BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JUNE 29, 2023
6:00 p.m.
Remote Meeting
via
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Jim Monteverde, Vice Chair
Andrea A. Hickey
Steven Ng
Virginia Keesler
Matina Williams
Wendy Leiserson
Slater Anderson
Carol Agate
Zarya Miranda

City Employees
Olivia Ratay

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* * * * *

(6:00 p.m.)

Sitting Members: Brendan Sullivan, Slater Anderson, Wendy Leiserson, Zarya Miranda, Virginia Keesler, Matina Williams, and Jim Monteverde

BRENDAN SULLIVAN: Good evening, welcome to the June 29, 2023 meeting of the Cambridge Board of Zoning Appeal. My name is Brendan Sullivan, and I am Chairing the first two continued cases for this evening.

Pursuant to Chapter 2 of the Acts of 2023 adopted by the Massachusetts Court, and approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Board of Zoning Appeal.

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

There will also be a transcript of the proceedings.

All Board members, applicants, and members of the public will state their name before speaking. All votes

will be taken by roll call.

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

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

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

OLIVIA RATAY: Slater Anderson?

SLATER ANDERSON: Here.

OLIVIA RATAY: Andrea Hickey?

ANDREA HICKEY: Present.

OLIVIA RATAY: Wendy Leiserson?

WENDY LEISERSON: Present.

OLIVIA RATAY: Zarya Miranda?

ZARYA MIRANDA: Present.

OLIVIA RATAY: Virginia Keesler?

VIRGINIA KEESLER: Present.

OLIVIA RATAY: Matina Williams?

MATINA WILLIAMS: Present.

OLIVIA RATAY: Jim Monteverde?

JIM MONTEVERDE: Present.

OLIVIA RATAY: Brendan Sullivan?

BRENDAN SULLIVAN: Present.

I'll go right to Mass Avenue; Matina's available.

OLIVIA RATAY: Okay. Steven --

* * * * *

(6:09 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Matina Williams, and Slater Anderson

BRENDAN SULLIVAN: First case I'm going to call is BZA-201432, which is 1640 Massachusetts Avenue. Sitting on that case is myself, Brendan Sullivan; Jim Monteverde, Andrea Hickey, Matina Williams, and Slater Anderson.

Sarah, yes.

SARAH RHATIGAN: Yes. Good evening, Mr. Chairman, and members of the Board. Sarah Rhatigan from Trilogy Law LLC, 12 Marshall Street in Boston, Massachusetts. I'm here representing the petitioner. And we've requested a further continuance.

And I do understand since filing that requested continuance that, Mr. Chairman, you had expressed some concern about a further continuance, which I entirely understand and appreciate.

And I wanted to give a little bit of context for the reasons for needing some additional time, and then also to make a suggestion to the Board, which is we believe that

we could request leave of this Board to withdraw the petition without prejudice under the state statute -- and that without prejudice meaning that it would allow the petitioner to refile an application at a later point when they are more prepared to move forward with their plans.

And I wanted to offer that as an alternative way to move forward. We don't want to be wasting the time of the Board. We want to be able to move, you know, swiftly through your agenda. So I wanted to put that out there as a possibility. But --

BRENDAN SULLIVAN: Yeah. That was my --

SARAH RHATIGAN: Yes.

BRENDAN SULLIVAN: -- concern, because this was back to December. And that what it does is is it takes a space, a slot from somebody who's probably ready to go forward. Plus, it also requires that the same Board members reassemble, so Board members sort of block out this particular night and -- you know, to hear the case, and then it gets continued.

So it's a bit of an imposition on the Board's part to have to come -- for the petitioner to keep requesting continuances.

So the Board's policy has always been possibly two or three -- this would be a fourth. And so, I express the interest that I would not be amenable to continuing the matter.

Now, regarding the second point, Article -- and our Zoning Ordinance 10.51 basically says that after a petition has been advertised, that if the petitioner requests or a withdrawal it is to be reconsidered adverse action, which would preclude the petitioner from coming back for two years under the repetitive petition section.

You know, you could come back, but there's a whole -- you'd have to go to the Planning Board to prove that there's substantial change and there's a whole bunch of hurdles to jump over.

Now, in -- to take up on your second suggestion that Chapter 40A Section 16, which is the state statute, and there is some validity in saying this to the State statute would override the City Ordinance, the State Statute basically says any petition for a variance or application for a special permit which has been transmitted to the permit granting authority or special permit granting authority may be withdrawn without prejudice by the

petitioner prior to the publication of the notice of a public hearing thereon.

But thereafter, which is pertinent here, may be withdrawn without prejudice only with the approval of the special permit granting authority or permit granting authority.

So the -- if the members of the Board were amenable to allowing you to withdraw without prejudice, we would take a vote, you'd have to receive four votes, and then the matter would be withdrawn as per your request. And then when you are better prepared, then you would come back with a -- basically a de novo.

And you are amenable to that course of action, for me to make a motion, then, to allow you to withdraw the petition without prejudice, and then you would have the option of coming back then at a later date with revised drawings or whatever?

Basically, it would be a new case. You'd have to readvertise and everything.

SARAH RHATIGAN: And Mr. Chairman, I'm sorry, are you posing that question to me or to your --

BRENDAN SULLIVAN: Yes, yeah.

SARAH RHATIGAN: -- yeah.

BRENDAN SULLIVAN: Well, to you.

SARAH RHATIGAN: Yes. We are amenable to that route. And I think that would be desirable.

BRENDAN SULLIVAN: Okay. So let me -- Jim Monteverde, any questions or concerns regarding I will make a motion to allow the petitioner to withdraw without prejudice?

JIM MONTEVERDE: I'm ready to go for a motion and I'm in favor of that.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: I'd like to know why they're not ready. We started this six months ago. So -- and this is considered a heard case. Mr. Chair, as you said, we all kind of clear our schedules and make ourselves ready. If I could ask Counsel, why the petitioners are not ready?

SARAH RHATIGAN: Mr. Chairman, I'm happy to --

BRENDAN SULLIVAN: Yep.

SARAH RHATIGAN: -- answer that question.

BRENDAN SULLIVAN: Yep.

SARAH RHATIGAN: Thank you for asking the question, and I did want to be able to provide a brief

description of this.

So the project has been very complicated for the client to kind of get a handle on, both because of the -- kind of the shape of the lot, the difficulties with renovating the particular structure, and honestly the way that they can do so and make the project economic for the owner.

And so, they've struggled with some internal decision-making also internally with their teams shifting around in terms of architect, architects involved.

And they've also wanted to make an effort to come up with a plan that will be amenable to the neighbor who's been most impacted and most concerned about this. And they're cognizant of the fact that that's going to take some time to work through the concerns and the issues there.

I realize that, you know, some projects are able to move much more quickly than this one and really do apologize to the Board for inconveniencing people if you've had to come here tonight for this case. I can imagine that that's annoying. So we are sorry about that.

BRENDAN SULLIVAN: Andrea, anything else?

ALISON HAMMER: No. I have nothing further to

ask.

BRENDAN SULLIVAN: Matina, your thoughts on this, on the request to withdraw?

MATINA WILLIAMS: Can you hear me?

BRENDAN SULLIVAN: Okay, you're -- any thoughts regarding the request to allow the petitioner to withdraw?

MATINA WILLIAMS: No. I'm --

BRENDAN SULLIVAN: No?

MATINA WILLIAMS: -- all set. I don't have any questions ready to go.

BRENDAN SULLIVAN: Okay. Slater, do you have any questions or concerns?

SLATER ANDERSON: No questions or concerns. Let's proceed.

BRENDAN SULLIVAN: All right. Let me make a motion, then, to allow the petitioner to withdraw Case No. 20142 -- 1640 Massachusetts Avenue without prejudice.

The Board will cite State Statute Chapter 40A Section 16, which the Board feels will override the City Ordinance of 10.51 in allowing the petitioner to withdraw without prejudice.

On the motion, then, to allow the petitioner to

withdraw without prejudice, Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Matina Williams?

MATINA WILLIAMS: In favor.

BRENDAN SULLIVAN: Thank you. Slater Anderson?

SLATER ANDERSON: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes, this matter is withdrawn as per the petitioner's request.

Thank you, Sarah.

SARAH RHATIGAN: Thank you again. Thank you.

BRENDAN SULLIVAN: Yep.

* * * * *

(6:18 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Andrea Hickey, Wendy Leiserson, and Slater Anderson

BRENDAN SULLIVAN: The next case I'll call is No. 206411 -- 9 Bellis Circle #2.

ADAM DASH: Good evening, Mr. Chair.

BRENDAN SULLIVAN: Mr. Dash, how are you?

ADAM DASH: I'm very well. Nice to see you again. Attorney Adam Dash, 48 Grove Street, Suite 304 Somerville, Massachusetts. It's D-a-s-h, attorney for George White and Karen Stevens, who are the owners/applicants for this Bellis Circle case.

You may recall the applicants were seeking to have a front and a rear yard shed -- two sheds, on the in the front and one in the back -- within the setbacks, which will also require FAR relief.

The applicants then requested a continuance to tonight so they could address the issues raised by the BZA and an abutter about the proposed front shed.

And I, as you may recall, was brought in to

represent them after the first BZA hearing on the matter and wanted some time as well.

The BZA had also asked the applicants to upload the site plan that was ordered at the Registry of Deeds regarding the townhouse development, which I did since the last hearing. I don't know if Staff could pull that up, the one that shows the shed on it?

The site plan is a bit of an unusual property on Bellis Circle -- thank you. You can see there's a series of six townhouses with some -- thank you -- with some common areas in between.

My clients, the applicants, are #2 on that plan there. That says 2,963.6 square feet -- right. And you can see to the left there the -- that is the rear shed that we're calling it, which is -- my clients have overlaid on this plan.

At the front is 2A, that cross-hatched area down at the bottom. That is the parking area for my clients. And that is where they had the front shed. That front shed has since been removed, and they are no longer seeking to have the front shed, because as I recall at the last hearing, the Board had raised some questions about its

impingement on the parking space 2A.

So -- and also that the neighbor on that #1 had opposed it. So the neighbor who is next door opposed it. So we took that one down.

So that should resolve -- that resolves, apparently, the abutter's concerns. She filed a letter right before this hearing maybe an hour or so ago stating that she had no issue with back shed and was glad the front shed was down -- I am paraphrasing it of course -- and this addresses the BZA's question about the front shed's impact on the parking.

So there have been no concern that were raised about the rear shed. So that's all we're seeking relief for now. There are six letters of support from the neighbors, including Unit #3, which is the one right above us, which is the -- whose yard is the one closest to the proposed shed.

And that the rear shed, which has minimal impact on anybody, and which provides the applicants a place to store outdoor furniture and yard equipment, and you can see this is such a tight site of townhouses.

It is not a condominium, but it is a tight site of townhouses with very little open space, particularly as you

can see for Unit 2, compared to the other units.

The shed is very small. It is 8.25' x 4.3' or 35.48 square feet. It's a pretty small shed. This is a minimal gross floor area increase and is only 26.5' above the Zoning Ordinance number. Yeah, there are the figures that -- of the setbacks and the square footages and such.

The small shed size also means that the setback issue is not for a very long distance, as you can see. It's a relatively -- it's not the full length, it's running the full length of the property line.

The applicant's yard is small, so it's difficult to locate a shed without a set pecking issue anywhere and putting it in the middle of the yard basically renders the yard unusable and sort of destroys the point here.

So I know that several members at the last hearing have stated that they had no issue regarding the rear shed, and everyone was just talking about the front shed, which is now gone. So the applicants, having dropped the front shed from the request, would ask that the variances for the rear shed be approved.

Thank you.

BRENDAN SULLIVAN: Thank you. Jim Monteverde, any

questions or comments?

JIM MONTEVERDE: No questions.

BRENDAN SULLIVAN: Andrea Hickey, any questions or comments?

ANDREA HICKEY: No, thank you, Mr. Chair.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: No questions.

BRENDAN SULLIVAN: Slater Anderson, any questions or comments?

SLATER ANDERSON: No questions or comments.

BRENDAN SULLIVAN: Let me open it to public comment. Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

There appears to be nobody calling in. As Counsel Dash has stated, there are letters in the file from -- actually eight letters: 111 Sherman Street. There is a resident at 9-4 Bellis Circle, 6 Bellis Circle. There is 33 Bellis Circle, No. 9 -- well, from a resident of Bellis Circle and No. 9 Bellis Circle, No. 3.

And again, they're all in favor of the shed.

I will -- there's also a late correspondence, which came in from Joan, who apparently is the owner of No. 1. And the summation of her thoughts to be conveyed to the Board:

"I'm glad that they removed the shed in front of their driveway. I don't want them to ever put any size, large or small in front of their driveway -- now, not now or in six months or ever; in perpetuity. Not a lawyer, but with this being legally binding, I would allow and agree for them to keep their existing big shed.

"Please advise if this closes the case and update me, as I won't be at the meeting tonight. Many thanks for your help and to the Board as well."

The issue before us is the shed in back. As far as precluding them from ever building another shed in the front driveway or whatever is that it would exceed the Board's authority to make that as a condition of granting the variance of this shed.

That the property owner does have constitutional rights, and as a property owner of the City can also -- can ever, can also apply at some point for a variance to locate

the shed there, but we could not preclude them from exercising their constitutional rights. So that would be my thought on that.

I will close public comment at this time. Mr. Dash, anything else to add?

ADAM DASH: No, Mr. Chair. Thank you.

BRENDAN SULLIVAN: Board, ready for a motion to grant?

JIM MONTEVERDE: Ready.

ANDREA HICKEY: Ready.

WENDY LEISERSON: Yes.

BRENDAN SULLIVAN: Let me make a motion, then, to grant the requested variance relief from Article 4.21, which has to do with the accessory structure and its location on the lot and the required amount of setback, which would vary the Table of Dimensional Requirements found in 5.31.

The Board finds that a literal enforcement of the provision of 4.21 would involve a substantial hardship to the petitioner because it would be -- it would preclude them from having an exterior storage facility for trash and for compost -- for bicycle, for yard tools, outdated furniture, which is somewhat prevalent in the neighborhood.

This is a particularly small lot. The shape of the lot is rather unique to the district, and the townhouse setup also does not have a basement for storage, and as such, the petitioner is at a great hardship to find storage, and also is encumbered by the ordinance.

The Board finds that desirable relief of the hardship is in fact owing to the shape of the lot, the location of this particular property, and the unique characteristic of not having any basement and requiring some additional storage.

The Board finds that desirable relief may be granted without substantially derogating from the intent or purpose of this ordinance and would not have any adverse effect or detriment to the public good; in fact, the public would be served better by allowing a shed of this nature there to allow for the storage of trash bins and compost, which would be essential towards rodent control.

Also, I might note that the Board notes that the trend in society is to use alternative modes of transportation for all members of citizenry and households. And as such, the number of cycles -- pedal power, if you will -- are constantly increasing, and the hardship is

trying to protect them from the elements.

And so, that by allowing this particular shed it number one -- allows petitioners to store bicycles safely out of the weather. It enhances their ability to find alternative modes of transporting around the city. The City Council has noticed this, obviously, and has a systematic program of enhanced bike lanes to allow and to foster bicycle usage.

The creation of this shed will go a long way to attaining those goals.

The Board finds that the sheds are substantially similar in kind, usage, and placement of the other storage sheds in the neighborhood, and so, it is not out of place, and that the Board is allowed to -- as the ordinance allows to vary the ordinance where it seems appropriate, is a fair and reasonable request, and as such the Board grants the relief being requested.

Jim Monteverde?

JIM MONTEVERDE: In favor.

BRENDAN SULLIVAN: Andrea Hickey?

ANDREA HICKEY: Yes, in favor.

BRENDAN SULLIVAN: Wendy Leiserson?

WENDY LEISERSON: In favor.

BRENDAN SULLIVAN: Slater Anderson?

SLATER ANDERSON: In favor.

BRENDAN SULLIVAN: And Brendan Sullivan yes.

[All vote YES]

BRENDAN SULLIVAN: On the five affirmative votes, the variance is granted, as per the sketches, the dimensional form, the pleadings as per the application.

Goodnight. Thank you.

ADAM DASH: Thank you, Mr. Chair. Have a good evening.

JIM MONTEVERDE: If I may, with the conclusion of that case, we have three Board members whose terms are coming to a close this evening, the end of that particular year case. That's Andrea Hickey, Slater Anderson and Brendan Sullivan. And I'd like to thank them for their service on the Board and their camaraderie and help in discussions through the years.

In particular, I'd like to recognize Brendan Sullivan and his years -- actually decades -- of service to the Zoning Board as a Board member, Vice Chair, and a Chair, for his thorough, research and thoughtful opinions. Thank

you. Thank you all.

BRENDAN SULLIVAN: Well, thank you.

COLLECTIVE: Thanks.

BRENDAN SULLIVAN: To those of the Board members who are walking down the long driveway with me, a simple thank you really doesn't do justice, but thank you to all of you.

