

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY NOVEMBER 9, 2023

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair

Steven Ng, Vice Chair

Virginia Keesler

William Boehm

Carol Agate

Wendy Leiserson

Fernando Daniel Hidalgo

Thomas Miller

City Employees

Olivia Ratay



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

2 * * * * *

3 (6:00 p.m.)

4 Sitting Members: Jim Monteverde, Steven Ng, Wendy

5 Leiserson, Carol Agate, and Thomas Miller

6 JIM MONTEVERDE: Welcome to the November 9, 2023
7 meeting of the Cambridge Board of Zoning Appeal. My name is
8 Jim Monteverde, and I am the Chair.

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

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

16 There will also be a transcript of the
17 proceedings.

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

21 Members of the public will be kept on mute until
22 it is time for public comment. I will give instructions for

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

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

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

8 OLIVIA RATAY: Carol Agate?

9 CAROL AGATE: Present.

10 OLIVIA RATAY: Steven Ng?

11 STEVEN NG: Present.

12 OLIVIA RATAY: Thomas Miller?

13 THOMAS MILLER: Present.

14 OLIVIA RATAY: Wendy Leiserson?

15 WENDY LEISERSON: Present.

16 JIM MONTEVERDE: And Jim Monteverde present.

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2 (6:02 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Wendy
4 Leiserson, Carol Agate, and Thomas Miller

5 JIM MONTEVERDE: First case for this evening is
6 217962 -- 210 Bent Street. I have a letter from Paul
7 Rosizzi (phonetic), Project Manager for Identity (phonetic)
8 saying:

9 "Regarding the variance application, after careful
10 consideration, Verizon is requesting to withdraw without
11 prejudice."

12 And so, withdrawn. So I will make a motion to
13 withdraw this case. The Chair makes a motion to withdraw
14 without prejudice BZA-217962 -- and I will take a voice vote
15 by the Board members, please.

16 Steven?

17 STEVEN NG: In support.

18 JIM MONTEVERDE: Carol?

19 CAROL AGATE: In support.

20 JIM MONTEVERDE: Tom?

21 THOMAS MILLER: In support.

22 JIM MONTEVERDE: Wendy?

1 WENDY LEISERSON: Supporting the motion to
2 withdraw.

3 JIM MONTEVERDE: And Jim Monteverde in support.

4 [All vote YES]

5 JIM MONTEVERDE: So the motion is carried. The
6 case is withdrawn without prejudice. Thank you.

7 Wendy, is that it for you for the night?

8 WENDY LEISERSON: That is.

9 JIM MONTEVERDE: Thank you. Goodnight.

10 WENDY LEISERSON: Have a great night.

11 JIM MONTEVERDE: Thank you. You too. Enjoy your
12 Thanksgiving.

13 JIM MONTEVERDE: Carol, same for you?

14 CAROL AGATE: Yep. Same for me.

15 JIM MONTEVERDE: Yes. It is. All right. Thank
16 you for joining. Now, oh, yeah. Throw out a roll call
17 just to make sure we can hear you. So Bill?

18 BILL BOEHM: Present.

19 JIM MONTEVERDE: And Virginia?

20 VIRGINIA KEESLER: Present.

21 JIM MONTEVERDE: Okay. The gang's all here.

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2 (6:04 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Thomas Miller, and Bill Boehm

5 JIM MONTEVERDE: First one is -- these are all
6 continued cases -- it is 233167 -- 50 Clifton Street. Is
7 there anyone who wishes to speak on that case?

8 [Pause]

9 Anyone? Yep. Okay. If you would unmute yourself
10 and introduce yourself, name and address?

11 KEIM FOR NGO: Yeah. So my name is Keim For, and
12 I'm with my wife, Lei Jiang. So the address is 50 Clifton
13 Street in Cambridge.

14 JIM MONTEVERDE: Yep. So can you just go through
15 what changes you made since last you were here?

16 KIM FOR NGO: Sure. I will let --

17 JIM MONTEVERDE: The relief you're seeking --

18 KIM FOR NGO: -- Mr. Lee to speak to you about the
19 changes that we have made.

20 CHIH-MING LEE: Yes. My name is Chih-Ming Lee,
21 architect of the project. Address is 26 Maple Street,
22 Newton.

1 We made the changes for the project last summer,
2 which was on the north side we have a very long shed dormer,
3 and at that time we presented the design showing that on the
4 north side we have two smaller dormers -- one on the east
5 side and on the on the left side: sorry one on the west
6 side. It's about 7.5' wide. So the total width of the
7 dormer on the north side is 15'.

8 On the south side, we also have a -- present a
9 dormer, which is about 14' high -- 14' and 9", which is
10 facing the south side. And basically the layout is the
11 same, very similar except for last time we had a bedroom in
12 the attic, and also a bedroom with a walk-in closet. So
13 basically, it's the master bedroom.

14 And I think also a family room on the east side of
15 the house, at the attic level.

16 So I do appreciate last time that the comment from
17 the panel that -- the design last time was too long, and
18 then we tried to change our design to meet the Dormer
19 Guidelines.

20 Thank you.

21 JIM MONTEVERDE: Yep. Thank you. Anything else
22 to present? If not, if you could just -- we're trying to

1 understand or want to be clear about what zoning relief you
2 need to do this. You are -- the lot itself and the house
3 itself is in its existing condition is beyond the gross
4 floor area?

5 CHIH-MING LEE: Yes.

6 JIM MONTEVERDE: So it's noncompliant? The GFA is
7 noncompliant? What else? The front yard setback is
8 noncompliant. The left side, which I think is south --
9 looking at this plan it's on the screen I think left is
10 south -- is not compliant, and the right side is.

11 So I assume the relief that you need is solely for
12 the dormer on the left side -- south side -- and it's -- I
13 believe it's in the side yard setback? And you need relief
14 for that.

15 Is there any other relief you believe you need?

16 CHIH-MING LEE: Actually, on the south side, the
17 dormer actually is 1.5' recessed from the existing
18 footprint. So the existing setback is 5.8' plus 1.5'.

19 JIM MONTEVERDE: Yep.

20 CHIH-MING LEE: So it's 7.3' -- I'm sorry, it's --
21 so --

22 JIM MONTEVERDE: I think you're correct.

1 CHIH-MING LEE: Yeah, we --

2 JIM MONTEVERDE: It's just slightly -- it's
3 slightly less than the Ordinance requirement --

4 CHIH-MING LEE: Yes.

5 JIM MONTEVERDE: -- of 7.5'. So I think that's
6 the relief that you need. Do you think you need --

7 CHIH-MING LEE: Yes.

8 JIM MONTEVERDE: -- any other relief? I think
9 that's it.

10 CHIH-MING LEE: Yeah, that's it.

11 JIM MONTEVERDE: Okay. So as far as everything
12 else, is there any nonconforming in terms of the area, the
13 GFA, the other setbacks that are existing?

14 So really the only thing I believe you need relief
15 for is that south-side setback on the new dormer and you're
16 really just fractionally over the -- under what's required
17 by the Ordinance.

18 So if we agree on that, any comments from --
19 questions from members of the Board?

20 STEVEN NG: I just wanted to -- a clarification.
21 So the final design would have a shed dormer on the south
22 side?

1 JIM MONTEVERDE: Both. So I think what they've
2 done, if you look at this illustration -- the proposed north
3 elevation --

4 STEVEN NG: Mm-hm.

5 JIM MONTEVERDE: -- I think previously the dormer
6 was continuous between the two dormers that are up there.
7 And it was way beyond the 15' Dormer Guidelines. So what --

8 STEVEN NG: Okay.

9 JIM MONTEVERDE: -- it looks like to me if you go
10 back to the previous slide, Olivia, please? They basically
11 took the volume of that middle part of the dormer and
12 shifted it from the north side to the south side.

13 So on the north side there are two -- as I look at
14 the drawings -- 7.5' dormers. So that totals 15' on a side.

15 STEVEN NG: Mm-hm.

16 JIM MONTEVERDE: And on the north side -- I just
17 looked at it -- the dormer is slightly less than --

18 STEVEN NG: Gotcha.

19 JIM MONTEVERDE: -- 15'.

20 STEVEN NG: Okay.

21 JIM MONTEVERDE: So I think that's what they --
22 that's what the change really is. And that's how they

1 comply with the Dormer Guidelines.

2 STEVEN NG: Got it.

3 JIM MONTEVERDE: Okay. Any other questions from
4 members of the Board? If not, I'll move to public
5 commentary. There were -- let me just look -- as of
6 yesterday, there were no letters in the file, either in
7 favor or in opposition. So I'll open it up to public
8 comment.

9 Any members of the public who wish to speak should
10 now click the icon at the bottom of your Zoom screen that
11 says, "Raise hand." If you're calling in by phone, you can
12 raise your hand by pressing *9 and unmute or mute by
13 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 ask you to
18 wrap up.

19 Anyone there?

20 [Pause]

21 No one there. I will close public commentary.

22 Any discussion from members of the Board? If not, I'll make

1 a motion. All right. We'll move to a motion, then. This
2 is a special permit. It's in addition to the second.

3 The Chair makes a motion to grant the relief from
4 the requirements of the Ordinance under Section 4, the left
5 side, which is the south side of this orientation setback
6 for the dormer only, on the condition that the work proposed
7 conform to the drawings entitled - I'll spell this -- "NGO
8 Residents at 50 Clifton Street," prepared by -- I'll spell
9 this one also -- OoDD Architects, dated October 23, 2023,
10 initialed and dated by the Chair.

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

14 Let me just go through the special permit
15 criteria. It appears that the requirements of this
16 Ordinance cannot or will not be met: That's correct.

17 Traffic generated would cause congestion or
18 hazard. I think that's so.

19 Continued operation of the development of the
20 adjacent uses would be adversely affected. No.

21 Nuisance or hazard would be created to the
22 detriment of the health, safety. Will not.

1 And for other reasons, would impair the integrity
2 of the district, and I don't think so. So I think it
3 complies with all the special permit criteria.

4 With that, Board members please let's take a voice
5 vote on the motion to grant relief.

6 Steven?

7 STEVEN NG: In favor.

8 JIM MONTEVERDE: Bill?

9 BILL BOEHM: In favor.

10 JIM MONTEVERDE: Virginia?

11 VIRGINIA KEESLER: In favor.

12 JIM MONTEVERDE: Tom?

13 THOMAS MILLER: In favor.

14 JIM MONTEVERDE: And Jim Monteverde in favor.

15 [All vote YES]

16 JIM MONTEVERDE: That's five in favor. The
17 special permit and relief is granted. Thank you.

18 KIEM FOR NGO: Thank you.

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(6:15 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia

Keesler, Bill Boehm, and Thomas Miller

JIM MONTEVERDE: Next case is 243960 - 1815 Mass Ave.

THOMAS MILLER: Am I still on this, Jim, or this now Daniel?

JIM MONTEVERDE: You're here. You're here for the --

THOMAS MILLER: Okay.

JIM MONTEVERDE: You're with us for the evening. Just this one?

Oh. Just this one. Lucky you.

THOMAS MILLER: Okay. Great.

JIM MONTEVERDE: Okay. Is there any -- is the proponent for 1815 Mass Avenue present?

MICHAEL DOLAN: Yes. Good evening. This is Michael Dolan on behalf of the applicant, New Cingular Wireless PCS LLC. I work for the Law Firm of Brown Rudnick. Would you like me to proceed?

JIM MONTEVERDE: I would. Please.

1 MICHAEL DOLAN: Sure. So my client has FCC
2 licenses -- I'm sorry, in this case I'm here on behalf of
3 DISH Wireless.

4 And my client has FCC licenses, copies of which
5 are enclosed with our application to operate a wireless
6 telecommunications network throughout various markets across
7 the country, including the Commonwealth of Massachusetts.

8 I think -- I know I've been before the Board
9 before on behalf of DISH Wireless, a new entrant into the
10 wireless telecommunications market, which is great for
11 competition.

12 As part of the build-out of its new wireless
13 network, DISH is seeking to install a wireless antenna
14 facility on the building at 1815 Mass Ave, which is owned by
15 Lesley College.

16 The building has on it antennas of other FCC-
17 licensed carriers. The facility will help fill a coverage
18 gap in the subject area of Cambridge as identified by DISH's
19 radiofrequency engineers.

20 So DISH is proposing to install here three flush-
21 mounted panel antennas on the façade of the building, with
22 each being painted to match the color behind their location.

1 The height of the proposed antennas will not protrude above
2 the top of any existing building feature.

3 DISH also proposes to install six Remote Radio
4 heads and three surge arresters inside the building and
5 completely out of view, as well as equipment on the roof of
6 the building, on an equipment platform that's recessed down
7 in the tier on the roof and won't be visible from the
8 ground.

9 We've included with our application photo
10 simulations which demonstrate the negligible visual impact
11 of the proposed facility, and from a land use planning
12 perspective, we of course are pleased that we are able to
13 find this existing structure, upon which we could locate our
14 antennas, rather than have to consider the construct of the
15 new structure, on which to put these antennas.

16 The building is located within the Business C
17 zone, where wireless antenna facilities are authorized
18 pursuant to special permit.

19 As I mentioned, the building already has on it
20 antennas of other FCC-licensed carriers, and that is why
21 we're also applying for an Eligible Facilities Request
22 pursuant to Sections 6409A of the Middle Class Tax Relief

1 and Job Creation Act of 2012, otherwise known as the
2 Spectrum Act.

3 Our proposed application was reviewed by the
4 Community Development Department as well as the Planning
5 Board, and we are pleased to report that we were able to
6 update the design of our installation so as to address
7 nearly every one of their six concerns.

8 We specifically have agreed to lower the two lower
9 antennas down a foot, so they don't interfere with the
10 aesthetic of the graystone cornice. So with that, I'm able
11 to answer any questions. Available to answer any questions
12 you may have about our application.

13 JIM MONTEVERDE: Do we have a revised
14 documentation, drawings that you just referred to, your
15 responses from the Planning Board?

16 The drawings that are in the file, the package
17 that's in the file? This is dated January 25, 2013 and the
18 photo simulations are not dated. Do you know if you
19 resubmitted those recently?

20 MICHAEL DOLAN: I'm sorry. The only plans -- the
21 only change to the plans -- the other things were
22 conditions, of course, that we can agree to. But the change

1 to the plans involved lowering those two antennas --

2 JIM MONTEVERDE: Yes. I understand. I have the
3 list in front of me. But did you -- was -- were the
4 drawings revised at all?

5 MICHAEL DOLAN: They have been revised, but we
6 have not shared them with the City yet.

7 JIM MONTEVERDE: Okay. Okay. Do you have
8 anything else to present?

9 MICHAEL DOLAN: No. Thank you very much.

10 JIM MONTEVERDE: Okay. Do we have any questions
11 from members of the Board?

12 We have correspondence, which we'll get to in a
13 minute.

14 BILL BOEHM: I have a question. Another condition
15 was to move one of the antennas east far back from Mass Ave.
16 Was that also changed?

17 MICHAEL DOLAN: No. So that is the one change
18 that we cannot make, because -- we explained this to the
19 Planning Board -- that of the six things they recommended,
20 it's the one we can't do because that antenna if we move
21 that back, we'll lose our ability to have coverage down to
22 the T stop.

1 And the whole -- one of the major points of this
2 facility is to be able to cover Mass Ave all the way down to
3 that Station, and by moving it back, we'd lose our line of
4 sight over the edge of the roof and other impediments to be
5 a get a signal down that way.

6 JIM MONTEVERDE: Okay. And that's a matter --
7 you've discussed that with the Planning Board? And is there
8 -- do you have any e-mail or otherwise to document that back
9 and forth in their acceptance?

