

March 11, 2021

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 11, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Jim Monteverde

Laura Wernick

Jason Marshall

City Employees

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617.547.5690

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

2 * * * * *

3 (6:00 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,
5 Andrea A. Hickey, Jim Monteverde, Laura
6 Wernick, and Jason Marshall

7 CONSTANTINE ALEXANDER: Welcome to the March 11
8 meeting of the Cambridge Board of Zoning Appeals. My name
9 is Gus Alexander, and I am the Chair.

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

19 This meeting is being video and audio recorded,
20 and is broadcast on the City of Cambridge online meeting
21 portal and on cable television Channel 22, within Cambridge.
22 In due course, there will also be a transcript of these

1 proceedings.

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

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

9 Generally you will have up to three minutes to
10 speak. But that might change based on the number of
11 speakers.

12 I'll start by asking the Staff to take Board
13 member attendance and verify that all members are audible.
14 But before I do that, I want to make a brief announcement.
15 To the extent people are not aware of it, we now have two
16 new regular members of our Board -- both Jim Monteverde and
17 Laura Wernick previously were Associate Members, but now
18 they have the honor and privilege and burden to be regular
19 members. So congratulations and condolences.

20 All right, Sisia, go ahead and take Board Member
21 attendance and verify that all members are audible.

22 SISIA DAGLIAN: Laura Wernick? Sorry. Jim is not

1 here yet.

2 CONSTANTINE ALEXANDER: Yes he is.

3 SISIA DAGLIAN: Oh here he is! Jim? Andrea
4 Hickey?

5 SISIA DAGLIAN: Andrea Hickey?

6 ANDREA HICKEY: I'm present.

7 SISIA DAGLIAN: Brendan, we can hear you. Jim?

8 CONSTANTINE ALEXANDER: We have trouble getting
9 Jim on the call.

10 [Noise]

11 SISIA DAGLIAN: I think he's dialing in. We can
12 see him. Transcriptionist?

13 ANDREA HICKEY: I can hear him very faintly. Jim,
14 can you hear us?

15 CONSTANTINE ALEXANDER: I heard him now briefly.

16 BRENDAN SULLIVAN: Here.

17 CONSTANTINE ALEXANDER: Here he is!

18 JIM MONTEVERDE: Let's try this. How's that?

19 COLLECTIVE: Yeah.

20 SISIA DAGLIAN: Thank you.

21 JIM MONTEVERDE: All right. I'll try that way.
22 See how long this lasts. Sorry.

1 SISIA DAGLIAN: And Brendan, you're audible,
2 right?

3 BRENDAN SULLIVAN: I think so, but obviously
4 present and audible.

5 CONSTANTINE ALEXANDER: So am I.

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(6:30 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Jim Monteverde, and
Laura Wernick

CONSTANTINE ALEXANDER: Our first case is Case
Number 106949 -- 163 Cushing Street. Anyone here wish to be
heard on this matter?

COLLECTIVE: Yes.

CONSTANTINE ALEXANDER: The floor is yours.

GREGORY ASHE: Hi, my name is Gregory Ashe; A-S-H-
E. I live at 163 Cushing Street with my family.

MAURA RIZZUTO: Hi, I'm Maura Rizzuto, last name
R-i-z-z-u-t-o.

GREGORY ASHE: Today, we are going to --

CONSTANTINE ALEXANDER: You wish to add a second
bedroom, as I understand it?

MAURA RIZZUTO: Yes.

GREGORY ASHE: Yes. Actually, the third bedroom.
We have 2 bedrooms on the second --

JIM MONTEVERDE: Third bedroom.

GREGORY ASHE: Third bedroom, yeah. And we're

1 looking to build a third bedroom over our existing kitchen.

2 We've -- we have a 2-year-old son, Calvin, and
3 we're looking to grow our family. And we're looking to have
4 a third bedroom in order to accommodate our growing family.

5 We were both raised in Cambridge. We both
6 attended public schools here in Cambridge. We've lived here
7 for over 35 years.

8 MAURA RIZZUTO: We're actually in my grandparents'
9 previous home before they passed away. So the family of
10 this house has been in the family for many, many years , and
11 we hope to stay here and raise our family and hope to have
12 our kids remain in Cambridge as well. So --

13 CONSTANTINE ALEXANDER: You're asking for -- no,
14 I'm sorry. I guess -- keep going, I'm sorry.

15 GREGORY ASHE: Oh no, just to reiterate there are
16 currently two bedrooms on the second floor, and we're
17 requesting to build a bedroom addition on the second floor
18 over our existing kitchen.

19 CONSTANTINE ALEXANDER: And I see you've applied
20 for the relief; you're seeking either a variance or a
21 special permit for the same thing. And that's because, I
22 guess, the court's decision, which is inconsistent with our

1 zoning bylaw. We've -- the city is in the process of
2 changing the zoning bylaw to conform with that decision.
3 We've got to make a choice tonight.

4 But I'm going to recommend that we go with the
5 variance case. That's the more demanding standard -- I mean
6 the variance relief.

7 But as you will see in a second, I don't think
8 there's going to be any problem with getting the relief, and
9 I think that's the safest way from your point of view. At
10 least that's my opinion.

11 So do we have the plans, Sisia?

12 SISIA DAGLIAN: Sure.

13 CONSTANTINE ALEXANDER: While she's looking at it
14 -- well, I'll wait. Go ahead. The other plan. So the
15 house right now is a nonconforming because of it's over the
16 permissible FAR, and you're going to make it a little bit
17 more nonconforming, and not substantially more. As I read
18 the plans and the materials we have.

19 Anything you want to add to what you submitted to
20 us?

21 ALBERTO CABRE: Yes. My name is Alberto Cabre, C-
22 a-b-r-e. I'm the architect for the clients. And I'm here

1 to answer any questions that you guys have. But yes, the
2 house right now is a nonconforming site with an FAR of 0.53,
3 and we are just increasing to 0.55. So --

4 CONSTANTINE ALEXANDER: So you're adding about 60
5 feet of --

6 ALBERTO CABRE: Huh? Yeah. There is a structure
7 right now, there is a screened porch after the kitchen that
8 is -- it's a dotted line in the plans, or you can see it in
9 the picture, that is going to get demolished and reduced to
10 allow the new addition to happen on top of the kitchen area,
11 and a small screened porch out of that bedroom.

12 Right now the setback from the rear to the
13 screened porch is around 45 feet, and we are -- and it's
14 around -- yeah, it's around 40 feet from the back, and we're
15 reducing that to get our other five feet back from the rear,
16 so increasing that rear setback.

17 So the issue is on the left side that basically
18 it's already encroaching in the setback of the property.
19 And we're not making that more. So it's keeping the same
20 setback that the existing porch has into that setback from
21 the left side of the property.

22 Anything else you'd like to add? After, if the

1 Board members have any questions?

2 BRENDAN SULLIVAN: Brendan Sullivan, I have no
3 questions at all.

4 CONSTANTINE ALEXANDER: Laura?

5 JIM MONTEVERDE: Jim Monteverde, I don't have any
6 questions.

7 CONSTANTINE ALEXANDER: Laura?

8 LAURA WERNICK: No questions.

9 ANDREA HICKEY: And Andrea Hickey, no questions.

10 CONSTANTINE ALEXANDER: I have no questions as
11 well. I would -- for the record, I would note that we have
12 a number of letters of support from neighbors -- no letters
13 of opposition.

14 I will just say that I think the relief being
15 sought is modest in nature. It's essential to the continued
16 use of the house for a different family within the family
17 that's been in the house for a number of years.

18 Discussion, or are we ready for a vote? Brendan?

19 BRENDAN SULLIVAN: I'm ready for a vote.

20 CONSTANTINE ALEXANDER: Okay. Every -- Jim?

21 JIM MONTEVERDE: Ready. Yep, ready.

22 ANDREA HICKEY: Ready?

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Ready.

