

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY SEPTEMBER 26, 2024

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair
Steven Ng, Vice Chair
Virginia Keesler
Fernando Daniel Hidalgo
Zarya Miranda

City Employees
Olivia Ratay



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P R O C E E D I N G S

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(6:01 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Good evening. Welcome to the
September 26, 2024 meeting of the Cambridge Board of Zoning
Appeal. My name is Jim Monteverde, and I am the Chair.

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

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

There will also be a transcript of the
proceedings.

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

Members of the public will be kept on mute until

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

4 Generally, you will have up to three minutes to
5 speak.

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

8 OLIVIA RATAY: Steven Ng?

9 STEVEN NG: Present.

10 OLIVIA RATAY: Virginia Keesler?

11 VIRGINIA KEESLER: Present.

12 OLIVIA RATAY: Zarya Miranda?

13 ZARAYA MIRANDA: Present.

14 OLIVIA RATAY: Daniel Hidalgo?

15 DANIEL HIDALGO: Present.

16 OLIVIA RATAY: Jim Monteverde?

17 JIM MONTEVERDE: And Jim Monteverde present.

18 There are no continued cases.

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(6:02 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Our first case is No. BZA-275896
-- 23 Myrtle Avenue. Is there anybody calling in to talk
about this case or present this case to us? And this is a
special permit.

I see two people. Do they want to talk?

ELENA RAZETO: Yes, hi. Sorry, I had some trouble
logging in. My name is Elena Razeto. I'm the designer for
this project, and so basically, what we're asking for is a
special permit for a dormer.

The dormer would serve the stairs. Basically,
it's a single-family, it was -- it's a single-family house
with the stairs that is nonconforming, both for width and
especially for head height. And what we're asking is to
have a dormer at the stairs to have a conforming head
height.

JIM MONTEVERDE: The advertisement also says, "And
modifications to the front-entry porch."

1 ELENA RAZETO: Yes. So --

2 JIM MONTEVERDE: Could you describe that for us?

3 ELENA RAZETO: -- there was a project approved
4 that had a front addition on both first floor and second
5 floor. And what we're doing is eliminating the first-floor
6 addition and use that area to expand the approved porch that
7 was in the previous project.

8 So you can see - in this site plan you can see the
9 blue lines are the previously approved steps, porch, and the
10 addition on the first and second floor, and what we're doing
11 is eliminating the first-floor addition and using that same
12 area plus a little bit more to extend the front porch.

13 JIM MONTEVERDE: And when you say, "previously
14 approved," do you have a building permit in hand for that
15 previously approved?

16 ELENA RAZETO: We do, yes. The --

17 JIM MONTEVERDE: Okay.

18 ELENA RAZETO: -- building is, I mean, they are
19 building. Yeah, the building is in process.

20 JIM MONTEVERDE: Okay. Do you want to walk us
21 through your drawings quickly?

22 ELENA RAZETO: Yes.

1 JIM MONTEVERDE: Just explain what's going on,
2 what you're proposing.

3 ELENA RAZETO: So if you -- so this is just a GFA
4 -- existing GFA. So the basement here is non -- it's not
5 finished. There's a ceiling height of 6'6" and you can see
6 on the first floor, the top left corner, the first floor,
7 that's the addition that we're not doing anymore.

8 And then if you go to the next page, there is a
9 proposed GFA. So the addition on the first floor is gone.
10 The basement: we are finishing the basement. So this is
11 including the GFA.

12 And then we're adding a dormer on the third floor,
13 so you can see the dormer on the top right image, the plan
14 here.

15 If you go to the next page.

16 I did the open space calculation. It's pretty
17 much the same. We're just shifting; we're adding a window
18 well for the bedroom in the basement. But it's pretty much
19 the same.

20 This was the demo. We are way below the 50
21 percent demo calculation.

22 And this is just what we're doing. So in the

1 basement, we're moving the slab as we're digging down to
2 have enough ceiling height to make it habitable. We're
3 moving the stairs -- existing stairs.

4 And on the first floor, again: We're removing the
5 first-floor addition here in the front. We're changing the
6 porch. We're removing the stairs going up and down. And
7 there was a stairs on the lower right corner for the
8 apartment entrance.

9 So another thing -- I'm sorry, I didn't say that
10 this is a -- currently is a two-family house. The owners
11 now would like to make it a one-family house. So we're
12 eliminating the entrance for the apartment and the stairs.
13 We're including all of this area to the main house.

14 And this is the second floor. So the addition
15 that was approved on the second floor, the front addition is
16 staying. So is the rear addition; it's also staying. That
17 was already approved. And here we're changing -- we're
18 eliminating the stairs -- both stairs, so the front stairs
19 and the rear stairs for the apartment.

20 And here again we are demolishing a piece of the
21 roof to make space for the dormer. And we're renovating the
22 bathroom.

1 And again, we're demolishing the roof.

2 JIM MONTEVERDE: Okay. And then the application
3 says you need relief from Section 5.31, which is the Table
4 of Dimensional Requirements. And can you go to that one,
5 please?

6 And what I see there -- please confirm for me --

7 ELENA RAZETO: Mm-hm.

8 JIM MONTEVERDE: -- the building is already non-
9 -- is nonconforming regarding the gross floor area.

10 ELENA RAZETO: Yes.

11 JIM MONTEVERDE: And you'll increase that a bit.
12 It's nonconforming for the GFA and it'll remain that way.

13 ELENA RAZETO: Mm-hm.

14 JIM MONTEVERDE: And is there anything else? Is
15 that the only basis for the request for the Variance from
16 the Dimensional Requirements is really the gross floor area?
17 Everything else seems like it doesn't change.

18 ELENA RAZETO: So there was a question here in the
19 -- I think in this table, the proposed GFA says the same,
20 because the basement was not counted. Because at the
21 beginning, I actually didn't think it was supposed to be
22 included, because it was a basement, but then being in the

1 flood area, we had to include it.

2 So I think -- if you go back to my drawings on the
3 first page or second, the number of the GFA increased a bit,
4 because I included --

5 JIM MONTEVERDE: Okay, but just so I'm clear, what
6 you're seeking relief on is, as the advertisement says, the
7 Table of Dimensional Requirements. Which dimensional
8 requirements are you looking for relief for?

9 ELENA RAZETO: GFA.

10 JIM MONTEVERDE: Okay. GFA. Got it. Okay.
11 Anything else?

12 ELENA RAZETO: If you want to keep going with the
13 drawings, I can show you the proposed plans and elevations.

14 JIM MONTEVERDE: Yep. If you'd like to, please,
15 just go through that.

16 ELENA RAZETO: So this is the basement. There is
17 going to be a guest bedroom, and the new stairs. So we're
18 -- so the current basement doesn't have access to the yard.

19 So what we thought of doing is with the new
20 stairs, giving it access to the yard. So basically, at the
21 landing of the stairs going up, there is going to be a door
22 to the yard -- to the driveway actually. And then the

1 stairs will just keep going up to the second and third
2 floor.

3 So these are the stairs going up --

4 JIM MONTEVERDE: Okay.

5 ELENA RAZETO: -- and down to grade, basically.

6 And again, this is - so this was before the floor, where
7 half of it was the apartment. And now, as you can see, it's
8 all bedrooms and office and bathrooms for the single-family
9 house.

10 And then this is the dormer.

11 This is the approved elevation with the areas that
12 are going to be demolished - I mean, not built. So there
13 was a big window here. It's going to be changing to the --
14 on the third floor, and then the first-floor addition again,
15 that's going to be gone.

16 And again, the front addition is going to be gone.
17 The door to the stairs is going to be gone.

18 This is the rear elevation; it's basically staying
19 the same. We're going to change just these windows, because
20 the 25 (sic) because we don't have stairs there anymore, so
21 we can't fit those windows there.

22 And so this is the side that's going to change the

1 most, because we have to make space for the dormer and the
2 dormer windows, and the stairs.

3 And this is the proposed, so you can see the
4 window well in the front, new windows on the third floor,
5 the dormer, and the dormer on the left elevation with the
6 new windows.

7 And here you can -- I think this is the most
8 impact. You can see the stairs. On the left side, you can
9 see the existing stairs, and on the top, we only had 4'10"
10 of head height.

11 And now we're going to have much more. We're
12 going to have a conforming head height, and also conforming
13 width. The door -- sorry, the stairs were less than 6'5"--
14 I think they were like 5'10" width. So they were
15 nonconforming.

16 JIM MONTEVERDE: Okay. Anything else?

17 ELENA RAZETO: No.

18 JIM MONTEVERDE: Is that it? Okay. Any questions
19 from Members of the Board?

20 VIRGINIA KEESLER: So is the window well not
21 changing the height of the building?

22 ELENA RAZETO: No. Why would it change the

1 height? I'm not sure.

2 VIRGINIA KEESLER: It's the average grade.

3 ELENA RAZETO: Oh, that? Actually, that's a good
4 question. We did not do that calculation. I can provide
5 it, if that's something that we need to do. It's very
6 small. It's 3' x 3" so I don't think so, but I can
7 definitely provide it. And we're below the -- we're like
8 34'.

9 JIM MONTEVERDE: If you hadn't calculated, there's
10 a number calculated under the requested condition on the
11 Dimensional Form of 34.4'.

12 ELENA RAZETO: Right, no, I didn't --

13 JIM MONTEVERDE: Is that not correct?

14 ELENA RAZETO: I didn't -- yes. That -- because
15 we are not changing the height per se. What I didn't do, I
16 didn't calculate the new average grade.

17 JIM MONTEVERDE: And do you --

18 ELENA RAZETO: Window well.

19 JIM MONTEVERDE: And is there a new window well?
20 Did that show up in the --

21 ELENA RAZETO: There is a new front. There is a
22 new window well in the front.

1 JIM MONTEVERDE: So, you know, in a minor way, but
2 it affects the height. So really the height's not at 34.4',
3 it's something above that.

4 Okay. You might want to do that. Let's see how
5 this all moves along and if you're approved tonight, we
6 might ask you to -- as a condition -- to submit that
7 information.

8 ELENA RAZETO: Definitely.

9 JIM MONTEVERDE: Virginia, any other questions?

10 VIRGINIA KEESLER: Yes. I was wondering if you
11 would also speak to the Mid Cambridge Neighborhood
12 Conservation District Commission's decision a little bit.

13 JIM MONTEVERDE: Yep. I was going to get to that
14 one in a moment.

15 ELENA RAZETO: We went through the Historical
16 Commission.

17 JIM MONTEVERDE: Just give me a second. We're
18 going to -- I've got a process here. We'll get to that one
19 in a moment.

20 ELENA RAZETO: Okay.

21 JIM MONTEVERDE: Are there any other questions
22 from Members of the Board? I'll introduce the Mid Cambridge

1 correspondence when I go now to read the correspondence we
2 do have in the file.

3 So public comment, we do have in the file a letter
4 from Ori Porat, from September 26, who lives at 24 Myrtle
5 who offers their wholehearted support. We have a form
6 letter signed by Debra Belle, 27 Myrtle Avenue, these were
7 all in support.

8 Jeremy Flower, I think that is from 18 Myrtle; and
9 a letter from Brian Roughan at 19 Myrtle -- he's the direct
10 neighbor -- in support.

11 And then as Virginia mentioned, we have
12 correspondence from the Mid Cambridge Neighborhood
13 Conservation Commission, dated August 6, 2024.

14 This would - they performed a nonbinding review.
15 It says that they voted to deny your application for a
16 Certificate of Appropriateness. The proposed alterations to
17 the exterior were found to be inconsistent with the historic
18 character of the structure and the neighborhood streetscape.

19 And it made the following recommendations:

20 First, to limit the proposed contemporary
21 alteration to the rear and sides of the structure and
22 preserve the front façade, including the gable ends, front

1 porch, wood cladding, fenestration, and details.

2 And two, if you retain the proposed second-floor
3 bump-out on the front, consider adding columns or brackets
4 to maintain more of the historic character of the
5 streetscape.

6 That is what we have in the file under public
7 commentary. Could you respond to the correspondence from
8 the Mid Cambridge Neighborhood Conservation District
9 Commission?

10 ELENA RAZETO: I think what we mean is the
11 designer and the owner has -- they just were looking for
12 something different and something modern. We are keeping
13 the shape of the house. We're actually making the addition
14 -- the front addition especially, we're going to make it
15 smaller than what was already approved.

16 As per keeping the details of the façade, I think
17 we were just looking for something different from the
18 historical house.

19 JIM MONTEVERDE: Okay. So what you're presenting,
20 you don't have any intention to either work with or try and
21 modify your design to get closer to what the Conservation
22 Commission is talking about?

1 MARTIN WARTAK: Jim, hi. It's Martin Wartak.
2 Michelle and I are the homeowners. I think we actually had
3 a really good dialogue with the Historical Commission about
4 it. I think there are some fundamental things that are just
5 different about how these houses look, versus our design
6 that we just -- I don't know that we can necessarily bridge
7 without a wholesale going back and making it look like the
8 Victorian we had on the street.

9 But they had some points specifically that were
10 actually helpful that we are trying to be respectful of.
11 The first one was we had our bathroom. And the Zoning
12 Board, you all approved; it was to have the bathroom as part
13 of the bump-out on the first floor. And so we're not doing
14 that anymore.

15 And we've talked to our neighbors. Deborah's next
16 door to us, Brian's on the other side. They both support
17 this design. But the idea was we put that back so that the
18 bump-out is only on the second floor.

19 But the first floor, there's no change to the line
20 of sight of the porches. So you have Rhonda, you have
21 Brian, you have us, you have Deborah. And we've kind of
22 tried to keep that continuity.

1 And so, we wanted to put a bathroom there and you
2 all approved the additional square footage to be able to do
3 that, but we kind of took that back, so we're not using that
4 extra space anymore.

5 So I think it helps with the character of the
6 neighborhood, the character of the street, some of the
7 façade of the four houses that we have there. And I think
8 that's been positively received by the neighbors.

9 So that was one of the things that we tried to do
10 in response to the Historical Commission.

11 Other things that they suggested were spindles or
12 supports for the bump-out. We're looking at those -- of how
13 we can reasonably incorporate them. They also suggested a
14 lighter color for the exterior. I think we had a gray or
15 something like that.

16 So we're trying to figure out can we go with the
17 original yellow that we had or some of the other lighter
18 colors; those were kind of some of their feedback.

19 They also suggested some smaller windows; that's
20 another thing. We haven't ordered all of our windows yet.
21 So we're trying to see where we can use smaller windows in
22 response to what the Historical Commission was saying.

1 And then they had some thoughts about the type of
2 siding that we're using. And so, we're trying to see how we
3 can do a more traditional clapboard approach rather than the
4 kind of more modern Hardie siding cementitious stuff that we
5 wanted to try to do.

6 So a lot of the Historical Commission, I think
7 that they don't support it, but they had a lot of good
8 thoughts about how we can try to bring it closer to how the
9 character of the neighborhood, or the type of character of
10 the neighborhood that they'd like to have, while still
11 preserving what we're trying to do. So we thought the
12 hearing with them was very useful.

13 Despite them not supporting it, we thought the
14 hearing was great and the feedback that they gave us, we're
15 trying to listen to and to be respectful and mindful of.

