other residential structures immediately adjacent to
7 it because of the other -- just the layout of the block
8 lowers my concern of the impact of let's say, you know, the
9 use of the roof deck, for example. But the roof deck I
10 suppose you could have one anyways, if you wished if you
11 rebuilt that garage.

12 I agree on the short-term rental. And I don't
13 know if the threshold is simply, you know, not suitable for
14 rentals of less than 30 days or whatever, which is the sort
15 of tip of the short-term rental threshold. But I concur
16 that, you know, we don't want it to be a revolving door
17 rental situation. Thank you.

18 BRENDAN SULLIVAN: Yep. Wendy Leiserson,
19 comments?

20 WENDY LEISERSON: I agree with the comments that
21 have already been made. Thank you.

22 BRENDAN SULLIVAN: Thank you. Matina?

1 MATINA WILLIAMS: Yes. I agree with the comments
2 that have been made also. I have no further comment.

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

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

10 OLIVIA RATAY: Colin Fleming?

11 COLIN FLEMING: Hello, good evening. Colin
12 Fleming, 22 Worcester Street. So I am located diagonally
13 behind the property in question. And, you know, my wife and
14 I are generally supportive of improving the character of the
15 garage. It is definitely not only dilapidated but, you
16 know, it's designed for vehicles that are of a size that
17 don't really exist anymore.

18 And I directly -- I didn't get a chance to put my
19 support like that in writing, so I thought I would do so
20 here at the meeting.

21 And what the Board members were saying relative to
22 the, you know, short-term apartments was the only concern I

1 raised to Siyu and her husband. And so, I certainly support
2 that idea as well. So thank you for your time.

3 BRENDAN SULLIVAN: Thank you for the time and
4 calling in. That appears to be the end of anybody calling
5 in. We are in receipt of correspondence that Counsel has
6 alluded to earlier. Let me just read into the record. It's
7 from Michael Johnston, J-o-h-n-s-t-o-n, Johnston, the
8 Executive Director of Cambridge Housing Authority.

9 "Dear BZA members, Cambridge Housing Authority
10 owns and operates 116 Norfolk Street, which borders the 25
11 Suffolk Street lot on two sides. We support Siyu Kalla and
12 her request for a continuance special permit to convert her
13 existing accessory building to an accessory dwelling unit.

14 "The current accessory building borders CAH
15 property line. It is in poor condition. Replacing it with
16 a newer building will improve residents' views from 116
17 Norfolk Street and prevent any health and safety risks that
18 could occur if the current accessory building deteriorates
19 further.

20 "This block, located within a quarter mile of
21 Central Square Red Line Station and eight bus lines is a
22 great location for housing. We support the conversion of a

1 defunct accessory building into an apartment.

2 "Sincerely,

3 "Michael Johnston, Esquire."

4 BRENDAN SULLIVAN: And that appears to be the only
5 correspondence. I'll close the public comment part of, send
6 it back to Counsel for any final words?

7 CHRISTOPHER ALPHEN: Just some final words that
8 there were -- I believe -- several other letters from
9 neighbors that were submitted. It may have just been an
10 earlier version. So I don't want to miss that. I believe
11 we had three other letters from neighbors that were
12 submitted.

13 BRENDAN SULLIVAN: Yeah, I don't see any, Chris,
14 at all.

15 CHRISTOPHER ALPHEN: It looks like --

16 BRENDAN SULLIVAN: But that's okay.

17 CHRISTOPHER ALPHEN: Yeah, it's okay. All right.

18 BRENDAN SULLIVAN: Yeah, we'll take your
19 presentation as fact. That's fine.

20 CHRISTOPHER ALPHEN: Okay. Anything else?

21 WENDY LEISERSON: Mr. Chair?

22 BRENDAN SULLIVAN: Yes.

1 WENDY LEISERSON: I did have one just
2 clarification in terms of the hardship question you raised
3 before. How were we satisfying that?

4 CHRISTOPHER ALPHEN: Well, I think the hardship is
5 without relief they're going to be left with the
6 dilapidated, old garage, and they're not going to be able to
7 expand their existing garage to be livable for an accessory
8 apartment. And that was summarized in my legal memorandum
9 that I submitted.

10 WENDY LEISERSON: So your argument for hardship --
11 I mean, other than the fact that they couldn't do what they
12 want to do is that the building would be dilapidated. Is
13 that correct?

14 CHRISTOPHER ALPHEN: That's accurate and -- well,
15 the variance is for expanding the structure, right? The
16 special permit is to convert the accessory building to an
17 accessory apartment. And the variances are for expanding
18 that structure.

19 And so, the argument for hardship is, well, if we
20 aren't able to expand the structure, we don't have enough
21 area to have a livable space.

22 WENDY LEISERSON: Okay, thank you.

1 BRENDAN SULLIVAN: Okay. Let me just ask the
2 petitioners that is the sense of the Board to impose a
3 condition, should we grant this, that the -- it'll be a
4 traditional -- eventually -- should you or subsequent owners
5 want to make it available for rental in the open market that
6 it not be used as short-term rentals: Are you in agreement
7 to that condition?

8 CHRISTOPHER ALPHEN: They are very much in
9 agreement with that condition.

10 BRENDAN SULLIVAN: Okay. Let me make a motion,
11 then, to grant the relief requested to convert and renovate
12 an existing non-conforming accessory building into an
13 accessory apartment, as per the plans submitted by SKA
14 Architects. Sam, the set is dated October 3?

15 SAM KACHMAR: Yep.

16 BRENDAN SULLIVAN: Well, it was stamped in
17 October, it's reinstated 09/30/2022?

18 SAM KACHMAR: Yep, that's correct, Mr. Chairman.

19 BRENDAN SULLIVAN: All right. Let me make a
20 motion, then, to grant the relief requested as per the plans
21 dated 09/30/2022, entitled, "The Kalla Residence" prepared
22 by SKA Architects. Also, the dimensional form and

1 supporting statements as part of the application.

2 The Board finds that a literal enforcement of the
3 provisions of the Ordinance would involve a substantial
4 hardship to the petitioner, because it would preclude the
5 petitioner to retrofit an existing dilapidated building to
6 make it far more usable to accommodate additional living
7 space for expanded family members currently.

8 And then eventually, should the need or the
9 opportunity arise, to have an apartment available of
10 sufficient size to provide housing for potentially one or
11 two people, which is much needed in the neighborhood.

12 And that without this relief, it would preclude
13 the petitioner to be able to create that set of
14 circumstances.

15 The Board finds that the hardship is owing to the
16 shape the lot -- the location of the basically existing
17 house and the accessory building on the lot, and the fact
18 that both were constructed prior to the existing ordinance,
19 and as and as such are encumbered by the current ordinance,
20 and as such any alterations to an expansion of this nature
21 would require some relief from this Board.

22 The Board finds that the request is a fair and

1 reasonable one, given the existing condition of the building
2 and the desire to provide some housing for people.

3 The intent of the ordinance is to provide
4 residents -- to provide a residence to people of all income
5 levels. And this will go a long way in satisfying that
6 intent.

7 The Board finds that desirable relief may be
8 granted without substantial detriment to the public good,
9 and in fact the public good will be enhanced by a better
10 looking, aesthetically pleasing structure, which will have a
11 function that will have public benefit.

12 It will improve the neighborhood streetscape, and
13 as a letter from the adjoining Cambridge Health Authority
14 property has stated, will alleviate any fear of the building
15 falling into greater disrepair and having -- creating a more
16 hazardous condition.

17 Desirable relief may be granted without
18 substantial detriment to the public good or nullifying or
19 substantially derogating from the intent and purpose of the
20 ordinance, and Section 4.22 of the Cambridge Ordinance does
21 provide the purpose of permitting accessory apartments, such
22 as this on the lots.

1 On the motion, then, to grant the relief
2 requested, Andrea Hickey?

3 ANDREA HICKEY: Mr. Chair, I --

4 BRENDAN SULLIVAN: Yes, there's one other
5 condition.

6 ANDREA HICKEY: Yes, thank you.

7 BRENDAN SULLIVAN: And also, we grant this
8 variance on the condition that the structure not be used for
9 short-term rentals as per the Cambridge Ordinance.

10 That it is the intent of this Board to approve
11 this structure -- this project for use as a traditional,
12 longer-term rental as defined in the Ordinance.

13 On the motion, Andrea Hickey?

14 ANDREA HICKEY: Yes, I vote in favor of the
15 motion, Mr. Chair.

16 BRENDAN SULLIVAN: Wendy Leiserson?

17 WENDY LEISERSON: In fairness.

18 BRENDAN SULLIVAN: Matina Williams?

19 MATINA WILLIAMS: In favor.

20 BRENDAN SULLIVAN: Slater Anderson?

21 SLATER ANDERSON: In favor.

22 BRENDAN SULLIVAN: And Brendan Sullivan in favor.

1 [All vote YES]

2 BRENDAN SULLIVAN: Five affirmative votes, the
3 variance is granted. On the special permit, Counselor, just
4 the special permit, it just that it requires it to turn it
5 into --

6 CHRISTOPHER ALPHEN: Yeah. So the special permit
7 is -- there's a criteria set forth by Section -- let me back
8 up. The special permit is to allow converting an accessory
9 building to an accessory apartment. And there's a criteria
10 set by Section 4221, and we meet that criteria.

11 And I've outlined that in my memo, whether the
12 accessory building had been in existence between -- before
13 February 1, 2019. And so far, a lot of the criteria is
14 based onto units within the dwelling, so they're not
15 applicable.

16 And it says that -- the section also says that we
17 go to the General Special Permit Criteria under Section
18 10.43.

19 BRENDAN SULLIVAN: Correct. Okay. So the
20 Counselor's comments will be incorporated into the record,
21 please and also it appears that the Board will grant the
22 special permit.

1 It appears that the requirements of the Ordinance
2 can be met. The proposed renovations do not create any
3 additional non-conformities. That the proposed renovation
4 will not be substantially more detrimental to the
5 neighborhood than the existing non-conforming structure to
6 the.

7 There would not be any traffic generated, or
8 patterns of access or egress that would cause congestion,
9 hazard, or substantial change in the established
10 neighborhood character.

11 The Board finds that continued operation of or
12 development of adjacent uses, as permitted in the Zoning
13 Ordinance, would not be adversely affected by the nature of
14 the proposed use. The Board incorporates by reference the
15 letter from the Cambridge Housing Authority affirming its
16 approval for the project.

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

21 As a matter of fact, the Board finds that exactly
22 to the contrary; that it would alleviate a hazardous

1 building and provide much-needed additional living space and
2 potentially a rental -- smaller rental unit available for
3 citizens of the City.

4 And the proposed use would not impair the
5 integrity of the district or adjoining districts, or
6 otherwise derogate from the intent and purpose of the
7 ordinance to provide housing for persons of all income
8 levels.

9 On the motion, then, to grant the special permit,
10 Andrea Hickey?

11 ANDREA HICKEY: Yes, in favor.

12 BRENDAN SULLIVAN: Wendy Leiserson?

13 WENDY LEISERSON: In favor.

14 BRENDAN SULLIVAN: Slater Anderson?

15 SLATER ANDERSON: In favor.

16 BRENDAN SULLIVAN: Matina Williams?

17 MATINA WILLIAMS: In favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan yes.

19 [All vote YES]

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

22 CHRISTOPHER ALPHEN: Thank you very much.

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BRENDAN SULLIVAN: Yep.

COLLECTIVE: Thank you.

WENDY LEISERSON: Congratulations.

BRENDAN SULLIVAN: Yes, congratulations.

SIYU KALLA: Thank you very much.

1 * * * * *

2 (7:21 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 182714 -- 21 Loomis Street. Mr. Fee?

8 [Pause]

9 21 Loomis Street?

10 KEVIN EMORY: Can you hear us now?

11 BRENDAN SULLIVAN: Yes.

12 KEVIN EMERY: Okay. Sorry about that, we're not
13 used to doing this by way of webcam. So you can hear us
14 now? Okay. Chairman, members of the Board, thank you for
15 hearing this case tonight. My name is Kevin Emery. I
16 reside at 9 Gregory Lane, Reading, Massachusetts.

17 My business partner is Eamon Fee, in residency
18 (sic).

19 EAMON FEE: My name is Eamon Fee, 210 Barker
20 Street, Pembroke.

21 KEVIN EMERY: Okay. I think I'll start with a
22 little bit of history here before we get into the building

1 itself.

2 We bought this house on 05/10/21, 17 months ago.
3 And the reason why we bought it, and we paid a lot of money
4 for it was because it was zoned a two-family. We are what
5 you would consider small developers. We do one to three
6 projects a year, and we've been doing this -- yes, we've
7 built about 27 units in the North Cambridge area. In fact,
8 I went to high school in Cambridge.

9 We are here tonight for a special permit because
10 the house is non-conforming. The way the house sits on the
11 lot, it does not meet the side yard setbacks, and that's the
12 only reason why it's non-conforming.

13 Okay, I sent the ZBA Board a letter dated August
14 11 detailing the timeline and the process we went through
15 with the Historical Commission. I'm not sure if anyone's
16 read it or received it. And I'll read it here right now.

17 "On 03/05/21 we resubmitted an application to demo
18 an existing house. On 05/16/21, we met with the Historical
19 Board, and they denied that project, and they found the
20 house to be significant and preferably preserved, which
21 means we could not demo the house or do any maintenance
22 changes unless it was approved by the Historical Board.

1 "This was right in the middle of COVID, so we
2 decided to let the 12-month period run out. The reason for
3 this was because we couldn't get any work done -- engineers,
4 architects, getting really anyone to get anything done in a
5 reasonable amount of time.

6 "So we decided it was time to let the 12 months
7 run out, figuring that where it's only a small Cape with
8 aluminum siding and aluminum windows that -- and aluminum
9 over the door -- that the Board wouldn't see this to be
10 significant at the time.

11 "So on 04/07/22, we met with the Historical Board,
12 which is the procedure with the 12-month away is almost
13 complete. To our surprise, they issued a landmark study on
14 the property, which gets presented to the City Council, and
15 this procedure takes about a year to complete.

16 "On 04/15/22, we met with the Historical Staff to
17 figure out our different options. So we proposed on
18 06/22/22 that we design this house to make it non-
19 conforming, to make it conforming.

20 "What we were going to do is move the house off
21 the foundation to the back of the lot, install a new
22 foundation but reduce the size of the building by six inches

1 only on both sides, install a new foundation and move the
2 house to the foundation.

3 "The reason behind doing all this was make the
4 house conforming. Once the house was conforming, we
5 wouldn't need to come in front of the ZBA for a special
6 permit at all. It would be as of right permit. The Board
7 denied this option also.

8 "So again, we never -- your Staff we presented
9 another presentation. It is that we would bring the house
10 back to its original specs and build an addition to the rear
11 of the building with a simple design to the front, and we
12 would grant a Certificate of Appropriateness. But this
13 design triggered a special permit, and that's the reason why
14 we're in front of the ZBA today."

15 We have a letter of support from the Historical
16 Board dated August 3, which was presented," and I hope you
17 all have a copy of that.

18 BRENDAN SULLIVAN: Yes, we do.

19 KEVIN EMERY: And I'll just read a couple -- last
20 two -- I won't get to read the whole thing, I'll just read
21 the last two lines.

22 "The Historical Commission asks staff to convey

1 their support for this special permit request. We hope the
2 Board will look favorably on the fact that the applicants
3 are willing to preserve a modest but historically
4 significant building in this neighborhood that is almost
5 unique to Cambridge in its suburban setting and
6 characteristics."

7 Okay, we also sent in a copy of the Certificate of
8 Appropriateness for your viewing, and also communication
9 from Sarah Burks on this.

10 Okay, let's get into the building itself. We are
11 looking for relief to add on to an existing, non-conforming
12 structure. Under the Zoning Ordinance, any additions to
13 this need a special permit. And all other setbacks will be
14 met, except the existing setbacks in the front building on
15 the side yard setback.

16 But the new house, all the setbacks will be met --
17 heights of the building, parking, landscaping and also
18 including a two-family zone. So we will not be adding to
19 the non-conformity of the structure at all.

20 Again, if we have permission to reduce the
21 building from the Historical Board by that one foot, it
22 would have been again an as-of-right project, and we

1 wouldn't be here tonight.

2 You'll find tonight -- and we found out through
3 the whole process of Historical you can have -- and I see
4 the letters from the neighbors -- this neighborhood will
5 have a lot of opposition from the neighborhood. Many of you
6 will probably see letters and most likely hear from them
7 tonight. Okay.

8 To sum this up, if the Historical Board will
9 approve the option to make the house non-conforming --
10 again, we would not be in front of you tonight, and we
11 wouldn't need a special permit.