10 MICHAEL DOLAN: Other than that we had a
11 discussion about it at our Planning Board meeting.

12 JIM MONTEVERDE: So it's in the record of the
13 Planning Board?

14 MICHAEL DOLAN: Yeah. There was nothing in
15 writing and then at the end of the --

16 JIM MONTEVERDE: No, no, that's fine. It's in
17 their meeting minutes.

18 MICHAEL DOLAN: Yeah. They --

19 JIM MONTEVERDE: That's good.

20 MICHAEL DOLAN: -- we made them aware of the
21 challenge with that, and that's why the other antenna can go
22 back at that same level, but this one has to be forward to

1 cut down -- they're obviously projecting in different
2 directions, and that one needs to be more forward than the
3 other.

4 JIM MONTEVERDE: Okay. Yeah. In a moment, after
5 public commentary, I'll go through all of the conditions
6 from the Planning Board and just list them as conditions.

7 Any other questions from members of the Board?
8 If not, there is -- in terms of correspondence, we have two
9 in the file; one from the Planning Board and one from
10 another person.

11 The Planning Board sets a number of conditions.
12 One from the -- a member of the public -- takes exception to
13 a few things and I will read through those both now, I
14 guess.

15 The Planning Board comments are -- and we'll
16 include these as conditions -- is to -- that you utilize the
17 smallest mounting brackets available so that the antennas
18 can be mounted as close as possible to the façade surface.

19 Two, that the lower -- the two lower antennas
20 should be vertically adjusted downward, so they do not
21 visually interrupt the graystone cornice of the building
22 when viewed from Massachusetts Avenue.

1 The third one I think is the one you just spoke
2 about that you've talked to the Board and that you can't do,
3 is the proposed alpha sector antenna should be moved as far
4 east as possible. That's the one you can't accommodate,
5 correct?

6 MICHAEL DOLAN: That's correct.

7 JIM MONTEVERDE: Yep. And then item 4, the
8 vertical location of the single upper antenna should ensure
9 it visually falls completely within the dark red zone, to
10 which it is mounted when viewed from Massachusetts Avenue.

11 And five, paint the antennas, mounting poles,
12 brackets, and all exposed elements to match the color and
13 finish of the existing façade material. Do not attempt to
14 replicate the underlying grout, mortar pattern, as this can
15 inadvertently draw unintended visual attention to the
16 antennas.

17 It's about time they threw that one.

18 And, last, sixth is ensure all exposed cables and
19 wires are tightly fixed to the façade.

20 Those are the comments from the Planning Board and
21 Community Development. We'll include those. Those will be
22 included by reference as conditions.

1 And the letter we have is from Helen Walker, dated
2 October 24. And it's a lengthy piece of correspondence, and
3 I will summarize. She offers -- her address is 43 Linnaean
4 Street -- she offers two comments on the aesthetics.

5 "The proposal shows two --" and I'll read this.

6 "The proposal shows two antenna mounts to -- on
7 two sides of the yellow brick face of the tower. That is at
8 these locations. Do not look integrated with the design and
9 should be relocated if possible.

10 "Additional antenna within the same recesses would
11 be more appropriate."

12 And I think that you've come to agreement with the
13 Planning Board in terms of how you will treat those antenna
14 that will be on the yellow brick base, correct? Yep?

15 Second aesthetic comment from Helen Walker:

16 "Propose equipment cabinet on the DISH Wireless
17 equipment platform is tall enough and near enough to the
18 street that it would most likely be visible from the street.
19 There needs to be a photographic simulation of this proposed
20 condition. A design study will be advisable."

21 JIM MONTEVERDE: In your presentation, did you say
22 these would not in your --

1 MICHAEL DOLAN: Yes, our --

2 JIM MONTEVERDE: -- you did not --

3 MICHAEL DOLAN: Yeah. The -- our engineers
4 believe that they will not be visible from street level, and
5 of course that would -- you know, definitely not in front of
6 course and even as you --

7 JIM MONTEVERDE: Right.

8 MICHAEL DOLAN: -- go down Mass Ave, there are
9 other -- there's other equipment up on the roof right now
10 that isn't visible, and the engineers believe that the way
11 the rooftop is recessed, where our equipment is going to go,
12 there's actually a ladder down to the level where we're
13 going to put it. It won't be visible from Mass Ave.

14 JIM MONTEVERDE: Okay. And then the letter from
15 Ms. Walker goes on to talk about the effects of
16 radiofrequency emissions and refers to recent decisions by
17 the FCC -- recent studies, and also their recent -- several
18 recent towns, Sheffield, and Great Barrington in Mass --
19 have voted to hold the applications until the FCC completes
20 its court-mandated reviews.

21 I think in the soliloquy I will enter into the
22 record when I'm done, you know, that's specific to Cambridge

1 basically. Will tell you that if there's any future studies
2 that point to the problems with the radiofrequency
3 emissions, then you're bound to deal with it. So I think
4 we've got that one covered.

5 I think that's the commentary we have. I will
6 open it up to public comment.

7 Any members of the public who wish to speak should
8 now click the icon at the bottom of your Zoom screen that
9 says, "Raise hand."

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

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

17 OLIVIA RATAY: Helen Walker?

18 HELEN WALKER: I'm Helen Walker of 43 Linnean
19 Street. Can you hear me?

20 JIM MONTEVERDE: Yes, we can.

21 HELEN WALKER: I want to thank the Chair for
22 reading my letter that was submitted previously. I have

1 revised it somewhat. I want to say that you probably cannot
2 see the equipment on the roof from the street, but I'm
3 pretty sure you can see it from the two buildings across the
4 street at the first floor, or at the first elevated floor.
5 That would be the second floor.

6 I would like to say a little bit more about the
7 status of the FCC in terms of its ability to assure us
8 according to the Cambridge requirements that these
9 installations are safe.

10 The FCC has been remiss for over two years in
11 failing to comply with the court order, when the present
12 application assures us that no nuisance or hazard would be
13 created to the detriment of the health, safety and/or
14 welfare of the occupant of the proposed use, or the citizens
15 of the city, because this wireless facility -- quote --
16 "will comply with all applicable regulations and guidelines
17 pertaining to radiofrequency emissions," the reference is to
18 the FCC maximum permissible exposure limits.

19 In 2019, the FCC quietly closed its investigation
20 into the adequacy of those very same 1996 Radiofrequency
21 Emissions Guidelines.

22 In 2021, the US Court of Appeals for the DC

1 Circuit handed the FCC a major [inaudible; someone sneezed
2 over]. Arguments showed that the FCC had no studies
3 whatsoever about wireless technologies developed after 1996,
4 or about exposures from combinations of wireless
5 technologies, or about cumulative effects of exposures to
6 radiofrequency radiation over time.

7 The court found the FCCs decision arbitrary and
8 capricious in its failure to respond to thousands of pages
9 of evidence of harm to human health and the environment.

10 The court remanded the guidelines to the FCC, but
11 the FCC still has not reopened its investigation. Thus,
12 stated compliance with the 1996 guidelines cannot be claimed
13 to ensure the safety of the public.

14 And as the Chair so graciously noted, this year's
15 annual town meetings in Sheffield and Great Barrington voted
16 to hold applications for the 5G installations until the FCC
17 completes the court-mandated review and updates its
18 guidelines to comply with the results.

19 This is a legal environment into which you are
20 reviewing this application. Thank you.

21 JIM MONTEVERDE: Thank you for your comments.
22 Anyone else? No?

1 OLIVIA RATAY: Ben Foo (phonetic)?

2 BEN FOO: Hi. Yes. Can you hear me?

3 JIM MONTEVERDE: Yes.

4 BEN FOO: My name is Ben Foo. I'm a resident at
5 58 Plympton Street. And just wanted to follow up on the
6 latest comments that were just presented. Just curious to
7 hear what is the problem with seeing equipment on the roof
8 on the street. Is that -- you know, again, some sort of
9 local rule or regulation?

10 Any commentary would be helpful.

11 JIM MONTEVERDE: When the Planning Board -- and
12 I'm kind of reading their mind -- or at least from
13 experience, what we've seen when the Planning Board have
14 offered comments, is they'll offer comments if they feel
15 it's intrusive or out of character, or intrusive to the
16 overall character of the building or the neighborhood.

17 This Board has seen other cases where the
18 equipment sits loud and proud right on the roof, and visible
19 to everybody who walks by, drives by, flies by, bicycles by.
20 So I don't believe there is an ordinance that talks about
21 the visibility from the street.

22 I think some buildings are -- at least the way the

1 Planning Board issues some of their commentary -- viewed as
2 more sensitive, let's say -- to that type of intrusion and
3 they try and limit that. But I don't believe there's a City
4 Ordinance specific to it.

5 BEN FOO: Great. Thanks so much.

6 JIM MONTEVERDE: Yep. You're welcome. Anybody
7 else? No. Okay. I will close public comment.

8 Any discussion from members of the Board? If not
9 --

10 BILL BOEHM: Yep.

11 JIM MONTEVERDE: Yep?

12 BILL BOEHM: I am a little perplexed at why we
13 would approve proposals in which changes have been promised
14 but not made to the drawings. Because I'm thinking on an
15 example of a more typical one, if it was a residential
16 project and they'd agreed to make a change to a dormer or
17 something, I believe that we would ask that those drawings
18 get changed, and we would see them before we'd approve them.

19 So I'm not sure why it's different in this case.

20 And I will also follow up to say that I'm zoomed
21 in on a picture of that tower right now. And if you -- the
22 photo representation -- and I don't know if you want to pull

1 that up real quick, but the photo representation is from
2 quite a distance.

3 But if you kind of zoom in on the portion of the
4 tower, I'm looking at the Mass Ave view, I think it's the
5 next one. The next image? Yeah. Can you zoom in on that
6 or not?

7 MICHAEL DOLAN: Okay.

8 BILL BOEHM: If you zoom in on it, you see there's
9 quite a variety of installations. And a lot of them are not
10 sort of complying with the kinds of things we're talking
11 about right now. And yet my guess is that they might have
12 gone through the same process.

13 So I guess I'm questioning whether it's good
14 enough to say, "Okay, you've agreed with these guidelines
15 and you're going to do them," and then hope for the best?
16 Or hope that an ISD inspector will look at this record and
17 then -- you know. So anyways, that's -- well, those are my
18 two concerns.

19 JIM MONTEVERDE: Yep. We're -- what I intended to
20 do, what I would suggest we do -- is enter as a condition
21 that those revised documents be provided to us and leave it
22 at that.

1 Since they had the discussion with the Planning
2 Board and it's on record in their notes, their transcript, I
3 feel comfortable it'll get done.

4 But I think I would just -- I will ask that the
5 revised drawings be submitted, for the record. That's my
6 sense of it.

7 BILL BOEHM: For us to then kind of review and
8 approve, or just --

9 JIM MONTEVERDE: No, to have. In other words,
10 well, otherwise we're continuing it. And I'd rather it be
11 -- I don't see anything so egregious or what seems to be
12 that I haven't heard an objection from the proponent, except
13 for the one element, which they discussed with the Planning
14 Board and came to resolution on.

15 I feel comfortable that we can just ask for
16 updated drawings and take our vote. Just because of
17 everything else that's tied up with the -- how much leeway
18 we have in terms of what we're reviewing and what we can in
19 fact reject or not accept.

20 I'd just like to be able to move it on.

21 MICHAEL DOLAN: And I can just add that what it
22 will show -- this change is consistent with what you just

1 said is that the antenna centerline of the lower antennas in
2 our original drawing said it would be at 63'10". We have
3 drawings now that show it at 62'10", which is 1' lower, and
4 then pulls -- pushes it away and out of the line of that
5 graystone cornice. So that's the extent of the change.

6 JIM MONTEVERDE: Okay. All right. Any other
7 discussion amongst the members of the Board? If not, I'll
8 move to a motion.

9 The Chair makes a motion to grant relief from the
10 requirements of the ordinance under Sections for the special
11 permit on the condition that the work proposed conform to
12 the drawings which I will ask you to submit -- the drawings
13 that we do not have in our file, the revised drawings, for
14 this location.

15 I will initial and date the drawings we currently
16 have and note that these drawings are to be replaced with
17 the ones that show the -- all the items that the Planning
18 Board has mentioned as suggestions.

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

22 I will go through the Planning Board ones just

1 again, just so it gets in the record. And those conditions
2 are: Utilize the smallest mounting brackets available so
3 that the antenna can be mounted as close as possible to the
4 façade surface.

5 Two, the two lower antennas shall be vertically
6 adjusted downward, so they do not visually interrupt the
7 graystone cornice of the building when viewed from
8 Massachusetts Avenue.

9 Three, the vertical location of the single upper
10 antenna should ensure it visually falls completely within
11 the dark red zone to which it is mounted when viewed from
12 Massachusetts Avenue.

13 And four, paint the antenna mounting poles,
14 brackets all exposed elements to match the color and finish
15 of the existing façade material. Do not attempt to
16 replicate the underlying grout or mortar pattern, as this
17 can inadvertently draw unintended visual attention to the
18 antennas.

19 And five, ensure all exposed cables and wires are
20 tightly fitted to the façade.

21 Those are the suggestions from the Planning Board
22 and Community Development.

1 We'll add a condition that you submit revised
2 drawings that show your compliance with all those conditions
3 from the Planning Board and Community Development. And they
4 be submitted to us for record.

5 And then I have a speech to make. Bear with me.
6 I thought I had recorded this, but I hadn't, or I can't find
7 it.

8 MICHAEL DOLAN: Can we agree to waive it?

9 JIM MONTEVERDE: No. I've been told no.

10 MICHAEL DOLAN: Okay.

11 JIM MONTEVERDE: I would love to. Thank you for
12 the offer. I appreciate it.

13 MICHAEL DOLAN: Okay.

14 JIM MONTEVERDE: Based on the findings, the Chair
15 moves that the petitioner be granted the special permit it
16 is seeking, subject to the following conditions:

17 One, that the work proceed in accordance with the
18 plans submitted by the petitioner -- and we're adding the
19 revised drawings or the plans to be submitted and initialed
20 by the Chair.

21 Two, that upon completion of the work, the
22 physical appearance and visual impact of the proposed work

1 will be consistent with the revised photo simulations and
2 the conditions from the Planning Board and Community
3 Development.

4 Three, that the petitioner shall at all times
5 maintain the proposed work, so that its physical appearance
6 and visual impact will remain consistent with the photo
7 simulations previously referred to.

8 Four, that should the petitioner cease to utilize
9 the equipment approved tonight for a continuous period of
10 six months or more, it shall be promptly thereafter removed,
11 or it shall promptly thereafter remove such equipment and
12 restore the building on which it is located to its prior
13 condition and appearance, to the exact reasonably practical.

14 Five, that the petitioner is in compliance with
15 and will continue to comply with in all respects the
16 condition imposed by this Board with regard to previous
17 special permits granted to the petitioner -- you don't have
18 that, this is your first one, right? For DISH, this is the
19 first petition?