16 JIM MONTEVERDE: But that's not represented in the
17 documents you have in front of us.

18 MARTIN WARTAK: Well, some of them are kind of
19 decisions about the siding is not necessarily -- these were
20 submitted before we had the Historical Commission hearing.

21 So --

22 JIM MONTEVERDE: Oh.

1 MARTIN WARTAK: And some of them, we're still also
2 trying to just figure out the feasibility of and everything
3 like that. We're not trying to say to the Historical just,
4 "We hear you, but we ignore all of these things." We're
5 trying to do the best we can kind of as we're building this
6 to try to be mindful of those things.

7 The big thing of the porch bump-out with the
8 bathroom is represented there, because the original plans as
9 noted were --

10 JIM MONTEVERDE: Correct.

11 MARTIN WARTAK: -- approved included that half-
12 bathroom on the front porch, and now that's not there. And
13 that's probably the biggest change for both Historical and
14 the neighborhood that we're trying to do.

15 And then that square footage that you all
16 approved, most of it, is going -- is just kind of being
17 reused as part of the dormer.

18 JIM MONTEVERDE: Okay. Any other questions from
19 other Members of the Board?

20 STEVEN NG: Yeah. So in the original approved
21 design, was there a finding or an opinion from the
22 Conservation District?

1 ELENA RAZETO: There was, yes. And --

2 STEVEN NG: And it was?

3 ELENA RAZETO: -- it was also rejected. It was
4 not approved.

5 STEVEN NG: Gotcha. Okay. Thanks.

6 ELENA RAZETO: Well. But they all liked the
7 dormer, in the Conservation.

8 MARTIN WARTAK: That's true. They did think --

9 ELENA RAZETO: They had something to do to say
10 about the bump-out, but they all loved the dormer, so.

11 MARTIN WARTAK: And those signatures, by the way,
12 those are our adjacent neighbors kind of as you go around
13 the ones that are kind of immediately adjacent to our house.

14 JIM MONTEVERDE: Any other questions from Members
15 of the Board? Unfortunately, we don't have the file for the
16 previous case with us this evening, so we can refer to it to
17 just refresh our memory, but. So we've got to go with
18 what's in front of us.

19 If there are no more questions from Members of the
20 Board, I'm going to open it up to public comment.

21 Any members of the public who wish to speak should
22 now click the icon at the bottom of your Zoom screen that

1 says, "Raise hand."

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

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

9 [Pause]

10 Nobody's out there. I will close public
11 commentary. Discussion among Members of the Board?

12 If not, I'll start. I don't recall the previous
13 case, and I don't recall seeing the Neighborhood
14 Conservation Commission denying the previous application.
15 But I do take the -- and based on the paperwork we have in
16 front of us, although it is nonbinding, I personally do take
17 their opinion to heart.

18 And I would at this moment -- and also if you're
19 still in discussions about materials, window sizes, et
20 cetera, I would hesitate to accept the proposal, the
21 documents in front of us, because we're going to sign those
22 documents if you pass.

1 So I suggest there are two ways forward. You can
2 -- we can continue this and allow you to continue and finish
3 your discussions with the Conservation District Commission
4 until such time as you come to a decision about all the
5 items you mentioned before: window sizes, siding, et
6 cetera, et cetera, and let the Conservation Commission weigh
7 in on it and see if they're -- they've -- you've responded
8 to any of their concerns; that's course 1.

9 Course 2 is we could just go ahead and vote this
10 evening; in which case I'm just saying simply I would not be
11 in favor of it at the moment. But it's up to the rest of
12 the Board to discuss and to vote.

13 Any other discussion among Board Members? I hear
14 none.

15 Proponents, you have a -- we're at a crossroads.
16 You can continue, or we can take a vote now. Do you have a
17 preference?

18 MARTIN WARTAK: Do you want --

19 MICHELLE WARTAK: I was just going to ask a
20 question. I don't know if we know where else we -- because
21 the stairs were -- we put the stairs where the stairs were
22 in existence, and we can't rebuild how they were in

1 existence because they're nonconforming.

2 So I think the question is, you know, if we don't
3 pass this and we continue it, where could we put the stairs,
4 you know, without taking up a lot of square footage the
5 house.

6 JIM MONTEVERDE: It's --

7 MICHELLE WARTAK: So I think that's sort of like
8 the Catch-22. Because we went to visit Zoning and, you
9 know, to their office hours. And they sort of said, "Well,
10 you can't build them the way they were because they're
11 nonconforming, and you have to go to Zoning to get approval
12 for the stairs." So it's sort of like we're in a Catch-22
13 with it.

14 Yet, the outside of the house and the form was
15 approved by Zoning. So I guess that's just my question is
16 like, what -- I'm not -- I know I'm not asking you guys for
17 an answer, but it's more like we can definitely talk to
18 Historic, but we still have the problem of, like, we don't
19 have height with the -- given the slope of the roof, of the
20 house.

21 And so, there's -- without putting, like, stairs
22 right in the center, which sort of messes up, like -- you

1 know, the flow of the house. We can't put the stairs where
2 they were because they're nonconforming.

3 ELENA RAZETO: And also, like, what we're here
4 today for is just really the dormer. And everything else --
5 the addition, the front addition was already approved with a
6 nonbinding denial from the Historic Commission. So I --

7 JIM MONTEVERDE: I understand. But the pieces
8 that the proponent just discussed, if I heard him correctly
9 -- that are being considered to be able to respond to or
10 work with the Neighborhood Conservation Commission --

11 ELENA RAZETO: I think what --

12 JIM MONTEVERDE: -- those are not reflected on
13 your documents.

14 ELENA RAZETO: Yeah.

15 JIM MONTEVERDE: And it would be good to see those
16 reflected, so you could discuss and show that in fact you're
17 trying to work with or towards what the Commission is
18 recommending in a nonbinding review too.

19 STEVEN NG: Well, Jim, I think we should poll the
20 Board, see where we stand, because -- I mean, reading what
21 the -- and to the proponents, this is a Conservation
22 District Commission. You don't have to call them Historic;

1 that's giving them a lot more leverage when you say that.

2 But I think what they're asking them to do totally
3 -- it's changing everything they've got there.

4 ELENA RAZETO: Yeah.

5 STEVEN NG: And I'm not one -- I don't want to
6 judge, like, start making decisions on the aesthetic issue.
7 I think they're hitting the massing and I -- you know, it's
8 a little more contemporary, but I think it looks like a
9 competent design.

10 DANIEL HIDALGO: I just want to say yeah, given
11 that the neighbors are on board --

12 STEVEN NG: Yeah.

13 DANIEL HIDALGO: -- and then the challenges of
14 actually meeting the Conservation Board's requests, I'm
15 leaning towards voting in favor.

16 JIM MONTEVERDE: Virginia, your sense?

17 VIRGINIA KEESLER: I lean towards voting in favor
18 as well.

19 JIM MONTEVERDE: Yep. And Zaraya?

20 ZARAYA MIRANDA: As do I.

21 JIM MONTEVERDE: Okay. So on the -- for the
22 proponents, you've heard the other Board Members speak, and

1 where they feel they'll be able to vote. Are we ready for a
2 vote?

3 COLLECTIVE: Yes, please. Sure. Yes.

4 JIM MONTEVERDE: Okay. So the Chair makes a
5 motion to grant relief from the requirements of the
6 Ordinance under Sections 5.31, Dimensional Requirements.
7 That is specifically for the gross floor area, the added
8 area that the dormer creates.

9 Section 8.22.2.d for a Nonconforming Structure,
10 which the building is, and 10.40 for a Special Permit. I'll
11 read that criteria now, just to confirm that we can comply
12 with all of it.

13 It says:

14 It appears the requirements of this Ordinance
15 cannot or will not be met. That is yes.

16 Traffic generated or patterns of access or egress
17 would cause congestion or hazard. That's no.

18 The continued operation of or the development of
19 the adjacent uses as permitted in the ordinance would be
20 adversely affected. That's no.

21 Nuisance or hazard will be created to the
22 detriment of the health, safety, or welfare. No.

1 And for other reasons, the proposed use would
2 impair the integrity of the district or adjoining district.
3 That's no.

4 So I think you -- so you meet all of the criteria
5 under Section 10.43 for the Special Permit.

6 On the condition that the work proposed conform to
7 the drawings entitled, "Proposed modification to Wartak
8 Residence, 23 Myrtle Avenue," prepared by Razeto
9 Architecture" and dated 07/22/204; initialed and dated by
10 the Chair.

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

14 Further, that the special permit is granted
15 incorporating the following conditions, and that condition
16 is that you prepare and submit a revision to the building
17 height -- just confirm it still is 34.4' and it hasn't grown
18 by a bit because of the window well and the average grade.

19 ELENA RAZETO: Okay.

20 JIM MONTEVERDE: On a voice vote, please? I lost
21 my list. Steven?

22 STEVEN NG: In favor.

1 JIM MONTEVERDE: Virginia?

2 VIRGINIA KEESLER: In favor.

3 JIM MONTEVERDE: Zarya?

4 ZARAYA MIRANDA: In favor.

5 JIM MONTEVERDE: Daniel?

6 DANIEL HIDALGO: In favor.

7 JIM MONTEVERDE: And Jim Monteverde opposed.

8 [FOUR vote YES, ONE vote NO]

9 JIM MONTEVERDE: That's four in favor. The relief
10 is granted.

11 ELENA RAZETO: Thank you.

12 MICHELLE WARTAK: Thank you very much.

13 MARTIN WARTAK: Thank you all very much.

14 JIM MONTEVERDE: You're welcome. Next case?

15 MICHELLE WARTAK: Can I just share one second?

16 Joe, I mean we were here last time --

17 MARTIN WARTAK: Jim.

18 MICHELLE WARTAK: -- Jim. Sorry, Jim. We were
19 here last time, anyway, a week before I gave birth to our
20 daughter, who's now four. And so, I remember this very,
21 very well because I was very, very pregnant. It was during
22 COVID, and we also got you guys to approve it.

1 And so, I just want to say I'm not pregnant now,
2 but I have a 4-year-old and a 6-year-old so I'm really
3 excited that you voted to pass this.

4 So thank you very much. Appreciate it.

5 JIM MONTEVERDE: Great. You're welcome.

6 MICHELLE WARTAK: Thank you.

7 JIM MONTEVERDE: All right.

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(6:35 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: All right. The next case is BZA-
275029 -- 101 Reed Street.

SCOTT VAUGHN: Good evening, Mr. Chair, Members of
the Board. My name is Scott Vaughn. I'm the attorney
representing the homeowners, Kit Haines, and Robby Harwood.
And this is a request for a minor modification to the
drawings, which has increased the net floor area by 17'. Is
ISD able to give us a site plan or do we have to share
screen?

Oh, excellent. Thank you.

JIM MONTEVERDE: Here we go.

SCOTT VAUGHN: The drawings? That will be great.
Okay. So the dormer was part of the original. My screen is
freezing a little. Can you all hear me?

JIM MONTEVERDE: Yes.

SCOTT VAUGHN: Okay, great. So what happened was
the contractor framer constructed the dormer about a foot

1 toward the property line from where it had been indicated in
2 the original drawings. It still conforms to the setback.
3 So we don't have a setback issue, but the net result was it
4 added about 17 square feet of area that contributed to the
5 FAR.

6 We have a couple of options. One of the options
7 is what we're doing this evening, which is requesting relief
8 from the Board to add 17 square feet of interior area.

9 If for some reason that does not get approved, we
10 can build essentially an interior fault [connection glitch]
11 the additional square footage, but that would not make any
12 difference whatsoever in the exterior appearance of the
13 building. The exterior of the building is conforming, it's
14 just a question of where they located the dormer.

15 So we're asking for what is referred to in the law
16 as a de minimis change, which is the addition of 17 square
17 feet beyond what was approved.

18 JIM MONTEVERDE: And was the dormer presented and
19 approved previously?

20 SCOTT VAUGHN: The dormer was part of the approved
21 drawings. I was not part of the project initially, so I
22 don't know what it went through previously for review.

1 KIT HAINES: There was no BZA hearing previously.
2 It was intended to be completely within rights. There was
3 no --

4 SCOTT VAUGHN: Right.

5 KIT HAINES: -- BZA hearings.

6 JIM MONTEVERDE: So it didn't come through the
7 BZA, it was an as-of-right?

8 SCOTT VAUGHN: Correct. It was an - it was - up
9 until this issue arose from the error of the contractor,
10 this was an as-of-right project.

11 JIM MONTEVERDE: Mm-hm. Okay. Anything else for
12 us to see? Do you have an elevation of the --

13 SCOTT VAUGHN: I think we may have some exterior
14 photographs, if you go down to 9 or 10 of the as-builts.
15 And yes, you have those elevations from the architect, and
16 then we have several photographs.

17 JIM MONTEVERDE: Yep. And what is the space
18 behind the dormer -- within the dormer, sorry?

19 SCOTT VAUGHN: Within the dormer, it was necessary
20 to construct the dormer to have headroom at a stair, as it
21 rises up through the building.

22 JIM MONTEVERDE: That full length of the dormer is

1 just for -- just serves the stair?

2 SCOTT VAUGHN: The stair is constructed as a Romeo
3 and Juliet stair where you come to a landing, and then it
4 has wings that goes off to the two sides. So there is a
5 little bit of runout -- there you go.

6 There is a little bit of runout from where the
7 steps turn. But the majority of the space is all -- and the
8 landing area from the top of the stairs is all area
9 underneath the dormer.

10 And this is simply a function of how small the
11 house is, the footprint. It really wasn't practical to have
12 a straight run stair or even a switchback was a little
13 difficult. So the architects decided this was their best
14 choice, this T-shaped stair configuration.

15 JIM MONTEVERDE: Okay. Anything else to present
16 to us?

17 SCOTT VAUGHN: I believe that's everything
18 relevant to the addition of the 17 square feet. Happy to
19 answer any questions.

20 JIM MONTEVERDE: Okay. Any questions from Members
21 of the Board?

22 STEVEN NG: So the dormer, it was permitted as-of-

1 right, but aren't the -- do the dormer requirements allow a
2 dormer that doesn't have any fenestration or windows?

3 JIM MONTEVERDE: No. Dormer Guidelines say 50
4 percent of that surface should be windows.

5 Sorry?

6 SCOTT VAUGHN: All right. At this point in time,
7 we still have open framing on the interior. And if the
8 requirement is to add windows, we can do so.

9 JIM MONTEVERDE: Bingo.

10 SCOTT VAUGHN: So we get into conformance.

11 JIM MONTEVERDE: Okay. I personally would favor
12 that. I would feel a lot better about it, but that's just
13 me.

14 Any other questions from Members of the Board? If
15 not, I will open it up to public commentary. Let me just
16 check the file. As of yesterday, and as of this evening, we
17 have no correspondence either for or against. So I'll open
18 it up to public comment.

19 Any members of the public who wish to speak should
20 now click the icon at the bottom of your Zoom screen that
21 says, "Raise hand." If you're calling in by phone, you can
22 raise your hand by pressing *9 and unmute or mute by

1 pressing *6.

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

7 Nobody there? Okay. No one's there calling in,
8 I'll close public testimony.

9 Any discussion among Members of the Board? If
10 not, let me offer -- I would feel comfortable with this were
11 the windows to be installed for -- as the Dormer Guidelines
12 say for 50 percent of the wall surface.