If you could allow me just maybe another minute, gentlemen, tonight brings a close to my tenure as a member of this Board. It's been an amazing experience. I would like to thank five City Managers that have given me the opportunity to be associated with some very good, very smart and very dedicated people over these many years, both as a colleague on this Board, and also by way of my interaction with and my up-close observation of the Staff of Inspectional Services, as they go about their work on a daily basis.

They are All-Stars, every so one of them. They are the best of the best. The City should know that they have been and continue to be well served by these individuals.

To the newly appointed members of the Board, I'd

like to impart some perspective from someone who has been here for many a Thursday. You have been appointed because of the talents that you can bring to the table and your willingness to give of your time and service to the City.

I would ask you to draw on those talents, and during your time on the Board make a difference. Make a difference.

And so with that, I bid you all adieu.

WENDY LEISERSON: I'd be standing there clapping for you all if I could. I'll miss you all.

ADAM DASH: Thank you, Jim. Brendan, it's been a pleasure. Everybody have a great night.

ANDREA HICKEY: Same here.

JIM MONTEVERDE: Oh, thank you.

ANDREA HICKEY: Good evening. Thanks, everyone.

WENDY LEISERSON: Happy Fourth!

JIM MONTEVERDE: You'll be here in spirit.

COLLECTIVE: Goodnight.

BRENDAN SULLIVAN: I'm always here.

JIM MONTEVERDE: Appreciate it.

BRENDAN SULLIVAN: Thank you.

JIM MONTEVERDE: We're going to take the roll call

for the members that are Sitting for the next cases.

OLIVIA RATAY: Steve Ng?

STEVEN NG: Present.

OLIVIA RATAY: Matina Williams?

MATINA WILLIAMS: Present.

OLIVIA RATAY: Zarya Miranda?

ZARYA MIRANDA: Present.

OLIVIA RATAY: Wendy Leiserson?

WENDY LEISERSON: Present.

OLIVIA RATAY: Carol Agate?

CAROL AGATE: Present.

OLIVIA RATAY: Virginia Keesler?

VIRGINIA KEESLER: Present.

JIM MONTEVERDE: And Jim Monteverde, present.

OLIVIA RATAY: And Jim Monteverde.

* * * * *

(6:30 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Matina Williams, Zarya Miranda, Carol Agate, Virginia Keesler, and Steve Ng

JIM MONTEVERDE: I'm Jim Monteverde. As a way of have introduction to the Vice Chair of the Board of Zoning Appeal, and I will be chairing this hearing, the next -- and the next continued case, and then the regular cases for this evening.

And I will call Case 206665 -- 1164-1166 Cambridge Street.

ADAM BARNOSKY: Yes. Good evening, Mr. Chairman, and members of the Board. My name is Adam Barnosky and I'm here on behalf of the applicant. And if I may, we are here regarding modification of one condition imposed by the Board in BZA Case 9779 that was issued in 2009.

This, as the Board might recall, condition that limits use of the rear door for non recurring emergency egress.

The applicant now requests modification of that condition to allow the access to the rear of the building

solely for the purpose of access to the applicant's trash, which is lawfully stored in a private alleyway to the rear of the building.

The issue that came up at the last hearing -- one of the reasons why this matter was continued, was, there was a question from the Board regarding trash, and specifically whether the applicant had the lawful right to store trash in the rear alleyway.

Just a reminder that this rear alleyway is a private alleyway that is part of the applicant's property.

There was a memo that was provided to the Board dated June 20, which details its issue in great detail. But again, we are here before the Board really only relative to the modification to access.

And briefly, regarding trash, it's worth noting again that the Zoning Ordinance does not prohibit outdoor storage of trash. The City's Health and Safety code permits trash storage in a private alleyway. The applicant's trash storage currently in that private alleyway is compliant with the City's laws and ordinances, and that neither the 2009 decision nor the rear-door condition prohibits the use of the alleyway trash.

Currently, operationally, the restaurant, which is located on Cambridge Street, is required to take the trash. Because of this access issue, they have to take the trash out through the restaurant's front door on Cambridge Street, haul it down Cambridge, and then down Tremont, and then all the way through their alleyway -- private alleyway, which abuts a bunch of residences, to access the trash units.

And this really all relates -- again -- to access. It's not trash. There were concerns about the neighbors regarding trash.

But again, I want to remind the Board that the applicant will continue to use this rear alleyway for storage of their trash. This is a Health Code issue. This is all within the purview of the Health Department, who continue to do so in compliance with the Ordinances of the Health Department.

The problem here -- and this is really why the condition relates to public good and serving the public good -- is that this -- if the restaurant is allowed to use this rear door for access, it's going to create less noise and a much more operationally efficient restaurant, because you're no longer going to have to haul things out of Cambridge

Street, around the block, down the alleyway, open the cans up, go all the way back out with employees making this, you know, U shape around the block numerous times a day.

You're going to have an applicant that -- an operator that opens the door, puts trash, and shuts it. It's going to reduce noise, it's going to reduce traffic, and this is really just a holdover from a prior era and a prior operator in a prior business location.

Again, I think that this is a pretty simple request. It's a modification and I would just request that as we talk about this, as the Board reviews it, that the focus is on what this request is about. And it's not about trash, although it's related to trash.

So, you know, with that, again, the modification we're making is solely to allow -- the language put in the memo was to have the condition remain intact, but to include the language that access will be allowed to the rear -- private rear alleyway solely for trash storage consistent with City of Cambridge Health and Safety Code.

That's really a brief summary.

Happy to elaborate on any part of this, although we have -- we did, again, detail the Zoning Code and

ordinances in our memo submitted by us.

Thank you.

JIM MONTEVERDE: Thank you. Do we have any questions from members of the Board? Steven?

STEVEN NG: I guess I'm confused. I was under the impression that the original variant for the restaurant use had it during their wait in an interior space, and that there was nothing that would be in that corridor, which is in the residential building.

Is that the original setup for the applicant's situation?

JIM MONTEVERDE: Oh Yeah. If I can elaborate there Steven?

STEVEN NG: Yeah.

JIM MONTEVERDE: I'm going to read from the March 6, 2012 Licensing Commission hearing. And in it, William Gilson from the restaurant. And I'll quote.

"So our plan is to have all the trash be stored inside the establishment and disposed of through the front door at the appropriate evening for trash pickup."

And it further goes on to say -- and this is Michael Gardener speaking -- "So the back door is purely for

emergencies and the second means of egress. William Gilson: Correct. Attorney Hope: Correct."

So I think, Steven, those are the conditions that we'd heard before. And again, that's the Licensing Board.

ADAM BARNOSKY: Mr. Chair, if I may?

JIM MONTEVERDE: Yep.

ADAM BARNOSKY: Just on that issue. So that is correct, that the original setup of the restaurant was such that the applicant was able to utilize a portion of the inside for storage of trash. That was part of the program.

The restaurant has now recaptured that space. They're using it for their operation. So it's no longer utilized for trash. And not only is it no longer utilized for trash, that's not generally the best practice for a restaurant to keep trash on the interior.

But regardless, from a land use and zoning perspective, and health code perspective, there's no prohibition within Licensing. There's no prohibition within the code, and there's no prohibition with the 2009 decision, which prohibits this business from utilizing the private alleyway that's part of their business to store trash.

So again, this is -- there's no conditions that

will not allow this. So they will continue to use this back alleyway for trash storage, because they are lawfully doing that. Again, this is about accessing that space. And it's no longer functional to do so. And it's creating more noise and more traffic than is necessary.

And the -- if this condition modification is denied, it'll be to the detriment of the public good, because it will require the applicant to continue to do this.

So, you know, again, I just want to stress what the restaurant is lawfully doing with the use of their space.

JIM MONTEVERDE: Let me go to the next member, and then I'll come back for a question. Steven, did that -- did you have any further discussion?

STEVEN NG: No. That answers that question for now. Yeah.

JIM MONTEVERDE: Okay.

STEVEN NG: Thank you.

JIM MONTEVERDE: Matina, any questions or comments?

[Pause]

Matina, can you hear us? Let me go on. Zarya, any questions?

ZARYA MIRANDA: Yeah. So at our last meeting, it seemed that what you are requesting was to use the back door for beyond the trash, but to be able to use it for nonrecurring emergencies including deliveries. Is that still the case, or --

ADAM BARNOSKY: No. That is not the case. And that -- that does not reflect our application. The purpose is solely for access to the trash barrels.

ZARYA MIRANDA: Okay.

ADAM BARNOSKY: And we'd be fine with the condition that, you know, that would state that no deliveries and we -- you know, would be allowed and anything else really important that we'd require here.

JIM MONTEVERDE: I'm reading the advertisement for our agenda. And it basically reads -- this is a variance request -- "Modify the previous granted variance to permit the rear door to be used for general restaurant operations (staff only)." And that previously restricted use of the rear door limiting it to nonrecurring emergency use only, and to permit the installation of new trash enclosures.

That's what our Agenda says. That's what I assume the advertisement says.

ADAM BARNOSKY: Okay, correct. But I think as a result of our last meeting, and as detailed in the memorandum, the applicant would be fine in scaling down a request to make sure that it's consistent with what they actually would like to do to get access to the trash barrels.

In the memorandum on page 2, in the middle of page 2, we have an example of the modification that would be acceptable to the restaurant. And this would -- because this is more limited in scope than the ZBA application, we think that it remains well within the purview of your Board.

So again, the condition would be from -- the condition right now is that the use of the rear door and the right of way between 82, 84 and 88 and 90 Tremont Street be limited to nonrecurring egress only. That's how it reads correctly.

And what we are proposing as a modification would be to add a tag the end of that sentence to read, "-- except for access to the private rear alleyway for trash storage, be consistent with the City of Cambridge Health and Safety

Code.

JIM MONTEVERDE: Thank you. Zarya, did that answer? Do you have any more questions?

ZARYA MIRANDA: I do not have any more questions.

JIM MONTEVERDE: Thank you. Wendy, do you have any questions?

WENDY LEISERSON: I just wanted to clarify my understanding of the applicant's argument, because there are so many prior proceedings in this.

So your position, if I understood your presentation tonight, is that you have -- feel that you have as-of-right the ability to store trash behind the restaurant in that alley? Is that part correct?

ADAM BARNOSKY: Yes, that's correct.

WENDY LEISERSON: Even though in 2009 the Board granted your variance, or the variance, saying that the shed that was in the rear of the structure be removed?

ADAM BARNOSKY: Yes. My understanding -- now, remember this, I believe though it was granted, was not granted as it related to my client.

But it's my understanding that the rear shed at that time was in a state of disarray, and the -- was

attracting rodents and other things that were living in it.

So I think part of it was that that was the give and the take is my understanding.

WENDY LEISERSON: So assuming that you -- and so, and what -- what -- on what basis do you say that you have the right to store the trash there? Just what's the legal basis you're saying?

ADAM BARNOSKY: Well, there's -- I mean, starting off with the 2009 decision, there's no -- there's no restrictions with trash in the 2009 decision.

The Health Code, and we had submitted a memo on June 20 to the Board that details this -- it might be in your application. But basically, the Zoning Ordinance does not prohibit outdoor storage of trash.

The Health and Safety Code permits trash storage in alleyways. So there are specific sections that I've cited in my memo that kind of -- that detail this whole thing, that outdoor storage of trash is approved as a matter of right, both for residential and commercial uses.

And there's no restrictions within the residential code or the commercial code that would prohibit the storage of trash in a private alleyway, so long as it is consistent

with the Health Department's code.

And so, any perceived violations or any issues that the restaurant has to comply with are within the jurisdiction of that Board. So that, again, the purpose that we have in front of us today is really about accessing that area. And then trash will fall within the purview of health.

JIM MONTEVERDE: Just to clarify, let me read. In the memo that was submitted, on page 3 on --

WENDY LEISERSON: I'm scrolling [laughter] through the file to get there.

JIM MONTEVERDE: Yeah, -- RAW, dated the twentieth. And it's under "Health and Safety Code Permits." It basically says -- Title 8 - Health and Safety of the Cambridge Code of Ordinances -- the Code. It makes it clear that the applicants using the alleyway for the storage of trash is expressly permitted.

Specifically, Section 8.24.100 provides that “Every owner or occupant of private property may maintain authorized rubbish receptacles outdoors on such private property, provided the receptacles are screened from the view from public streets and sidewalks.”

"All refuse awaiting private collection shall be in refuge receptacles" -- on and on and on.

WENDY LEISERSON: Yeah, no, I see it --

JIM MONTEVERDE: Right?

WENDY LEISERSON: -- now. Yep. Yep. I see it. Thank you for pointing me to that. Yeah.

JIM MONTEVERDE: All right. And it's a fact that we have not corroborated?

WENDY LEISERSON: Right.

JIM MONTEVERDE: So we're just -- we're taking the proponent's statement at face value.

WENDY LEISERSON: I guess my question, then, is what is the interaction or jurisdiction between the Zoning Ordinance and the -- this section that they are citing? You know, if there's a conflict, I guess, is my question.

ADAM BARNOSKY: Well, at this point in time, there is no conflict. They're both consistent. I mean, the Zoning Ordinance doesn't prohibit outdoor storage of the trash, and outdoor storage of trash is within the purview of the Health Department.

So, there's no -- there's no --

WENDY LEISERSON: No, I just meant that there --

JIM MONTEVERDE: Yeah.

WENDY LEISERSON: -- I mean, the prior decision -- yeah, go ahead, Jim.

JIM MONTEVERDE: No, I was just going to say when it just -- hold that thought, because I think after we take public comment and we come back --

WENDY LEISERSON: Mm-hm.

JIM MONTEVERDE: -- I think we can talk about -- just say that. Because I think --

WENDY LEISERSON: Okay. Sure.

JIM MONTEVERDE: -- that is an interesting point. It's one I wrestle with. But --

WENDY LEISERSON: Okay.

JIM MONTEVERDE: -- just hang on to that one.

WENDY LEISERSON: Sure.

JIM MONTEVERDE: Anything else?

WENDY LEISERSON: Nope. That's it. Thank you.

JIM MONTEVERDE: Matina, do you have any questions?

[Pause]

Matina, are you there? Do you have a question?

All right. Hearing none, before I open this up to

public comment, let me just acknowledge that we have a letter in the file dated June 27. And it is on behalf of the -- it's from Jaime Mateus on behalf of the 82-84 Tremont Street Condominium in opposition to the request being made. And it is signed by seven people -- Jaime Mateus, Ashley Mateus, John Hopkins, Marie Hopkins, Stephen Michaels, Jane Saacke, Freeman Deutsch.

I believe that's the only correspondence that we have -- and again, in opposition. So if any of those folks will be calling in, please don't repeat what the Board has in its file and has already read but add anything else to that commentary if you like.

So with that, any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

OLIVIA RATAY: Jaime Mateus?

JIM MONTEVERDE: Please, all, keep time for a three-minute maximum, please.

JAIME MATEUS: Hi. Good evening. This is Jaime Mateus from 84 Tremont Street, No. 1. Can you all hear me

okay?

JIM MONTEVERDE: Yep. Thank you.

JAIME MATEUS: Thank you. Yeah, we submitted a letter with all the owners of the HOA at 84 Tremont Street Condo Association. Together, I think we are pretty united in our opposition, and we figured out a more streamlined way to convey our position.

I want to start off with two quick points. I believe at the last hearing, one of the conditions requested of the petitioner is that they submit a letter from the Health Inspector documenting that they have been specifically required to store the trash outside. I have not seen that. To my understanding, that letter has been shown, but perhaps I'm missing that.

There's also, I believe, a condition that further community outreach be performed. That has not really been done. We did receive an e-mail within the last 24-hours listing some of the things that Puritan -- might be willing to do.

I want to quote the last sentence of that e-mail. It ends with, "If you do not support the proposal, we will simply continue to do what we are currently allowed to do."

I will leave it up to the Board to decide if that sounds more like a good, safe, community outreach, or a threat.

I appreciate the Chairman reading the statement -- the quote from the 2012 License Commission hearing. That was a point I wanted to make as well, and I think that is very relevant here.

I am not going to read our entire letter in detail, but there's a couple of points I want to point out that I think are directly relevant to the questions that are brought up. You know -- actually, sorry, before I get into that, I think the original context here -- the true hardship of this property is that without our rear egress, that building is noncompliant.

So the -- what the zoning variances allow is for the building to be compliant of the building code. That variance has limited that hardship, and it's done so by imposing conditions that it meets under Zoning and have impacted the neighbors, and that has worked. It's worked for 14 years, which is kind of remarkable.

The trash problem we have right now, that is not a hardship. It is not the hardship. That is a problem of their own making. As you have seen in the record, trash was

agreed to be stored inside the restaurant. Puritan then decided to build a second facility in the place where they store trash.

This is a problem of their own making and not a hardship that deserves relief from the Board. This spans a long time. This has been a long, contentious debate over many years.

I think it is important to understand that memories are not always perfect, and that the best record that we have is by looking at the transcribed record of the various meetings, and quoting exactly from those documents, so that we can understand the context, as it is -- you know, as those discussions ensue.

In the 2009 Board of Zoning Appeal meeting, I just want to quote very briefly what the attorney representing the owner of the property at Puritan had said -- mentioned -- there are legitimate issues. And frankly, we had anticipated that.