20 MICHAEL DOLAN: In the city of Cambridge?

21 JIM MONTEVERDE: No, on this location?

22 MICHAEL DOLAN: Yes, that's correct.

1 JIM MONTEVERDE: Yeah, with regard to the site.

2 Okay.

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

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

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

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

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

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

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

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

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

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

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

7 a) he or she has such responsibility, and

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

16 So ends the lesson. And now, a voice vote by the
17 Board. Steven?

18 STEVEN NG: In favor.

19 JIM MONTEVERDE: Thank you. Virginia?

20 VIRGINIA KEESLER: In favor.

21 JIM MONTEVERDE: Thank you. Daniel?

22 DANIEL HIDALGO: In favor.

1 JIM MONTEVERDE: Bill?

2 BILL BOEHM: In favor?

3 JIM MONTEVERDE: Thank you. And Jim Monteverde in
4 favor.

5 JIM MONTEVERDE: Five. Oh, who is. Tom? Oh, I'm
6 sorry, I got the wrong name. Tom. Tom, are you there?

7 THOMAS MILLER: Yes, I'm still here. Thomas
8 Miller in favor. Sorry.

9 JIM MONTEVERDE: That's five in favor.

10 [All vote YES]

11 JIM MONTEVERDE: The special permit is granted.
12 Thank you.

13 MICHAEL DOLAN: Thank you all for your
14 consideration this evening.

15 THOMAS MILLER: So now I am finished for the
16 evening, Jim, I believe. Correct me if I'm wrong.

17 JIM MONTEVERDE: Yes, sir.

18 THOMAS MILLER: Thank you.

19 JIM MONTEVERDE: So ongoing I have Steven,
20 Virginia, Daniel, Bill, myself, right? Okay, so for the
21 regular agenda, we have Steven, Virginia, Daniel, Bill, and
22 myself?

1 * * * * *

2 (6:45 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: First case on the Regular Agenda
6 is BZA-244964 -- 15 Hutchinson Street. Sarah Rhatigan?

7 SARAH RHATIGAN: Good evening. Thank you, Mr.
8 Chairman. Sarah Rhatigan, Trilogy Law, representing the
9 petitioner at 15 Hutchinson LLC.

10 And my client, Scott Kenton, is with me today as
11 well. I'm not sure if he is actually signed on as a
12 panelist. I'm not sure, Olivia, if you're able to elevate
13 him to a panelist position or not, but he will be available
14 for questions.

15 OLIVIA RATAY: Okay.

16 SARAH RHATIGAN: So thanks very much, members of
17 the Board, for hearing this case. This is actually an
18 amendment to a previous special permit that was granted by
19 this Board in June -- June, I think June 29, this summer.

20 And what happened is that we had a positive vote
21 from this Board granting the special permit, and we were
22 contacted quickly thereafter by the neighboring owner to

1 this property, who had expressed some concerns about the
2 project.

3 And we discussed and we were able to reach an
4 agreement about pulling back or removing some of the
5 elements of our proposal in order to satisfy her concerns
6 and avoid an appeal.

7 So what you're looking at today is a revised
8 application that shows essentially the same proposal with
9 some elements of it removed. Now, I realize looking at the
10 faces, I believe that this may be new to most of you, I
11 think, on the Board?

12 JIM MONTEVERDE: It is. So --

13 SARAH RHATIGAN: So --

14 JIM MONTEVERDE: Yeah, I've got the --

15 SARAH RHATIGAN: Yes.

16 JIM MONTEVERDE: -- history of having sat on the
17 previous case and I know what we approved, and I looked at
18 the drawing -- I had a problem with the drawings, but your
19 -- just in terms of delineating what in fact is new for
20 tonight, because all we're doing is amending what we've
21 already, or reviewing the --

22 SARAH RHATIGAN: Yes.

1 JIM MONTEVERDE: -- specific items that have been
2 changed.

3 SARAH RHATIGAN: Mm-hm.

4 JIM MONTEVERDE: As if your narrative in the
5 special permit supporting statement is probably the clearest
6 of the pieces that are moving around. But --

7 SARAH RHATIGAN: Okay, sure. So --

8 JIM MONTEVERDE: -- so yeah, for everybody else on
9 the Board, we did approve -- why don't we bring up the
10 slides -- all of what's shown on the plans plus some
11 additional pieces that have been removed here, some windows.

12 SARAH RHATIGAN: So I would look for guidance from
13 you, Mr. Chairman, as to how much of the project you'd like
14 me to describe. We'll obviously review the plans.

15 Olivia, if you don't mind putting in the plans up
16 on the screen for us, I can go into as much detail as you
17 think appropriate.

18 DANIEL HIDALGO: Well --

19 SARAH RHATIGAN: I thought it was best to just run
20 through the changes to the plans and just generally --

21 JIM MONTEVERDE: Yeah.

22 SARAH RHATIGAN: -- describe what we're doing.

1 JIM MONTEVERDE: I agree. And if you don't mind,
2 I think if -- yeah, the windows show up better on the
3 elevations, or removing windows show up on the elevations.

4 SARAH RHATIGAN: I agree. Yeah.

5 JIM MONTEVERDE: I think on the plans it's the
6 proposed attic level where you -- the deck and the railing
7 have been deleted, which shows on this elevation. That note
8 says, "no deck, no railing" on the upper right?

9 SARAH RHATIGAN: Correct. Yep.

10 JIM MONTEVERDE: And --

11 SARAH RHATIGAN: So yeah, why don't I just run
12 through the elevations. So on the elevation this is showing
13 the front of the house. And with the proposal over the
14 summer, the area that says, "No deck, no railing" there was
15 a second-floor deck that was proposed on that side.

16 And that's the side that's closest to the neighbor
17 who had expressed concerns to us after hearing concerns
18 about her privacy. So we agreed to delete that.

19 So there's no deck there.

20 JIM MONTEVERDE: Right.

21 SARAH RHATIGAN: There's no railing on that side.
22 We are building the dormers. Those are Dormer Guideline

1 compliant dormers. Those have been -- we request that we
2 continue to be able to do that.

3 JIM MONTEVERDE: Yep.

4 SARAH RHATIGAN: Next slide?

5 This is showing the opposite side. So this is the
6 left side of the structure if you were looking from the
7 street. And there are no changes from the plans that were
8 approved the last time on this slide.

9 Next slide, please?

10 This is showing the rear of the house. The only
11 change here that we made to accommodate the neighbors'
12 concern: She wasn't pleased with having this -- on the left
13 side of this visual, there was plans to have a sliding door
14 and an exit from the garage out to the back yard.

15 And she asked us to remove that door to replace
16 with windows. So that's shown there. Again, you can see
17 that the deck is removed from the elevation.

18 Next slide, please?

19 The other changes: This is the elevation, the --
20 if I was on the street, this is the right side of the house
21 and you can see where it says, "No window opening this
22 area."

1 Previously, there have been windows proposed for
2 this side. Or there actually are existing windows and
3 converting screens to windows, but we removed that from the
4 plans again to address her concerns.

5 Next slide, please?

6 Actually, that may be essentially the end.

7 JIM MONTEVERDE: That's it.

8 SARAH RHATIGAN: Yeah, that's the end of the
9 presentation.

10 JIM MONTEVERDE: So do any of those changes that
11 you just mentioned require relief?

12 SARAH RHATIGAN: No. They do not.

13 JIM MONTEVERDE: They do not? You're not -- yeah,
14 okay. So this is strictly just dusting up the record?

15 SARAH RHATIGAN: It is dusting up the record.

16 JIM MONTEVERDE: Yep.

17 SARAH RHATIGAN: It is important, though, Mr.
18 Chairman, I just would like to mention that just because of
19 the kind of process of how we got to this point, although we
20 did get the grant of special permit, and then there was no
21 appeal, so we have an old special permit decision that has
22 not been recorded at the Registry.

1 We would need this Board to actually grant all the
2 special permits that were granted with the first application
3 today so that we have a written decision that describes all
4 of the relief that refers to the plans that are now updated
5 September 12, 2023.

6 That decision -- hopefully no appeal -- would be,
7 you know, stamped with the Clerk's Office, and then recorded
8 at the Registry of Deeds and be the document that my client
9 uses to obtain his building permit.

10 So in terms of your discussion and your findings
11 this evening, if you could make sure that it includes the
12 relief that's being requested.

13 And I'm happy to take any questions. There's also
14 some photographs of the house, if any of the Board members
15 would like to see that.

16 JIM MONTEVERDE: Sarah, just give me one second,
17 please.

18 SARAH RHATIGAN: Sure.

19 [Pause]

20 JIM MONTEVERDE: Yeah, okay. So my -- not my
21 confusion, but thanks for saying you want this in essence
22 special permitted all over again because I was prepared to

1 do the special permit or have the discussion solely on the
2 changes that you're presenting. That's not what you're
3 asking for, is it?

4 And that's not the way the application read. The
5 application was more global, as if we are -- you know,
6 approving this from scratch.

7 SARAH RHATIGAN: Correct.

8 JIM MONTEVERDE: Is that what you're looking for,
9 from scratch?

10 SARAH RHATIGAN: Yes. Yes.

11 JIM MONTEVERDE: Okay. In which case, just for
12 the record, then, let me get the old file. Let me just see
13 the verbiage that we -- yeah, okay. Nice and brief.

14 [Pause]

15 Okay. I understand what you're asking for. And
16 personally, since I sat on this before, and we went through
17 the previous round for the special permit and it was
18 approved, I don't have any issue with that.

19 And really with the changes that are being made, I
20 don't have any changes with those. So I don't have any
21 issues with it.

22 But it's really more for the other members of the

1 Board who didn't see this in its entirety before, whether
2 they have any new questions.

3 So Sarah, if you're done with your presentation,
4 I'm going to open it up to questions from the Board. Okay?

5 SARAH RHATIGAN: Yes. Thank you.

6 JIM MONTEVERDE: Any questions from members of the
7 Board?

8 BILL BOEHM: I can't help but to say that I think
9 there's been some things lost in this new design, one of
10 which is the dormer that we're looking at right now has
11 these two tiny windows in it, and one of the Dormer
12 Guidelines request is that you have at least 50 percent of
13 the wall area as windows.

14 For this very reason, these dormers that are built
15 with either no windows or very tiny ones just don't look
16 great, which is why that Guideline exists.

17 So, you know, more or less just pointing that out
18 as an observation. But I just -- yeah. That's all I'll say
19 at this point.

20 JIM MONTEVERDE: Thank you. Could it work for you
21 -- I remember the last one we talked about like this, and I
22 always wondered if you could -- it's just the windows were

1 removed specifically for the neighbors, I assume the windows
2 up in the dormer have the same issue, they're kept high and
3 so, they are not intruding on, we're not the privacy issue
4 for the neighbors.

5 So Bill, do you think it could work if it was a
6 good -- I'll call it a false opening. You know, it's frame
7 as if it's a window, but in essence it's blank. Am I making
8 any sense?

9 And that the glazed portion is up high, but the
10 trim, et cetera, is basically set up to be a typical window
11 size? So it looks like you meant it as a full-size opening,
12 or do you mean literally to get 50 percent of it to be
13 glazed or opening?

14 BILL BOEHM: Yeah. That -- we saw that last week,
15 an example where they had kind of framed in a panel, sort of
16 a size of a window. I --

17 JIM MONTEVERDE: Right.

18 BILL BOEHM: -- personally don't think that really
19 does the job. I guess what I would recommend as another way
20 of thinking about it is if the problem is privacy to the
21 neighbor, and therefore the windows have been moved up high,
22 having more of them going all the way across sort of

1 transom-style and a larger gang of them would still solve
2 the privacy problem, but make the dormer look like what
3 dormers normally do, which is intended to bring light in,
4 rather than just be this kind of box up on the roof.

5 STEVEN NG: Yeah, but I think that particular
6 dormer is -- those windows are over a tub and the toilet.
7 So I don't know if that would kind of reveal --

8 JIM MONTEVERDE: Well, yeah, the windows are over
9 a tub or a toilet, but I think the windows that Bill had
10 talked about would be over the sink. In other words, if you
11 extended the strip of windows or --

12 BILL BOEHM: Actually, I think it's neither. I
13 think it's in the stairwell, those two particular windows,
14 if we're not --

15 SARAH RHATIGAN: Yes.

16 BILL BOEHM: -- if I am reading the plan right?

17 SARAH RHATIGAN: That's correct. It is over --

18 JIM MONTEVERDE: Yeah.

19 SARAH RHATIGAN: -- a stairway.

20 JIM MONTEVERDE: You're over the stair. Yep.

21 You're over the stair.

22 SARAH RHATIGAN: Mr. Chairman, would you mind if I

1 just commented briefly?

2 JIM MONTEVERDE: No, go ahead.

3 SARAH RHATIGAN: I understand it's a discussion
4 between Board members, so I don't mean to --

5 JIM MONTEVERDE: No, it's okay. Go ahead.

6 SARAH RHATIGAN: I think that if the applicant had
7 heard these comments on the previous original hearing, then
8 it's conceivable, you know, theoretically that maybe we
9 could have reached agreement with our neighbor.

10 But this was a very long, well-negotiated
11 settlement. And so, privacy and, you know, the windows
12 facing her property were really of prime concern.

13 I think it's one of the things that's difficult
14 about the Dormer Guidelines is I think that they -- I mean,
15 this is just commentary, it's not -- I think we all agree,
16 like, they're a good idea, but they're sometimes in direct
17 conflict with the concerns of neighbors.

18 So I would just ask that, you know, Board members
19 consider that before requesting any modifications to plans
20 that have been approved by the neighbors.

21 JIM MONTEVERDE: Yep. Well, we --

22 SARAH RHATIGAN: Thank you.

1 JIM MONTEVERDE: In prior cases, just for the
2 Board's reference, we have -- in similar circumstances,
3 we've discussed with the proponent that could those windows
4 have draperies? Could those windows be translucent? Could
5 those windows have shades in front of them? You know, some
6 device that would take -- allows light in, but not
7 compromise the privacy concerns that the neighbors have?

8 So I think if you make the window openings --
9 again, the Dormer Guidelines don't talk about the type of
10 glazing. So you could manipulate it or simply curtains or
11 shutters or some other way to basically block the view. So
12 -- but thank you for your comments, Sarah.

13 Any other questions from members of the Board?

14 [Pause]

15 Okay. Public commentary, we have one piece of
16 correspondence in the file in favor from Charleen Jue from
17 11 Hutchinson saying they're in support of the
18 rehabilitation. And that is all. And I will open it to
19 public comment.

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

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

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

8 [Pause]

9 No? Okay. I'm going to close public testimony.
10 Discussions among the members of the Board?

11 So just for everyone's understanding, I think the
12 issues we needed to grant relief for before previously were
13 the window wells that were in the side yard setback really,
14 or the windows and door openings within the setback, and
15 then you've made the modifications based on the negotiations
16 with the neighbor.

17 And then --

18 SARAH RHATIGAN: Mr. Chairman?

19 JIM MONTEVERDE: Yep, go ahead.

20 SARAH RHATIGAN: I'm sorry. Last is the
21 additional square footage that's created by the dormers at
22 the third floor.

1 JIM MONTEVERDE: Yep.

2 SARAH RHATIGAN: Yep. So it's an increase of --

3 JIM MONTEVERDE: Yep.

4 SARAH RHATIGAN: -- the square footage. Thank
5 you.

6 JIM MONTEVERDE: So those are the relief pieces
7 that we're seeking at this point. And just to confirm,
8 Sarah, the updated drawings -- I don't think they really
9 are, but -- are September 12, 2023?

10 SARAH RHATIGAN: Correct.

11 JIM MONTEVERDE: Yeah, okay.

12 SARAH RHATIGAN: Yes.

13 JIM MONTEVERDE: And I've had -- yeah, okay.
14 That's good. Yeah. They are in fact -- they show all the
15 new windows, what's been deleted. Okay.

16 SARAH RHATIGAN: Yes.

17 JIM MONTEVERDE: If there's no discussion among
18 members of the Board, I will move to a motion. And this is
19 a special permit. So the Chair makes -- any discussion, or
20 are we ready for a motion?