13 So for the proponent, do you think that's
14 possible?

15 SCOTT VAUGHN: Yes. And if you wish, we can have
16 the architect generate a view of what those windows would
17 look like. Would we need to resubmit that?

18 JIM MONTEVERDE: We can -- I think I can enter
19 that as a condition.

20 SCOTT VAUGHN: Okay.

21 JIM MONTEVERDE: All right, if it's all --
22 everything else is favoring a positive result.

1 Any other discussions among Members of the Board?

2 If not, I'll make a motion.

3 The Chair makes a motion to grant relief from the
4 requirements of the Ordinance under Sections 5.31;
5 specifically for Gross Square Footage, and Section 8.22.2.d,
6 Nonconforming Structures, and the Special Permit. Repeat
7 again the criteria.

8 It appears the requirements of this Ordinance
9 cannot or will not be met. That is correct.

10 Traffic generated or patterns of access or egress
11 would cause congestion, hazard, or substantial change. No.

12 The continued operation of or the development of
13 the adjacent uses as permitted in the ordinance will be
14 adversely affected. No.

15 Nuisance or hazard will be created to the
16 detriment of the health, safety, or welfare of the
17 occupants. No.

18 And for other reasons, the proposed use would
19 impair the integrity of the district or adjoining district.
20 That's a no.

21 So you comply with -- you meet all the criteria
22 under Section 10.43 for a special permit.

1 On the condition that the work proposed conform to
2 the drawings entitled, "Renovations to 101 Reed Street,"
3 prepared by Joy Street Design, dated April 30, 2024;
4 initialed and dated by the Chair.

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

8 Further, that the special permit is granted
9 incorporating the following conditions: And that condition
10 is that the front face of the dormer will -- its primary
11 face -- will have windows for up to 50 percent or 50 percent
12 of its surface area.

13 Okay? A voice vote, please, Daniel?

14 DANIEL HIDALGO: In favor.

15 JIM MONTEVERDE: Zarya?

16 ZARAYA MIRANDA: In favor.

17 JIM MONTEVERDE: Thank you. Virginia?

18 VIRGINIA KEESLER: In favor.

19 JIM MONTEVERDE: Thank you. And Steven?

20 STEVEN NG: In favor.

21 JIM MONTEVERDE: And Jim Monteverde in favor.

22 [All vote YES]

1 JIM MONTEVERDE: That's five in favor; relief is
2 granted.

3 Thank you.

4 SCOTT VAUGHN: Thank you, Mr. Chair. Thank you,
5 Members of the Board.

6 JIM MONTEVERDE: You're welcome.

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(6:46 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-281057 -- 29 Ash
Street.

Is there anyone joining us to speak on Case 281057
-- 29 Ash Street?

DAVID FREED: Yes, I am, sir. My name is David
Freed. I'm an architect at Choo & Company.

JIM MONTEVERDE: Yep. Very good. Would you like
to walk us through what you're talking about this evening?

DAVID FREED: Yes. Are there plans? Or I can
share my screen; either way.

JIM MONTEVERDE: No. We will share what we have.

DAVID FREED: Okay. Thank you. So we have a plot
plan on the left here. Our project is really very tiny.
We're just seeking to enclose this existing covered porch,
which in our design is no longer used as rear egress.

So this porch has a guardrail on this - along the
back side and the side yard, and it is covered. The drawing

1 on the bottom is the existing condition of the covered
2 porch. And then the drawing above is our proposed garden
3 shed.

4 If you go to the next slide, please?

5 Thank you.

6 So on the bottom, on the left is our rear
7 elevation. That's the existing addition where there's an
8 existing roof, guardrail, and we've moved our rear egress to
9 this new side door on the right.

10 The image on the right is our existing side yard
11 elevation.

12 And above that are our proposed elevations, where
13 we have the use of all three sides. And the condition
14 really doesn't change much, aside from that we're really
15 just enclosing a few square feet above the guardrails and
16 installing a door on one side.

17 We came to the Board previously, and there were
18 concerns about fire department access. The owner had
19 reached out to a code consultant to address that concern and
20 submitted that as a letter in our package.

21 And additionally, we received letters from all
22 three direct abutters in support of the project. We feel

1 that the enclosed porch will serve -- I'm sorry, we feel
2 that the nuisance or hazard will be reduced, because the
3 items stored in the enclosed porch will no longer attract
4 porch theft, which has been a neighborhood problem.

5 And we feel that the integrity of the district and
6 the adjoining district will not be impaired, as the enclosed
7 porch is behind the house and out of view from the public
8 way.

9 I have -- I also had submitted pictures --
10 existing conditions' photographs of the rear yard, if --

11 JIM MONTEVERDE: That's okay. Before you go much
12 further, can I ask you a question?

13 DAVID FREED: Of course.

14 JIM MONTEVERDE: The Board has seen this case
15 before or has seen this request.

16 DAVID FREED: Yes.

17 JIM MONTEVERDE: -- to enclose the porch. And in
18 20 --

19 DAVID FREED: Yes.

20 JIM MONTEVERDE: -- 24. And at that time, it was
21 presented as a variance. There were two things on that
22 agenda. There were some windows that were being moved

1 around, there was a special permit, and then there was this
2 - I'll call it "infill" of this rear porch to be a storage
3 room. And that was submitted as a variance, and that was
4 voted down --- that was denied.

5 Now, why are you back --

6 DAVID FREED: Yeah, we withdrew.

7 JIM MONTEVERDE: -- and if it's denied, I'm sorry?

8 [Side conversation]

9 JIM MONTEVERDE: Okay. So in the previous case,
10 the -- I just want to understand. So what we submitted as a
11 variance then was withdrawn. So it was no longer part of
12 that case.

13 DAVID FREED: Right.

14 JIM MONTEVERDE: And tonight --

15 DAVID FREED: In our application.

16 JIM MONTEVERDE: -- you're back with exactly the
17 same proposal, in other words infilling the porch, now as a
18 special permit, not as a variance. Correct?

19 DAVID FREED: Correct.

20 JIM MONTEVERDE: I was trying to recreate this on
21 my own --

22 DAVID FREED: Yes.

1 JIM MONTEVERDE: Okay.

2 DAVID FREED: And our application wasn't correct
3 the first time, because the covered porch was actually FAR,
4 and that's what triggered the variance.

5 JIM MONTEVERDE: Right.

6 DAVID FREED: So that's --

7 JIM MONTEVERDE: And there really is none, right?
8 Since the porch has a roof on it, it already counts as GFA
9 and -- correct?

10 DAVID FREED: Correct.

11 JIM MONTEVERDE: Yeah. Okay.

12 DAVID FREED: Correct, yes.

13 JIM MONTEVERDE: Okay. All right. Thank you. My
14 memory was foggy. I just wanted to square that away. Sorry
15 to interrupt you.

16 DAVID FREED: Anyway, that was pretty much my
17 presentation, if anyone has any questions.

18 JIM MONTEVERDE: Okay. Any questions from Members
19 of the Board? If not, just so I'm clear, looking at the
20 Dimensional Form, there's really only one dimension that
21 changes.

22 And it is the rear setback, where the Ordinance

1 wants 17.4'. You don't have that because the house sits
2 closer to the rear lot than that, but it goes from an
3 existing 4.5' to 1.2'. That's really the dimensional
4 difference in what you're proposing, correct?

5 DAVID FREED: Yeah. Actually, I believe that's
6 incorrect because the covered porch would be the same
7 setback. There would be no change in the --

8 JIM MONTEVERDE: So the existing condition is
9 actually the 1.2', there is no change to any of this?

10 DAVID FREED: There's no --

11 JIM MONTEVERDE: Any of the dimensional --

12 DAVID FREED: -- change to any of the dimensional
13 - correct, yes.

14 JIM MONTEVERDE: So in the advertisement where the
15 relief you're asking for is for the Table of Dimensional
16 Requirements, there actually is no relief needed for the
17 Table, correct?

18 DAVID FREED: Correct.

19 [Pause/side conversation with Staff]

20 JIM MONTEVERDE: Yeah. That's the special permit
21 part of tonight's dealings.

22 Okay. So really there's no relief needed under

1 Section 5.31?

2 DAVID FREED: Correct.

3 JIM MONTEVERDE: It's there now. That's the
4 porch.

5 [Side conversation with Staff]

6 JIM MONTEVERDE: So it's creating the walls on the
7 surrounding that basically in fact there is. So yeah, it's
8 the way our Staff views it. The existing condition is the
9 4.5' to the building face, and now once you enclose it, then
10 you're at the 1.2'. And --

11 DAVID FREED: Correct.

12 JIM MONTEVERDE: -- you're enclosing it, and
13 that's why you're here this evening. Okay.

14 DAVID FREED: Yes.

15 JIM MONTEVERDE: Any other questions from Members
16 of the Board? If not, public commentary.

17 There is a correspondence from the Half Crown-
18 Marsh Neighborhood Conservation District Commission, a
19 Certificate of Non-Applicability dated April 2, 2024, saying
20 that what you're proposing does not involve an activity
21 requiring issuance of a Certificate of Appropriateness or
22 hardship.

1 Okay. Then there is a letter from Vernon
2 Woodward, who I know years ago as a Code consultant. No
3 date on it. Basically summarized, his conclusion is based
4 on the discussion above, enclosing the covered back porch
5 will not impact firefighter response, nor will it pose any
6 hazard to First Responders.

7 That was, as I recall, part of the concern in the
8 first round when we looked at this.

9 And then we have correspondence from James Woodman
10 at 27 Ash, who says it will be a distinct improvement;
11 basically in favor. And Marta Rivas and George Langdon at
12 999 Memorial Drive; live behind 29 Ash Street, and they are
13 in support. Anne Gergen and David Gergen of 31 Ash Street,
14 also in support.

15 With that, I will open it up to public comment.
16 Any members of the public who wish to speak should now click
17 the icon at the bottom of your Zoom screen that says, "Raise
18 hand." If you're calling in by phone, you can raise your
19 hand by pressing *9 and unmute or mute by pressing *6.

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

1 will have up to three minutes to speak before I ask you to
2 wrap up.

3 No one's out there. All right. Close public
4 testimony. Any discussion among Members of the Board? If
5 not, we'll move to a motion. This is a special permit also.

6 So the Chair makes a motion to grant relief from
7 the requirements of the Ordinance under Sections 5.31, that
8 specifically has to do with the rear yard setback to the
9 enclosure of the existing porch.

10 Section 8.22.2.d, and for a Nonconforming
11 Structure, and Section 10.4 -- And I'll go through those
12 again. That's the criteria for a special permit, which you
13 meet all of those criteria, but they are:

14 It appears the requirements of this Ordinance
15 cannot or will not be met. That is correct.

16 Traffic generated or patterns of access or egress
17 would cause congestion, hazard, or substantial change. No.

18 Continued operation of or the development of the
19 adjacent uses as permitted in the Ordinance would be
20 adversely affected. No.

21 Nuisance or hazard would be created to the
22 detriment of the health, safety, or welfare of the occupant.

1 No.

2 And for other reasons, the proposed use would
3 impair the integrity of the district or adjoining district.

4 No.

5 So you meet all the criteria of Section 10.43 for
6 a Special Permit.

7 On the condition that the work conform to the
8 drawings entitled, "Extension of Living Space in the
9 Basement and Dormer Add."

10 We're talking about enclosing the rear porch,
11 correct? To a storage shed?

12 DAVID FREED: Yeah, the drawings were just an
13 amendment to an existing permit.

14 JIM MONTEVERDE: Okay. Prepared by Choo &
15 Company, dated -- the last revision date is July --

16 DAVID FREED: Correct.

17 JIM MONTEVERDE: -- 15, 2024. Again, I'll
18 restate, and I'll write on here that this is for the
19 enclosure of the rear porch only -- initialed and dated by
20 the Chair.

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

1 application.

2 On a voice vote, please, members?

3 Zarya?

4 ZARAYA MIRANDA: In favor.

5 JIM MONTEVERDE: Virginia?

6 VIRGINIA KEESLER: In favor.

7 JIM MONTEVERDE: Daniel?

8 DANIEL HIDALGO: In favor.

9 JIM MONTEVERDE: Steven?

10 STEVEN NG: In favor.

11 JIM MONTEVERDE: And Jim Monteverde in favor.

12 [All vote YES]

13 JIM MONTEVERDE: That's five in favor. Relief is
14 granted.

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(7:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-281983 -- 3 St.
Mary's Road. Oh, no. Sorry, wrong one. Let's see if I got
the number right. It's 280971 -- 60 Rice Street.

Is there anyone with us tonight who wants to
describe to us what you're looking for on Rice Street,
please?

ANTONIO BARROS: Hello. Hi. Good evening. My
name is Antonio Barros. I'm the owner of 60 Rice Street.
I'm joined here with the contractor, and we are here just to
change the permit from the playroom as the Zoning Department
advised us to change the permit from a playroom to a
dwelling then, here we are. Because we need a --

JIM MONTEVERDE: I'm sorry, could you repeat that?
you're changing a playroom to a what?

ANTONIO BARROS: To a unit.

JIM MONTEVERDE: A dwelling unit?

ANTONIO BARROS: Yes, sir. Yes, okay. Because we

1 started to do the job with the playroom, but then we need to
2 change the window. That's why the Zoning came and said,
3 "Okay, you guys should change your permit to a unit," and
4 then I hear we have to ask you guys if it's okay. I have
5 the contractor here if you have any questions for him.

6 JIM MONTEVERDE: One minute, please. So when you
7 say, "dwelling unit" is this -- are these rental apartments?

8 ANTONIO BARROS: No.

9 JIM MONTEVERDE: Sorry. Let me get my bearings.
10 So this is a freestanding building, an accessory structure,
11 right?

12 ANTONIO BARROS: Right.

13 JIM MONTEVERDE: And the drawing we have in front
14 of us called that space -- a proposed layout had a playroom
15 on one side and storage area on the other. Correct?

16 ANTONIO BARROS: Yep. Correct.

17 JIM MONTEVERDE: And it's a one-story structure?

18 ANTONIO BARROS: One-story structure, yes.

19 JIM MONTEVERDE: And there's an -- oh, there's
20 another drawing in the file of a house, an existing
21 residential building. I assume that has nothing to do with
22 what we we're looking at now?

1 ANTONIO BARROS: No.

2 JIM MONTEVERDE: All right. And the plan that
3 we're looking at shows a bathroom, a bar, and this is meant
4 to be a living unit? Sleeping area, kitchen, bathroom, et
5 cetera?

6 ANTONIO BARROS: Yes.

7 JIM MONTEVERDE: I guess I'm asking where the rest
8 of the accommodations are if it's a dwelling unit. Where's
9 the kitchen? It's not shown on the plans that we have in
10 front of us.

11 ANTONIO BARROS: No, there's the bathroom --

12 JIM MONTEVERDE: Yep.

13 ANTONIO BARROS: Then what we tried to do over
14 there is just like an exercise room. Then just the sink
15 here can become a kitchen.

16 [Side conversation with Staff]

17 JIM MONTEVERDE: Okay. Hold on one second,
18 please. I need some advice on this one. Okay. Again, I'm
19 just trying to make sense of what's drawn, versus what's
20 being requested. And maybe it's just my personal definition
21 of a dwelling unit.

22 Is it your intention that someone will live in

1 this space?