And I discussed it with the petitioner the fact that the Board might very well have granted the relief limits that egress to secondary means of egress --

JIM MONTEVERDE: I'm going to ask you to wrap up,

please.

JAIME MATEUS: Mr. Chairman, would it be possible for me to have a few more minutes, given that I'm representing all of the neighbors, and thus maybe --

JIM MONTEVERDE: If no one else is speaking from that group, then I'll give you another minute. Please, just come to a conclusion.

JAIME MATEUS: All right. Thank you. I think the last point I'd like to make is that they do not have the right to store trash in that alleyway. And this is reflected in that same 2009 Board of Zoning Appeal by their attorney, which says, "The effect of (sic) the restriction on the door would have the effect of restricting the use of the alley, which would accrue to the benefit of the abutters."

Essentially, the Board of Zoning Appeal has the jurisdictional authority to impose restrictions on that property. So if the property were compliant, they would have a fair argument that the alleyway could be used for whatever purposes. But because it is not compliant, and the BZA has the jurisdictional authority to grant that variance to also have the authority to impose conditions on the

variance.

They believe that it is fair by reviewing the record of that 2009 meeting that trash is very much a central issue, which is being discussed and the main concern.

So I would urge the Board of Zoning Appeals to please hear us in our unity in our concerns here and hopefully settle this matter after what's been I think the third meeting here.

JIM MONTEVERDE: Okay. Thank you.

JAIME MATEUS: Thank you.

JIM MONTEVERDE: Thank you for your comment.

OLIVIA RATAY: James Williamson?

JAMES WILLIAMSON: Yeah. Thank you. Can you hear me?

JIM MONTEVERDE: Yes, we can.

JAMES WILLIAMSON: Thank you, Jim. First, well, my address is 30 Churchill Ave in North Cambridge. And as a point of information I guess, is Brendan participating tonight?

JIM MONTEVERDE: No. He was present for the first two cases, and for the purposes --

JAMES WILLIAMSON: -- and he's done? He's retired now? I just really wanted -- there was no other way I could do it. I just wanted -- if I could just briefly, you know, kind of skirt the topic and say just congratulations to Brendan. I thought he did a great job. And I think the rest of you have done a very good job.

And I appreciate especially the work that Brendan did all these years sticking up for -- I think doing a good job sticking up for ordinary people and trying to be fair and also, you know, judicious and respectful of the Regulations. So --

JAMES WILLIAMSON: Good luck, Brendan. Thank you.

JIM MONTEVERDE: Yep. Thank you. Anyone else wishing to speak?

OLIVIA RATAY: Ming-Tai Huh?

MING-TAI HUH: My name is Ming-Tai Huh. I'm one of the co-owners of the business Puritan that occupies the building at 1166 Cambridge Street. Also, a resident of Cambridge at 259 Washington Street in the Port for 18 years.

I've been attending all of these hearings, this is the first time I'm speaking on behalf of our business, given the strong opposition that we received from our abutters.

I think it's really important that we characterize the history of the result here, and obviously the building. Some of the history of our building, and why our business is called Puritan Company is because the building was built in the '30s by a bakery called Puritan Cake Company.

I actually looked it up in the history and the historical record; that's how we actually defined and built our building and named our restaurant that way.

So it's really rooted in history.

There's been a commercial building for 100 years in this space, and only the restriction has been applied since 2009.

And more recently in the past previous -- from 2009 previous three decades, there was a private club -- a private club that had the similar capacity, same use, similarities -- food and beverage business for weddings, for parties, for big anniversaries.

And that operation went over the line, let's put it frankly.

And this is why the abutters are extremely, extremely against the use of this door. Because that business went over the line and pretty much was

[indiscernible] on the neighbors with outdoor activity, smoking, guests out there, partying, late-night activity.

These are the reasons why the 2009 decision in my opinion, reading the documents, understanding what happened that day, and why there was an extreme decision put on this building, over a lack of the back door.

This is certainly not the case of our business today. Puritan & Company does not operate a nightclub. We do not operate a business that is characterized in that way at all. We're stewards of the community. We do great charity work. We've helped rebuild buildings in Cambridge Street that burned down to the ground, and to be characterized kind of like our abutters that we're bad for the neighborhood is really, really surprising and unfortunate because we like to think that we're very positive for the neighbors. We've done a really great job in maintaining this building and keeping it in a great place.

So the standard of which the decision was made in 2009 was of extreme case. That is no longer the case today. I feel like the history of 100 years of this building we had commercial building, and the zoning law was drawn in the

'60s, which drew a line right through this building, all of a sudden negated our rights to be owned and operated as a food and beverage business, and continuing. That's all.

JIM MONTEVERDE: Thank you. Anyone else? No? Okay. Let me send it back to the Board. Any discussion among the Board members? Wendy, you want to reintroduce --

WENDY LEISERSON: Sure. I think my question is this is a little complicated, because of the history, and because I recognize that the business has changed ownership. But yet, the neighbors remain, and their concerns remain about use of the alley.

And there is some documentation in the file that even Puritan has been using the back door in ways that were not intended, such as for employees going on snack break or, you know, smoke breaks, snack breaks or whatever.

So it's not entirely the predecessors' fault that the neighbors are worried about there being excessive or irregular usage of the back door. I'm not sure what the -- I mean, I would like to see the Health Board's order to the restaurant as to what they expect.

One question I have is whether they're objecting to trash being stored inside the restaurant overnight as

opposed to trash simply being taken out at the end of the night, which would reduce part of the concern. I'm sure that no one dining at a fine restaurant wants to see a bag of trash pass their table. So I'm sympathetic to that.

But I'm not sure where we go from here yet.

JIM MONTEVERDE: Okay.

WENDY LEISERSON: Jim, do you have questions?

JIM MONTEVERDE: No. More of a comment. But I want to pass it on to the other Board members first. So Zarya, do you have any discussion?

ZARYA MIRANDA: I agree with Wendy. I would like to see something, if anything, from the Health Department. That would be helpful.

JIM MONTEVERDE: Okay. All right. Thank you. Matina, any discussion among the Board?

Steven, any discussion amongst the Board?

STEVEN NG: Yes. I think I can -- at the last hearing --

MATINA WILLIAMS: Hi. It's Matina. Can you hear me?

STEVEN NG: We'll let Matina go.

JIM MONTEVERDE: Yeah. Just give us a second.

We'll let Steven go through, and then --

STEVEN NG: Okay.

JIM MONTEVERDE: -- you're next.

MATINA WILLIAMS: I don't have any questions.

JIM MONTEVERDE: All right. Thank you.

STEVEN NG: So I think at the last hearing we did ask for some information about when that Board of Health or information or guidance from them came about. And I'm a little dismayed that we did not get that information.

And I don't -- I think it didn't complete right now. That, you know, because of the expansion of, you know, services inside the restaurant space, maybe that's what came about of that memo. But no one provided us that information or the timing.

And I -- that is, you know, I think there was a change in the design and use of the space inside that impacted the trash storage. And this has been a solution they may have wanted to use but, you know, we have to go over that right now. This is what -- it could have been that change that created this problem for their management of trash.

So I don't know if there's any information on that

-- the timing, the history of, you know, when the Board of Health brought that concern up?

JIM MONTEVERDE: Okay, thank you. So my comments have been -- you know, for the Board members. The discussion is -- we need to find a hardship. And it seems that the hardship is kind of self-imposed.

The agreement that was made, or at least the correspondence we have here from the Licensing Commission hearing back in 2012 about storing trash -- if I read it correctly -- storing it inside and disposing of it from the front door simply became untenable or inconvenient when they decided to occupy that same space and no longer be able to store trash inside.

At the moment, I don't think that's the basis for a hardship, as being self-imposed.

And hearing the neighbors' concerns, I am leaning toward not accepting the request for the variance and keeping it to the language of the previous Zoning Board hearing, which restricted the use to non-recurring emergency egress only.

And since I agree with some of our other members who we did -- I do recall, and I read in a transcript

requesting a statement from the Health Department not having seen that, my sense is to enter in the opinion that we specifically are -- we are asking that -- I don't know how to do this -- either we don't allow the installation of trash enclosures, because that's what's being requested; if they can store trash there by the Health Department, we don't have any say over that, but installation of new trash enclosures, I guess we do.

So I'm not in favor of the -- I'm not leaning to accept the variance request. I don't know how -- if any of the other members feel similarly.

And if there's one other member who is not in favor of this proposal, then if we go ahead with the vote, you're voted down, can't come back for two years, or you can withdraw one more time and come up with another proposal, and do the community outreach, and provide --

WENDY LEISERSON: Well --

JIM MONTEVERDE: -- from the Health Department.

ADAM BARNOSKY: Mr. Chair?

JIM MONTEVERDE: Not yet. Hold on, hold on. Nope. Hold on. Let me hear from the Board.

WENDY LEISERSON: I was only going to say I think

you mean continue another time, yes.

JIM MONTEVERDE: Okay. So now, Counselor, are you amenable to a continuance?

ADAM BARNOSKY: I think we're amenable to a continuance. I would like to clarify a few things, if I may, Mr. Chair, which would be -- I mean, yes.

Briefly, in finding for a hardship, I would say -- you know, I think the thing -- again, that's important to know here is that the applicants are utilizing their property lawfully.

And I think it's difficult to say that there's no hardship if the only way that the applicant can operate is if they do so under their own restricted rights of their own land.

Currently, the only way that they can comply is to either bring all of their trash around or store it inside, which is a self-imposed reduction of their own rights.

This is a -- this is a restaurant that's been around for over 10 years, made it through COVID. It is one of the few that have really done so in the area and is really doubling down by including additional space and expanding their operations.

Their hardship is both economic, but it's also practical. Again, the only way that they could comply with zoning code decision is either to reduce their own land rights or to have think of bizarre operation that can go around the block. But in this --

JIM MONTEVERDE: Mr. Barnosky, Mr. Barnosky? This --

ADAM BARNOSKY: Yes.

JIM MONTEVERDE: -- isn't an opportunity for your rebuttal. We're at the point where we're ready to make a motion, and either -- if I get the sense of the Board -- deny the variance or give you the opportunity for -- to continue one more time.

ADAM BARNOSKY: So --

WENDY LEISERSON: Mr. --

JIM MONTEVERDE: -- and that's the end of it. Which would you prefer?

ADAM BARNOSKY: -- I want to be clear on what the Board would be seeking if we did continue it. I -- on the Health Department issue, when we looked into the Health Code, it became so clear that what they were doing was lawful under the Code. We found that no other

correspondence from the Health Department would be required because it's a black letter of the City's law.

So I do want to be very clear as to what --

JIM MONTEVERDE: We --

ADAM BARNOSKY: -- the Board would want in a continuance.

JIM MONTEVERDE: I'll suggest --

WENDY LEISERSON: Jim, just -- yep.

JIM MONTEVERDE: Yep.

WENDY LEISERSON: Go ahead, Jim.

JIM MONTEVERDE: Nope.

WENDY LEISERSON: I would want to see, because the basis of your petition before us is that the Health -- the Board of Health has ordered you to do something different than what you've been doing. Is that not right?

ADAM BARNOSKY: That -- that -- that --

WENDY LEISERSON: Is that not why you're here?

ADAM BARNOSKY: That's not the basis for it, no. I mean, the basis for it is to be able to access and utilize the trash.

A compounding factor was, as I understand it, that the restaurant was talking to the Health Department. They

did suggest that that would be a more appropriate use for the trash. But fundamentally, that's not -- it's not -- you know, that's not the reason why we're here.

WENDY LEISERSON: Well, I think the basis of a hardship for me, anyway, is that you are being required to do something that is in conflict with the restrictions from the Zoning Board, the prior restrictions, like --

JIM MONTEVERDE: If I --

WENDY LEISERSON: -- Yeah. Go ahead, Jim.

JIM MONTEVERDE: -- if I can suggest, if we do a continuance, what we'd require -- request -- is not your own recap of either the Health Department ordinance, but a letter/statement on their letterhead saying that their ordinance permits trash storage in that alley. Simply.

It's basically just to corroborate what you've stated in your memo but coming from the Health Department.

WENDY LEISERSON: And that they've ordered them not to store it inside. Right?

JIM MONTEVERDE: If that's the statement that the proponent has made, yes. Okay?

ADAM BARNOSKY: Well, that, we will --

JIM MONTEVERDE: And I would ask you also to --

personally, I would ask you to outreach to the neighbors. If it's true that they got a correspondence today and not previously that you outreach to the neighbors and chat with those folks who've objected. That's what I would suggest would be conditions on the continuance.

Are we ready to move to motion? Board members?

WENDY LEISERSON: Yes.

JIM MONTEVERDE: Okay. I'm going to state the motion. Keep in mind that the motions are always stated in the affirmative. So be careful how you vote.

The Chair makes a motion to grant the relief from the requirements of the Ordinance under the variance sections -- on the conditions, well, on the conditions that the work proposed conform to the statement in the files submitted, initialed and dated by the Chair.

And further, that we incorporate supporting statements. There are no dimensional forms, drawings submitted as part of the application.

Further, the variance is granted and incorporated in the following conditions. There are no conditions, so I'll get to that in a moment.

Oh, I'm sorry.

WENDY LEISERSON: I'm sorry, Jim. Are we -- are we --

JIM MONTEVERDE: Yeah --

WENDY LEISERSON: -- doing a continuance?

JIM MONTEVERDE: -- I hit the wrong one. Sorry.

WENDY LEISERSON: Okay.

JIM MONTEVERDE: I'm in the wrong one.

WENDY LEISERSON: Yep. No problem.

JIM MONTEVERDE: Thank you. Let's continue this matter. Do we have a date?

ADAM BARNOSKY: Yep.

JIM MONTEVERDE: July 27. Are all these Board members present? Counsel, that work for you?

ADAM BARNOSKY: Yes. Thank you.

JIM MONTEVERDE: Board members?

WENDY LEISERSON: The twenty-seventh works for me.

STEVEN NG: Twenty-seventh works for me.

JIM MONTEVERDE: Matina and Zarya?

ZARYA MIRANDA: The twenty-seventh works for me as well.

JIM MONTEVERDE: Okay. Matina?

MATINA WILLIAMS: The twenty-seventh works for me.

JIM MONTEVERDE: Great. Okay. Make a motion to continue this matter until July 27, 2023, on the condition that the petitioner change the posting sign to reflect the new date of July 27, 2023 and the time at 6:00 p.m.

And in furtherance that the petitioner sign a waiver to the statutory requirement for a hearing. Said waiver can be obtained from Maria Pacheco or Olivia Ratay at the Inspectional Services Department.

I ask that you sign it and return it to us by a week from this coming Monday. Failure to do so will de facto cause this Board to give an adverse ruling on this particular case.

If there are any new submittals or changes to the drawings, those be on file by 5:00 p.m. on the Monday prior to the new hearing date.

Also, if there are any changes to the dimensional form and potentially the supporting statements, they also be changed and submitted along with the new documents.

And on your request that correspondence from the Health Department be provided that states that the Health Department allows trash to be stored in the alleyway behind the building and that they have required that the trash be

stored behind the alleyway.

Wendy, is that correct?

WENDY LEISERSON: Yes. Or, rather, the point is that they not -- that they've required that trash not be stored in the restaurant --

JIM MONTEVERDE: Inside, sorry.

WENDY LEISERSON: -- for any time at all. In other words, if it's okay for them to -- how do I rephrase it? Yeah.

JIM MONTEVERDE: Okay. So we get a correspondence that the proponent get and send to us a correspondence from the Health Department --

STEVEN NG: Excuse me. Can we also ask the Board to help with the reasons why they changed their mind about storage in the restaurant versus out in the alleyway?

JIM MONTEVERDE: That's fine. I think, Steven, if we just limit it to -- without making this burdensome on the proponent, that if there's just -- we can get a simple statement from the Health Department that they understand trash will no longer be stored inside the building or that they requested the trash no longer be stored inside the building and they are approved -- you know, approve that the

trash being stored in the alleyway that should give us everything we need to vote on the variance.

Do you agree?

STEVEN NG: Okay.

JIM MONTEVERDE: All right.

STEVEN NG: That's fine.

JIM MONTEVERDE: So with that condition that the proponent obtain and send to us the statement from the Health Department that contains the statement that they have changed their request for trash to be stored inside the building so that trash can be stored in the alley.

And that storage of trash in the alley is allowed by the Health Department ordinances, and that the proponent reach out to the neighbors who have written in this evening on this case and reach out to do a community outreach to hear them out and try and come to a compromise.

On that basis, on the motion, then, to continue this matter until July 27, Wendy?

WENDY LEISERSON: In approval.

JIM MONTEVERDE: Zarya?

ZARYA MIRANDA: In approval.

JIM MONTEVERDE: Matina?

MATINA WILLIAMS: Approve.

JIM MONTEVERDE: Steven?

STEVEN NG: In approval.

JIM MONTEVERDE: And Jim Monteverde in approval.

[All vote YES]

JIM MONTEVERDE: That's five accepted. Case is continued.

ADAM BARNOSKY: Thank you.