3 CONSTANTINE ALEXANDER: And Laura?

4 LAURA WERNICK: I'm ready.

5 CONSTANTINE ALEXANDER: Okay. And I'm ready too.

6 So I'm going to make a motion with regard to the variance.

7 The Chair moves that we make the following
8 findings: That a literal enforcement of the provisions of
9 the ordinance would involve a substantial hardship to the
10 petitioner, such hardship being that this is a house that is
11 an older house, that is not very substantial in terms of
12 floor space, and it needs to be expanded to accommodate the
13 current occupants of the structure.

14 And it's not -- again, a substantial impact on our
15 zoning, it's a slight departure.

16 That the hardship is owing to the fact that this
17 is already a nonconforming structure, and therefore any
18 additional addition to the structure just generates more
19 nonconforming space.

20 And that lastly, desirable relief may be granted
21 without substantial detriment to the public good, or
22 nullifying or substantially derogating from the intent and

1 purpose of this ordinance. And in regard to this, the Chair
2 would note first that there's unanimous neighborhood
3 support, and second as to the relief being sought it's --
4 again -- very modest in nature, and that it is part of the
5 natural evolution.

6 It seems to me residential structures in a city
7 like Cambridge buildings from time to time has to be
8 modified to accommodate the then occupants or prospective
9 occupants of the structure.

10 So on the basis of all of these findings, the
11 Chair moves that we grant the variance requested on the
12 condition that the work proceeds in accordance with plans
13 prepared by Joe the architect -- the cover page of which has
14 been initialed by the Chair. The cover page has no issue
15 date, so I'm not mentioning an issue date. But the plans
16 have been initialed by the Chair.

17 Brendan, how do you vote?

18 BRENDAN SULLIVAN: Brendan Sullivan yes to
19 granting the relief.

20 CONSTANTINE ALEXANDER: Jim?

21 JIM MONTEVERDE: Jim Monteverde yes to granting
22 the relief.

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Andrea Hickey yes to granting the
3 relief.

4 CONSTANTINE ALEXANDER: Laura?

5 LAURA WERNICK: Laura Wernick yes to the relief.

6 CONSTANTINE ALEXANDER: And the Chair votes yes as
7 well.

8 [All vote YES]

9 It's unanimous. Relief granted. Good luck,
10 folks.

11 COLLECTIVE: Thank you.

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(6:42 p.m.)

Sitting Members: Brendan Sullivan, Andrea A. Hickey, Jim Monteverde, Laura Wernick, and Jason Marshall

CONSTANTINE ALEXANDER: The Chair will now call Case Number 106902 -- 59 Vassar Street. I will not -- I'm not sitting on this case, so Mr. Sullivan will chair the meeting for this case. Brendan?

SISIA DAGLIAN: Let me just take -- make sure we can hear Jason.

CONSTANTINE ALEXANDER: What's that?

SISIA DAGLIAN: Let me just make sure we can hear Jason. Jason, are you on?

JASON MARSHALL: Hi, I'm here. Can you hear me?

SISIA DAGLIAN: Yes, thank you.

CONSTANTINE ALEXANDER: Welcome, Jason.

BRENDAN SULLIVAN: Jason, welcome. We're actually, a couple of minutes early on this particular case. Kelley Brown, are you in residence? Sorry, Representative.

KELLEY BROWN: Yes, I am here, yep.

1 BRENDAN SULLIVAN: All right. It's close enough.
2 All right. Kelley, if you want to begin your presentation?

3 KELLEY BROWN: Sure. Good evening, Mr. Chairman.
4 My name is Kelley Brown. I'm a Senior Planner in the Office
5 of Campus Planning.

6 We're here tonight to talk about our medium
7 temperature hot water conversion plant, what the benefits of
8 that plant are, what the zoning relief that's needed, show
9 you what's needed, show you what it looks like and talk
10 about some of the grounds that -- under which the variance
11 might be granted.

12 So, next?

13 Oh, that's right. I'm looking for the slide
14 there, yeah.

15 SISIA DAGLIAN: There you go.

16 KELLEY BROWN: There we go. And the next one,
17 please?

18 So I'm joined tonight by a number of colleagues
19 from MIT and the design team, and they'll be happy to answer
20 any questions that you may have. It's not that complicated
21 a project, but there are some technical bits if you want to
22 get into them, so.

1 Next slide, please?

2 So this is the location. It's 59 Vassar Street.
3 It's right between Main Street and Massachusetts Avenue kind
4 of midblock on Vassar Street in the northern part of MIT's
5 campus.

6 So next slide, please?

7 So it -- as is, it's a pretty straightforward
8 thing. It uses the MIT existing energy sources to convert
9 the campus steam distribution that serves the -- pretty much
10 the whole campus to hot water.

11 So the steam's provided by the central utility
12 plants cogeneration heat recovery. It's pumped over to this
13 penthouse area. The heat exchangers provide the heat to hot
14 water, and then that gets pumped out to serve campus
15 buildings.

16 Next slide, please?

17 And so, this is just the penthouse that goes
18 around all that mechanical spaces. It's fundamentally, as I
19 say, a mechanical penthouse.

20 BRENDAN SULLIVAN: All right. This is Brendan
21 Sullivan. When we granted the variance to the main plant
22 back in 2016, this obviously was a missing element at that

1 time. Was it anticipated at all, or the question I had is
2 why wasn't this part of the 2016 request at that time?

3 KELLEY BROWN: Well, I think it was not -- it was
4 something that had been contemplated. I don't think in 2016
5 any decision had been made.

6 It is a huge endeavor that's going to take many,
7 many years because many of the buildings, you know, their
8 internal operations are served by the steam system and will
9 require conversion of those buildings to a hot water system.

10 And, you know, as a result, even though hot water,
11 as I'll explain here, is a modern and more beneficial
12 system, there had not been a final decision made about the
13 hot water system at that time.

14 BRENDAN SULLIVAN: Okay. So it's an ongoing
15 process with MIT and internal needs? It was maybe
16 anticipated but not in a form that was ready for primetime?

17 KELLEY BROWN: That's correct, yes.

18 BRENDAN SULLIVAN: Okay. All right. All right,
19 just that clears that up.

20 KELLEY BROWN: Sure. Go to the next slide and
21 I'll tell you.

22 So there are some substantial benefits to this.

1 It's really a key element in the evolution of the district
2 energy system, as we just were talking about -- the lines,
3 MIT's Plan for Action on Climate Change with the city's Plan
4 for Net Zero Action it provides greater resiliency,
5 particularly with the pipes.

6 The steam pipes tend to deteriorate around the
7 groundwater, and we have to dig them up and fix them and
8 repair them. It's a system of great reliability and safety
9 just by the nature of steam versus a hot water system.

10 There's better energy efficiency for the entire
11 system. There's about a three to five percent loss of heat
12 in the hot water system compared to a 15 to 20 percent loss
13 in the legacy steam system. And there's a lower life cycle
14 maintenance cost.

15 And it's going to have a direct impact on
16 greenhouse gas emission reduction. It's part of our overall
17 plan to reduce greenhouse gas emissions by at least 32
18 percent by 2030.

19 And we're about three-quarters of the way to
20 achieving that goal. But it's a very important part of the
21 evolution of the system, and has great environmental
22 benefits.

1 Next slide, please?

2 So you'll see, this is sort of a two-parter,
3 right? We -- why are we here? The zero feet setback is
4 against the historic building from 2016. And we'll show you
5 that more. And the buildings around it, obviously, have
6 great setback. The actual penthouse is on top of a portion
7 of Building 42 there and is about 49 feet set up.

8 But if we could look at the next slide?

9 You'll see this is a historic picture in the left
10 here, and it shows the 1916 boiler plant, and you can't
11 really make it out in this photo, but it's sitting right on
12 the lot line right at the back of the sidewalk, and operated
13 that way for 85 years in some industrial zoning that the
14 city converted to residential C3-B zoning in 2001, which has
15 a 10-foot setback compared to no -- zero lot line or no
16 front yard for the industrial buildings.

17 And the -- what happened is the entire central
18 utility plant that you see in this diagram became
19 nonconforming at that time.

20 So as the Chairman mentioned, we came to the Board
21 in 2016 when we added the new cogeneration plant, because it
22 added more than 25 percent to the cumulative volume of the

1 central utility plant complex that had become nonconforming.
2 And that variance was granted at that time.