2 ANTONIO BARROS: Not right now. Maybe in a couple
3 years from now when my daughter comes back from Florida, she
4 might use for -- before she gets her own place.

5 JIM MONTEVERDE: Okay. Then --

6 ANTONIO BARROS: Not right now.

7 JIM MONTEVERDE: Well, unless you want to come
8 back in a couple years and do this again, when it actually
9 gets converted to a dwelling unit. The only thing I would
10 ask is that I guess as a condition just to make me
11 comfortable is that when it's used as a dwelling unit, a
12 kitchen be installed.

13 ANTONIO BARROS: Okay.

14 JIM MONTEVERDE: You've got a full bathroom,
15 right?

16 ANTONIO BARROS: Okay.

17 JIM MONTEVERDE: Right? The bar itself doesn't
18 give you any cooking facilities, but once you've had that,
19 you would be fine. Is that -- are you amenable to that?

20 ANTONIO BARROS: Yes. Yes, sir.

21 JIM MONTEVERDE: Okay. Is everyone else on the
22 Board as confused as I am? I hope not. Any questions from

1 Members of the Board?

2 ANTONIO BARROS: No.

3 JIM MONTEVERDE: No? Does anybody from the BZA
4 have a question, not the proponent, please?

5 STEVEN NG: 60 Rice Street -- and I think the
6 structure is way back in the rear of the lot, correct?

7 ANTONIO BARROS: Correct.

8 STEVEN NG: Okay. Nope, I just wanted to make
9 sure. That's all I asked you.

10 JIM MONTEVERDE: Yeah. On the one drawing that we
11 have in the file of the house itself?

12 ANTONIO BARROS: Yes, yes, yes.

13 JIM MONTEVERDE: The 150' deep lot and it's a
14 garage -- you know, was a garage.

15 ANTONIO BARROS: Mm-hm.

16 JIM MONTEVERDE: And it sits at the back of the
17 lot.

18 ANTONIO BARROS: Yep.

19 JIM MONTEVERDE: So it looks like it's a good half
20 the distance, almost 70' away from the existing house.

21 ANTONIO BARROS: Great.

22 JIM MONTEVERDE: -- to the back of the lot. So

1 yes. That's what the drawing says.

2 Any other questions? If not, we'll open it up to
3 public comment. I have - I see no correspondence in the
4 file. Let me just look and see if anything came in today.

5 No. Any member of the public who wishes to speak
6 should now click the icon at the bottom of your Zoom screen
7 that says, "Raise hand."

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

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

15 No one's calling in, so I will close public
16 testimony. Any discussion among Members of the Board?

17 So what I plan to do just for my own sanity here
18 is to when we go through the motion -- and this is another
19 special permit -- as a condition, since the document we have
20 in front of us -- the drawing we have -- shows only a bar
21 and the description is of an accessory dwelling unit, I'll
22 just state that as a condition, when this building is used

1 as a dwelling unit, that it be provided with a kitchen, if
2 everyone's okay with that.

3 If there's no discussion, I'll move to a motion.

4 All right. The Chair makes a motion to grant
5 relief from the requirements of the Ordinance under Sections
6 5.31, Dimensional Requirements, 8.22.2.c for a Nonconforming
7 Structure, and 4.22 for Accessory Apartment and 10.40 for a
8 Special Permit. That criteria, I believe, is met. It says:

9 It appears the requirements of this ordinance
10 cannot or will not be met. That's true.

11 Traffic generated or patterns of access or egress
12 would cause congestion, hazard, or substantial change. No.

13 The continued operation of or the development of
14 the adjacent uses as permitted in the ordinance would be
15 adversely affected. No.

16 Nuisance or hazard will be created to the
17 detriment of the health, safety, or welfare of the occupant.
18 No.

19 Or for other reasons, the proposed use would
20 impair the integrity of the district or adjoining district.
21 That's a no.

22 So it meets all the criteria of Section 10.43 for

1 a Special Permit.

2 On the condition that the work proposed conform to
3 the drawings entitled -- these have no title. I will call
4 it the -- I will annotate on it "60 Rice Street, Accessory
5 Building." There's no note of who prepared it. And we'll
6 give it today's date; initialed and dated by the Chair.

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

10 Further, that the special permit is granted
11 incorporating the following condition. And the one
12 condition is when this structure is to be used as an
13 accessory dwelling unit, then a kitchen -- a full kitchen
14 will be -- or a kitchen will be installed inside this
15 structure.

16 On a voice vote, please? Zarya?

17 ZARAYA MIRANDA: In favor.

18 JIM MONTEVERDE: Virginia?

19 VIRGINIA KEESLER: In favor.

20 JIM MONTEVERDE: Steven?

21 STEVEN NG: In favor.

22 JIM MONTEVERDE: Daniel?

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DANIEL HIDALGO: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

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

ANTONIO BARROS: Thank you so much.

1 * * * * *

2 (7:13 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Zarya
5 Miranda

6 JIM MONTEVERDE: Next case is BZA-281983 - 3 St.
7 Mary Road. Is there anyone calling in who wishes to present
8 this matter to us?

9 WENDY COTE: Yes, hi.

10 JIM MONTEVERDE: Tell us what you'd like to do.
11 Can you introduce yourself, please?

12 WENDY COTE: Sure. My name is Wendy Cote-Magan
13 and I'm the architect working with Jonathan and Judy, the
14 homeowners at 3 St. Mary Road.

15 JIM MONTEVERDE: Okay. Yep. Can you describe
16 what's being proposed and what relief is being sought?

17 WENDY COTE: Sure. So on the drawing that you're
18 looking at, if I could just refer to the site plan, the
19 upper right corner of that lot shows an existing garage.

20 And we're proposing -- it's basically 14' x 18',
21 and we're looking to tear that down and replace it with a
22 proposed smaller storage shed unit.

1 That new footprint would be 11' x 14'. And then it
2 would have an attached covered patio space that you see to
3 the left. So that would be open on three sides, but just
4 kind of provide some protection from the weather if used
5 outside.

6 And then also a part of this project is the little
7 bump-out that it's a mudroom bump-out to the upper right
8 corner of the house. It has a hatched pattern through it.
9 Yeah, right there, yes. Yep. yep.

10 We're looking to - it's a one-story mudroom that's
11 not very useful. So we're looking to actually demolish
12 that, to just kind of create more open, invitable, open,
13 welcoming sort of outdoor space.

14 So what we're asking for relief from the rear
15 setback. The current setback, rear setback for the garage
16 -- existing garage - is 3.9'. So we're - we'd like to
17 maintain that setback of the 3.9'.

18 And then on the side, the current setback on the
19 side is 0.2', and we are looking to increase it a little
20 with 1.3'. So this would not be making this footprint more
21 nonconforming.

22 And then the other relief is the distance between

1 the buildings. So currently, the distance between the
2 existing garage and that mudroom is 4.7'.

3 Yeah. Right there, yes. Mm-hm. That's 4.7'. And
4 the distance once the mudroom's gone, the distance between
5 the proposed shed and the corner of the house ends up being
6 10'. I think it's 10'4".

7 JIM MONTEVERDE: Yep.

8 WENDY COTE: But I believe on your Dimensional
9 information you want to know the distance between the house
10 and the covered porch -- covered patio. And that is 5'.

11 Yeah, right there, yes. That's 5'. Mm-hm.

12 JIM MONTEVERDE: Okay. All right. And this is a
13 variance?

14 WENDY COTE: Yes.

15 JIM MONTEVERDE: So the elephant under the rug with
16 a variance is showing what the hardship is --

17 WENDY COTE: Sure.

18 JIM MONTEVERDE: -- which I think you have a good
19 case for, but --

20 WENDY COTE: Yeah. So the lot width is quite
21 narrow. The lot width is 40'. And I know the minimum lot
22 width you look for is 50'. So I would consider that a

1 hardship with a 5' wide setback. And then maintaining a 10'
2 distance to the house, we end up with a storage shed that's
3 roughly 7' wide -- just over 7'. So on the inside, it's
4 even less.

5 So it is not so practical of a useful --

6 JIM MONTEVERDE: Yep.

7 WENDY COTE: -- size as far as the width.

8 JIM MONTEVERDE: Yep. Yeah. And I think we could
9 also -- in the description of the petitioner's proposal, it
10 says, "We are proposing to replace a garage that is feeling
11 down." I think that's a pretty good hardship.

12 And in fact, you're replacing it with a structure
13 that same footprint smaller than what's there now is a
14 garage.

15 So I think we have a basis for a hardship there.

16 WENDY COTE: Thank you for pointing that out. And
17 also, I'm not sure if you have access to the photos. Part
18 of the application was showing some photos, if that's
19 available to show. You can see the condition of the garage
20 and both the front of it and the back of it is --

21 JONATHAN GALL: Yeah, hi. This is the homeowner,
22 Jonathan Gall. Just to speak to that, I mean if it's

1 getting to the point where the garage feels somewhat unsafe.
2 It's just a -- like sheet metal -- probably a Sears
3 catalogue kind of garage, rusted, and we had a lot of
4 problems with the rats too, because it's just there's holes
5 all throughout it and it's kind of wide open for things to
6 get in.

7 JIM MONTEVERDE: Mm-hm.

8 JONATHAN GALL: So it does need to come down. And
9 it - but it does provide a lot of storage for us in terms of
10 bikes and the instruments that we use for outside for
11 gardening and --

12 JIM MONTEVERDE: Okay.

13 JONATHAN GALL: -- such.

14 JIM MONTEVERDE: Okay. Very good.

15 WENDY COTE: And that photo in the middle there at
16 the bottom, that's the one-story, yeah right ether - that's
17 the one-story mudroom bump-out --

18 JIM MONTEVERDE: Yep.

19 WENDY COTE: -- that we're looking to demolish.
20 And if you can imagine, that's going to just create more
21 outdoor space.

22 JIM MONTEVERDE: Yep. Very good. Okay. Are you

1 all set with your presentation? I think we're good.

2 WENDY COTE: Okay.

3 JIM MONTEVERDE: Okay? Any questions from Members
4 of the Board? If not, I'll open it up to public commentary.

5 We received two letters that are in the file: one
6 from Adam Butterworth and Christine Wu at 5 St. Mary's Road,
7 Apartment 1, in favor -- in support.

8 And Susan Fleishman and Regina Berkowitz, 5 St.
9 Mary's Road, Apartment 2, also in support. Oh, and a third,
10 BillieSue Sawyer, 5 St. Mary Road, Apartment 3, in favor.
11 They're all abutters.

12 And no one writing in against.

13 With that, any members of the public who wish to
14 speak should now click the icon at the bottom of your Zoom
15 screen that says, "Raise hand." If you're calling in by
16 phone, you can raise your hand by pressing *9 and unmute or
17 mute by pressing *6.

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

1 No one is calling in. I'll close public testimony.
2 Discussion among Board Members? If not, I will move into a
3 motion. This is a Variance Request.

4 The Chair makes a motion to grant relief from the
5 requirements of the Ordinance under Sections 5.31, Table of
6 Dimensional Requirements. That's specifically to do with
7 the rear yard setback and with the right-side setback, which
8 frankly will be improved, but is still less than the
9 Ordinance.

10 So nice job in improving it, but we'll still ask
11 for relief from it.

12 Also, the distance between the covered porch or the
13 covered patio and the building once the mudroom is removed.

14 Also, Sections 8.22.3 for a Nonconforming
15 Structure. 4.21.h for an Accessory Setback. 10.30 for a
16 Variance.

17 I'm going to have to read that one: Section 10.31
18 you've got to meet all of these. Basically:

19 A literal enforcement of the provisions of the
20 ordinance would involve a substantial hardship. And I think
21 the hardship is you've stated in terms of the condition of
22 the existing garage that is really is falling down and this

1 is a modest replacement, in fact, of less size than what's
2 there now.

3 And also, hardship is owing to the circumstance
4 relating to the -- and one of them is shape or topography of
5 the land, the shape just the modest dimensions of the lot.

6 And desirable relief may be granted without either
7 substantial detriment to the public good, which is correct,
8 or nullifying or substantially derogating from the intent
9 and purpose of this ordinance, which is also correct.

10 So you meet all of the criteria for a Variance
11 under Section 10.31.

12 On the condition that the work proposed conforms to
13 the drawings entitled, "Nee Gall Shed & Exterior Stair
14 Project," prepared by Wendy J. Cote-Magan and dated June 10,
15 2024; initialed and dated by the Chair.

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

19 On a voice vote, please, Board Members? Steven?

20 STEVEN NG: In favor.

21 JIM MONTEVERDE: Virginia?

22 VIRGINIA KEESLER: In favor.

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JIM MONTEVERDE: Zarya?

ZARAYA MIRANDA: In favor.

JIM MONTEVERDE: Daniel?

DANIEL HIDALGO: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's 5 affirmative. Relief is granted.

JONATHAN GALL: Thank you very much.

JIM MONTEVERDE: Thank you.

WENDY COTE: Thank you. Thank you very much.

JIM MONTEVERDE: Good luck.

WENDY COTE: Thank you.

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(7:25 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-282977 -- 15
Hawthorne Place. Is there anyone calling in who wishes to
speak about this one?

MAGGIE BOOZ: Yes. I'm Maggie Booz. I'm the
architect for --

JIM MONTEVERDE: Yeah, Maggie.

MAGGIE BOOZ: Hi.

JIM MONTEVERDE: Haven't seen you in a while.

MAGGIE BOOZ: -- and Jennifer Miles. Haven't seen
you in a while.

JIM MONTEVERDE: Yeah.

MAGGIE BOOZ: And we are requesting permission to
taken down an 18'4" x 18'4" accessory unit - accessory
building, which is a garage, and construct a dwelling unit
in its place, with slightly larger dimensions.

We're here for a variance, in that the additional
square footage that we're requesting for the accessory

1 dwelling unit makes the total floor area of the lot exceed
2 the 0.5 maximum ratio. It goes to 0.59, 0.5, 0.35 because
3 of the -- you know, 5 -- 0.5 on the first 5,000 square feet
4 and 0.35 thereafter, extra 1,900 square feet that we have on
5 the lot.

6 And we are here for a special permit for the -- you
7 know, under the provision in the ordinance that allows
8 dwelling units to be changed -- I mean, garages to be
9 changed into dwelling units under a special permit.

10 We're in a situation where we have conformed to the
11 setbacks because the existing building does. The existing
12 building is at 5.9' I believe from the side yard setback and
13 20' or so from the rear yard setback.

14 We've got a slightly better side yard setback at
15 6.2' proposed, and 11.7' of the rear, which we think is
16 still keeping the building far enough away from the
17 neighbors at the abutting rear lot line.

18 We've designed a building that we've tried to keep
19 reasonably like an accessory dwelling unit. That is - it's
20 about 450 square feet of living space.

21 The first floor remains storage for the
22 considerable number of bicycles, snowblower, lawnmower, yard

1 equipment, porch furniture, back yard furniture and
2 everything that is stored in there now, as well as providing
3 a place for a laundry and the mechanical equipment for the
4 accessory dwelling unit.

5 The building is slight - is 18' now instead of
6 18'4" and then it's 27' in length, instead of 18'4".

7 The overall height of the building is higher than
8 15'. It's at 19'. We were able to keep it at 19' because
9 of the dormers that we have -- shed dormers front and back,
10 and front-facing -- facing east essentially into the yard.