MATINA WILLIAMS: I'm done for the night. Have a good evening.

WENDY LEISERSON: Happy Fourth --

MATINA WILLIAMS: Jim?

WENDY LEISERSON: -- Matina. Bye-bye.

JIM MONTEVERDE: Thank you.

WENDY LEISERSON: Oh, same to you.

JIM MONTEVERDE: Thank you, Matina.

ZARYA MIRANDA: I'm also not sitting for the rest of the cases this evening.

JIM MONTEVERDE: Okay.

WENDY LEISERSON: Happy Fourth to you too.

ZARYA MIRANDA: Bye.

JIM MONTEVERDE: Who do we have? Let me see.

Wendy, okay.

* * * * *

(7:18 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: So the next case we will call is the last continued case, not heard. It's BZA-218487 -- 15 Hutchinson Street. Sarah, take it away.

SARAH RHATIGAN: Good evening. Thank you, Mr. Chairman. Sarah Rhatigan from Trilogy Law LLC, 12 Marshall Street in Boston. Thank you, members of the Board for hearing this case. This is a continued case, but it has not been heard before.

JIM MONTEVERDE: Yep.

SARAH RHATIGAN: The reason for the -- I'm sorry, was that you, Mr. Chairman?

JIM MONTEVERDE: No, go ahead. Yes.

SARAH RHATIGAN: Oh, okay, great. The reason for the earlier continuance is that my client, who is here on the phone -- this is Scott Kenton of 15 Hutchinson Street, LLC. Mr. Kenton had been traveling and had wanted to be back in town to meet his neighbors and be able to do some more outreach on his plans, which he did.

So the Board may note that we had some revised plans that were filed on Monday with some revisions that were made to the plans in response to some of the feedback that he did get from neighbors.

Olivia or Stephen, would you mind putting the slides up, the presentation slides up on the screen for us?

OLIVIA RATAY: So here is the image of 15 Hutchinson Street. And Mr. Kenton is a local Cambridge guy who is going to be renovating -- substantially renovating this project in order to live here with his new to-be-wife and family.

And what attracted him to this property was -- well, a few things. One, it's hard to find a single-family home in Cambridge that you can afford and that you can, you know, hopefully renovate to your needs. But it also had sister house to the right.

Would you mind advancing the slides again? We're just going to do a couple of views here of the house. So this is the left-hand picture that says, "left-side view." We're looking at the left side of the existing house. And if you see just past it, that's kind of the -- what I'm calling, "the sister house."

Next view, please? Next slide?

Thanks. So now we're looking at the right side of the house that's being renovated. And if you see the right picture here that says, "right-side view" you can actually get a really good view of the sister house.

So when Mr. Kenton was looking at possibilities, he saw the right-side dwelling, which had been improved by the current owner, who actually came to this Board for a variance to construct dormers and a second-story deck and lovely porch on the front.

And then you got -- that variance was granted in 2019, and Scott was thinking this is a great example of a project that he could do that would essentially mirror that work.

The plans that he present, or that -- you know, he pulled together -- really, really do that. The one difference, I think, is that the house on the right didn't have a screened-in second-floor porch, which his property did.

So in terms of the relief being requested, his is actually a little bit less than that.

But next slide please?

This is just giving you a sense of the state of disrepair of the existing home.

Next slide?

I want to just give you an aerial view of the red dot is showing you 15 Hutchinson. 11 Hutchinson to the right is the one that we talked about is the sister home. And you can just see the -- you know, the size of the homes in the area.

There's also at the rear of these lots is sort of a deep lot that's got nice trees and garden, et cetera.

What's unique and a little challenging are that the two lots here are both quite small. So the square footage of the lot is 2,463 feet. Houses are relatively small as well.

Anything that is done to try to add any livable space here is going to be existing within setbacks, because it's nonconforming on all setbacks. And also, we're in a Residential B District, so although the house is relatively small, it already exceeds the 0.5.

So the request here today is for an additional 233 square feet. And the additional square feet is really happening at the third level of the houses.

So now I'm just going to jump through to -- if you can go to page 7, Stephen? Thanks.

This is the existing site. So you can see the -- you know, the yard areas.

Next slide, please?

And the next one here is the proposed changes, as they affect the site plan. And you can see I just noted in red the original plans that we filed with the application and a basement stair with retaining wall so that we can access the basement by, you know, a full set of stairs, left side of the house.

Scott had met with his neighbor to the left -- I think it's 19 Hutchinson -- who had expressed concerns about, you know, why was there a stair there and not being too excited about that. And as a result, those -- that stairwell that's shown on this version of the proposed plan has been removed from the plans. But the other elements exist.

So there are some window wells just to allow for a little more light into the basement. There's actually a smaller deck that's replacing an entry deck. And then there's a proposed new back yard deck that's actually an as-

of-right feature. But we do want to show that that was the plan.

Next slide, please?

I'll just briefly describe the house. So this is the basement level. This is the existing basement. Most of it's -- half of it's mechanical. The front half is finished, but not in great shape.

Next slide, please?

This is the main level with the garage on the right side, and then the main house is, you know, pretty compact.

Next slide?

Again, this is all existing. Just want to give you a sense of what the existing house is like. On the second floor, there's -- as I mentioned, there's a screened-in sunroom on the right side. And the plan is to, you know, make that fully livable space, you know, heated and insulated, et cetera. So it will no longer be a porch, but just as sitting area.

Next slide?

And then the third floor is where things really need some work in order to make this a livable situation for

Scott and his family. So if you look at this attic -- you know, it's a typical attic that -- unusable attic. So it's accessed by a hatch. It's 10' wide in terms of area that's counted towards FAR. But if you see the edge of that 10' area is at 5'. So you can only stand right in the center of that attic. So there's no way to get up there and, you know, no way to use it.

Next slide, please?

This is the existing elevations. We're going to go through these relatively quickly, because I want to be able to point things out on the next set of plans.

Next slide? Thanks.

Next slide?

This is from the rear, and this is from the right side. Okay. Great. Now --

JIM MONTEVERDE: If I could interrupt you. I think just to --

SARAH RHATIGAN: Yeah.

JIM MONTEVERDE: -- so on the existing --

SARAH RHATIGAN: Yes.

JIM MONTEVERDE: -- elevations, the changes that are proposed are really taking that second-floor sunroom

that's over the garage, turning that into fully enclosed space, putting a deck on top of it, and then dormers on both sides. Is that correct? Is that the gist of it?

SARAH RHATIGAN: Correct. That is correct. Yes. Thanks. And I was just going to do that on the proposed plan. Sorry to --

JIM MONTEVERDE: Oh. Thank you.

SARAH RHATIGAN: -- I don't mean to go slowly here.

JIM MONTEVERDE: -- sorry.

SARAH RHATIGAN: No. Sorry about that. Okay, so in the basement, there -- the only changes here are some window wells. Again, this is just to improve the light in the lower level.

Next slide?

On the first floor, the changes of note that require Zoning approval anyway are the window changes, which we'll look at on the elevations.

Next slide?

Okay, on the second floor, if you see the -- to the right where it says, "Home Office" that's what used to be the screen -- the sunroom or the screened porch. And so,

the areas that used to be screens -- and we're actually creating smaller window openings than what exists now, which are improvements in terms of privacy. No increase in square footage on this floor.

Next slide?

And then here's where the changes are that we were just referring to. So one, a roof deck on top of the -- formerly the sunroof, the sunporch, excuse me. And then the real driver for, you know, coming to the Board and requesting relief here is to allow for a way to create a bedroom on the third level that's useable, that can be accessed by, you know, code-compliant stairs.

So you can see that the dormer on the right side is solely for the purpose of getting a full set of stairs up to that top level. The dormer on the left side is to allow for a bathroom. And you can see those dormer dimensions.

So now we're looking at elevations. So this is the front view. So you can see how the dormers are, you know, complying to Dormer Guidelines in terms of setbacks from the top of the roof back from the side of the house. They're less than 15' or they're 15' or less, and you can see the location of the proposed second-floor deck.

Next slide, please?

On this elevation, I'll just point out the -- again, the dormer. There are some window changes that are noted at the basement level, which won't really be visible much to the neighbors. I believe there may be fence there.

Next slide, please?

This is the rear view. These are window changes that are also requiring a special permit because we are close, you know, but not complying in terms of the setbacks. At the rear, there, if you remember, our neighbors -- it's a yard. So we're not facing anybody.

Next slide, please?

And then this is the -- as you're facing from the street, this is the right-side elevation. So this is the one that's closest to the sister house. Shows the window changes, which were revised after our original set to make them smaller, higher, so in terms of privacy, you know, these are -- I don't know what you call those, transom windows? Whatever the verbiage is for those.

There was also a conversation about maybe putting some screening up on the roof deck, but the neighbor wasn't particularly excited about that, so that -- those revisions

were not made.

Next slide, please?

Thank you for zooming in. So this is a sun shadow study. And I apologize; I know some of the print here is a little difficult to see. But there -- because of the direction of sun for all but one of the times of day, there is no impact whatsoever.

On the very last slide, I'm not sure what time -- 1600 so four o'clock in the afternoon, there's a little shadow here but it does not appear that any of that shadow would be associated with the dormer. It's -- you know, it's -- I apologize, a little tough to see.

But that, you know, is the only time of day that appears to have any impact at all.

Next slide, please? I think I just have the Dimensional Table at the end. Yeah. Nothing -- nothing there, in case there's -- unless there's any, you know, questions or concerns at all.

And just a couple of other things about outreach. There had also been some concerns from the neighbor about the condition of the house, you know, currently, because it's -- you know, it's in real disrepair.

And Scott did take efforts to -- he's applied for a permit to actually secure the building to let, you know, abatement work to improve the exterior shell, you know, wanting to be sure that the neighbors weren't being -- you know, continuing to be bothered by this, what's now really an eyesore.

So this is a special permit application. We feel like the plans are really modest, just what needs to be done in order to meet some reasonable needs of the owner.

And there's been an effort to address concerns about privacy. You know, the bulk and dimension of what we're trying to do is really in keeping with obviously what the sister house looks like, and quite modest, we think, for the neighborhood.

So we'd be happy to hear any questions that you may have.

JIM MONTEVERDE: Thank you. Any questions from members of the Board? Steven?

STEVEN NG: No questions.

JIM MONTEVERDE: Carol?

[Pause]

Carol, are you with us? Any questions? Virginia?

I'll go to Virginia.

VIRGINIA KEESLER: Hi.

JIM MONTEVERDE: Any questions?

VIRGINIA KEESLER: No questions from me.

JIM MONTEVERDE: Thank you. Wendy?

WENDY LEISERSON: No questions.

JIM MONTEVERDE: Thank you.

CAROL AGATE: Did you say Carol? I'm not on this, am I? I'm --

JIM MONTEVERDE: Carol.

CAROL AGATE: -- waiting for the regulars.

JIM MONTEVERDE: Carol, you're on this one.

CAROL AGATE: No, I'm not --

JIM MONTEVERDE: This is a case -- case not heard --

CAROL AGATE: -- the continued cases.

JIM MONTEVERDE: -- this is a case not heard. And according to our Staff, you are. So.

CAROL AGATE: Oh, I'm sorry.

JIM MONTEVERDE: That's okay.

CAROL AGATE: Didn't realized that.

JIM MONTEVERDE: Do you have any questions?

CAROL AGATE: No, I don't know.

JIM MONTEVERDE: Okay. Thank you.

I just have one for the proponent. So I see in the packet of info we have -- and it was up on the screen a moment ago -- the survey.

Is there a site plan that shows the improvements on the site plan with whatever foliage, trees, et cetera, exist or will need to be removed?

Sarah?

SARAH RHATIGAN: I don't believe that our survey -- the survey on page no. 8, that's correct. That's -- that's the proposed conditions.

JIM MONTEVERDE: Yeah.

SARAH RHATIGAN: Well, I do see shrubs in the front.

JIM MONTEVERDE: Yeah. I think in the photo.

SARAH RHATIGAN: Those were noted by the surveyor.

JIM MONTEVERDE: Yep. And I think in the photo -- there are some photos in the file and those give a sense of trees. You'll -- it'll be clear.

SARAH RHATIGAN: Yeah.

JIM MONTEVERDE: There's an aerial photograph.

SARAH RHATIGAN: Uh-huh. Yep.

JIM MONTEVERDE: So when we get to that, you can --

SARAH RHATIGAN: Okay, sure.

JIM MONTEVERDE: I don't have any questions. Thank you. Before I open this up to public comment, let me go over the correspondence we have in the file.

And for anyone whose correspondence I read, unless I misstate what you've written, because I'll try and summarize it, there's no need for you to call in and repeat it. But certainly, feel free to call in if there's something else you'd like to add.

So we have, by my count, five pieces of correspondence in favor and three opposed. So let me start with -- here's one that's opposed. This is Charleen Jue, 11 Hitchinson.

They don't fully support the project. They're saying that "The dormers and deck impact my home, as they are facing directly into my family sunroom and deck impacting my privacy and creating mass."

Regarding the privacy, Sarah, is that something you mentioned in terms of the window size or placement on

that side of the house?

SARAH RHATIGAN: That's -- yeah, that's correct. Yeah.

JIM MONTEVERDE: Yeah.

SARAH RHATIGAN: And the -- the other thing I would just point out is that the screen openings, the existing openings are very large and, you know, in theory by right could be maintained that large. But we're not opposing that.

JIM MONTEVERDE: Okay.

SARAH RHATIGAN: It's actually -- we feel that this it's actually an increase in privacy at that level. And if you look at --

JIM MONTEVERDE: Right.

SARAH RHATIGAN: -- the dormer windows --

JIM MONTEVERDE: Yep.

SARAH RHATIGAN: -- those dormer windows at that level are very small, and it's --

JIM MONTEVERDE: Yeah, they're rather small.

SARAH RHATIGAN: -- also a stairwell.

JIM MONTEVERDE: Yep. I agree.

SARAH RHATIGAN: It's a stairwell, so nobody would

be standing in there looking out.

JIM MONTEVERDE: Okay. Yep. And this letter --

SARAH RHATIGAN: Yep.

JIM MONTEVERDE: -- goes on to say, "The impact of dormers/roofline in an upper deck casts shadows on my yard and house, eliminating sun."

I think by your shadow study, Sarah, and what you described, that your description, that should -- that's not an issue. Is that correct?

SARAH RHATIGAN: I believe so.

JIM MONTEVERDE: Okay. And then "Plans submitted did not appear to have complete information sharing the comprehensive plan and level of detail."

Comprehensive plan is the one I just mentioned about a site plan, that in the future that would be nice to have on any application; the site plan either overlain on the survey that shows the new conditions and certainly something that talks about the trees or any significant growth that are in the yard.

Okay, that's the first one. The second one is from Anthony Sager, 26 Hutchinson Street. He's opposed. He's wishing -- asking actually for a bunch of conditions.

But to not cause the removal of a few existing trees, maple trees on the west side of the yard.

Are those impacted by your intended construction?

SARAH RHATIGAN: I'm sorry, could you ask that again? What -- maples?

JIM MONTEVERDE: It says, "Maples in the west side yard of the lot."

SARAH RHATIGAN: Um --

JIM MONTEVERDE: I look at the survey.

SARAH RHATIGAN: Let's see. West --

JIM MONTEVERDE: North, south, east, west -- that would be the left, I believe.

SARAH RHATIGAN: Gosh. I don't think -- we have two window wells that are --

JIM MONTEVERDE: Yep. So do you think any mature maple trees were being --

SARAH RHATIGAN: No, if you --

JIM MONTEVERDE: -- taken down?

SARAH RHATIGAN: -- click on two, yeah, the -- I mean those, there's some trees there, but they don't --

JIM MONTEVERDE: They don't look like mature maples.

SARAH RHATIGAN: -- appear to be -- yeah, mature maples.

JIM MONTEVERDE: Yeah. They look further back. Okay.

SARAH RHATIGAN: Yeah. They do. They --

JIM MONTEVERDE: That's not --

SARAH RHATIGAN: -- look like they're further back. I agree.

JIM MONTEVERDE: They do object to the second-floor deck. "Unnecessary mimicry of 11 Hutchinson." I don't think that's a Zoning issue.

And they oppose -- object to the volume. But I think that's for the Board to decide if we grant the relief being requested.

There's another letter in the file from Gregory and Helen Rochlin, 22 Hutchinson, not in support; basically objecting to the relief being requested and commenting that the purchase was less than six months ago; never resided in it, and in essence why did he buy it if he needed to do all this enlargement and zoning relief.

JIM MONTEVERDE: I don't think that's anything the Zoning Board can react to.

In favor, we have five identical letters. They're dated June 22. Unfortunately, the signatures are hand signed. So I really can't make out who these people are. But from 22 Hutchinson, I believe the last name is Hahn (phonetic). 27-29 Hutchinson, last name Brown. 30 Hutchinson, Anita is the first name. 34 Hutchinson, last name Grainger. And then Sophia Higgs is retracting objections they had made previously.

So those are the comments we have. Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

And please keep your discussion to less than three minutes. Thank you.

OLIVIA RATAY: Charleen Jue?

JIM MONTEVERDE: Charleen, do you wish to comment?