21 Take that as we're ready.

22 The Chair makes a motion to grant relief from the

1 requirements of the ordinance under Sections Article 5
2 Section 5.31 Dimensional Requirements. Those are the
3 areaways that are within the side yard setback as well as
4 new windows and door openings set within the side yard
5 setback and the increase of area.

6 Section 8.22.2.d, alterations to preexisting,
7 nonconforming single-family structure 8.22.2.c, 8.22.1.d
8 relocation, enlargement, or addition of windows within the
9 setback and 10.4 for the special permit.

10 On the condition that the work proposed conform to
11 the drawings entitled "15 Hutchinson Street," prepared by
12 SKC Properties dated September 11, 2023, initialed and dated
13 by the Chair.

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

17 This is a special permit. So the criteria are:
18 It appears the requirements of this ordinance cannot or will
19 not be met. I think that's true.

20 Traffic generated would not cause congestion or
21 hazard. I think not.

22 Continued operation of or development of adjacent

1 uses would be adversely affected. I think not.

2 Nuisance or hazard would be created to the
3 detriment of the health, safety. I think not.

4 And for other reasons, the proposed use would not
5 impair the integrity of the district or adjoining district.
6 I think not.

7 So the criteria for the special permit is met.

8 Roll call then, vote among the Board members?

9 Steven?

10 STEVEN NG: In favor.

11 JIM MONTEVERDE: Virginia?

12 VIRGINIA KEESLER: In favor.

13 JIM MONTEVERDE: Daniel?

14 DANIEL HIDALGO: In favor.

15 JIM MONTEVERDE: Wait a minute. Bill?

16 BILL BOEHM: In favor.

17 JIM MONTEVERDE: Thank you. And Jim Monteverde in
18 favor.

19 [All vote YES]

20 That's five in favor. The special permit is
21 granted. Thank you.

22 SARAH RHATIGAN: Thank you very much.

1 * * * * *

2 (7:05 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Next case is BZA-245107 -- 63
6 Reed Street.

7 ADAM GLASSMAN: Good evening, Mr. Chair, and
8 members of the Board. My name is Adam Glassman. I'm the
9 architect representing the owners of 63 Reed Street, who I
10 know are here with us tonight -- Lorie Lin and her husband,
11 Ivan.

12 We're seeking a special permit in order to enclose
13 a front-facing farmers porch so the owners can gain more
14 usable space in a home that is becoming increasingly tight
15 and uncomfortable for a growing family.

16 In addition to the enclosed front porch there
17 would be a safer, more comfortable entry landing and steps
18 also facing the front.

19 Please -- thank you.

20 This is an image of the house. The only change
21 that you can see would be enclosing that first-story front
22 farmers porch, which is not very deep. It would only add

1 approximately 60 square feet to existing nonconforming FAR.
2 Max FAR allowable is 0.5. The existing nonconforming
3 structure is at 0.57. We'd be bringing it up to a 0.58.

4 And this work would also be done within the front
5 yard setback. So we have an existing nonconforming front
6 yard setback. We'd be furthering that nonconformity and
7 we'd be seeking a special permit for that as well.

8 Everything else you see in the front view of the
9 house, our tree view would remain unchanged, as far as the
10 special permit application goes.

11 Next slide, please?

12 Our site plan showing the required setback is the
13 red dashed rectangle. And the entire front of the house is
14 -- has an existing -- is an existing, with regard to the
15 front setback.

16 Next slide, please?

17 The work area is limited to the first floor. The
18 additional square footage is about almost 60 square feet.
19 It's a very minimal increase in the nonconforming FAR.

20 Next slide, please?

21 Basement plans: Part of the work would include
22 removing old and outdated wooden posts supporting the front

1 portion of the house, and we'd be replacing that with a
2 concrete frost walls and slab below grade.

3 Next slide, please?

4 Here you can just see most of their renovation
5 work is all within the inflow of the house. Again, the
6 existing porch would be enclosed within the front yard
7 setback, allowing them to open up their floor plan, their
8 only living space, so everybody can stretch out a little bit
9 more.

10 Next slide, please?

11 Up front elevations: On the left the existing
12 farmers porch, and on the right how it would look enclosed,
13 adding two windows to the right of the bay, adding a canopy,
14 a sunshade over the new landing and steps within the front
15 yard setback.

16 Next slide, please?

17 Side views: Here on the left side, we have some
18 work that will be done as-of-right, removing a door and a
19 small entry, replacing that existing entry door with a new
20 window and then creating a new sliding patio door with a
21 sunshade over a new landing, which will increase the
22 aesthetic feel of the house.

1 Next slide, please?

2 The right-side view shows that little bit of porch
3 peeking out at the front. The left side, you'll see how
4 it's open to the beyond [phonetic], and on the right side is
5 the enclosure.

6 Next slide, please?

7 And just our site plan. We've reviewed these
8 conditions already. There will be no loss of open space or
9 usable open space. And we believe these changes can be made
10 without any detriment or adverse effect to the neighborhood.
11 And we will end our presentation there.

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

14 [Pause]

15 Hearing none, let me look in the file. As of
16 yesterday, there were no correspondents, and there are none
17 today.

18 VIRGINIA KEESLER: No.

19 JIM MONTEVERDE: Sorry. Are you trying to --
20 Virginia, is that you? No? Okay.

21 I will open it up to public comment. Any members
22 of the public who wish to speak should now click the button

1 that says, "Participants" and then click the icon at the
2 bottom of your Zoom screen that says, "Raise hand." If you
3 are calling in by phone, you can raise your hand by pressing
4 *9 and unmute or mute by pressing *6.

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

10 [Pause]

11 Nope. No member of the public calling in, so I
12 will close public testimony. Discussion among the Board
13 members? Any comments?

14 VIRGINIA KEESLER: I guess I would just say that
15 since the porch already has the look of being recessed into
16 the house a bit, I don't think it will visually make much of
17 a difference to enclose it.

18 JIM MONTEVERDE: Thank you. Anyone else?
19 Unfortunately, I feel the opposite of you, Virginia. I
20 drove -- I Google Earthed up and down the street, and then I
21 also drove up and down the street.

22 And you can see from the -- one of the photographs

1 that's part of the presentation, I think on the cover sheet,
2 that an adjacent neighbor looks like they've done the same
3 kind of thing. Yeah, it's the light-color building to the
4 right where it appears the porch had been filled in.

5 I just think it in fact does impair the integrity
6 of the district, and that it just flattens the building out,
7 pushes the steps right to the sidewalk.

8 The little canopy is just -- I don't think it's
9 in keeping with how the other -- and these are all very
10 small houses -- appreciate that. And there are very small
11 moves that are made to announce the entry. And porches are
12 kept typically minimal. But I'm not comfortable with
13 enclosing the porch.

14 And looking at the plan, I would wish that there
15 would be a way that they could gain space that they're
16 looking to gain elsewhere and not do it by pushing out to
17 the street. Anyway, that's my comment.

18 Anyone else? Any other member of the Board have
19 any discussion? If not, I'll move to a motion.

20 BILL BOEHM: Jim, I'll just chime in to say I
21 completely concur with you. I think it's unfortunate. And
22 I feel like a more generous porch along the front, you know,

1 could have been designed to sort of mimic the idea of the
2 front porch, which is a feature of these homes.

3 However, not sure that's really within the purview
4 of our Zoning Committee. So it's kind of editorial comment,
5 I guess, at this point.

6 JIM MONTEVERDE: Yeah, I -- you know, looking at
7 the criteria for the special permit, I mean the only place
8 where you can go beside the intent and purpose of Ordinance
9 is impairing the integrity of the district or adjoining.
10 And all I can say is from driving up and down the street,
11 considering that the district I think there's an impairment.

12 And I think I could have been -- well, I would
13 have preferred to see something that didn't entirely wipe
14 out the front porch and not move -- you know, make it -- but
15 I think there's one way that I'll hang my hat on if I need
16 to. And that's the impair the integrity.

17 So any other discussion from members of the Board?
18 Are we ready for a motion? And this is a special permit, so
19 I'll go through those criteria in a minute. Ready for a
20 motion?

21 The Chair makes a motion to grant relief from the
22 requirements of the Ordinance under Sections it's 5.31

1 Dimensional Requirements. This is about the additional
2 area. And then an intrusion into the front yard setback.
3 And then also the condition to the special permit.

4 On the condition that the work proposed conform to
5 the drawings entitled "63 Reed Street," prepared by GCD
6 Architects, dated October 5, 2023, initialed and dated by
7 the Chair.

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

11 And then let me just go -- hm?

12 And there are -- let me just go through the
13 criteria for the special permit -- it appears that the
14 requirements of the Ordinance cannot or will not be met.
15 That's correct.

16 Traffic generated would cause congestion: No.

17 Continued operation of or development of adjacent
18 uses would not be adversely affected. I'll say no.

19 Nuisance or hazard would be created to the
20 detriment of the health, safety and/or welfare. No.

21 And for other reasons, the proposed use would
22 impair the integrity of the district or adjoining district,

1 or otherwise derogate from the intent and purpose of this
2 Ordinance.

3 So I think you can all decide if those are all
4 met.

5 ADAM GLASSMAN: Could I respond before we take a
6 vote to some of the comments?

7 JIM MONTEVERDE: I think we've cut off public
8 commentary. But yeah, keep it a brief one, please, Adam.

9 ADAM GLASSMAN: So, since I haven't heard from
10 most of the Board members yet, I think I just want to say
11 that this is an extremely modest ask. The footprint of the
12 home is not changing. We are adding a pretty substantial
13 canopy over the landing to give that character of the
14 welcoming covered entry, maintaining that feel for the
15 neighborhood.

16 This is not a street defined by namely covered
17 porches. And I understand that one to the right has been
18 enclosed, and maybe that wasn't done in a very tasteful way.
19 I would say that our design rises above that. This is a
20 family of four in a tight place. Their ask is really
21 reasonable.

22 And really, this is exactly the kind of case I

1 believe that the Ordinance encourages -- allowing people to
2 stay in their home by requesting modest increases, without
3 affecting their neighborhood and substantial and meaningful
4 ways.

5 JIM MONTEVERDE: Thank you. Board members, take a
6 voice vote. We'll start with Steven.

7 STEVEN NG: In favor.

8 JIM MONTEVERDE: Virginia?

9 VIRGINIA KEESLER: In favor.

10 JIM MONTEVERDE: Daniel?

11 DANIEL HIDALGO: In favor.

12 JIM MONTEVERDE: Bill?

13 BILL BOEHM: In favor.

14 JIM MONTEVERDE: And Jim Monteverde opposed.

15 [Four vote YES, one votes NO]

16 Four in favor. The motion is carried. The
17 special permit is granted.

18 ADAM GLASSMAN: Thank you, Mr. Chair --

19 JIM MONTEVERDE: Thanks.

20 ADAM GLASSMAN: -- members of the Board.

21 Goodnight.

22 JIM MONTEVERDE: Goodnight. You can tell I'm go

1 going to get coal in my stocking for Christmas.
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2 (7:18 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: The next case is BZA-243593 -- 8
6 Worcester Street. Is there anyone here who wishes to
7 special on this one?

8 KEVIN REILLEY: I guess I'll be the presenter.
9 I'm Kevin Reilley, and my wife Beth. We're the owners of 8
10 Worcester Street. We had submitted a -- well, in addition
11 to the plans, we'd submitted a summary of our request here.
12 And I don't know if that might be helpful to put that up on
13 the screen, Olivia, and then I can walk through it.

14 JIM MONTEVERDE: And this is a special permit
15 request?

16 KEVIN REILLEY: Yes, yes. So the house at 8
17 Worcester Street was a house in quite poor repair; however
18 pretty original. We're old house people, so it was one we
19 were attracted to. And we were interested in the house for
20 ourselves to live in, and we also have a daughter with
21 special needs.

22 And, you know, we look at this house being one

1 that we would live in long term. And as part of the work
2 we're doing on it, we'd be adding a dormer, which we already
3 have an existing permit in place for this.

4 So the special permit really has to do with just
5 the windows on that one side that are -- the side of the
6 house that's within the setback and nonconforming in terms
7 of setback.

8 So if, you know, everybody wants -- you know, I
9 can go through window by window what we're doing and what
10 we're asking for the relief.

11 JIM MONTEVERDE: Which elevation are you referring
12 to? Right side, left side?

13 BETH REILLEY: It's attached to that.

14 KEVIN REILLEY: It's attached to that. The west
15 side of the house, this --

16 JIM MONTEVERDE: Which is left or right?

17 KEVIN REILLEY: Yeah. That's the existing. Yep.
18 And then there's another -- the following drawing shows the
19 proposed. And the total number's written next to each
20 window. Yeah, there you go.

21 BETH REILLEY: Yeah.

22 KEVIN REILLEY: That's the proposed.

1 JIM MONTEVERDE: There you go.

2 KEVIN REILLEY: The upper left-hand corner. Yeah.

3 BETH REILLEY: And the numbers in red line up with
4 that first page that just is a narrative to explain why we
5 changed windows on that side.

6 KEVIN REILLEY: Yep.

7 JIM MONTEVERDE: These are the windows that are in
8 your side yard setback?

9 BETH REILLEY: Yes.

10 KEVIN REILLEY: Yes, yeah.

11 JIM MONTEVERDE: The numbers which are existing --
12 as you can see, the first in that -- so some we are moving,
13 and then we are adding some windows as well.

14 JIM MONTEVERDE: Yep. And is that the sum and
15 substance of the changes you're here for tonight?

16 BETH REILLEY: Yep.

17 KEVIN REILLEY: Yes.

18 JIM MONTEVERDE: Okay. Everything else you have
19 permitted?

20 BETH REILLEY: Yes.

21 KEVIN REILLEY: Correct. Yeah.

22 JIM MONTEVERDE: The addition on the rear

1 elevation, the --

2 BETH REILLEY: Yep.

3 KEVIN REILLEY: Yeah.

4 JIM MONTEVERDE: That's all permitted separately?

5 BETH REILLEY: Yes.

6 KEVIN REILLEY: Yeah, that was all by right the --

7 JIM MONTEVERDE: Okay.

8 BETH REILLEY: The FAR, yeah.

9 KEVIN REILLEY: The FAR. It falls within the --
10 meets the FAR requirements. We're still below. Even with
11 those additions, we're still I think 150' or 200 square feet
12 below the allowable for the lot.

13 JIM MONTEVERDE: Yep. Okay. So the -- really the
14 only thing you need relief for is just as the Agenda says is
15 to add windows on the right side of the house?

16 BETH REILLEY: Right.

17 KEVIN REILLEY: Correct. Yes.

18 JIM MONTEVERDE: And again, the cardinal
19 orientation for the right side is?

20 KEVIN REILLEY: West-facing.

21 JIM MONTEVERDE: West. Okay. Okay. Anything
22 else you want to share with us?

1 BETH REILLEY: No.

2 KEVIN REILLEY: I think we have -- we can answer
3 any questions that you have.

4 BETH REILLEY: Yeah, the house was built in 1839.
5 It's amazingly original. We're not making very many changes
6 to it.

7 JIM MONTEVERDE: Yeah.

8 BETH REILLEY: We're doing a restoration rather
9 than a renovation. We're not changing the floor plan, even
10 the original floor plan very much. We just needed to add a
11 code staircase so that we -- there was one that wasn't to
12 code that, including the basement stairs that we moved.

13 JIM MONTEVERDE: Yep.

14 BETH REILLEY: And that's where some of the
15 windows are, and then a dormer to plan for a future elevator
16 for aging in place.

17 JIM MONTEVERDE: Oh, okay. It's -- yes, I have
18 passed by the house, I'm envious of it. It's a beautiful
19 little house.