12 So we have an existing Cape home in which we need
13 to bring back those regular specs the best we can with the
14 Historical Board. We'll be adding the dormer to the
15 original house at the rear of the house. We will build
16 another unit into the -- similar to the design of the Cape,
17 attached by a garage.

18 This design of this unit was negotiated with the
19 Historical Board, and many of their suggestions we
20 incorporated into the final design.

21 Also, we've done a shadow survey, which was
22 submitted to the Board.

1 Also like to point out that this neighborhood has
2 many different types of homes, like many of the different
3 neighborhoods in Cambridge. It is a seven-unit project at
4 the end of the street. There's a four-unit project at 20
5 Loomis Street, which is right across the street, that at one
6 time there was a Cape Cod house sitting on that, and they've
7 locked that down and built four units.

8 There's a new two-family condo at 44-46, and we
9 sent pictures of the houses in, and we sent copies of their
10 design. And these were all single-family homes at one time.
11 There's a three-family house, a bunch of two-families, and a
12 bunch of single-families.

13 And right around the corner at 95 Griswald Street,
14 there's a building going up now, it's very similar to ours -
15 - to make it simple, they're putting that unit to the back
16 of their lot also.

17 To conclude, this has been a long and expensive 17
18 months. If we had a crystal ball, we probably wouldn't
19 have went this route, we probably would have just pulled the
20 permit, made the house conforming via right, and add the
21 other unit, and we wouldn't have to go through all what
22 we've gone through in the last 17 months.

1 To conclude, we ask the Board to work with
2 Historical and us to grant the special permit. Thank you.

3 BRENDAN SULLIVAN: Thank you. Now, you mentioned
4 an as-of-right solution, which Historical found on, but your
5 as-of-right solution you would take -- what was that
6 dimension again now?

7 KEVIN EMORY: Six inches off each side of the
8 building.

9 BRENDAN SULLIVAN: All right. So you're reducing
10 the existing building by a foot, six inches on each side?

11 KEVIN EMORY: That would make the building
12 conforming.

13 BRENDAN SULLIVAN: Then the building conforms, and
14 then you would put your addition in the back another unit?

15 KEVIN EMORY: Correct. Correct.

16 BRENDAN SULLIVAN: Okay. And the reason why they
17 didn't want you to do that is because they found the
18 building to have some historical significance, and by
19 reducing the size of it would desecrate the historical
20 significance of the building? Is that a fair statement?

21 KEVIN EMORY: That was their opinion on the
22 matter, yes.

1 BRENDAN SULLIVAN: Okay. All right.

2 KEVIN EMORY: To me -- by removing a foot, I don't
3 think you -- if we show you before and after, it would be
4 very noticeable whatsoever.

5 But they don't like -- once they deem a building
6 significant, they don't like to see it reduced or expanded
7 as seen from the street or -- if you see it from the side,
8 where they can see it from the street or the sides.

9 BRENDAN SULLIVAN: So if you -- say we were to not
10 approve this, and you want to do whatever you want to do,
11 but say you were to reduce the building by six inches on
12 either side?

13 KEVIN EMORY: Right.

14 BRENDAN SULLIVAN: You could then go back and put
15 an addition on the back in the same location?

16 KEVIN EMORY: Yes.

17 BRENDAN SULLIVAN: Because the side yard setback
18 is -- on the left side is 7'5 and that's what the Ordinance
19 requires? And on the right side it's 12'5"?

20 KEVIN EMORY: Correct. See, the building's --

21 BRENDAN SULLIVAN: Both of those currently are
22 non-conforming with the existing structure?

1 KEVIN EMORY: Correct.

2 BRENDAN SULLIVAN: Okay. I just want to get it
3 into context here.

4 KEVIN EMORY: Correct.

5 BRENDAN SULLIVAN: All right. Let me open it up
6 to members of the Board. Andrea Hickey, any comments or
7 questions?

8 ANDREA HICKEY: No, I'm still trying to wrap my
9 head around the last part of the answer to the question you
10 just asked about it being as-of-right if it were a little
11 bit -- he asked for a little bit less.

12 BRENDAN SULLIVAN: We have -- right now the
13 existing building is 7'1" from the left side lot line.

14 ANDREA HICKEY: Yeah.

15 BRENDAN SULLIVAN: Minimum has to be 7'6".

16 ANDREA HICKEY: Mm-hm.

17 BRENDAN SULLIVAN: So if they were to take six
18 inches off of the left side of the building, the building
19 now becomes conforming. They could then go back with the
20 addition that they are proposing tonight as-of-right,
21 because they would maintain the required 7'5" setback on the
22 left side.

1 ANDREA HICKEY: Right. But they can't do that
2 because of Historical's ruling, correct?

3 KEVIN EMORY: Yes.

4 BRENDAN SULLIVAN: Right.

5 ANDREA HICKEY: All right. I understand that.
6 They're in a tough position here. I just need to sit with
7 that for a few minutes. But thank you for running through
8 that with me, Mr. Chair.

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

11 WENDY LEISERSON: Like Andrea, I'd like to sit
12 with this. But I am struck by one thing, which is that
13 unlike the -- one of the earlier cases, here we have
14 builders who are trying really hard to comply with all of
15 the different -- you know, bodies and agencies who have a
16 say in this. So that does make me sympathetic to this
17 situation.

18 KEVIN EMORY: Thank you.

19 BRENDAN SULLIVAN: Matina, any questions or
20 comments at this time?

21 MATINA WILLIAMS: Not at this time.

22 BRENDAN SULLIVAN: Slater, any questions or

1 comments?

2 SLATER ANDERSON: No questions or comments right
3 now, thanks.

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

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

11 OLIVIA RATAY: Michael Stone?

12 MICHAEL STONE: Hi, everyone, members of the
13 Board. Thank you for the opportunity to give public
14 comment. My name is Michael Stone. I reside at 25 Loomis
15 Street, so I'm one of the abutters affected by the proposal
16 tonight.

17 According to my understanding of the relevant
18 statute that the appellants are requesting relief under, in
19 order to grant that relief, the Board need find two things:
20 Both that the alteration or enlargement shall not
21 substantially -- or be substantially more detrimental than
22 the existing non-conforming structure, and secondly that the

1 proposed alteration or enlargement also satisfies the
2 criteria in Section 10.43. And it's my opinion that neither
3 of these is the case.

4 This proposal has received continuous and near
5 unanimous -- in fact I believe completely unanimous --
6 opposition from all the neighbors who provided public
7 comment, both at the Historic Commission meetings and at
8 this meeting and the previous one, from which it was
9 continued.

10 So the feedback from those neighbors is that, in
11 their opinion, the proposed modifications here are
12 substantially more detrimental to their use and enjoyment of
13 the neighborhood than the existing non-conforming structure.

14 Secondly, I went through in my notes through each
15 element of the criteria of Section 10.43. And it is true
16 that there are some of those criteria that the proposal
17 benefits -- for example, the creation of the new unit is
18 aligned with Cambridge Urban Design principles. However, I
19 think four of the other criteria it does not satisfy as
20 well.

21 So my own request is that on this basis, I believe
22 that the appellants are requesting relief to which they're

1 not entitled, that the affected community does not support.

2 And regarding the framing that they are trying to
3 comply, I propose the alternate framing that they are being
4 forced to comply through the regular and continuous efforts
5 of the neighbors, which they -- in my opinion -- have been
6 dragging their feet on.

7 BRENDAN SULLIVAN: Michael, let me ask you a
8 question. The -- you had written in a letter dated August
9 17 and you had some questions there --

10 MICHAEL STONE: That's right.

11 BRENDAN SULLIVAN: -- at the last continuance, I
12 had encouraged the petitioners to provide a shadow study,
13 which they did, and also outreach the abutters on either
14 side. And have they -- you had conversations with the
15 applicant?

16 MICHAEL STONE: In my opinion, that request for
17 outreach has not been fulfilled. We exchanged pleasantries
18 on one occasion when they came to update the required
19 notice. But there was no substance to the discussion that
20 we had requested, aligned with the requirements of the
21 Cambridge Urban Development Plan.

22 The things that we're asking about in that are

1 things that are listed in 10.43.

2 BRENDAN SULLIVAN: Okay. All right, great. Thank
3 you.

4 MICHAEL STONE: Thank you.

5 BRENDAN SULLIVAN: That's the sum and s -- okay,
6 somebody else is calling in?

7 OLIVIA RATAY: Roxanne Spartichino (phonetic)?

8 ROXANNE SPARTICHINO: Yes. In support of what
9 Michael just said, and I remember at the last meeting you
10 did ask them to reach out to us to see if they could satisfy
11 any of the requests that we had made, or the concerns we had
12 expressed in our letters. Absolutely no attempt whatsoever
13 to reach out to any of us -- none.

14 BRENDAN SULLIVAN: Okay. Thank you.

15 ROXANNE SPARTICHINO: Thank you.

16 BRENDAN SULLIVAN: Okay. There is a letter from
17 the Historical Commission dated August 3 from Sarah Burks.

18 "I'm writing to convey the support of the
19 Historical Commission for the application filed by Eamon Fee
20 for a special permit to construct an attached garage and
21 dwelling unit at the back of the existing non-conforming
22 house at 21 Loomis Street.

1 "The John Mearn" -- M-e-a-r-n -- House was found
2 to be significant and preferably preserved as part of a
3 Demolition Ordinance review of a previous design proposal to
4 relocate the house to a new foundation and shave off
5 approximately six inches on either side in order to achieve
6 conformity with the setback requirements of the zoning code.

7 "The Cape Cod house was built in 1949 to designs
8 by Grossman & Sons for a World War II veteran. The house is
9 located in the Cambridge Highlands Neighborhood, one of only
10 two post-War automobile suburban neighborhoods developed in
11 Cambridge. The house was one of the first to be constructed
12 in the city after WWII.

13 "The property owner applied to the Historical
14 Commission in July for consideration of a modified design
15 for their project, which will preserve and restore the
16 original house in its current location.

17 "The attached garage and rear dwelling unit would
18 be compatible with the front house without exactly
19 replicating it. This design proposal was approved with a
20 Certificate of Appropriateness by the Commission on July 7,
21 2022.

22 "This configuration will require a special permit

1 to construct the addition to an existing, non-conforming
2 building. The Historical Commission asks staff to convey
3 their support for this special permit request.

4 "We hope the Board will look favorably on the fact
5 that the applicants are willing to preserve a modest but
6 historically significant building in this neighborhood that
7 is almost unique to Cambridge in its suburban setting and
8 characteristics.

9 "Sincerely,

10 "Sarah L. Burks."

11 Letter of Appropriateness issued by the Cambridge
12 Historical Committee. The conditions are:

- 13 1. Preserve the existing house in its current location on
14 the lot.
- 15 2. Remove the aluminum siding.
- 16 3. Restore the house to its original design as informed
17 by the original plans and as-built conditions so far as
18 they can be determined including the wood shingle
19 siding, shutters, gable-end window and pair of front
20 dormers.
- 21 4. Construct a second dwelling unit connected to the
22 front house with a one-bay garage.

1 Work to be carried out as by the drawings that were
2 contained in their application."

3 There is a number of correspondence. Mr. Stone
4 just recently spoke, and also Ms. Spartichino, and I think
5 that that sums it up.

6 There are other letters that are -- some in
7 support, some also in opposition. And those are in the
8 file; the Board has read them, and they are incorporated by
9 reference. I will close the public comment part of the
10 presentation and send it back to the petitioner for any
11 other additional comments.

12 KEVIN EMERY: Yes. Thank you, Chairman. I just
13 want to state that we went around the neighborhood in the
14 beginning of this whole project. We met with all the
15 neighbors, knocking on the doors, gave them our telephone
16 number if they had any questions whatsoever. And we've made
17 ourselves available whenever they want us.

18 They never contact us. We've been through five
19 different Historical meetings. And so, they knew where to
20 find us if they wanted to talk to us. We did not know from
21 the continuance of the last meeting that we needed to reach
22 out to them while we work.

1 Michael Stone lives right next door; we've had
2 numerous conversations with him over the years. My partner
3 saw him not too long ago.

4 I also disagree with him stating that it's -- the
5 building is detrimental. We're only adding one unit to a
6 two-unit dome building, two-unit zone lot, and one of the --
7 minimal, probably one more additional car to the
8 neighborhood.

9 So this is not whatsoever detrimental to the
10 neighborhood whatsoever. So I disagree with him on that --
11 respectfully disagree. Thank you.

12 BRENDAN SULLIVAN: Okay. Thank you. I'll turn it
13 back to -- in the presentation part, send it back to the
14 Board. Something that over-- well, overhanging my thought
15 on this is the detrimental effect that it will have on the
16 Spartichino house on the left.

17 And that, you know, where now she enjoys morning
18 sun, air, light, that I think it will -- now all of a
19 sudden, there's going to be a structure there, which is
20 going to be 7'5" from the property line. And I think that
21 will have a detrimental effect to her property.

22 I also think it changes, obviously, the patterns

1 of entry/egress to the property on the right -- the Michael
2 and Alisa property -- it just changes the whole area.

3 And I go back to a landmark case -- Blackman
4 versus Board of Appeals in Barnstable. The Board has heard
5 this many times that the Supreme Judicial Court has stated
6 that the Court has said repeatedly that the power to vary
7 the application of a zoning ordinance must be sparingly
8 exercised, and only in rare instances and under exceptional
9 circumstances particular in their nature, and with due
10 regard to the main purpose of the Zoning Ordinance to
11 preserve the property rights of others.

12 So when the abutters basically are asking us to
13 protect their rights -- their property rights -- we have to
14 listen to that and I think take it very, very seriously in
15 how it will affect.

16 The flip side of that for me is that you could do
17 substantially all of this project as of right anyhow. You
18 may have to, again, get over the hurdle of the Historical.

19 If we were to deny this, then it basically would
20 either put you in limbo or I guess in neutral, or you go
21 back to the Historical. And the ball then becomes in their
22 court as to whether or not they want to waive or rescind

1 their Certificate of Appropriateness by you proceeding as an
2 as of right solution. So it is somewhat of a quandary. So
3 it's a balancing act for me.

4 Let me see what other members of the Board --
5 Andrea, what are your thoughts?

6 ANDREA HICKEY: I was wondering if Olivia could
7 bring up the shadow study to show me the Spartichino house
8 and how it's impacted.

9 [Pause]

10 ANDREA HICKEY: Okay. And I'd also like to ask
11 the petitioners, if I recall this case, I read something in
12 the paper file about a shared driveway. Does 21 Loomis
13 share a driveway with an abutter?

14 KEVIN EMERY: Yes. Many, many years ago, one
15 family had owned both houses. And so, they -- in the deed,
16 they put in the deed a shared driveway.

17 And originally, we met with the -- Michael Stone
18 and, you know, we agreed that we'd pave the driveway for
19 them and put some screening in for them, and they were happy
20 with that at the beginning.

21 So yeah, it's a shared driveway, and for both
22 parties.

1 ANDREA HICKEY: All right. And does the --
2 Olivia, could you bring up the plot plan? Does it show that
3 shared driveway?

4 KEVIN EMERY: Yeah.

5 ANDREA HICKEY: I see. Perfect. One moment. And
6 the only other thing I'd like to ask the petitioner to
7 address is I did read that there is a big tree that abuts
8 the curb cut to this property. What would your plans be to
9 make sure that that tree is preserved during construction?

10 KEVIN EMERY: It's -- to the left of it, the
11 driveway we're not extending the curb cut at all. So
12 whatever necessary. We would look into an arborist. And we
13 would talk to an arborist on any necessary preconstruction
14 methods we would take care of. We've done that in the past
15 with the protection plan with other jobs we've done.

16 ANDREA HICKEY: All right. That's all I have at
17 the moment, Mr. Chair. Thank you to the petitioner for
18 answering those questions.

19 KEVIN EMERY: Thank you.

20 BRENDAN SULLIVAN: Slater, any questions or
21 comments, thoughts?

22 SLATER ANDERSON: I don't know. It's -- as you

1 said, the by-right option, you know, if you can get there is
2 very similar to what they're asking for. So I'm not sure.
3 But I'm troubled by -- you know, there's a lot of opposition
4 to it equally. So I'm still thinking on this one. Thank
5 you.

6 BRENDAN SULLIVAN: All right. Wendy Leiserson?

7 WENDY LEISERSON: Ditto to what Slater just said.
8 Thinking about it as well.

9 BRENDAN SULLIVAN: And Matina?

10 MATINA WILLIAMS: Hi. Can you hear me?

11 BRENDAN SULLIVAN: Yep, Matina. Yes.

12 MATINA WILLIAMS: I'm a little surprised that they
13 haven't reached out to the opposition to make it very clear.
14 I think that that still needs to happen so that everybody's
15 clear on the project.

