

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY SEPTEMBER 28, 2023

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair

Steven Ng, Vice Chair

William Boehm

Virginia Keesler

Wendy Leiserson

Matina Williams

Thomas Miller

Michael LaRosa

City Employees

Olivia Ratay



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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Matina
Williams, Thomas Miller, and Michael
Larosa

JIM MONTEVERDE: Welcome to the September 28, 2023
meeting of the Cambridge Board of Zoning Appeal. My name is
Jim Monteverde, and I am the Chair. 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

1 it is time for public comment. I will give instructions for
2 public comment at that time, and you also can find
3 instructions on the City's webpage for remote BZA meetings.

4 Generally, you will have up to three minutes to
5 speak, but that might change based on the number of
6 speakers.

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

9 And for the continued cases that we'll start with,
10 we have Matina?

11 [Pause]

12 No. Tom?

13 THOMAS MILLER: Present.

14 MATINA WILLIAMS: Sorry. Jim, did you not hear
15 me? Matina Williams present.

16 JIM MONTEVERDE: Okay. Thank you. Steve?

17 STEVEN NG: Present.

18 JIM MONTEVERDE: Thank you. And Michael?

19 MICHAEL LAROSA: Present. And sorry, my video is
20 not working at the moment.

21 JIM MONTEVERDE: Oh, okay.
22

* * * * *

(6:11 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Matina
Williams, Thomas Miller, Bill Boehm,
Virginia Keesler, and Michael Larosa

JIM MONTEVERDE: Our first cases are the 65 Sparks
Street Unit 4 trio. The first case and all three are being
-- we have a letter in the file from Attorney Dash
requesting that these be withdrawn without prejudice.

ADAM DASH: Thank you. Good evening, Mr. Chair.
Adam Dash, 48 Grove Street in Somerville, representing the
applicants on 65 Sparks Street. This is regarding cases
206407, 209310, and 215873, which are companion cases.

The applicants wish not to pursue this dormer
project any further. The applicants wish to thank the Board
and the City Staff for their work on these matters and for
their flexibility, and for that we would ask to withdraw all
three without prejudice.

JIM MONTEVERDE: Thank you. So I will make a
motion -- we'll do these one at a time, right? First will
be 209310, and the Chair makes a motion to withdraw without
prejudice this case.

1 And I'll ask for a vote. Matina?

2 MATINA WILLIAMS: I'm fine with the withdrawal.

3 JIM MONTEVERDE: Thank you. Tom?

4 THOMAS MILLER: Approve.

5 JIM MONTEVERDE: Steven?

6 STEVEN NG: Approve.

7 JIM MONTEVERDE: Michael?

8 MICHAEL LAROSA: Approve of the withdrawal.

9 JIM MONTEVERDE: And Jim Monteverde approves as
10 well.

11 [All vote YES]

12 JIM MONTEVERDE: So the matter is granted. It is
13 withdrawn without prejudice.

14 We'll go to the next one. And that is BZA 212873
15 - 65 Sparks Street, Unit 4. Again we have a letter in the
16 file from Attorney Dash, asking that the cases be withdrawn
17 without prejudice. So vote on the motion: Matina?

18 MATINA WILLIAMS: Approve the motion.

19 JIM MONTEVERDE: Tom?

20 THOMAS MILLER: Approve.

21 JIM MONTEVERDE: Steven?

22 STEVEN NG: Approve the motion.

1 JIM MONTEVERDE: Michael?

2 MICHAEL LAROSA: Approve the motion.

3 JIM MONTEVERDE: And Jim Monteverde approves.

4 [All vote YES]

5 JIM MONTEVERDE: So the motion is carried. And
6 Case 215873 is withdrawn without prejudice.

7 Last, we have 206407 - 65 Sparks Street Unit 4,
8 and we have a letter in the file from Attorney Dash asking
9 that the case be withdrawn without prejudice. So the Chair
10 makes a motion to withdraw the case without prejudice.

11 For a vote, Matina?

12 MATINA WILLIAMS: Approve the withdrawal.

13 JIM MONTEVERDE: Thank you. Tom?

14 THOMAS MILLER: Approve.

15 JIM MONTEVERDE: Steven?

16 STEVEN NG: Approve the motion.

17 JIM MONTEVERDE: And Michael?

18 MICHAEL LAROSA: Approve the motion.

19 JIM MONTEVERDE: Thank you. Jim Monteverde
20 approves.

21 [All vote YES]

22 JIM MONTEVERDE: The matter is withdrawn without

1 prejudice.

2 ADAM DASH: Do I need to sign these?

3 JIM MONTEVERDE: No.

4 ADAM DASH: Thank you, Mr. Chair, and members of
5 the Board.

6 JIM MONTEVERDE: You're welcome.

7 ADAM DASH: Good evening.

8 MATINA WILLIAMS: I believe that's it for me,
9 please Jim.

10 JIM MONTEVERDE: Yeah, hang on one second before
11 you go away.

12 MATINA WILLIAMS: Yep.

13 JIM MONTEVERDE: Let me shuffle some papers. All
14 right. So who do we have? Bill, are you with us?

15 BILL BOEHM: Yes. Bill's here.

16 JIM MONTEVERDE: Okay. Tom? Yep. Virginia, are
17 you there still?

18 VIRGINIA KEESLER: Yes.

19 JIM MONTEVERDE: Michael?

20 [Pause]

21 Michael, are you still with us?

22 MICHAEL LAROSA: Yes. I'm still here, but I

1 didn't think I was on these for tonight.

2 JIM MONTEVERDE: We have too many. Yeah, Michael
3 you don't have to be on, right?

4 MICHAEL LAROSA: Okay.

5 JIM MONTEVERDE: So let's see. We have Bill, Tom,
6 Virginia, myself, and Steven - Steven Ng. Steven, are you
7 still with us?

8 STEVEN NG: Yes. Steve Ng is present.

9 JIM MONTEVERDE: Okay. That's our team for this
10 evening for the rest of them - Bill, Tom, Virginia, myself,
11 and Steven.

12 So again, we're going through the continued cases.

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2 (6:16 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: Next case is 208873 - 231-235
6 Third Street.

7 MATINA WILLIAMS: Goodnight.

8 JIM MONTEVERDE: Goodnight, Matina. Thank you for
9 your help.

10 MATINA WILLIAMS: You're welcome. Have a good
11 evening.

12 JIM MONTEVERDE: You too. Is there anyone wishing
13 to speak on 231-235 Third Street?

14 DANIEL ANDERSON: Hi, Mr. Chair. Sorry. Dan
15 Anderson, Partner at Anderson Porter Design --

16 JIM MONTEVERDE: Yep. Hi, Dan.

17 DANIEL ANDERSON: -- here for 231-235 Third
18 Street. Are you able to hear me?

19 JIM MONTEVERDE: Yes, we are.

20 DANIEL ANDERSON: Apologies. I'm calling in from
21 my phone. Cambridge Traffic was absolutely horrible this
22 evening. So regarding our case, unfortunately the sign

1 board posting was not updated in a timely fashion.

2 JIM MONTEVERDE: Okay.

3 DANIEL ANDERSON: And so, the results -- I'm here
4 to ask for a continuance. And I'm hoping that it is
5 possible to be -- to open this case on your next hearing,
6 October 12.

7 I actually went and updated the sign board to
8 reflect that date. It's actually changeable, but it would
9 be timely for the twelfth hearing, if that was possible.

10 JIM MONTEVERDE: And I don't see the
11 correspondence in the package. Give me one second.

12 DANIEL ANDERSON: Absolutely.

13 JIM MONTEVERDE: There was a bunch of corporate
14 security back and forth in the past day or so from the
15 Historical Commission and then from neighbors. No. No. To
16 continue is fine, it's just a question of we want to get the
17 community, you know - the Historical Commission, right? We
18 have that correspondence?

19 [Side conversation]

20 Yeah, but wasn't this -- all of this about --
21 excuse me one second, I'm going to disconnect myself.

22 [Pause]

1 So Dan, we have correspondence, I believe, from
2 the Neighborhood Group. We have correspondence from the
3 Historical Commission, and then we have correspondence after
4 that from the Neighborhood Group who have requested -- and
5 pardon me if I paraphrase it wrong, but -- or incorrectly,
6 but a hearing with the Historical Commission, which is going
7 to happen on October 7.

8 This is obviously about landmarking two
9 properties. They're being demolished, I believe. And that
10 is scheduled for October 7. So our next available date is
11 October 12 to continue the hearing to.

12 Do you want to go for October 12, or do you want
13 to go for a little further down to see what happens with the
14 other hearing?

15 DANIEL ANDERSON: I think that October 12 would be
16 appropriate. Yes. We are in fact on for -- to hear a
17 petition to the Cambridge Historical Commission to initiate
18 the Landmark status.

19 JIM MONTEVERDE: Right.

20 DANIEL ANDERSON: And that is on the seventh.
21 That matter, I would imagine, would be settled by the time
22 we'd be in front of you on the twelfth, and we'd like to go

1 forward with a hearing of the special permit. We will be
2 withdrawing the request for a variance but moving forward
3 with the special permit.

4 JIM MONTEVERDE: Okay.

5 DANIEL ANDERSON: At least that's my anticipation.
6 So we will be prepared for the twelfth.

7 JIM MONTEVERDE: Okay. October 12, 6:00 p.m.?

8 DANIEL ANDERSON: Thank you very much.

9 JIM MONTEVERDE: Wait, wait. Let me make a
10 motion.

11 DANIEL ANDERSON: Yeah.

12 JIM MONTEVERDE: Motion to continue. Let me make
13 a motion to continue this matter to October 12, 2023 on the
14 condition that the petitioner change the posting sign to
15 reflect the new date of October 12, 2023, and the new time
16 of 6:00 p.m.

17 Also in furtherance that the petitioner sign a
18 waiver to the statutory requirements for a hearing. This
19 waiver can be obtained from Maria Pacheco or Olivia Ratay
20 with the Inspectional Services Department.

21 I ask that you sign the waiver and return it to us
22 by a week from this coming Monday. Failure to do so will de

1 facto cause this Board to give an adverse ruling on this
2 case.

3 Also, if there are any new submittal information,
4 changes to the drawings, dimensional forms, or any
5 supporting statements that those be in our files by 5:00
6 p.m. on the Monday prior to the continued meeting date.

7 On the motion to continue this matter until
8 October 12, 2023, vote by the Board members please.

9 Bill?

10 BILL BOEHM: I approve this. I agree with that.
11 I'm okay with it.

12 JIM MONTEVERDE: Thanks. Tom?

13 THOMAS MILLER: Approve.

14 BILL BOEHM: Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Steven Ng?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES]

20 JIM MONTEVERDE: So the matter is continued until
21 October 12 at 6:00 p.m.

22 DANIEL ANDERSON: Thank you. See you then.

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JIM MONTEVERDE: Good luck.

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(6:22 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Bill Boehm, and Thomas Miller

JIM MONTEVERDE: Next case is BZA 223469 -- 50
Concord Avenue. Is there anyone who wishes to speak on that
case?

KELLY BOUCHER: Yes. My name is Kelly Boucher,
and I'm the architect for the property at 50 Concord Ave.

JIM MONTEVERDE: Yep. Thank you. Good evening.

KELLY BOUCHER: Good evening.

JIM MONTEVERDE: Are you going to read this entire
report to us?

KELLY BOUCHER: No.

JIM MONTEVERDE: It's dated --

KELLY BOUCHER: I can summarize for you.

JIM MONTEVERDE: Good. I got to that point too.
All right. Take it away.

KELLY BOUCHER: Okay. Olivia, do you share the
screen, or would you like me to?

JIM MONTEVERDE: Now, we'll control the screen.
Thanks. Where would you like us to --

1 KELLY BOUCHER: Go ahead and start with the
2 architectural drawings, and then we can flip over to the
3 civil drawings quickly afterwards.

4 JIM MONTEVERDE: Has anything changed in the
5 submission beside the report from the engineering firm?

6 KELLY BOUCHER: No. Our design is as it was at
7 the original time of submission. We originally continued
8 our case in response to letters in the file before our
9 hearing, and we wanted to leave some time to fully
10 investigate the matter, and also coordinate with the
11 neighbors.

12 That isn't -- that's not the right set. That's
13 Clifton Street, which also is 50, so slightly confusing.
14 We're 50 Concord.

15 JIM MONTEVERDE: Right. Okay. What are we
16 looking for, the architectural?

17 [Pause]

18 KELLY BOUCHER: There. That's it. Great. Thank
19 you. Feel free to scroll to the page after the cover sheet,
20 Olivia. One before, and I'll review the Zoning summary.

21 So 50 Concord Ave is a single-family house located
22 on a very steep site that slopes from Concord Ave down

1 towards the back, almost 20 feet over the length of the lot.
2 And the existing building, as it stands now, is
3 nonconforming for side yard setback.

4 The front half of the lot on Concord Ave is
5 located in a Res C-1 zone. The back part of the lot is
6 located in a Res A-2 zone. And so, our numbers are combined
7 for here. The existing building is existing nonconforming
8 for GFA and also FAR.

9 It's also nonconforming for side yard setbacks.
10 It's located in a Res C-1, so it has multiplane setbacks.
11 And the addition of -- the proposed addition will change
12 that slightly.

13 And it's also nonconforming for height, because
14 the average rate is quite low at the back. It's a three-
15 story building, but the basement is a full walk-out at the
16 rear.

17 Our project proposes a basement addition. And the
18 reason for this addition is that the homeowner's first floor
19 living area is on the floor above, which is actually the
20 dining room floor.

21 And outside of their dining and kitchen area, they
22 were looking to add some outdoor space. Currently, that

1 space is almost eight feet above grade at the door. So they
2 were looking to add a deck.

3 And while, you know, looking at their options,
4 they thought it would be an opportunity to get a room under
5 the deck as well, since it's already exposed at the basement
6 level.

7 Can you flip to the next page, Olivia?

8 So here you can see our existing GFA is 4,793
9 square feet. We're looking to add an additional 373 square
10 feet only at the basement area to the rear of the property.

11 Next slide?

12 So here you can see our existing open space and
13 proposed open space are both compliant. The rear addition
14 still complies to the rear yard setback, and so, our open
15 space will still be compliant in the proposed situation.

16 Next slide?

17 Here's a diagram of our steep, slopey site. You
18 can see on the left-hand side, which is the Concord Ave
19 Street facing side our grade is almost 100. And then down
20 at the back property, we are more in the low - in the mid
21 70s. So quite a steep slope.

22 And when we extend out the back to the lowest part

1 of the site, that changes our average grade, because now we
2 have to start calculating a little further of a footprint in
3 the low part of the site, although our addition, as you can
4 see from the diagram on the bottom -- the roof of our
5 addition is still lower than the grade on Concord Ave,
6 street face.