3 So we're really returning to seek the same
4 variance. It's Section 8.22.3 for this relatively small
5 addition. There's actually no square feet of gross floor
6 area, it's entirely mechanical space. But it does add a
7 small amount of volume, as you see in the bottom diagram.

8 So next slide, please? So there you see it, and
9 can get a sense of the relative volume that we're talking
10 about adding.

11 Next, please?

12 So this is just a rendering of the plant as it
13 exists today with the plant that you approved in 2016 -- has
14 been constructed.

15 Next, please?

16 So there's the penthouse, and adjacent to it is
17 the New Schwarzman College of Computing. It's just been
18 approved by the Planning Board. So you can get a sense of,
19 you know, the scale of one of the large academic buildings
20 compared to the penthouse.

21 Next, please? So this is just a street view with
22 the existing on the left, and then the proposed penthouse

1 shown on the right.

2 Next, please? Again, same sequence of existing
3 and proposed a little further down the street.

4 Next, please? And this is the view from the Grand
5 Junction Multi-use Path. MIT's working with the city. The
6 City's designing it, but MIT's making a big contribution and
7 cooperating on the design of the path through the campus.

8 And you can see it is not a huge intrusion, and we
9 kind of keep the same form on the building. We think it's
10 going to be an actually really attractive addition.

11 Next, please?

12 So as we mentioned, these are just some of the
13 grounds that we think literal enforcement causes a hardship.
14 This is a case where, you know, as you see we've been
15 evolving here for 100 years.

16 And this is really a core of the campus district
17 energy system. It works well; proximity, all the parts and
18 pieces of it. It creates better energy efficiency, there's
19 operational efficiencies involved, there's regulatory
20 efficiencies and safety.

21 We think that it can even allow the campus to
22 function in the event of an areawide power loss, for example

1 -- the new turbans can start and operate, even in the
2 absence of external power.

3 And so, disallowing the penthouse, which, as I
4 say, is central to this campus-wide conversion from the
5 legacy steam system to a hot water system, would really
6 hinder the core educational purposes of the university, and
7 truly be a substantial hardship for the service to the vast
8 majority of the campus.

9 Next, please?

10 And, you know, we just wanted to kind of -- you
11 know, range around the plant, the kind of redevelopment
12 that's been part of this entire area; that the hardship
13 truly is owing to the special permit circumstances of being
14 this historic structure that's retained its core purpose as
15 a district energy system.

16 But it is very different clearly from the
17 redeveloped institutional and innovation research buildings
18 all around it, including the Schwarzman College of
19 Computing, our Brain and Cognitive Sciences Center that was
20 built earlier in this century; the proposed Ragon Institute
21 that's going to go up on Main Street; the Pfizer building's
22 there to back up off of Main Street on Portland and

1 Novartis. Clearly, this is a very different kind of
2 structure.

3 And so, the fact that we're trying to kind of add
4 more to it we think it makes sense, and is sufficiently
5 different from everything else around it that we think it is
6 truly a hardship that owes to those specific circumstances.

7 Next?

8 You know, we've talked about the language of the
9 code is, you know, without substantial detriment to the
10 public good. We think on these environmental grounds alone,
11 it's actually quite a positive contribution, particularly
12 when you compare it to the very minor kind of intrusion of a
13 penthouse that's set back almost 50 feet from the sidewalk.
14 It's -- but it does happen to be part of this nonconforming
15 complex.

16 Next, please? So last slide. So it -- we think
17 it does support the intent and purpose of the ordinance.
18 You know, we looked to Article 19 and the Urban Design
19 objectives that are part of that to think about a big
20 complex urban setting like this. And it provides a historic
21 context. It allows passersby to -- and pedestrians -- to
22 come and go.

1 It finally also retains the very historic fabric.
2 So, you know, it's on the -- they also want you to be on the
3 historic campus area with your building. So this does all
4 that.

5 The penthouse -- it's on the historic campus, it
6 provides that kind of setting for pedestrians and cyclists,
7 and it retains the historic building itself on Vassar
8 Street, preserving a historic structure.

9 So that's our case, and we're happy to answer any
10 questions that you might have.

11 BRENDAN SULLIVAN: All right, thank you. Any
12 questions from any members of the Board?

13 JIM MONTEVERDE: Jim Monteverde, no questions.

14 BRENDAN SULLIVAN: Laura?

15 LAURA WERNICK: No questions. Nice presentation,
16 thank you.

17 KELLEY BROWN: Thank you.

18 BRENDAN SULLIVAN: Okay. Jason?

19 JASON MARSHALL: No questions. Agree it was a
20 comprehensive application. Thank you.

21 BRENDAN SULLIVAN: Yeah, and Andrea.

22 ANDREA HICKEY: No questions at the moment.

1 BRENDAN SULLIVAN: Okay. Let me open it to public
2 comment. Any members of the public who wish to speak should
3 now click the button that says, "Participants" and then
4 click the button that says, "Raise hand. If you're calling
5 in by phone, you can raise your hand by pressing *9 and
6 unmute or mute by pressing *6.

7 I'll ask Staff now to unmute any speakers at this
8 time. You should begin by saying your name and address, and
9 Staff will then confirm that we can hear you. After that,
10 you will have up to three minutes to speak before I would
11 ask you to wrap up your comments. We'll open it to public
12 comment now.

13 SISIA DAGLIAN: We don't see any hands raised.

14 BRENDAN SULLIVAN: There's nobody calling in,
15 there are no correspondence in the files from the general
16 public, interested city citizens and/or the Planning Board.
17 So I will close public comment at this time.

18 Mr. Brown, I think you probably had a very good
19 presentation. Any Board members ready for any questions or
20 ready for a motion?

21 JIM MONTEVERDE: Jim Monteverde Ready for a
22 motion.

1 BRENDAN SULLIVAN: Okay. Let me make a motion to
2 grant the relief requested as per the application, the
3 drawings and the dimensional forms as submitted.

4 The Board finds that a literal enforcement of the
5 provisions of this ordinance would involve a substantial
6 hardship to the petitioner, because the Board acknowledges
7 that the Building 42, which was made nonconforming in 2001
8 when the city replaced an existing industrial zone which had
9 no front yard setback requirement with a Residence C 3B
10 zone, which has a 10-foot front yard setback at its
11 penthouse, which is being attached to that -- obviously
12 being an addition to a nonconforming building.

13 These connections, building to building, are for
14 functional, regulatory and safety purposes. The proposed
15 mechanical penthouse, which will be the central pillar of
16 the conversion of a century old steam distribution center to
17 a modern temperature hot water system would hinder before
18 educational purposes of the university and not granting the
19 relief would cause substantial hardship to MIT -- financial
20 hardship and potential adverse effect, environmental.

21 The hardship is owing to the fact that the zone --
22 the ordinance for this particular zone has changed,

1 rendering the building nonconforming. The hardship is
2 directly related to the placement of the 100-year-old
3 building on the lot, which at the time was industrial.

4 And now the city has tried to change it to a more
5 multifunctional industrial -- I'm sorry, industrial --
6 commercial residential area.

7 The Board, which enabled the Building 42C to
8 combine its heat and power plants by granting a variance in
9 2016, furthers the advancement of this penthouse by
10 achieving the resiliency greenhouse gas emission reduction
11 goals and converting the legacy steam distribution system to
12 a medium temperature hot water system. It requires the
13 expansion of this penthouse.

14 The Board finds that desirable relief may be
15 granted without substantial detriment to the public good.
16 To achieve maximum energy efficiency, MIT is minimizing
17 energy loss by closely aligning the necessary equipment to
18 convert high pressure steam to medium temperature hot water.
19 MIT's investment in the MTHW ensures the maximum resiliency
20 and efficiency in several distributions.

21 MTHW will contribute to MIT's goals to reduce
22 greenhouse gas emissions by at least 32 percent of the 2014

1 baseline. The public will be better served, as will the
2 immediate MIT community, by such reduction and also the
3 addition of this particular penthouse.

4 Desirable relief may be granted without
5 substantial detriment to the public good, or nullifying or
6 substantially derogating from the intent or purpose of the
7 ordinance. The front yard -- this is the nonconforming
8 element -- is located on Vassar Street.