16 Because they're -- it seems like they're -- it's
17 going to go back and forth. Like, what would be their right
18 of way and what, you know, they want to do with the
19 property, and what they would be allowed to do if you go one
20 way or the other.

21 So that's --

22 BRENDAN SULLIVAN: All right, well we're going to

1 have --

2 MATINA WILLIAMS: -- tough.

3 BRENDAN SULLIVAN: Yep. We're going to have to
4 resolve this one way or the other.

5 KEVIN EMERY: Can I make a comment?

6 BRENDAN SULLIVAN: Yes. Yep.

7 KEVIN EMERY: Yeah. Again, we did reach out to
8 the neighbors, and they had a number of -- we've been
9 dealing with this for 17 months. One of the neighbors
10 pretty much told us, "Over our dead body," and
11 [indiscernible] it was never going to go there.

12 So we haven't had that much conversation with that
13 neighbor, but as far as opposition, we've been obviously
14 doing this for 17 months and gone through three or four
15 different Historicals. We knew there was a lot of
16 opposition here.

17 And, you know, that's why we met with Historical,
18 and it was only going to be a special permit, not a variance
19 and, you know, that's -- and that's what they said also --
20 you know, that hopefully the ZBA -- where it's a special
21 permit, the ZBA would, you know, look at this favorably
22 because we really want to preserve this house. And that's,

1 you know, why we are here tonight.

2 BRENDAN SULLIVAN: All right. What do we have to
3 find?

4 KEVIN EMERY: And one more comment also --

5 BRENDAN SULLIVAN: Yep.

6 KEVIN EMERY: -- is that if it was an as of right
7 project, we could, you know, eventually build whatever we
8 wanted. This design was designed with a lot of input from
9 Historical. That's why the buildings are very similar, and
10 they've made numerous changes during those meetings, you
11 know, to get their design into it. So I want to mention
12 that again.

13 BRENDAN SULLIVAN: Okay. Members of the Board,
14 what we have to find, obviously, under the special permit
15 seeking relief under 8.22.d, where we may grant a special
16 permit for the alteration and enlargement of a dimensionally
17 non-conforming single-family dwelling, provided it does not
18 create any new dimensional non-conforming, which this does
19 not.

20 We are required to find that the alteration or
21 enlargement is not substantially more detrimental than the
22 existing non-conforming structure to the neighborhood.

1 Then, and it also satisfies criteria under 10.43.

2 10.43 is the special permit criteria that traffic
3 generated or patterns of access or egress would not cause
4 congestion.

5 Continued operation of or development of adjacent
6 uses would not be adversely affected.

7 There would not be any nuisance or hazard created
8 to the detriment of the health and safety of the occupant of
9 the proposed use, or to the citizens.

10 And that the proposed use would not impair the
11 integrity of the district or adjoining district, or
12 otherwise derogate from the intent or purpose of the
13 ordinance.

14 The intent and purpose of the ordinance would be
15 to allow a homeowner to alter and enlarge their structure to
16 provide additional living space. This is an additional
17 living unit, the additional house -- and to provide housing
18 for citizens.

19 So that's the criteria that we are charged with
20 finding. And add that to the mix is that they are
21 encumbered by a Certificate of Applicability by the
22 Cambridge Historical, provided that they leave the existing

1 structure, which creates/triggers the non-conformity, which
2 triggers relief under the special permit -- sorry,
3 Certificate of Appropriateness. So we're going to have to
4 decide one way or the other.

5 The alternative, if I'm reading the tea leaves, is
6 that if we were to deny this, then you cannot go forward
7 with the project as proposed. Is that correct?

8 KEVIN EMERY: Yes.

9 BRENDAN SULLIVAN: And that you would have to go
10 back to Historical and see if you could not get them to
11 rescind that it was found to be significant and preferably
12 preserved.

13 KEVIN EMERY: Right. And I find that highly
14 unlikely, considering, like, we've been trying to do it for,
15 like I said, 17 months. We've tried everything we could
16 possibly with them, and we met with staff numerous times
17 trying to work out a favorable that everybody could live
18 with, and this is what we finally came down to after three
19 or four meetings.

20 So, kind of like I said someone mentioned that our
21 hands are kind of tied here, and we're just trying to do
22 whatever we can possible to -- you know, make this go

1 through.

2 BRENDAN SULLIVAN: All right, well, then we better
3 get this thing on dead center. My feeling to the rest of
4 the Board is that I would not support the special permit.

5 I feel that it will have a detrimental effect on
6 the adjoining properties to the left and to the right; that
7 it will alter the patterns of traffic egress -- you know it
8 is a great shared driveway -- and it will change the
9 character in that particular section of the neighborhood.
10 So that is my feeling.

11 Andrea Hickey, what are your thoughts?

12 ANDREA HICKEY: This is a really close call for
13 me. I realize that as a Board the criteria that we are
14 required to rule under sort of strictly doesn't make me lean
15 toward approving this. But on the other hand, when I
16 consider that this could merely be an as of right project, I
17 really -- I'm really torn. I haven't made a decision yet,
18 Mr. Chair, I'm sorry.

19 BRENDAN SULLIVAN: Okay, Wendy Leiserson?

20 WENDY LEISERSON: Sorry, Mr. Chair, I was just
21 looking at the file for some more information. Can you come
22 back to me?

1 BRENDAN SULLIVAN: Yep. Slater?

2 SLATER ANDERSON: You know, I'm -- it's a unique
3 little dead-end neighborhood there. And I think that, you
4 know, I'm inclined to agree with you. I think that I'm very
5 close to, you know, not grant the special permit. Because I
6 think the impact on the neighborhood could be, you know,
7 detrimental.

8 BRENDAN SULLIVAN: Okay. Matina? Any further
9 thoughts, comments?

10 MATINA WILLIAMS: No further thoughts or comments.

11 BRENDAN SULLIVAN: Okay. I'm going to make a
12 motion to grant the relief requested to as per the drawings
13 dated June 10, 2022. And -- I'm sorry, that is the survey.
14 Let me get back to the drawings.

15 ANDREA HICKEY: Mr. Chair?

16 BRENDAN SULLIVAN: Yes.

17 ANDREA HICKEY: Before you frame the motion in its
18 entirety, I wonder whether the petitioners think it might be
19 worthwhile to meet one more time with the neighbors to see
20 if there's a way that they could scale back or tweak in a
21 way that could get some neighborhood support.

22 It could be the answer to that is no, but I'd like

1 to hear what they have to say to that.

2 KEVIN EMERY: I've been in front of ZBA -- I
3 haven't been in front of Cambridge in years. I've been
4 probably four or five over the years. I have in Somerville
5 and other towns. And we always, always, always work with
6 the neighbors.

7 I grew up in Somerville, I lived there for 40
8 years out of 61 years of my life, and I understand how the
9 city works. People are living closely together. And that's
10 the -- you know, that's also the beauty of living in the
11 city. And we work with the neighbors all the time.

12 We literally walked around the neighborhood and
13 there was -- out of every house we talked to, there was one
14 person that was willing to be -- approve it. And everybody
15 else was just totally, totally, totally against it no matter
16 what.

17 And one of the neighbors who was against it also
18 did some development behind their own house and built three
19 units behind their house and so forth and so on. So it
20 doesn't make sense.

21 We're looking for one unit as of right behind a
22 two-family lot here. I'd be willing to sit down with the

1 neighborhood ten-time fold and go through it, but the two
2 direct abutters are totally against it, no matter what we
3 do, other than --

4 ANDREA HICKEY: So could I ask; did you ask for
5 input? Did you offer any concessions? The reason why I'm
6 sort of going down this road is I'm sure you realize once we
7 rule on this, you can't come back unless your new design is
8 something substantially different. And I didn't see that
9 happening.

10 KEVIN EMERY: Sure.

11 ANDREA HICKEY: Once we decide, then your hands
12 are tied.

13 KEVIN EMORY: Sure.

14 ANDREA HICKEY: And I just want to make sure that
15 if there's any opportunity for you to offer a different
16 design, a smaller scale, that might be within your best
17 interest if you think that you could sway the neighbors with
18 something a little bit different.

19 KEVIN EMERY: If I thought we could sway the
20 neighbors, I'd do it in a heartbeat, to be honest with you.
21 And I've done it before with a continuance and go back to
22 the neighborhood. I've had numerous neighborhood meetings

1 on other projects.

2 And if I thought it could be done -- and, you
3 know, I'm not trying to be difficult here by no means.
4 Because I'd be more than willing to do it.

5 I just know the two neighbors on both sides, they
6 want it scaled down probably half of what we see here, if
7 that. I was told by Ms. Roxanne that the only thing she
8 would approve is to make the existing building a little bit
9 bigger; that was it. Other than that, she did not want
10 anything else going there.

11 ANDREA HICKEY: All right. Well, that certainly
12 is your decision. I just wanted to sort of clearly lay it
13 out that, you know, once we decide --

14 KEVIN EMERY: No, I underst-- I mean, I totally
15 understand where the Board's coming from. If this was a
16 variance and I had this opposition, I wouldn't even be in
17 front of the Board. Because there's no way possible it
18 would ever get through.

19 Like I said, I've done this numerous times. I do
20 -- done 80 percent of my development in Cambridge,
21 Somerville, Charlestown. So I know how Boards work and how,
22 you know, the -- how much the neighborhood has an impression

1 on the Board. I get that.

2 And the only reason why we're here with the
3 special permit is because, again, the Historical pushes this
4 way. If it wasn't for Historical pushing this way, like you
5 said, this building would have been built six to eight
6 months ago and already been done.

7 And, because, like I said, it's a two-family as of
8 right and we're putting one unit in -- an additional unit,
9 which is -- meets the zoning, you know?

10 So it's -- I understand where the Board is coming
11 from. I was hoping I was understanding that we're not here
12 because we want to be, we're here because we were pushed
13 here by Historical. And that's the only reason why. So
14 hopefully you can see it that way and give us a favorable
15 ruling tonight. I appreciate it. Thank you.

16 ANDREA HICKEY: Right. I mean, along those same
17 lines, we have criteria that we need to satisfy. So I'm not
18 sure that we can with what's being proposed. Mr. Chair,
19 I'll defer back to you.

20 BRENDAN SULLIVAN: Okay. Any other member of the
21 Board comment?

22 [Pause]

1 Okay. Let me make a motion, then, to grant the
2 relief requested as per the special permit, as per the
3 drawings dated June 10, 2022, initialed by the Chair. The
4 supporting statements, dimensional form, are incorporated as
5 part of the application. And for the addition of a single-
6 family home to create a second unit to the rear of the
7 existing.

8 The Board finds that it may grant a special permit
9 for the alteration or enlargement of a pre-existing
10 dimensionally non-conforming, detached single-family
11 dwelling or two-family dwelling not otherwise permitted in
12 Section 8.22.1, but not the alteration or enlargement of a
13 pre-existing, non-conforming use.

14 Provided that there is no change in use, and that
15 any enlargement or alteration of such pre-existing, non-
16 conforming detached single-family dwelling or two-family
17 dwelling may only increase a pre-existing dimensional non-
18 conformity but does not create a new dimensional non-
19 conformity.

20 In order to grant the special permit, the Board of
21 Zoning Appeal is required to find that the alteration or
22 enlargement shall not be substantially more detrimental than

1 the existing non-conforming structure to the neighborhood,
2 and that the alteration or enlargement satisfies the
3 criteria in 10.43.

4 A thought just occurred to me that with a grant of
5 special permit for a dimensionally non-conforming detached
6 single-family dwelling, what we're creating is an attached
7 two-family structure here. So it sort of complies now with
8 that. But then it will not immediately upon construction.

9 Under 10.43, special permits will normally be
10 granted where specific provisions of this ordinance are met,
11 except where particulars of the location or use not
12 generally true of the districts or the uses permitted in it
13 would cause granting of such permit to be the detriment of
14 the public interest, because it appears that the
15 requirements of the Ordinance cannot be met -- can be met.

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

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

1 the proposed use.

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

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

9 On the motion, then, to grant the special permit
10 as per the application, Andrea Hickey?

11 ANDREA HICKEY: No, not in favor.

12 BRENDAN SULLIVAN: Wendy Leiserson?

13 WENDY LEISERSON: No, not in favor.

14 BRENDAN SULLIVAN: Slater Anderson?

15 SLATER ANDERSON: Not in favor.

16 BRENDAN SULLIVAN: Matina Williams?

17 MATINA WILLIAMS: Not in favor.

18 BRENDAN SULLIVAN: And Brendan Sullivan not in
19 favor.

20 [All vote NO]

21 BRENDAN SULLIVAN: Out of not attaining the five
22 -- four, at least four affirmative votes, the application

1 for the special permit is denied.

2 In furtherance, the Board so states its denial of
3 the special permit. It appears under 8.22.2 that the
4 alteration or enlargement is substantially more detrimental
5 than the existing non-conforming structure to the neighbor,
6 as per the letters in opposition -- months particularly from
7 the abutters to the left and right as particularly the
8 abutter to the left, which will be adversely affected by a
9 loss of light and air to the structure by filling in what is
10 now open space.

11 It also appears that traffic generated or patterns
12 of access would not cause some congestion in the established
13 neighborhood character, albeit affecting the driveway
14 arrangement with the property to the right, which is #25
15 Loomis.

16 That the continued operation of or development of
17 adjacent uses would not be adversely affected by the nature
18 of the proposed use -- in fairness, it would have an adverse
19 effect on the adjoining property to the left -- and that it
20 would impair the integrity of the district or adjoining
21 district or otherwise derogate from the intent and purpose
22 of the ordinance.

1 The Board notes the overwhelming -- well, I'm not
2 going to say "overwhelming," strike that -- the letters of
3 opposition from people in the immediate neighborhood.

4 Anything else to add to that condition, or that
5 statement, members of the Board?

6 [Pause]

7 Now, on the subsequent reason, Andrea Hickey, are
8 you in agreement?

9 ANDREA HICKEY: Yes, I'm in agreement.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 WENDY LEISERSON: Yes.

12 BRENDAN SULLIVAN: Slater Anderson?

13 SLATER ANDERSON: Yes, in agreement.

14 BRENDAN SULLIVAN: Matina Williams?

15 MATINA WILLIAMS: Yes, in agreement.

16 BRENDAN SULLIVAN: And the Board is in agreement
17 also.

18 [All vote YES]

19 BRENDAN SULLIVAN: Five votes to the subsequent
20 narrative. Special permit denied.

21 KEVIN EMERY: Again, I want to thank the Board for
22 hearing the case tonight. I know you guys were put in a --

1 in a little bit of a pickle here, but I do appreciate you
2 hearing me tonight.

3 BRENDAN SULLIVAN: I hope you maybe come back with
4 something different, we'll see. Okay.

5 KEVIN EMERY: Have a good night.

6 BRENDAN SULLIVAN: Yep. Now back to the 6:30
7 agenda.

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2 (8:10 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 191375 -- 700-704 Huron Avenue.

8 ADAM BRAILLARD: Thank you, Mr. Chair and members
9 of the Board. Just want to do a quick sound check.

10 BRENDAN SULLIVAN: Okay. The floor is yours.

11 ADAM BRAILLARD: Great, thank you. Mr. Chair,
12 again, thank you members of the Board. Adam Brailard with
13 Prince Lobel Tye Law Firm located at One International Place
14 in Boston, Massachusetts, here on behalf of the applicant,
15 Starry, Inc., in connection with a special permit before the
16 Board to install and operate a wireless internet access
17 facility located on the rooftop of the building at 700-704
18 Huron Ave.

19 Also in the meeting is Joseph Pereira. Joe is a
20 Project Manager with Starry and can help answer any
21 questions that the Board or the public may have in
22 connection with the application.

1 I've been in front of this Board before for a
2 number of telecommunication installations -- wireless
3 carrier installations, and -- you know, so I've spent a lot
4 of time for Starry at 22 Water Street.

5 And I only say that because there's a little
6 difference here, as Starry is not a wireless carrier.
7 Starry is an FCC licensed, fixed wireless internet service
8 provider which tries to provide or provides high-speed, low-
9 cost broadband internet services to its customers.

10 So in order to do that, similar to wireless
11 carriers, it needs to create a network. And part of that
12 network includes the installation of these facilities.

13 So what Starry is proposing to do here at 700
14 Huron Ave is install a number of small-scale antennas on the
15 rooftop, or on the façades of the penthouses that are on the
16 rooftop of this building, which is approximately 226 feet up
17 in the air. And those antennas will not exceed the height
18 of each penthouse, and the antennas will be painted to match
19 the color of the façades of the penthouses.

20 The installation will also include junction boxes
21 that will be installed -- small junction boxes not more than
22 two feet off the deck of the roof. That will be installed

1 in the middle of the roof and out of -- and not in view of
2 any public way.