7 Next slide? Thank you.

8 So here you can see existing and proposed first
9 floor and basement plans -- existing along the top, proposed
10 on the bottom. We're looking to add a 16.5 x 22.5 single
11 room addition with the roof deck above. That opens off of
12 the dining room to the rear yard, and provides a little bit
13 more usable open space for the homeowners for outside dining
14 and entertaining. That's adjacent to the house.

15 Next slide?

16 Here you can see the front elevation on the right,
17 existing and proposed. No change. The left side elevation,
18 here you can see the proposed addition is quite low from the
19 street.

20 Next slide?

21 And at the rear you can see we've added a lot of
22 windows into -- to make a sunroom at the lowest level with

1 the roof deck off of the existing French doors from the
2 dining room.

3 Currently, those doors are there. There's
4 historic beautiful, old pair of doors. And they come out to
5 a stair with no landing at the top. So you're up many feet
6 above grade to our very steep stair, and your open space is
7 actually much lower than the room that you're standing in.

8 And so, the addition of this -- the addition of
9 the extra space here will allow the homeowners to extend
10 their dining room out to use some of the -- their open back
11 yard during the nice weather.

12 Next slide?

13 Here's a site section. And you can see the way
14 the grade cuts across the building. The tallest part on the
15 left is, again, the front of the house at Concord Ave. And
16 the back where it's sloping away is where our proposed
17 garden level addition is, in section.

18 And here is a few existing photos of what it looks
19 like now -- a proposed view at the bottom, and the existing
20 condition view up at the top showing our addition.

21 Next?

22 Next are just the site plan and some photos of

1 what the house looks like now. And a little bit of history
2 is that we were scheduled to be heard a few months ago.

3 We heard there were neighbor concerns about the
4 addition, especially the lower neighbors in the rear were
5 concerned about water sheeting off into their site. And so,
6 as a response, the homeowner continued the case, hired a
7 Civil Engineer to take a look at the site drainage and
8 propose a new plan, which I'm not sure if we can pull it up.

9 But they did full hydraulic calculations on the
10 site and designed a back yard containment system --
11 infiltration system that's over 22' x 12' long to go in the
12 back yard to catch any runoff in a holding basin before it
13 gets down to our neighbors, and to hold that water until the
14 ground is less saturated to percolate down to help alleviate
15 the current conditions.

16 According to that report, there will be less water
17 sheeting off of our site with the infiltration system than
18 the current conditions. So that is our presentation. Oh, I
19 do see the Civil drawings in there.

20 If you want to scroll up a little bit, one that's
21 actually a drawing - oh, 46, Olivia. You can see them on
22 the way out. Great.

1 So if you look here, on the right is the site
2 improvement plan. Our proposed addition is shown, as well
3 as the stair going down to the back yard.

4 And you can see there's an infiltration system
5 designed 23.8' long by 6' x 2', and it's made of big
6 chambers that hold the runoff water underground in a storm
7 situation that would not only offset the size of our
8 addition but make an improved condition overall stormwater
9 wise.

10 And in addition to this drawing, there's a very
11 long report to back up the hydraulic calculations that were
12 included with the application.

13 JIM MONTEVERDE: Thank you. Now, just for the
14 information for the Board, before we open it up to
15 discussion, questions from members of the Board, so this is
16 a special permit.

17 Can you, Olivia, go back to the slide that shows
18 the Zoning Request and Summary? If we can, Kelly, I just
19 want to look for a moment just so we are clear on what the
20 zoning related items are?

21 KELLY BOUCHER: Yep.

22 JIM MONTEVERDE: Then we can talk about -- later

1 we can talk about neighborhood concerns.

2 KELLY BOUCHER: Sure. The existing house is
3 nonconforming in several locations: Floor area --so GFA and
4 FAR as they're related -- side yard setback multiplane
5 calculations, and building height overall from the average
6 grade line, which is quite low from Concord Ave anyway.

7 Our proposed addition increases the nonconforming
8 GFA by 373 square feet and because it's 16' longer on the
9 back, the sides, the multiplane side where you have to do
10 the H plus the L over 5 --

11 JIM MONTEVERDE: Yep.

12 KELLY BOUCHER: -- changes --

13 JIM MONTEVERDE: Right. Okay.

14 KELLY BOUCHER: -- with the length change. And
15 we're also sort of -- and I know you guys see this a lot,
16 but when we're using a different average grade number, that
17 changes our existing height.

18 So the ridge is not changing, the front elevation
19 isn't changing, the building isn't going anywhere, but
20 effectively because the grade is so low at the back and we
21 need to work that low grade into our average grade number,
22 the difference between the average grade and the existing

1 ridge height is a little bit bigger.

2 JIM MONTEVERDE: Understood. Understood.

3 KELLY BOUCHER: Yep. So those are the --

4 JIM MONTEVERDE: And the side yard --

5 KELLY BOUCHER: -- three things that we're looking
6 at.

7 JIM MONTEVERDE: Sorry. Did you talk about the
8 side yard setbacks?

9 KELLY BOUCHER: I did. So there --

10 JIM MONTEVERDE: An increase?

11 KELLY BOUCHER: They're increasing because the
12 length in the H+L over 5 -

13 JIM MONTEVERDE: Okay.

14 KELLY BOUCHER: -- that equation is increasing
15 and therefore the set - the building is not getting closer
16 to the setbacks per se, and our addition is even further
17 back from the existing setback, so we're not at the old
18 line. But the formula changes becoming the length changes
19 --

20 JIM MONTEVERDE: Right.

21 KELLY BOUCHER: -- out of this.

22 JIM MONTEVERDE: Okay. So of all of those

1 categories: FAR nonconforming side yards, nonconforming
2 height, is that an existing condition, or is that just --

3 KELLY BOUCHER: They're all three are existing
4 nonconforming.

5 JIM MONTEVERDE: Okay.

6 KELLY BOUCHER: Are nonconforming that are being
7 slightly extended by our proposal --

8 JIM MONTEVERDE: Right.

9 KELLY BOUCHER: -- but not creating any new
10 nonconformities or any variance requests.

11 JIM MONTEVERDE: Thank you. Yep. That's where I
12 was going with all of this. And as far as the report, the
13 infiltration report - and if I recall correctly, but stop me
14 if I'm wrong - what the report talks about is that the
15 system that's been proposed, that's being designed, is
16 designed around a 25-year storm event. Correct?

17 KELLY BOUCHER: Yes. I believe that's correct,
18 although I'm not a civil engineer. And I also get lost in
19 the minutiae of their very comprehensive report.

20 JIM MONTEVERDE: Yeah. That's -- the way I read
21 it, it was -- where this all -- once it passes, but what
22 it's designed to is the 25-year flood, the tabulations are

1 set up on a two-year storm event, 10-, 100- and then 25-.
2 So doesn't make the 100- but makes the 25-. It's certainly
3 a 10- and a two-.

4 KELLY BOUCHER: Mm-hm.

5 JIM MONTEVERDE: Okay. All right. Any questions
6 from members of the Board? Please state your name first.

7 IDENTIFIED SPEAKER: On the 25-year calculation, I
8 had something that I also have - because I talked to the
9 Civil Engineer, I understand from the Civil Engineer that it
10 is a similar 100-year flood event today, right? It's only a
11 25-year event in 2027 because of a climate change.

12 So that now we are doing 25 years in 2027, as
13 opposed to 100-years today, which I understand is a
14 comparable amount.

15 JIM MONTEVERDE: Could you identify yourself,
16 please? This was for members of the Board. I don't
17 recognize your voice as a member of the Board.

18 KELLY BOUCHER: I'm very sorry. This is, frankly,
19 the homeowner of --

20 JIM MONTEVERDE: Okay.

21 KELLY BOUCHER: -- 50 Concord Avenue.

22 JIM MONTEVERDE: Can you hold off for a moment and

1 let me take questions from the Board, and then if you have a
2 comment --

3 KELLY BOUCHER: All right.

4 JIM MONTEVERDE: -- I'm happy to hear it.

5 BILL BOEHM: Hi. I have one question. The
6 proposed drainage system, I see a catch basin indicated on
7 the plan and I'm just curious, does the infiltration system
8 pick up sheeting groundwater that's coming down the slope as
9 well as the catch -- the water coming into the catch base
10 that I see indicated next to the proposed addition?

11 KELLY BOUCHER: Um --

12 JIM MONTEVERDE: The site plan?

13 KELLY BOUCHER: Yeah. We do have our site plan.
14 It doesn't look like they're adding a drainage system going
15 around the house, but they did calculate all the water that
16 sheets down from the front yard down around the sides
17 currently in their calculations.

18 STEVEN NG: Could you zoom in onto that design
19 plan? Yeah. Thank you.

20 JIM MONTEVERDE: I don't see a drainage structure,
21 do you, Bill? Did you see it somewhere else?

22 BILL BOEHM: The drainage structure? So I see

1 downspouts. So it's picking up water off of the roof of the
2 proposed addition, which I think the neighbors' concern was,
3 you know, you're adding hardscape, adding more hardscape to
4 this lot that, you know, increases runoff.

5 So I'm just trying to understand it myself. It
6 looks like this is picking up the water from the addition
7 roof, which is the new hard surface, and feeding it into
8 this drainage basin.

9 I guess that takes care of that problem, and the
10 reason it's better than before is because before there was,
11 you know, a certain amount of water that would fall there
12 anyways.

13 STEVEN NG: That's right.

14 BILL BOEHM: And now it's concentrated on the roof
15 and brought into that drainage structure. So I believe
16 that's how it works. I just --

17 JIM MONTEVERDE: Yep.

18 BILL BOEHM: -- wanted to kind of think that
19 through.

20 KELLY BOUCHER: I agree that that's the intent of
21 the structure.

22 BILL BOEHM: Okay.

1 STEVEN NG: I'm seeing the proposed grading. It's
2 sloping in a way that the water is not - should not sheet
3 over the abutters on either side. The water could come down
4 a hill and kind of turn, still stay on the property.

5 KELLY BOUCHER: Yeah. The intent is to create a
6 little swell in the middle, and then down towards the back,
7 which is similar to how it is today. It does slope --

8 STEVEN NG: Right.

9 KELLY BOUCHER: -- front to back, and not as much
10 side to side.

11 JIM MONTEVERDE: Any other questions from members
12 of the Board? No? Did the proponent have something they
13 wanted to add before we go into public comment?

14 [Pause]

15 No? Okay. Before we open it up to public
16 commentary, we have one letter in the file from the
17 neighbors behind you -- two neighbors behind you. Mary and
18 David McElroy at 7 Healey and Brad Miller and Lindsay Pitt
19 at 5 Healey Street. This is dated September 27. I'll try
20 and summarize it.

21 They are repeating the items that we just talked
22 about, the increased FAR and increased height. And they are

1 mentioning also -- they're not saying if they're in support,
2 or they're objecting, but they certainly seem to be
3 objecting without saying it boldly. And I'll just read
4 this:

5 "We also believe the project should be evaluated
6 in light of plans that were not included in the ZBA
7 submission or Engineering Analysis drawing but documented in
8 a drawing given to us by and discussed with the owner of 50
9 Concord.

10 "And those include extending the driveway with a
11 turnaround, adding a patio at the rear of the proposed
12 addition, adding retaining walls adjacent to the proposed
13 construction, and removal of vegetation."

14 So a question, Kelly, for you, is are the drawings
15 that we have in front of us dated 05/19/23 the complete set
16 of documentation, or are there other drawings that portray
17 work that you intend to do, but haven't been --

18 KELLY BOUCHER: No, those are the drawings that we
19 are looking to build. We did it at certain stages of the
20 schematic designs last spring.

21 Looked at a patio in the rear, which we have since
22 omitted - you know, based on neighbor feedback, and there

1 was some study of maybe reconfiguring the parking spaces in
2 the front to be a little bit more code-complying. Right
3 now, they're in the front yard.

4 But we're not electing to do any of that work now,
5 and if we did, it would either need a BZA hearing such as
6 this, or it would be an as-of-right proposal.

7 But for right now, we are only focused on the back
8 addition, and we've sort of put down all of the other balls
9 that were possibly in the air. Maybe they might do them in
10 the future, but --

11 JIM MONTEVERDE: Okay.

12 KELLY BOUCHER: -- you know, we would be subject
13 to regular turn of events if that were true.

14 JIM MONTEVERDE: Okay. So I think that
15 correspondence is referring to plans that they had seen
16 previously that had some work not portrayed on the ones that
17 you have in front of us for review and approval tonight and
18 are not part of your proposed immediate construction.

19 Okay. That was it. That was the one letter in
20 the file. And I will now open this up to open this up to
21 public comments. Any member of the public who wishes to
22 speak should now click the icon at the bottom of your Zoom

1 screen that says, "Raise hand."

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

4 I'll now ask Staff to unmute speakers one at a
5 time. You should begin by saying your name and address, and
6 Staff will confirm that we can hear you. After that you
7 will have up to three minutes to speak before I will ask you
8 to wrap up.

9 Is there anyone --

10 OLIVIA RATAY: Brad Miller?

11 BRAD MILLER: Hi. My name is Brad Miller. I'm at
12 5 Healey Street. Just wanted to mention a couple things.
13 Earlier in today's meeting when these slides were posted, I
14 think it was page 36 that was briefly displayed. That shows
15 the patio is part of this package. And that shows the patio
16 extension going further out. And even if that's not what
17 they're asking for today, it's part of the potential overall
18 project. But once this addition gets built, then maybe that
19 patio is a matter of right.

20 So that's part of our concern about the building
21 getting pushed further down toward our property and our
22 neighbors' property at 7 Healey.

1 Also, a lot of your answer -- and I don't know if
2 you can find it, if you can page back to that page, it was
3 shown on our screen briefly this evening during the meeting,
4 so it must be part of the package.

5 KELLY BOUCHER: It was shown in one of the letters
6 of opposition and not in our submitted package, just for
7 clarification.

8 BRAD MILLER: Okay.

9 JIM MONTEVERDE: So we're reviewing the --

10 BRAD MILLER: No, I understand. My question --

11 JIM MONTEVERDE: -- that were submitted. So ask
12 your question, please.

13 BRAD MILLER: My question is, if that proposed
14 addition is there, is that patio extension -- does that then
15 become a matter of right that it wouldn't be today?

16 JIM MONTEVERDE: It wouldn't be part of this
17 hearing --

18 BRAD MILLER: -- okay.

19 JIM MONTEVERDE: -- that's all I can say.

20 BRAD MILLER: Also, you sort of glossed -- you
21 went through them relatively quickly, but these are
22 significant exacerbations of existing nonconformities that

1 are pretty significant on a percentage basis when you look
2 at what we pointed out in our letter. And it brings the
3 building further toward our properties in a size that's not
4 permitted by the code. So.