11 And the rear dormer faces the playing fields that
12 have been under the auspices of BB&N, but I guess are -- now
13 belong to the City of Cambridge. Unclear what's going to
14 happen with that - with that parcel of land I know.

15 And I believe, I believe that's it.

16 JIM MONTEVERDE: Okay. And to confirm, as far as
17 the Table of Dimensional Requirements, I see that the
18 existing condition is within the Ordinance requirement and
19 the requested is slightly - is above it. So that's one
20 request for relief?

21 MAGGIE BOOZ: Yes, yeah.

22 JIM MONTEVERDE: The FAR is above. That's the

1 request for relief. Everything else looks like it complies.

2 Is that correct?

3 MAGGIE BOOZ: That is correct.

4 JIM MONTEVERDE: Versus setbacks? Yeah. Correct?

5 MAGGIE BOOZ: Yes.

6 JIM MONTEVERDE: Okay. Thank you.

7 MAGGIE BOOZ: Setbacks, open space, everything else
8 is --

9 JIM MONTEVERDE: Yep.

10 MAGGIE BOOZ: -- conforming.

11 JIM MONTEVERDE: Very good. Okay. Any questions
12 from Members of the Board? If not, I will move to make a
13 motion.

14 There are two components to this. There's a
15 Variance Request to include the proposed accessory dwelling
16 unit with the single-family unit, which - or dwelling unit,
17 which exceeds then the FAR. That's the Variance Request.

18 The Special Permit Request is to alter, add to or
19 rebuild an existing detached garage as an accessory dwelling
20 unit.

21 So why don't we take the special permit first. The
22 Chair makes a motion to grant relief from the requirements

1 of the Ordinance --

2 DANIEL HIDALGO: Sorry to interrupt. Don't we
3 need to get public comment?

4 JIM MONTEVERDE: Oh, yeah. Sorry. Too fast for
5 myself. We have no public comment correspondence in the
6 record, the file. So I'll 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." If you're calling in by phone, you can
10 raise your hand by pressing *9 and unmute or mute by
11 pressing *6.

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

17 No one there. Okay. I'll close public testimony.
18 Now, any discussion among Members of the Board? If not, we
19 move to a motion. And I'll start with the special permit.

20 The Chair makes a motion to grant relief from the
21 requirements of the Ordinance under Sections 4.22 for an
22 Accessory Apartment and 10.40 for a Special Permit. And I

1 will read those. I believe you comply with all of the
2 criteria, so you conform to the requirements for Section
3 10.43 and those criteria are:

4 It appears the requirements of this Ordinance
5 cannot or will not be met. Correct.

6 Traffic generated or patterns of access or egress
7 would cause congestion, hazard, or substantial change. No.

8 Continued operation of or the development of the
9 adjacent uses as permitted in the ordinance would be
10 adversely affected. That's no.

11 Nuisance or hazard will be created to the
12 detriment of the health, safety, or welfare of the occupant.
13 No.

14 And for other reasons, the proposed use would
15 impair the integrity of the district or adjoining district.
16 No.

17 So you meet all the criteria of Section 10.43.

18 On the condition that the work proposed conform to
19 the drawings entitled, "Miles Denney Residence," prepared by
20 Smart Architecture, dated July 31, 2024; initialed and dated
21 by the Chair.

22 And further, we incorporate the supporting

1 statements and dimensional forms submitted as part of the
2 application.

3 On a voice vote, please? Daniel?

4 DANIEL HIDALGO: In favor.

5 JIM MONTEVERDE: Zarya?

6 ZARAYA MIRANDA: In favor.

7 JIM MONTEVERDE: Virginia?

8 VIRGINIA KEESLER: In favor.

9 JIM MONTEVERDE: Steven?

10 STEVEN NG: In favor.

11 JIM MONTEVERDE: And Jim Monteverde in favor.

12 [All vote YES]

13 JIM MONTEVERDE: The special permit relief is
14 granted.

15 And then the Variance: The Chair makes a motion
16 to grant relief from the requirements of the Ordinance under
17 Sections 5.31, Dimensional Requirements. That's
18 specifically the gross floor area -- which will be over the
19 Ordinance requirement -- and the GFA, which will be also
20 over the Ordinance requirement. And that is all for
21 Dimensional Requirements.

22 And then Section 10.30, the Variance. There are

1 three conditions:

2 A literal enforcement of the provisions of the
3 Ordinance would involve a substantial hardship.

4 Maggie, can you speak to that a bit, the hardship
5 here?

6 MAGGIE BOOZ: Yes, I can. So as stated in our
7 supporting statements in the application, Ned and Jennifer
8 have an adult son who has had significant health problems,
9 and this accessory dwelling unit is designed for him.

10 And the issue being that he needs to have familial
11 help, and this would allow him to both live independently
12 and be near enough to his family that he can have the help
13 he requires.

14 JIM MONTEVERDE: Okay. Yep. That sounds -- that
15 works for me. That's the hardship. So a literal
16 enforcement would involve a substantial hardship. And
17 again, the hardship is the familial issue of the parents
18 being able to have close contact with the son, who needs
19 their support.

20 And desirable relief may be granted without either
21 substantial detriment to the public good or nullifying or
22 substantially derogating from the intent and purpose of this

1 Ordinance. So those are the requirements for Section 10.31
2 for a variance.

3 On the condition that the work proposed conforms
4 to the drawings entitled, "Miles Denny Residence" prepared
5 by Smart Architecture, dated July 31, 2024; initialed by the
6 Chair.

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

10 On a voice vote, please for the variance, Steven?

11 STEVEN NG: In favor.

12 JIM MONTEVERDE: Virginia?

13 VIRGINIA KEESLER: In favor.

14 JIM MONTEVERDE: Zarya?

15 ZARAYA MIRANDA: In favor.

16 JIM MONTEVERDE: Daniel?

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES]

20 JIM MONTEVERDE: Relief is granted.

21 MAGGIE BOOZ: Thank you so much.

22 JIM MONTEVERDE: You're welcome.

1 And Maggie, if you would please extend to your son
2 my son's greetings, he would be delighted.

3 MAGGIE BOOZ: I will absolutely do that.

4 JIM MONTEVERDE: Okay.

5 MAGGIE BOOZ: Same right back at him.

6 JIM MONTEVERDE: Yep. Thank you.

7 MAGGIE BOOZ: Thank you. Goodnight.

8 JIM MONTEVERDE: Goodnight.

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(7:38 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-283515 -- 1
Sixth Street. Is there anyone calling in to describe this
request to us?

MANUEL PRIETO: Yep. Hello?

JIM MONTEVERDE: Hi.

MANUEL PRIETO: My name is Manuel Prieto. I own a
two-family house at 1 Sixth Street.

JIM MONTEVERDE: Yep. And you're seeking a
variance?

MANUEL PRIETO: Yes.

JIM MONTEVERDE: To convert an existing, attached
one-car garage into a living space that will be for the
adjacent existing dwelling unit, right? And this garage is
within the setback? And converting the garage will further
exceed the allowable FAR, correct?

MANUEL PRIETO: Yes. Yes, sir.

JIM MONTEVERDE: Okay. Do we have a drawing of it

1 to explain? Or the photograph kind of helps set the stage.

2 Yeah, so I'm sure Board Members have read the
3 file, but the photo in the lower part of the - on this
4 sheet, that's the current garage, correct?

5 MANUEL PRIETO: Yes, it is.

6 JIM MONTEVERDE: Yep. Okay. And then there's a
7 floor plan in here, I believe, that shows --

8 MANUEL PRIETO: Yes.

9 JIM MONTEVERDE: -- right, this being -

10 MANUEL PRIETO: My intention is to attach the
11 livable area, the one-bedroom, one-bathroom, into the first
12 unit apartment. So --

13 JIM MONTEVERDE: Okay. So what's now a garage,
14 the writing that's on here, that's really "dormitorio"
15 that's a bedroom, and "baño," that's a bathroom, correct?

16 MANUEL PRIETO: Yes. Yes.

17 JIM MONTEVERDE: Okay.

18 MANUEL PRIETO: Yes.

19 JIM MONTEVERDE: Okay. And this is a - there are
20 two units in this building, is that correct?

21 MANUEL PRIETO: I'm sorry?

22 JIM MONTEVERDE: Are there - there are two

1 dwelling units in this building?

2 MANUEL PRIETO: Yes. The first floor is one unit,
3 and the --

4 JIM MONTEVERDE: Yep.

5 MANUEL PRIETO: -- second and third is another
6 one. It's a two-family house.

7 JIM MONTEVERDE: Okay. okay. And the -- for a
8 variance, the requirement there is you need to describe a
9 hardship. And the hardship owing to soil conditions, shape
10 or topography of the land or structures. So you -- can you
11 talk to us about a hardship?

12 MANUEL PRIETO: I'm sorry, I didn't get it.

13 JIM MONTEVERDE: The variance is unique in that in
14 order to qualify for a variance, you need to be able to
15 demonstrate that there's a hardship.

16 MANUEL PRIETO: Oh.

17 JIM MONTEVERDE: Oh, in other words, there's a
18 significant reason why this change is necessary.

19 MANUEL PRIETO: Yes, yes, yes. I mean, I think
20 that if we'd be granted, it wouldn't be any detriment to the
21 public good for the following reasons: I am not changing
22 the exterior measures of the building.

1 The proposed work will not intensify the
2 neighborhood, since we are already a two-family building,
3 and will remain as a two-family. We'll be providing
4 additional square footage that goes beyond the already-built
5 structure.

6 So this is my --

7 JIM MONTEVERDE: Yeah, I think perhaps that you
8 could phrase the hardship as really addressing the citywide
9 need to expand the housing stock, and this basically creates
10 an additional bedroom and bathroom for an existing
11 apartment. And hopefully that serves some need that's out
12 there in the city for that size dwelling unit.

13 MANUEL PRIETO: Yes.

14 JIM MONTEVERDE: Okay. Anything else to present
15 to us tonight?

16 MANUEL PRIETO: I don't think so.

17 JIM MONTEVERDE: Okay. Thank you. Let me just
18 look in the file. There is no correspondence in the file
19 either for or against. So I'll open it up to public
20 comment.

21 Any members of the public who wish to speak should
22 now click the icon at the bottom of your Zoom screen that

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

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

9 And there's no one calling in. I'll close public
10 commentary.

11 Any discussion among Board Members?

12 I have one or two questions. Can you bring back
13 the floor plan or proposed plan? I just want to confirm it
14 says there are floor plans only, no elevations.

15 Yeah, this one.

16 On the outside wall, those two red, rectangles:
17 Those are windows that are going to be added to that wall?

18 MANUEL PRIETO: Yes.

19 JIM MONTEVERDE: To that bedroom?

20 MANUEL PRIETO: Yes. Yes.

21 JIM MONTEVERDE: And just out of curiosity, when
22 was the garage -- has a the garage been there, is that

1 original to the building, or was that added later, do you
2 know?

3 MANUEL PRIETO: I don't have -- I don't have
4 proof, but somebody that -- somebody told me that before was
5 a convenience store. And they converted it into a garage.

6 JIM MONTEVERDE: Oh, okay.

7 MANUEL PRIETO: And that's many, many years ago.

8 JIM MONTEVERDE: Yes.

9 MANUEL PRIETO: The problem that -- I mean, I
10 haven't used it as a garage for two reasons, mainly. One of
11 them is because the entrance to the garage is only 7'2".
12 And that's very narrow. And the other thing is that it's
13 right on the corner.

14 JIM MONTEVERDE: Right.

15 MANUEL PRIETO: And it's not easy to in and out
16 because of the --

17 JIM MONTEVERDE: Okay.

18 MANUEL PRIETO: -- light.

19 JIM MONTEVERDE: Yep. Okay. Thank you. Any
20 other discussion among Members of the Board? If not, I'll
21 move to a variance -- I'll move to a motion. And this is a
22 Variance Request.

1 The Chair makes a motion to grant relief from the
2 requirements of the Ordinance under Sections 5.31,
3 Dimensional Table Requirements, 8.22.3 for a Nonconforming
4 Structure, and 10.30 Variance. And that's 10.31, the
5 requirements for a variance.

6 A literal enforcement of the provisions of the
7 Ordinance would involve a substantial hardship. I think the
8 hardship is the creation of a new bedroom, really, expanding
9 an existing apartment to serve the housing need -- evidence
10 needed in the city.

11 And desirable relief may be granted without either
12 substantial detriment to the public good or nullifying or
13 substantially derogating from the intent or purpose of the
14 Ordinance. So I think the requirements of the variance
15 under 10.31 are met.

16 On the condition that the work proposed conforms
17 to the drawings entitled - there's no title, but I will
18 title it "1 Sixth Street" and I will give it today's date;
19 initialed and dated by the Chair.

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

1 On a voice vote, please? Daniel?

2 DANIEL HIDALGO: In favor.

3 JIM MONTEVERDE: Zarya?

4 ZARAYA MIRANDA: In favor.

5 JIM MONTEVERDE: Thank you. Virginia?

6 VIRGINIA KEESLER: In favor.

7 JIM MONTEVERDE: Thank you. Steven?

8 STEVEN NG: In favor.

9 JIM MONTEVERDE: Thank you. And Jim Monteverde in
10 favor.

11 [All vote YES]

12 JIM MONTEVERDE: That's five in favor. Relief is
13 granted. Thank you.

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(7:48 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-278934 -- 148-
150 Western Avenue. Hi. Would you like to introduce
yourself and tell us what you're looking for?

FAWWAZ ABU-RUBIEH: Good afternoon. My name is
Fawwaz -- F-a-w-w-a-z, last name A-b-u-r-u-b-i-e-h, 148-150
Western Ave. I tried to have the hood for cooking, because
we have the coffee shop for almost 12 years. And we'd like
to have alcohol if we can.

JIM MONTEVERDE: I think it's that simple, right?

FAWWAZ ABU-RUBIEH: Yes, sir.

JIM MONTEVERDE: Okay. And the variance is
necessary because under Section - the Description of Uses:
4.345.4.1 does not allow a restaurant in the C-1 Residential
Zone that you're located in. Correct?

Besides that it's a Nonconforming Structure.
That's why you're here.

FAWWAZ ABU-RUBIEH: Yes.

1 JIM MONTEVERDE: Okay.

2 JIM MONTEVERDE: And the other piece, since this
3 is - and because of that, it's a - it's not allowed by the
4 Use group as a special permit, which means you've got to do
5 it by a variance.

6 And for a variance, you need to talk to us about
7 the - and explain to us the substantial hardship involved if
8 this relief is not granted.

9 Can you describe that to us, please?

10 FAWWAZ ABU-RUBIEH: Yes. I have my manager. His
11 name is Hugo. He's the one that worked me for 12 years, the
12 same location.

13 HUGO: My name is Hugo. I'm the manager for
14 Fawwaz Abu-Rubieh. We'll be looking for this because it's
15 been tough for him to kind of stay in business in that
16 location with the restrictions that come with the zoning in
17 order for him to stay in business as a restaurant.

18 So one of the restrictions is he can't cook on
19 site, and so that restricts him having a hood.

20 So in order for him to have a hood, we need to
21 remove the restriction of not cooking on site. And just
22 that alone will bring a positive effect on the business

1 which, you know, it's -- it'll make it easier for our
2 business to stay afloat by being able to cook and, you know,
3 offer an extended menu.