9 The current project does not expand into this
10 nonconformancy. The penthouse itself is fully conforming to
11 zoning regulations. The intent and purpose of the
12 ordinance, with regard to the front yard, is to establish a
13 new and more generous building line to reflect and support
14 the altered overall context of the area.

15 The Board finds that the current project doesn't
16 qualify for Article 19 Project Review, but the Board finds
17 that MIT has been very sensitive to the objectives of
18 Article 19.3 and particularly 19 -- Section 19.31, and is to
19 reinforce and enhance the complex urban aspects of Cambridge
20 and its historical development, and especially location of
21 supporting buildings on the campus site.

22 With this in mind, we find that the desirable

1 relief may be granted. All those in favor of granting
2 relief requested on the condition that the work comply with
3 the drawings and the supporting statements? Laura?

4 LAURA WERNICK: I vote in favor.

5 BRENDAN SULLIVAN: Jason?

6 JASON MARSHALL: Jason Marshall yes in favor of
7 the variance.

8 BRENDAN SULLIVAN: Andrea?

9 ANDREA HICKEY: Andrea Hickey. I vote yes in
10 favor of the variance.

11 BRENDAN SULLIVAN: Jim Monteverde?

12 JIM MONTEVERDE: And Jim Monteverde yes in favor
13 of the variance.

14 BRENDAN SULLIVAN: And the Chair votes in favor.

15 [All vote YES]

16 The relief is granted. Good luck.

17 KELLEY BROWN: Thank you so much.

18 JASON MARSHALL: Good motion, Mr. Chair. I'm
19 going to sign off. Good night.

20 BRENDAN SULLIVAN: Goodnight, thank you.

21 COLLECTIVE: Goodnight, Jason, bye.

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(7:04 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Jim Monteverde, and
Laura Wernick

CONSTANTINE ALEXANDER: Okay, are we ready to call
-- I'll call the next case. It's Case Number 107045 -- 245
Mt. Auburn Street. Anyone here wishing to be heard on this
matter?

JACKIE AND AARON KEMP: Yep, so we're Jackie and
Aaron Kemp at 245 Mt Auburn Street. So we initially
developed plans for our deck and pergola concurrently and
submitted them to Historic and got unanimous approval. And
then we got the plans to Zoning and were informed that the
pergola didn't require a variance. So we were advised to
submit only the decks.

So we presented the deck plans to you a few months
back, and we got a building permit ultimately for the deck
and pergola.

But while building, we were informed that because
the pergola overhangs the deck, we did actually need to
present the pergola to you. So that's why we're here today.

1 CONSTANTINE ALEXANDER: I'm sorry for all the --
2 for getting a simple pergola approved. Questions from
3 members of the Board? I think what you said says it all. I
4 let people ask questions.

5 BRENDAN SULLIVAN: Brendan.

6 CONSTANTINE ALEXANDER: You're talking about a
7 very minor relief that's an adjunct to the deck that we
8 already have approved.

9 JACKIE AND AARON KEMP: Mm-hm.

10 CONSTANTINE ALEXANDER: Brendan?

11 BRENDAN SULLIVAN: [Brendan Sullivan.] I have no
12 questions, and I feel that this is a fair and reasonable
13 request.

14 CONSTANTINE ALEXANDER: Jim?

15 JIM MONTEVERDE: [Jim Monteverde], I have no
16 questions and I agree with Brendan.

17 CONSTANTINE ALEXANDER: Andrea?

18 ANDREA HICKEY: I have no questions and I agree
19 with Jim and Brendan.

20 CONSTANTINE ALEXANDER: And Laura?

21 LAURA WERNICK: No questions.

22 CONSTANTINE ALEXANDER: Not a controversial case.

1 The Chair will now open this matter to public testimony.

2 Any members of the public who wish to speak should now click
3 the icon at the bottom of your Zoom screen that says, "Raise
4 hand." If you're calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6.

6 We'll take a few moments and see if anyone wishes to speak.

7 [Pause]

8 SISIA DAGLIAN: I don't see anyone.

9 I'm informed that no one wishes to speak. So I
10 will close public testimony. We can have a discussion or we
11 can take a vote.

12 BRENDAN SULLIVAN: Ready for a vote.

13 CONSTANTINE ALEXANDER: Brendan, you can go first.

14 BRENDAN SULLIVAN: I will vote to grant the --

15 CONSTANTINE ALEXANDER: I've got to make the
16 motion.

17 BRENDAN SULLIVAN: You're going to make the
18 motion.

19 JIM MONTEVERDE: Motion.

20 CONSTANTINE ALEXANDER: I always do this. I
21 always forget to make the motion. The Chair moves that we
22 make the following findings with regard to the relief being

1 sought:

2 That a literal enforcement of the provisions of
3 the ordinance would involve a substantial hardship, such
4 hardship being that a project which is noncontroversial for
5 the site complications developed on the approval process and
6 not to have the pergola at this point diminish the
7 desirability of the deck. It was previously approved.

8 That the hardship is owing to circumstances that
9 justified the granting of the deck itself, and no need to go
10 beyond that.

11 And that relief may be granted without substantial
12 detriment to the public good, or nullifying or substantially
13 derogating from the intent and purpose of this ordinance.

14 In this regard, the Chair would report that we
15 have numerous letters -- vigorous letters of support.
16 You're very -- I should tell the petitioner you're beloved
17 by your neighbors and you should feel good about that.

18 And so, there's not controversial that I can see.
19 No letters of opposition. You have approval from the
20 Cambridge Historical Society.

21 So on the basis of all of these findings, the
22 Chair moves that we grant the pergola they wish to be

1 erected on the condition that the work proceed in accordance
2 with the relevant provisions of a 21-page submission that
3 the petitioners made -- the first page of which has been
4 initialed by the Chair. Brendan?

5 BRENDAN SULLIVAN: Brendan Sullivan yes to
6 granting the variance to amend our original position.

7 CONSTANTINE ALEXANDER: Laura? Take you out of
8 order. Laura?

9 LAURA WERNICK: Wait a minute. I grant in favor
10 granting the variance.

11 CONSTANTINE ALEXANDER: Andrea?

12 ANDREA HICKEY: Yes, I vote in favor of granting
13 the request.

14 CONSTANTINE ALEXANDER: And Jim?

15 JIM MONTEVERDE: Jim Monteverde, I'm in favor of
16 granting the variance request.

17 CONSTANTINE ALEXANDER: And the Chair makes it
18 unanimous.

19 [All vote YES]

20 The relief granted. Good luck the second time.

21 JACKIE AND AARON KEMP: Thank you so much, thank
22 you very much.

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BRENDAN SULLIVAN: And we have five minutes.

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(7:10 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Jim Monteverde, and
Laura Wernick

CONSTANTINE ALEXANDER: The Chair will now call
Case Number -- do we have time?

BRENDAN SULLIVAN: No, five minutes.

CONSTANTINE ALEXANDER: Oh, we've got five
minutes. The next case is not scheduled for another five
minutes, so we'll take a brief recess, and we'll resume at
7:15.

[BREAK]

CONSTANTINE ALEXANDER: The TV screen says 7:15,
so it must be 7:15. The Chair will now call Case Number
107057 -- 158 Thorndike Street. Anyone here wish to be
heard on this matter?

KATE SKEBECZ: Hi. I'm Kate Skebecz with my
husband, Sam Murphy. We live at 158 Thorndike Street, and
we have our architect here with us tonight, Adam Glassman.

So I'm going to let him talk about the details of
the project. But I just want to talk about -- introduce us

1 and talk about who we are.

2 And so, we live here. We've lived in this house
3 since 2013 at the Workers Cottage in East Cambridge, which
4 we love.

5 But we have two children and the house is small.
6 It's about 1400 square feet, and right now that -- as our
7 family is -- you know, as our kids are growing -- we moved
8 in when they were very young and they're now a third-grader
9 and a seventh-grader and they're essentially sharing a room.