5 KELLY BOUCHER: I would like to ask --

6 JIM MONTEVERDE: All right. No, no, no. No, no.

7 KELLY BOUCHER: No?

8 JIM MONTEVERDE: Not time for a rebuttal. We'll

9 --

10 BRAD MILLER: And I would --

11 JIM MONTEVERDE: -- in public's comments.

12 BRAD MILLER: -- and this is discussed as, like, a
13 basement and garden level, but it's above. It's above
14 ground. It's not a basement anymore. It's extended above
15 ground there. And we understand if they are interested in
16 having a patio off of their dining room, but I believe they
17 could construct that patio without this kind of variance.

18 Our objection is not to that, it's just adding the
19 floor area when you already have substantial nonconformances
20 with the code.

21 And floor area ratio total floor area -- those are
22 the primary ones that we're concerned about. And thank you

1 for your time.

2 JIM MONTEVERDE: Thank you. Anyone else?

3 OLIVIA RATAY: Mary and David McElroy.

4 DAVID MCELROY: Hi. This is David McElroy from 7
5 Healey Street in Cambridge, behind this particular property.
6 I just want to mention that when we met with the homeowners
7 a couple months ago after this initial submission, the
8 homeowner did express to me and my wife Mary that they were
9 in fact planning to add a patio and doorway turnaround.

10 Although that may not be part of that submission,
11 as you can imagine, there has been some confusion from our
12 vantage point in terms of what this project actually is.

13 So as the homeowner has communicated with us,
14 we're hearing one thing from the homeowner, but we're seeing
15 something quite different in the drawings.

16 Furthermore, in terms of the engineering drawing,
17 it is -- those engineering drawings don't have these other
18 changes in terms of the driveway or the patio as part of
19 that analysis.

20 So my only comment is as an engineer -- thinking
21 about pursuing an engineering drawing for stormwater
22 mitigation, all the changes of the property should be

1 considered and not only a subset of the changes. Thank you
2 very much.

3 JIM MONTEVERDE: Thank you. That's all for
4 public -- sorry?

5 OLIVIA RATAY: One more.

6 JIM MONTEVERDE: One more?

7 OLIVIA RATAY: Drew Birrenkott?

8 DREW BIRRENKOTT: Hi. I'm Drew Birrenkott. I am
9 at 52 Concord Avenue, Apartment 1. And I just wanted to,
10 you know, mention in terms of this construction project that
11 the apartment that we rent, it looks directly onto what I
12 imagine is the only passageway for heavy construction
13 equipment to get back into the yard for this project.

14 And I don't, you know, either object or support
15 the construction, but simply wanted to mention to the
16 Committee that the noise nuisance that this construction
17 will generate in front of our apartment -- I think we're
18 probably most affected by this construction. And I just
19 wanted to mention that as a concern, as the apartment
20 probably most affected by the noise.

21 Thank you so much.

22 JIM MONTEVERDE: Thank you. That's the end of

1 public testimony, discussion from members of the Board. I'd
2 like to ask for a two-minute break, please.

3 DREW BIRRENKOTT: Okay.

4 JIM MONTEVERDE: Be back in two minutes.

5 DREW BIRRENKOTT: Okay.

6 [Pause]

7 JIM MONTEVERDE: Continuing. Any discussion from
8 members of the Board?

9 THOMAS MILLER: Jim, if it's not out of order, I
10 would love to ask one follow-up question after the public
11 comment from the petitioner. Looking at the modeling of the
12 requested rear addition, you mentioned those windows that
13 have been added.

14 I was curious, are those windows that allow
15 ingress and egress, or are they, like, French door type
16 windows, or are those more traditional windows that one
17 couldn't leave the basement area from?

18 JIM MONTEVERDE: Is that for Kelly Boucher?

19 THOMAS MILLER: Yes, if possible.

20 JIM MONTEVERDE: Kelly, are you still with us?

21 KELLY BOUCHER: Sorry. I was talking, but I was
22 muted. Yes. At least one of those will be a door out to

1 the yard from that space, so that that sunroom has garden
2 access. Right now there's a bulkhead along the side, which
3 you can slightly see in the corner there that will remain.
4 Our addition is outside of there. So that way into the
5 basement will also stay.

6 THOMAS MILLER: So I guess the intent of that
7 question is that, I guess, I do think that whether the
8 petitioners plan eventually to add a patio there that will
9 be more impermeable surface is to some extent at least
10 relevant to my consideration of this.

11 In terms of what I understand the question before
12 us to be under the applicable provisions of the Zoning
13 Ordinance, we need to decide for the special permit under
14 8.22 whether this -- you know, would be substantially more
15 detrimental than the existing nonconformity.

16 It seems that there already are substantial
17 drainage issues given the grading of the lot, and it does
18 appear that the project that the - that the petitioners
19 there are undertaking in response to the feedback from the
20 neighbors would ameliorate that.

21 So my overall view would be that, you know, as
22 currently before us, this project should get a special

1 permit because it would be less detrimental.

2 But I am concerned if there's a plan in the works
3 to add more permeable surface in the back yard that would
4 essentially affect the main issue that was raised as a
5 concern by the abutters.

6 KELLY BOUCHER: Our intent with this addition is
7 to increase the house's conversation with the back yard
8 where now it's very separated. You're up high, you're over
9 the yard and it doesn't feel useable or - or like you would
10 want to go sit in there.

11 We're happy to promise that we will not increase
12 our -- that area with a patio or do anything that is out of
13 alignment with the Civil work that we had reviewed already.

14 I do think a door into that space, which is going
15 to be a very nice sunroom, is going to help the homeowners
16 use their back yard. They're going to be able to sit and
17 look at the garden, instead of sitting 20 feet above their
18 garden, which is how their open space is accessed from the
19 house now. It feels very detached.

20 So yes, a door, but we don't necessarily need a
21 patio. We're not looking to sit out there or whatever.

22 We're just trying to be able to go in and out of the house,

1 have a sunroom at the lowest level, maybe enjoy the garden
2 from the inside during inclement weather or the winter in a
3 way that's not really possible with the house now.

4 So, you know, no patio is also fine for us,
5 although we would like to keep the option of having a door
6 instead of only windows --

7 JIM MONTEVERDE: Okay.

8 KELLY BOUCHER: -- just so in that room you can
9 use the yard.

10 JIM MONTEVERDE: Thank you. Thank you for your
11 response. Any other discussions from members of the Board?

12 STEVEN NG: Yeah, Steve Ng here. Okay?

13 UNIDENTIFIED SPEAKER: Okay.

14 THOMAS MILLER: No, go ahead, Steve.

15 STEVEN NG: Oh, thank you. I guess just looking
16 at the application form and the requirements of the
17 ordinance item, it's, I guess, the question I have for the
18 Board is, you know, all the issues about drainage and so on
19 is really impacted by, I think, the increase in size or the
20 size of additional square footage that's being proposed.

21 You know, they're increasing the FAR beyond what's
22 in the Ordinance for the neighborhood they're in, and by

1 quite a bit.

2 And it's for space that, you know, we're getting
3 an ambiguous, you know, intention of what that space is
4 going to be used, or how it'll be used. I don't know if
5 that seems to be a -- is that a concern for anyone else, my
6 fellow Board members, that just the size of that and kind of
7 exceeding the FAR a concern?

8 JIM MONTEVERDE: Yeah. The way I understood it
9 initially is I think in the old testimony, again it all
10 focused on the drainage in the lot and the effect on the
11 neighbors downhill -- we know that, and it's a special
12 permit --

13 STEVEN NG: Mm-hm.

14 JIM MONTEVERDE: -- in 8.22.2. -- one of those
15 chapters, because it is already nonconforming in FAR in
16 height and side yard setback. And that just gets
17 exacerbated by the fact that this addition gets put on the
18 back and therefore changes all of the calculations.

19 So regardless of how big the dwelling is
20 currently, I don't have any objection to raise about any of
21 those items.

22 And I think they've addressed in the report as

1 best that I can read, they've addressed drainage to an
2 extent that should satisfy 1) make their own property more
3 usable and also ameliorate the issues that the immediate
4 abutters have raised.

5 So I don't have any issue with that. I think it
6 falls within the special permit purview.

7 STEVEN NG: Okay. No, that's great. And then I
8 do appreciate, I think when the issue of drainage was
9 raised, the applicant did engage an engineer, came up with a
10 solution, and is addressing - you know, with the engineer to
11 manage that surface water.

12 JIM MONTEVERDE: Yep. Any other member of the
13 board have any discussion?

14 BILL BOEHM: Yes. Bill Boehm.

15 JIM MONTEVERDE: Yep.

16 BILL BOEHM: I think one of the neighbors asked a
17 fair question, which should be addressed, which is if a
18 patio is to be built in the future behind this, would it be
19 of right, as-of-right, so that could they do it in a second
20 stage?

21 And I'm going to say no, because I think it would
22 be -- it would -- well, I don't know. So that's a fair

1 question to ask and be answered.

2 And I just want to make one other comment, which
3 is, if indeed this addition makes the back yard much more
4 usable, which I can see it would, there's many ways to enjoy
5 a landscape without putting a hard paved surface on it.

6 And so, I would just like to offer that there
7 would certainly be an opportunity to do a landscape design
8 which did not increase the impervious surface, but made the
9 landscape very usable, and that would have been maybe a good
10 way to approach it.

11 But I want to go back and ask Jim or one of the
12 Staffers to say what if these other changes happen with --
13 could they be as-of-right, or would they necessarily trigger
14 a zoning variance?

15 JIM MONTEVERDE: I believe a patio, if there's no
16 structure or roof over it, would be as-of-right. They
17 wouldn't need to go to the Board. Olivia, is that your
18 sense?

19 OLIVIA RATAY: That sounds right, Jim.

20 JIM MONTEVERDE: Yeah. You'd have to comply -- if
21 you comply with the open space ratio. Now, if they're
22 concerned about that as a future improvement, Kelly Boucher,

1 if I understood you correctly, would it be acceptable to
2 include a condition in the acceptance for the special permit
3 that there would be no terrace?

4 KELLY BOUCHER: Yeah, we would be happy to. I
5 agree. There's plenty of ways to enjoy that back yard that
6 are not necessarily a big --

7 JIM MONTEVERDE: Right.

8 KELLY BOUCHER: -- stone patio --

9 JIM MONTEVERDE: Yep.

10 KELLY BOUCHER: -- there.

11 JIM MONTEVERDE: Yep. Bill, does that satisfy you
12 or answer your question?

13 KELLY BOUCHER: Oh, you're muted.

14 BILL BOEHM: I'm sorry. I agree that that would
15 be a good addition or a good condition to add to address the
16 neighbors' concerns that what they had seen previously in
17 plans was not indeed still a part of the longer-term vision,
18 and they would be agreeing not to do that.

19 And then if it was done, they would have the
20 ability to come back and say, "In this variance, this was
21 the condition and now it's not being applied." So I think
22 that's a yes, I agree.

1 JIM MONTEVERDE: Okay. Anyone else?

2 VIRGINIA KEESLER: I agree with you, Jim, in
3 regards to the massing. I think since the rear setback is
4 still in excess of the requirement, it seems like that
5 massing is not unreasonably imposing, in my opinion.

6 JIM MONTEVERDE: Okay. Thank you. Now for the
7 Board's benefit, let me just review the criteria for the
8 special permit that we need to find and make sure we find
9 these conditions. It appears the requirements of the
10 Ordinance cannot and will not be met. I think that's
11 granted.

12 Traffic generated, or patterns of access or egress
13 would cause congestion, hazard. I don't think that's an
14 issue.

15 Continued operation of or development of adjacent
16 uses, as permitted in the Zoning Ordinance, would be
17 adversely affected. I don't think that's the case. But
18 speak up if anyone has an issue.

19 Nuisance or hazard would be created to the
20 detriment of the health, safety and/or welfare of the
21 occupant of the proposed use or the city. I think that's
22 been addressed by the neighbors' concern about the drainage

1 and the report in the proposed construction to deal with the
2 drainage.

3 And lastly, for other reasons, the proposed use
4 would impair the integrity of the district or adjoining
5 district. And I don't see that here.

6 So I think it complies.

7 With that, I will make a motion --

8 STEVEN NG: Yes.

9 JIM MONTEVERDE: Right?

10 STEVEN NG: Yep.

11 JIM MONTEVERDE: So the Chair makes a motion to
12 grant the relief from the requirements of the Ordinance
13 under Sections 8.22.2, nonconforming structure, Section
14 5.31, Table of Dimensional Requirements, and that has to do
15 with the addition that causes the formulas for building
16 height, side yard setback, to change and make the existing
17 structure more nonconforming than it already is
18 nonconforming.

19 And under the special permit, the items we just
20 read I think we can agree that this development ticks all
21 those boxes. So it's -- it works, and it's worthy of the
22 special permit.

1 And on a condition that a rear patio -- paved
2 patio -- will not be proposed or is not part of the plans
3 and not part of any future consideration.

4 And further, the motion on the condition that the
5 work proposed conform to the drawings entitled "Cathy Chen"
6 -- I'm sorry -- "50 Concord Avenue" prepared by KBA
7 Architects and dated May 19, 2023, initialed and dated by
8 the Chair.

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

12 And as a condition, we said that the exterior
13 patio to the rear of the property would not be part of a
14 future construction.

15 So Board members, please take a voice vote on the
16 motion to grant relief. Again, this is a special permit.
17 Steven?

18 STEVEN NG: In favor.

19 JIM MONTEVERDE: Virginia?

20 VIRGINIA KEESLER: In favor.

21 JIM MONTEVERDE: Tom?

22 THOMAS MILLER: In favor.

1 JIM MONTEVERDE: Bill?

2 BILL BOEHM: In favor.

3 JIM MONTEVERDE: And Jim Monteverde in favor.

4 [All vote YES]

5 KELLY BOUCHER: Great. Thank you very much.

6 JIM MONTEVERDE: Yes. Congratulations.

7 Okay. Now onto the Regular Agenda. And before I
8 forget, Bill Boehm, congratulations on your mention in the
9 Globe. Nice project.

10 BILL BOEHM: Thank you.

11 JIM MONTEVERDE: That's yours, correct?

12 BILL BOEHM: Yes.

13 JIM MONTEVERDE: Congratulations.

14 BILL BOEHM: Thank you.

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2 (7:07 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: All right. Now. BZA Case 235827 --
6 117 Chilton Street. And we have a letter in the file from
7 -- this is the one I was looking for; the other case, Third
8 Street.

9 Give me one second, please. I'm looking for stray
10 pieces of paperwork. That's a continuing case. Does it say
11 it somewhere?