4 And obviously, you know, the alcohol -- I mean, I
5 already started by saying, you know, it doesn't have to be
6 probably a full liquor license, maybe just beer or wine or
7 anything. But, you know, alcohol always helps a business
8 thrive, basically.

9 JIM MONTEVERDE: And how -- let's see. We have in
10 front of us the transcript from the previous case when you
11 came before. This is 2010.

12 HUGO: Yes.

13 JIM MONTEVERDE: March 2010. And --

14 HUGO: That's correct.

15 JIM MONTEVERDE: -- this is where the Zoning Board
16 gave you -- again, at that point it was a variance to
17 establish a café with 18 seats. That was approved with the
18 conditions.

19 And one of those conditions is that food may not
20 be cooked on the premises, but prepared food brought from
21 the outside establishment may be heated. And there -- that
22 was one of six other conditions.

1 So you've been able to work under those conditions
2 since 2010, it's 14 years?

3 HUGO: That -- so that came before I came as a
4 manager. It wasn't there when Mr. Fawwaz Abu-Rubieh had his
5 --

6 FAWWAZ ABU-RUBIEH: Yes.

7 HUGO: -- café.

8 FAWWAZ ABU-RUBIEH: Yes. What happened is the
9 house I have with the store is another house connected with
10 my house, 18 Kinnaird Street.

11 JIM MONTEVERDE: Yep.

12 FAWWAZ ABU-RUBIEH: The owner, he denied, because
13 he's scared for fire or something happening. We accepted
14 that. After that, four or three years later, his son sold
15 this site to us. We didn't have any problem with [unclear]
16 the house.

17 Now we have 18, 9, 20 (sic) Kinnaird Street. It's
18 far from this location. We are on the corner of Western Ave
19 and Kinnaird Street.

20 JIM MONTEVERDE: Yep.

21 FAWWAZ ABU-RUBIEH: We tried to do the best --
22 it's not like a big restaurant, it's 18 people. The

1 customers we have -- from the neighborhood. Nobody comes
2 from the other city to buy inside the store, because it's a
3 small café for the neighborhood. That's it. Not somebody
4 else. Always we have my neighbor come for dinner and they
5 ask me, "If you have beer or wine?" I say, "No, sir, we
6 don't have a license for it."

7 And all the time they say, "If you have it, we'll
8 help, because we don't want to go all the way to Central
9 Square for drinking. We enjoy the food. But still, we --
10 because we can bring something."

11 But I -- this is why I wait for 12 years. Hard
12 for us to do the business. We tried two times to change
13 from Middle Eastern food to Mexican, and still, we have a
14 brand-new problem. We have a quiet area. We never have any
15 problem for people, police, nobody complaining about
16 anything - about the trash, about the parking, about any
17 problem.

18 JIM MONTEVERDE: Okay. And at the moment, do you
19 cook elsewhere and bring it in to be heated?

20 FAWWAZ ABU-RUBIEH: Yes, sir.

21 JIM MONTEVERDE: And where do that? Where does
22 the cooking happen?

1 FAWWAZ ABU-RUBIEH: We do in the other store on
2 Mass Ave, but it's hard for us back and forth to bring the
3 food. Sometimes it's cold, and it's very hard for us by
4 back and forth. It's a tough time for us to bring the food
5 back and forth.

6 Our menu is a small menu. It's not like full
7 restaurant. It's just we have to have vents. When the
8 insurers came all the time, he told me you need to have a
9 hood, as they insisted, "You can't just do this." Because
10 all the time inside is hard. Like, the grill is working,
11 the steam table, but there's no hood there.

12 We tried to do just some breakfast, some small
13 thing. It's not like a big restaurant. It's 18 people for
14 the store. It's a small store.

15 JIM MONTEVERDE: Okay. Thank you.

16 FAWWAZ ABU-RUBIEH: Thank you.

17 HUGO: Yeah. If I could also note: So there is
18 no gas on the premises. It's all electric. So that's also
19 a little bit challenging too. So having the hood, you know,
20 would help cook in premises, but everything is electric. So
21 all the appliances will be electric.

22 But just having the hood would, you know,

1 facilitate having a fryer, which I think it's -- the Fire
2 Department requires for -- in order to have a fryer on the
3 premises.

4 And having a fryer really helps, like, expand the
5 menu to, you know, having at least for a Mexican restaurant
6 which is, you know, what I manage. It's - you know,
7 tortilla chips, chimichangas, flautas, stuff that needs to
8 be fried.

9 And yeah, so there is no gas on the premises.
10 It's all electric. So that's -- you know, that's also
11 another note, the challenge for the -- yeah, having a hood
12 really, really helps.

13 JIM MONTEVERDE: Okay. Thank you.

14 FAWWAZ ABU-RUBIEH: Thank you.

15 JIM MONTEVERDE: Anything else to present, to
16 describe to us? If not --

17 FAWWAZ ABU-RUBIEH: Everything is good. Thank
18 you.

19 JIM MONTEVERDE: Okay. Thank you. Any questions
20 from Members of the Board?

21 DANIEL HIDALGO: Can you just talk a little bit
22 about the ventilation that you would use if you were cooking

1 on premises?

2 HUGO: Right. So, like, right now the operation
3 that we were having, we cook here at the 245 Mass Ave
4 location.

5 DANIEL HIDALGO: Yeah.

6 MANUEL PRIETO: So here we do have everything. We
7 have hood, you know. And it's -- it's everything's gas and
8 so we cook everything here. We would treat that location
9 more as of having like a food truck of sorts.

10 DANIEL HIDALGO: Mm-hm.

11 MANUEL PRIETO: So, you know, for having a food
12 truck, you know, you cook everything on your restaurant, on
13 a brick-and-mortar restaurant, and then you just load up the
14 food truck. And the food truck will also have a -- you
15 know, a hood which does the ventilation.

16 But on this Western Ave location, there is no
17 hood. So -- and there is basically no ventilation. So we
18 can't -- this is where one of the restriction comes where we
19 can't cook on site, due to -- you know, the location not
20 having any ventilation.

21 So we could only have a limited menu, which would
22 consist of -- you know, serving cold items or warm items,

1 which would be like a burrito, which --

2 DANIEL HIDALGO: Mm-hm.

3 MANUEL PRIETO: -- we could bring all the food to
4 a steam table. And putting together a burrito, I mean
5 everything's already hot onto steam table. You put it in
6 the tortilla, you would heat it on the electric grill. And
7 then you just wrap it up.

8 And so, I mean the burrito and basically all the
9 items on the limited menu would be just, you know, following
10 the guidelines of having that limited menu due to be, you
11 know, not having the ventilation.

12 So yeah, so by having a -- you know, installing a
13 hood would really help by, you know, helping us expand the
14 menu and, you know, just being able to cook there, instead
15 of like, you know, cooking everything on the other location
16 and bringing everything, you know, in the morning,
17 replenishing everything in the afternoon, and then bringing
18 everything back at night.

19 So the way we balance things would be, you know,
20 we do all the cooking here, and we would do all the prepping
21 there. Like, all the -- you know, lettuce, tomato, you know
22 peppers, sauces that could be prepped on that location.

1 And you would, you know, use the -- you know,
2 transfer times would be, mornings, afternoons, and nights to
3 kind of like use the space to kind of like help us alleviate
4 the prepping on this location, because we did all the
5 cooking on this location.

6 So it's -- it's a big operation basically to kind
7 of like get to that balance of going back and forth.

8 But yeah, so having basically a hood would get rid
9 of all the back and forth and everything will be like, you
10 know, cooking beans, rice. Just not, you know, big cooking
11 basically, having some of the meats.

12 And also, the volume of cooking will be smaller,
13 because it's not as busy as our Mass Ave location here, you
14 know. So yeah, that's how we handled stuff in the past few
15 months.

16 JIM MONTEVERDE: Daniel, does that answer your
17 question?

18 DANIEL HIDALGO: Well, just because some of the
19 neighbors seemed to express concern about some of the
20 smells, et cetera. And I just want to know if, you know, is
21 there any way to -- I just wanted to hear a little bit about
22 how you plan to deal with that kind of thing with -- if

1 you're doing increased cooking on site.

2 HUGO: You mean like all the -- I'm sorry, did I
3 hear you right, all the smells?

4 DANIEL HIDALGO: Yeah, the smell. I mean, I --
5 you know, this is just because -

6 HUGO: Right.

7 DANIEL HIDALGO: -- I thought the neighbors
8 expressed concern about that. So I was just curious.

9 HUGO: Yeah. Well, I mean --

10 FAWWAZ ABU-RUBIEH: The hood will go all the way
11 up to the roof.

12 HUGO: Right. So the way I -- I mean the way I
13 think about it, I mean down the street there's Basta Pasta,
14 which is a full gas working restaurant. I don't know if
15 there's any complaints from them.

16 But [unclear], usually the exhaust won't be on the
17 side of the building or anything like that. It will go to
18 the top of the building. And usually how heat works, it
19 always finds its way out.

20 So the smell's going to really, you know, come
21 down after they come out of the exhaust, which is -- it's
22 not really heavy smells, I guess. It's just cooking smells.

1 Like, you know, there's no gas anyway, so it will only be
2 food smells, and I don't think it would impact the
3 neighborhood having the exhaust on top. It's how usually
4 the vents --

5 JIM MONTEVERDE: So is that your intention that
6 you'll be installing a kitchen exhaust that will go up to
7 the roof of the building?

8 FAWWAZ ABU-RUBIEH: Yes, sir.

9 JIM MONTEVERDE: Okay. The reason we're asking is
10 that we just don't see that --

11 FAWWAZ ABU-RUBIEH: Yeah.

12 JIM MONTEVERDE: -- documented anywhere in the
13 drawings that you've submitted.

14 STEVEN NG: I would think that if you're planning
15 to have a fryer, and I guess regardless of whether it's
16 electric or not, you'd probably have a pollution control
17 unit that goes with the exhaust, correct?

18 FAWWAZ ABU-RUBIEH: Right.

19 STEVEN NG: So I mean, yeah.

20 HUGO: Yes.

21 STEVEN NG: Yeah, I think that's something -- and
22 then it kind of expands out, because with the food prep, you

1 need a waste management plan and, like, what -- you know,
2 you're really increasing the intensity of what you're doing
3 at the restaurant. So I think that's something we should
4 ask for or to be able to --

5 JIM MONTEVERDE: Yep.

6 STEVEN NG: -- make a better decision. More
7 information so we can make a decision.

8 JIM MONTEVERDE: Yeah. Let me repeat, I'm looking
9 at the decision from 2010. Let me just for the Board's
10 benefit and for the proponent go through the six items that
11 were listed as a condition -- conditions and see if in fact
12 the only condition is the one dealing with cooking food on
13 the premises, because I don't think so.

14 The one is that the property be used only for a
15 café. It essentially serves a café menu. For example, hot
16 and cold drinks, soups, salads, and sandwiches. So that's
17 really not what you intend to do anymore in terms of your
18 menu.

19 STEVEN NG: Right.

20 JIM MONTEVERDE: Two is that food may not be
21 cooked on the premises, but prepared food brought from the
22 outside establishment may be heated. That again is not what

1 you intend to do.

2 Three, that the petitioner provide within the
3 premises a trash receptacle for customers to dispose of
4 their trash. And obviously, I think Steven, as you were
5 describing, the need for that will increase with cooking
6 within the walls of the establishment.

7 Four, that the petitioner make reasonable efforts
8 to make sure that people use the receptacle, and when they
9 do not, to keep the neighborhood as clean as possible.

10 Five, that no dumpster or other waste disposal
11 facility be maintained outside the premises, and that waste
12 be removed from the premises in another manner.

13 And six, that hours of operation cannot be any
14 earlier than eight in the morning and no later than ten
15 o'clock at night.

16 So are you still proposing to be open the same
17 hours, 8:00 a.m. to 10 p.m.?

18 FAWWAZ ABU-RUBIEH: Yes, sir.

19 JIM MONTEVERDE: And trash: Will you have trash
20 receptacles within the footprint of the building for both
21 customers and then for your kitchen waste as well?

22 FAWWAZ ABU-RUBIEH: Yes.

1 JIM MONTEVERDE: Okay. That's not in the plan we
2 have up in front of us. Is this the existing plan or the
3 proposed plan that we're looking at? Do you know?

4 HUGO: This is the proposed plan.

5 JIM MONTEVERDE: Okay. So where's the kitchen
6 portion that you're proposing to cook in? Or where will
7 cooking happen in this plan?

8 FAWWAZ ABU-RUBIEH: It's in this one.

9 HUGO: Yeah. where the - on the bottom part of
10 where their -- that's the hood basically, where the hood
11 would be -- that's where, you know, the cooking would take
12 place.

13 The washing area's on the bottom left. Then the
14 bathroom, the two entrances on the right are one for the
15 kitchen and one for the dining room. And it'll be the
16 countertop sitting on the right middle path. Then some
17 sitting on the back part.

18 JIM MONTEVERDE: Okay. So there are other
19 interior improvements that aren't shown on this plan yet?

20 HUGO: Yeah. Well, it's --

21 JIM MONTEVERDE: Right.

22 HUGO: -- it - almost, yeah, the same setup. It

1 would just, you, one of the [unclear] walls would have to be
2 taken down.

3 JIM MONTEVERDE: Okay. And you'll have a space
4 within the walls of your establishment to store trash?

5 FAWWAZ ABU-RUBIEH: Yes. The driveway.

6 HUGO: Right. So, we'll - inside, you know, we
7 have garbage receptacles. And there's room on the Kinnaird
8 side that we could accommodate for the receptacles, which
9 has no -- it doesn't come in contact with any of the
10 neighbors or on the same driveway on the -- you know, on the
11 more by where the hood side is.

12 JIM MONTEVERDE: And that there will be no
13 dumpsters or other waste disposal facility outside of the
14 premises?

15 HUGO: No.

16 JIM MONTEVERDE: Right?

17 HUGO: Yeah, like I said -- like, for us, you
18 know, it's -- it's -- we wouldn't be doing -- I mean, I
19 think we would expect almost the same volume of business as
20 what we've had, just because most of our business is -- you
21 know, the neighborhood, is just the logistical kind of like
22 part of it which is, you know, instead of doing all that

1 work of bringing things back and forth, you know, and just
2 kind of like doing the cooking in the premises.

3 And yeah, like, for -- you know, by adding the
4 hood, that would facilitate the fryer and kind of like
5 expanding the menu, which a lot of the customers have
6 expressed, you know, interest in -- you know, having some
7 fried items and such.

8 There is always, you know, like here on the 245
9 Mass Ave location, we have the -- the hood cleaning company
10 come. I mean, I think the license -- well, the Inspectional
11 Services, they come and check it at least I think they're
12 required every six months to be cleaned.

13 But we do it every three months, because here it's
14 high volume. Over there, I don't know if that -- you know,
15 it's a really smaller volume, you know, compared to what we
16 have on Mass Ave.

17 So I don't think it would just -- you know, it
18 would impact that much the volume of business that we do
19 have. It will just be the logistical -- you know, work that
20 we put into it.

21 JIM MONTEVERDE: Okay. Any other questions from
22 Members of the Board? If not, I'll open it up to public

1 commentary.

2 We have in the file a few letters from neighbors.
3 We'll start with those. From Carol Greenwood at 10 Kinnaird
4 Street, in opposition to the variance to cook, and
5 especially to serve liquor.