CHARLEEN JUE: Yes. I'm trying to comment. Can you hear me, Mr. Chairman?

JIM MONTEVERDE: Yep. We can now. Thank you.

CHARLEEN JUE: Okay. Great. Thank you, Mr. Chairman and Board members for hearing my concerns.

I continue to feel that this proposal really impacts my home, my privacy. And these homes are 2,500-square-foot lots. They're super close together, I hope you can appreciate that. And, you know, we can't go outside without hearing one another.

And anything that will be done on that upper deck will also impact my privacy. It looks down into the yard. And it's concerning. The windows: Yes, they're smaller than what's there currently, but that hasn't been used for a long time.

The screened porch has been in disrepair -- they're still large -- that look into and across into my home. So that remains to concern me very much.

And speaking to the sun study that was done, I don't have any knowledge on what criteria were done and if a scientist was involved and what you use to say there would be little to no impact, but I find that hard to believe, because I go into my back yard and I know what it's like. And I believe there would be a significant impact to me in those conditions.

So for those reasons, and I do oppose the addition of the dormers and the deck. Thank you very much.

JIM MONTEVERDE: Thank you for your comment.

OLIVIA RATAY: A phone number ending in 8311.

HEATHER HOFFMAN: Hello. My name is Heather Hoffman. I live at 213 Hurley Street. And I'm not calling about the specifics of the request, but about the legality of signatures, and also to state a general question about who knew that LLCs lived places and had families? Because that's who the owner is, and that's who was -- is requesting this special permit.

At the time that this was filed and in fact until yesterday, the only legal Manager or at least the only record Manager of this LLC was Husam Azzam. And Scott Kenton was not a Manager. It was filed yesterday.

So my question is first off, it was hard to tell who "my family" was. And when this ownership information certificate was done, Mr. Kenton was not a Manager. Because, as I said, it got filed yesterday.

So the Board may not care, but as a Title Examiner, this is the sort of thing that I think about. You know, dotting the is, crossing the ts and making sure that ownership is clear and accurate. So thank you very much.

JIM MONTEVERDE: Thank you, Heather.

OLIVIA RATAY: Gregory Rochlin?

GREGORY ROCHLIN: Can you hear me? Yeah.

JIM MONTEVERDE: Yes.

GREGORY ROCHLIN: This is Gregory Rochlin. My wife and I live at 22 Hutchinson Street. I have a question about the application. Presently, based on the plan -- well, I was -- I had seen previous plans, which I guess have been amended. They were not presented to me.

And some of my concerns at the address -- basically on the -- the second floor with windows looking into the adjoining sister property, I would still object to the mimicking of the deck on the third floor.

But my other question I had, which -- apparently in the plans, which were not presented to me, the basement is -- has 7'2" headroom. If that exists, per my understanding, that's not habitable space. So I don't believe that can be counted in FAR.

So as long as the proponent doesn't intend to excavate and make that space over 7'6" which would vastly increase the floor area, I would be concerned that basically the -- a building permit is granted and then surprisingly this basement gets excavated, and all of a sudden, it

becomes habitable.

So I just want to make it clear that this basement has to stay as unhabitable space as according to the code.

JIM MONTEVERDE: Thank you for your comment. And that is the end of the public commentary.

Let me send it back to the Board. Any discussion on the members of the Board?

SARAH RHATIGAN: Mr. Chairman?

JIM MONTEVERDE: Yep.

SARAH RHATIGAN: I apologize. Just a couple -- there were two sort of factual things that I was hoping to have a chance to respond to perhaps before the Board has questions, but --

JIM MONTEVERDE: Go ahead.

SARAH RHATIGAN: -- obviously I'll leave that up to your discretion.

JIM MONTEVERDE: Nope. Go ahead, Sarah.

SARAH RHATIGAN: So to respond to Ms. Hoffman's questions about the LLC, so I -- you know, I am the attorney for the client. And when we were applying for this -- this application, I -- I also checked who was Title record owners. And the LLC has two Managers. Mr. Azzam is one,

Mr. Kenton is the other. And I confirmed that with the clients, and we prepared the owners' affidavit.

And Mr. Kenton in this case is the named applicant in the one who's before you on the Board because this is in fact going to be his home. Mr. Azzam is his partner.

And in terms of the filing, yep, that happened yesterday. That was triggered by the fact that there was a neighbor -- and I apologize I don't remember which in the letters, one of the letters mentioned that, oh, in fact the owner was not Mr. Kenton.

And I said, "Well, how could that be?" And I looked online, and I noted that the Secretary of State's website had not been updated.

So I then contacted Counsel for -- who had created the LLC. I asked him to confirm, you know, "Do you have the name of the LLC members?" -- not members, managers -- and he forwarded to me the evidence of the change, the amendment that added Mr. Kenton as a Co-Manager in March of 2023.

And I asked him to please file that, which should have been filed back at the time. So he took care of that for us yesterday.

So I just wanted to be clear with the Board that

there's not an issue there.

JIM MONTEVERDE: Okay.

SARAH RHATIGAN: And I can --

JIM MONTEVERDE: Thank you.

SARAH RHATIGAN: -- I would be happy to file that document with this Board if they'd like to see that.

JIM MONTEVERDE: Nope. Thank you.

SARAH RHATIGAN: And then just briefly --

JIM MONTEVERDE: Is there a second? Yep.

SARAH RHATIGAN: -- on the basement, yeah, the -- the second sort of clarification issue, I think the Board is aware of this, but basement space in a single-family home is exempt, and it's not counted as FAR, regardless of the -- you know, ceiling height and, you know, whether it's livable space or not. Just, you know, to point --

JIM MONTEVERDE: Okay.

SARAH RHATIGAN: -- that out.

JEFF ROBERTS: Thank you.

SARAH RHATIGAN: Thank you.

JIM MONTEVERDE: Now, back to the Board.

OLIVIA RATAY: This is Olivia Ratay, ISD. The new Ordinance that was adopted back in February has changed the

way that basements are viewed in any Use Category.

So the pre- -- the original Ordinance had said that single two-family basements are exempt, but now they are not if they're over 7' -- if they're 7' or taller.

JIM MONTEVERDE: But is that the case, then, Ms. Rhatigan?

SARAH RHATIGAN: Um-- I apologize, I must have missed an amendment. Um-- the -- do we have the ceiling height on the existing plan?

JIM MONTEVERDE: On the existing plan yes. It says 7'2", I believe.

SARAH RHATIGAN: Yeah. So these are existing conditions.

JIM MONTEVERDE: Right.

SARAH RHATIGAN: And I don't believe there's a change to the ceiling height in the proposed studio. But I apologize if I'm missing something here. It's not substantively different if we're over 7' already.

Am I misunderstanding the Ordinance?

JIM MONTEVERDE: We're having a side discussion, so give us a moment.

SARAH RHATIGAN: Okay.

JIM MONTEVERDE: So we believe -- consulting with my expert here -- that your dimensional form is probably off in the area of the basement, that new requirement, based on the area of the basement is not as the proposed drawings say zero. I'm going to -- and I don't want to guess --

SARAH RHATIGAN: So if we were --

JIM MONTEVERDE: So it's off by a certain number of hundred square feet, I'm assuming. Just confirm that for me, Ms. Rhatigan, at -- in the dimensional form and requested conditions, total gross of 1,900+ square feet is off by --

SARAH RHATIGAN: Mm-hm.

JIM MONTEVERDE: -- a couple hundred square feet. So it puts it over 2,000 square feet. And the gross floor area would go above 0.8 where the Ordinance is 0.5. But it's already noncompliant.

SARAH RHATIGAN: Correct.

WENDY LEISERSON: Jim?

SARAH RHATIGAN: And not to --

JIM MONTEVERDE: It is a new --

SARAH RHATIGAN: The delta between the existing and the proposed I think remains the same, at 233 square

feet in terms of what the relief being requested is, is the same, even if the -- the ratio numbers --

JIM MONTEVERDE: Correct.

SARAH RHATIGAN: -- need to be corrected.

JIM MONTEVERDE: Because the existing will go up by -- the existing will go up by the same amount.

SARAH RHATIGAN: By the same amount. Exactly.

JIM MONTEVERDE: Okay.

WENDY LEISERSON: Jim. I'm just looking at the City's Property Database for this --

JIM MONTEVERDE: Yep.

WENDY LEISERSON: -- property. And it says that the finished basement is 324 square feet.

JIM MONTEVERDE: Okay.

WENDY LEISERSON: So if that's correct, then --

JIM MONTEVERDE: Yep. But I think Sarah's point is a good one that -- frankly, that would mean that would be at the existing condition, and it would really just affect the requested condition of -- well, it would all bump up.

So the existing FAR would go up, the requested FAR would go up, the existing FAR is already not in compliance. Again, this is a special permit and the new FAR would be --

it's not a new nonconformity; it's just an expansion of the same.

WENDY LEISERSON: Correct. No, I understand that.

JIM MONTEVERDE: Yep.

WENDY LEISERSON: I just didn't know if it made a difference to anyone --

JIM MONTEVERDE: I don't --

WENDY LEISERSON: -- in terms of the scale of the project or anything like that. So.

JIM MONTEVERDE: I don't think so. And Staff is shaking their head no. So I'm saying it's not a -- it's not an issue.

WENDY LEISERSON: Great.

JIM MONTEVERDE: Any other discussion, any discussion from members of the Board before we go to a motion? Ready for a motion?

WENDY LEISERSON: I wanted -- I'd like to hear if anyone has comments on the objections that were raised?

STEVEN NG: Yeah. I think I will -- the comments about just the intrusion of privacy with the deck seem to be -- I don't have any issues with the FAR or the additional interior space at all, but maybe that -- you know, that

upper-level deck is pretty high in the elevation and kind of does loom over neighbors and property.

So I don't know if that's concern for other Board members. But, you know, that's maybe my only point of concern.

JIM MONTEVERDE: Yep.

CAROL AGATE: I would --

JIM MONTEVERDE: Yep. Go ahead, Carol.

CAROL AGATE: I would also share that concern.

JIM MONTEVERDE: Okay. Looking at the photographs of the site, the adjacent house that would be impacted by the deck already has a deck. So I don't think it should be a case of whoever got their first gets to have it and whoever comes second can't.

So I don't -- right, if you look at the photograph on the right, the house on the right upper left-hand corner, that's their third-floor deck.

Our -- the proponent, if I read the elevation correct on the house to the left, their second floor is slightly below the deck to the right. So I don't have an issue with it.

I understand the decks to decks --

CAROL AGATE: Right.

JIM MONTEVERDE: -- but it's an urban environment --

STEVEN NG: Yep.

CAROL AGATE: Mm-hm.

JIM MONTEVERDE: And they can deal with it by some type of covering or how they do their deck rail itself or any covering they want to put on behind it. So I'm not troubled by that in particular.

VIRGINIA KEESLER: I agree.

JIM MONTEVERDE: Anyone else?

VIRGINIA KEESLER: I think -- I agree, I think their proposal is in keeping with the character of the street and the other houses on the street.

JIM MONTEVERDE: Yep. And I think the other comments that were made about, you know, it's mimicking what was already in the neighborhood is really not something that's a Zoning related issue or not something we could object to.

I don't think there's anything else in the objections that I read from the three letters that would stop me from seeing this proposal favorably.

Any other comments from members? Discussion, or can we move to a --

VIRGINIA KEESLER: Move to a vote?

WENDY LEISERSON: Ready to vote.

JIM MONTEVERDE: Ready for a motion? Okay. And this is a special permit. The Chair makes a motion to grant the relief from the requirements of the Ordinance under the Special Permit Section on the condition that the work proposed conforms to the drawings entitled "15 Hutchinson Street" prepared by SKC Properties dated June 20, 2023, initialed and dated by the Chair.

And further, that we incorporate the supporting statements and dimensional forms submitted as part of the application. I'll note on the dimensional form that it just needs to add the basement square footage to both the existing and the proposed.

And there are no conditions. And we can go for a vote. Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor, matter passes. Thank you.

SARAH RHATIGAN: Thank you very much.

JIM MONTEVERDE: Sorry. Give me one moment. Next case. We leave the --

CAROL AGATE: Jim? Excuse me, Jim.

JIM MONTEVERDE: Yep.

CAROL AGATE: Were you planning on a brief recess? I'm afraid I was not planning on being on this case. I had no idea that I would be on a continuing calendar, and I'm afraid my dog is more than ready to go out.

JIM MONTEVERDE: Yeah. No, absolutely.

CAROL AGATE: Can I -- can we have a five-minute break?

JIM MONTEVERDE: Yep. Five-minute breaks.

CAROL AGATE: Thanks. Come, Molly!

(BREAK)

* * * * *

(7:59 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: Next case is 220578 – 19 Huron Avenue, No. 1.

Is there anyone there who wishes to speak on this matter?

Is anyone there who wishes to speak?

All right. Let's move on and see if they -- are they there?

CAROL AGATE: The architect is here.

JIM MONTEVERDE: Well, speak up, please. Is that Doug Okun? Please unmute yourself and tell us what you'd like to do.

[Pause]

CAROL AGATE: You're unmuted. There must be a problem with the --

JIM MONTEVERDE: Yeah. We can't hear you. So Doug, if you're talking, so try to mute and unmute yourself again and see if we you can be heard.

[Pause]

No.

DOUGLAS OKUN: Hello [Echo: Hello, hello.]

JIM MONTEVERDE: There you go. Except for the echo, you're here.

DOUGLAS OKUN: [Laughter]

JIM MONTEVERDE: Are you on several devices at once?

DOUGLAS OKUN: Maybe. [Echo: Maybe, maybe.]

JIM MONTEVERDE: That's not going to work. Try it one more time.

[Echo, also Carol Agate and Jim Monteverde]

JIM MONTEVERDE: Nope. You've got an incredible echo.

[Echoing]

JIM MONTEVERDE: Same thing. Nope. It's not working.

[Pause]

Whoever's trying -- is that Doug trying to speak? Do you have another microphone you can try? Or call in. I don't do pantomime well.

[Jim echoing]

DOUGLAS OKUN: Can you hear me now?

JIM MONTEVERDE: That's -- there you go. Whatever you did. Perfect.

DOUGLAS OKUN: Now?

JIM MONTEVERDE: Yep. Still now. So quickly, identify yourself and tell us what you'd like to do before the echo comes back.

DOUGLAS OKUN: I'm Douglas Okun. I'm an architect and I'm the applicant for this particular project.

JIM MONTEVERDE: Thank you. What are you seeking relief for?

DOUGLAS OKUN: We're trying to add 29 square feet to the left side of the building. We're pushing the kitchen out three feet -- two feet nine, actually. And --

JIM MONTEVERDE: Oh, I see. Can we call up the existing site plan? There you go.

DOUGLAS OKUN: And the little orange --

JIM MONTEVERDE: Yep.

DOUGLAS OKUN: Right there, we're pushing the kitchen out two feet nine, and there's a fence around the property and it's a first-floor addition. And that's about all.

JIM MONTEVERDE: That's about the extent of it,

right?

DOUGLAS OKUN: Yep.

JIM MONTEVERDE: And this is Unit 1? Is this a condominium?

DOUGLAS OKUN: No, it's a single-family house. A home -- the applicant and the wife live there, and their daughter and son-in-law live upstairs. So the whole house is occupied by one family.

JIM MONTEVERDE: Okay. And yep, you filed a dimensional form and recognize the 29 square-foot addition --

DOUGLAS OKUN: Yes.

JIM MONTEVERDE: -- so I think all that paperwork is in order. Okay. This is a special permit. Anything else you wanted to say before I turn this over to questions from members of the Board?

DOUGLAS OKUN: No.

JIM MONTEVERDE: Okay. Thank you.

DOUGLAS OKUN: Thank you for your brevity.

JIM MONTEVERDE: Members of the Board, any questions?

STEVEN NG: No questions.

CAROL AGATE: I have a question.

JIM MONTEVERDE: Yep.

CAROL AGATE: From the -- it appears from the record that the only concern was expressed by one neighbor who so appreciates the garden there that she does not want anything that blocks it.

As I look at this diagram, it appears that the part that you're extending already is not visible to the neighbor behind.

DOUGLAS OKUN: True.

CAROL AGATE: That there's a shed that's blocking it, is that correct?

DOUGLAS OKUN: That's correct.

CAROL AGATE: Okay. Maybe you want to reassure your neighbor.

DOUGLAS OKUN: Okay.

JIM MONTEVERDE: Thank you. Any other member have any other questions?

WENDY LEISERSON: No questions.

JIM MONTEVERDE: This is Jim Monteverde, I do not. Okay. Let me -- before I go on to public comment, let me read. We do have one letter, and this may be the one that

you're referring to, Carol, from Patricia Moore?

CAROL AGATE: Yes.

JIM MONTEVERDE: -- “19 Huron” --

CAROL AGATE: Right.

JIM MONTEVERDE: [Reading to himself] "-- quite close." Yeah. "-- houses are quite close together, so any structural blockage will make it unbearable for me." Okay. That's the extent of public correspondence.