12 OLIVIA RATAY: Yes.

13 JIM MONTEVERDE: Right here?

14 OLIVIA RATAY: Yeah.

15 JIM MONTEVERDE: Sorry. One second. Doesn't ask
16 for a continuance. To vacate the cease-and-desist order.

17 SARAH RHATIGAN: Mr. Chairman?

18 JIM MONTEVERDE: Yep.

19 SARAH RHATIGAN: If I could assist, I'd be happy
20 to direct you to our most recent letter.

21 JIM MONTEVERDE: Yes. I'm confused because I was
22 in the office --

1 SARAH RHATIGAN: Sure.

2 JIM MONTEVERDE: -- the other day and --

3 SARAH RHATIGAN: Yeah. --

4 JIM MONTEVERDE: -- my understanding when I read
5 it --

6 SARAH RHATIGAN: there's a lot of paper in the
7 file --

8 JIM MONTEVERDE: -- it was continued.

9 SARAH RHATIGAN: It - this is a, sorry, for the
10 record Sarah Rhatigan Trilogy Law. I'm representing the
11 petitioners in this case, Susan, and Bob Filene. Yeah, so
12 September 25 --

13 JIM MONTEVERDE: Yep. Okay.

14 SARAH RHATIGAN: -- we sent a letter to -- yeah,
15 to the Board members --

16 JIM MONTEVERDE: Olivia --

17 SARAH RHATIGAN: -- requesting a continuance.

18 JIM MONTEVERDE: Olivia saved the day.

19 SARAH RHATIGAN: Okay, great.

20 JIM MONTEVERDE: So.

21 SARAH RHATIGAN: Thank you.

22 JIM MONTEVERDE: Let me back up. So we have a

1 letter in the file from Sarah Rhatigan asking for a
2 continuance of this case and continued until December 14,
3 2023. Do we have that? Okay.

4 So on the motion to continue, let me make a motion
5 to continue this matter until December 14, 2023 on the
6 condition that the petitioner change the posting sign to
7 reflect the new date of December 14, 2023 and the new time
8 of 6:00 p.m.

9 Also that the petitioner sign a waiver to the
10 statutory requirements for the hearing. This waiver can be
11 obtained from Maria Pacheco or Olivia Ratay at the
12 Inspectional Services Department.

13 I ask that you sign the waiver and return it to
14 the Inspectional Services Department by a week from this
15 coming Monday. Failure to do so will de facto cause this
16 Board to give an adverse ruling on this case.

17 Also that if there are any new submittal
18 information, changes to the drawings, dimensional forms, or
19 any supporting statements, that those be in the file by 5:00
20 p.m. on the Monday prior to the continued meeting date.

21 On the motion to continue this matter until
22 December 14, 2023, Bill?

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BILL BOEHM: In favor.

JIM MONTEVERDE: Thank you. Tom?

THOMAS MILLER: In favor.

JIM MONTEVERDE: Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven Ng?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: Continued.

SARAH RHATIGAN: Thank you very much.

JIM MONTEVERDE: Yeah, 6:00 p.m.

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(7:12 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Bill Boehm, and Thomas Miller

JIM MONTEVERDE: Next case BZA-237886 -- 1430

Massachusetts Avenue. Before we go much further, I noticed
that it was on the agenda of the Planning Board. Yes, we
have a letter from them. Okay. Is there anyone -- the
proponent who wishes to speak about this particular case?

Adam Braillard, are you there?

ADAM BRAILLARD: Good evening, Mr. Chairman. Can
you hear me now?

JIM MONTEVERDE: Yes.

RICARDO SOUSA: Oh, very good. Good evening, Mr.
Chairman, and members of the Board. I'm Ricardo Sousa from
Prince Lobel Tye here on behalf of the petitioner, T-Mobile
Northeast. I'm standing in place of my partner, Adam
Braillard, who had a conflict with another hearing the same
time.

JIM MONTEVERDE: Okay.

RICARDO SOUSA: So members of the Board, we're
here on behalf of T-Mobile, who is proposing to upgrade an

1 existing wireless antenna installation that's located at
2 1430 Mass Ave.

3 This existing wireless antenna installation is
4 located on the penthouse of the subject building at 1430
5 Mass Ave. We currently operate six panel antennas and six
6 Remote Radio Heads, as shown on these plans that Olivia is
7 putting up on the screen.

8 And what we're proposing to do is just upgrade the
9 installation so that we are swapping out the six antennas
10 for eight antennas and swapping out the six Remote Radio
11 Heads for new -- six new Remote Radio Heads, all installed
12 on that penthouse that you see up on the screen right now.

13 And we've worked with both the Planning Board, the
14 Harvard Square Advisory Board, and the Historic Commission
15 to come up with design elements that I think are consistent
16 with all of those constituency demands.

17 And in fact the CDD put together a memo that we
18 are comfortable with and that we can comply with, and that
19 was submitted to this Board prior to this hearing as a
20 result of their Planning Board meeting earlier this week.

21 JIM MONTEVERDE: End of story?

22 RICARDO SOUSA: End of story, unless you'd like me

1 to go a little better further.

2 JIM MONTEVERDE: No, that's good. Let me -- if
3 you're done with your presentation, then let me just ask if
4 there are any questions from members of the Board.

5 We do have some correspondence from the Planning
6 Board, which will list all of the suggestions that they've
7 made that the proponent is agreeing to.

8 RICARDO SOUSA: Very good.

9 JIM MONTEVERDE: So any questions from members of
10 the Board before I launch into reading this letter? No?
11 Thank you. Let me read the correspondence. We have one
12 from the Planning Board dated September 27 reading that,

13 "The Board has decided to vote a positive
14 recommendation to the BZA for the updated materials with the
15 suggestions in the attached memo."

16 It goes on to say one Board member noted that the
17 renderings were not quite right in terms of color matching
18 the antennas to the tower standing seam metal panel and
19 suggested that the applicant consider repainting the tower
20 itself to achieve better results.

21 Consultation with the Historic Commission Staff on
22 color selection was also suggested.

1 All right. Let me go to the Planning Board's
2 suggestions.

3 "1. If feasible, all antennas should be moved down
4 the façade -- penthouse façade -- to avoid visually
5 interrupting the horizontal cornice line at the top of the
6 parapet. This should be calibrated by photo simulations to
7 account for the lower vantage point of the typical viewer."

8 That's great. I love that one.

9 "2. Antennas should be organized and arranged by
10 size, shape, and location to produce a symmetrical
11 composition on each elevation. Horizontal offsets from the
12 corner of the penthouse should be consistent.

13 "3. No portion of an antenna, mounting bracket or
14 wiring should occlude the existing circular vent.

15 "4. The proposed configuration concentrates all
16 devices on the more prominent northern, eastern, and
17 southern elevations. Where possible, proposed antennas
18 should be relocated to the western elevation to reduce their
19 visibility.

20 "5. Utilize the smallest mounting brackets
21 available so that the antenna can be mounted as close as
22 possible to the mounting surface as possible.

1 "6. Remove all unused devices, mounts, brackets
2 and wiring.

3 "7. Proposal documents should be updated to
4 include both existing and proposed southwest and north
5 elevations.

6 And "8. All painted and wrapped materials,
7 including existing equipment, cabling and mounts, should
8 have a consistent finish that mimics the existing standing
9 seam metal cladding in color and reflectivity."

10 And those the proponent has all accepted, correct?

11 RICARDO SOUSA: That's correct, Mr. Chairman. We
12 have.

13 JIM MONTEVERDE: So we can make those a condition?

14 RICK SOUSA: Yes.

15 JIM MONTEVERDE: All right. Any questions from
16 members of the Board?

17 BILL BOEHM: Yes. Those are -- in the other
18 experience I've had in hearing some of these, those are more
19 significant requests for changes to the design as presented
20 than I heard before.

21 So my question is, who gets to review the proposed
22 redesign to verify that they've complied with those

1 conditions?

2 I'm not sure if that's a question to the
3 petitioner or to the Chairman?

4 JIM MONTEVERDE: It's not to the petitioner.
5 These are --

6 BILL BOEHM: Okay. Very good.

7 JIM MONTEVERDE: Olivia, unless you say otherwise,
8 I would assume that since it's started, and the comments
9 came from the Planning Board, although they were only
10 advisory, they would go there first. And I get a nod of the
11 head from Staff.

12 Any other questions from members of the Board?
13 Okay.

14 Public comment. Any member of the public who
15 wishes to speak should now click the icon --

16 BILL BOEHM: I'm sorry, Jim, I wasn't quite
17 finished yet. I was on mute.

18 JIM MONTEVERDE: I'm sorry.

19 BILL BOEHM: I don't quite understand the process,
20 then. So they go back and redesign and need to run that by
21 the Planning Board, who then gives them the final go ahead?
22 Because I feel like --

1 JIM MONTEVERDE: Yep.

2 BILL BOEHM: -- we're giving them the final go
3 ahead and trusting that they make the change.

4 JIM MONTEVERDE: Yeah.

5 BILL BOEHM: So the --

6 JIM MONTEVERDE: I think the way I look read this;
7 it is not asking -- I don't see anything in this from the
8 Planning Board that is asking them to come back.

9 And I think by the proponents, and from the ones
10 that we've done like this previously, where we have listed
11 all the suggestions, there's no objection to them from the
12 proponent, we make them a condition of the approval, we do
13 the actual vote, and we are relying on the proponent to do
14 exactly what they say. And we're not asking them to come
15 back.

16 I don't read it that way, unless you have a
17 concern and want them to come back.

18 BILL BOEHM: I guess given that there's a long
19 history of these kinds of things, if there was a history of
20 them not following through with the recommendations, we
21 would have heard about it by now.

22 So I'll go with that that we trust the petitioner

1 to do as the conditions are asked for.

2 JIM MONTEVERDE: Very good. Thank you. Any other
3 questions from members of the Board? If not, I'll open it
4 to public comments. Any member of the public who wishes to
5 speak should now click the icon at the bottom of your Zoom
6 screen that says, "Raise hand."

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

9 I'll now ask Staff to unmute speakers one at a
10 time. You should begin by saying your name and address, and
11 Staff will confirm that we can hear you. After that you
12 will have up to three minutes to speak before I ask you to
13 wrap up.

14 [Pause]

15 No one. Okay. Closing public testimony. Any
16 discussion from members of the Board, or may I begin my
17 soliloquy?

18 [Pause]

19 All right. The Chair makes a motion to grant the
20 relief from the requirements of the ordinance under Sections
21 4.32.G.1, Section 4.40 and Section 10.40, and Article 6409
22 Section the Federal Middle Class Tax Relief Act on the

1 condition that the work proposed conform to the drawings
2 entitled "Application for Relief under Section 6409a of the
3 Spectrum Act" prepared by T-Mobile Northeast LLC and dated
4 August 14, 2023, initialed and dated by the Chair.

5 Further, that we incorporate the supporting
6 statements and dimensional -- there are no dimensional forms
7 -- submitted with the application.

8 Further, that the special permit is granted
9 incorporating the following conditions: And I will not
10 reread these, but everything we just mentioned about the
11 conditions from the -- or the suggestions from the Planning
12 Board are now made conditions. And that would be the items
13 1 through 8 we just talked about.

14 And then Chair moves to make the following
15 findings -- this is regarding the special permit -- sorry,
16 give me a second. It appears the requirements of this
17 ordinance cannot or will not be met - that's correct.

18 Traffic generated, or patterns of access or egress
19 would not cause congestion: Did not.

20 Continued operation of or the development of
21 adjacent uses, would be adversely affected: They would not.
22 Nuisance or hazard would be created to the detriment of the

1 health, safety or welfare. They will not, but I'll talk
2 about that in a second.

3 And for other reasons, the proposed use would not
4 impair the integrity of the district or adjoining district.
5 They are not. So that means you meet all the criteria for a
6 special permit under the Ordinance Section 10.43, paragraphs
7 A, B, C, D and E.

8 And, based on the findings, the Chair moves that
9 the petitioner be granted the special permit it is seeking,
10 subject to the following conditions:

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

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

17 And by the conditions we just mentioned that came
18 through the Planning Board.

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

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

7 Five, that the petitioner is in compliance with
8 and will continue to comply with in all respects the
9 condition imposed by this Board with regard to previous
10 special permits granted to the petitioner, with regard to
11 the site in question.

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

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

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

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

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

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

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

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

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

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

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

16 a) he or she has such responsibility, and

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

1 sufficiently protected from excessive radiofrequency
2 radiation under federal law.

3 Time to vote. Steven Ng?

4 STEVEN NG: In favor.

5 JIM MONTEVERDE: Virginia?

6 VIRGINIA KEESLER: In favor.

7 JIM MONTEVERDE: Tom?

8 THOMAS MILLER: In favor.

9 JIM MONTEVERDE: Bill?

10 BILL BOEHM: In favor.

11 JIM MONTEVERDE: And Jim Monteverde in favor.

12 [All vote YES]

13 JIM MONTEVERDE: The special permit is granted.

14 Congratulations.

15 RICARDO SOUSA: Thank you, Mr. Chairman. Thank
16 you, members of the Board. Have a good night.

17 JIM MONTEVERDE: Goodnight. I hope that was -- it
18 was my best impression of -- was it Joe Isuzu?

19 RICARDO SOUSA: [Laughter] Well done.

20 JIM MONTEVERDE: No. It's got to be faster. Got
21 to find someone who can record this. All right. Fun and
22 frolic.

1 * * * * *

2 (7:29 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: Now BZA Case No. 235875 -- 124
6 Brattle Street. Is there anyone who wishes to speak on
7 this?

8 ALEX SVIRSKY: Yes, Mr. Chairman. Alex Svirsky,
9 the architect for project.

10 JIM MONTEVERDE: Could you repeat your name,
11 please?

12 ALEX SVIRSKY: Alex Svirsky - S-v-i-r-s-k-y.

13 JIM MONTEVERDE: Okay. Thank you. Do you want to
14 walk us through what you're proposing and what the --

15 ALEX SVIRSKY: Yeah.

16 JIM MONTEVERDE: -- what relief you're seeking?
17 This is a variance relief request?

18 ALEX SVIRSKY: Thank you, Olivia. The project is
19 a single-family house on Brattle Street. Unfortunately, the
20 front entry is from a private way. The garage to the
21 property is on the opposite side of the front entry and is
22 facing the Brattle Street.

1 One of the residents of the property requires
2 assistance walking and navigating stairs. And the owners
3 would like to come up with some sort of a connector to
4 connect the garage with the main level of the house.

5 There is an exterior entrance from the Brown
6 Street that is -- exists right now that was probably added
7 together with the garage 60 or so years ago. However, to
8 use that entrance would require either a lift or if
9 enclosing the entrance in a similar manner as proposed would
10 be separate from the garage.

11 So the owners instead proposed removing the
12 existing entrance and constructing a small connector in a
13 corner between the existing house and existing garage big
14 enough to allow for the maneuvering a wheelchair and a stair
15 leading upstairs with the stair lift.