6 And then I'll just quote one piece of it.

7 "Contending with another cooking establishment at
8 the other end of our short block, especially one serving
9 liquor and serving it outdoors is an unnecessary burden on
10 the short block in a jam-packed residential neighborhood."
11 That's one speaking in opposition.

12 And there's a letter dated September 23 from
13 Jennifer Brill, 138 Western Avenue. They raise several
14 concerns with the proposal to -- sorry, to allow a kitchen
15 and alcohol.

16 They raise the issue of rats from trash from the
17 food being cooked. Concern about parking -- parking in the
18 neighborhood, taking spaces away, noise, cooking fumes and
19 cigarette smoke.

20 And then precedent. They're also very concerned
21 about the precedent this would set for the location being
22 for other types of alcohol-related venues in the future.

1 And to quote, "I believe that the addition -- a
2 working kitchen and a liquor license would serve to
3 exacerbate these problems as well as add new ones, and
4 significantly detract from the neighborhood, rather than
5 enhance it. It is not suited for a full-service restaurant
6 with a liquor license." That's the second.

7 Third is Barry Brodsky and David Gunther at 16
8 Kinnaird Street. They strongly oppose the granting the
9 relief to allow cooking inside their restaurant and to serve
10 alcohol. They raise similar issues of the rat -- concern
11 about rats from the cooking and from the trash management.

12 And also concerned about increased smoke, which
13 often accompanies. This is actually from cigarette smoke I
14 think from companies -- diners drinking alcohol, smoking,
15 and the noise. And this will negatively impact the quality
16 of our lives and those of our neighbors. So those are three
17 -- three in opposition that are in the file.

18 And then we have one dated today from Mayor Denise
19 Simmons, "writing to express my strong support for the
20 Zoning Variance." And I'll summarize it like that. We don't
21 need to get into the details. That's what we have in the
22 file at the moment.

1 So I will open it up to public comment.

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

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

11 OLIVIA RATAY? Jennifer Brill?

12 JENNIFER BRILL: Hi. I just wanted to add a
13 couple of things to -- one of those was my letter.

14 JIM MONTEVERDE: Yep.

15 JENNIFER BRILL: So one thing that hasn't been
16 mentioned at all is all the outdoor seating, which is --
17 definitely factors into this. There's a lot of outdoor
18 seating, and I assume that's also where the -- a lot of the
19 drinking as well as eating would be.

20 So that's partly what the noise issue is about, as
21 well as kind of trash and just people sort of hanging out
22 and drinking, like, right outside my house.

1 The other thing is unfortunately it's not --
2 doesn't seem to me to be true that it's just sort of
3 neighborhood people coming. Because I -- we don't have a
4 driveway. I often have already a very difficult time
5 parking when the the restaurant is working. And it's not
6 even all legal parking. It's not even just people from
7 Cambridge.

8 When -- I think it's been a lot of takeout
9 business, though sometimes I can kind of sit and wait until
10 whoever's picking up food leaves. But with a full kitchen
11 and drinking, presumably there would be a whole lot --
12 people would stay a lot longer, and the parking issue would
13 be a whole lot worse.

14 I also, I wasn't clear on the answer about a
15 dumpster. I'm already paying \$1,000 a year to a pest
16 control company to manage the rats, and there's still a rat,
17 though I wanted to get a clearer answer on how -- I assume
18 there would be more trash.

19 And -- well trash, but also just food waste from
20 the prepping. And I'm a little concerned seeing that the
21 vent and the fryer would be sort of right up against the
22 side where I live.

1 So, you know, as I said in the letter, I fully
2 trust that the owners would do their best to control all of
3 this. But I honestly just don't believe that it's
4 manageable in that space for -- with all of those problems.

5 I mean, when I moved into the neighborhood, it was
6 a barber shop and kind of served as like a -- you know, a
7 nice community hub. But, you know, people went home at
8 night, there was parking.

9 And it's kind of -- it feels like this is a very
10 slippery slope. First there was a variance to have sort of
11 a café-style type thing, then there's outdoor seating. Now
12 we're talking about a full kitchen and a liquor license. I
13 just don't see it working without really causing a lot more
14 problems for the neighbors.

15 And it's -- you know, we're not -- there's no
16 shortage of food or alcohol within walking distance already
17 so I don't feel like it serves the neighborhood in any way.
18 I feel like there's a lot more detriment than benefit,
19 unfortunately.

20 Because like I said, I mean, we've been good
21 neighbors. And I don't want to hurt their business, but I
22 really believe that --

1 JIM MONTEVERDE: Yep.

2 JENNIFER BRILL: -- it's just not appropriate for
3 that corner and for right next to us.

4 JIM MONTEVERDE: Okay. Thank you for your
5 comments.

6 OLIVIA RATAY: Lia Eggleston?

7 LIA EGGLESTON: Hi. My name is Lia Eggleston. My
8 address is 292 Western Avenue. So I'm a few blocks down on
9 Western. Oh, can folks hear me? I'm so sorry.

10 JIM MONTEVERDE: Yes, we can.

11 LIA EGGLESTON: Okay. Gotcha. Yeah. I wanted to
12 speak in favor of the variance. For the -- sorry, I didn't
13 come with prepared comments, so just bear with me here. I
14 mostly wanted to speak in favor of the restaurant and the
15 business that has been there for since I've lived in this
16 area.

17 It's been, like I said, I would agree with the
18 statement that it's a neighborhood place. It's been
19 important -- very important to me and to everyone I've
20 talked to in the area that goes there frequently. And it
21 honestly feels like an important space for community
22 gathering.

1 And I have also seen a lot of other local
2 restaurants go out of business in the years that I've been
3 in Cambridge. And I think it's really unfortunate every
4 time. I know it's a hard place to keep a business. But I
5 think that helping prevent that would be great in this case.

6 I also, like, specifically around this business --
7 I think we've had some of the most affordable, good quality
8 food in the area. And I think that, like, sustaining that
9 and helping keep their costs down is actually a really good
10 thing for a restaurant in the Central Square area.

11 Because I think another speaker pointed out that
12 there is a lot of food in the area, which is true. But
13 quite frankly, very few affordable spots.

14 And I also -- I don't know the Zoning specifics of
15 the block, but I would just note the fact that there is
16 another full restaurant on the same block as well as a few
17 blocks down on Western that do have full kitchens.

18 And I understand that having multiple in the same
19 block can be a lot, but I also don't think it's fair to kind
20 of give more zoning preference to one than the other,
21 because they're on the same block.

22 And yeah. Also, just on the point about rats, I

1 do hear although to be honest, I do see rats everywhere in
2 this area along this street. Sometimes more in the
3 residential areas than -- like basically it doesn't feel
4 like they're more in one area than another. But also, a
5 very fair point about the trash policy.

6 I would hope that, like, as long as their plan for
7 trash does not change with the new building plans that that
8 issue could be addressed, and that would definitely be
9 something to, like, be specific about. But I would hope
10 that that may address rat concerns.

11 But yeah, overall, just wanted to speak in favor
12 strongly of this business existing and like, just, of its
13 contribution to the neighborhood in general.

14 JIM MONTEVERDE: Okay. Thank you for calling in.
15 And that's all we have. I will close public testimony.
16 Discussion among Members of the Board?

17 STEVEN NG: So I guess if we grant the variance to
18 the proponent, they're still subject to complying with say
19 Board of Health requirements, the whole list of things that
20 come along with cooking on the premises.

21 And I don't know where the pollution control
22 exhaust design comes into play with that, but I guess that's

1 with ISD, correct?

2 JIM MONTEVERDE: Technically.

3 STEVEN NG: Yeah.

4 JIM MONTEVERDE: You know, that has to be
5 submitted and approved. Although -- but continue your
6 thought before I interrupt.

7 STEVEN NG: So it's -- yeah, I'm just, you know,
8 seeing the floor plan and knowing all the things that kind
9 of come along with when you're doing a full kitchen now,
10 it's quite an endeavor to be in compliance.

11 But I think that's going to be probably a very
12 difficult, you know, task to take that on and be able to
13 meet all those requirements.

14 But I know in the area there's definitely quite a
15 few establishments in the area. It's kind of a few
16 restaurants right within a block or two of this location.
17 And I'm kind of feeling the pain of kind of the direct
18 abutters with that exhaust issue.

19 But I don't know if there's -- I know there's
20 technology that can kind of do a pretty good job with the
21 exhaust in terms of smell and stuff like that. But that's
22 kind of what's on my mind is that immediate impact.

1 JIM MONTEVERDE: Yeah. I think it's more about
2 what is not documented in the proposal; that, you know --
3 you just raises those questions. And we just want to be
4 careful.

5 STEVEN NG: Correct.

6 JIM MONTEVERDE: Anyone else have any discussion
7 to offer?

8 DANIEL HIDALGO: I guess one question I have is
9 what I guess jurisdiction or authority do we have over the
10 alcohol issue? Because isn't that -- you know, an alcohol
11 license a separate Board? So I just want to ask.

12 JIM MONTEVERDE: But they're -- yes, but they're
13 basically -- we can -- it's the conditions that were put on
14 this before, previously.

15 DANIEL HIDALGO: Oh, I see. Okay.

16 JIM MONTEVERDE: And in essence, they're asking
17 for those to be lifted. So I think we have the right to
18 comment on the use --

19 DANIEL HIDALGO: I see. Okay.

20 JIM MONTEVERDE: -- that involves, and then
21 certainly they have to comply and apply to the liquor --
22 this doesn't get them a liquor license.

1 DANIEL HIDALGO: Right. Right, right, right,
2 yeah. Just want to be clear about that.

3 JIM MONTEVERDE: It's really just the use. So
4 they have several steps to go through if we were to approve
5 what they're asking for.

6 DANIEL HIDALGO: Yeah.

7 HUGO: So if I could --

8 JIM MONTEVERDE: Nope, nope, hold on. Just hold
9 back. This is -- for right now, it is a discussion among
10 Board Members, and then we'll let you come back in for a
11 second.

12 So anything else from Board Members?

13 ZARAYA MIRANDA: I was going to second what Steven
14 mentioned regarding Western Ave already having a few
15 restaurants on the block.

16 It is a very urban neighborhood. And therefore, I
17 would be in favor of granting this, understanding that
18 obviously they have to go through Board of Health and, you
19 know, have things be done correctly.

20 But if we're discussing -- if we're voting on use
21 here, I would be leaning towards in favor.

22 JIM MONTEVERDE: Okay. Thank you. Anyone else?

1 VIRGINIA KEESLER: I agree with Zarya.

2 JIM MONTEVERDE: Okay. That leaves me. So my
3 comment or concerns, really, are I'm struggling to put
4 together the basis for a variance. The hardship -- it's the
5 hardship.

6 I can understand how it may be an improvement; may
7 be desirable from a business sense. But given that they've
8 operated this way for 14 years, I don't get the sense -- I
9 don't -- I'm not hearing about a hardship that I can hang my
10 hat on and speak to when we come to a motion. That's one.

11 Two, I think the plan that's presented -- I could
12 be wrong, but -- the original plan said -- I think it said
13 18 seats. So when I count that plan, there's 18 seats on
14 it. I don't know this that's the new floor plan. Or if it
15 is, it's missing a whole lot of info about what this kitchen
16 element is, and where is alcohol, and where is it served and
17 how?

18 I just think there's a part of the plan -- the
19 lower part of the plan, if you will -- that's kind of
20 undeveloped.

21 And if I heard the description correctly, there's
22 a -- I'm assuming there's a staff bathroom down there,

1 there's a room to store trash, there's probably cold storage
2 for food. None of that shows up on that plan.

3 And those are elements that we've seen on other
4 restaurants that have come before us that enable us to have
5 a comfort level that we know what we're acting on.

6 At this point, I'm concerned that what I'm being
7 asked to act on is more what I've heard verbally and not
8 what's on the plan. So the whole exhaust, I don't know what
9 it is, I don't know where it is, I don't know how it's done.

10 Even though I know they have to submit it to the
11 Building Department, I have nothing to review to say that
12 I'd be in favor of changing the variance conditions from
13 previously to allow them to cook food. I don't see that in
14 the plan.

15 So I'm just not comfortable yet. And, you know,
16 to me it could be a continuance to let the proponent go back
17 and get more information on the plan and come up with more
18 of a written description that we can attach to our motion
19 that addresses the six items that were conditions that were
20 put on this originally, and basically outline how they're
21 going to deal with trash and deliveries and trash from the
22 people who were in the restaurant, trash from the cooking

1 process, how they're going to deal with rodent control, how
2 they're going to deal -- what are their hours of operation,
3 which I think they told us, and what do they intend to be
4 serving in terms of food?

5 Because I think I heard prep work would be done at
6 a Mass Avenue location, not here. So this sounds like it's
7 -- I don't -- I'm not the chef. I don't know if that means
8 all of this warming, which I assume is what they already
9 had. I'm just unclear on too many specifics to feel
10 comfortable to say, "Yes, let's do this."

11 And I may be just one out of five. So that's my
12 concern.

13 STEVEN NG: Gotcha. Jim, I agree with you. And I
14 also do want to support the business. But I think we've got
15 to make sure they're showing us the right information; that
16 they're on the right track.

17 Right now, I think if we approve it, it's wide
18 open. We have no idea what they're really - how they're
19 really going to do some of those things.

20 So I think we -- I would recommend they -- we
21 request them, the applicant, to just provide that additional
22 information.

1 JIM MONTEVERDE: Okay.

2 STEVEN NG: Otherwise, I --

3 JIM MONTEVERDE: No, that's --

4 STEVEN NG: -- like.

5 MARK GALLAGHER: -- a good read of the tea leaves.

6 So if the proponent can come back online or on the phone,
7 let me just give you my read of what we're discussing here
8 if all of this -- I'm probably speaking in code here, but
9 what we're -- you need four out of the five of us to approve
10 this to pass. If two of us object, it's denied, and you
11 can't come back for two more years without a substantially
12 different proposal.

13 What we're -- since two of us have already spoken
14 about some concerns with wanting to be supportive of your
15 business and what you're trying to do, but really asking for
16 more information that you've described to us verbally, but
17 we're not seeing in the documentation presented. What I'm
18 suggesting, and we have two paths forward; we can continue
19 this case and allow you to update the one plan that you
20 submitted, so we can see more clearly -- again, we've seen
21 other restaurant plans where they're very detailed in terms
22 of everything that's going to be in the restaurant.

1 Where's the staff bathroom? Where's the trash
2 being held? Where's the cold storage? Where's the - what
3 are the cooking, you know, what is the cooking line?
4 Where's the counter? Where's the liquor? Where's the
5 liquor? Where is it being served? Where is it being mixed?
6 Those types of things that would show up simply in plan that
7 don't show up now that you've kind of described to us.

8 Anyway, one is to continue so you could put that
9 information together to present to us. Also, for you to
10 look at the -- and reply to the six conditions that were put
11 on the approval previously and just tell us how those are
12 going to be addressed; how those will be revised, how you'll
13 deal with the trash management, the exhaust.

14 If you're doing prep work elsewhere, then what
15 does that mean that you're doing within this restaurant?
16 Just to put that on the record. So it's not us having a
17 conversation with you verbally, but it's you submitting
18 something that we have on the record. Anyway, that's one --
19 asking for a continuance.