10 So it's like a -- you have to walk through one of
11 the kids' rooms to get into the other room.

12 So we're hoping to be able to expand our house in
13 order to add a third floor with an extra bedroom so that the
14 kids can have dedicated bedrooms and we can just have a more
15 functional space for our family so that we can stay here in
16 the neighborhood that we love in this house that we love.

17 And, you know, we're really hoping to preserve the
18 character of the house and keep the Workers Cottage style
19 but just make it more functional.

20 And so, I will turn it over to Adam to explain in
21 more detail about the plans.

22 CONSTANTINE ALEXANDER: Thank you. Does your

1 daughter want to add anything?

2 KATE SKEBECZ: No. I don't think so. Thank you.

3 CONSTANTINE ALEXANDER: Well, I think your
4 proposal is rather straightforward, and we'll get to the
5 legalities in a short while, and you made a very nice
6 presentation as to why relief is desirable and necessary
7 under your circumstances.

8 I also would point out now -- I'd usually do it a
9 little bit later -- that there are very substantial letters
10 of support from your neighbors.

11 But there's one that I do want to read into the
12 record. It's from Chen and Lisa Kahn, who live -- well,
13 I'll read the letter, it's very short.

14 "We own the adjoining property at 108 Seventh
15 Street. We wish them the best of luck with their
16 renovations, but to make sure the addition stays on the
17 correct side of the property line."

18 So please be sure to put it on the right side of
19 the property line. Otherwise, you'll have neighborhood
20 warfare.

21 CHEN KAHN: Yeah. We're not changing that.

22 CONSTANTINE ALEXANDER: And Legal might get

1 involved. But I'm sure Mr. Glaston will make sure that
2 doesn't happen. Brendan, any comments or questions you may
3 have?

4 BRENDAN SULLIVAN: No, I have no questions at this
5 point.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: Jim Monteverde no questions,
8 thank you.

9 CONSTANTINE ALEXANDER: Andrea?

10 ANDREA HICKEY: I have no questions, thank you.

11 CONSTANTINE ALEXANDER: And Laura?

12 LAURA WERNICK: I have no questions, thank you.

13 CONSTANTINE ALEXANDER: Okay. It is relatively
14 straightforward. I'll open the matter up to public
15 testimony. As I have already mentioned, we have a number of
16 letters of support, none in opposition, one qualified
17 support. I want to make sure where the building's going to
18 be located.

19 So I'll open the matter up to public comment. Any
20 members of the public who wish to speak should now click the
21 icon at the bottom of your Zoom screen that says, "Raise
22 hand." If you're calling in by phone, you can raise your

1 hand by pressing *9 and unmute or mute by pressing *6.

2 We'll take a few moments to see if anyone wishes to speak.

3 We do have someone.

4 SISIA DAGLIAN: Charles Hinds?

5 CONSTANTINE ALEXANDER: I'm sorry, sir?

6 CHARLES HINDS: Hi, my name is Charles Hinds. I'm
7 the current President of the East Cambridge Planning Team.
8 I'm here to speak briefly on my behalf. But Kate came to
9 us, and the room was absolutely thrilled with this project.
10 We thought it was one of the best projects we've seen in a
11 long time. And it's kept the historic character of the
12 building and made it usable for modern times.

13 And we think there's a true hardship here. The
14 family has outgrown the house. We'd rather not have another
15 family leave East Cambridge; we'd rather have the zoning
16 relief granted so they can stay here.

17 So briefly, we're in 100 percent support of
18 breaking barrier to the special permit.

19 CONSTANTINE ALEXANDER: Thank you for taking the
20 time to make that presentation. We also have it in writing
21 from you -- same support that you're expressing orally right
22 now. Thank you.

1 Anyone else? Sisia? That's it. No? No one else?
2 So I will close public testimony. Discussion, or should I
3 make a motion? And we're going to take a vote on that.

4 JIM MONTEVERDE: Ready for a motion.

5 CONSTANTINE ALEXANDER: Ready for a motion. The
6 Chair moves that we have at least confirmed -- okay, we have
7 two pieces of relief. We need a variance and a special
8 permit. The special permit is for the new and enlarged
9 window openings that are going to be within setbacks as a
10 result of the construction.

11 So I'll start with the variance. The Chair moves
12 that we make the following findings: That a literal
13 enforcement of the provisions of the ordinance would involve
14 a substantial hardship, such hardship being that this is a
15 very old Workers Cottage, or it used to be referred to as
16 that, and there's a need for additional living space at this
17 point in time in the history of the house.

18 That the hardship is owing to the fact that this
19 is already a nonconforming structure, and therefore any
20 modification to it requires zoning relief.

21 And that relief may be granted without substantial
22 detriment to the public good, or nullifying or substantially

1 derogating from the intent and purpose of this ordinance.

2 And with regard to this, the Chair would not, as
3 he already has, that the project seems to have unanimous
4 neighborhood support, as well as the support of the East
5 Cambridge Planning Team, which tends to be very involved in
6 matters like this and very rigid, or very -- they take the
7 job seriously. And so, their approval is something that's
8 not easily obtained.

9 So on the basis of all of these findings, the
10 Chair moves that we grant the variance that is requested on
11 the condition that the work proceed in accordance with plans
12 prepared by GCD Architects. They're dated January 20, 2021,
13 and the cover page of which has been initialed by the Chair.

14 Brendan, how do you vote?

15 BRENDAN SULLIVAN: Yes to granting the variance.

16 CONSTANTINE ALEXANDER: Jim!

17 JIM MONTEVERDE: Yes to granting the variance.

18 CONSTANTINE ALEXANDER: Thank you. Andrea?

19 ANDREA HICKEY: Andrea Hickey yes in favor of
20 granting the variance.

21 CONSTANTINE ALEXANDER: And Laura?

22 LAURA WERNICK: Laura Wernick yes to granting the

1 variance.

2 CONSTANTINE ALEXANDER: And the Chair votes yes as
3 well.

4 [All vote YES]

5 The variance is unanimous as granted.

6 Now let's turn to the special permit. As I've
7 indicated, a special permit is because of the change in the
8 window opening within setback, as a result of the projects
9 relating to the expansion of the structure.

10 And with regard to the special permit, the Chair
11 moves that we make the following findings: That the
12 requirements of the ordinance cannot be met unless we grant
13 the special permit with regard to these window openings.

14 That traffic generated or patterns of access or
15 egress resulting from the change of window openings will not
16 cause congestion, hazard, or substantial change in
17 established neighborhood character. In fact, the window
18 openings will not be visible from the street to the side or
19 the back of the buildings.

20 That the continued operation of or development of
21 adjacent uses, as permitted in the zoning ordinance, will
22 not be adversely affected by what is being proposed. In

1 this regard, we have received no letters or comments to the
2 effect that the change in window openings would adversely
3 affect the neighbor's property.

4 No nuisance or hazard will be created to the
5 detriment of the health, safety and/or welfare of the
6 occupant of the proposed use, or the citizens of the city.

7 And that generally, what is being proposed will
8 not impair the integrity of the district or adjoining
9 district, or otherwise derogate from the intent and purpose
10 of this ordinance. So on the basis of all of these
11 findings, the special permit with regard to the window
12 openings, I move that we grant the special permit with
13 regard to the window openings on the condition, again, that
14 the work proceed in accordance with plans we referred to
15 with regard to the granting of the variance.

16 BRENDAN SULLIVAN: Brendan Sullivan yes to
17 granting the special permit.

18 CONSTANTINE ALEXANDER: Jim?

19 JIM MONTEVERDE: Jim Monteverde yes to granting
20 the special permit.

21 CONSTANTINE ALEXANDER: Laura?

22 LAURA WERNICK: Laura Wernick yes to granting the

1 special permit.

2 CONSTANTINE ALEXANDER: And Andrea?

3 ANDREA HICKEY: Andrea Hickey yes to granting the
4 special permit.

5 CONSTANTINE ALEXANDER: The Chair votes yes as
6 well.

7 [All vote YES]

8 The special permit is granted, so both forms of
9 relief having granted. Good luck.

10 COLLECTIVE: Thank you.

11 CONSTANTINE ALEXANDER: Also, we have five minutes
12 before we call the next case, so we have another brief
13 recess.