16 We have consulted and went before the Historical
17 Commission. The Historical Commission considers this a
18 minimal project and voted to allow with the following
19 Certificate of Appropriateness soon to be issued. The vote
20 was, I think, two weeks ago.

21 This -- as far as the zoning, the addition would
22 violate the front yard, since this is the -- it's a corner

1 lot -- and the FAR, however minimally. Overall increase in
2 FAR is 28 square feet. That's about it.

3 JIM MONTEVERDE: Okay. Thank you. Any questions
4 from members of the Board?

5 By the way, we don't have any statement from the
6 Historic or Harvard Square Historic Commission. We don't
7 have any statements in the file to that effect. We'll take
8 your word for it.

9 Any questions from members of the Board? If not
10 --

11 VIRGINIA KEESLER: This is --

12 JIM MONTEVERDE: -- oh! Go ahead. Go ahead.

13 VIRGINIA KEESLER: This might be more of a
14 question for my - our - oh, never mind. I'll leave this for
15 -- well, I guess my question would be I'm not entirely
16 following what's triggering the need for a variance versus a
17 special permit so I wonder if you could elaborate on that.

18 JIM MONTEVERDE: Alex, go.

19 ALEX SVIRSKY: Is this question to me?

20 VIRGINIA KEESLER: Um -- yes.

21 JIM MONTEVERDE: If you think you can speak to it,
22 yes, please. Otherwise, we'll --

1 ALEX SVIRSKY: I thought that every time we
2 increase the FAR, the FAR increase triggers the variance.
3 Additionally, since the building is already nonconforming,
4 and our addition increases the nonconformance technically,
5 even though we're not extending the addition past the
6 garage; I may be wrong, however; this --

7 JIM MONTEVERDE: Yeah.

8 ALEX SVIRSKY: -- may be a special permit.

9 JIM MONTEVERDE: I had the same question, if I
10 may. Because looking at -- could you bring up the
11 dimensional form? Because, you know, let's assume the
12 dimensional form is accurate, the building is already over
13 the FAR. It's noncompliant; it's over the FAR or GFA. And
14 all you're doing is increasing that.

15 The total area is -- the floor area ratio is
16 already over and you're increasing that by a minimal amount.
17 I don't see setbacks in terms of front yard or side yard. I
18 made a note to myself I think it was side yard. It
19 basically reads, "no change" under all the requested
20 conditions.

21 So -- which I don't think is what -- if I heard
22 you correctly when you were speaking, I think you said there

1 was a front yard or a side yard setback.

2 ALEX SVIRSKY: Technically yes, we are infringing
3 on the front yard. However, because of the garage existing
4 --

5 JIM MONTEVERDE: Right.

6 ALEX SVIRSKY: -- infringement --

7 JIM MONTEVERDE: Yeah. You already do.

8 ALEX SVIRSKY: -- we're not increasing it, so.

9 JIM MONTEVERDE: Yeah. You're already
10 nonconforming.

11 ALEX SVIRSKY: Right.

12 JIM MONTEVERDE: The requirement is 20, you're
13 already - as this reads, 16.4/12.2/4.6. So you're already
14 nonconforming. Right?

15 ALEX SVIRSKY: Right.

16 JIM MONTEVERDE: What you're doing now doesn't
17 make that any worse, does it?

18 ALEX SVIRSKY: No, it doesn't make it. That's
19 what we're --

20 JIM MONTEVERDE: Yep.

21 ALEX SVIRSKY: -- doing, not making it any worse.

22 JIM MONTEVERDE: And left side - and it's a right

1 side. Is that correct? Where you need --

2 ALEX SVIRSKY: Yes, it is.

3 JIM MONTEVERDE: Again, you're not increasing --
4 you're increasing some of the already nonconforming
5 conditions. You're not introducing any new nonconformance.

6 ALEX SVIRSKY: Correct. You're right. You're
7 absolutely right. We're not --

8 JIM MONTEVERDE: Right?

9 ALEX SVIRSKY: -- increasing that for a new
10 nonconforming.

11 JIM MONTEVERDE: Which in our typical parlance is
12 -- makes it the simpler special permit so you don't have to
13 prove a hardship, although in your case I think you did talk
14 through -- talked about a hardship.

15 So I don't want to confuse things, but if we have
16 it in front of us as a variance, I'm happy to go through it
17 that way just to --

18 JIM MONTEVERDE [to OLIVIA RATAY]: The garage?

19 ALEX SVIRSKY We'll accept whatever the Board feels
20 the most appropriate way.

21 JIM MONTEVERDE: In the plans --

22 [Side conversation]

1 JIM MONTEVERDE: We don't mind, and there are no
2 objections from the Board. Let's just take it the way we
3 have it in front of us, which is as a variance. Because I
4 think either would be kind of -- meets all the criteria that
5 I can think of. Any questions from members of the -- other
6 questions from members of the Board?

7 If not, I'll open it to public comments. Any
8 member of the public who wishes to speak should now click
9 the icon at the bottom of your Zoom screen that says, "Raise
10 hand."

11 If you're calling in by phone, you can raise your
12 hand by pressing *9 and unmute or mute by pressing *6. I'll
13 now ask Staff to unmute the speakers one at a time. You
14 should begin by saying your name and address, and Staff will
15 then confirm that we can hear you. After that you will have
16 up to three minutes to speak before I ask you to wrap up.
17 And we have no correspondence in the file from anyone.

18 Is there any member of the public who wishes to
19 speak? Nope? Okay.

20 Members of the Board, any -- I'll close public
21 testimony. And members of the Board, are you okay we move
22 to a motion?

1 All righty. The Chair makes a motion to grant the
2 relief from the requirements of the Ordinance under Sections
3 5.31 Table of Dimensional Requirements, 10.30 Variance, and
4 8.22.3 for a nonconforming structure on the condition that
5 the work proposed conform to the drawings entitled "Private
6 Residence 124 Brattle Street, Cambridge, Mass." prepared by
7 Architecture SV and dated July 31, 2023, initialed and dated
8 by the Chair.

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

12 I will now go through the requirements of a
13 variance. And we need to find that each one of these has
14 been satisfied.

15 a) Literal enforcement won't involve a hardship.
16 I think you talked about the use of a wheelchair to get
17 around and this entry accommodates that. Is that correct?

18 ALEX SVIRSKY: Yes.

19 JIM MONTEVERDE: And hardship owing to the soil
20 conditions, shape or topography of the land or structure,
21 not generally affecting the zoning district in which it's
22 located -- in this case it just -- you know, it's a

1 absolutely pinned on every side, to a property line, so
2 there's nowhere else to go. So I think that satisfied. And
3 then

4 c) desirable relief may be granted without
5 substantial detriment to the public good -- I think that's
6 satisfied -- nullifying or substantially derogating from the
7 intent and purpose of the Ordinance.

8 And I think that is satisfied. So the motion then
9 to grant the variance. Board members, please take a voice
10 vote on the motion to grant relief. Bill?

11 BILL BOEHM: In favor.

12 JIM MONTEVERDE: Tom?

13 THOMAS MILLER: In favor.

14 JIM MONTEVERDE: Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES]

20 That's five in favor. Relief is granted. Thank
21 you.

22 ALEX SVIRSKY: Thank you.

1 * * * * *

2 (7:41 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: Next case is Number 236649 -- 65
6 Dudley Street. Is there anyone who wishes to speak on this
7 case?

8 RACHEL LEGREE: Yes. I'm the homeowner, Rachel
9 Legree.

10 JIM MONTEVERDE: Yep. Okay.

11 RACHEL LEGREE: Okay? So --

12 JIM MONTEVERDE: Yep. Tell us what you want to
13 do.

14 RACHEL LEGREE: I purchased this home in May and
15 as you'll see from the pictures, it's in need of renovation,
16 particularly a new roof. But as I do the roof, I'm wanting
17 to increase the airflow.

18 So in the attic and in the bathroom to better vent
19 the building. And as you'll see, my neighbors have done the
20 same thing.

21 So I'm trying to mirror the neighbor on the left
22 with skylights both to the east and to the west. So the

1 larger one skylight would be over the bathroom, and then the
2 other skylights would vent the attic.

3 And I've received letters from my neighbors.

4 JIM MONTEVERDE: Yep. I'll go through those.

5 RACHEL LEGREE: Yep. Abutting neighbors. Yep.

6 JIM MONTEVERDE: I'll go through those in a
7 moment.

8 RACHEL LEGREE: Okay.

9 JIM MONTEVERDE: Well, I think you've described it
10 all. So in essence, this is a special permit to allow you
11 to make the skylight openings, which violate both side yard
12 setbacks on the east and west property lines, correct?

13 RACHEL LEGREE: Correct. And let me just state,
14 I'm in North Cambridge in the old Racetrack area. So
15 everybody has these old plot lines that don't conform to the
16 modern standards.

17 JIM MONTEVERDE: Yep. Understood. But you're
18 here because you want to place those skylights in the side
19 yard setback?

20 RACHEL LEGREE: Right.

21 JIM MONTEVERDE: Okay. Thank you. Any questions
22 from members of the Board?

1 [Pause]

2 No? I will review the -- enter the public
3 commentary we have in the file. We have a letter, undated,
4 Deanna Skow, 63 Dudley Street, in strong support; Jessica
5 Cashdan, 67 Dudley, strong support; Francois Berelowitch, 67
6 Dudley, strong support; Christopher Deery, 69 Dudley Street,
7 complete approval; Meg Bond, 61 Dudley Street, strong
8 support; Isaac Oakley and Arlyn Madsen-Bond, 59 Dudley,
9 strong support; and Deanna -- oh, Deanna's back, July 29,
10 yep. Those are all duplicates.

11 So we have, by my count, six of your neighbors in
12 favor and none objecting.

13 RACHEL LEGREE: Can I just add - the Historical
14 Commission added a note to the file that they do not wish to
15 review this; that it did not bother them.

16 JIM MONTEVERDE: Okay. Thank you. We don't have
17 that in the file, but we'll take your word for that.

18 All right. Any questions from members of the
19 Board before we go to a motion? If not, the Chair makes a
20 motion to grant the relief from the requirements of the
21 Ordinance under Sections - sorry?

22 Oh, sorry. I skipped public commentary since I

1 did such a great job of reading all those letters.

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

5 If you're calling in by phone, you can raise your
6 hand by pressing *9 and unmute or mute by pressing *6. So
7 I'll now ask Staff to unmute the speakers one at a time.
8 You should begin by saying your name and address, and Staff
9 will confirm that we can hear you. After that you will have
10 up to three minutes to speak before I ask you to wrap up.

11 Is there anyone who wishes to speak besides the
12 people I mentioned already have correspondence in the file?

13 [Pause]

14 No. All right. Close public testimony. Motion,
15 then.

16 The Chair makes a motion to grant the relief from
17 the requirements of the Ordinance under Sections 5.31 for
18 Dimensional Requirements - those are the side yard setbacks
19 east and west that the skylights fall within - and 8.22.2.c
20 for nonconforming structures, since it's already
21 nonconforming, and for a special permit.

22 And drawings -- there are no drawings. There

1 you'll picture a photographic overlay. Yep. There are a
2 couple plans, untitled. If you don't mind, I will write on
3 these "65 Dudley Street Cambridge." It looks like they're
4 prepared by VELUX, the skylight manufacturers, and they are
5 undated, but I will put today's date on them. I will
6 initial and date the drawing.

7 And further, we incorporate the supporting
8 statements and dimensional forms submitted as part of this
9 application. And also as a special permit.

10 Let us go through the criteria.

11 a) It appears the requirements of this ordinance
12 cannot or will not be met. That's correct.

13 b) Traffic generated, or patterns of access or
14 egress would cause congestion, hazard -- and that is not the
15 case.

16 c) Continued operation of or development of
17 adjacent uses, as permitted in the Zoning Ordinance, would
18 not be adversely affected. They will not.

19 d) Nuisance or hazard would be created to the
20 detriment of the health, safety or welfare. They will not.

21 And,

22 e) For other reasons, the proposed use would

1 impair the integrity of the district or adjoining district.

2 And I don't think it will.

3 And therefore we meet all the criteria of a
4 special permit under Section 10.43, paragraphs a) through
5 e).

6 Board members, time for a vote. Steven?

7 STEVEN NG: In approval.

8 JIM MONTEVERDE: Virginia?

9 VIRGINIA KEESLER: In favor.

10 JIM MONTEVERDE: Tom?

11 THOMAS MILLER: In favor.

12 JIM MONTEVERDE: Bill?

13 BILL BOEHM: In favor.

14 JIM MONTEVERDE: And Jim Monteverde in favor.

15 [All vote YES]

16 Five in favor. The special permit is granted.

17 Thank you.

18 RACHEL LEGREE: Thank you.

19

20

21

22

1 * * * * *

2 (7:49 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: Next case is Case No. 233167 --
6 50 Clifton Street. Is there anyone who wishes to speak on
7 this request?

8 KIEM FOR NGO: Yes. I'm the owner and my wife.
9 My name is Kiem For Ngo and my wife Lei Jiang. So we are
10 proposing to add a dormer to our existing attic, and it's on
11 the north side of the house.

12 And on the north side there's a driveway. So the
13 distance to our neighbor is 16 feet. So -- and adding that,
14 we will not -- the only thing that will increase is the
15 living area. That is exceeding the current requirement.

16 CHIH-MING LEE: Yes. My name is Chih-Ming Lee.
17 I'm the architect of the project.

18 JIM MONTEVERDE: Yep.

19 CHIH-MING LEE: And this project, we have the
20 existing nonconforming condition in terms of front setback
21 and FAR. And we're trying to make the attic space more
22 useful. And so, we make a code-compliant staircase leading

1 to the attic.

2 And since this attic space is in the north side,
3 and we do have more than code required side yard setback on
4 the north side.

5 Also, the shed dormer is more than 15 -- it's
6 about 18 feet from that front setback so -- which is more
7 than required 15 feet. And we understand that the FAR
8 exceeds the requirement, and we are adding another 233
9 square feet on the attic [audio unclear] because of the shed
10 dormer.

11 JIM MONTEVERDE: Okay. Anything else from the
12 proponent?

13 [Pause]

14 No? I will open it up to questions from members
15 of the Board. Any questions, members?

16 BILL BOEHM: My question to the architect and
17 owner is are you aware of the Dormer Design Guidelines that
18 the City of Cambridge Zoning Department has? And if so, do
19 you realize that you're not in compliance with the Design
20 Guidelines?

21 CHIH MING-LEE: The - yeah, the FAR is exceeding
22 the -- 0.5 FAR, and but since the owner needs more livable

1 space in his house, so that's why we're trying to make the
2 attic space more useful.

3 BILL BOEHM: So I understand that, but this isn't
4 a question -- I'm not asking about the FAR; I'm asking
5 there's a specific set of guidelines for roof dormers that
6 you should be aware of that controls sort of the size
7 relative to the rest of the roof and the placement of the
8 dormer.