3 And the installation also will include battery
4 backup and radio cabinet to one battery backup cabinet and
5 one radio cabinet, which will be installed inside the
6 mechanical penthouse that's on the rooftop of the building.
7 So those will be out of view as well.

8 The applicant believes that -- we believe that we
9 conform with the wireless communications provisions that are
10 set forth in the Ordinance -- specifically 4.2, or 4.32(g),
11 Footnote 49, in that Starry is an FCC licensed service
12 provider.

13 The installation, we believe, will have very
14 little to no visual impact on the building and the
15 surrounding neighbors and neighborhood.

16 And the building is -- although the building is
17 located in the Residential 3 Zoning District, the
18 nonresidential uses do predominate in the area. What I mean
19 by that is there are other wireless carriers on this
20 rooftop, so the Board has determined in the past that
21 nonresidential uses predominate.

22 Also, in the vicinity of the building there's the

1 Fresh Pond golf course, and community center that is
2 adjacent too to the buildings. So we believe that the --
3 that nonresidential uses do predominate in this area.

4 And with that, the applicant believes that the
5 proposed facility is not inconsistent with the character
6 that does prevail in the surrounding neighborhood. And
7 again, Joe Pereira is on as well to answer any questions
8 that the Board may have.

9 BRENDAN SULLIVAN: All right thank you. Any
10 questions by members of the Board?

11 [Pause]

12 Hearing none, I'll open it to public comment. Any
13 member of the public who wishes to speak should now click
14 the button that says, "Participants," and then click the
15 button that says, "Raise hand."

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

19 [Pause]

20 Nobody calling in. We are in receipt of
21 correspondence from a citizen, Arnold Reinhold, R-e-i-n-h-o-
22 l-d.

1 "I live at 14 Fresh Pond Place next door, and I
2 fully support this application."

3 That is the sum and substance of any
4 communication. Close public comment, send it back to the
5 petitioner. Anything else, Adam, to add to your
6 presentation?

7 ADAM BRAILLARD: No. No, thank you, Mr. Chair.
8 And the night's getting long, so I will -- well, I'll stop
9 there. Thank you.

10 BRENDAN SULLIVAN: Okay. Thanks. Any questions
11 by members of the Board? Ready for a motion?

12 WENDY LEISERSON: Ready, Mr. Chair.

13 BRENDAN SULLIVAN: Okay. Let me -- under, seeking
14 relief under 4.32(g)(i) Section 4.40, Footnote 49 under --
15 all right, Footnote 49:

16 The Board may grant a special permit in reviewing
17 the scope or limitations imposed by any license secured from
18 any state or federal agency having jurisdiction over such
19 matters. Application contains information that there are no
20 limits to any license secured by any of the federal
21 agencies.

22 The extent to which the visual impact of the

1 various elements of the proposed facility is minimized
2 through the photo simulations and also the presentation by
3 Counsel; it appears that they have addressed the issue, and
4 have tried to make the installation as stealthy as possible;
5 the use of materials that in texture and color blend in with
6 the materials to which the facilities are attached, or other
7 and other effective means to reduce the visual impact of the
8 facility from the site. And they have done that.

9 Where it is proposed to erect such a facility in a
10 residential zoning district, the extent to which there is a
11 demonstrated public need for the facility at the proposed
12 location; that has been well established by the Board
13 granting multiple licenses, special permits over the years
14 to other telecom carriers to provide much needed wireless --
15 what's the word I'm looking for -- facilities to citizens of
16 the city.

17 And that a -- this particular site being high up
18 has a far-better reach than any other uses that prevail, any
19 other structures that prevail in the area and it's an ideal
20 location for such a facility.

21 Under criteria for a special permit, it appears
22 that the requirements of the Ordinance can be met. There

1 would be no traffic generated or patterns of access that
2 would cause congestion hazard, or substantial change in the
3 established neighborhood character.

4 The continued operation of or development of
5 adjacent uses as permitted in the Zoning Ordinance would not
6 be adversely affected by the nature of the proposed use --
7 in fact it would be enhanced.

8 There would not be any nuisance or hazard created
9 to the detriment of the health, safety, and/or welfare of
10 the occupants of the proposed use, or to the citizens of the
11 City.

12 That the proposed use would not impair the
13 integrity of the district or adjoining district or otherwise
14 derogate from the intent and purpose of this ordinance to
15 provide modern, up to date telecommunication facilities for
16 the use of the citizens of the City.

17 The Board also finds that the modification of the
18 existing telecommunication facility at the site proposed
19 does not substantially change the physical dimension of the
20 existing wireless tower or base station at such facility
21 within the meaning of Section 6409 of the Middle Class Tax
22 Relief and Job Creation Act of 2012, also known as the

1 Spectrum Act.

2 Based on the findings, the Board moves that the
3 petitioner be granted the special permit it is seeking, on
4 the following conditions:

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

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

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

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

21 That the petitioner is in compliance with and will
22 comply with all -- in all respects -- any condition imposed

1 by the Board with regard to previous special permits granted
2 to the petitioner, with regard to the site in question.

3 Further, in as much as the health effects of the
4 transmission of electromagnetic energy waves is a matter of
5 ongoing societal concern and scientific study, the special
6 permit is also subject to the following conditions:

7 a) That the petitioner shall file with the
8 Inspectional Services Department each report it files with
9 the federal authorities regarding electromagnetic energy
10 waves emissions emitting from all of the petitioner's
11 equipment on the site.

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

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

19 b) That in the event that at any time the federal
20 authorities notify the petitioner that its equipment on the
21 site, including but not limited to the special permit
22 granted tonight, fails to comply with the requirements of

1 law or governmental regulations, whether with regard to the
2 emissions of electromagnetic energy waves or otherwise, the
3 petitioner, within 10 business days of receipt of such
4 notification of such failure, shall file with the
5 Inspectional Services Department a report disclosing in
6 reasonable detail that such failure has occurred, and the
7 basis for such claimed failure.

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

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

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

22 d) That within 10 business days after receipt of a

1 building permit for the installation of the equipment or --
2 and subject to this petition, the petitioner shall file with
3 the Inspectional Services Department a sworn affidavit of
4 the person in charge of the installation of equipment by the
5 petitioner with a geographical area that includes Cambridge
6 stating that:

7 a) he or she has such responsibility, and

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

16 On the motion to grant the special permit as per
17 the application, Andrea Hickey?

18 ANDREA HICKEY: Yes, in favor.

19 BRENDAN SULLIVAN: Wendy Leiserson?

20 WENDY LEISERSON: In favor.

21 BRENDAN SULLIVAN: Slater Anderson?

22 SLATER ANDERSON: In favor.

1 BRENDAN SULLIVAN: Matina Williams?

2 [Pause]

3 BRENDAN SULLIVAN: Matina? You're on mute, I
4 think.

5 [Pause]

6 BRENDAN SULLIVAN: Matina? I think we've lost
7 Matina. Yeah, Matina Williams on the motion to grant?

8 MATINA WILLIAMS: Yes.

9 BRENDAN SULLIVAN: And Brendan Sullivan yes to
10 grant.

11 [All vote YES]

12 BRENDAN SULLIVAN: On the five affirmative votes,
13 the special permit is granted.

14 ADAM BRAILLARD: Thank you.

15 BRENDAN SULLIVAN: Thanks, Adam.

16 ADAM BRAILLARD: Yep.

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(8:25 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
Leiserson, Slater W. Anderson, and Matina
Williams

BRENDAN SULLIVAN: The BZA will hear Case No.
191234 -- 141 Portland Street. Mr. Dolan?

MICHAEL DOLAN: Good evening.

BRENDAN SULLIVAN: Yes.

MICHAEL DOLAN: Good evening. Hello, Mr. Chairman
and members of the Board. Thank you for your time tonight.
My name is Michael Dolan. I'm an attorney at the law firm
of Brown and Rudnick here on behalf of the applicant, DISH
Wireless. My client has FCC licenses to operate a wireless
network throughout the country, including here in the
Commonwealth.

As part of the build-out of its new wireless
network, DISH is seeking to install a wireless antenna
facility on the roof of the building at 141 Portland Street,
which is also known as 198 Broadway.

The facility will help fill a coverage gap in this
subject area of Cambridge, as demonstrated in the

1 radiofrequency engineer's report and coverage maps included
2 with our application.

3 DISH is proposing to install six panel antennas,
4 two per sector, on ballast mounts on the roof of the
5 building, each concealed within a camouflage faux chimney
6 painted and textured to match the rooftop parapet.

7 The antennas will be connected to other equipment
8 on the roof per cables, all as more particularly shown in
9 our plans.

10 We have included with our application photo
11 simulation which demonstrate the negligible visual impact of
12 the proposed facility. And you'll also see in the existing
13 photos included with those simulations there are antennas of
14 other existing wireless carriers on the roof right now.

15 From a land use planning perspective, of course
16 DISH is very pleased to have found this building -- this
17 existing tall building -- and this location to install this
18 facility so that it can avoid having to propose some more
19 visually intrusive facility and structure.

20 The subject building is located within the
21 Industrial/Business District where wireless antenna
22 facilities are authorized pursuant to a special permit, and

1 we are seeking such a special permit pursuant to Article 4,
2 Section 4.32.G.1 and specifically Section 4.40, Footnote 49.

3 We're also applying for an Eligible Facilities
4 Request, pursuant to Section No. 6409A of the Middle Class
5 Tax Relief and Job Creation Act of 2012, otherwise known as
6 the Spectrum Act for the reasons set forth in our
7 application. And as I've referenced here tonight, we
8 respectfully ask that you grant the relief we're requesting,
9 and we believe that we met the criteria for such a grant.

10 BRENDAN SULLIVAN: Thank you, Mike. I'll open it
11 up to members of the Board. Andrea Hickey, any questions?

12 ANDREA HICKEY: No, I have no questions. Thank
13 you, Mr. Chair.

14 BRENDAN SULLIVAN: Wendy Leiserson?

15 WENDY LEISERSON: No questions.

16 BRENDAN SULLIVAN: Slater Anderson?

17 SLATER ANDERSON: No questions.

18 BRENDAN SULLIVAN: Matina Williams, any questions?

19 MATINA WILLIAMS: No questions.

20 BRENDAN SULLIVAN: I will open it up to public
21 comment. Any members of the public who wish to speak should
22 now click the button that says, "Participants" and then

1 click the button that says, "Raise hand." If you are
2 calling in by phone, you can raise your hand by pressing *9
3 and unmute or mute by pressing *6. And you'll have up to
4 three minutes in which to comment.

5 [Pause]

6 BRENDAN SULLIVAN: There appears to be nobody
7 calling in and there is no correspondence in the file from
8 any interested citizen. Anything else? Then we can close
9 public comment. Anything else to add, Mr. Dolan, before we
10 turn it back over to the Board?

11 MICHAEL DOLAN: No. Thank you very much. And I
12 apologize in advance for the lengthy reading you might have
13 to do shortly.

14 BRENDAN SULLIVAN: [Laughter] I should record this,
15 actually. I asked if it was really totally always
16 necessary. But you know how lawyers are. They say yes.

17 MICHAEL DOLAN: [Laughter].

18 BRENDAN SULLIVAN: So I follow lawyers. Ready for
19 a motion, members of the Board?

20 ANDREA HICKEY: Ready, Mr. Chair.

21 BRENDAN SULLIVAN: The -- in reviewing the special
22 permit application for mobile telecommunication facilities,

1 the Board shall consider the following in reaching a
2 determination:

3 The scope of the limitations imposed by any
4 license secured from any state or federal agency having
5 jurisdiction over such matters. And as Counsel has stated
6 and the application clearly states, there are no limitations
7 to their license.

8 The extent to which the visual impact of the
9 various elements of the proposed facility is minimized for
10 the use of existing mechanical elements on the building
11 roof, or other features of the building as support and
12 background and through the photo simulations. The
13 petitioner applicant has tried to minimize the impact as
14 well as possible.

15 That through the use of material that in texture
16 and color blend with the materials to which the facilities
17 are attached -- and the petitioner and through the
18 presentation stated they shall do the same -- other visual
19 means to reduce the visual impact of the facility, and the
20 presentation proposal before us is as stealthy as possible.

21 The Board finds that a special permit can normally
22 be granted where specific provisions of the Ordinance are

1 met, and that granting of such permit would not be
2 detrimental to the public interest. It appears that the
3 requirements of the Ordinance can be met.

4 Traffic generated or patterns of access or egress
5 would not cause congestion, hazard, or substantial change in
6 the established neighborhood character.

7 Continued operation of or development of adjacent
8 uses, as permitted in the Zoning Ordinance, would not be
9 adversely affected by the nature of the proposed use; in
10 fact it would be enhanced by an upgraded telecommunication
11 facility.

12 There wouldn't be any nuisance or hazard created
13 to the detriment of the health, safety, and/or welfare of
14 the occupants of the proposed use, or the citizens of the
15 city.

16 And that the proposed use would not impair the
17 integrity of the district or adjoining district, or
18 otherwise derogate from the intent and purpose of the
19 ordinance to allow telecommunication companies to improve,
20 update their facilities to provide better service for the
21 citizenry of the City.

22 In furtherance, the Board also finds that the

1 modification of the existing telecommunication facility at
2 the site does not substantially change the physical
3 dimension of the existing wireless tower or base station at
4 such facility within the meaning of Section 6409 of the
5 Middlesex (sic) Class Tax Relief and Job Creation Act of
6 2012, also known as the Spectrum Act.

7 Based on these findings, the Board moves that the
8 petitioner be granted the special permit it is seeking,
9 subject to the following conditions: That the work proceed
10 in accordance with the plans submitted by the petitioner, as
11 initialed by the Chair.

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

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

20 That should the petitioner cease to utilize the
21 equipment approved tonight for a continuous period of six
22 months or more, it promptly thereafter remove such equipment

1 and restore the building on which it is located to its prior
2 condition and appearance, to the extent reasonably
3 practical.

4 That the petitioner is in compliance with and will
5 continue to comply with the conditions imposed by the Board
6 with regard to any previous special permits granted to the
7 petitioner.

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

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

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

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

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

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

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

22 Any such new application shall not be deemed a

1 repetitive petition, and therefore will not be subject to
2 the two-year period during which repetitive petitions may
3 not be filed.

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

11 a) he or she has such responsibility, and

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

20 The motion to grant the special permit for the
21 application? Andrea Hickey?

22 ANDREA HICKEY: Yes, in favor, Mr. Chair.

1 BRENDAN SULLIVAN: Wendy Leiserson?

2 WENDY LEISERSON: Yes, in favor.

3 BRENDAN SULLIVAN: Slater Anderson?

4 SLATER ANDERSON: Yes, in favor.

5 BRENDAN SULLIVAN: Matina Williams?

6 MATINA WILLIAMS: In favor.

7 BRENDAN SULLIVAN: Brendan Sullivan yes.

8 [All vote YES]

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

11 ADAM BRAILLARD: Thank you very much for your time
12 and consideration --

13 BRENDAN SULLIVAN: Thank you.

14 ADAM BRAILLARD: -- this evening.

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2 (8:37 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will now hear Case
7 No. 188687 -- 50 Inman Street. Mr. Glassman?

8 ADAM GLASSMAN: Good evening, Cambridge Board of
9 Zoning Appeals. This is Adam Glassman, the architect for 50
10 Inman Street. I work with GCD Architects at 2 Worthington
11 Street in Cambridge, and I'm here representing the property
12 owner, Jamie Rogers, who's here with us tonight.

13 We're seeking a special permit to enlarge an
14 existing rear bump-out on an existing, non-conforming two-
15 family structure.

16 Olivia, can you pull up the first slide?

17 This is the street view of the existing house,
18 which originally was built as a single-family. And at some
19 point, a second unit was shoehorned into this. And part of
20 our work will be to revert it back to a single-family.

21 Next slide?

22 Existing view from the right. The fire escape you

1 see will be removed. And this project has received a
2 Certificate of Appropriateness from the Mid Cambridge
3 Preservation Commission. They like what we're doing here to
4 restore the existing, or to restore the original Greek
5 Revival.

6 Next slide?

7 Another view from the front. The driveway on the
8 right will remain, but all existing asphalt surfaces will be
9 removed.

10 Next slide, please?

11 Original or archived photos of the house over the
12 years. It has not been in its original state for probably
13 100 years or more. And that's what we're hoping that we
14 bring it back to.

15 Next slide, please?

16 Proposed view from the front. Restored Greek
17 Revival home.

18 Next slide, please?

19 A view from the right. And we're here seeking
20 relief for the rear expanded addition, which you can see in
21 gray in the back. The proposed work will only increase the
22 footprint of the entire house by about 178 feet. The

1 dormers you see on the right are each seven and a half feet
2 long, so we'll have 15 feet of dormers total on that side
3 and one 15' dormer on the other side.