20 BETH REILLEY: Yeah. It really is.

21 KEVIN REILLEY: Yeah, it is.

22 JIM MONTEVERDE: Okay. That's the presentation.

1 Any questions from members of the Board?

2 STEVEN NG: Just always show those photographs
3 with the diagrams you have. Beautiful.

4 BETH KEVIN REILLEYS: Yep. Right.

5 JIM MONTEVERDE: And we have a note -- well, let
6 me see if there's anything new. As of yesterday, no
7 correspondence in the file. Nope. So I will open the
8 matter to public comment.

9 Any member of the public who wishes to speak
10 should now click the icon at the bottom of your Zoom screen
11 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 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 ask you to
18 wrap up.

19 All right. We will close public testimony. Any
20 discussion among members of the Board? If not, I will move
21 to a motion. And this is a special permit.

22 The Chair makes a motion to grant relief from the

1 requirements of the Ordinance. And it's really only Section
2 5.31. And it's really about the windows in the side yard
3 side -- right side, west side, setback. So that's really all
4 we're granting or need to grant the relief for.

5 On the condition that the work proposed conform to
6 the drawings entitled "8 Worcester Street," prepared by --

7 KEVIN REILLEY: David Graham Architect. Yeah,
8 Graham Architects.

9 JIM MONTEVERDE: -- yep, thank you, I have those
10 -- Graham Architects, dated June 29, 2023, initialed and
11 dated by the Chair.

12 And further, we incorporate the supporting
13 statements and dimensional forms submitted as part of the
14 application. And since this is a special permit, the
15 criteria is that it appears the requirements of this
16 ordinance can- or will not be met. That is correct.

17 Traffic generated, or patterns of access or egress
18 would cause congestion. Not.

19 Continued operation of or development of adjacent
20 uses, as permitted in the Zoning Ordinance, would be
21 adversely affected. I don't think so.

22 Nuisance or hazard created to the detriment of the

1 health, safety and/or welfare. It will not.

2 And for other reasons, the proposed use would not
3 impair the integrity of the district. It will not. So all
4 the conditions for -- criteria for the special permit have
5 been met. So a voice vote please by members of the Board.

6 Bill?

7 BILL BOEHM: In favor.

8 JIM MONTEVERDE: Daniel?

9 DANIEL HIDALGO: In favor.

10 JIM MONTEVERDE: Virginia?

11 VIRGINIA KEESLER: In favor.

12 JIM MONTEVERDE: Steven?

13 STEVEN NG: In favor.

14 JIM MONTEVERDE: And Jim Monteverde in favor.

15 [All vote YES]

16 Five in favor. The relief is granted.

17 COLLECTIVE: Thank you.

18 JIM MONTEVERDE: Thanks.

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2 (7:26 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Next case is BZA-245462 - 87 1/2
6 Sixth Street. Is there anyone here who wishes to comment?

7 ANN FULLERTON: Good evening, Zoning Team, I'm Ann
8 Fullerton. My husband and I, Jeff Fullerton, own the
9 property at 87 1/2 Sixth Street, and I'll be presenting to
10 you tonight for a special permit regarding the -- it's the
11 west side and the south side elevations that we're asking
12 for relief to be able to relocate windows on and add some
13 windows.

14 Thanks, Olivia.

15 So the first slide that Olivia's brought up is the
16 existing and proposed rear elevation. The façade in
17 question that doesn't comply with setbacks is
18 just the one-story portion. So on the existing it's the
19 portion of the shutters over the top of the single window.

20 And on the proposed, you can see the hatched area
21 where the existing window is and our proposal for two new
22 windows that are approximately the same height but spread

1 out and add about a foot of additional glazing length to the
2 elevation.

3 JIM MONTEVERDE: And that façade is in the rear
4 yard setback.

5 ANN FULLERTON: Correct.

6 JIM MONTEVERDE: Okay. Yep.

7 ANN FULLERTON: And it's 12' from the lot line.

8 JIM MONTEVERDE: Okay.

9 ANN FULLERTON: And then the second elevation is
10 the west-facing elevation, which faces onto a path that
11 accesses the back patio. And that elevation in question
12 that is within the setback here is the larger two-story
13 elevation.

14 You can see on the existing it has a single window
15 on it. And on the proposed, we catch where that window is
16 and we're proposing to put four transom-style windows on
17 that wall.

18 So our goal was to create more daylighting in the
19 home. But right now, that existing window looks directly
20 into the neighbors' bedroom window. It's a rental property
21 next to us. And our kitchen window looks directly into
22 their bedroom window. And it's unfortunate, because we only

1 each have one window on that wall. But they line up.

2 So the goal was to not remove daylight from our
3 kitchen space, but to make it so we both had more privacy by
4 making them transom-style windows.

5 And here are views of the pathway. The first view
6 on the left is from the beginning of the path where you can
7 see the one window way. And then a little closer up, you
8 can see the alignment of the kitchen window from our house
9 and the bedroom window on our neighbor's house.

10 And then the existing condition of the rear of the
11 house.

12 And then this is just the plot plan, so you can
13 see where those setbacks were.

14 And the project is within a larger project scope
15 that is as-of-right. The only components that we needed to
16 come in front of you for were these window placements.

17 JIM MONTEVERDE: Yep. Can I ask you one quick
18 question?

19 ANN FULLERTON: Absolutely.

20 JIM MONTEVERDE: The advertisement reads,
21 "Relocation and addition of windows on two existing sides."
22 You're actually only replacing on one side?

1 ANN FULLERTON: Correct.

2 JIM MONTEVERDE: Right?

3 ANN FULLERTON: It was -- unfortunately, the
4 grammar was poor. And --

5 JIM MONTEVERDE: Yeah, no, no. I can understand
6 how you could get there. But it's really the -- if I look
7 at your drawing again, so it's the window on the rear
8 elevation and the window on what you label as the side
9 elevation. But looking at your survey, is that right side
10 --

11 ANN FULLERTON: It's the left side.

12 JIM MONTEVERDE: Left side.

13 ANN FULLERTON: Yep. So less spacing.

14 JIM MONTEVERDE: It's the rear and the left side?

15 ANN FULLERTON: Correct.

16 JIM MONTEVERDE: Thank you. Okay.

17 ANN FULLERTON: Not the -- and I did send it out
18 to Maria about the grammar. But I think the advertisement
19 had already happened, so.

20 JIM MONTEVERDE: Well, that's okay. That's all
21 right. Just so we understand. Okay.

22 ANN FULLERTON: I did see that one of my

1 neighbors, the neighbor directly to the south of us, was
2 concerned about the addition of windows.

3 And we reached out to them directly, because we
4 were surprised about the concern because there's already a
5 privacy issue. And we tried to explain in detail that the
6 windows we were requesting were going to be up high to aid
7 in privacy for both parties.

8 And also, I sent them a picture of our kitchen
9 looking at the bedroom window, just so they could understand
10 the situation a little bit more clearly. Because I don't
11 believe they've ever lived in the property. So they may not
12 understand the existing condition.

13 JIM MONTEVERDE: Okay. Yeah, we have --

14 ANN FULLERTON: And they did not respond,
15 unfortunately.

16 JIM MONTEVERDE: Okay. We have that letter, and
17 I'll read that into the file in a moment. Okay. Anything
18 else for your presentation?

19 ANN FULLERTON: Nope. That's it. Any questions
20 are welcome.

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

1 We are -- in the file we have two letters in
2 support: one by Alan Balsam at 87 Sixth Street, a neighbor
3 in support. And then one from Timothy Toomey, dated
4 November 8, writing in strong support of the renovation
5 proposed by his neighbors.

6 Then we have one that -- and you just mentioned
7 this is from Jane Davis and Luciano Boglione, and it's dated
8 -- I have it as November 5. They're owners of 89 and 91
9 Sixth Street. And they're sending the correspondence as a
10 formal objection/concern. And it's the addition of the two
11 windows on the side will infringe on the privacy of the
12 existing window at 89. I think that's something you just
13 discussed, correct?

14 ANN FULLERTON: Correct.

15 JIM MONTEVERDE: So you've adjusted that so it's
16 not -- you think it's not -- shouldn't be a privacy issue
17 for 89?

18 ANN FULLERTON: That was our intent in our initial
19 proposal. We don't want to look into their bedroom --

20 JIM MONTEVERDE: Right.

21 ANN FULLERTON: -- but we're trying not to lose
22 daylight. So that's why we proposed the high transom

1 windows.

2 JIM MONTEVERDE: Okay. And the rear elevation --
3 we have concerns about the second-floor window spacing and
4 the view to Number 91." Do you understand that one?

5 ANN FULLERTON: I don't understand it fully. They
6 have windows that -- they have -- 91 is a back yard
7 property. It has windows facing towards the street. I
8 mean, again, we have a window there. It's more daylight
9 currently, but we do have a window there.

10 And effectively, it would be the same situation.

11 JIM MONTEVERDE: Okay. So the final paragraph in
12 this letter is, "The proximity to our adjacent units seems
13 too close for these window additions and placement. We
14 respect our neighbors desire to renovate and upgrade their
15 property and trust in the Zoning Department to exercise
16 caution with how these plans are considered."

17 So really, you're simply moving windows around.
18 There are windows that are there. You're repositioning
19 them. The ones you mentioned are regular windows you're
20 turning them into transom windows. So okay, we understand.
21 All right. Let's see if they call in to add anything else.

22 That's everything we have in the file. I'll open

1 it up to public comment. Any members of the public who wish
2 to speak should now click the icon that says, "Raise hand."
3 If you are calling in by phone, you can raise your hand by
4 pressing *9 and unmute or mute by pressing *6.

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

10 OLIVIA RATAY: Luciano Boglione?

11 LUCIANO BOGLIONE: Yes. Hopefully you can hear
12 me?

13 JIM MONTEVERDE: Yep. We can hear.

14 LUCIANO BOGLIONE: Okay. Thank you very much.
15 I'm with my wife, Jane Davis, the owner of the property next
16 door that Ms. Fullerton has been talking about. I
17 appreciate her explanation. I'd like to mention that we did
18 live in that property at 91 in particular a few years ago --
19 many years ago now.

20 And we are concerned with the changing that she is
21 describing because of the -- I appreciate the fact that she
22 doesn't want to look into the property directly. However,

1 there's also an addition of a window on the I believe west
2 side, I can't remember -- the one facing directly, 89, which
3 means that should we decide to have a similar change in the
4 property, our property, it would infringe on their privacy.

5 So we are keen on keeping the existing situation,
6 because it seems more balanced. It is what it is. But we
7 don't infringe on each other more if we add -- if she adds
8 any windows, or we decide in the future to add any window.

9 This is the main concern. The houses 91 and 87
10 are very close to the property that has been under
11 discussion, and as I said, being in such close proximity, it
12 makes it difficult moving forward to make any changes,
13 should we want to make changes on our property.

14 Hopefully, I explained my position and my wife's
15 position, and I appreciate everybody's time. Thank you.

16 JIM MONTEVERDE: Thank you for calling in. Anyone
17 else? That's it for public comments. I will close public
18 testimony.

19 Any discussion among members of the Board?

20 DANIEL HIDALGO: I'm happy that the neighbors
21 called it to explain their logic a little more. But I --
22 even so, I guess I'm uncomfortable with -- you know,

1 withholding relief just in -- you know, because of the
2 possibility of some future modification that would once
3 again, that would want to introduce privacy issues.

4 So, you know, I appreciate the concern, but I just
5 feel that the stated reasons in the application are
6 reasonable, and I'm inclined to support.

7 STEVEN NG: I'd agree with Daniel. I think, you
8 know, to withhold the relief is so that because an abutter
9 wants to make their own changes in the future, I don't think
10 that's something that -- you know, I'm not -- wouldn't
11 consider.

12 The image on page 9 of the documentation shows the
13 two windows existing fairly approximate to each other. In
14 the first place, I think rotating the windows so it's a
15 transom-type is only going to improve the privacy, at least
16 visually. So I'm inclined to approve.

17 JIM MONTEVERDE: All right. Thank you. Anyone
18 else? No? If not, I will move to a motion. This is a
19 special permit, so I'll get to those in a moment. Drawings.

20 The Chair makes a motion to grant relief from the
21 requirements of the Ordinance under -- and I'll read it from
22 the way it's advertised. It says, "Sections 2.22.2.d,

1 8.22.2.c nonconforming structure, and then Section 10.40
2 Special Permit."

3 I think what you actually need beside the special
4 permit relief from is 5.31, the Table of Dimensional
5 Requirements for your intrusion in the front yard and rear
6 yard setback.

7 So with that, on the condition that the work
8 proposed conform to the drawings entitled "85.5 Sixth
9 Street" prepared by -- there's no name, anonymous -- and
10 dated --

11 ANN FULLERTON: Chairman?

12 JIM MONTEVERDE: Yep.

13 ANN FULLERTON: They're prepared by me. I'm an
14 architect.

15 JIM MONTEVERDE: Okay. So I'll put your name on
16 it. I'll put your -- I'll put today's date on it just to
17 fill the blanks -- 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 Now, since this is a special permit, let's just
22 run through the criteria for it, and make sure we comply

1 with all those.

2 It appears the requirements of this Ordinance can
3 not and will not be met by the proposal. That's correct.

4 Traffic generated would cause congestion. No.

5 Continued operation of the development of adjacent
6 uses would be adversely affected. No.

7 Nuisance or hazard would be to the detriment of
8 health, safety or welfare. No.

9 And for other reasons, the proposed use would not
10 impair the integrity of the district: So I think not.

11 So I think all the criteria for the special permit
12 have been met.

13 Voice vote please, Board? And we'll start with
14 Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Thank you. Daniel?

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Steven?

21 STEVEN NG: In favor.

22 JIM MONTEVERDE: And Jim Monteverde in favor.

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[All vote YES]

JIM MONTEVERDE: That's five in favor. The relief is granted. Special permit is granted. Thank you.

ANN FULLERTON: Thank you, everybody.

JIM MONTEVERDE: Next case is -- yep, BZA 245510 -- 45 Orchard Street.

1 * * * * *

2 (7:42 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Next case is BZA-245510 -- 45
6 Orchard Street.

7 SHELLY ZIEGELMAN: Good evening, everyone. I'm
8 Shelly Ziegelman. I'm the architect, and I'm here with
9 Abigail Lipson, the homeowner. And we're here to discuss 45
10 Orchard Street, a special permit.

11 The first thing that I'd like to go over -

12 Olivia, can you put a picture of the house up?

13 Thank you. The lot consists of a two-family house on the
14 front of the lot, and a single-family house in the rear of
15 the lot.

16 We're seeking relief for an increase in the total
17 gross floor area, and the FAR for the proposed one-bedroom
18 addition in the front of the rear single-family.

19 JIM MONTEVERDE: And for context, can you describe
20 how you got to the house in the rear?

21 SHELLY ZIEGELMAN: For the context? How --

22 JIM MONTEVERDE: Yeah, history.

1 SHELLY ZIEGELMAN: The history. So --

2 JIM MONTEVERDE: In other words, you've been
3 before this Board twice before?

4 SHELLY ZIEGELMAN: No, I haven't --

5 JIM MONTEVERDE: For that --

6 SHELLY ZIEGELMAN: It was a different architect.

7 JIM MONTEVERDE: Thank you.

8 SHELLY ZIEGELMAN: Yes.

9 JIM MONTEVERDE: Same address?

10 SHELLY ZIEGELMAN: Same address. The existing --

11 JIM MONTEVERDE: Same property.

12 SHELLY ZIEGELMAN: -- the existing house in the
13 back that you see the picture of is -- was a barn.

14 JIM MONTEVERDE: Correct.

15 SHELLY ZIEGELMAN: And the previous architect went
16 before the Board seeking a variance, I believe. But I,
17 again, was not part of that history. The barn originally
18 was more than twice the size, and was reduced, and then
19 turned into this single-family house. It's a one-bedroom
20 house. It is not an accessory dwelling unit; it is a
21 single-family -- considered a single-family.