9 And having learned about these the hard way some
10 years ago doing dormers, I wish that they were more in
11 evidence. But your dormer does not comply by a long shot
12 with the roof dormers.

13 For one thing, they ask for a maximum of 15'.
14 They want them not to extend to the ridge. They want them
15 not to extend to the side wall. So there's a number of
16 things that this dormer design does not comply with with the
17 Guidelines.

18 JIM MONTEVERDE: Just to follow that up, so to the
19 proponent: I'm looking at your drawing A1.1, the proposed
20 attic plan. And there's a string of dimensions that would
21 define how long the dormer is. Can you save me the effort
22 of adding this up and tell me what the approximate length of

1 that dormer is?

2 CHIH-MING LEE: The length of the dormer is 34'
3 and 4".

4 JIM MONTEVERDE: Okay. So I think as Bill
5 mentioned, I think he's absolutely correct. The most
6 egregious piece here is -- and I'm referring to the Zoning
7 Section 8.22.1.h.2, the dormer on the third story no longer
8 than 15' does not extend horizontal beyond the border of the
9 walls and the existing second story, nor above the
10 ridgeline, provided the total linear length of all dormers
11 on the third story of the building does not exceed 15'.

12 So you're well over that limit. So -- and I'll
13 just leave that as a comment.

14 Any questions, comments from any other members of
15 the Board?

16 THOMAS MILLER: Thomas Miller.

17 JIM MONTEVERDE: Yep.

18 THOMAS MILLER: This is just for my information,
19 for anyone on the Board who knows the petitioner does
20 include a number of pictures of other dwellings on the
21 street with dormers.

22 Some of those dormers would appear to be equally

1 out of compliance with the Dormer Guidelines, is that
2 correct?

3 JIM MONTEVERDE: Looks that way. But again --

4 THOMAS MILLER: I think you --

5 JIM MONTEVERDE: -- the way we've taken these
6 before is that is not the matter in front of us tonight. We
7 don't know when those additions happened, by whom, under
8 what circumstance, or if another Board saw reason to accept
9 them. So this one really just has to stand on its own. At
10 least that's been our precedent.

11 Any other questions from members of the Board?

12 Let me open it up to public commentary, and we'll come back
13 to the Board in a second. We have no correspondence in the
14 file either for or against, so I'll open it to public
15 commentary.

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

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

21 I'll now ask Staff to unmute speakers one at a
22 time. You should begin by saying your name and address, and

1 Staff will confirm that we can hear you. After that you
2 will have up to three minutes to speak before I ask you to
3 wrap up.

4 STEVEN NG: Jim?

5 JIM MONTEVERDE: I'll close public testimony.
6 Discussion from members of the Board? Let me start.

7 I'm taking -- at the moment, I don't feel that I
8 can support the proposal, really on the basis of the way
9 that the dormer is presented, and that it exceeds all of the
10 Dormer Guidelines that we have in terms of just as Bill has
11 elaborated, you know: no more than 15' in length down from
12 the ridge. I think it is set back.

13 It is in alignment with the building face, and
14 there's a soffit that runs along the front of it, so that
15 complies. But down from the ridge and no more than 15'
16 wide. So I could not support the proposal in front of us.

17 Is there any other Board member who feels
18 similarly?

19 STEVEN NG: I would agree with that, and I
20 recommend we, you know, kind of get a feel for where the
21 Board stands and then provide the applicant kind of some
22 options on --

1 JIM MONTEVERDE: Yep.

2 STEVEN NG: -- how we can address this.

3 JIM MONTEVERDE: Well, okay. I think we just did
4 the count for the Board. So that's you need four positive
5 votes, two affirmative votes to get your relief. So we've
6 just heard from two of us who say we're not in favor. That
7 would mean you would be denied. And your choice then,
8 proponent, is to choose to continue, look at a redesign that
9 makes the dormer addition within the Dormer Guidelines and
10 come back.

11 Or, if we proceed from the vote from at least the
12 two of us who've spoken, it would be denied, and then that
13 way you can't come back in two years with the same plan,
14 unless the plan changes dramatically.

15 So for the proponent, it is up to you what you'd
16 like to do.

17 CHIH-MING LEE: Okay. Okay, thank you Jim and
18 members of the Board.

19 JIM MONTEVERDE: Yep. Is it - sorry, is it clear
20 what we're talking about --

21 CHIH-MING LEE: Yes.

22 JIM MONTEVERDE: -- or suggesting? I think those

1 are the --

2 CHIH-MING LEE: Yes.

3 JIM MONTEVERDE: -- not that we want to drive you
4 to a conclusion, but I think those are the two obvious
5 choices in front of us this evening.

6 KIEM FOR NGO: Okay. I think we'll look to see
7 how we can be conformed to the -- yeah, to the Regulation
8 for the dormers.

9 JIM MONTEVERDE: Yeah, I suggest -- is the Dormer
10 Guidelines available through ISD? Are they available
11 online?

12 OLIVIA RATAY: They're online.

13 JIM MONTEVERDE: So that the --

14 KIEM FOR NGO: Okay.

15 JIM MONTEVERDE: -- Dormer Guidelines are online,
16 the City website through ISD Zoning or -- if you go into
17 ISD, you'll see all the forms. Okay. If you don't find
18 them online, you can come into ISD and get a copy of the
19 Dormer Guidelines.

20 So if you'd like to do that -- do you want to go
21 the continuance route, we'll pick another date for you to
22 come back; do some redesign and come back?

1 KIEM FOR NGO: Yes, sure.

2 CHIH-MING LEE: Yes.

3 JIM MONTEVERDE: What do we have for a date?

4 OLIVIA RATAY: October 26.

5 JIM MONTEVERDE: October 26, if that gives you
6 enough time? Or November 9. How much time would you like?

7 KIEM FOR NGO: Mr. Lee, how much time do you need
8 to do the redesign?

9 CHIH-MING LEE: Yeah, give me maybe November.
10 November is a bit later.

11 JIM MONTEVERDE: Is that November?

12 CHIH-MING LEE: November, yes.

13 JIM MONTEVERDE: Yeah. Okay. That was the
14 November 9, right? Okay. All right, then. Let's make a
15 motion to continue this matter to November 9 of 2023 on the
16 condition that the petitioner change the posting sign to
17 reflect -- sorry?

18 OLIVIA RATAY: -- statement.

19 JIM MONTEVERDE: Sorry. What would I do without
20 Olivia?

21 Members of the Board, are you all available on
22 November 9? It has to be the same five of us. Bill, will

1 you be available?

2 BILL BOEHM: Available.

3 JIM MONTEVERDE: Thank you. Tom?

4 THOMAS MILLER: Available.

5 JIM MONTEVERDE: Virginia?

6 VIRGINIA KEESLER: Available.

7 JIM MONTEVERDE: Steven?

8 STEPHEN NATOLA: Available.

9 JIM MONTEVERDE: And I will be available. Okay.

10 So let me make a motion to continue this matter to November
11 9, 2023 on the condition that the petitioner change the
12 posting sign to reflect the new date of November 9, 2023 and
13 the new time of 6:00 p.m.

14 Also that the petitioner sign a waiver to the
15 statutory requirements for a hearing. This waiver can be
16 obtained from Maria Pacheco or Olivia Ratay at the
17 Inspectional Services Department.

18 I ask that you sign the waiver and return it to
19 the Inspectional Services Department by a week from this
20 coming Monday. Failure to do so will de facto cause this
21 Board to give an adverse ruling on this case.

22 Also that if there are any new submittal

1 information, changes to the drawings, dimensional forms, or
2 any supporting statements, that those be in our files by
3 5:00 p.m. on the Monday prior to the continued meeting date.

4 On the motion to continue this matter until
5 November 9, 2023, voice vote by the Board members please.

6 Bill?

7 BILL BOEHM: In favor.

8 JIM MONTEVERDE: Tom?

9 THOMAS MILLER: In favor.

10 JIM MONTEVERDE: Virginia?

11 VIRGINIA KEESLER: In favor.

12 JIM MONTEVERDE: Steven?

13 STEVEN NG: In favor.

14 JIM MONTEVERDE: In favor.

15 [All vote YES]

16 JIM MONTEVERDE: And for the proponent, when you
17 pick up the waiver that you have to sign, if you're going to
18 do that at the Inspectional Services Department, please ask
19 for a copy of the Dormer Guidelines while you are there.

20 Okay. Thank you. See you in November.

21 CHIH-MING LEE: Thank you very much.

22 KIEM FOR NGO: Thank you.

1 * * * * *

2 (8:03 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Bill Boehm, and Thomas Miller

5 JIM MONTEVERDE: The next case is BZA 238314 -- 64
6 Brewster Street. Is there anyone here wishing to speak on
7 this one?

8 MAGGIE BOOZ: Yes, hi.

9 JIM MONTEVERDE: Maggie?

10 MAGGIE BOOZ: Hi. I'm Maggie Booz of Smart
11 Architecture.

12 JIM MONTEVERDE: Hi.

13 MEGAN BAYER: I'm the architect for the project.
14 It's 46 Brewster Street, not 64 --

15 JIM MONTEVERDE: Oh, 46, yep.

16 MEGAN BAYER: Yeah. And my client, David
17 Brewster, is here as well. A little confusing. Mr.
18 Brewster lives on Brewster Street.

19 In any case, we're requesting permission to
20 violate a rear yard setback with a deck. We have a
21 situation where the topography of the site is such that the
22 back of the house is -- the grade is much lower than at the

1 front of the house.

2 And so, by the time you walk through the first
3 floor and get to the back of the house, you're a full story
4 -- almost a full story above grade in back.

5 My client has children. They play in the yard and
6 use the yard a lot, and we want to make a deck and porch
7 that isn't quite so much of a very high structure in back.

8 So we're trying to mediate the grade and the
9 elevation change by designing a porch and deck that has two
10 levels and has usable space at both levels.

11 The higher level right outside the kitchen and
12 breakfast room is -- we're going to have a grill, and then
13 we go down some steps and have a space for dining and
14 sitting. And then a few more steps down to grade.

15 So that portion of the deck that violates the rear
16 yard setback is about 22" off the ground. It's three risers
17 up from the grade. At the same time, my clients would like
18 to put a hot tub in their back yard.

19 And hot tubs are treated as accessory structures,
20 as you know, in the Zoning Ordinance, which means that they
21 have to be 10 feet from the house, which is a logical rule
22 when it comes to things like garages, which might have a

1 safety issue if they were placed too close to the primary
2 structure, but a hot tub doesn't have those kind of safety
3 issues.

4 And so, while we have plenty of places on the site
5 where we could be 10 feet from the primary structure and 5
6 feet from the side and rear yard setbacks, or plot lines I
7 should say -- property lines -- we'd like to place the hot
8 tub closer to the building for reasons of keeping it as sort
9 of tucked away next to the deck and as private from
10 neighbors as possible for both my clients' sake and for the
11 neighbors' sake.

12 We've proposed in our plans to put the hot tub
13 next to the deck, as you can see in the plan probably best
14 of all, and then build a sort of screen pergola structure
15 next to it to shield the side of the -- the side property
16 owner from viewing the hot tub when it's being used.

17 So our - and we feel like the hardship is a --
18 meets the letter of the law in that the law asks for there
19 to be something specific about the topography or geography
20 of the site that causes a hardship. And we feel that that
21 grade change does indeed do that.

22 And we also feel that the proposal is not one that

1 is offensive to any neighbors, that changes the character of
2 the neighborhood or increases density in some negative way.

3 And so, we've come to ask permission to do this
4 project.

5 JIM MONTEVERDE: Thank you. So if I can summarize
6 -- and Maggie, tell me if I get this correctly, but --

7 MAGGIE BOOZ: Mm-hm.

8 JIM MONTEVERDE: -- the variance is -- again, the
9 hardship you just mentioned has to do with the lot and the
10 topography, the fact that it slopes down?

11 MAGGIE BOOZ: Uh-huh.

12 JIM MONTEVERDE: And therefore, it puts the deck
13 -- correct? And the rear yard setback, the Ordinance
14 requirement is 27' and you'll be at 21' with the new
15 condition, so it's --

16 MAGGIE BOOZ: Mm-hm.

17 JIM MONTEVERDE: -- 6' out of compliance?

18 MAGGIE BOOZ: Uh-huh.

19 JIM MONTEVERDE: And the accessory structure for a
20 hot tub. Those are the three issues really in front of us,
21 correct?

22 MAGGIE BOOZ: Correct.

1 JIM MONTEVERDE: Okay. Thank you. Any questions
2 from members of the Board?

3 [Pause]

4 If not, I will open the matter to public comment.
5 I'll just say that we have two letters in the file in favor,
6 and none opposed.

7 We have a letter from Annette LeMond and Joseph
8 Moore at 7 Riedesel Avenue, Cambridge. They say they share
9 a property line, and they are expressing their support.
10 It's dated September 18.

11 And we have Anja Langbein and Young Park at 5
12 Riedesel Avenue in support. And those are the two letters
13 that we have in the file in support.

14 So any member of the public who wishes to speak
15 should now click the button that says, "Participants" and
16 then click the button that says, "Raise hand." If you are
17 calling in by phone, you can raise your hand by pressing *9
18 and unmute or mute by pressing *6.

19 I'll now ask Staff to unmute the speakers one at a
20 time. You should begin by saying your name and address, and
21 Staff will then confirm that we can hear you. After that
22 you will have up to three minutes to speak before I ask you

1 to wrap up.

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

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

9 [Pause]

10 No one calling in. I will close public testimony.

11 Discussion amongst the Board members? And let me
12 frame any discussion by just going back to the variance
13 requirements that we have to find that we meet all of these
14 conditions are applicable, and that the hardship is owing to
15 the circumstances relating to the soil condition, shape or
16 topography of such land or structure -- specifically or
17 specially affecting such land or structure, but not
18 affecting generally the zoning district in which it is
19 located. I think the architect has spoken about that.

20 And that desirable relief may be granted without
21 either 1) substantial detriment to the public good or
22 nullifying or substantially derogating from the intent or

1 purpose of the ordinance.

2 On that basis, is there any discussion among the
3 Board members? Ready for a motion?

4 JIM MONTEVERDE: All right. The Chair makes a
5 motion to grant the relief from the requirements of the
6 Ordinance under Sections -- and again, this is a variance --
7 under Sections 5.31 of a Table of Dimensional Requirements.
8 And that has to do with the rear yard setback being slightly
9 under the requirement of the Ordinance, and also 4.21 for
10 the accessory structure that's placing in the hot tub
11 adjacent or next to the building.