20 The other one is to just go ahead with a vote. I
21 make a motion for the variance, and I think you've heard
22 there are at least two of us who are wavering in support.

1 And I think that my concern is that would mean you'd
2 potentially be turned down.

3 But that choice is up to you. I can't think of
4 anything else. Anything else? You don't want to withdraw.
5 No. So it's a continuance. Again, answer the questions
6 you've heard, give us a fuller plans that show the exhaust,
7 that shows the layout of the kitchen, or we go ahead with a
8 vote, and you take the chance you might not get approved.

9 It's your choice. Either one of you.

10 HUGO: All right. Yeah. Thank you, Mr. Chair.
11 So I would love to address a couple of things. We probably
12 would like to ask for a continuance.

13 JIM MONTEVERDE: Yep.

14 MANUEL PRIETO: But just to give you a little more
15 insight about all this process, like Mr. Fawwaz said and you
16 guys know, this was set in 2010 with all those restrictions.
17 I came to manage the restaurant in 2012, the Mass Ave one,
18 this one -- in 2013, a year later. That's when I started
19 managing the Western Ave, making it Mexican style.

20 And we actually -- you might have it on record,
21 you should have it on record, maybe not right now, but we
22 did actually ask for a full liquor license and a change of

1 zoning. Well, I don't -- I don't think it was a change of
2 zoning. It was just a full liquor license.

3 And at that time, we also had -- it was what it seems
4 to me probably three times, you know, as much as opposition.
5 But we had so much overwhelming support that we actually got
6 granted by the City of Cambridge the full liquor license.

7 So once we were getting all the signatures to
8 start getting, you know, everything ready for the liquor
9 license, we -- we bumped into the last signature to apply
10 the full liquor license, which was the Zoning signature.

11 When we went to the Zoning, they actually went and
12 looked at the zoning, and that's when they found out, "You
13 know what? This zoning is commercial, nonalcoholic."

14 JIM MONTEVERDE: Yeah. Okay.

15 MANUEL PRIETO: "You need to switch to it." But we
16 had already --

17 JIM MONTEVERDE: Correct.

18 MANUEL PRIETO: -- gotten granted a full liquor
19 license. So --

20 JIM MONTEVERDE: Well, I don't know that you --

21 MANUEL PRIETO: That was --

22 JIM MONTEVERDE: -- had a full liquor license, if

1 you didn't have the final signature. You were pretty far --

2 MANUEL PRIETO: Right, but --

3 JIM MONTEVERDE: -- down the road, but.

4 MANUEL PRIETO: Right. We got approved for it.

5 JIM MONTEVERDE: Yep.

6 MANUEL PRIETO: In April.

7 JIM MONTEVERDE: And that's why you're here
8 tonight.

9 MANUEL PRIETO: Right, so.

10 JIM MONTEVERDE: One of the reasons.

11 MANUEL PRIETO: It's one of the reasons, yes. So
12 when we wanted to do a zoning change, we actually didn't go
13 through with this. You know, I told them, "You know what,
14 you should wait. You should keep doing the business that
15 you're doing. You know, you should keep it the Middle
16 Eastern place that you have right now."

17 So, you know, because there's a lot of neighbors
18 that are opposing, and I know if it got approved in the
19 License Commission, it might not get approved in Zoning.

20 But just to give you, like, an idea of that trash
21 concern, I think it would have -- you would have had
22 already, you know, a lot of complaints on record in these 14

1 years of business if, you know, we hadn't dealt with the
2 trash concern.

3 Which, I mean, this is already operational. Every
4 night in the past five years since I've operated there, I've
5 always taken the trash every night just the same way we take
6 the food, you know, back and forth.

7 Every night we would take the trash for the day,
8 you know, because --

9 JIM MONTEVERDE: Yep.

10 MANUEL PRIETO: -- that's one of the restrictions
11 that we have to take care of it.

12 JIM MONTEVERDE: Yep.

13 MANUEL PRIETO: So we are very diligent of that.
14 So that would actually --

15 JIM MONTEVERDE: Yeah. Just so you understand:
16 none of the discussion this evening is casting any
17 aspersions on the operation that you have, that you're
18 operating under the conditions that were given to you on at
19 2010.

20 And we're -- you know, the correspondence that
21 we're reading: These aren't complaints about your current
22 operation; these are concerns about if it includes a kitchen

1 and if it includes alcohol.

2 So I hear what you're saying, and we're -- I mean
3 really what I'm endeavoring to do is to stop talking about
4 it and ask you to take a step back with whatever support you
5 need to get the plan more fully developed to indicate all
6 the items that are on that plan that indicate a full-service
7 restaurant with alcohol service, and address the six items
8 that were listed in the previous variance, the condition.

9 And tell us how you're going to manage those, or
10 how those are going to be different.

11 MANUEL PRIETO: Right.

12 JIM MONTEVERDE: And if they're different, how are
13 you going to manage it. So just not to talk to us about it,
14 but to put something in writing that we can then respond to.

15 MANUEL PRIETO: Okay, so yeah, I can put it in
16 writing, yeah.

17 JIM MONTEVERDE: That's it. And the plan, you
18 just -- you need some development of the plan to show all
19 the equipment that you'll have. It's just I described it
20 before. I -- and if you want me to repeat it I will, but
21 otherwise I don't think I need to.

22 And you need to spell out for us what the exhaust

1 system is that you propose to have, and the fact that it
2 goes to the roof or how it's -- how you're going to do that,
3 just so you can answer those questions. Okay?

4 HUGO: Yeah.

5 JIM MONTEVERDE: Now, let's pick a date. So we
6 can - this is September 26. We have -- we can do this at a
7 meeting on October 24 or November 7 or November 24. Really
8 it all depends on you, how much time you want to get this
9 together.

10 FAWWAZ ABU-RUBIEH: October.

11 JIM MONTEVERDE: Say that -- repeat that, please?

12 FAWWAZ ABU-RUBIEH: We'll take by October 24.

13 JIM MONTEVERDE: October 24?

14 FAWWAZ ABU-RUBIEH: Yes, sir.

15 JIM MONTEVERDE: Okay. Will everyone tonight,
16 since this is a case heard, correct? -- be available on
17 October 24? Steven?

18 STEVEN NG: Yeah, I should be.

19 JIM MONTEVERDE: Okay. Virginia?

20 VIRGINIA KEESLER: Yes.

21 JIM MONTEVERDE: Zarya?

22 ZARAYA MIRANDA: Yes.

1 JIM MONTEVERDE: I'll learn to pronounce your name
2 by then. Daniel?

3 DANIEL HIDALGO: Yes.

4 JIM MONTEVERDE: And I will -- okay. So we're
5 going to continue. Let me make a motion to continue the
6 matter until October 24, 2024 and the new time at 6:00 p.m.

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

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

15 Also, that if there are any new submittals,
16 changes to the drawings, dimensional forms, or any
17 supporting statement, that those be in the file by 5:00 p.m.
18 on the Monday prior to the continued meeting day.

19 On the motion to continue this matter until
20 October 24, 2024, Daniel?

21 DANIEL HIDALGO: Yes. Yep.

22 JIM MONTEVERDE: Okay. Zarya?

1 ZARAYA MIRANDA: Sorry. Zarya Miranda in favor.

2 JIM MONTEVERDE: Thank you. Virginia?

3 VIRGINIA KEESLER: In favor.

4 JIM MONTEVERDE: Steven?

5 STEVEN NG: In favor.

6 JIM MONTEVERDE: And Jim Monteverde in favor.

7 [All vote YES]

8 JIM MONTEVERDE: That's five in favor. The matter
9 is continued until October 24.

10 FAWWAZ ABU-RUBIEH: Thank you.

11 JIM MONTEVERDE: Thank you.

12 FAWWAZ ABU-RUBIEH: Thank you. Have a good night.

13 JIM MONTEVERDE: You too.

14 I'm going to ask for a three-minute break.

15 (BREAK)

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(8:43 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: All right. The next case is
281254 18-R Industrial Park Road, the Great Boston Sand and
Gravel lot location. and are you Brett Smith?

MICHAEL FENTON: I am Michael Fenton.

JIM MONTEVERDE: Okay.

MICHAEL FENTON: Brett Smith is my colleague.

JIM MONTEVERDE: Thank you for introducing
yourself. Do you want to -- we've all read it. So we know
that what the ask is. But if you briefly go through it for
us, and then I'd suggest you go to the photo simulations,
and we can be off to the races.

MICHAEL FENTON: Yes. Thank you, Mr. Chair.
Again, my name is Attorney Michael Fenton with the offices
of Shatz, Schwartz and Fenton. Our address is 1441 Main
Street, Suite 1100, in Springfield.

We're here tonight on behalf of Cellco Partnership
doing business as Verizon Wireless.

1 We're also joined by the full complement of the
2 Verizon Wireless team and our consultants. As you
3 mentioned, Mr. Chair, my colleague, Attorney Brett Smith;
4 Rebecca Rafferty with SAI Group, she's the site acquisition
5 consultant for leasing. Brian Williams, who is the RF
6 engineer with Verizon Wireless; and Karl Kratina with Jacobs
7 Engineering, our professional engineer.

8 Mr. Chair, I will be brief and provide an
9 overview. It's our contention that this is a site that the
10 Board hopefully can deal with relatively quickly. It's a
11 site at the existing Boston Sand & Gravel structure and
12 property. It's an existing site that is used for wireless
13 use.

14 We're proposing to take -- of the existing 13
15 antennas, we're going to keep two of those existing
16 technologies. Eleven will come down and be replaced by 9
17 upgraded antennas, leaving the antenna count down from 13 to
18 11, so two antennas less than currently.

19 We're going to add some 4G and 5G radios, remove
20 and replace six remote radio heads with six new remote radio
21 heads, and remove and replace three junction boxes with
22 three new junction boxes.

1 There will be no height increases to the
2 installation. None of the installation will protrude
3 through the edge of the existing structure. There will be
4 no change -- no material change, as you'll see in the
5 drawings in a moment, in the visual impact, and all
6 equipment will, as in the past, be painted to match for
7 camouflaging.

8 So in the interest of time, I would like to share
9 my screen. Oh, even better. Thank you.

10 JIM MONTEVERDE: We've got the screen, so just
11 tell us what you'd like to see. Here we go. Here are the
12 photos sections.

13 MICHAEL FENTON: Great. so if there are questions
14 for our consultants, certainly we would entertain those. But
15 in the interest of the Board's time and the innocuous nature
16 of this proposal, I'll just walk you through it quickly.

17 The left image is the existing, the right image is
18 the proposed. Almost -- incredibly difficult to tell the
19 difference.

20 If you go to the next simulation: same thing.
21 Left is existing, right is proposed. The difference is
22 impossible to tell to the untrained eye.

1 This is our third image, and you can see our gray
2 antennas and remote radio heads being swapped; again, a
3 difference that is not going to be material to the residents
4 of Cambridge. And that is our fourth image.

5 So Mr. Chair and Members of the Board, this is an
6 Eligible Facilities Request, consistent with Section 6409 of
7 the Spectrum Act, and we ask for your approval tonight.

8 JIM MONTEVERDE: Thank you. We have no
9 correspondence in the file either for or against. So I will
10 open it up to public commentary.

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

21 Big surprise: no one out there calling. All
22 right, we're going to close public testimony. Any

1 discussion among Members of the Board? No. Hearing none,
2 and before I make a motion, I have to make a speech, and
3 here goes, hopefully.

4 Based on the findings, the Chair moves that the
5 petitioner be granted the special permit it is seeking
6 subject to the following conditions:

7 One, that the work proceed in accordance with the
8 plans submitted by the petitioner, and initialed by the
9 Chair.

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

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

18 Four, that should the petitioner cease to utilize
19 the equipment approved tonight for a continuous period of
20 six months or more, it shall promptly thereafter remove such
21 equipment and restore the building on which it is located to
22 its prior condition and appearance, to the exact reasonably

1 practicable.

2 Five, that the petitioner is in compliance with
3 and will continue to comply with in all respects the
4 condition imposed by this Board with regard to previous
5 special permits granted to the petitioner, with regard to
6 the site in question.

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

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

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

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

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

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

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

22 Any such new application shall not be deemed a

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

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

11 a) he or she has such responsibility, and

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

20 The end. All right, thank you. Now. I don't
21 want to lose that precious soliloquy.

22 The Chair makes a motion --

1 Oh, any discussion among Members of the Board? if
2 not, I will move to a motion. Okay, motion it is.

3 The Chair makes a motion to grant relief from the
4 requirements of the Ordinance for a special permit on the
5 condition that the work proposed conforms to the drawing
6 entitled, "Cambridge, Mass, 118-R Industrial Park Road a/k/a
7 500 Front Street, Cambridge, Mass," prepared by Jacobs
8 Telecommunications, Inc. and dated July 1 -- no, dated
9 05/15/2024; initialed and dated by the Chair.

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

13 On a voice vote, please? Steven?

14 STEVEN NG: In favor.

15 JIM MONTEVERDE: Virginia?

16 VIRGINIA KEESLER: In favor.

17 JIM MONTEVERDE: Zarya?

18 ZARAYA MIRANDA: In favor.

19 JIM MONTEVERDE: Daniel?

20 DANIEL HIDALGO: In favor.

21 JIM MONTEVERDE: And Jim Monteverde in favor.

22 [All vote YES]

1 JIM MONTEVERDE: Five affirmative. The relief is
2 granted. Thank you.

3 MICHAEL FENTON: Thank you, Mr. Chairman and
4 Members of the Board. Goodnight.

5 JIM MONTEVERDE: You're welcome.

6 JIM MONTEVERDE: Board Members, before you go
7 away, just so you know, at the Zoning Petition to modify the
8 Zoning Ordinance for the dormers, it will be heard at the
9 Planning Board, or we'll present that to the Planning Board
10 - we being Bill Boehm and I -- on Tuesday, October 8 at
11 6:30. That's a virtual meeting.

12 I don't know if they're calling for any public
13 comment, but if they are, we ask that you call in and clap
14 and jump up and down and support us vigorously.

15 STEVEN NG: What time was that again, Jim?

16 JIM MONTEVERDE: It's 6:30 p.m.

17 STEVEN NG: Okay.

18 JIM MONTEVERDE: I don't know if that's when we
19 are on the agenda, or if that's the beginning of their
20 session. But Tuesday, October 8, all right? Thank you all.
21 Have a good night. Thank you.

22 ZARYA MIRANDA: Thank you. Bye everyone, nice to

1 see you.

2 JIM MONTEVERDE: Take care. Yep, bye-bye.

3 [08:55 p.m. End of Proceedings]

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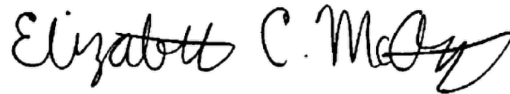
CERTIFICATE

Commonwealth of Massachusetts
Middlesex, ss.

I, Elizabeth McAvoy, 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.

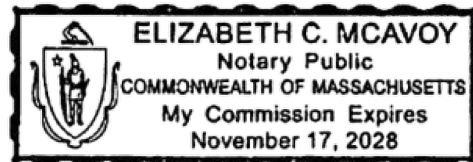
In witness whereof, I have hereunto set my hand this seventh day of October 2024.



Notary Public

My commission expires:

November 17, 2028



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