4 This is the only real street view of the proposed
5 addition in the back.

6 Next slide?

7 In this site plan, you can see the blue line shows
8 you the required setbacks which run through the rear, the
9 left and the front of the house. The right side of the
10 structure is conforming. It will remain conforming.

11 The red area is the expanded footprint absorbing
12 the existing rear bump-out as part of the work. So in terms
13 of its footprint expansion, it's a modest addition. We will
14 keep our rear setback to over 10 feet.

15 And I should note that behind this lot is a very
16 large lot that is basically the paved parking lot of a
17 defunct funeral home which faces Broadway.

18 And to our direct left is an existing two-family
19 or two-unit mixed-use also facing Broadway with the security
20 company Securitas on the first floor.

21 Directly across the street from us is the City
22 Hall Annex. And to the right is a two-dwelling unit

1 structure that runs the full length of the lot.

2 To the left of the red you can see the proposed
3 below-grade stairwell access to the basement; two window
4 wells in the back, and the deck on the right and the rear.
5 And those dark gray boxes would be the three dormers that
6 we're proposing, which we also need relief for with this
7 special permit.

8 Next slide, please?

9 On the left is the existing landscape plan, with
10 extensive asphalt surface on the right -- 825 square feet --
11 and an existing non-conforming shed along the right side.
12 And on the right-side site plan you can see the existing
13 green areas landscape to remain or additional landscape.

14 All asphalt surfaces will be converted to either
15 landscape or pervious pavers, and we actually increase our
16 open space slightly from 46 percent to 48.3 percent. And
17 this remains conforming.

18 Oh, and you can see on the left side site plan
19 there's -- to the right of the house there's a substantial
20 metal fire escape that runs several stories, and that will
21 also be removed.

22 Next slide?

1 Our FAR count for the existing house, we have an
2 existing FAR of .035 -- I'm sorry, 0.53 and 0.75 is
3 allowable.

4 Next slide, please?

5 Our proposed FAR we maintain conforming FAR with a
6 0.74. The basement will be converted into living space with
7 no impact to FAR. On the first floor, all bedrooms will be
8 removed, as this will be reverting back to a single-family.

9 Living space in the back on the second floor, the
10 bedroom level, with one, two, three bedrooms. And on the
11 far right, the third-floor plan would be a studio. So this
12 house would be modified to accommodate modern family living.

13 Next slide, please?

14 Our zoning legend, our variables are either
15 conforming or existing non-conforming. We're creating no
16 new non-conformities.

17 Next slide, please?

18 Images of the existing house.

19 Next slide?

20 The demo plans, which I think we can skip over,
21 Olivia, thank you.

22 Next slide?

1 Here, again, images of the proposed dormers -- two
2 7.5' dormers on the right side, one 15' dormer on the left
3 side and in the back, you can see the new rear addition
4 poking out.

5 Next slide?

6 Views of the addition from the back. Again, we
7 have a Certificate of Appropriateness. The Historic
8 Commission appreciated the distinction between the old and
9 the new, as well as the massing and the scale relative to
10 the existing house.

11 Next slide?

12 Front and right-side elevations. Proposed
13 addition in the back.

14 Next slide?

15 The rear view and the left side view. Dormers and
16 the rear addition.

17 Next slide?

18 Comparison views of the existing front on the left
19 and the restored front on the right with the dormer
20 additions.

21 Next slide?

22 Right-side comparisons. The fire escape comes

1 out, and on the right side the dormer additions and the
2 addition, which expands the existing rear addition, which
3 you can see on the image on the left.

4 Next slide?

5 Rear addition comparisons. Again, we have an
6 existing rear bump-out with that blading (sic) window. That
7 will be absorbed into more useful, more attractive and more
8 appropriate structure in the back.

9 Next slide?

10 All right. Left side views, more of the same.

11 Next slide?

12 Some details we can skip over. The existing site
13 plan on -- again on the right side, we have a front to back
14 two-family on the left side, it is the mixed-use. To the
15 rear is the enormous asphalt parking lot and across the
16 street are the City Hall Annex and the Department of Human
17 Services -- both very large buildings.

18 And our property at 50 Inman is actually the
19 smallest of all the abutting and nearby structures.

20 Next slide?

21 And the proposed site plan. All surfaces will be
22 either landscaping or pervious. The rear addition, the

1 window wells are all far removed from the street side. And
2 our right-side setback will be -- will remain conforming.

3 I am available for any questions.

4 BRENDAN SULLIVAN: Yeah. I don't have any
5 questions. Andrea, any questions for the petitioner?

6 ANDREA HICKEY: No. Not at the moment, thank you.

7 BRENDAN SULLIVAN: Wendy Leiserson, any questions?

8 WENDY LEISERSON: No.

9 BRENDAN SULLIVAN: Slater Anderson?

10 SLATER ANDERSON: No questions right now, thanks.

11 BRENDAN SULLIVAN: Matina Williams?

12 MATINA WILLIAMS: No questions.

13 BRENDAN SULLIVAN: All right. I don't have any.
14 Let me open it to public comment. Any member of the public
15 who wishes to speak should now click the button that says,
16 "Participants," and then click the button that says, "Raise
17 hand."

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

21 We are in receipt of correspondence. I don't
22 know, Adam, if you're aware of a letter came in from Ezra

1 Block -- E-z-r-a B-l-o-c-k, 48 Inman Street, #1?

2 ADAM GLASSMAN: Yes. Actually, I think I
3 submitted the correspondence that we had with Ezra. We --
4 you know, we understand that, you know, he'd prefer the back
5 yard remain wide open.

6 However, the addition is really not in his direct
7 line of view. We're not bringing any structure closer to
8 the right side; we're not casting any shadows on his -- on
9 their lot.

10 His condo co-owners who have the back unit, we
11 have not been in touch with. However, in our correspondence
12 with Ezra, we've offered to install the vertical landscaping
13 as a screen for the back unit.

14 And what you don't see on our plans is a condition
15 from the Historic Commission to add a landscape -- some kind
16 of landscape strip along the driveway in the back -- or
17 along the right side of the driveway.

18 BRENDAN SULLIVAN: Okay. The letter is dated
19 October 4.

20 "Dear Members of the Board,

21 "My name is Ezra Block. I'm a neighbor of Jameson
22 Rogers at 50 Inman Street. We support Jameson's goal to

1 make significant improvements to the house and property,
2 including its restoration and renovation.

3 "We have exchanged e-mails about how trash and
4 recycling would be restored once the shed that sits on our
5 shared property line is removed. However, our main concern
6 about this project has to do with the size and volume of the
7 proposed addition, which falls within the side and rear yard
8 setbacks.

9 "We fear that the addition will result in a
10 significant loss of light and open space in what is already
11 a rather densely packed block.

12 "A new and larger side deck is proposed with a for
13 the record nearly entirely within the side yard setback. We
14 appreciate the challenges of our neighbors -- our neighbor
15 faces in seeking to add to what is a largely an existing
16 non-conforming structure. We also understand his desire to
17 maximize available space, as permitted by the gross floor
18 area ratios.

19 "We respect that the Zoning Board's authority to
20 grant zoning relief based on a fair evaluation of the
21 existing conditions and what is proposed, while also taking
22 into concern -- taking into account our concerns as

1 neighbors and direct abutters."

2 And I think that -- and then a subsequent e-mail
3 that you may have addressed some of those issues that he was
4 concerned about, is that correct?

5 ADAM GLASSMAN: That's correct.

6 BRENDAN SULLIVAN: Okay. Then there is
7 correspondence from the Conservation District Commission --
8 Certificate of Appropriateness, 50 Inman Street.

9 "The Mid Cambridge Neighborhood Conservation
10 District hereby certifies that the construction described
11 below is not incongruous to the historic aspect or
12 architectural character of the building or district.
13 Construct roof dormers on existing structure and new
14 addition in the rear, replacing the siding.

15 "Approval was granted with the following
16 conditions: add plantings along the property edge adjacent
17 to the driveway. Use wood trim where feasible, especially
18 for more intricate detailing.

19 "Consider options for revealing the existing
20 chimney above the roofline or constructing faux chimney to
21 maintain the historic character of the building and
22 neighborhood. Consider incorporating alternative

1 sustainable initiatives for the renovation and new
2 construction."

3 Are they not amenable to PVC at all, Adam, or --

4 ADAM GLASSMAN: Well, they are. I mean, they
5 basically said, you know, use PVC where it makes sense. And
6 at the entry where you can really see the detailing -- and
7 its fussier detailing -- PVC probably wouldn't --

8 BRENDAN SULLIVAN: Yeah.

9 ADAM GLASSMAN: -- hold up well, it wouldn't look
10 very nice. We are totally in agreement.

11 BRENDAN SULLIVAN: Yeah. Okay. That is the sum
12 and substance of any correspondence. I'll close the public
13 comment part of the hearing. Any questions by members of
14 the Board at all?

15 [Pause]

16 I hear none. Anything else to add, Adam?

17 ADAM GLASSMAN: Nothing.

18 BRENDAN SULLIVAN: The only thing that troubles me
19 -- not particularly to this case, but -- is the, and again,
20 we can grant it under 8.22.d, -- is the rear yard setback.

21 A couple other that I'm sort of fussy about number
22 1 is the front yard setback, but also the rear yard setback.

1 And it's non-compliant now. You're -- the Ordinance
2 requires 20 foot (sic) and you're at 16.5, and you're
3 actually going to 10.3. I mean, I guess that we could go
4 all the way back to almost 0, because it's not creating a
5 new non-conformity.

6 ADAM GLASSMAN: And I agree with you. And I would
7 say what makes this case for our site a little different
8 than a typical lot is what we have behind this is an asphalt
9 parking lot, almost the entire lot.

10 And these improvements, I think we're making the
11 property as a whole mitigate the proximity to the rear lot
12 line in this case.

13 BRENDAN SULLIVAN: Former member used to do a
14 little exercise that has stuck with me -- that when people
15 would go up to the rear setback, or potentially right up to
16 it -- you know, say 20 feet maybe -- and his retort to that
17 was, "You are only three feet from the front yard setback.
18 And so, you're taking advantage basically of the non-
19 conformity or the encroachment on the front yard setback to
20 allow you to build a bigger building because you're not
21 encroaching on the rear setback."

22 And the exercise that he would do would say, "Take

1 the depth of your lot" -- in this particular case it's 71
2 feet -- your front setback is at 15 feet, your rear is at
3 20, so basically, you're only allowed a 35-foot-long
4 building. You know? I mean, that was just an exercise
5 where people would -- again -- extend to the rear.

6 And he was saying, "Well, you're really building
7 more building than you really should be, because you're
8 taking advantage of an encroachment on the front yard
9 setback."

10 But anyhow, that's -- I digress. Okay, are we
11 ready for a motion?

12 ANDREA HICKEY: Ready.

13 BRENDAN SULLIVAN: Okay. On the motion, then, to
14 grant the special permit to grant the new addition in the
15 dormers as per the application, the drawings submitted that
16 are dated May 26, 2022, prepared by GCD Architects, detailed
17 by the Chair with the supporting statements and dimensional
18 forms incorporated as by reference.

19 The Board finds that under 8.22.d, the Board may
20 grant a special permit to a -- for the alteration or
21 enlargement of a pre-existing dimensionally non-conforming,
22 detached single-family dwelling or two-family dwelling not

1 otherwise permitted in 8.22.1, but not the alteration or
2 enlargement of a pre-existing, non-conforming use.

3 Provided that there is no change in use, and that
4 any enlargement or alteration of such pre-existing, non-
5 conforming detached single-family dwelling or two-family
6 dwelling may only increase a pre-existing dimensional non-
7 conformity but does not create a new dimensional non-
8 conformity.

9 In order to grant the special permit, the Board of
10 Zoning Appeal is required to find -- and does make such
11 finding -- that the alteration or enlargement shall not be
12 substantially more detrimental than the existing non-
13 conforming structure to the neighborhood, and that the
14 alteration or enlargement satisfies the criteria in 10.43.

15 Under 10.43, it appears that the requirements of
16 the Ordinance can be met.

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

20 That continued operation of or development of
21 adjacent uses, as permitted in the Zoning Ordinance, would
22 not be adversely affected by the nature of the proposed use.

1 There would not be any nuisance or hazard created
2 to the detriment of the health, safety, and/or welfare of
3 the occupants of the proposed use -- in fact, the proposed
4 plan would be a benefit to anybody who occupies the
5 structure with improved facilities, mechanical systems,
6 greater space and more air and light coming into the
7 structure.

8 The Board finds that the proposed use would not
9 impair the integrity of the district or adjoining district,
10 or otherwise derogate from the intent and purpose of the
11 ordinance. The Board notes the Letter of Appropriateness
12 from the Historical Conservation District.

13 On the motion to grant the special permit, Andrea
14 Hickey?

15 ANDREA HICKEY: Yes, in favor.

16 BRENDAN SULLIVAN: Wendy Leiserson?

17 WENDY LEISERSON: Yes, in favor.

18 BRENDAN SULLIVAN: Slater Anderson?

19 SLATER ANDERSON: Slater Anderson approves.

20 BRENDAN SULLIVAN: Matina Williams?

21 MATINA WILLIAMS: Yes, in favor.

22 BRENDAN SULLIVAN: And Brendan Sullivan yes.

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[All vote YES]

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

ADAM GLASSMAN: Thank you very much. Good evening.

BRENDAN SULLIVAN: Yep. Goodnight.

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(8:58 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
Leiserson, Slater W. Anderson, and Matina
Williams

BRENDAN SULLIVAN: The Board will hear Case No.
190504 -- 75 Orchard Street. Mr. Ellsworth?

CAMPBELL ELLSWORTH: Good evening. Can you hear
me?

BRENDAN SULLIVAN: Yes.

CAMPBELL ELLSWORTH: And I'm going to start the
video. Here we go. Good evening. I hope -- I don't see
her. Oh, yes. Cecile is on. Very good. Okay. Campbell
Ellsworth, Architect, along with my client, Cecile
Barthelemy, owner. Cecile is the owner of the property at
75 Orchard Street. There's Cecile. Hi there.
Let me see, I want to see -- okay, this is a -- we're
requesting a special permit tonight for the addition or
modification of openings in planes of the building which are
within the required setback.

Let me -- Olivia, are you able to bring up the
photo sheet for the -- it's in the -- there we go.

1 Beautiful. Thank you.

2 So I just want to point out this is a -- it's a
3 good-size two-family house. It is being turned into a
4 single-family house. It's in the B zone. It is on a very
5 small lot -- 2513.

6 There is a lot of non-conformity of this
7 structure, lot size, lot width, which is really most of the
8 hardship here. But FAR is over, left setback, rear setback,
9 right setback. Front setback is actually correct to the
10 main plane of the building.

11 Cecile is intending on taking this two-family and
12 turning it into a single-family for her family. She's been
13 in this area for quite a while and now has purchased this
14 house and is excited about making this happen. And as such,
15 taking a two into a one, there are some modifications.

16 The whole back second means of egress for the
17 upper floors -- a staircase that really went from the third
18 floor all the way to the basement, that's come out. It's
19 opened up some space. The existing front stairs are
20 remaining.

21 But to make this sort of viable for the family and
22 to take advantage of the small rear yard that they have,

1 they would like to place some openings at the kitchen and
2 the dining room on the back of the house, where the stair
3 came out, and would like to open that up.

4 So the primary aspect of this special request --
5 special permit request is openings in the setback. That
6 would be the rear setback and the right-hand setback.

7 The left-hand -- left side of the building is very
8 tight. It's within the restrictive three feet. So we're
9 not making any modifications to any openings in that side.

10 I should say that we have reached out to all of
11 the abutters, as per Maria's good list. And you will find
12 in your files at least three letters of support. There may
13 have been more, including -- I should point out -- the
14 abutter that is most clearly affected by any of this, which
15 is the one right across the back yard.

16 Part of the special request also is to create a
17 deck. The back back distance from the back of the house to
18 the back setback is just a little more than 15 feet. And
19 Cecile would like to create a deck on approximately half of
20 that. You'll be able to see that in your drawings.

21 Olivia, well, you can see these top three photos,
22 obviously, are the front -- front from the left, from the

1 middle, from the right, the rear, and then the back of the
2 house is the bottom photos.

3 Olivia, if you could move to the proposed first
4 floor plan -- I'm not sure where that is. I've got existing
5 -- yeah, there you go. So -- and if you zoom out just a
6 little bit more, you'll see the dashed dot line which
7 indicates the property line itself.

8 You can see on the left side we're extremely tight
9 -- you know, maybe two feet, but certainly less than the
10 required three to do anything. On the right side, we have
11 approximately five feet. So there, we are requesting the
12 ability to modify openings.