12 And then the requirements of the variance that I
13 just went through.

14 On the condition that the work proposed conform to
15 the drawings entitled "Brewster Client Residence, 46
16 Brewster Street, Cambridge," prepared by Smart Architecture,
17 dated August 25, 2023, initialed and dated by the Chair.

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

21 Board members let's please take a vote on the
22 motion to grant relief.

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Bill?

BILL BOEHM: In favor.

JIM MONTEVERDE: Tom?

THOMAS MILLER: In favor.

BILL BOEHM: Virginia?

VIRGINIA KEESLER: In favor.

BILL BOEHM: Steven?

STEVEN NG: In favor.

BILL BOEHM: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: Five in favor. The variance is granted. Thank you. Congratulations.

MAGGIE BOOZ: Thank you so much. Thank you.

JIM MONTEVERDE: You're welcome.

CHIH-MING LEE: Thank you very much.

JIM MONTEVERDE: Now we get to the one that I was so anxious to talk about.

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(8:13 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Bill Boehm, and Thomas Miller

JIM MONTEVERDE: The next case is BZA-235031 --
55 Gold Star Road No. 2. Is there anyone calling in who'd
like to speak about this?

WILLIAM HUBNER: Yes. The homeowners and
architect of the project would like to speak.

JIM MONTEVERDE: Just give us your name.

WILLIAM HUBNER: William Hubner and Noel Danforth,
55 Gold Star Road. There's two of us.

JIM MONTEVERDE: Yep. Anyone else?

NOEL DANFORTH: Maybe we signed in twice.

JIM MONTEVERDE: No, you're good. We can hear
you.

WILLIAM HUBNER: All right. Well, there seems to
be -- well, all right. Whatever.

NOEL DANFORTH: Remember not to vote.

WILLIAM HUBNER: Yeah. We're ganging up on you.

JIM MONTEVERDE: No, that's okay. You want to
walk us through what you're --

1 WILLIAM HUBNER: Yes.

2 JIM MONTEVERDE: -- you're asking for a variance?

3 WILLIAM HUBNER: Yes. I believe we have a --

4 JIM MONTEVERDE: -- garage with an attached
5 garage?

6 WILLIAM HUBNER: Yeah, exactly right. We have a
7 -- you can see the existing conditions on the left.

8 JIM MONTEVERDE: Yep.

9 WILLIAM HUBNER: You can actually point to this
10 thing and make it work. Yeah, because we have a
11 freestanding garage. It's a cinderblock structure. It's
12 th
13 built with the house, I'm assuming, turn of the 19 - 20 -
14 century. And it's right on the property line. And it faces
15 the - our house is 55 Gold Star Court, which is we're on the
16 corner of.

17 Our proposed - so that's the existing conditions.
18 You can see that there is a - a bulkhead - sorry, a head
19 house. This head house actually links from the yard this
20 small alleyway down into our basement. It's the kind of
21 mechanical connection to the basement, also again an old
22 existing structure.

1 And then there's - you can see the existing fence
2 on the property line. That's our neighbor. And I believe
3 it's 1 Gold Star Court. It was in a letter in favor of this
4 motion.

5 And so, and these -- by the way, we -- at the
6 second level, we Zoom back and show the second floor. There
7 we go.

8 On top of this flat roof garage is a -- two decks;
9 an upper deck which actually bridges from the house across
10 that alley where the head house is. Doesn't touch it. It
11 bridges right over it. And it lands on this deck. And then
12 these steps lead down to the ground.

13 This is the second means of egress for our unit,
14 which is a two-story unit, second and third floor of the
15 house. The ground floor is primarily an apartment. And our
16 entry, of course, as well -- the foyer.

17 So what I'm proposing to do -- and this is in the
18 proposed floor plans if we could flip to those -- okay.
19 Here we go.

20 So let's leave the cellar alone for the moment,
21 just talk about the first, the second floor, which is our
22 ground floor, the first floor of our -- sorry, this is the

1 apartment down the stairs.

2 And what we're proposing to do is take that same
3 garage structure -- I mean take it down, demolish it -- and
4 build a new structure with the same, nominally the same
5 footprint as the existing one -- the existing line, existing
6 footprint is seen here.

7 And if you scroll down just a little bit -- up,
8 sorry, scroll -- yeah, up, there we go. That -- this is the
9 corner of the existing garage, which you just saw a second
10 ago on the existing conditions.

11 We're going to take that same footprint basically
12 and bang it into the back of the house is the proposal.

13 The head house will be consumed by that move, and
14 then we'd have a new set of steps that would go from the
15 garage -- unenclosed steps but inside the garage -- straight
16 down and they would access the basement at the same
17 location.

18 The garage actually is a tiny bit smaller than the
19 current one as far as square footage, because I need to jog
20 this wall over in order to avoid the windows in the
21 apartment -- in the bathroom of the apartment, which I don't
22 want to disturb. So we're taking some chunk out of it.

1 And the numbers are actually here. They're also
2 in all the documentation we've submitted discussing FAR or
3 gross floor area, open space -- useable open space, all that
4 kind of stuff. It's all documented. But this is just a
5 quick analysis of that.

6 So going over to the second floor, you'd see that
7 the deck becomes a simpler structure. We no longer need to
8 bridge from the second floor of the house over to the garage
9 flat roof, which was set back.

10 And so, now we can have one single, smaller deck
11 that -- within -- still access over to the set of stairs.
12 It would go down to grade. And that would allow us to keep
13 the means of egress from this unit.

14 The fence doesn't show here in this drawing, but
15 these two drawings are lined up. The fence line, which is
16 our property line, would scoot right by here.

17 And so, the passageway that currently is quite
18 narrow because of the -- well, it's quite narrow period, but
19 because of the head house location that's a pinch point,
20 this now becomes the new passageway when you get down to the
21 ground floor, which, again, is back over here.

22 So you can come down the stairs and access Gold

1 Star Court from the ground or the back yard, which is what
2 we do now.

3 So the stairs move from this location where they
4 currently are on this side of the existing garage to this
5 side. It just so happens this increases the useable open
6 space for our property because this is not usable space,
7 according to the definition of the Cambridge Zoning Bylaws,
8 and this is not usable space in the original -- in the
9 existing conditions.

10 So by condensing this, pulling this in tight, we
11 still have access to the street this direction, but we
12 create more open space for the property itself.

13 So if this was to be granted, we are not
14 increasing the FAR, we're actually reducing it by a hair.
15 Side coverage is also being reduced. Usable open space is
16 being enhanced. And those are all nice things. And the
17 reason why I bring it up is because I think you guys care
18 about them as much as we do.

19 But for us what matters is that we have a much
20 more efficient and easier to maintain structure, both the
21 ground floor - the garage itself, the current garage, is in
22 poor condition and needs some -- would need some -- if we're

1 going to leave it where it is, we'd have to -- probably
2 rebuild it anyways.

3 It's just an old, old structure, reinforced
4 concrete roof, which is a flat roof which is Spaulding and
5 coming apart a little bit, old cinderblock, which has been
6 pointed several times and it's just -- it's getting old and
7 tired.

8 So we've got a lot of maintenance involved with
9 fixing that up. The head house is kind of a mess too.

10 So our photographs that were submitted, we can
11 maybe look at those. You'll see some of the conditions that
12 I'm done talking about if you care to see them.

13 And then with the large deck structure that
14 currently exists upstairs with a two-tiered deck by
15 condensing it down to one, we end up with a smaller deck
16 footprint, new simpler railing system, and it would all be
17 done in modern, manmade but green materials - decking and
18 railing, et cetera.

19 And so, we would be reducing our maintenance
20 program in that case as well.

21 There's the convenience of being able to go from
22 the garage directly into the cellar, not having to go

1 outside. The access to the cellar would then be either
2 through the garage doors to the street.

3 We have another garage door to the rear, and the
4 purpose of that is so that if we ever need to get a piece of
5 equipment back here, which we cannot do now without either
6 taking down the side fence over here or the -- well, there's
7 actually no way to get any piece of equipment through here
8 at the moment, because this is too narrow in the existing
9 conditions, and that is zero on the back.

10 But this would allow us to bring --if we needed to
11 whether it would be a pickup truck or a small Bobcat or
12 something like that back here if we never needed any kind of
13 maintenance or whatever. It's just kind of a convenience.

14 So anyways, that's it.

15 So here's a look at the proposed garage from the
16 street, from Gold Star Court. You see the garage engaging
17 the wall of the house. This is the stairs coming down, and
18 that's the fence property line.

19 And my neighbor's over here. Probably right
20 around where this is. He now has some breathing room here,
21 and he's been doing some work on his house, and where he
22 sets the ladder up, he currently has to set up on top of our

1 garage roof, because it comes all the way over to here, our
2 deck, and then goes up.

3 And so, now he'll actually be able to set up a
4 ladder probably still on my property, but at least he could
5 come up or his workers can come up from the ground.

6 From Gold Star Road, you'd see a face of the
7 garage, which you see now, but it's set back, and it -
8 doesn't have a door in it. These are placeholders, by the
9 way. These are really intended to be there, but I haven't
10 specified the doors or any of that, because I wanted to see
11 how you all felt about this whole idea before we put any
12 more energy into designing it.

13 But that's from Gold Star Road. It's set back
14 substantially from the road itself, but there it is. This
15 is from Gold Star Court. The façade really moves from where
16 it is now here to here over here. There's currently two
17 doors with a cinder block pier, which is listing at about
18 four degrees.

19 Because it's old and falling down, and it's got
20 two modest-size, small garage doors that most people who try
21 to get into them find it's at their own risk, because it's -
22 they're quite narrow.

1 And then the back view, which faces our yard --
2 nobody really else can see it -- is the single garage door,
3 and then another personnel door, which I'm actually got
4 second thoughts about, but it's -- here it is in the
5 drawing. A modest size deck.

6 I am proposing a little storage box up there just
7 so we can keep our deck chairs, things like that, in there.
8 They wouldn't be sitting out in the weather all the time.
9 That's kind of incidental.

10 We're not doing, we're not proposing any -- the
11 height is not coming into play in this situation because
12 we're not looking for any relief from heights, any height
13 elements.

14 We're maintaining the side yard setback. We're
15 maintaining -- or that's actually a street front. It's
16 considered frontage because it's Gold Star Road Court.

17 At the back, which I think was actually
18 technically a -- yeah, the back yard is being improved, set
19 back because we're pulling in away from the property. No
20 change to this façade over -- this side over here, because
21 it's right in line with the old garage. And that's it in a
22 nutshell.

1 Again, the numbers are all submitted. There's
2 additional -- there's the -- this sheet is all the proposed
3 conditions. The existing conditions, which we looked at
4 briefly earlier, has the existing elevations of the house
5 and the garage, if you care to see those. The technical
6 assistant would have to flip back to that page if you wanted
7 to see those.

8 JIM MONTEVERDE: Can I ask you a question? Can I
9 ask you a question about the relief that you're seeking?

10 WILLIAM HUBNER: Yes of course.

11 JIM MONTEVERDE: And maybe Olivia, could we go to
12 the dimensional form?

13 So you're asking for relief 5.31, the Table of
14 Dimensional Requirements?

15 WILLIAM HUBNER: Yes.

16 JIM MONTEVERDE: What of this do you need relief?

17 WILLIAM HUBNER: Well, it's a technicality,
18 frankly. But because the garage -- currently the garage is
19 a freestanding garage, and it has setback requirements that
20 it doesn't need, but that are different than attached garage
21 to the home it has.

22 So by attaching the garage for the reasons that I

1 just described, we kick in the requirement to ask for
2 permission [laughter] to have the variances from the
3 setbacks.

4 Although they are conforming to existing or they
5 don't conform any better at the back, we still have to ask
6 for permission, because technically it's no longer a
7 freestanding --

8 JIM MONTEVERDE: So --

9 WILLIAM HUBNER: -- garage; it's an attached
10 garage.

11 JIM MONTEVERDE: I understand. So on the
12 dimensional form, which are you requesting relief from?
13 Front --

14 WILLIAM HUBNER: It would be the --

15 JIMMY HENSON: -- there, left?

16 WILLIAM HUBNER: -- well --

17 JIM MONTEVERDE: Right?

18 WILLIAM HUBNER: -- there's two frontages.

19 Because we were on --

20 JIM MONTEVERDE: Yep.

21 WILLIAM HUBNER: -- yep. So we need a frontage
22 relief, because --

1 JIM MONTEVERDE: Yep.

2 WILLIAM HUBNER: -- we're maintaining the number,
3 but we need relief there, and --

4 JIM MONTEVERDE: Okay.

5 WILLIAM HUBNER: -- the back, yes, the back --

6 JIM MONTEVERDE: -- which is front and back.

7 WILLIAM HUBNER: -- less of the garage also
8 needs relief, even though it's bigger than it could -- the
9 setback is we're increasing the location of the garage from
10 the rear yard.

11 JIM MONTEVERDE: But the --

12 WILLIAM HUBNER: The requirements require more.

13 JIM MONTEVERDE: Okay. And --

14 WILLIAM HUBNER: Yeah. That's what these numbers
15 are; we have two frontages, and we have two backs.

16 JIM MONTEVERDE: Yep. Understood.

17 WILLIAM HUBNER: I kind of split this up.

18 JIM MONTEVERDE: And then just to confirm, I think
19 you mentioned before since this is a variance, we're -- you
20 described I believe what amounts to the hardship is the
21 deteriorating condition of the existing garage, and that you
22 have to take it down and rebuild it. Is that correct?

1 WILLIAM HUBNER: I thought it had more than that
2 as my hardship. But that is one of the conditions, yes.
3 And it's -- well, there's the maintenance cost of fixing the
4 head house, which needs repair, and fixing the garage
5 itself.

6 Also, the awkwardness of the head house location
7 to accessing it makes that a condition that regardless of
8 its repair, it's just an awkward situation.

9 And I was -- my thinking is if we can take that
10 -- the nominal five-foot space from the back of the house to
11 the side of the garage and swap that and give it over to the
12 other side of the garage, it enhances my neighbor's
13 situation, because he actually now has some relief from our
14 structure, if not our property line.

15 It does -- it simplifies the size of the deck, as
16 I already said, and that keeps the maintenance of it. It
17 just -- its presence on the street, I mean you arguably -- I
18 think we all try to strive to sort of minimize the impact of
19 our structures on our neighbors and on the neighborhood at
20 large.