22 JIM MONTEVERDE: Mm-hm.

1 SHELLY ZIEGELMAN: Is there any more history that
2 -- since you were there that you'd like --

3 JIM MONTEVERDE: I think just proceed with your
4 presentation, yes.

5 SHELLY ZIEGELMAN: Okay.

6 JIM MONTEVERDE: There's correspondence --

7 SHELLY ZIEGELMAN: All right.

8 JIM MONTEVERDE: -- in the file, and I was part of
9 the decision the first two times, so we can bring all that
10 up then.

11 SHELLY ZIEGELMAN: Right. Okay, great. But thank
12 you for bringing that up.

13 The other part of the overall description before
14 we move on to the site plan is the proposed bedroom addition
15 will provide the owner with one-floor living, so she is able
16 to age in place.

17 The other two units in the front are -- the front
18 unit is raised above grade, and the rear unit is a
19 multilevel unit, so it would not provide and age-in-place
20 possibility.

21 Olivia, can we please see the site plan -- not the
22 next one, the A -- the architectural? Yes. Thank you. The

1 dimensional information for this house, it's in Zone B,
2 single-family as we mentioned. It -- the proposed bedroom
3 addition complies with all of the ordinances except for the
4 FARs, as discussed earlier.

5 And you can also look at the dimensional sheet.
6 But the proposed addition is situated within all of the
7 required setbacks. However, the barn is nonconforming --
8 what was the barn.

9 It maintains the ratio of usable open space to the
10 lot area and it's greater than required. The addition falls
11 within the size requirements for a single-family house
12 addition, as it is less than half the existing footprint of
13 the first floor.

14 So if you move on to the next drawing, you can see
15 that the proposed bedroom addition, which consists of an
16 entrance area, a bedroom and a bathroom, is less than half
17 of the existing first floor footprint.

18 The proposed cellar that you see on the left side
19 of the drawing is a cellar that will contain the plumbing,
20 electrical ductwork and all the mechanicals. It is -- the
21 ceiling height is no higher than 6'6". It can never be
22 finished, and it is not part of the livable space.

1 Then on the next drawing, please -- thank you --
2 we have created a proposed roof deck. And it's defined in
3 the Zoning Ordinance as private, open space.

4 There have been a couple of -- the two adjacent
5 neighbors on either side 41 and 49 -- have concerns over
6 privacy as well as my client, everyone would like it to be
7 private, which makes total sense. And to respect that, we
8 -- there will be planting and planters all around the roof
9 deck and also near the property lines.

10 And I believe that Abigail is in conversation with
11 any neighbors that would like to discuss privacy, because I
12 think site lines are very important and maximizing privacy
13 is everyone's concern.

14 So this proposed green deck both -- it also
15 moderates the heat island effect if it were just to be a
16 traditional roof and is intended to provide privacy for both
17 the neighbor and the client with plantings.

18 The proposed addition is in keeping with the other
19 structures in the neighborhood, including other additions
20 and roof decks in the neighborhood. There will be lighting,
21 sound control, and -- again, site lines. And everything
22 will be carefully planned.

1 The proposed addition also includes replacing the
2 existing lawn areas with robust plantings, trees and
3 gardens. And that will also improve air quality and
4 environmental well-being.

5 If we can move on to the elevations, please, thank
6 you.

7 Another thing that we took into account was window
8 placement.

9 JIM MONTEVERDE: Ms. Ziegelman?

10 SHELLY ZIEGELMAN: Yes.

11 JIM MONTEVERDE: Can I ask you to just hang on for
12 two minutes?

13 SHELLY ZIEGELMAN: Of course.

14 JIM MONTEVERDE: We need to take a two-minute
15 break. Be right back.

16 SHELLY ZIEGELMAN: Sure.

17 [Pause]

18 JIM MONTEVERDE: Sorry for the interruption.

19 ANN FULLERTON: That's okay. Okay. So just to --
20 the final comment about the elevations is that the windows
21 are respectful of the neighbors. The horse stall windows,
22 the little -- the small ones that are reminiscent of a horse

1 stall from the barn are above the owners. You can't see out
2 it. It's just light, like a clear story.

3 And the window on the lower elevation in the
4 proposed part, you can see the existing and the proposed.
5 The proposed is on the left. Those windows, the larger
6 double hungs are 31.5' from the property line.

7 So there -- it's a great distance, and all of the
8 windows have window treatments on them in the existing barn
9 as well as the proposed.

10 And that concludes the presentation. And if there
11 are any questions?

12 JIM MONTEVERDE: All right. Thank you. Before I
13 open it up to members of the Board, I just want to confirm
14 that everyone read -- I'm sure you read the correspondence
15 that's in the electronic file -- one in particular that I
16 think rather accurately -- from Harry Shapiro, dated
17 November 1.

18 And it goes through the history I was alluding to
19 in that, and just for reference for members of the Board:
20 This project, different architect, same owner I believe,
21 came before the Board in 2019 as an expanding the footprint
22 of the existing barn. Same use. Owner would occupy it, age

1 in place. And it totaled 4,712 square feet.

2 The Board -- in the discussion at that hearing,
3 the Board let the proponent know that they didn't have
4 enough favorable votes to be granted the variance for a
5 number of reasons about the size and et cetera. And the
6 case was continued.

7 The proponent came back, with a different
8 architect, same owner, same discussion, age in place, in
9 2020 with a scheme that was reduced to I think it's 4,379
10 square feet, thereabouts. Basically the footprint of the
11 barn, if I recall.

12 And that was approved. And those are the
13 photographs that you see of the building that exists. And
14 the proposal now, if I read the dimensional form, would now
15 increase the previously approved 4,300 square feet and
16 change and go back to the 4,715 square feet that in 2019
17 that Board objected to and discussed with the proponent that
18 they should withdraw their case -- not withdraw their case,
19 continue the case -- because they weren't going to be
20 approved.

21 So I just want to give you that background. It's
22 in the letter. The letter is, I think, pretty accurate.

1 I've got the file from the other hearings. We can go
2 through that if anyone desires.

3 But with that in mind, any questions from members
4 of the Board?

5 VIRGINIA KEESLER: It was mentioned that the barn
6 was originally twice the size. So is it just a lot taller
7 than the existing -- than the current structure?

8 SHELLY ZIEGELMAN: It projected towards the two-
9 family house. It was longer. It was twice the size of the
10 current barn, current house rather.

11 ABIGAIL LIPSON: That was reduced long before the
12 conversion of the barn to house. That was reduced because
13 the back of the house and the front of the barn basically
14 were rotting and irreparable when we first purchased the
15 property. And so, to save the structure we removed the
16 front portion that was rotting and put the front back on the
17 reduced structure.

18 VIRGINIAL KEESLER:: Thank you.

19 ABIGAIL LIPSON: That was many years before.

20 DANIEL HIDALGO: I think you said this at the
21 beginning, but I just wanted to make sure, because several
22 correspondents referred to this as an accessory apartment

1 under 4.22.

2 And you -- just to clarify, are you saying that
3 isn't the case? This was not, you know, granted under that
4 part of the Zoning Code as an accessory apartment?

5 SHELLY ZIEGELMAN: It was not. It is a single-
6 family dwelling.

7 DANIEL HIDALGO: Okay. Thank you.

8 SHELLY ZIEGELMAN: And it was confirmed by Ranjit
9 and his team.

10 DANIEL HIDALGO: Great.

11 BILL BOEHM: My question is, you've said that your
12 -- you've acknowledged neighbors' privacy concerns. And so,
13 you got it sounds like a fairly extensive landscape agenda
14 and a green roof agenda, which I don't believe you have
15 plans of.

16 I know in the case of the green roof that the
17 weight of a green roof often entails, you know, a more
18 robust structure.

19 So I guess my question is, how far along are you
20 in your design and planning for a green roof and extensive
21 landing? And have you been able to share that with your
22 neighbors?

1 SHELLY ZIEGELMAN: Just to clarify, the -- it is
2 not a green roof with all the extensive structure. It is a
3 roof that will have structure that will provide for planters
4 around the perimeter of the roof. But it won't have beds
5 and irrigation and the whole works. It will have planters.
6 So there will be privacy met by that.

7 The landscape plan has not been started yet.
8 That's something that we will start if there is -- if we're
9 able to do this.

10 ABIGAIL LIPSON: I've interviewed two landscape
11 architects and reviewed the possibilities. And shopped
12 basically for various kinds of green barriers that would
13 work both at the roof level and at the property line level.

14 And I've invited my neighbors to also suggest what
15 would help make them feel comfortable in the way of
16 plantings or barriers.

17 JIM MONTEVERDE: Thank you. Any other questions from
18 members of the Board? If not, I will read into the public
19 correspondence we've received what's in the file, and than
20 open it up to public commentary.

21 So we have three pieces of correspondence in favor
22 and three objecting. I have one from Sherry Oliver, 49

1 Orchard Street, direct abutter.

2 "Proposal adds an addition that will have a
3 significant impact on me by eliminating the open green space
4 (a coveted commodity in the city) but I have decided to
5 remain neutral on the addition.

6 "I am, however, opposed to the addition of a roof
7 deck. My house is two stories and I live on the second
8 floor. I have a deck that overlooks Abigail's yard, and it
9 will be in direct line of view with her roof deck. I feel
10 it would impact my privacy and it will increase the height
11 of the addition."

12 JIM MONTEVERDE: Ms. Ziegelman, is this -- you
13 sent a sketch in?

14 SHELLY ZIEGELMAN: That's the other. That's Pam
15 and Harry's side.

16 JIM MONTEVERDE: That's the other side?

17 SHELLY ZIEGELMAN: But Abigail has been in
18 conversation with Sherry, and there's also a distance.
19 There -- we just have not -- again, we are in good faith
20 working on the privacy issue and her --

21 JIM MONTEVERDE: Okay.

22 SHELLY ZIEGELMAN: -- her concerns are, you know,

1 our concerns. Oh, I'll just add that because --

2 JIM MONTEVERDE: Nope. Hold on one second. I'm
3 really just reading through the correspondence. So let me
4 just keep going through it.

5 The second one, dated November 1, from Harry
6 Shapiro. This is a two-page letter. I'm going to summarize
7 as best as I can.

8 The person who writes the letter resides at 41
9 Orchard Street, next door.

10 "It will adversely affect the use and enjoyment of
11 my home. The deck atop the proposed addition, in
12 particular, would greatly reduce my privacy.

13 "It will reduce green space on Ms. Lipson's lot.
14 The neighborhood has over the years already lost much open
15 space to development.

16 "It will increase the carbon footprint of the
17 lot," and "the proposal is inconsistent with the zoning
18 regulations."

19 And then it goes on, and there's a paragraph and I
20 will read from A to --

21 "The initial proposal in 2019 sought to increase
22 the total gross floor area to 4712 square feet and to expand

1 the footprint of the existing barn. That proposal was
2 rejected by the BZA.

3 "After scaling back the plans, in 2020 approval
4 was granted to develop approximately 900 square feet of
5 additional living space which was to remain within the
6 envelope of the barn. (Total GFA 4379 square feet).

7 "Now Ms. Lipson again seeks expansion to 4715
8 square feet, virtually identical in size to the proposal
9 that was rejected in 2019."

10 And the last one I will read verbatim from the
11 paragraph:

12 "It may have been unrealistic to plan to 'age in
13 place' in 900 square feet of living space. Such an
14 unfortunate miscalculation does not justify further
15 expansion. As stated, Ms. Lipson owns two other dwelling
16 units on the property that are larger and could readily
17 accommodate her housing needs to 'age in place.'"

18 That's from Harry Shapiro.

19 Next is Pamela Winters, October 31. There are
20 several reasons why they come before us tonight to oppose
21 the addition.

22 "It would adversely affect the use and enjoyment

1 of our home." I'm summarizing here.

2 "It is neither appropriate nor lawful to expand
3 the current dwelling space beyond the size restrictions for
4 accessory dwelling units."

5 But you've explained that this is not an accessory
6 dwelling unit, it's a separate home.

7 There are a couple of paragraphs here. It says:

8 "1. Ms. Lipson has two other units on the lot,
9 which she is now renting out in front of her current
10 building. They have two or three bedrooms each which would
11 be more than enough to accommodate company or caretakers for
12 her to 'age in place.'

13 "2. Ms. Lipson's addition would reduce the green
14 space and increase the carbon footprint.

15 And "3. Ms. Lipson now returns with another
16 proposal that would add a room approximately 18 by 14 feet
17 with an adjoining bathroom...and as mentioned a basement and a
18 roof deck. The footprint of 900 square feet was originally
19 given by the BZA for an accessory apartment."

20 And there is Hanna and Ross Marino, October 31,
21 164 Elm Street, Unit 3. Their back yard abuts 45 Orchard
22 Street. They are speaking in favor of the addition.

1 Jenny Katz, Samuel Christy, 166A Elm Street. They
2 have spoken to Ms. Lipson about the plans, and they are in
3 support of it.

4 And Susan Matkoski and Stewart Wiley, October 4.
5 They reside -- no, they don't say where they reside. Oh,
6 I'm sorry. 168 Elm Street. And they were recently informed
7 they intend to build a one-story addition, and they have no
8 objections.

9 That is the correspondence in the file. So now
10 open it to public comment.

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

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

16 OLIVIA RATAY: John Buten?

17 JOHN BUTEN: I think that's an error. We're the
18 next case. I didn't mean to raise my hand, I'm sorry.

19 JIM MONTEVERDE: Oh, okay. Yep, you're next.
20 Hang on.

21 OLIVIA RATAY: Pamela Winters? Nevermind, she put
22 her -- Pamela Winters?

1 JIM MONTEVERDE: Pamela Winters go away?

2 OLIVIA RATAY: She's -- no, she's here.

3 PAMELA WINTERS: Hello? Hello? Hi. Can you hear
4 me?

5 JIM MONTEVERDE: Yes, we can.

6 PAMELA WINTERS: Oh, excellent. Well, I'm just
7 going to, you know, just sort of review something that the
8 Chair has already talked about. But there are several
9 reasons why we come before you tonight to oppose Ms.
10 Lipson's addition to her accessory building.

11 For those of you who were not on the BZA a few
12 years ago, Ms. Lipson wanted to convert the barn in her
13 property to a living space, which was illegal, except for
14 900 square feet, which ironically enough the barn is exactly
15 just about.

16 And she then renovated the barn and was able to
17 have her wish to age in place. It was approved. And now
18 she has decided she does not have enough space for guests
19 and wants to put on an addition, including a roof deck and a
20 basement.

21 These are not modest, as she says in her petition,
22 and would adversely affect the use and enjoyment of our

1 home, which is just a few feet from hers.

2 It is neither appropriate nor lawful to expand the
3 current dwelling space beyond the size restrictions for
4 accessory dwelling units.

5 Ms. Lipson has two other units on the lot; she
6 owns them. And she is now renting out the front, renting
7 out in front of her current building where she's living.
8 They all have two or three bedrooms each, which would be
9 more than enough to accommodate company or caretakers or for
10 her to age in place.

11 Ms. Lipson's addition would reduce the green space
12 and increase the carbon footprint in the lot. And Ms.
13 Lipson now returns with another proposal that would add a
14 room and it's -- I think I said in my letter it was 18' x
15 14'; I think it's closer to 25' x 14'. Perhaps the
16 architect could be more specific about that -- with an
17 adjoining bathroom.