13 And then of course in B zone, the rear requested
14 setback is 25 feet, and we only have 15. So again, we are
15 not increasing this house in any capacity of FAR, of height,
16 no dormers -- just the modification of openings so that they
17 can create a really living -- you know, workable living
18 space for the family.

19 That's -- I could go through the details of it,
20 but it's fairly straightforward. I believe it's fairly
21 modest in request. We have support. We have notified the
22 abutters, and I respectfully request that you grant this

1 special permit.

2 BRENDAN SULLIVAN: All right, thank you. Let me
3 ask members of the Board if they have any questions. Andrea
4 Hickey?

5 ANDREA HICKEY: No questions.

6 BRENDAN SULLIVAN: Wendy Leiserson?

7 WENDY LEISERSON: Not at this time.

8 BRENDAN SULLIVAN: Slater?

9 SLATER ANDERSON: No questions.

10 BRENDAN SULLIVAN: Matina?

11 [Pause]

12 BRENDAN SULLIVAN: Matina?

13 MATINA WILLIAMS: Sorry, trying to unmute. No
14 questions.

15 BRENDAN SULLIVAN: All right. And I have no
16 questions. Let me open it to public comment. Any member of
17 the public who wishes to speak should now click the button
18 that says, "Participants," and then click the button that
19 says, "Raise hand."

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

1 [Pause]

2 Nobody calling in. We are in receipt of
3 correspondence from Joan Hazlett -- H-a-z-l-e-t-t.

4 "I live at 79 Orchard Street next door to 75 where
5 the new residents want to make some changes to their
6 property. I have no objections to their plans to change the
7 windows on the first floor and to add a deck to their back
8 yard. I want to go on record that these property changes
9 are acceptable to me."

10 There is correspondence from Robert Skomro -- S-k-
11 o-m-r-o and Irene Teegarden, 5 Tenney Street.

12 "We have carefully reviewed the plans for changes
13 at 75 Orchard to be dealt with at the BZA meeting on October
14 6. We are the owners of 5 Tenney, which abuts 75 Orchard
15 for the entire length of that back yard.

16 "We are quite happy with the proposed changes,
17 which will greatly enhance the property -- the appearance of
18 the property. We have no objections and look forward to the
19 completion of the project."

20 We have correspondence from Judy Clark.

21 "I am writing to let the Board know that I have no
22 objections to the petition filed by Cecile & Frederick

1 Barthelemy to add or alter an extended rear deck, both
2 within the required setback. It is wonderful that they are
3 joining our neighborhood."

4 And that is the sum and substance of any
5 correspondence.

6 WENDY LEISERSON: Mr. Chair, I do have one
7 question.

8 BRENDAN SULLIVAN: Yep.

9 WENDY LEISERSON: On the dimensional sheet -- and
10 I apologize, it's getting late so this -- if my brain fogged
11 over for, and this was addressed I really do apologize, but
12 what is with the ratio of usable open space to lot area when
13 it says "Not applicable" can someone just clarify?

14 BRENDAN SULLIVAN: Could --

15 CAMPBELL ELLSWORTH: Well, that would be --
16 nothing was really changing. It is still -- everything that
17 is open is remaining open. Part of it becomes a deck.

18 I had not done the calculation. I didn't -- I
19 should have. My apologies to you. But I don't believe --
20 it probably also would have been slightly non-conforming. I
21 don't have that off the top of my head for the B zone.

22 BRENDAN SULLIVAN: Yeah. I would ask --

1 WENDY LEISERSON: So --

2 BRENDAN SULLIVAN: -- that you would provide that.

3 CAMPBELL ELLSWORTH: Certainly.

4 WENDY LEISERSON: Yes. And I guess my question
5 is, you know, there -- even though it might not affect the
6 calculation, going -- you're asking for relief relating to a
7 deck as opposed to open green space. Is that right?

8 CAMPBELL ELLSWORTH: That is correct. Yeah, they
9 would like to put in some sort of living space that spills
10 out. It's -- it's a tradeoff. Because the yard is small,
11 but they would like a place to -- you know, put a table
12 that's not down at the ground.

13 WENDY LEISERSON: What is the difference in height
14 from the -- what would be the exit to the ground?

15 CAMPBELL ELLSWORTH: Olivia, could you bring up
16 the photo sheet again? Have to look. It's four -- I'm
17 reading four risers from one of those photos that is
18 currently there. So I would say 28 inches. 28-29 inches
19 from the deck to grade.

20 WENDY LEISERSON: Yeah. And I mean I certainly
21 understand the desirability of a deck. But with such a
22 small yard already, and it's not like we're going down a

1 full story or anything, to get to the yard. I just wonder
2 what other Board members think about that being part of the
3 relief requested.

4 BRENDAN SULLIVAN: I guess, Wendy, my thought is
5 whether it is paved area, whether it is grassed area or a
6 deck. It still to me is sort of usable open space, even
7 though the definition of each is different, and the
8 calculations of each is a little bit different --

9 Different, I think, if it was to be enclosed, but
10 I think that to me it's still open space anyhow and useable,
11 same way as a -- you know, rear yard would be. So that
12 would be my thought on it. Anybody else anything different
13 or comment?

14 And the only thing is, Campbell, I don't know why
15 I didn't catch this, but I think we really need that number
16 there, and I hope that it -- the existing is conforming, and
17 that you're not creating a new conformity, because that then
18 imperils the potential relief that we'd be granting under
19 8.22.d.

20 CAMPBELL ELLSWORTH: I'm sorry --

21 BRENDAN SULLIVAN: Well, in other words if --

22 CAMPBELL ELLSWORTH: -- can you repeat that?

1 Yeah.

2 BRENDAN SULLIVAN: -- if it's in compliance now
3 and you are reducing that number so that it's out of
4 compliance, then you cannot come in for relief under it,
5 because you would be creating a new non-conformity under the
6 useable open space. That was a good catch, actually, Wendy.
7 I didn't see that.

8 CAMPBELL ELLSWORTH: If I could -- let me just
9 look right now on --

10 BRENDAN SULLIVAN: Is that something you could
11 provide within the next --

12 CAMPBELL ELLSWORTH: It is.

13 BRENDAN SULLIVAN: -- hour?

14 CAMPBELL ELLSWORTH: Yes, absolutely.

15 BRENDAN SULLIVAN: Can we -- I was going to say
16 can we recess this case? I mean, again, I'm looking for
17 other members of the Board to chime in.

18 I think that number is important to know what it
19 is, just to make sure that the record is clean, and that
20 relief under 8.22.d is appropriate. So I would ask maybe we
21 could recess this case, let you do your calculations --

22 CAMPBELL ELLSWORTH: Mm-hm.

1 BRENDAN SULLIVAN: -- let us go forward with a
2 couple of the other cases and then come back to you whenever
3 you're ready.

4 CAMPBELL ELLSWORTH: Yes, absolutely. And are you
5 saying, Mr. Chairman, that if the addition of the deck --
6 are you allowing the deck to be counted as open space or
7 not?

8 BRENDAN SULLIVAN: I don't think it -- it is not.
9 It cannot be counted as open space.

10 CAMPBELL ELLSWORTH: Okay. So if I'm conforming
11 now and the deck creates a non-conformity, that is -- you're
12 saying that problematic with the approval?

13 BRENDAN SULLIVAN: That's correct. Then you'd
14 have to get a variance --

15 CAMPBELL ELLSWORTH: Mm-hm.

16 BRENDAN SULLIVAN: -- rather than a special
17 permit.

18 CAMPBELL ELLSWORTH: Or modify -- agree at this
19 hearing to remove or modify the deck?

20 BRENDAN SULLIVAN: Correct.

21 CAMPBELL ELLSWORTH: And are you also saying that
22 if it is currently non-conforming and the deck increases the

1 non-conformity, that would be allowed?

2 BRENDAN SULLIVAN: That would be -- we could allow
3 that under 8.22.b, because it's not a new non-conformity.

4 CAMPBELL ELLSWORTH: Understood.

5 BRENDAN SULLIVAN: You're increasing an existing
6 non-conformity, but that's what we have to determine is what
7 those numbers are. It's the tale of the tape, in a sense.

8 CAMPBELL ELLSWORTH: Yep, yep, okay. I'm happy to
9 do that right now.

10 BRENDAN SULLIVAN: Okay. On the motion, then, to
11 recess this case, Andrea?

12 ANDREA HICKEY: Yes, I approve that motion.

13 BRENDAN SULLIVAN: Wendy?

14 WENDY LEISERSON: Yes, thank you.

15 BRENDAN SULLIVAN: Slater?

16 SLATER ANDERSON: In agreement.

17 BRENDAN SULLIVAN: Matina?

18 MATINA WILLIAMS: Yes. I am in agreement.

19 BRENDAN SULLIVAN: And Brendan Sullivan yes.

20

21 All right. So let us know when you are ready to
22 come back, Campbell.

1 CAMPBELL ELLSWORTH: Okay. Very good. And let me
2 just ask if I -- if I do the calculation and I realize that
3 I'm conforming currently, I'm creating a non-conformity,
4 would you allow me to make a modification and present that
5 modification to the size of the deck, for example, and be
6 able to present that to you?

7 BRENDAN SULLIVAN: I would --

8 CAMPBELL ELLSWORTH: Or -- well, or I could say --

9 BRENDAN SULLIVAN: Yes, I mean, we have allowed
10 modifications at the table in the past. Yes. Then I would
11 say yes.

12 CAMPBELL ELLSWORTH: Okay. Very good.

13 BRENDAN SULLIVAN: All right.

14 CAMPBELL ELLSWORTH: I will be back. Olivia, how
15 do I -- do I just keep my -- how do I get back in to better
16 notify you, Olivia?

17 OLIVIA RATAY: I guess you could e-mail me.

18 CAMPBELL ELLSWORTH: Okay. Good. I'll do that.
19 Okay. Thank you very much -- all of you.

20 BRENDAN SULLIVAN: Yep.

21 CAMPBELL ELLSWORTH: I will. I will get that
22 done.

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BRENDAN SULLIVAN: All right.

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(9:15 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
Leiserson, Slater W. Anderson, and Matina
Williams

BRENDAN SULLIVAN: Let me call Case No. 188958 --
24 Union Street.

JOSEPH LUNA: Yes, Board. Can you hear me?

BRENDAN SULLIVAN: Yes.

JOSEPH LUNA: Okay. Very good. Good evening,
Board. Thank you for hearing our case. My name is Joseph
Luna. I am the Principal of Luna Design Group Architects at
100 Conifer Hill Drive in Danvers. We are the Project
Architect for this, and I'm speaking on behalf of my client,
Ms. Lin Lin, who's also here today.

The project in question --

BRENDAN SULLIVAN: I'm sorry, before you begin,
are you aware that there is correspondence that just came in
from Marcia Hern -- H-e-r-n -- dated today. And let me read
it just so that you know.

"I am writing in opposition to part of the appeal
of changes to 24 Union Street. I see no reason as to why

1 they are not able to add a gabled roof to the main structure
2 of the house, to add third floor living.

3 "I am in opposition to adding a second and third
4 floor to the rear addition. This would block and shade
5 along with towering over the yards of the many small lots
6 adjacent to 24 Union.

7 "In addition, I am fearful that it would require
8 cutting down or damaging a very mature tree located at 26
9 Union which provides shade to the properties at 28 and 30
10 Union.

11 "This lot, like so many on our street, is built
12 extremely close to the neighboring properties. While I am
13 the third property to 24 Union Street, I would guess their
14 lot is less than 150 to 200 feet from my house.

15 "While I am not necessarily opposed to the curb
16 cut request, I would like the Board to get details as to
17 where or how cars would park, as there is very little
18 frontage on the property. I don't see in the proposal where
19 cars would park.

20 "If they can explain to the Board in a
21 satisfactory way that a car of a normal size will not block
22 sidewalk parking or impede existing street parking, I would

1 not be against the curb cuts.

2 "Sorry for the twelfth-hour delay. I planned to
3 attend the meeting, but realized I have a conflicting PTO
4 meeting, for which as a new Board member I cannot miss.

5 "Thank you, Marcia Hern-Lacey

6 "30 Union Street, Apartment 2."

7 I don't know if you are aware of that letter or
8 not.

9 JOSEPH LUNA: If it just showed up, no, I'm not.

10 BRENDAN SULLIVAN: Yeah, okay. It's the second
11 and third floor rear additions and --

12 JOSEPH LUNA: Okay.

13 BRENDAN SULLIVAN: -- I don't know if there is no
14 shadow study and the other members of the Board, I guess
15 shall we proceed with it? Should the petitioner be allowed,
16 or should the petitioner address that concern?

17 I guess what I'm asking is whether or not we
18 should go forward as a case heard, or that it should be
19 continued, and have the petitioner address that particular
20 issue or two raised by the letter that just came in. The
21 parking, I think, has been addressed, because that is on the
22 drawing. It's the second and third floor addition.

1 Andrea, any thoughts on that?

2 ANDREA HICKEY: Yeah. I think we should give the
3 petitioner time to address those issues in the record.

4 BRENDAN SULLIVAN: Okay.

5 JOSEPH LUNA: Okay.

6 BRENDAN SULLIVAN: Wendy?

7 WENDY LEISERSON: I concur.

8 BRENDAN SULLIVAN: Okay, Slater?

9 SLATER ANDERSON: Agreed.

10 BRENDAN SULLIVAN: And Matina?

11 MATINA WILLIAMS: Also agree.

12 BRENDAN SULLIVAN: All right. And I guess I would
13 agree. So I guess, Mr. Luna, I guess what we're asking is
14 that a -- what we consider a serious issue that has been
15 raised by the petitioner regarding the effect of the
16 addition on the back and whether or not a shadow study would
17 be appropriate to address whether the concern is valid or
18 not.

19 The issue with going forward tonight and then
20 continuing it, which seems that the Board would want to do,
21 because it may not be able to get the adequate information
22 because you may not have it --

1 JOSEPH LUNA: A shadow study has not been
2 prepared.

3 BRENDAN SULLIVAN: -- right; is that it would be a
4 case heard, which means that it would have to get kicked
5 off.

6 JOSEPH LUNA: Can I -- the abutter with the
7 question about the amount of shadow, what addresses that?

8 BRENDAN SULLIVAN: The -- I'm sorry, the abutter
9 -- what was it?

10 JOSEPH LUNA: The abutter who just raised this
11 issue --

12 BRENDAN SULLIVAN: Yes, raised the issue about --

13 JOSEPH LUNA: -- about the shadows --

14 BRENDAN SULLIVAN: Yeah, block and shade along --

15 JOSEPH LUNA: All right, this is the first time I
16 heard of this concern, so I'd just like to have the name of
17 the abutter and the address, please.

18 BRENDAN SULLIVAN: Yeah. It's Marcia Hern; H-e-r-
19 n-Lacey, L-a-c-e-y, 30 Union Street, Apartment 2. And the
20 letter is in the file part of the record. It can be sent to
21 you, obviously, if you request it from the Staff.

22 JOSEPH LUNA: Yeah. I would just like to see in

1 proximity to 24 Union where 30 Union is, and is there any
2 net effect on the shadow study. That's my reason why I'm
3 asking for the address.

4 BRENDAN SULLIVAN: Right. Yep. So going back to
5 my statement is that if we open it up and the Board does
6 feel that information is necessary --

7 JOSEPH LUNA: Well, I think what is going to
8 happen -- it's been a long night so far -- is that we're
9 going to go through the next half-hour and then you're going
10 to come back to ask me the same question that we don't have
11 the answer for, right?

12 BRENDAN SULLIVAN: That's right. And then you
13 would have to reassemble the same five members, which kicks
14 it off into December. What would be the next date -- when
15 in the end of, where are we?

16 [Pause]

17 Yeah. I was going to say 11. 11 -- November 17
18 would be the next available date, as opposed to kicking it
19 off into December.

20 JOSEPH LUNA: Okay. And the shadow study would
21 have to be submitted by when, sir?

22 BRENDAN SULLIVAN: By the Monday -- 5:00 p.m. on

1 the Monday prior to the seventeenth.

2 JOSEPH LUNA: Okay. What we can do is we can do
3 this either through a Rabbit model or Google Sketch. I'll
4 prepare a shadow study for what the current condition is in
5 diagrammatic form, and then what the proposed condition is.

6 BRENDAN SULLIVAN: All right. And then I would
7 have conversation with Ms. Hern Lacey.

8 JOSEPH LUNA: Okay.

9 BRENDAN SULLIVAN: Let me make a motion, then, to
10 continue this matter to November 17, 2022, on the condition
11 that the petitioner change the posting sign to reflect the
12 new date of November 17, 2022, and the new time of 6:00 p.m.