21 And by pulling this thing in, the garage is the
22 same size, but its impact is reduced by pulling it in.

1 And, again, the awkward largeness, awkwardness of
2 the deck -- double tier deck -- also would be reduced and
3 simplified. And it would just have less impact. We've
4 never had a complaint about it, but it's just --

5 JIM MONTEVERDE: Okay. Thank you.

6 WILLIAM HUBNER: -- yeah, one of those things.

7 JIM MONTEVERDE: Yep.

8 WILLIAM HUBNER: So --

9 JIM MONTEVERDE: Thank you. I get it.

10 WILLIAM HUBNER: Yeah.

11 JIM MONTEVERDE: Any --

12 WILLIAM HUBNER: You have to look at --

13 JIM MONTEVERDE: -- questions from members of the
14 Board?

15 [Pause]

16 If not, I will say that we have two pieces of
17 correspondence in the file in favor and none speaking in
18 opposition. We have a letter from Andrew Allegretti, dated
19 August 28, 2023. He's an owner-occupant at 2 Gold Star
20 Court, and he is in support. And Sam Kahsai, August 11,
21 2023. He resides at 1 Gold Star Road Court, and he is also
22 in support.

1 So I will open the matter up to public comment.

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

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

7 I'll now ask Staff to unmute speakers one at a
8 time. You should begin by saying your name and address, and
9 Staff will confirm that we can hear you. After that you
10 will have up to three minutes to speak before I ask you to
11 wrap up.

12 Anyone wishing to speak?

13 [Pause]

14 Nope. I will close public testimony. Any
15 discussion among Board members? If not, I will move to a
16 motion. Let me just go to the conditions for a -- this is a
17 variance request.

18 So we discussed briefly I think, and the proponent
19 described, I believe, the hardship owing to really the
20 condition of the existing structure; its required
21 maintenance, its dilapidated condition, and that that
22 basically drives the design to take the existing garage down

1 and rebuild it and move it adjacent to or attached to the
2 house. I think that's the discussion for hardship.

3 And then desirable relief would be granted without
4 substantial detriment to the public good or nullifying or
5 substantially derogating from the intent or purpose of the
6 ordinance, which I think those two are met.

7 Let me propose a motion. The Chair makes a motion
8 to grant the relief from the requirements of the Ordinance
9 under Sections 5.31, Table of Dimensional Requirements. And
10 as we spoke about a moment ago, that has to do with the --
11 let me get to the chart - the front and rear yard
12 calculations with this repositioned garage.

13 And 8.22.3 nonconforming structure, and then the
14 conditions of the variance, which we just read through and
15 believe the proponent meets.

16 On the condition that the work proposed conform to
17 the drawings entitled "Proposed Garage Reconstruction, 55
18 Gold Star Road, Cambridge, Massachusetts," prepared by
19 Insight Architecture, William Hubner, Architect, and dated
20 July 18, 2023, initialed and dated by the Chair.

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

1 application.

2 For a vote, Board members, let's vote via voice
3 vote on the motion to grant the relief.

4 Steven?

5 STEVEN NG: In favor.

6 JIM MONTEVERDE: Virginia?

7 VIRGINIA KEESLER: In favor.

8 JIM MONTEVERDE: Tom?

9 THOMAS MILLER: In favor.

10 JIM MONTEVERDE: Bill?

11 BILL BOEHM: In favor.

12 JIM MONTEVERDE: And Jim Monteverde in favor.

13 [All vote YES]

14 JIM MONTEVERDE: That's five affirmative. Your
15 variance is granted. Congratulations.

16 WILLIAM HUBNER: Thank you very much.

17 JIM MONTEVERDE: Have a good night.

18 WILLIAM HUBNER: Appreciate it. Goodnight.

19 JIM MONTEVERDE: Goodnight.

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(8:33 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Bill Boehm, and Thomas Miller

JIM MONTEVERDE: Last but not least -- and I think that was last Sunday's sermon, as a matter of fact, was -- is BZA-238363 -- 29 Ash Street. Is there anyone who wants to speak on this proposal, this request for a special permit?

Catherine Hayden or David Thurston?

DAVID FREED: Good evening, Mr. Chair. My name is David Freed. I'm the architect repairing Catherine Hayden and David Thurston.

JIM MONTEVERDE: Yep.

DAVID FREED: And I think Catherine Hayden is on this Zoom this evening as well.

JIM MONTEVERDE: You want to walk us through what you're planning to do and what relief you're asking for?

DAVID FREED: Yes. We are seeking to extend living space into the basement, and to add a dormer addition to the right side of the building. We're seeking relief for

1 side yard and rear yard setbacks as well as FAR.

2 JIM MONTEVERDE: Do you want to talk us through
3 any of the drawings, or shall we just --

4 DAVID FREED: Oh, yes. Yeah, please.

5 JIM MONTEVERDE: -- leave it at what we see?

6 DAVID FREED: If you could scroll up, please. So
7 as you can see, the house is situated very closely to the
8 right-side lot line. It's a very small parcel. It's
9 located over -- near Harvard and Memorial Drive.

10 Our dormer -- proposed dormer is on the right side
11 towards the rear. We're also seeking a very tiny dormer
12 above the stair in the back addition.

13 And if you could please go to the next drawing?

14 The drawing on the left is the existing condition
15 of the basement, and the drawing on the right would be the
16 proposed drawing of the finished basement. We have to drop
17 the slab about 18" to make head height, and we'd like to add
18 a couple window wells, one of which triggers the side yard
19 setback.

20 Next drawing please?

21 Uh-uh.

22 Next drawing please?

1 So on the second floor, we'd be adding -- on the
2 second floor in the rear, there's a small stair that goes
3 down to the kitchen and we're seeking to add a very small
4 dormer, basically raise the window head here in the back
5 addition.

6 In the front of the house, we'd like to add a wood
7 stair up from the second floor to the wood floor -- to the
8 third floor, I'm sorry.

9 And if you could go to the next drawing, please?
10 I'd like to have a small dormer that provides head height
11 for the new stair, as well as for a new bathroom on the
12 third floor here.

13 Next drawing please.

14 This is a roof plan. And the roof plan shows on
15 the right our 15' dormer, which is set back, both through
16 the front and the rear. The dormer doesn't attach to the
17 ridge. And then there's a very small dormer on the - in the
18 back addition that's just a few feet wide.

19 Next slide, please.

20 The drawings on the bottom are the existing
21 condition, and the colored elevations are the proposed. So
22 on the left side elevation, you can see there are two small

1 window wells that are proposed.

2 And the dashed lines here, we're taking the
3 existing chimneys out. The right side of the elevation -
4 east elevation proposed shows our proposed dormer.

5 Next slide, please?

6 JIM MONTEVERDE: Sorry. Before you leave that
7 slide --

8 DAVID FREED: Mm-hm.

9 JIM MONTEVERDE: -- the existing east elevation,
10 is there an existing dormer on the roof?

11 DAVID FREED: No. I'm sorry. That was a mistake
12 on the bottom. That should be - yeah.

13 JIM MONTEVERDE: Yep. Because it doesn't show up
14 on the side elevation, right?

15 DAVID FREED: Yeah.

16 JIM MONTEVERDE: Right. Okay.

17 DAVID FREED: Thank you.

18 JIM MONTEVERDE: Thank you.

19 DAVID FREED: The drawings on the bottom again are
20 existing. Our proposed dormer is shown in the upper drawing
21 on the left. The proposed were elevation. It's 15' long,
22 and it's just articulated with windows all the way across.

1 And then you can see on the right there's just a
2 very small dormer that raises the window head in the back
3 addition of the house.

4 And if you want to show there's slides of the
5 existing -- pictures of the existing house, that's our front
6 elevation on Ash Street. That's an image of the side.

7 And there's our plot plan. And you can see that,
8 you know, we're just 2.9' from the right-side lot line, and
9 really the covered porch is 1.3' from the rear lot line.

10 JIM MONTEVERDE: So do I have my orientation
11 correct? So the dormers happen in the side yard setback?

12 DAVID FREED: Correct.

13 JIM MONTEVERDE: That's part of the relief you're
14 looking for? Okay.

15 DAVID FREED: Yes. And the small dormer in the
16 back triggers the rear setback --

17 JIM MONTEVERDE: Right.

18 DAVID FREED: -- as well.

19 JIM MONTEVERDE: Yep.

20 DAVID FREED: So we're seeking - I'm sorry?

21 JIM MONTEVERDE: Go ahead. No. Go ahead.

22 DAVID FREED: No, so we're just - we're seeking

1 relief for those -- for the zoning violations tonight.

2 JIM MONTEVERDE: Right. And just so we're clear,
3 you're asking for relief under 5.31, Table of Dimensional
4 Requirements looking at your dimensional form. The only one
5 I see that's not in compliance would be the left side
6 setback. Is that correct? It goes from a current existing
7 condition of 19.7' to 16.1' and the Ordinance requires
8 17.4', is that correct?

9 DAVID FREED: Yes. The window well is triggering
10 that.

11 JIM MONTEVERDE: I'm sorry? Oh, that's right.
12 It's the - it's the window well?

13 DAVID FREED: Yes.

14 JIM MONTEVERDE: Yes. Okay. Thank you. And the
15 two dormers that are in the side yard setback on the
16 opposite side, correct?

17 DAVID FREED: Yes.

18 JIM MONTEVERDE: Those are the two items that
19 you're requesting the dimensional relief?

20 DAVID FREED: Yes.

21 JIM MONTEVERDE: And that's about the size of it.
22 That's about the size of the relief, correct?

1 DAVID FREED: Yeah.

2 JIM MONTEVERDE: Okay. Any questions from members
3 of the Board?

4 THOMAS MILLER: Thomas Miller.

5 DAVID FREED: Oh, go ahead.

6 THOMAS MILLER: Very quickly, I was just going to
7 ask is the -- am I reading this right that the outside wall
8 of the larger dormer is flush with the wall of the house
9 below?

10 DAVID FREED: Yes, it is. Because we're bringing
11 the stair up from the second floor to the third floor.

12 JIM MONTEVERDE: Right. But the roof overhang,
13 the corners, the shingling, continues underneath the bottom
14 of the dormer and continues across, correct?

15 DAVID FREED: Yes, yes.

16 JIM MONTEVERDE: Yeah. So that's what the Board
17 has typically accepted, as opposed to the specific verbiage
18 that says you're not supposed to be in the side wall, set
19 back from the side wall, so -- okay.

20 DAVID FREED: I think I should mention also -
21 excuse me, I'm sorry, we have received approval from the
22 Cambridge Historical Commission before we came to Zoning for

1 -- asking for relief.

2 JIM MONTEVERDE: Great. It's not in our file, but
3 we'll take your word for it. Any other questions from
4 members of the Board?

5 BILL BOEHM: I have a question. What's the
6 intended use of the basement? And I ask this to the
7 architect. I see there's two windows that look like kind of
8 what would normally be used as bedroom egress windows, but
9 they don't appear to be a bedroom. So I was just curious
10 what the intended use of the basement was.

11 DAVID FREED: Well, right now it's just going to
12 be used as like a media room. There's really no intent to
13 put bedrooms down there, because it does need light and air.

14 JIM MONTEVERDE: Okay. Any other questions from
15 members of the Board? If not, we'll move to public comment.
16 Let me just enter to the record that we have seven letters
17 in favor, in support and none in opposition.

18 We have Douglas Okun, September 25; in support.
19 We have James Woodman, 27 Ash Street; in support, May 23,
20 2023; May 18, 2023 and Katherine and David Gergen, 31 Ash
21 Street in support.

22 June 17, 2023 Eirene Kontopoulos and Anthony

1 Philippakis -- I hope -- if I mispronounce that, excuse me
2 -- in support. And they reside at 32 Ash.

3 All the neighbors here: 36 Ash Street, Jane
4 Kervick and John Costello in support; Sharissa Jones, Daniel
5 Medwed, 154 Mount Auburn Street, in support. That's on May
6 18, 2023. May 19, 2023 Marta Rivas and George Langdon, 999
7 Memorial Drive, in support.

8 Those are the letters we have in the file. So let
9 me open it to public comment. Any members of the public who
10 wish to speak should now click the icon at the bottom of
11 your Zoom screen that says, "Raise hand."

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

14 I'll now ask Staff to unmute the speakers one at a
15 time. You should begin by saying your name and address, and
16 Staff will confirm that we can hear you. After that you
17 will have up to three minutes to speak before I will ask you
18 to wrap up.

19 Is there anybody calling in?

20 [Pause]

21 No one calling in. I will close public testimony.
22 Any discussion among members of the Board? Let me just --

1 before we go to a motion, let me just review the
2 requirements of the -- this is a special permit. It appears
3 that the requirements of this ordinance cannot or will not
4 be met, that's true.

5 Traffic generated, or patterns of access or egress
6 would cause congestion, hazard. Doesn't seem it.

7 Continued operation of or development of adjacent
8 uses would not be adversely affected. Doesn't seem to be.

9 Nuisance or hazard would be created to the
10 detriment of the health, safety or welfare of the occupants
11 of the proposed use or citizen of the city and that does not
12 seem to be the case.

13 And for other reasons, the proposed use would not
14 impair the integrity of the district or adjoining districts,
15 and that does not seem to be the case.

16 So it appears to comply with all of the
17 requirements of criteria - of special permit criteria
18 Section 10.43, paragraphs a) through e).

19 On that basis, the Chair makes a motion to grant
20 relief from the requirements of the ordinance under Sections
21 5.31, Table of Dimensional Requirements. And that is
22 specifically for the left side setback for the new window

1 wells areaway, and for the new skylights, which will impose
2 on the right-side setback.

3 And Sections 8.22.2.d and .c for a nonconforming
4 structure, and I just read the criteria for the special
5 permit.

6 On the condition that the work proposed conform to
7 the drawings entitled "Extension of living space at the
8 basement and dormer at 29 Ash Street, Cambridge,
9 Massachusetts," prepared by Chiu and Company, Inc. and dated
10 August 16, 2023, initialed and dated by the Chair.

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

14 To a vote. Board members, please take a voice
15 vote on the motion to grant the relief. Virginia?

16 VIRGINIA KEESLER: In favor.

17 JIM MONTEVERDE: Tom?

18 THOMAS MILLER: In favor.

19 JIM MONTEVERDE: Bill?

20 BILL BOEHM: In favor.

21 JIM MONTEVERDE: Steven?

22 STEVEN NG: In favor.

1 JIM MONTEVERDE: And Jim Monteverde in favor.

2 [All vote YES]

3 JIM MONTEVERDE: That's five votes affirmative.

4 The special permit is granted.

5 DAVID FREED: Thank you so much.

6 JIM MONTEVERDE: And Board members, thank you for
7 your help. Have a good night.

8 COLLECTIVE: Goodnight. Thank you, goodnight,
9 everybody. Thank you.

10 JIM MONTEVERDE: Bye-bye.

11 [8:48 p.m. End of Proceedings]

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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.

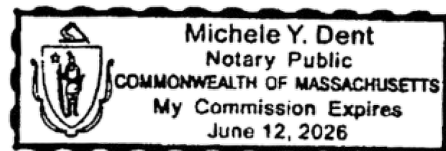
In witness whereof, I have hereunto set my hand this 16th day of September, 2023.



Notary Public

My commission expires:

June 12, 2026



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