18 And as mentioned, a basement and a roof deck.
19 These are outside the footprint of the 900 square feet that
20 was originally given by the BZA for her accessory apartment.
21 And that's under -- in the Zoning Regulations it's under
22 4.22.1 and it's number 3. And it's just one sentence, so I

1 can read it to you.

2 "An accessory apartment created within an
3 accessory building shall not occupy more than 900 square
4 feet." Which she has. Therefore, the current proposal to
5 expand the structure is inconsistent with the Zoning
6 Regulations applying to an accessory dwelling unit.

7 "These units are restricted in size because they
8 are extremely close to abutters and represent a marked
9 change in the intensity of their use by adding additional
10 dwelling units to back yards."

11 Thank you very much for your time. I appreciate
12 it. Thank you.

13 JIM MONTEVERDE: Thank you for your comment.

14 PAMELA WINTERS: Mm-hm.

15 JIM MONTEVERDE: That's it for public comments. I
16 will close public testimony.

17 ABIGAIL LIPSON: May I mention something before
18 the Board deliberates? Just because my architect was not
19 here for the earlier petition, and I was.

20 JIM MONTEVERDE: Yes. You can make it brief,
21 please.

22 ABIGAIL LIPSON: Yes. I'll make it brief. The

1 original conversion of the barn to my house was different in
2 a couple ways in that it was a conversion into a living
3 situation from a nonliving space. This has now been my home
4 for over a year and a half I think now. So I'm living there
5 as my home now.

6 The original petition with the conversion included
7 a variance for example about the setback things that were
8 understandably felt to be more -- you know, more intrusion
9 from my neighbors.

10 This petition now is a change to my current home
11 within the setbacks, asking only for the special permit for
12 the FAR. And the -- it would allow for ground-level one-
13 floor living, which none of the other units will allow.

14 Thank you.

15 JIM MONTEVERDE: Thank you. Discussion from
16 members of the Board? I'll start. I'm concerned. Although
17 this technically isn't a repetitive petition by definition
18 of the Ordinance, it's a repetitive petition. Again, not as
19 defined by the Ordinance.

20 But this was turned down initially, or something
21 similar was turned down initially -- almost exactly the same
22 size square footage and reduced at the request of the

1 previous Board, and approved by the previous Board at the
2 current footprint that you see in the photographs.

3 And I am troubled to have the proponent come back
4 and ask for what amounts to exactly what was denied in
5 2019/2020. Beside the objections -- and then there are the
6 objections from the neighbors; privacy and -- primarily
7 privacy and objections to the deck.

8 So I for one at the moment would not be in support
9 of this relief.

10 Any other discussion, or are we ready for a
11 motion?

12 BILL BOEHM: I'll share your concerns, Jim. I
13 find the roof deck addition, you know, I guess, particularly
14 out of keeping with the stated intent of the or need for the
15 addition, and that's of -- you know, particular concern to
16 neighbors.

17 And I feel like the proposed solution of planters
18 and landscaping has not really been fully developed or
19 vetted. So I'm also concerned.

20 JIM MONTEVERDE: So I'm concerned to the extent
21 that I would not vote to grant the special permit. Are you
22 of the same mind?

1 BILL BOEHM: Yes.

2 JIM MONTEVERDE: Okay.

3 BILL BOEHM: Oh, sorry.

4 VIRGINIA KEESLER: Oh no, you got it, Dan.

5 JIM MONTEVERDE: Go ahead.

6 DANIEL HIDALGO: Yeah, I'm fine with the plan, I
7 think. But I am sort of worried about the precedent of
8 returning to the Board -- you know, after turnover with
9 something that's, you know, similar to what's approached
10 just a couple years ago. So I sympathize with the problems
11 raised by Jim.

12 JIM MONTEVERDE: Okay. Anyone else?

13 VIRGINIA KEESLER: I guess I share a similar
14 sentiment to Daniel. I think I'm less troubled by the plan
15 just in that the open space ratio is maintained and the new
16 addition is over 31' from the property lot line with 41
17 Orchard.

18 I guess, Jim, I'd be interested to hear you expand
19 a little more on the precedent that this sets. And I know
20 you have already spoken to it, but just maybe like any
21 history of repetitive proposals and just --

22 JIM MONTEVERDE: Well, yeah.

1 VIRGINIA KEESLER: Yeah.

2 JIM MONTEVERDE: -- if I use that word, that's --
3 again, have to be careful -- it's technically not a
4 repetitive petition. Because you can't come back -- a
5 repetitive petition is if you -- look to my, I'm sorry?
6 Yeah. It would be if it's a negative action by the Board,
7 you can't come back for two years for something identical,
8 similar.

9 So just a timeline here, it's 2019. The
10 discussion -- it wasn't a vote; it was agreed to continue.
11 You know, we read the tea leaves. Basically advised them
12 that they weren't going to pass. Suggested they do a
13 continuance, they did. 2020 came back with a new scheme
14 that reduced it to what you see here in the photographs as
15 built.

16 And now in 2023, they're back with something that
17 resembles -- at least in area, if not in concept, what they
18 had in 2019 that the Board was going to reject.

19 Basically, advised them to continue and reduce the
20 scheme. The neighborhood's objection and it was just too
21 large behind there. That's about as clear as I can make it
22 a history without reading the file in detail.

1 So if I read the tea leaves -- and Virginia, I'll leave you
2 out of this for a moment -- it sounds like about four, three
3 against, which won't get you approval.

4 So Ms. Ziegelman and Ms. Lipson, are you still
5 with us?

6 SHELLY ZIEGELMAN: Yes.

7 ABIGAIL LIPSON: Yes. So you have a choice. We
8 can proceed with the vote -- the tea leaves say you don't
9 get approved -- or you can continue.

10 SHELLY ZIEGELMAN: We'll take the continuance.

11 JIM MONTEVERDE: Okay. November 30, does that
12 work for members of the Board and for the proponent?

13 SHELLY ZIEGELMAN: I will be out of town.

14 JIM MONTEVERDE: Okay. What was the other one?

15 OLIVIA RATAY: December 14.

16 JIM MONTEVERDE: December 14?

17 SHELLY ZIEGELMAN: That's fine.

18 JIM MONTEVERDE: Members of the Board, can you do
19 December 14?

20 DANIEL HIDALGO: Fine with me.

21 VIRGINIA KEESLER: Yes.

22 STEVEN NG: Yes, that works for me.

1 JIM MONTEVERDE: Okay. Virginia?

2 VIRGINIA KEESLER: Yes, that works for me.

3 JIM MONTEVERDE: Okay. Denial that's fine?

4 DANIEL HIDALGO: Fine with me, yeah.

5 JIM MONTEVERDE: Yep. Bill?

6 BILL BOEHM: Yep. Works for me.

7 JIM MONTEVERDE: Okay. Jim Monteverde, it works
8 for me. So I will continue to December 14.

9 SHELLY ZIEGELMAN: And can we just clarify that
10 this building is not an ADU for the neighbors?

11 JIM MONTEVERDE: I'm going to confirm that myself
12 when I go back in the record. So I'm going to leave that
13 one for the moment. I'm not going to touch that until I've
14 had the time to do the research.

15 You, I think, Ms. Lipson, said you talked to
16 Ranjit?

17 ABIGAIL LIPSON: I spoke with --

18 JIM MONTEVERDE: You did.

19 ABIGAIL LIPSON: -- Ranjit and Olivia.

20 JIM MONTEVERDE: Yeah. So I just want to go
21 through the file and see what was voted, how it's recorded,
22 how it's registered, and we'll take it from there when we

1 come back.

2 SHELLEY ZIEGELMAN: What we presented is exactly --
3 has been confirmed by me and Ranjit and Olivia.

4 JIM MONTEVERDE: Mm-hm. Okay. Well, I think
5 members of the Board are probably going to want to just see
6 the paperwork themselves and go through the file and get
7 ready for the next time. So --

8 STEVEN NG: Yeah, I --

9 JIM MONTEVERDE: -- let me make a motion -- all
10 right.

11 STEVEN NG: Jim, just real quick before you do, I
12 just didn't get the opportunity to voice my opinion. I
13 think the design is quite a bit more square footage I think
14 than, you know, the objective was to kind of age in place
15 but there's a lot of development happening up on the second
16 floor.

17 And I think that outdoor terrace is a cause of
18 concern with the neighbors. So I think those are your
19 critical -- some of the critical items you have to address.

20 JIM MONTEVERDE: Agreed. Okay.

21 STEVEN NG: Thank you.

22 JIM MONTEVERDE: Yep. Let me make a motion to

1 continue this matter to September 14, 2023 (sic) on the
2 condition that the petitioner change the posting sign to
3 reflect the new date of December 14, 2023 and the new time
4 of 6:00 p.m.

5 Also that the petitioner sign a waiver to the
6 statutory requirement for the hearing. This waiver can be
7 obtained from Maria Pacheco or Olivia Ratay at the
8 Inspectional Services Department. I ask that you sign the
9 waiver and return it to the Inspectional Services Department
10 by a week from this coming Monday.

11 Failure to do so will de facto cause this Board to
12 give an adverse ruling on this case.

13 Also, that if there are any new substantial
14 changes to the drawings, dimensional forms, or any
15 supporting statements that those be in in the file by 5:00
16 p.m. on Monday prior to the continued meeting date.

17 On the motion to continue this matter to December
18 14, 2023, voice vote by members of the Board, please? Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Daniel?

21 DANIEL HIDALGO: In favor.

22 JIM MONTEVERDE: Virginia?

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VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor. The matter is continued until December 14, 2023. Thank you.

SHELLY ZIEGELMAN: Thank you.

1 * * * * *

2 (8:20 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Next case is BZA-244071

6 -- 32 Tremont Street.

7 Is there anyone wishing to speak on this case?

8 JOHN BUTEN: Yes. This is John Buten, and my wife
9 Sarah Di Troia.

10 JIM MONTEVERDE: Oh, there you are. Now is your
11 chance.

12 JOHN BUTEN: Got the hand thing correct. Yeah.

13 JIM MONTEVERDE: Okay.

14 JOHN BUTEN: Sometimes happening. There we go.

15 JIM MONTEVERDE: When you're ready, you can
16 describe what you're doing.

17 JOHN BUTEN: Great. And we'll be joined by our
18 architect, Mark Armstrong, who is also on the line as a
19 panelist. We've lived at the house on 32 Tremont Street for
20 25 years now. We appeared before the Board about 20 years
21 ago to get a variance to put dormers and renovate the third-
22 floor attic space and are trying to be good stewards of the

1 property.

2 We're now returning to the Board looking to
3 develop the barn. The property has an attached two-story
4 nonconforming barn that is in need of repair and has not had
5 any significant maintenance in its hundred years.

6 And we're trying to develop that as an accessory
7 dwelling unit under the 4.22 rule to use it as an in-law
8 apartment for my father-in-law; for Sarah's father. And
9 seeking relief under 4.22 to relax the floor area
10 requirements, which state 900 square feet.

11 There is a provision that says the Board can grant
12 permission or relaxing that for a preexisting structure.
13 The existing structure is two stories, so 620 square feet
14 for 1,240 total.

15 And our desire has been to keep the existing
16 structure to not change any of the -- put any windows on the
17 lot lines or with -- work within the setback requirements to
18 the degree that we can with the existing structure.

19 And I'll turn it over to Mark to walk through the
20 proposal.

21 MARK ARMSTRONG: Thank you, John. Well, we looked
22 at a number of different things, but we were concerned about

1 anything that was in addition to the existing structure.

2 We looked really mostly at keeping the scale of
3 the building small and similar to what it is currently, but
4 we still needed to create headroom by altering the shape of
5 the roof.

6 So the resulting change to the roof resulted in
7 the -- in this picture in the back on the property line, the
8 eave is actually at the same height as the existing
9 building. In order to create enough headroom on the second
10 level, we sloped that -- the roof forward, to make sort of a
11 shed room.

12 So it's a simple volume. It takes what's sort of
13 a flat roof in disrepair that's sort of a low attic and it
14 really sort of gives it some slope to create headroom on the
15 second level.

16 If -- in addition, the alignment of the plane of
17 the floor levels is sort of stepped down. The existing
18 floor level of the first floor is well above -- is four
19 risers above grade.

20 And in order to make this an apartment that has
21 easy access to the grade, to the parking and to the rear
22 yard space, we want to have the floor level, the interior of

1 the barn, really close to grade -- as it is now, in fact.
2 It's sort of an old sort of shed or garage. It was really
3 right at grade, and it sort of promoted how it was -- how it
4 rotted, and it has fallen into disrepair.

5 But it was desirable to be low and near grade for
6 easy access.

7 In the plan, you can see that really where -- if
8 we scroll down to I see you have pages -- let's see, we can
9 go to the second page. This shows the zoning data. The
10 property is in the center of the picture.

11 And you can see -- you can see the barn to the
12 rear that's -- it's essentially the same footprint and the
13 same roof area as before. The summary of the floor area
14 shows that the barn in each level is 620 square feet, and
15 the total FAR is about 0.9, which is a little bit over the
16 FAR, the maximum required.

17 If you go to the fourth sheet, we can see one of
18 the quirks about this property is that it actually extends
19 over the rear property line. So the -- even though we're
20 rebuilding it in place, we have this sort of nonconforming
21 condition.

22 This drawing also shows the garden in the rear,

1 the open space that we want to maintain and enhance. And it
2 also shows the rear porch, which is the main -- you know,
3 daily entrance to the main house. And we want to combine
4 that and use that. That is the entrance to this new
5 accessory dwelling unit.

6 Otherwise, the interior plans are uneventful, but
7 I think one drawing to look at is further down the
8 elevations. 10 maybe? This shows that the height, this
9 sheet 9 shows that the height in the rear is below the
10 height of the main building.

11 And the next page shows really the strategy here
12 was to keep the -- on the rear, the right side, to keep that
13 eave no higher than the existing eave.

14 And so, then from that point slope it so that it
15 conforms to the existing roof slope of the building, but it
16 also manages the intersection of the two roofs in a way that
17 won't be awkward, that can be resolved against the flat
18 wall.

19 So there are several strategies going on here that
20 we try to keep it in at the right scale and to keep it
21 friendly to its neighbors and to provide access near grade
22 and to make a structure that's not necessarily imitating the

1 existing structure but is sort of a complimentary structure
2 to it.

3 It has -- maybe has a different exterior finish,
4 and a different sort of sensibility about being an accessory
5 part of the building, a secondary part of the main
6 structure.

7 Yeah. So that's the side facing the rear that's
8 much bigger -- I think it's a four-story or five-story
9 apartment building that sort of dwarfs it.

10 The next elevation I think -- or yeah, that's the
11 side lot line. But the -- on page 10 I think was facing --
12 yes, facing the side yard.

13 You know, typical of many of these properties,
14 they're oriented on one side of the property, creating an
15 open space in the side yard while the adjacent house also
16 has its side yard on this -- abutting this property.

17 And so, the space that surrounds this addition is
18 generous, despite the density of the apartment building in
19 back.

20 I think that's about all we need to discuss about
21 the building and its particulars. We hope you -- we thank
22 you for your attention.

1 JIM MONTEVERDE: Thank you. Any questions from
2 members of the Board? If not, I'll ask: Can you just review
3 what specific zoning items you're requesting relief from?