14 [BREAK]

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2 (7:30 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Jim Monteverde, and
5 Laura Wernick

6 CONSTANTINE ALEXANDER: Okay. It's now 7:30, so
7 I'll call our next case. The Chair will call Case Number
8 106546 -- 1 Broadway. Anyone here wishing to be heard on
9 this matter?

10 TIMOTHY TWARDOWSKI: Yes. Thank you, Mr. Chairman
11 and members of the Board. Tim Twardowski from Robinson and
12 Cole in Boston representing the applicant, Verizon Wireless.
13 This matter before you is a request to modify an existing
14 wireless facility that was originally approved by the Board
15 in 2014, subsequently modified in 2016.

16 I believe the site plans and photo sims are in the
17 queues to make our conversation go a little more quickly and
18 provide context, if Staff can bring those up? So if you can
19 advance; okay, here we go.

20 So this is the subject property. The paper before
21 you, if you see the lower portion of the building, there is
22 a gray screen wall, which is the primary reason for this

1 request. This is an aluminum screen wall that was installed
2 by MIT in 2019, as part of some building renovations that
3 were undertaken by the building owner. Right for
4 aesthetics, good luck for MIT, but bad for radiofrequency
5 waves.

6 So in effect this screen wall has been blocking
7 the signal from Verizon Wireless's antennas behind that
8 screen wall.

9 So what you see to the left on the larger portion
10 of the building just above the green windows and below the
11 brown, the main portion of the building, are two false
12 enclosures. These are false column enclosures that we are
13 proposing to place our equipment and the remote radio heads.
14 The junction boxes and antennas would be moved from the roof
15 of the building to the right inside these false column
16 enclosures.

17 And this approach is similar to what was taken on
18 the other two antennas arrays on the side of the building
19 facing Third Street, and also, the rear of the building
20 facing Broad Canal Way. In each of those cases, our
21 equipment -- antennas, et cetera, are all enclosed within
22 false enclosures, which mimic the existing buildings, which

1 are painted and designed to match the façade of the
2 building.

3 So if we can move to the next slide?

4 You can see here a roof plan view. On the lower
5 portion of the building you see the three rooftop pieces of
6 machinery. The one to the far right that looks like a
7 rectangle with a triangle built inside of it just to the
8 front of that particular frame is where our antennas are
9 located. And that is the antenna array that is effectively
10 blocked by the screen wall.

11 Our other two arrays are on the façade facing
12 Third Street, and then the façade facing Broad Canal Way.

13 Next slide?

14 Okay. So this is an actual view facing north from
15 Broadway.

16 Next slide?

17 And so this shows what we -- the proposed false
18 column enclosures will look like. And these, again, will
19 house the antennas, remote radio heads and other equipment.

20 Next slide? No, that's on the other side. This
21 is the existing view, and this is now showing it with the
22 false enclosures.

1 Next slide?

2 Okay. So this is an actual view, again showing
3 the screen wall that -- once again -- is blocking our signal
4 from that particular antenna array.

5 Next slide?

6 This is a view from Third Street facing south to
7 the right. You can see the false fronts on the column
8 enclosures. There's actually a total of six false
9 enclosures, only two of which are actually hiding any of
10 Verizon Wireless's equipment. The other four are there to
11 match and make the façade look uniform, so there for
12 aesthetic purposes.

13 Also in that view you can see the smaller
14 enclosures facing Four Broad Canal way. Again, there's a
15 total of seven enclosures, five of which are housing Verizon
16 Wireless equipment, two of which are not.

17 Both of these arrays we're proposing to swap out
18 some existing antennas and other equipment, and then they
19 will be placed back behind the enclosures, which, as you can
20 see, are painted and colored to match the façade of the
21 building.

22 Next slide?

1 This is just showing that these effectively will
2 look exactly the same as they do now. The only thing that
3 will really change is the equipment on the main side of
4 these enclosures.

5 Next slide?

6 And I think this last slide is the -- no, this is
7 the roof plan. So if there are any questions in terms of
8 locations of equipment or what we're proposing to do, this
9 may be helpful. But otherwise, unless the Board has
10 specific questions, I will end my presentation and entertain
11 any questions from the Board or from the audience.

12 CONSTANTINE ALEXANDER: Questions from members of
13 the Board?

14 BRENDAN SULLIVAN: [Brendan Sullivan], I have no
15 questions, no.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: [Jim Monteverde], I have no
18 questions.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: [Andrea Hickey], I have no
21 questions.

22 CONSTANTINE ALEXANDER: And Laura?

1 LAURA WERNICK: [Laura Wernick], no questions.

2 CONSTANTINE ALEXANDER: The Chair has no questions
3 as well. So now I'll open the matter up to public
4 testimony. Any members of the public who wish to speak
5 should now click the icon at the bottom of your Zoom screen
6 that says, "Raise hand." If you're calling in by phone, you
7 can raise your hand by pressing *9 and unmute or mute by
8 pressing *6.

9 We'll take a few moments and see if anyone wishes
10 to speak.

11 [Pause]

12 Nothing. Okay. There apparently is no desire for
13 public comment. There are no letters in our files,
14 including any comments from the Planning Board. So with the
15 record we have before us, I will close all public
16 testimonies and move to discussion by Board members, if
17 there need be one.

18 BRENDAN SULLIVAN: Yeah [Brendan Sullivan], I'm
19 all set.

20 CONSTANTINE ALEXANDER: Okay. Well, rather than
21 going around, I assume everybody's all set? If not --

22 JIM MONTEVERDE: Correct.

1 CONSTANTINE ALEXANDER: Speak now.

2 JIM MONTEVERDE: Correct.

3 CONSTANTINE ALEXANDER: I'll make a motion, and
4 then we'll take a vote. This time I got it right. The
5 Chair moves that -- we've got to make a lot of findings, so
6 bear with me.

7 The Chair moves that this Board makes the
8 following findings:

9 That the requirements of this ordinance cannot be
10 met without obtaining the special permit that's being
11 sought.

12 That traffic generated or patterns of access or
13 egress resulting from what is proposed will not cause
14 congestion, hazard, or substantial change in established
15 neighborhood character.

16 In this regard, what is being proposed is modest
17 in nature, and is effectively disguised. If not, it doesn't
18 have -- unlike many cases we have -- telecommunications
19 equipment; it has virtually no visual impact on the
20 neighborhood.

21 That the continued operation of or development of
22 adjacent uses, as permitted in the zoning ordinance, will

1 not be adversely affected by what is proposed.

2 That no nuisance or hazard will be created to the
3 detriment of the health, safety and/or welfare of the
4 occupant of the proposed use, or the citizens of the city.

5 And generally, what is being proposed will not
6 impair the integrity of the district or adjoining district,
7 or otherwise derogate from the intent and purpose of this
8 ordinance.

9 And lastly, the Board also finds that the
10 modification of its existing telecommunications facility at
11 the site proposed by the petitioner does not substantially
12 change the physical dimensions of the existing wireless
13 tower or base station at such facility, within the meaning
14 of Section 5409a of the Middle Class Tax Relief and Job
15 Creation Act of 2012, also known as The Spectrum Act.

16 Based on these findings, the Chair moves that the
17 petitioner be granted the special permit it is seeking
18 subject to the following conditions:

19 One, that the work proceed in accordance with the
20 plans submitted by the petitioner, the first page of which
21 has been initialed by the Chair.

22 Two, that upon completion of the work, the

1 physical appearance and visual impact of the proposed work
2 will be consistent with the photo simulations submitted by
3 the petitioner, the first page of which, again, has been
4 initialed by the Chair.

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

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

15 Five, that the petitioner is in compliance with,
16 and will continue to be in compliance with, in all respects,
17 the conditions imposed by this Board with regard to previous
18 special permits granted to the petitioner with regard to the
19 site in question.

20 [Continuing] In as much as the health effects of
21 the transmission of electromagnetic energy waves is a matter
22 of ongoing societal concern and scientific study, the

1 special permit is also subject to the following conditions:

2 a) That the petitioner shall file with the
3 Inspectional Services Department each report it files with
4 the federal authorities regarding electromagnetic energy
5 waves emissions emitting from all of the petitioner's
6 equipment on the site.