So let me open it to public comment. Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

[Pause]

We have no one calling in. All right. Any discussion from members of the Board, or are we ready for a motion?

STEVEN NG: Ready for a motion.

JIM MONTEVERDE: Can I make one comment before we move on? This is to Mr. Okun?

DOUGLAS OKUN: Sure.

JIM MONTEVERDE: I am not a proponent of parking

in the front yard.

DOUGLAS OKUN: There is no parking.

JIM MONTEVERDE: And I noted --

DOUGLAS OKUN: Okay?

JIM MONTEVERDE: Okay. So in what's identified as, on the plan that on the screen, the existing cobblestone driveway, that's a driveway and you park further into the site?

DOUGLAS OKUN: Yes. It's really where the driveway is. The cars are not on the cobblestones.

JIM MONTEVERDE: Very good. Thank you.

DOUGLAS OKUN: You're welcome.

JIM MONTEVERDE: Okay. That's all I have. So as motion? And this is a special permit.

So the Chair makes a motion to grant the relief from the requirements of the ordinance under the Section from Article 5, Section 5.31, Article 8 Section 8.22.2.d, and Article 10, Section 10.40 special permit on the condition that the work proposed conform to the drawings entitled "Proposal for 19 Huron Avenue Residents" prepared by Douglas Okun & Associates dated April 10, 2023 initialed and dated by the Chair.

And further, that we incorporate the supporting statements and dimensional forms submitted as part of the application.

We have no conditions.

On the motion, then, Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor. The matter is accepted. Congratulations.

DOUGLAS OKUN: Thank you.

JIM MONTEVERDE: You're welcome.

DOUGLAS OKUN: Bye, now.

* * * * *

(8:14 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: Next case is 221389 -- 35 Kinnaird Street. Is there anyone who wishes to be heard in this matter?

DAVID WHITNEY: Yes, hello. This is David Whitney. I'm the Architect for the project.

JIM MONTEVERDE: Thank you. You want to tell us what -- this is a special permit. Would you like to tell us what you're proposing and what relief you're seeking?

DAVID WHITNEY: Yes. Happy to. If it pleases you, I can be as brief as Mr. Okun was.

This is a two-family house we're converting to a single-family house. We don't propose any changes to the shell of the -- the size of the building, that is. We're here only because the existing building is nonconforming.

We wish to change the location of some windows on the side of the house. We're projecting for required setback. There's an existing exterior door and landing on that side that frankly project right up to the property

line. We'd like to remove those and replace them with something similar at the back of the house.

JIM MONTEVERDE: Excellent. Any questions by members of the Board?

WENDY LEISERSON: No questions.

STEVEN NG: No questions.

JIM MONTEVERDE: Thank you.

VIRGINIA KEESLER: No questions.

JIM MONTEVERDE: We have --

CAROL AGATE: No questions.

JIM MONTEVERDE: Thank you. Thank you. I'll move on to the public comment. Let me recognize that there is one -- we have one correspondence in the file in support. That's from David Cohen, dated 06/17/23, in residence at 37 Kinnaird Street. And that is all of the correspondence we have.

So if -- any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6. Is there anyone who wishes to speak?

[Pause]

We have no one. Okay. Moving on, any discussion from the Board members, or are we ready for a motion?

WENDY LEISERSON: Ready.

JIM MONTEVERDE: All right. And this is a special permit. The Chair makes a motion to grant the relief from the requirements of the Ordinance under Sections Article 5 Section 5.31, Article 8 Section 8.22.2.2, and Section 8.22.2.c and Article 10 Section 10.40 for a special permit. On the condition that the work proposed conform for the drawings entitled " --

DAVID WHITNEY: Lim --

JIM MONTEVERDE: -- yeah. "Lim-Schoettler Residence, 35 Kinnaird Street." did I get that right, or did I --

DAVID WHITNEY: Yes, that was great. Thank you.

JIM MONTEVERDE: Thank you. -- prepared by David Whitney, Architect, and dated 04/28/23, initialed and dated by the Chair.

And further, that we incorporate the supporting statements and dimensional forms submitted as part of the application. And then we move to a vote.

Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Thank you. Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five affirmative. That's unanimous. Relief is granted. Thank you.

DAVID WHITNEY: Sure. All right. Thank you very much.

* * * * *

(8:18 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: The next case is 220427 -- 47 Magee Street. Anybody wishing to be heard?

TIMOTHY FRASER: Thank you, Mr. Chairman. Timothy Fraser from the law firm Dain, Torpy, 175 Federal Street in Boston. I think on the line also is my client, Foster Starks, III, the owner of 47 Magee.

JIM MONTEVERDE: I was going to say, that's lots of horsepower for two window wells.

TIMOTHY FRASER: [Laughter]

JIM MONTEVERDE: But go right ahead.

TIMOTHY FRASER: Great. Thank you, sir. Yes. So I guess you kind of just cut to the chase with it. We are seeking to just add two window wells to add additional egress to the basement area.

The applicant's a 30-year resident of Cambridge. He's actually a 30-year resident of this property. It was owned by his grandmother since the 1980s, and she's a retired Cambridge Police officer.

But he recently assumed ownership. He continues to live there, but as his family grows, he's seeking some additional living space. So in order to do that in a safe manner, we proposed the plans which add these basement window wells.

JIM MONTEVERDE: Thank you. And I think my plan -- the advertisement says, two window wells. One of the drawings shows three. The survey shows two. Hence my confusion.

TIMOTHY FRASER: Yeah, I think --

JIM MONTEVERDE: Are we dealing with two new window wells?

TIMOTHY FRASER: So we're dealing with one on the left side of a new window well and two on the right side.

JIM MONTEVERDE: So it's three?

TIMOTHY FRASER: Yes.

JIM MONTEVERDE: Okay. So you're adding three window wells?

TIMOTHY FRASER: Yes, sir.

JIM MONTEVERDE: Okay. That's the way it looks. So yep. Okay. Anything else?

TIMOTHY FRASER: No.

JAIME MATEUS: Counselor?

TIMOTHY FRASER: Obviously -- being there for 30 years have a really good relationship with the folks on the left and the right and the rest of the neighborhood, and they -- as far as my understanding is not opposed to the addition of these wells.

Nothing else, as you know, is being changed to the building footprint and still continues to conform with the existing streetscape.

JIM MONTEVERDE: Okay. Thank you.

TIMOTHY FRASER: Thank you, sir.

JIM MONTEVERDE: I'll open it up to questions from members of the Board. Any questions?

STEVEN NG: No questions.

WENDY LEISERSON: No questions.

JIM MONTEVERDE: Okay. Then we'll move on to public comments. We have no correspondence in the file, either for or against. So we will open it up to the public commentary.

Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

OLIVIA RATAY: Evette Layne?

EVETTE LAYNE: Yes. This is Evette Layne, resident and homeowner at 43 Magee Street, wanting to speak in support of my neighbors and their proposal to add the window wells to their property. Thank you.

JIM MONTEVERDE: Thank you. Thank you for calling in. And that is the extent of public comments. I'll send it to the Board for discussion. Any discussion from the Board, or are we ready for a motion?

COLLECTIVE: Ready for a motion.

JIM MONTEVERDE: All right. I like your enthusiasm.

The Chair makes a motion to grant the relief from the requirements of the Ordinance -- this is a special permit -- under Sections: Article 5 Section 5.31, Article 8 Section 8.22.2.d, and Article 8.22.2.c, and Article 10 Section 10.4, for a special permit on the condition that the work proposed conform to the drawings entitled "Proposed Renovation, 47 Magee Street" prepared by -- oh, good thing I have my trifocals on -- oh, T Design, LLC, and dated

01/16/23 initialed and dated by the Chair.

And further, that we incorporate the supporting statements and dimensional form submitted as part of the application.

On the motion, Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: In favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor. Special permit is granted.

TIMOTHY FRASER: Thank you, Jim Monteverde. Thank you very much, members of the Board.

JIM MONTEVERDE: You're welcome.

TIMOTHY FRASER: Have a good evening.

JIM MONTEVERDE: Yep. Thank you.

* * * * *

(8:23 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: Next case is 223906 -- 11 Perry Street.

JAMES RAFFERTY: Good evening, Mr. Chair. For the record, my name is James Rafferty. I'm an attorney with offices located at 907 Massachusetts Avenue in Cambridge.

I'm appearing this evening on behalf of the applicants, Jeff and Shary Berg - B-e-r-g. Mr. Berg is present for the meeting tonight, as is the Project Architect, David Torrey.

This is an application that seeks a variance to convert an accessory structure on a lot containing a two-family dwelling on Perry Street. Mr. and Mrs. Berg have lived at this home for 40 years or so, but I could be corrected on that.

The lot is unique in that the house itself was built in 1873. If you were to look at the site plan, you'd see that in the rear of the property -- running the length of the property is a structure that was constructed as a

barn. Many of the original timbers and elements of the barn are still present.

The barn has been used merely for storage. It does contain one parking space, one garage-style space for a vehicle, but it doesn't have any running water, it does not have any electricity.

It really is being converted principally because of the domestic living situation that the applicants find themselves in. The Bergs are -- have been there a long time. Unfortunately, Mrs. Berg is experiencing significant health challenges. Their daughter lives on the first floor of the existing house. They live on the second floor.

The goal here is to be able to construct a dwelling unit in the barn that will allow for better access and accessibility, including the installation of an elevator.

The lot itself is of a size that this additional dwelling unit is within the density allowed for the lot. It's a lot that could accommodate four units and introduce only a third unit.

What's necessary for zoning relief is the fact that this is a nonconforming accessory structure. As Board

members know, accessory structures need to be five feet off the rear and side lot lines. The rear lot lines here are nearly zero, a condition that has existed for more than 100 years.

So the hardship is directly related to the existing structure on the lot, the size of the lot, and it also represents an opportunity here to add a dwelling unit to the housing stock in Cambridge. That is one of the purposes identified in Section 1.30 of the Ordinance for the purpose of the Zoning Ordinance to provide housing.

It also states that the purpose of the Ordinance is to encourage the most rational use of land. I would suggest that converting this structure, which is nothing but volume and mass now, to an actual dwelling unit to allow a longtime homeowner to age in place at the same site is actually a very rational use of this property.

There are some letters in support in the file from abutters. Mr. Berg did an effective job in reaching out. Sent letters to nearly all of his abutters that appeared on the Parties of Interest list provided by the BZA office. And he's had personal conversations. He has had e-mail conversations and has made it very clear what the purpose is

here.

This is an application that does include a modest change to the structure in the form of some dormers. They're dormers in name only. They really function more as clear stories.

The dormers themselves are located nine feet off the floor of the windowsill of the dormers so that no one standing in the area will be able to see out the dormer. The dormers will provide light and ventilation. It will be open through a mechanism, a pole of some type.

But the point is given the height of the dormer and where they're placed on the roof, the dormers do not represent any change in GFA.

So it's a variance because the accessory structure doesn't -- first of all, doesn't comply to accessory, and it -- so it doesn't fit the accessory exception.

We're also changing the use. It's going from a barn/storage to residential. So it's necessary to allow this preexisting, nonconforming condition that has existed for a storage building to continue to exist for a dwelling unit.

Mr. Torrey is here, and we're happy to walk the

Board through the plan. You can see it's about one-third of the barn will remain as a garage, and the apartment will have two stories and an elevator that will be very critical to allow Mrs. Berg to continue to remain at home in this location.

DAVID TORREY: Hello. David Torrey here. What we're looking at is the basement. So really, we should move right along. These are existing conditions.

If you go to the next --

Oh, proposed basement plan, no change, it's a low ceiling. It'll be still used for storage, as it was. This is the first-floor plan existing. You can see the garage and the storage room next to it. And there is a set of stairs, and then storage.

Go to the next plan and you'll see the proposed first-floor plan. Here we have the garage remains the garage. We just widen it for function. And then you start to see the apartment being built inside the storage section. And you see the stair going right up and a lift, a vertical wheelchair lift. It's like an elevator and it would be serving like an elevator.

The next plan would be the upstairs wide open

empty storage space, and then the next plan we'll show you the bedroom scenario here with the lift arriving at the upper level, along with the staircase, and the accessible unit essentially a single bedroom on the left, and then a second bedroom on the right.

If you keep going, you might see this dormer showing up. There they are. The roof plan: Well, the back side of the building is going to get some daylight coming in and some ventilation on a blank roof. The south side is going to have skylights and solar panels.

So this is really going to be a green construction and maybe Zero Net Energy, if we can make that work.

The next drawings will show, well, that's the existing side wall. And then if you go to A, that's really the same thing, you start to see beyond the roofline way over there, those little two – small two dormers, each one seven-and-a-half wide.

So even on that long roof, we've only got a 15' wide dormer. And see how it sits back at the top and bottom. So it definitely complies with this – even the Guidelines for much smaller, shorter buildings than this.

Next picture would be the south façade; is the one

that we're really going to change by rebuilding that with more glazing and have one garage rather than two. If you go to A-201, it would be the proposed south elevation -- not that it looks terribly different, but --

JAMES RAFFERTY: I just should note that this façade has the only conforming setbacks, so these openings --

DAVID TORREY: That's true.

JAMES RAFFERTY: -- these openings are not a subject of the application.

DAVID TORREY: Right. The -- and if we keep walking around on the elevations, you can see that the existing windows are there, and then we are not changing them. Here we go.

On the next page, you'll see that that's the proposed. It's really the same windows are there. The next elevation is the rear. This faces a parking lot and a fence, basically. And those two marks are where the dormers go. There they are. And you notice they are high up in the air.

I think we have a cross section even on this drawing set to show you; here's the existing with openings

for things dashed, and then the new work would be on A300 there's the dormer. Notice that the windowsill is high above the ground, and if you were to look from the back lot, you would see the ceiling of the house of that room, nothing else. And you can't even see out.

This is the full plot plan. And there's -- that's -- oh, yeah, here's the existing condition site plan. Notice how the barn filled the whole lot, but it's a deep lot. And so that's why three units could fit on this spot. It's a pretty large lot, but it's got this barn filling up the entire back. It doesn't quite touch the property line.

And then the next drawing is how it's planned to be developed, essentially apartment; garage. Some in-tandem parking and open space that conforms with Zoning. Here we go. I think that's probably what we have. Is that right? Yep.

JAMES RAFFERTY: That is the extent of our presentation. Thank you, Mr. Torrey.

DAVID TORREY: All right.

JIM MONTEVERDE: Thank you very much. Any questions from members of the Board?

CAROL AGATE: No questions.

JIM MONTEVERDE: No questions? Okay.

WENDY LEISERSON: I just have one question, please?

JIM MONTEVERDE: Yep.

WENDY LEISERSON: There was a letter in the file about parking concerns.

JIM MONTEVERDE: Yep.

WENDY LEISERSON: And I just wondered, the author of that letter was referring to tenants and two more cars. Can you just explain what that's referencing, please?

JAMES RAFFERTY: Well, happy to, Mr. Chair, if -- at this time. The letter actually happens to be from a former Chair and longtime member of this Board, Vincent Panico. He's a longtime neighbor of the Bergs.

His letter addressed the fact that they've had a conversation. His concern was that there will be now an additional dwelling unit, which is correct. So the current second-floor apartment that Mr. and Mrs. Berg currently occupy will become a rental apartment, they'll be -- one of the units in the two-family house. So the reference to the additional vehicle.

At the present time, though, the Bergs have one

vehicle between themselves and their daughter. So the lot is deep. It can easily accommodate an additional vehicle, which seems to be all that's required.

It's also the case, as the Board members know, that the parking minimum requirements have been removed from the Ordinance. So we -- if this were an application perhaps a year or so ago, we perhaps might be needing a special permit for parking. But as the Board knows, that is no longer the case.

WENDY LEISERSON: Thank you, Mr. Rafferty.

JIM MONTEVERDE: Yep.

JAMES RAFFERTY: You're welcome.

JIM MONTEVERDE: Any other questions from members of the Board?

STEVEN NG: No questions.

JIM MONTEVERDE: Thank you. Thank you. And as Wendy referred to, there's only one piece of correspondence in the file dated June 24 from Vincent Panico. It was just described, and it talks about concern about parking and the agreement that the -- when there is street cleaning, that cars will be parked in the long driveway. That is all of the correspondence in the file.

I will open it up to public comments. Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

OLIVIA RATAY: Nat Finley?

SHANNON FINLEY: Hi. This is Shannon Finley with my husband, Nat Finley. We live across from Shary and Jeff. We've lived across from them for seven years. We live at 10 Perry Street.

And I would like to say I'm in favor of this project. They've been probably the kindest neighbors that we've ever encountered, and it would be heartbreaking to see them have to move only because of medical conditions. I know they love the neighborhood, and they've raised their children here.

I also agree with the statement that the building right now, it's somewhat dark back there, and I think being animated by someone living there will actually make the neighborhood even nicer, especially considering it's a relatively low scale building and has a lot of character.

And so, to see lights on in there and people back

there I think would be great.

JIM MONTEVERDE: Thank you. That's the extent of public commentary. I'll send it back to the Board. Any discussion from Board members? Are we ready for a motion?

WENDY LEISERSON: Ready.

VIRGINIA KEESLER: Ready.