13 That any changes to the current petition
14 that's in the file -- any changes be in the file by 5:00
15 p.m. on the Monday prior to the November 17 date.

16 That the petitioner -- would ask the petitioner to
17 sign a waiver to the statutory requirement for a decision --
18 for a hearing and a decision to be rendered thereof.

19 We would ask the petitioner to sign such waiver,
20 and that it be returned by no later than one week from
21 tonight, and then I would also ask the petitioner to provide
22 a shadow study addressing the concern of an abutter or a

1 neighbor regarding the addition on the back, second and
2 third floor.

3 Anything else, Board, that is -- should be
4 required?

5 [Pause]

6 So on the motion, then, to continue this matter to
7 November 17, Andrea Hickey?

8 ANDREA HICKEY: Yes, in favor.

9 BRENDAN SULLIVAN: Wendy Leiserson?

10 WENDY LEISERSON: Yes, in favor.

11 BRENDAN SULLIVAN: Slater Anderson?

12 [Pause]

13 Slater's on mute.

14 BRENDAN SULLIVAN: Sorry, I couldn't find my
15 screen. There we go. Slater, on the motion to continue?

16 SLATER ANDERSON: Yeah. I'm in agreement on
17 continuing.

18 BRENDAN SULLIVAN: And Matina Williams?

19 MATINA WILLIAMS: Yes, in favor.

20 BRENDAN SULLIVAN: And Brendan Sullivan yes.

21 [All vote YES]

22 Five affirmative votes; the matter is continued to

1 November 17. And again, just, Joe if you would get that
2 waiver in by a week from tonight.

3 JOSEPH LUNA: Okay, we can --

4 BRENDAN SULLIVAN: And you can get it -- yep.

5 JOSEPH LUNA: -- getting the form for the waiver,
6 where is that? Off of your --

7 BRENDAN SULLIVAN: Olivia will send it to you.

8 JOSEPH LUNA: Olivia will e-mail it to me.

9 BRENDAN SULLIVAN: Yes.

10 JOSEPH LUNA: Okay.

11 BRENDAN SULLIVAN: Yep.

12 JOSEPH LUNA: All right. Thank you for your time.
13 Sorry I missed dinner with my family, but --

14 BRENDAN SULLIVAN: Not at all. Yep. See you
15 then.

16 JOSEPH LUNA: We'll see you on the seventeenth.
17 Bye-bye.

18 BRENDAN SULLIVAN: All right. Thank you.

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(9:25 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
Leiserson, Slater W. Anderson, and Matina
Williams and

BRENDAN SULLIVAN: The Board will hear Case No.
191365 -- 42 Dana Street.

[Pause]

STEPHEN HISERODT: Can you hear me?

BRENDAN SULLIVAN: Yes.

STEPHEN HISERODT: This is Steve -- Steve
Hiserodt. I am the architect for the project. And I
believe Stephan Dubouloz, the owner, should be joining us
shortly as well.

BRENDAN SULLIVAN: Okay. If you tell us what --

STEPHAN DUBOULOZ: I'm here, yes. Hi.

STEPHEN HISERODT: I guess I will jump right in.
We have a fairly modest bit of relief that we are asking
for. It is limited to the new and relocated openings on a
non-conforming façade.

Olivia, if we could jump right to the site plan or
the assessor's plot plan, either one?

1 [Pause]

2 Maybe the next sheet? There we go. Yeah. That
3 will be a little better easier.

4 So if we look at the left side of the house, it's
5 on the -- the narrow side property line, all of the changes
6 that we're considering are in that zone.

7 We are for the most part -- the additional
8 renovation is all within the existing envelope of the house,
9 very little of the exterior is being changed, it's all being
10 reworked, but no subsequent changes.

11 If we go -- if we could go to Sheet A11 next?
12 There is or should be a newer version which shows the
13 elevations or existing windows highlighted in red -- a red
14 dashed line around them.

15 BRENDAN SULLIVAN: That Sheet A11.

16 STEPHEN HISERODT: On Sheet A11, yeah. I'm not
17 sure it's absolutely necessary to convey the changes, but it
18 would be easier.

19 BRENDAN SULLIVAN: Sheet A11 doesn't show the
20 changes.

21 STEPHEN HISERODT: Okay. It doesn't show the
22 location of the existing windows. Is there any way to split

1 screen, Olivia, so that we can see them side-by-side, the
2 existing and the proposed?

3 [Pause]

4 BRENDAN SULLIVAN: 42 Dana? Let's see what
5 they're looking for.

6 STEPHAN DUBOULOZ: Or maybe if you can e-mail the
7 plan, no?

8 STEPHEN HISERODT: Yes. I can do that, quickly.

9 STEPHAN DUBOULOZ: Olivia?

10 BRENDAN SULLIVAN: No, it doesn't -- somehow it
11 didn't come through, Steve, at all.

12 STEPHEN HISERODT: Okay. Let me see if we can do
13 this quickly so that we're not kept waiting.

14 OLIVIA RATAY: Can you share your screen?

15 STEPHEN HISERODT: Oh, can I do that?

16 OLIVIA RATAY: I think so, yeah.

17 STEPHEN HISERODT: Okay. Let's open up the file.

18 [Pause]

19 Okay.

20 BRENDAN SULLIVAN: For the most part, you're
21 reducing the number of windows and the sizes of the windows,
22 is that correct?

1 STEPHEN HISERODT: That is correct. Olivia, the -
2 - it says, "The host has disabled participant
3 screensharing." Actually, the amount of window or area is
4 reduced from about 240 square feet to 178 square feet. We
5 have --

6 BRENDAN SULLIVAN: Okay, well that's the proposed?

7 STEPHEN HISERODT: That is the proposed yes. And
8 that is the existing. There's been a host of renovations
9 that have occurred over the years. There's a mishmash of
10 different sized windows or groups of windows and slightly
11 separated windows.

12 So we tried to clean it up and make it as
13 conservative as possible with relationship to the existing
14 house next door, which has -- it's only about seven to eight
15 feet away. So there's a big impact.

16 So we decided reducing windows to the extent
17 possible was the greatest gain for both properties. So that
18 is the extent of our request, is that series of window
19 changes.

20 BRENDAN SULLIVAN: Okay. And that is what's
21 proposed?

22 STEPHEN HISERODT: Yes.

1 BRENDAN SULLIVAN: So Olivia, if you can just
2 swing back to the previous screen, that is existing and that
3 is proposed. Is the Board finding that your -- that
4 information sufficient? Andrea?

5 ANDREA HICKEY: Do you mean to make a comparison?

6 BRENDAN SULLIVAN: Yeah. So that's existing?

7 ANDREA HICKEY: Yep.

8 BRENDAN SULLIVAN: And that's proposed.
9 Unfortunately, we don't have that sheet. I have it here in
10 the file, a hard copy of it, but somehow it didn't get
11 downloaded.

12 STEPHAN DUBOULOZ: I mean, I can e-mail it to
13 Olivia? Would that be helpful?

14 BRENDAN SULLIVAN: Hm? Yeah, and then you can
15 what, upload it right away?

16 OLIVIA RATAY: Yeah.

17 BRENDAN SULLIVAN: Yeah. All right.

18 OLIVIA RATAY: Yeah, you can do that.

19 BRENDAN SULLIVAN: If you can do that? If you can
20 e-mail it?

21 STEPHAN DUBOULOZ: Steve, do you do it, or do you
22 want me to do it?

1 STEPHEN HISERODT: I can do it.

2 WENDY LEISERSON: Mr. Chair?

3 BRENDAN SULLIVAN: Yes.

4 WENDY LEISERSON: This is just a question of
5 procedure that if it wasn't downloaded to the Public Viewing
6 file, does that mean that there was adequate notice to the
7 public of all the plans? I mean, it's a technical point, I
8 don't want to cause a problem if there isn't a problem, but
9 I'm just asking.

10 BRENDAN SULLIVAN: I guess in a word yes. There
11 is letters of support who have seen the proposed elevation,
12 relocation of the windows -- one, two abutters. There's --

13 STEPHAN DUBOULOZ: I did reach out to the
14 abutters, who is the plan that we are trying to show, which
15 reflects the existing and the new proposal. So, I mean,
16 Olivia did not receive the letter from myself with the plan.
17 Oh, here it is.

18 STEPHEN HISERODT: There it is.

19 BRENDAN SULLIVAN: Okay.

20 STEPHEN HISERODT: So the rectangles in red are
21 the locations of the existing windows, as compared to the
22 proposed design. And there's an area calculation on the --

1 just above the original.

2 ANDREA HICKEY: Mr. Chair?

3 BRENDAN SULLIVAN: Yes.

4 ANDREA HICKEY: Just so I can understand what the
5 issue is, the view that we see now that shows the red
6 outlines of the windows, that view was not included in the
7 upload for the public viewing online?

8 BRENDAN SULLIVAN: It appears that it was not.

9 ANDREA HICKEY: All right. But --

10 BRENDAN SULLIVAN: So I think it may be fatal to
11 go forward with it.

12 ANDREA HICKEY: But the prior view where it didn't
13 have the red, it was just showing, like, existing and
14 proposed --

15 BRENDAN SULLIVAN: Correct.

16 ANDREA HICKEY: -- those were included?

17 BRENDAN SULLIVAN: Those were included.

18 ANDREA HICKEY: Yeah. In my --

19 STEPHEN HISERODT: And they haven't changed.

20 ANDREA HICKEY: Right. In my mind, that is
21 sufficient. I mean, I really -- although it's nice to see
22 it all on one page with the red, the information -- and I'd

1 ask the petitioner to correct me if I'm wrong -- is the same
2 information if you took the separate drawings side-by-side,
3 sort of existing and proposed, correct?

4 STEPHAN DUBOULOZ: Yes.

5 STEPHEN HISERODT: Yes.

6 STEPHAN DUBOULOZ: Yes.

7 STEPHEN HISERODT: It is.

8 ANDREA HICKEY: You know, Mr. Chair, from my
9 perspective, I think there was enough sort of information in
10 the public record here to see what they're proposing,
11 although it makes it a lot easier looking at it in this
12 format. In my mind, the information was there. But I look
13 forward to my fellow Board members commenting on that.

14 BRENDAN SULLIVAN: Yeah. Let me retract a little
15 bit on what I just said. I think that you're correct, in
16 that the information was there.

17 We have always requested from the Board make it
18 easier for us to understand exactly what is going on by
19 showing what we see in front of us.

20 But the proposed with the existing is in the red
21 dotted in what is proposed to make so that we can make sort
22 of an instant analysis of it.

1 I think that any neighbor -- mostly an abutter --
2 who would be interested in this case would want to see what
3 the proposed windows were going to be, and letters in the
4 file. Apparently, they were appraised of it and approve it.

5 And so, we -- going forward we probably can do
6 that. Now, Wendy, does that allay your concern at all?

7 WENDY LEISERSON: Yes. I'm happy to continue to
8 do business.

9 BRENDAN SULLIVAN: Okay. All right.

10 WENDY LEISERSON: All right. Thank you.

11 BRENDAN SULLIVAN: Any other member of the Board
12 have any concerns or questions about continuing with the
13 information that was provided?

14 SLATER ANDERSON: No, I agree with Andrea's
15 assessment -- that was going to be mine -- that the
16 information is in the file, it's just configured differently
17 than on this plan, but now we have this, so -- but yeah.
18 I'm fine with proceeding.

19 BRENDAN SULLIVAN: Okay. Matina, you're all set
20 with it?

21 MATINA WILLIAMS: I'm all set, yes, thank you.

22 BRENDAN SULLIVAN: Yeah. Okay. All right. So --

1 all right so the issue before us is what we see. That's on
2 the left side elevation?

3 STEPHEN HISERODT: Yes, left side.

4 BRENDAN SULLIVAN: What else is being changed?

5 STEPHEN HISERODT: There are a few minor
6 adjustments to rear and right side, but they are all as-of-
7 right. So this is -- this is the extent of what is required
8 in a special permit.

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

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

17 [Pause]

18 There appears to be nobody calling in. We are in
19 receipt of correspondence.

20 "Dear Board of Zoning Appeal, I am writing confirm
21 that we have no objection of the proposed elevation,
22 relocation of windows on the façade facing 44 Dana Street.

1 "Many thanks,

2 "Lane Coburn-Alonzo"

3 We are in receipt of correspondence from Barbara
4 Hirsch -- H-i-r-s-h.

5 "Good afternoon. For the record, as an abutter of
6 42 Dana, I have no issue with the design submission made to
7 your agency. Please accept this note of my approval."

8 There is correspondence from the Mid Cambridge
9 Neighborhood Conservation District.

10 "This is to confirm that the applicant has
11 complied with recommendations by the Mid Cambridge
12 Neighborhood Conservation District, which had a nonbinding
13 review of the above case and a public hearing on November 1,
14 2021 regarding siding replacement and fenestration
15 alterations.

16 "The Commission voted to deny the application as
17 presented and recommend the use of natural materials, which
18 is more appropriate to the historic character of the
19 structure.

20 "The Commission advised either residing the whole
21 structure in wood shingles or installing wood shingles on
22 the upper floors and installing wood clapboards on the

1 first.

2 "While it doesn't affect us, regarding the
3 proposed fenestration alterations, the Commission
4 recommended using one style of window for consistency, given
5 the number of windows, and had no issue with the proposed
6 window reconfigurations."

7 And that is the sum and substance of the
8 correspondence. I will close the public comment part.
9 Anything else, Steve, to add, or --

10 STEPHEN HISERODT: No. I don't -- I don't think
11 there's anything else at issue.

12 BRENDAN SULLIVAN: Okay. Any questions by members
13 of the Board? Comments? Motion? Let me make a motion to
14 grant a special permit to install new enlarged and relocated
15 openings on a non-conforming façade facing the side yard on
16 the condition that the work conform to the drawings as
17 submitted and initialed by the Chair, entitled, "42 Dana
18 Street, Cambridge, Massachusetts, dated 8/18/22 and also
19 8/12/22.

20 Under 8.22.c, residential district, the Board may
21 grant a special permit for the alteration or enlargement of
22 a non-conforming structure not otherwise permitted in

1 8.22.1, but not the alteration or enlargement of a non-
2 conforming use.

3 Provided any enlargement or alteration of such
4 non-conforming structure is not further in violation of the
5 dimensional requirements of Article 5 or the off-street
6 parking and loading requirements in Article 6 for the
7 district in which such structure is located..

8 And provided such non-conforming structure will
9 not be increased in area or volume by more than 25 percent
10 since it first became non-conforming -- and the
11 modifications as presented will not violate that
12 requirement.

13 Under 10.43 special permit, it appears that the
14 requirements of the Ordinance can be met -- traffic
15 generated or patterns of access or egress would not cause
16 congestion, hazard, or substantial change in the established
17 neighborhood character.

18 Continued operation of or development of adjacent
19 uses, as permitted in the Zoning Ordinance, would not be
20 adversely affected by the nature of the proposed use. The
21 Board notes the letters of support from abutters regarding
22 this project.

1 There would not be any nuisance or hazard created
2 to the detriment of the health, safety, and/or welfare of
3 the occupants of the proposed use -- in fact it could be
4 enhanced by the relocation and addition of more appropriate
5 windows for the interior space.

6 The proposed use would not impair the integrity of
7 the district or adjoining district, or otherwise derogate
8 from the intent and purpose of the ordinance to allow
9 homeowners -- to alter structures to better align with
10 temporary styles -- and in this case to allow for better air
11 and light coming into the structure.

12 On the motion, then, to grant the special permit,
13 Andrea Hickey?

14 ANDREA HICKEY: Yes, in favor.

15 BRENDAN SULLIVAN: Wendy Leiserson?

16 WENDY LEISERSON: Yes, in favor.

17 BRENDAN SULLIVAN: Slater Anderson?

18 SLATER ANDERSON: Yes, in favor.

19 BRENDAN SULLIVAN: Matina Williams?

20 MATINA WILLIAMS: Yes, in favor.

21 BRENDAN SULLIVAN: And Brendan Sullivan yes.

22 [All vote YES]

1 BRENDAN SULLIVAN: The special permit as per the
2 application is granted.

3 STEPHEN HISERODT: Thank you very much.

4 BRENDAN SULLIVAN: Yep, thank you.

5 STEPHAN DUBOULOZ: Thank you, everyone.

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2 (9:47 p.m.)

3 Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
4 Leiserson, Slater W. Anderson, and Matina
5 Williams

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 190731 -- 78 Ellery Street.

8 KELLY BOUCHER: Hello. I'm here to speak on
9 behalf of 8 Ellery Street -- oh, 78 Ellery Street, excuse
10 me. I'm also joined by the homeowners, Jacob and Jenna
11 Smigiel here to answer any questions you might have.