7 Each such report shall be filed with the
8 Inspectional Services Department no later than 10 business
9 days after the report has been filed with the federal
10 authorities.

11 Failure to timely file any such reports with the
12 Inspectional Services Department shall ipso facto terminate
13 the special permit granted tonight.

14 b) That in the event that at any time federal
15 authorities notify the petitioner that its equipment on the
16 site, including but not limited to the special permit we're
17 granting tonight, fails to comply with the requirements of
18 law or governmental regulations -- whether with regard to
19 the emissions of electromagnetic energy waves or otherwise -
20 - the petitioner within 10 business days of receipt of such
21 notification of such failure, shall file with the
22 Inspectional Services Department a report disclosing in

1 reasonable detail that such failure has occurred, and the
2 basis for such claimed failure.

3 The special permit granted shall ipso facto
4 terminate if any of the petitioner's federal licenses is or
5 are suspended, revoked or terminated.

6 c) That to the extent that a special permit has
7 terminated, pursuant to the foregoing paragraphs a) and b),
8 the petitioner may apply through this Board for a new
9 special permit, provided that the public notice concerning
10 such application discloses in reasonable detail that the
11 application has been filed because of a termination of
12 special permit pursuant to paragraphs a) and b) that I've
13 already listed.

14 Any such new application shall not be deemed a
15 repetitive petition, and therefore will not be subject to
16 the two-year period during which repetitive petitions may
17 not be filed.

18 d) That within 10 business days after receipt of a
19 building permit for the installation of the equipment
20 subject to this petition, the petitioner shall file with the
21 Inspectional Services Department a sworn affidavit of the
22 person in charge of the installation of equipment by the

1 petitioner of the geographical area that includes Cambridge
2 stating that:

3 a) he or she has such responsibility, and

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

12 That's it. Brendan, how do you vote?

13 BRENDAN SULLIVAN: After all that, yes to grant
14 the variance.

15 CONSTANTINE ALEXANDER: Jim?

16 JIM MONTEVERDE: [Jim Monteverde], I vote in favor
17 of the special permit.

18 CONSTANTINE ALEXANDER: Thank you.

19 BRENDAN SULLIVAN: Yes, special permit.

20 CONSTANTINE ALEXANDER: Andrea?

21 ANDREA HICKEY: [Andrea Hickey], I vote yes in
22 favor of granting the special permit.

1 CONSTANTINE ALEXANDER: And Laura?

2 LAURA WERNICK: Laura Wernick yes in favor of
3 granting the special permit.

4 CONSTANTINE ALEXANDER: Thank you, and the Chair
5 will make it unanimous, I vote yes as well.

6 [All vote YES]

7 Special permit granted. Thank you. [We have
8 another minute before it's time to call the next case, so.]

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2 (7:45 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Jim Monteverde, and
5 Laura Wernick

6 CONSTANTINE ALEXANDER: Okay, the Chair will now
7 call Case Number 107421 -- 11 Gray Gardens East. Anyone
8 here wish to be heard on this matter?

9 JEFF ROBERTS: good evening Mr. Chair, it's James
10 Rafferty on behalf of the applicant, Thaddeus and Julianna
11 Davis. Mr. and Mrs. Davis are on the call as well. They
12 are joining us from the subject property, their home, where
13 they live with their children in West Cambridge.

14 And this is an application to allow for relief
15 from -- or provide for a reduction in the setback
16 requirement associated with an accessory structure.

17 The accessory structure in this case is a small
18 spa or pool. It's a 6 x 10 some might call it a hot tub or
19 as far as it's a -- it's something that is intended to be
20 used in the -- by the family in their back yard.

21 And part of the hardship here is that it is a very
22 unusual shaped lot. It is on a cul-de-sac. The rear yard

1 gets narrow at a 45-degree angle. If it's possible to take
2 a look from Ms. Daglian at the plan we submitted by Gene
3 (sic) -- that's perfect, thank you -- this image really
4 tells the whole story of the case quite effectively.

5 The spa that we're referring to is the blue
6 rectangle in the left-hand corner there. Its set back as an
7 accessory structure, is required to be five feet from the
8 rear and side lot line.

9 In this case, given the need to accommodate a
10 stairway coming out of the house, the spa is actually only
11 going to be three feet from that rear setback.

12 There is a six-foot fence along the rear property
13 line, and -- so the issues of privacy or impact on abutters
14 is quite narrow and limited. The way the house is oriented,
15 this really represents the only area of privacy that this
16 fixture could be located in.

17 It -- we've been over -- I've been over this issue
18 many times with the Building Commissioner as to what
19 qualifies it as a structure, or why it would be subjected to
20 the same requirements as accessory structures.

21 Often, the most typical accessory structure the
22 Board encounters is a garage, and those accessory structures

1 need to be five feet off the rear and side, and cannot be
2 greater than 15 feet in height, as I'm sure the Board is
3 aware.

4 In this case, as I said, the plans reveal that
5 this -- reveal on as far as only approximately 18 inches out
6 of the ground. It would be in a landscaped patio area, and
7 would fit nicely within the existing yard.

8 And the relief is to allow for a reduction that
9 setbacks were I2P.

10 It's also the case for accessory structures that
11 they need to be -- have extensive separation between the
12 structure and the principal structure. And in this case,
13 that also is not possible. So the relief on the dimensions
14 affects both the setbacks involving the rear abutter and the
15 10-foot separation between the principal structure and this
16 pool or spa. Thank you.

17 CONSTANTINE ALEXANDER: You talked in your
18 presentation and submission about privacy as a justification
19 for seeking the relief here. But of course privacy is not
20 what setbacks are all about. Can you -- putting privacy
21 aside for a second, can you locate the structure -- spa/pool
22 -- on the site without any zoning relief?

1 JEFF ROBERTS: I mean, theoretically it could go
2 in the -- I mean, I imagine it could fit in the front yard
3 of the house. That is correct. I am --

4 CONSTANTINE ALEXANDER: This is my problem -- and
5 this is probably only my problem -- setbacks are a big issue
6 in our zoning, because of the fact that this is a densely
7 settled city, and particularly the older portions of the
8 city setbacks often kill a project or alter the nature of a
9 project -- and it has nothing to do with privacy -- it's a
10 matter of that's the way the ordinance is written.

11 Here, the same ordinance applies. You can do it
12 somewhere else. Yes, you can't be as private as you might
13 like, but legally there's nothing in the variance
14 requirements that deal with privacy. I mean, what's the
15 hardship? What's the hardship owing to circumstances
16 relating to the soil conditions, shape or topography? I
17 just don't get it. I understand the non-legal reasons why.

18 JAMES RAFFERTY: Well, Mr. Chair, let me suggest
19 that I wouldn't concur with your assessment that privacy is
20 an irrelevant consideration to the Land Use Law. The whole
21 purpose of setbacks has to do with mass. Privacy is very
22 much a factor. That's why special permits are needed to put

1 windows in nonconforming walls; it's a direct function of
2 privacy.

3 Now in this case, the reason I noted the privacy
4 is because it's two feet closer to the rear setback. And I
5 think the issue for the Board to consider is what is the
6 impact of this spa being two feet closer to that rear
7 property line. Does it adversely affect the property
8 interest of the rear abutters?

9 What -- that two-foot requirement, there's a
10 reason accessory structures have a height limitation.
11 Because if they're allowed to be five feet within a rear or
12 side setback, it has an impact on how looming the structure
13 might be when it gets the benefit of that compromised
14 setback.

15 It's worth pointing out here that there is no
16 mass, there is no walls associated with this. This zoning
17 relief is subject to the same requirement if this was a
18 shed. If this was a shed or any other structure 10 feet
19 high, it would have a visual impact on the rear abutters.

20 It may even have a privacy impact on the rear
21 abutters, which I would contend has high relevance in terms
22 of assessing the impact of this and whether it has --

1 whether it derogates on the intent of the ordinance.

2 So the reason for the accessory -- the reason for
3 the modified setbacks for accessory structures is a
4 recognition that those structures are less impactful. So as
5 garage can be closer than a principal residence.