4 JOHN BUTEN: Our understanding is under 4.22, that
5 homeowners may request -- may develop an accessory dwelling
6 unit that is -- has space requirements of 900 square feet,
7 but that the Board, by special permit, may remove -- may --

8 JIM MONTEVERDE: Yep.

9 JOHN BUTEN: -- expand that, in order if there is
10 a preexisting structure.

11 JIM MONTEVERDE: Correct.

12 JOHN BUTEN: So I ask if this will be --

13 JIM MONTEVERDE: That's the floor area of the
14 renovation?

15 JOHN BUTEN: Yeah.

16 JIM MONTEVERDE: Or --

17 JOHN BUTEN: Exactly.

18 JIM MONTEVERDE: And then it looks to me like the
19 Dimensional Requirements would be you've got a -- I think it
20 looks like you have a skylight in a rear yard setback. You
21 know, the whole building's in a new --
22 but that's a new skylight and a rear yard setback?

1 JOHN BUTEN: There is a new skylight there.

2 JIM MONTEVERDE: Yep. And I think on the --

3 JOHN BUTEN: Ventilation.

4 JIM MONTEVERDE: And I think on the side yard
5 where you're hard up against the property line or you're
6 close to the property line, I think you've got window on the
7 second floor. That same thing is within the side yard
8 setback. So it's a new window; it needs relief. Correct?

9 JOHN BUTEN: It is I think recessed in order to --
10 like that side is not hard against the lot line --

11 JIM MONTEVERDE: Yeah, but not enough.

12 JOHN BUTEN: Okay.

13 JIM MONTEVERDE: Yeah. It's not recessed enough,
14 so.

15 JOHN BUTEN: Ok.

16 JIM MONTEVERDE: I think you need relief for it.
17 So those are the three things I --

18 JOHN BUTEN: Those are the three things.

19 JIM MONTEVERDE: -- think you need relief for,
20 correct?

21 JOHN BUTEN: Correct.

22 JIM MONTEVERDE: Okay. And then one last question

1 is -- and I'm reading from the application form, the
2 supporting statement for a variance -- the first paragraph,
3 last sentence, where it talks about "that may be needed to
4 provide for the comfort of an in-law to age in place enough
5 space for caregiver."

6 JOHN BUTEN: Uh --

7 JIM MONTEVERDE: I always scratch my head when we
8 talk about aging in place and we're talking about a two-
9 story structure and the only way to get to the bedroom and
10 the full bathroom is up a set of stairs.

11 JOSH SAFDIE: Mr. Chairman, my name is Josh
12 Safdie. I'm an architect at KMA as well, a colleague of
13 Mark's. And I can address that if I may. Our firm, as you
14 might see from our title block, specializes in accessibility
15 and in --

16 JIM MONTEVERDE: Yep, I know who you are, yep.

17 JOSH SAFDIE: Okay, great. So if -- I think it's
18 Olivia, although I haven't met you -- if you could go to the
19 first-floor plan?

20 [Pause]

21 Thank you very much. So the way that we've
22 conceived of this accessory dwelling unit -- as Mark said

1 earlier, you know, we've established a first floor level
2 that's as low to the ground as possible, so that a simple
3 ramp could be provided that would get basically a no-step
4 entrance into the first floor of the house.

5 You know, one of the things about age in place is
6 that we have to understand that our abilities will vary over
7 time, and you want to take advantage of the space that's
8 available while you're still physically able to. And so it
9 is a two-story structure.

10 You'll see the U-shaped stair down to the basement
11 and up to the upper story. Just to the left of that is a
12 rather large, walk-in coat closet. This is actually a
13 fairly common trick in aging in place designs. But the coat
14 closet is sized such that it could accommodate a lift in the
15 future.

16 And at first construction, it would be built to
17 basically have that shaft and power already in place, right?
18 So while the residents of the ADU are able to navigate the
19 stairs, they have extra storage.

20 And if and when the time comes when they feel like
21 they would benefit from that lift, the coat closet comes
22 out, the lift goes in. There's a washer and dryer on the

1 second floor that gets relocated.

2 And so, basically you have two-story living but
3 with an interior residential lift getting in between the two
4 levels.

5 JIM MONTEVERDE: Yep. Gotcha. Thank you.

6 Last question -- sorry, I think I said that
7 before, but one more. You've got to meet the conditions for
8 a variance, and the first is that the literal enforcement of
9 the provisions of the Ordinance would involve a substantial
10 hardship. And it says in following:

11 The hardship is owing to circumstances relating to
12 the soil conditions, shape or topography of such land or
13 structures, and especially affecting such land or structure,
14 but not affecting generally the zoning district in which it
15 is located.

16 And desirable relief may be granted without either
17 substantial detriment to the public good or nullifying or
18 substantially derogating from the intent and purpose of this
19 ordinance.

20 Can you describe the hardship, please?

21 JOHN BUTEN: The hardship relates to both the age
22 of the structure, the need to renovate it, and better to

1 renovate it for space than have it for storage for carriages
2 and barns that are no longer relevant to our use.

3 And in order to facilitate modern living, those
4 are the hardships.

5 JIM MONTEVERDE: Okay. I think also as the
6 positive -- just in case the hardship discussion is kind of
7 tenuous. But you're also -- the positive is you're
8 providing added dwelling unit for the city. So I think
9 that's a positive that --

10 JOHN BUTEN: Yeah.

11 JIM MONTEVERDE: -- outweighs some of the hardship
12 discussion. Okay.

13 JOHN BUTEN: It seems to meet the intention of
14 that new Ordinance.

15 JIM MONTEVERDE: Okay. Any questions -- any other
16 questions from members of the Board? Sorry for monopolizing
17 that time. Nope? If not, we have three pieces of
18 correspondence in favor, and none opposed.

19 We have one from Kathy Hart at 33.5 Tremont
20 Street, neighbors on October 25 saying they support the
21 project. From Julia Shanks, owner of 37 Tremont Street,
22 neighbor -- support the project. Again, I'm summarizing.

1 And Catherine Grams at 1 Gardner Road in support
2 for the conversion of my neighbors' attached barn into a
3 dwelling unit. And that's it for what we have in the file.
4 So I'll open it up to public comments.

5 Any members of the public who wish to speak should
6 now click the icon of your Zoom screen that says, "Raise
7 hand." If you are 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 the 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 JIM MONTEVERDE: No one is calling in. I will
15 close public testimony.

16 Discussion among the Board members? Or if not,
17 are we ready for a motion?

18 DANIEL HIDALGO: Just to say that given the -- you
19 know, existing structure and that we're essentially working
20 within that existing structure plus the additional unit,
21 which the city is, you know, the purpose of the Ordinance is
22 to develop more housing. I'm happy to support this

1 variance.

2 JIM MONTEVERDE: Yep. Thank you. I agree. Any
3 other discussion?

4 BILL BOEHM: Agree with that sentiment, but I do
5 have a question, which is are the -- have the owners of 28
6 Tremont Street been -- okay, what was the discussion with
7 them?

8 SARAH DI TROIA: Mark and Terry phone are awesome
9 too. so --

10 JOHN BUTEN: Oh no. 28 is --

11 SARAH DI TROIA: Oh.

12 JOHN BUTEN: -- we have had discussions with both
13 34 and 28. 34 recently had a fire, and had done substantial
14 construction and support this project, as well as 28 have
15 been close neighbors. And there is plenty of distance and
16 separation. We often sort of combine the yards and so it's
17 been very neighborly there as well.

18 We've also reached out to the chocolate factory as
19 well, and in discussions with them also to manage the border
20 and making sure the construction -- that we had
21 communications considering it's a multitenant unit, and it's
22 hard to have one person represent their interests, but also

1 to make sure it's safe, because they have dogs that like to
2 use the back yard too. That's currently fenced.

3 JIM MONTEVERDE: Okay. Any other discussion from
4 members of the Board? If not, I will move to a motion. And
5 again, this is a variance. So the Chair makes a motion to
6 grant relief from the requirements of the Ordinance under
7 Sections 4.22, and that's specifically to allow the
8 additional square from the maximum 900 to approximately
9 1,200 square feet that's proposed.

10 And Section 5.31 Table of Dimensional
11 Requirements. And I think that's the side yard setback for
12 the second floor window and the rear yard setback for the
13 two skylights up on the roof.

14 And then the variance. And I did talk about the
15 variance, but let me go through those again, because we need
16 to find that all of the following apply:

17 Literal enforcement of the provisions of the
18 Ordinance would involve a substantial hardship, financial or
19 otherwise to the petitioner or appellant.

20 The hardship is owing to circumstances relating to
21 the soil condition, shape of the lot or the topography of
22 such land or structures and especially if land or structure,

1 but not affecting generally the zoning district in which it
2 is located.

3 And desirable relief may be granted without either
4 substantial detriment to the public good or nullifying or
5 substantially derogating from the intent or purpose of the
6 Ordinance. I think those two are true. And I think the
7 fact that it's providing additional living unit in the city
8 of Cambridge is much to its positive.

9 On the condition that the work proposed conforms
10 to the drawings entitled "Buten-Di Troia Residence,"
11 prepared by KMA and dated August 15, 2023, initialed and
12 dated by the Chair.

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

16 Board members let's take a voice vote on the
17 motion to grant the variance relief.

18 Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Daniel?

21 DANIEL HIDALGO: In favor.

22 JIM MONTEVERDE: Virginia?

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VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor. The motion is carried. The variance is granted. Thank you.

SARAH DI TROIA: Thank you very much, everyone.

JIM MONTEVERDE: Yep. Good luck.

JOSEPH BARR: Thank you.

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(8:43 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia

Keesler, Daniel Hidalgo, and Bill Boehm

JIM MONTEVERDE: Last but not least, BZA 241969 --
101 Clifton Street.

UNIDENTIFIED SPEAKER: [Unintelligible]

JIM MONTEVERDE: I'm sorry, could you say that
again? Oh, background. Is there anyone here tonight who
wants to, or the proponent for 101 Clifton Street --

ALAN LAI: Yes.

JIM MONTEVERDE: -- for their consultants? Yep.

ALAN LAI: Yes. Hi, sorry. Yes. My name is Alan
Lai and this is Gillian White. And we are the homeowners of
101 Clifton.

And we would like -- we are applying for a special
permit to move a window in the skylight, or to move two
windows to a skylight as part of a nonconforming structure,
because the windows on that south side of the house are
within the setbacks.

So if you go to slide 3 actually is probably -- or
slide 2 you can go to first. Yeah.

1 So this is the bottom of the screen there on 3.
2 That side of the house is very close to the property line,
3 1.5' from the neighbors at 97 Clifton Street.

4 And we are proposing on Slide 4 is to -- there are
5 three windows -- originally three windows on the house, two
6 on the first floor, one on the second floor. And we are
7 proposing to move one of the windows on the first floor as
8 part of the kitchen renovation, moving that over,
9 maintaining the same square footage of the window on the
10 first floor.

11 And on the second floor, we are proposing to move
12 a window that is kind of at a low height on the knee wall in
13 the bathroom to move that as a skylight instead.

14 And this is part of a larger renovation project of
15 the entire house. But this is the only zoning-related, the
16 only one that is nonconforming.

17 JIM MONTEVERDE: South side. Okay. Okay. Thank
18 you.

19 ALAN LAI: Yep.

20 JIM MONTEVERDE: Any questions from members of the
21 Board? This is a special permit.

22 If not, there is -- there are no correspondents in

1 the file, either for or against. So I'll open the matter up
2 to public comment. Any members of the public who wish to
3 speak should now click the icon at the bottom of your Zoom
4 screen that says, "Raise hand."

5 If you are calling in by phone, you can raise your
6 hand by pressing *9 and mute or unmute by pressing *6. I'll
7 now ask Staff to unmute the speakers one at a time.

8 You should begin by saying your name and address,
9 and Staff will then confirm that we can hear you. After
10 that you will have up to three minutes to speak before I ask
11 you to wrap up.

12 OLIVIA RATAY: Liza Paden?

13 LIZA PADEN: Liza Paden. I live at No. 6 Terre
14 Haute Court. And I want to speak in support of this
15 application. They are doing a wonderful job in restoring
16 this house to its former state that will make it much more
17 habitable and modernize it. And I want to support it
18 wholeheartedly. Thank you.

19 JIM MONTEVERDE: Thank you for calling in. That's
20 it. I will close public testimony.

21 Any discussion among the Board members, or are we
22 ready for a motion?

1 STEVEN NG: I think we're ready.

2 JIM MONTEVERDE: Ready. Thank you.

3 The Chair makes a motion to grant relief from the
4 requirements of the ordinance under Sections -- it's really
5 5.31 in terms of the window that's in the side yard setback
6 and the skylight in the side yard setback, and Sections
7 8.22.2.c, 8.22.2.d -- nonconforming structure.

8 And the Section 10.40 for a special permit. And
9 I'll go thorough those in a moment.

10 And again, the relief is being sought for -- just
11 let me get this right: Moving one window on the south
12 elevation on the first floor and removing a window on the
13 south elevation on the second floor and putting in a
14 skylight instead.

15 And special permit criteria:

16 It appears the requirements of this ordinance
17 cannot or will not be met. That's true. Traffic generated,
18 or patterns of access or egress would cause congestion or
19 hazard. No.

20 Continued operation of or development of adjacent
21 uses would not be adversely affected. No.

22 Nuisance or hazard would be created to the

1 detriment of the health, safety and/or welfare. No.

2 And for other reasons, the proposed use would
3 impair the integrity of the district or adjoining district.
4 I think not.

5 So I think it complies with all the criteria of
6 10.43 for a special permit.

7 With that, Board members, take a voice vote.

8 Sorry, I'm stumbling along here.

9 Board members, please take a voice vote on the motion to
10 grant relief. Steven?

11 STEVEN NG: In favor.

12 JIM MONTEVERDE: Virginia?

13 VIRGINIA KEESLER: In favor.

14 JIM MONTEVERDE: Daniel?

15 DANIEL HIDALGO: In favor.

16 JIM MONTEVERDE: Bill?

17 BILL BOEHM: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES].

20 JIM MONTEVERDE: That's five in favor. The
21 special permit is granted. Thank you.

22 COLLECTIVE: Thank you. Thank you for staying up

1 with us.

2 JIM MONTEVERDE: Thanks. All right, Board
3 members. Thank you for all your help. I have one question
4 for Olivia while she's here. Can we put back in the
5 electronic files the old files for 45 Orchard Street? Or
6 make them available electronically, or can people search for
7 it electronically?

8 OLIVIA RATAY: Yeah. It -- the 2019 case is
9 online. Is that what you're asking?

10 JIM MONTEVERDE: Do we have to search?

11 OLIVIA RATAY: Yeah, we'd have to -- I have to
12 find it.

13 JIM MONTEVERDE: All right. Let me talk with
14 Olivia. But I think it would be helpful if the Board had
15 access to the previous cases, so you can read it and you can
16 read the Board's commentary.

17 I was going through it as we were talking, and
18 there were some things I could find and some things I
19 couldn't find, so I -- yeah, you could also come in.

20 So the easiest is come in and read the file. But
21 I'll see if it can be made available electronically. Okay?
22 Thank you. Have a good night. Have a nice Thanksgiving,

1 and we'll see you all next meeting.

2 BILL BOEHM: All right. Goodnight.

3 JIM MONTEVERDE: All right. Thank you. Bye-bye.
4 Goodnight.

5 [8:50 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.

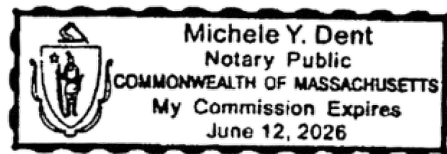
In witness whereof, I have hereunto set my hand this fifth day of November, 2023.



Notary Public

My commission expires:

June 12, 2026



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