JIM MONTEVERDE: All right. Thank you. The Chair makes a motion to grant the relief from the requirements of the Ordinance under Sections -- and this is a variance -- Article 5 Section 5.31, Article 8 Section 8.22.3, Article 10 Section 10.30 for a variance. On the condition that the work proposed conforms to the drawings entitled "11 Perry Street Cambridge, Massachusetts," prepared by Torrey Architects and dated March 14, 2023.

And further, that we incorporate the supporting statements and dimensional forms submitted as part of the application.

And further, that the variance is granted incorporating the following condition -- and that's the one contained in the correspondence that proponents agree that on street sweeping days, their cars will be parked only in the long driveway.

JAMES RAFFERTY: Mr. Chair, can I be heard on that?

JIM MONTEVERDE: Yep.

JAMES RAFFERTY: I noted that the offer of the letter did not request that to be a condition of the decision, and he's well familiar with decisions. That's an agreement that was made between neighbors. It certainly makes sense, but to impose a condition around parking when the application doesn't speak to parking or seek relief from parking frankly is out of question.

JIM MONTEVERDE: It's true.

JAMES RAFFERTY: And I think there's questionable enforceability. These conditions, as you know, live forever in these variances. I'm not sure how we can expect ISD to check out on street cleaning days that a vehicle is being moved into that location. It's a neighborly agreement, and I would respectfully suggest it perhaps is best dealt with between neighbors and need not be a condition of this relief.

JIM MONTEVERDE: Okay. If the other Board members agree, we will strike that as a condition, so that --

WENDY LEISERSON: I agree.

STEVEN NG: Totally support that.

VIRGINIA KEESLER: Agree. Yep.

JIM MONTEVERDE: So the statement will end, "And further that we incorporate supporting statements and dimensional forms submitted as part of the application." On the matter for the Board to vote, Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: It's unanimous.

JAMES RAFFERTY: Thank you very much, Mr. Chair, and members of the Board. Have a good evening.

JIM MONTEVERDE: You're welcome. Thank you.

DAVID TORREY: Thanks very much.

* * * * *

(8:42 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: The next case is No. 223613 -- 56 Walden Street. Is there anyone here who wishes to speak on this case?

JOHN DEGNAN: Yes. Good evening. John Degnan, petitioner and contractor for the property 56.

Could you put up slide 15? It's first photo. I don't see it. Is it up?

CAROL AGATE: It was, briefly.

JOHN DEGNAN: Okay. There we go. It's the -- 56 Walden is the building in the rear, the four-story single-family. And put up the plot plan right -- 14. Okay.

Relief is being sought for a six-for-six (sic) elevator shaft -- that's the dashed right in there -- to be located on the rear of the building. This will enable the owners the needed wheelchair accessibility to all four floors. The owners, Steve Cox and Cheryl Smith need the elevator for medical reasons in order to age in place in their home.

There is no practical way to have an elevator on the interior building due to the small footprint. It's only 11'9 on one side and 20'9 on the other side. The elevator addition will not be visible from the street, nor block any neighbors' views. And this house is located right next to the railroad tracks, which is on the left there.

The variance is sought for the following conditions: Rear yard setback and the additional FAR for the elevator.

And I'll turn this over to Ralph Kilfoyle, the architect.

RALPH KILFOYLE: Hi. Good evening. Ralph Kilfoyle, 825 Beacon Street, Newton Center, Architect on this project. There's the site plan to familiarize yourself. The train tracks are to the left just north-facing.

This proposed elevator footprint of 5.9' x 5.9' is going to total x four floors, 138 square feet of additional FAR. That is less – ttah is 2.9 percent of our lot area.

In yellow, that is the proposed location of this elevator. Four stories. It's the best we could do, given all the difficulty of this property.

If anybody's familiar, there's nothing to work with here. And there's nothing to work with within the existing floor plans of this four-story very small dwelling unit.

And once again, the -- there's absolutely no sunlight blockage occurring here. North is facing south in this view here. So eastern sun shadows will just cast right back to the existing building. Southern will face right onto that stair, and western will get 100 percent blocked.

There is no implications to anybody's lack of sunlight anywhere within this vicinity of this proposed elevator.

After that, why don't we kind of quickly go through the floor plans.

This is the ground floor. So the path of travel will take you right through that mechanical room. We did provide 3' doors I recall, so that is helpful. But there's not a lot of space in there. The two blue circles are our sprinkler system for this building, because it's four stories. And then -- and you can get to the garage, which is a small component there.

But basically, that's our ground floor. So if you

wouldn't mind going up to the next one; family room is kind of accessed directly from the elevator. Kitchen and dining opposite side. The stair just stacks right up through the whole home. It's a U-shaped stair. So we think this is an ideal location. Obviously, to consider all floors, we need to make this practical and efficient.

Next floor up, please?

Okay, that's bedroom 2, potentially a partition for privacy could get created there, if need be, in the future to create maybe a hallway. But I think we're going to initially just leave it open access to this bedroom 2 suite, direct to the elevator.

And let's go up one more plan.

I think back. Well yeah, okay.

So here's the master at the top. And you can see how the elevator would access nicely in the corner. The bedroom -- I should have actually put some furniture and a bed in there because, you know, needless to say, wheelchair mobility requires a 5' turning radius and some other, you know, open space to navigate around and within that bedroom.

So this is absolutely our need here is to set this elevator outbound of the footprint, rather than inbound.

And we can talk about that further. But there's nothing to work with on this very tight small-scale footprint at 723 square feet per floor. That's 2, 3, and 4.

The first floor is a little bit less because of what we're cantilevering just under 5' on 2, 3, and 4. If you know the building, we can look at some of those pictures.

Maybe just quickly go to the exterior elevation views. Those are provided.

This view, needless to say you do not see it. So from the street, no one will see this elevator, unless you're up -- well, no, there's no way to see it. You'd have to head way down, this is impossible.

So next view, please?

Right side, okay.

Well, that's a southern-facing elevation. And like I said before, there's on detriment to anybody regarding sunlight, except the fact that it's just going to shadow itself a little bit.

Left side, well, you'd see a little pop.

It's about a foot there on the far left. We've got a trapezoidal floor plan, and so, I just did these as

head-on elevations and that's -- driving by on the train, that's what you'd see.

After that, I think we have a rear view.

And okay, now it does look more three-dimensional. A little 6' x 6' box stacked up four floors, just to kind of better understand this; simple flat roof at the top. And no windows.

Siding would be incorporated to just continue the existing siding treatment architecturally. Minimal kind of corner boards. We're just literally making this as small as we can. We've already consulted with our elevator supplier to frame this as tight as possible, with respect to the construction.

All the mechanical, the noise making off, there's not going to be any exterior mechanical serving this elevator. It will all be provided in the mechanical room at the basement level. So no noise created.

After that, maybe we should quickly go back to 10 as the site plan again. Once again, Walden out the bottom there, this -- it leads -- which was the original existing two-family that got renovated as part of this project is right there in the front.

And there's our trapezoidal rear single-family dwelling in the back.

JIM MONTEVERDE: Very good. Anything else to add?

RALPH KILFOYLE: Well, we can talk about 11, which is the numbers. We'll talk about that in response to some questions. Like I said, the request here is 2.9 percent FAR to accommodate four floors of this elevator.

And needless to say, it's not four floors of living space, it's just a ma vertical shaft. We're not enhancing the family room by 138 square feet, as I obviously showed you in those floor plans.

And we're really citing no detriment to the neighborhood. We have letter of support that can be identified and read. There's been no opposition that I know of. Doctors' orders from the owner are basically, obviously, in support of necessity of the elevator over, say, a wheelchair stair lift or something less accommodating to the owners' needs.

JIM MONTEVERDE: Okay. Thank you.

CHERYL SMITH: This is the owner, Cheryl Smith, and my husband, Stephen Cox. And unfortunately, our webcam decided that is needed to start updating three minutes ago.

So you won't see us, other than my photo here.

And we did consider trying to do stairlifts. But because Steve has difficulty transferring and the way that the floors are, you know, the stairs are -- require two transfers per floor, that would be eight transfers every time you wanted to go from top to bottom, and that would be a significant hazard to his health.

We are -- we wanted to move to this neighborhood, because Steve is frequently in Mount Auburn Hospital. This has access to Mount Auburn Hospital. It has access to his doctor.

We are Cambridge residents right now in Kendall Square. We bought this house as one that we can find that we could get an elevator for. So that was our sole purpose in trying to move was to find a place where we could live where Steve could access his bedroom as well as the kitchen simultaneously.

Steve, do you want to talk?

STEVE COX: No, no, I'm good.

CHERYL SMITH: There you go.

JIM MONTEVERDE: Okay. Thank you for your comments.

Any questions from members of the Board?

WENDY LEISERSON: No questions.

STEVEN NG: Yes. Question for the architect, Mr. Kilfoyle. The elevator, is their -- the associated equipment like the pump or machine-room type stuff, is that going to be in that mechanical room?

RALPH KILFOYLE: Yes. And needless to say, it's not like a big commercial elevator.

STEVEN NG: Right.

RALPH KILFOYLE: From what I recall, the last one I did did not require much, just --

STEVEN NG: Okay

RALPH KILFOYLE: -- just a little -- little, you know, machine area that we could probably even put into our closet to hide it. Obviously need to maintain a path of travel there.

STEVEN NG: Exactly. I think as long as you're providing adequate access for the users, that’s all my question was about.

RALPH KILFOYLE: Yeah. We possibly may end up with a little bit of renovation to that. Everything's built here. This, again, is not like some kind of a proposal. So

I'll talk to the contractor, and we'll see -- we're going to do the best we can here to provide as much open space within that --

STEVEN NG: Yep.

RALPH KILFOYLE: -- transition as possible.

STEVEN NG: Thank you.

JIM MONTEVERDE: Any other questions from members of the Board? No?

JIM MONTEVERDE: Okay. So I'll open it to public comment. Oh, sorry. And we have five letters in the file in favor and none speaking against.

We have a letter from Ricardo Wellisch dated June 12, 2023, writing in support. Mr. Wellisch is a primary care provider and supporting the need for the elevator. Meghan McEachern dated June 19, 2023, in support of the proposal.

Not going to dare try these first names, but the last name Pilania and last name Jakhar; June 19, 2023. They are in support of the elevator addition. Scott Schneider speaking in support of the variance, and Danforth Nicholas and Darth May dated June 18, 2023, in support. Amelia Wright, dated June 16, 2023, in support.

And those are the letters in the file. So that's five in favor and none in opposition.

Public comments: Any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

[Pause]

And we don't have anyone calling in. I'll send it back to the Board. Any discussion, or are we ready for a motion?

WENDY LEISERSON: Ready.

VIRGINIA KEESLER: Ready.

JIM MONTEVERDE: Before we go to a motion, I just -- I have one question for the architect, and that's understanding that the house or at least parts of it need to be made accessible -- and this has nothing to do with the variance request, just my own curiosity -- are there other renovations planned for inside the unit to allow wheelchair accessibility around?

RALPH KILFOYLE: At this time, I don't believe so. But we will cross that bridge. Possibly the doorways. Some

of the doors may have been just too [indiscernible] here and there, I forget.

So the extent of -- to answer your question, I think we would possibly be changing a couple of the interior doors to 3' doors.

JIM MONTEVERDE: Yeah. I do suggest you look at -- I'm assuming the proponent used the master bedroom. I think in a wheelchair I'm not sure he had access the water closet. You could certainly use the rest of the bath, but I'll leave that to you and the proponent to figure out.

RALPH KILFOYLE: Thank you. Yes. That's something we'll handle independently.

JIM MONTEVERDE: Yep, please. Just take a look. All right. Onto a motion. The Chair makes a motion to grant the relief from the requirements of the Ordinance under Sections -- this is a variance -- Article 5 Section 5.31 and Article 10 Section 10.30 for a variance on the condition that the work proposed conform to the drawings entitled "Unit 3, 56-58 Walden Street Condominium."

Before I go any further, do we have a letter from the condominium? Is there a Condominium Association?

JOHN DEGNAN: There is. Two of the proposed in

favor of are in there. The other two members --

JIM MONTEVERDE: Yep, yep. Okay.

JOHN DEGNAN: -- Units 1 and 2 of 56 --

JIM MONTEVERDE: Meghan, yep --

JOHN DEGNAN: Yep.

JIM MONTEVERDE: -- McEachern is 56.

JOHN DEGNAN: And then -- right.

JIM MONTEVERDE: And then Pilania last name and Jakhar are 58.

CHERYL SMITH: Shailja, yes.

JIM MONTEVERDE: Okay. Fine. So you've -- we've cleared that up. So let me go back. The drawings prepared by or dated -- sorry -- for Unit 3 for 56-58 Walden Street prepared by RDK Architects, dated June 22, 2023, initialed and dated by the Chair.

And further, that we incorporate supporting statements and dimensional forms submitted as part of the application.

On the motion, Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That is unanimous. The variance is granted. Good luck.

RALPH KILFOYLE: Thank you.

JOHN DEGNAN: Thank you.

CHERYL SMITH: Thank you very much.

STEVE COX: Yes, thank you.

JIM MONTEVERDE: Yes. You're welcome.

* * * * *

(8:58 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: Next case is 221566 -- 145 Willow Street.

ANDREW PLUMB: Hi. Good evening. This is Andrew Plumb, the Architect.

JIM MONTEVERDE: Yep.

ANDREW PLUMB: Can you hear me?

JIM MONTEVERDE: Go right ahead. Yep.

ANDREW PLUMB: Okay, great.

JIM MONTEVERDE: We can. Thank you.

ANDREW PLUMB: Thank you, Mr. Chair and members of the Board. Our variance request this evening is to look at the parking and accessible access to the common areas on the property at 145 Willow Street.

This is a project that came before the Board. Initially, when we got initial approvals to change the use, and then we came back a second time for some revisions to the dimensions of the accessible ramp, which is at the front of the house.

And we are coming before you a third time because I frankly realized after the second time that we had been here that we have a dimensional discrepancy in that in the prior review and hearings, we proposed and were granted a single parking space.

And this dimension of that parking space that was granted was 8'x6 wide by 18’ long, which is what the ordinance requires.

But then looking more closely, I realized that we -- in order to actually maintain a 3' clear path, accessible path to the common areas on the property, that we can't have the both ways and maintain that 3' path and an 8'6 parking space with the available space that we have.

I should say that we -- because it's a new three-family building, the first-floor unit was designed and built as an accessible-ready unit. Hence the ramp and the sort of zero-threshold front door to the building and to the unit itself on the first floor and, you know, the cabinetry and bathrooms and all these things were designed so that, you know, it could be converted without structural changes.

But part of that is that the trash storage and bicycle storage is at the back of the lot. And there's also

a common garden space for all of the occupants of the building, which, of course should be, you know, also accessible just like the first-floor unit is.

And so, I think probably the best drawing to explain what we're seeking here for relief is Z0.3a. I think it's page no. 9 on the PDF. Go -- there's like an enlarged plan. Yeah. That one.

So the issue here is that we've got a lot that's 35' wide, so it's a nonconforming lot. And we were literally using every inch in order to make this work.

So moving from left to right, from the left property line, we've got the required landing, a ramp at -- you know, the required slope, and then a landing at the top.

We have a step down from that landing onto the parking area. And then you can see where I've dimensioned a 3' line, which would be the accessible path, and then the 7'6 which would be the parking space.

So what's currently approved is an 8'6 parking space, which makes it not possible to maintain this 3' clearance to, you know, traverse from the sidewalk onto the common space in the back.

And that's really the issue is that, you know, the

variance, the prior granted variance was for this parking space at this dimension. Our accessibility requirements is this 3'. We can't achieve both unless we reduce some of the width of the parking space.

And I just want to point out that the -- functionally, I think that it's clear that the parking space will operate just fine and not really be more difficult to use. There's only one car. There's ample room to maneuver to get into the spot where they're going to be.

And, you know, the detriment to the property but also the neighborhood would be to either not provide an accessible route or not provide one off-street parking space, which was sort of the only -- when we did our community outreach process, the only thing that was of concern to those who engaged with us was, you know, providing some off-street parking.

And so, we think it's sort of a reasonable ask to grant that this parking space be officially considered 7'6 wide instead of the 8'6 so that we can kind of dot the is and cross the ts on this and just say that that's the size of the parking space and we're meeting all the requirements.

JIM MONTEVERDE: Okay. Thank you. Any questions

from members of the Board?

VIRGINIA KEESLER: This is Virginia Keesler --

CAROL AGATE: Well --

VIRGINIA KEESLER: Oh, you can go, Carol.

JIM MONTEVERDE: Virginia, do you want to go?

VIRGINIA KEESLER: Sure. I was just curious which unit the parking space was associated with. My understanding was that the requirement for an accessible parking space under the ADA is 8' wide. So I was just wondering how --

ANDREW PLUMB: Yeah. It's not -- the parking space is associated with the third-floor unit, which is not an accessible unit. And we're not required to provide an accessible parking space in this case. So it's not meant to conform to that dimension.

VIRGINIA KEESLER: Thank you.

JIM MONTEVERDE: Any other questions?