12 My name is Kelly Boucher. I'm the architect for
13 the project. My office is located at 54 Harvard Street in
14 Brookline, Massachusetts.

15 And Olivia, if you want to bring up the drawings,
16 I will -- I'll present these to you guys.

17 [Pause]

18 Great.

19 So a little bit of context. 78 Ellery Street is a
20 carriage house located on Ellery Street in the Residential
21 C1 Zone. It's also located in the Cambridge Historic
22 Preservation District. We did go to Mid Cambridge in the

1 spring and were granted a Certificate of Appropriateness
2 while we were there.

3 If you want to flip to the next slide?

4 Here you can see the location of 78 Ellery Street
5 tucked behind the Mansard that's at 80 and 81. It's got a
6 very long driveway that you can sort of peek down to get a
7 small glimpse of the house. But mostly it's pretty hidden
8 and tucked in back there.

9 Do you want to -- slide please?

10 Here's our site plan. Our proposed changes --
11 we're here today to -- for a special permit for windows in
12 non-conforming setbacks. We are not going outside the
13 building footprint with any proposed renovation.

14 But here you can see that the property is quite
15 small in the back and the building as a carriage house is
16 tucked up to its property lines. So we're non-conforming on
17 both sides and at the rear for setbacks.

18 The next slide, please?

19 So proposed renovations included a reconfiguration
20 of the roof on the left-hand side of the building. So
21 currently, the right side has a slightly higher ridge than
22 the left. And we're going to raise that up to meet, not be

1 taller than the ridge that's existing, but add a little bit
2 of square feet to the second floor.

3 The building as it exists now is conforming for
4 FAR, adding 154 square feet and will still be well under our
5 allowable FAR.

6 You want to hit the next slide? Thanks.

7 First floor changes include enclosure of an
8 existing covered porch to create a little mudroom in the
9 lower left corner of the building. That part of the
10 building is already GFA. We're just looking to drop walls
11 underneath the roof.

12 Can you click to the next slide, please?

13 Proposed second-floor changes include
14 reconfiguring the roof on the left side, which does give a
15 little bit more room. It's got quite a shallow slope down
16 there. So it adds a little bit of volume without changing
17 the character or the footprint of the carriage house.

18 Next slide, please?

19 Here in our proposed roof plan. We are in the
20 rear setback. And the homeowners, because they're so close
21 to the setback, we're really not allowed to put any window
22 openings there.

1 So in order to get sunlight, that's the east side
2 of the house, we're proposing to add some skylights and some
3 sun tunnels, which do hit that rear setback. We're not
4 proposing any windows along the back face, but skylights.

5 And the next slide should show comparison
6 elevations. So the existing is along the top. You can see
7 the right side is a few feet taller than the left. We're
8 proposing to even them out to change the cross gable at the
9 front so that we get a nice, west-facing window for light to
10 the second floor, and to enclose the porch at the bottom.

11 So you can see here the windows on the front, the
12 long façade, are changing. But that is a conforming
13 setback, so those should be allowed as-of-right. And the
14 windows in question are the three in the short elevation.
15 So we're moving one on the second floor to meet some -- to
16 avoid some walls that we're trying to change.

17 And we're looking to add two windows in that
18 mudroom part that we are enclosing.

19 You can hit the next slide.

20 Really no changes besides skylights to the rear
21 elevation and the ridgeline. No changes at all to the right
22 side.

1 And then if you want to keep going, there are some
2 context photos and some 3D views just before and after to
3 show what it looks like now at the top and what we're
4 proposing on the bottom.

5 You know, there's a section showing how the roof
6 will gain a little bit -- a squeak, a little bit of extra
7 square feet in there, and then there's a few context photos.

8 But basically, a light touch to the historic
9 house. We're not trying to change its spirit; we're just
10 trying to squeeze alibi more room for the growing family
11 that's -- that occupies the house and to make the windows
12 bigger to get a little bit more light.

13 Because we can't really get any windows at the
14 back or the right side, you know, we're trying to maximize
15 the two sides that we do have through fenestration.

16 So that's just an explanation of what we're
17 proposing to do. I'd invite questions or comments from the
18 Board.

19 BRENDAN SULLIVAN: Okay, great. If it wasn't for
20 Google Maps saying, "You have arrived at your destination" I
21 would have gone right by the house, actually."

22 KELLY BOUCHER: I went by myself --

1 BRENDAN SULLIVAN: It's really a lovely house in a
2 great location.

3 KELLY BOUCHER: Very hard to find.

4 BRENDAN SULLIVAN: So Andrea, any questions at
5 this time?

6 ANDREA HICKEY: No, that was a very cool
7 presentation Ms. Boucher made. I have no questions at this
8 time.

9 BRENDAN SULLIVAN: Wendy, any questions?

10 WENDY LEISERSON: Agreed.

11 BRENDAN SULLIVAN: Slater?

12 SLATER ANDERSON: No questions.

13 BRENDAN SULLIVAN: Matina?

14 MATINA WILLIAMS: No questions. That was a great
15 presentation. Thank you.

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

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

1 [Pause]

2 There appears to be nobody calling in. We are in
3 receipt of correspondence from the Mid Cambridge
4 Neighborhood Conservation. It's a Letter of
5 Appropriateness.

6 "The Mid Cambridge Neighborhood Conservation
7 hereby certifies that the construction described below is
8 not incongruous to the historic aspect or architectural
9 character of the building or district to reconfigure the
10 roof and alter fenestration, plans submitted entitled, "78
11 Ellery Street MCNDC submission, dated April 11.

12 "The certificate is granted upon the condition
13 that the Board authorize this commence within six months."

14 And the letter is dated May 10, 2022. That is the
15 sum and substance of the correspondence. I will close the
16 public comment. I will close public comment part. I don't
17 think there's anything to add to the presentation, but you
18 may if you wish.

19 KELLY BOUCHER: No, I'm --

20 BRENDAN SULLIVAN: No? Okay, that's great. Any
21 comments by the Board, or are we ready for a motion?

22 ANDREA HICKEY: Ready.

1 BRENDAN SULLIVAN: Okay.

2 KELLY BOUCHER: Andrea's ready.

3 BRENDAN SULLIVAN: Seeking relief for a special
4 permit under 8.22d and a special permit criteria.

5 Under 8.22d, the Board may grant a special permit
6 for the alteration or enlargement of a pre-existing
7 dimensionally non-conforming, detached single-family
8 dwelling or two-family dwelling not otherwise permitted in
9 8.22.1 above, but not the alteration or enlargement of a
10 pre-existing, non-conforming use.

11 Provided that there is no change in use, and that
12 any enlargement or alteration of such pre-existing, non-
13 conforming detached single-family dwelling or two-family may
14 only increase a pre-existing dimensional non-conformity but
15 does not create a new dimensional non-conformity.

16 In order to grant the special permit, the Board of
17 Zoning Appeal is required to find -- and does make such
18 finding -- that the alteration or enlargement shall not be
19 substantially more detrimental than the existing non-
20 conforming structure to the neighborhood, and that the
21 alteration or enlargement satisfies the criteria in Section
22 10.43.

1 Under 10.43, it appears that the requirements of
2 the Ordinance can be met. Traffic generated or patterns of
3 access or egress would not cause congestion, hazard, or
4 substantial change in the established neighborhood
5 character.

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

9 There would not be any nuisance or hazard created
10 to the detriment of the health, safety, and/or welfare of
11 the occupants of the proposed use -- in fact, it would be
12 enhanced their safety and welfare would be greatly enhanced
13 by the alterations proposed.

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

18 The Board notes the letter from the Cambridge
19 Neighborhood Conservation Committee Letter of
20 Appropriateness for the work that is being proposed, and
21 also that it conforms to the purpose of the ordinance to
22 allow petitioners to -- homeowners -- to alter and upgrade

1 their properties, and the Board finds that this work is
2 quite de minimis and is a fair and reasonable form of
3 relief. On the motion to grant the special permit, Andrea
4 Hickey?

5 ANDREA HICKEY: Yes, in favor.

6 BRENDAN SULLIVAN: Wendy Leiserson?

7 WENDY LEISERSON: Yes, in favor.

8 BRENDAN SULLIVAN: Slater Anderson?

9 SLATER ANDERSON: Yes, in favor.

10 BRENDAN SULLIVAN: Matina?

11 MATINA WILLIAMS: In favor.

12 BRENDAN SULLIVAN: Brendan Sullivan yes.

13 [All vote YES]

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

16 KELLY BOUCHER: Thank you.

17 BRENDAN SULLIVAN: Good luck.

18 KELLY BOUCHER: Thanks.

19 BRENDAN SULLIVAN: Yep.

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(9:58 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Wendy
Leiserson, Slater W. Anderson, and Matina
Williams and

BRENDAN SULLIVAN: Going back to Campbell
Ellsworth, let me reopen Case No. 190504 -- Ellsworth.

CAMPBELL ELLSWORTH: Yes, hello. I did the
analysis, and I would like to -- Olivia, I want to know if I
send you a PDF of the analysis of existing and proposed, are
you able to load that?

OLIVIA RATAY: Yes.

CAMPBELL ELLSWORTH: Yes, wonderful. Let me just
do that.

[Pause]

Here they come. All right, that's going to be --
okay, just to let you know what I've done. So I went back
to the original CAD files, and I identified on the -- while
Olivia is getting that, and Cecile is here -- while Olivia
is getting that, so I went back to the original CAD files.
I took the -- measured the open space. You'll see that in
my diagrams in a second.

1 But the original -- the existing house has -- and
2 you can see that in the photographs of the back of the house
3 -- it has a small deck off the back, which of course that
4 will be removed.

5 But it effectively would be subsumed by the new
6 deck. And therefore, the net square footage of the new deck
7 becomes lower. But let me back up.

8 What I measured for the existing open space is
9 actually 51.9 percent -- 51. And then when the new deck,
10 that only reduces it down to 47.2. And so, when you see the
11 diagrams that I just sent to Olivia, I hope you will --
12 well, you'll see my reasoning.

13 And I was very careful, you know, with identifying
14 all of the square footage that would have been open.

15 BRENDAN SULLIVAN: And what is the requirement of
16 the --

17 CAMPBELL ELLSWORTH: Oh, I apologize. 40. 40. So
18 I'm -- I am considerably above. I was surprised. And thank
19 you for bringing it to my attention. And my apologies to
20 the entire Board for not providing that calculation
21 originally.

22 BRENDAN SULLIVAN: Okay. So it's -- you're not

1 violating the open space?

2 CAMPBELL ELLSWORTH: I am not.

3 BRENDAN SULLIVAN: Okay.

4 CAMPBELL ELLSWORTH: No. Olivia, are you able to
5 load those? I --

6 OLIVIA RATAY: I still haven't gotten the e-mail.

7 CAMPBELL ELLSWORTH: Oh. All right. Right.

8 Well, if it's -- this may be -- hold on a second -- so I am
9 happy to -- this is going to be a little awkward. Okay, so
10 --

11 OLIVIA RATAY: It just came in.

12 CAMPBELL ELLSWORTH: Just came in. Lovely. Okay,
13 there are two sheets here. One is -- okay, that's Sheet 1.
14 That is the existing -- there's a little more -- right,
15 there we go.

16 Existing first -- I did it off the existing first-
17 floor plan. Obviously, the sites are the same, and I
18 measured all the spaces that you see in yellow there, albeit
19 there are other -- some other criteria for open space, but I
20 took everything around the building, and I'm getting merely
21 52 percent of that is not built.

22 And if you look at the second -- okay, I'm sorry,

1 Olivia, just back one second.

2 On the top of that plan, first -- existing first-
3 floor plan, you'll see that there is an existing deck off
4 the back. And then if you go to the second plan, you'll see
5 that that old deck is sort of called out there. And
6 therefore, the new deck adds approximately -- or if you will
7 -- reduces the existing square footage by 118 square feet.

8 I hope I got that right. This was the fastest
9 thing I've ever done. Yes, that's correct. So I initially
10 have 1305 square feet all around the house, and now I have
11 1187, and compared to the lot size, I mean this is -- I
12 guess this is one benefit of a very small lot.

13 But -- in a sense -- but I start with almost 52
14 square f-- 52 percent, and I wind up with just a little over
15 47. And I'm hoping that satisfies the Board.

16 BRENDAN SULLIVAN: Okay.

17 SLATER ANDERSON: And the requirement is 40, you
18 said?

19 CAMPBELL ELLSWORTH: And the requirement is 40 in
20 the B zone, yes.

21 SLATER ANDERSON: Okay.

22 BRENDAN SULLIVAN: All right. Any other further

1 questions? Andrea Hickey, any questions on the application
2 or to the petitioner?

3 ANDREA HICKEY: No, Mr. Chair, thank you.

4 BRENDAN SULLIVAN: Wendy Leiserson?

5 WENDY LEISERSON: Sorry, looking for my switch.

6 No, not at this time.

7 BRENDAN SULLIVAN: Slater?

8 SLATER ANDERSON: No questions.

9 BRENDAN SULLIVAN: Matina?

10 MATINA WILLIAMS: No questions.

11 BRENDAN SULLIVAN: Okay. And I have no further
12 ones. I think I had already opened it to public comment and
13 -- yes, I did -- and then read some of the letters in
14 support for the altering the windows and also the rear deck.
15 So are we ready for a motion, then? Seeking relief under
16 8.22d and the special permit criteria.

17 Under 8.22.d, the Board may grant a special permit
18 for the alteration or enlargement of a pre-existing
19 dimensionally non-conforming, detached single-family or two-
20 family not otherwise permitted in Section 8.22.1, but not
21 the alteration or enlargement of a pre-existing, non-
22 conforming use.

1 Provided that there is no change in use, and that
2 any enlargement or alteration of such pre-existing, non-
3 conforming detached single-family or two-family may only
4 increase a pre-existing dimensional non-conformity but does
5 not create a new dimensional non-conformity.

6 In order to grant the special permit, the Board is
7 required to find -- and does make a finding -- that the
8 alteration or enlargement shall not be substantially more
9 detrimental than the existing non-conforming structure to
10 the neighborhood, and that the alteration or enlargement
11 satisfies the criteria in 10.43.

12 Under 10.43, it appears that the requirements of
13 the Ordinance can be met.

14 Traffic generated or patterns of access or egress
15 would not cause congestion, hazard, or substantial change in
16 the established neighborhood character.

17 The Board finds that continued operation of or
18 development of adjacent uses, as permitted in the Zoning
19 Ordinance, would not be adversely affected by the nature of
20 the proposed use, and the Board acknowledges and includes by
21 reference letters of support from abutters regarding the
22 proposed work.

1 That the proposed use would not impair the
2 integrity of the district or adjoining district, or
3 otherwise derogate from the intent and purpose of the
4 ordinance to allow the petitioners -- homeowners -- to alter
5 and improve their structure to improve the quality of life
6 of those who occupy such structures.

7 On the motion, then, to grant the special permit,
8 Andrea Hickey?

9 ANDREA HICKEY: Yes, in favor.

10 BRENDAN SULLIVAN: Wendy Leiserson?

11 ANDREA HICKEY: Yes, in favor and thank you.

12 BRENDAN SULLIVAN: Slater?

13 SLATER ANDERSON: Yes, in favor.

14 BRENDAN SULLIVAN: Matina?

15 MATINA WILLIAMS: In favor.

16 BRENDAN SULLIVAN: Brendan Sullivan yes.

17 [All vote YES]

18 BRENDAN SULLIVAN: On the five affirmative votes,
19 the special permit is granted.

20 CAMPBELL ELLSWORTH: Thank you very much --

21 BRENDAN SULLIVAN: Thank you. Yep, thank you.

22 CAMPBELL ELLSWORTH: -- to all of you. Have a

1 good evening.

2 BRENDAN SULLIVAN: Thank you. Wendy, that was a
3 good catch and glad we were able to correct it, so.

4 WENDY LEISERSON: Yes, thank you, Ellsworth for
5 doing that.

6 OLIVIA RATAY: Great job.

7 CAMPBELL ELLSWORTH: Certainly.

8 ANDREA HICKEY: Thank you.

9 WENDY LEISERSON: Thank you.

10 BRENDAN SULLIVAN: Goodnight, all. Thank you,
11 thank you.

12 MATINA WILLIAMS: Goodnight.

13 ANDREA HICKEY: Goodnight.

14 [10:09 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

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

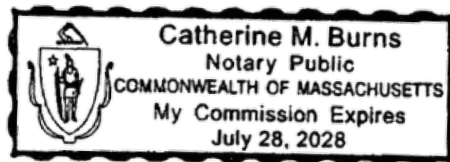
In witness whereof, I have hereunto set my hand this 18th day of October, 2022.



Notary Public

My commission expires:

July 28, 2028



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