CAROL AGATE: I'm puzzled as to why there was an issue. Because the Section 6.42 allows the 7.5' for a compact car. I'm not sure exactly how it's determined whether a car has to be compact. But it seems the Regulation does say 7.6 is fine.

ANDREW PLUMB: My understanding was that you can only my understanding was that you can only -- according to the Ordinance as it's current written, you can only have a compact space for those dimensions if you have at least five spaces that you're providing.

And then the second issue is that what we've already had approved through this Board was an 8'6 wide space. So I just felt like we needed to come back and correct that and allow the 7'6 so that down the road there's no question about whether there's the right -- you know, we provided a space that was the right width.

JIM MONTEVERDE: Thank you. Any other questions?

STEVEN NG: Yeah, Steven Ng.

JIM MONTEVERDE: Yeah. Steven?

STEVEN NG: So would it be -- is it condos, or is it in the lease, the third-floor party would have to acknowledge they can't have a car wider than 7'6?

ANDREW PLUMB: Yes. So the way the condo docs are prepared is that it defines what the location and dimension that's available for them to park their car.

There are no cars that are street legal that exceed 7'6 in width in any case, but the -- it's delineated

in the condo docs that, you know, this is the space that's available for you to park your car and not -- and you have to maintain this 3' variance.

And in addition to that, actually, we're planning to have the paving pattern at the parking change relative to the pathway so that there's sort of a visual hue of where the parking space is versus where the pathway is.

I realize in this drawing I showed the pavers sort of in a continuous pattern, but since we submitted this, we've actually decided it will change the pattern where the car goes so that there's a clear, like, you know, visual cue about what's the parking spot versus what's the pathway that has to be -- remain clear.

STEVEN NG: Yeah. That'll help. Yeah. Thank you.

JIM MONTEVERDE: Any other questions? Yep.

WENDY LEISERSON: I was just about to ask about a visual delineation. So Andrew, I applaud your thoughtfulness to this project.

ANDREW PLUMB: Thank you.

JIM MONTEVERDE: Thank you. I have one question. Not being a fan of parking in the front yard. Do you have

any ability to move that parking spaces so that it is not in the front yard?

ANDREW PLUMB: I don't. And it's -- I mean it's -- it would be to the detriment of the sort of common space, you know, for the building. So we -- yeah, this drawing kind of is not showing the entire garden but basically, what's planned there is a path and a garden space for the use for everybody. And we hope to, you know, attract families. And there's just not a lot of space here.

And so, it just seems a shame to give that over to -- to a car, when it could be something that's, you know, could be enjoyed as outdoor space.

JIM MONTEVERDE: Except that it would be compliant with the Ordinance.

ANDREW PLUMB: Well, yes. However, we already asked for locating the parking space within the front yard setback and received it. And that was really the -- sort of the --

JIM MONTEVERDE: Okay.

ANDREW PLUMB: -- existing condition that was there ahead of time. There's some existing photos in here of the before we started the project and where we are now.

I think it's towards the end. But basically, there was a sidewalk, there was a fence, and then there was, you know, the parking.

And I understand and agree with you that in general, you know, if it can be helped not putting the parking in the front yard setback.

I also am concerned about our impervious cover having more paving there. I know we're very tight on that, and the City's extremely concerned about runoff and things like that.

So given all of that, we're just, you know, trying to do our best here to provide the off-street parking and provide the accessibility for the building.

JIM MONTEVERDE: Okay. Thank you. Any other member have any other questions?

OLIVIA RATAY: No one.

JIM MONTEVERDE: No one?

OLIVIA RATAY: No.

JIM MONTEVERDE: No? Okay. I have no -- we have no correspondence in the file. So I will open the matter to public comment. Any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen

that says, "Raise hand."

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

And we have no one on the line. I'll send it back to the Board for any final discussion.

If we have no discussion, then are we ready for a motion?

WENDY LEISERSON: Ready.

VIRGINIA KEESLER: Ready.

JIM MONTEVERDE: All right. Thank you. The Chair makes a motion to grant the relief from the requirements of the Ordinance under Sections Article 6, Section 6.42 and Article 10 Section 10.30, Variance, on the condition that the work proposed conforms to the drawings entitled "145 Willow Street" prepared by Aamodt Plumb Architects, dated -- not dated, I'll put today's date on it -- initialed and dated by the Chair.

And further, that we incorporate supporting statements and dimensional forms submitted as part of the application.

Further, the variance is granted and incorporated in the following condition: And that condition is that the

pedestrian path or however you want to phrase it, the vehicular parking space, its paving pattern will be different than the adjacent walkway.

And [with] that, we're ready for a vote. Steven?

STEVEN NG: In approval.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five affirmative; the variance is granted.

ANDREW PLUMB: Thank you very much.

JIM MONTEVERDE: You're welcome.

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(9:12 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: The next case is 223469 -- 50 Concord Avenue. Is there anyone here who wishes to speak on this case?

KELLY BOUCHER: I wish to request a continuance for the case on 50 Concord Avenue, to give the homeowners more time to respond to some of late filed neighbor letters that were submitted not in support earlier this week. So we're requesting a continuance.

JIM MONTEVERDE: Okay. And the date we have? July 27? Let's see. We already had a July 27 date that worked for the Board members.

CAROL AGATE: I had a --

JIM MONTEVERDE: Oh, I'm sorry.

CAROL AGATE: -- problem with July 27.

JIM MONTEVERDE: This group --

CAROL AGATE: But if I can come for just that one, I can do that, but I would not be able to do --

JIM MONTEVERDE: That'll be fine. It will be a

continued case. We can do that. All right?

CAROL AGATE: Can we put them to September? That was the next date that was available, since we don't have any August dates.

JIM MONTEVERDE: Oh, sorry so the July 27 as a continued case doesn't work for you, Carol?

CAROL AGATE: If I come for just that.

JIM MONTEVERDE: Yeah.

CAROL AGATE: Yes.

JIM MONTEVERDE: We can do that.

CAROL AGATE: Um --

JIM MONTEVERDE: Just for you. We can do that.

KELLY BOUCHER: If the case has not been heard yet, does it still need the same group of Board members?

JIM MONTEVERDE: No, that's true. We just need five. So does -- do the other four members, are they available for the twenty-seventh, just to get a head count?

WENDY LEISERSON: Yes.

JIM MONTEVERDE: Okay.

VIRGINIA KEESLER: Available.

JIM MONTEVERDE: Okay. And, as the proponent said, it doesn't need to be the same five people, since it's

been -- since it's a continued case. All right. Let's say July 27, and for a continued case --

Let me make a motion, then, to continue the matter to July 27, 2023, on the condition that the petitioner change the posting sign to reflect the new date of July 27, 2023 and the new time of 6:00 p.m.

Also, in furtherance that the petitioner sign a waiver of the statutory requirement for a hearing. Said waiver can be obtained from Maria Pacheco or Olivia Ratay at the Inspectional Services Department. I ask that you sign it and return it to us by a week from this coming Monday.

KELLY BOUCHER: Yep. I --

JIM MONTEVERDE: Failure to do so --

KELLY BOUCHER: -- actually signed that and forwarded it to Maria yesterday.

JIM MONTEVERDE: Oh, okay.

KELLY BOUCHER: So that should be there.

JIM MONTEVERDE: So we can skip that. Also, if there are any new submittals or changes to the drawings, that those be in the file by 5:00 p.m. on the Monday prior to the July 27, 2023, hearing.

And also, if there are any changes to the

dimensional form and potentially the supporting statements, they also be changed and submitted along with the new documents.

On the motion, then, to continue this matter until July 27, Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor. And this will be a case not heard.

KELLY BOUCHER: Thank you.

JIM MONTEVERDE: All right.

* * * * *

(9:16 p.m.)

Sitting Members: Jim Monteverde, Wendy Leiserson, Carol Agate, Virginia Keesler, and Steven Ng.

JIM MONTEVERDE: The next case, and final is 223517 -- 19-21 Fountain Terrace, Unit 2.

KELLY BOUCHER: My name is Kelly Boucher. I'm also the Architect for the proposal in front of you tonight at Fountain Terrace.

Olivia, could you pull up the drawings, please? Great. Can you move over to the second page? Thank you.

Fountain Terrace is an existing two-family, nonconforming structure. It's currently occupied by a family, the -- who are here tonight to support their statement.

There's two sisters. One sister lives on the first floor in the basement unit, and the other sister, Shannon and her son live on the second floor.

And currently the third floor, although does have some pretty good head height, is unfinished. No windows and doesn't have full stair access.

So we seek a special permit today to increase

existing nonconforming FAR in the form of three third-floor dormers, two located on the left side of the building, which is in the setback and a third located on the right side of the building, which is not located in the setback.

Off both sides of the building, the dormer totals only 15'. So they are designed to comply with the Dormer Guidelines for length.

We are also proposing to remove the existing two-story front porch, which is considered GFA too. It's also a little bit sort of old and outdated.

So they're looking to take it off completely, replace it with a one-story porch with a roof, which then removes 138 square feet of GFA from the second floor of the project.

So the two things we're looking for are dormers, which add a total of 108 square feet, removal of a porch which removes 124 square feet for a total net add of 58 square feet when we're done.

Can you flip through the -- to the next slide?

There's our Assessor's Map.

Next one?

GFA diagrams. You can see the only two floors

that are affected are the third floor. So existing conditions are along the top of the page proposed along the bottom.

And again, here you can see the third floor has two proposed dormers, and then we're unenclosing the second-floor porch on the second floor.

Can you -- so here's our open space diagram, which was largely unchanged by our proposed project.

Next?

So here we're showing the existing plans along the top, proposed plans along the bottom, no work planned at the basement. The first-floor work does just take off that old, enclosed porch. We're extending it slightly on the left side where you can see it's kind of pink by 14 square feet to make it symmetrical across the face of the building. And that's the only change to the first floor.

So if you go to the next?

The second floor, here you can see we are demolishing that enclosed porch in lieu of a new roof, removing that square footage.

And at the third floor, we're adding the three -- the three dormers, as indicated on the plan.

And here's a good view of what the front of the building; now has that old porch and the sliding windows. It's covered in vinyl siding, but we're looking to take that porch off, put a much more traditional porch with a setout stair, four columns, and leave it open at the second floor.

At the front -- and here you can see the driveway side shed dormer, and that one does conform to setback, although does create 103 square feet of floor area.

Can you hit the next slide, Olivia? Thank you.

And here we have the rear elevation where you can see the two dormers at the roof, but otherwise no changes to the rear.

And then along the left side there are the two gable end dormers, one of which encloses the stair in order to get the proper headroom to get a stair up into the space, and the one at the front allows for more livability in that part of the house.

And here you can see the new proposed porch with column.

The next slide has some 3D views before, along the top, and after, along the bottom. You can see the front porch is quite an improvement to the house, and actually a

lot more historically appropriate than the addition that had been there before.

And the -- and you can see on the right side we've got the two gable dormers, and on the left side the shed dormer.

And the last slide is just some context photos of what it looks like now, as viewed from the street.

And that is the Assessor's Map. But that pretty much concludes our presentation. So a special permit for GFA, total added square feet of 58. No other major changes to the property.

JIM MONTEVERDE: Thank you. Before I open this for questions, can you just say again -- you said that at the beginning -- this is Unit 2?

KELLY BOUCHER: This is Unit 2, which is the second floor, which now the only living space is on the second floor, and the third floor is unfinished.

JIM MONTEVERDE: Right.

KELLY BOUCHER: So they're looking to expand that second-floor unit up to the third floor to make a new bedroom, give them --

JIM MONTEVERDE: Yep.

KELLY BOUCHER: -- a little bit of additional living space, add a bathroom, and get a proper --

JIM MONTEVERDE: Yep.

KELLY BOUCHER: -- stair up to that floor with the compliant headroom that we need to do so.

JIM MONTEVERDE: Understood. And the ground floor is Unit 1?

KELLY BOUCHER: The ground floor and the basement are Unit 1. And that floor -- that unit is already two stories now.

JIM MONTEVERDE: And is that a condominium?

KELLY BOUCHER: It is a condominium owned by the family in which the sisters each live in one unit.

JIM MONTEVERDE: Okay. Just because we don't have any letter in the file from the Association, except -- you know, authorizing the proposal. But I'm assuming it's the same family, from what you're saying?

KELLY BOUCHER: It is. Yeah. It is the same family. They are all in support of staying in their house together as long as possible and letting it grow slightly to -- you know, as their family settles in to town.

JIM MONTEVERDE: Okay.

KELLY BOUCHER: They're all on the Zoom too. I 'm sure that --

JIM MONTEVERDE: So --

KELLY BOUCHER: -- if you'd like, they could chime in.

JIM MONTEVERDE: -- just to follow that up, is it one owner or two?

KELLY BOUCHER: Um -- Jan, can you answer that question exactly how the building is owned?

JAN EGLESON: Yes, absolutely. I'm one of the owners. I'm the father. My two daughters share this house. Each daughter owns one unit. So there are two condo units.

JIM MONTEVERDE: Okay. All right. Thank you.

KELLY BOUCHER: Thanks.

JIM MONTEVERDE: So if it's -- if it will be acceptable, I think we'll add -- once we get through, assuming this is approved, if it's approved, we'll ask you to submit a letter from the two owners --

JAN EGLESON: Oh.

JIM MONTEVERDE: -- basically accepting or approving the proposal in front of us.

JAN EGLESON: Absolutely, yes. The --

JIM MONTEVERDE: All right.

JANUARY EGLESON: This has been developed for both of them. Yes.

JIM MONTEVERDE: Okay. Any questions from members of the Board?

WENDY LEISERSON: No.

JIM MONTEVERDE: Okay.

STEVEN NG: No questions.

JIM MONTEVERDE: All right. Public comment? I'll open it to public comment. There's no correspondence in the file. So for public comment, any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand."

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

[Pause]

JIM MONTEVERDE: Crickets. Okay. Back to the Board. Any --

WENDY LEISERSON: Last hearing of the night.

JIM MONTEVERDE: I know. Everybody's tired.

WENDY LEISERSON: Always like this.

JIM MONTEVERDE: Any further discussion or final

discussion, or ready for a motion?

STEVEN NG: Ready for a motion.

WENDY LEISERSON: Yes, I'm ready for a motion. Just as a matter of reminding me, these -- the Dormer Guidelines are all complied with, correct?

JIM MONTEVERDE: Yep.

WENDY LEISERSON: Okay.

JIM MONTEVERDE: Correct.

WENDY LEISERSON: Thank you.

JIM MONTEVERDE: All right. Moving to a motion, the Chair makes a motion to grant the relief from the requirements of the ordinance under Section -- and this is a special permit -- but Sections Article 10 Section 5.31, Article 8 Section 8.22.2, and Article 10 Section 10.40 for a special permit on the condition that the work proposed conforms to the drawings entitled "19-21 Fountain Terrace" prepared by Kelly Boucher? --

KELLY BOUCHER: Yep.

JIM MONTEVERDE: -- Architecture, and dated May 22, 2023; initialed and dated by the Chair.

And further, that we incorporate the supporting statements and dimensional forms submitted as part of the

application.

Further, that the variance -- sorry, the special permit is granted incorporating the following condition: And that condition is that a correspondence from both owners be submitted to Inspectional Services that basically says both owners agree to -- or the other owner agrees to allow this construction. Okay?

On the matter then, a vote. Wendy?

WENDY LEISERSON: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Carol?

CAROL AGATE: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor, unanimous. The special permit is granted. And if I may before we end, Kelly Boucher I would just like to commend you for the revision to the front of the house --

KELLY BOUCHER: Thank you.

JIM MONTEVERDE: -- and putting back the one-story porch. That is a vast improvement. Also --

KELLY BOUCHER: That -- I think it's a vast improvement. I give credit to Jan, because it was his idea and not --

JIM MONTEVERDE: All right.

KELLY BOUCHER: -- my own.

JIM MONTEVERDE: For whomever, but --

JAN EGLESON: Thank you.

JIM MONTEVERDE: -- as part of the presentation I thank you. That's one of the -- we've seen more presentations where people are infilling the second floor to create kind of the box you're taking away so it's refreshing to see it -- the single-story entry be restored.

And also, I want to note that the two dormers on the one side of the house actually look like the proverbial dormers, and not the 15' wide roof extensions. So I'm delighted that’s probably the first one I have ever seen. So personally, I thank you.

KELLY BOUCHER: You're welcome. We thank you for the approval.

JIM MONTEVERDE: That's it. Done for the night.

Thank you all.

KELLY BOUCHER: That's it. Thank you for powering this through.

COLLECTIVE: Thank you very much. Goodnight.

JIM MONTEVERDE: You're welcome. Goodnight.

[9:28 p.m. End of Proceedings]

CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Michele Dent, 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.

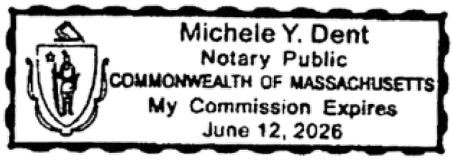
I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this 24th day of July, 2023.

Notary Public

My commission expires:

June 12, 2026



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