6 In this case, it may not be dispositive, the issue
7 of privacy, but I would contend it certainly has relevance.
8 And the Board looks at the shape of the lot.

9 These are features, these are pertinences that
10 ordinarily go in rear yards. It would be an unusual case to
11 have a spa of this nature in the front yard of a home. So
12 the applicants have come before the Board having now been
13 informed that what they're proposing is two feet too close.

14 So I suppose theoretically one could say, well,
15 and then if the -- if the spa was a bit not as long, if it
16 wasn't six foot by 10, but if it was six foot by eight, they
17 would make the five-foot setback. But unfortunately, the
18 manufacturer doesn't have a model of six foot by eight.

19 So I think the Board should focus on what the
20 impact is on this structure being two feet closer to the
21 rear abutters. Because the setbacks are there for the
22 protection of those abutters. And I think in this case it

1 cannot be said that there is an adverse impact.

2 So the two-foot differential here on something as
3 modest and small as this simply isn't going to derogate from
4 the intent of the ordinance, and what's intended by the
5 accessory structure reduced setback.

6 That's the case, and it has everything to do with
7 the size of the lot and the very unusual shape of that
8 narrow -- if you look in that rear yard, this is the most
9 expansive section of rear yard on the lot. So it's a
10 logical location to seek, to locate this spa.

11 CONSTANTINE ALEXANDER: I'm trying --

12 ANDREA HICKEY: I'm sorry, go ahead, Mr. Chair.

13 CONSTANTINE ALEXANDER: Oh, I'm sorry. Go ahead,
14 Andrea.

15 ANDREA HICKEY: Counselor, is there any reason why
16 the spa couldn't be sort of turned in the other direction to
17 sort of go --

18 JIM MONTEVERDE: Rotated 90 degrees?

19 ANDREA HICKEY: Exactly.

20 JIM MONTEVERDE: I think one of my -- they looked
21 at a number of alignments, and maybe Mr. and Mrs. Davis
22 might be permitted to respond to that?

1 THADDEUS DAVIS: It actually, it mostly -- thank
2 you, very much, everyone, by the way. It mostly -- that
3 orientation, and I agree with you, makes more sense to
4 consider it to be an east-west, the way that it comes out.
5 It has to do with the systems and mechanics and tying it in
6 to the electrical and gas needs. And that -- this
7 orientation is the easiest.

8 What has not been said yet is these are
9 prefabricated models. And so, we just mentioned the size
10 constraint and the limitations on the customization there.

11 But one thing that I think we should emphasize is
12 this project, ideally, is going to be very quick, and this
13 is the fastest method for it to have.

14 And our back abutter has been fantastic about it.
15 And no one has raised any concerns beyond what -- how long
16 the construction will be, really.

17 So this is to be the most expeditious. But I do
18 suppose we could explore a sort of east-west orientation as
19 well.

20 ANDREA HICKEY: Attorney Rafferty, if it was moved
21 90 degrees, would you still need relief?

22 JAMES RAFFERTY: It would from the 10-foot

1 separation requirement, but --

2 THADDEUS DAVIS: Either way --

3 JAMES RAFFERTY: Not from the rear setback, I
4 don't believe.

5 THADDEUS DAVIS: Correct.

6 LAURA WERNICK: I have a question to the Chair.

7 CONSTANTINE ALEXANDER: Go ahead, Laura.

8 LAURA WERNICK: Mr. Rafferty, if this was not a
9 spa, but simply a rain platform, a different layer for the
10 outdoor patio, would it still require the solid -- would it
11 require a --

12 JAMES RAFFERTY: Yes.

13 LAURA WERNICK: -- a --

14 JAMES RAFFERTY: No, it would not. And it's an
15 excellent analogy. I asked the Commissioner, "So if this
16 was a patio with a fire pit -- which are becoming
17 increasingly popular recently with people spending time
18 outside -- it would acknowledge that this same hardscape,
19 the same gathering could occur around the fire pit, and it
20 would not be subject to the setback requirement, because the
21 fire pit would not be considered a structure.

22 So this piece of equipment that comes 18 inches

1 out of the ground is being treated as a structure under the
2 terms of the zoning ordinance. And if you look at the
3 definition of structure, it's a little hard to think of it.

4 If it was a swing set, which could be right in
5 that location and engender even more activity, it would not
6 require zoning relief, because it would not be treated as a
7 structure.

8 If it was an aboveground pool that wasn't
9 permanent, but was one of those pools that are not in
10 ground, but above ground, it would not be treated as a
11 structure, nor would it require this. But because it is of
12 a configuration that it has plumbing and gas heating tied to
13 it, the inclusion by the Building Department has been that
14 it is a structure.

15 So it is not a conventional structure, it is not a
16 typical structure, and I think that factor as well suggests
17 that some relief from the requirement is in order when we're
18 dealing with less than conventional structures. This thing
19 is 18 inches out of the ground.

20 ANDREA HICKEY: And it does just seem a little odd
21 that we're concerned about the back yard setback; we don't
22 seem to be concerned about the adjacency to the home, and

1 that neither of those variance requirements really impact
2 anyone or anything. And it just seems like this is a very
3 legalistic issue that we're dealing with, rather than
4 something that has any impact on anyone or anything.

5 So the definition of what a structure is. And in
6 this case, the physicality of this is the only -- or the 18-
7 inch depth of it is the only thing that puts it into this
8 category.

9 Counselor, it would be helpful for me to visualize
10 what's on the other side of that fence, if you know.

11 JAMES RAFFERTY: Well, the Assessor's database,
12 which I believe is in there, shows -- I found this rather
13 coincidental for Cambridge -- is image #5. The property's -
14 - what was considered the former Massey (sic) home, which is
15 right in front here, has -- which is above, the front's on
16 Huron Avenue, those property owners have a swimming pool.

17 And the people two doors over -- the other side
18 and rear abutter -- they happen to enjoy a swimming pool as
19 well. I can't think of another neighborhood in Cambridge
20 where I've come across so many swimming pools.

21 So that's why I pointed out the privacy of the
22 fence ensures that the abutters who spend time in their back

1 yards and swimming pools do enjoy privacy that would not be
2 adversely affected by the introduction of this stock.

3 CONSTANTINE ALEXANDER: Laura, do you have any
4 follow up questions, or Andrea?

5 ANDREA HICKEY: Not at the moment.

6 JIM MONTEVERDE: This is Jim Monteverde, I have
7 one. Sisia, can you go back to slide one, please? This is
8 the follow up to other options on the property. So I see
9 that in the upper left-hand corner, that looks like the
10 drive-in and drive court --

11 COLLECTIVE: Yes.

12 JAMES RAFFERTY: That's the driveway off the --

13 JIM MONTEVERDE: -- at the top of the drawing it
14 looks like a --

15 JAMES RAFFERTY: Right.

16 JIM MONTEVERDE: And in the top that's a walkway,
17 pedestrian walkway. And then you take a right, and that's
18 the front door of the house?

19 JAMES RAFFERTY: Correct. As you pull in that
20 driveway, Mr. Monteverde, on the right is a two-car garage,
21 right there. This is located --

22 JIM MONTEVERDE: Oh, okay, yes. I got it.

1 JEFF ROBERTS: This is located behind the garage
2 and can be accessed easily right from the garage, and the
3 equipment associated with it can be stored in the garage.
4 And then --

5 JIM MONTEVERDE: Okay. And then -- yep. And if
6 you continue down that walkway past the entry, there's a
7 paved yard area?

8 THADDEUS DAVIS: There's a patio, correct. That's
9 correct.

10 JIM MONTEVERDE: Yeah, right. And then the
11 property extends further to the right, off page right?

12 THADDEUS DAVIS: It does.

13 JIM MONTEVERDE: Yep.

14 THADDEUS DAVIS: Approximately 20 feet or so?

15 JIM MONTEVERDE: Okay. And it -- just so not at
16 the front door, not at your front driveway, but is there an
17 opportunity to locate the spa in that -- toward the right?

18 THADDEUS DAVIS: We looked and carefully
19 considered that, and I will --

20 JIM MONTEVERDE: Yep.

21 THADDEUS DAVIS: -- say this; the systems of the
22 house are very closely oriented where this rendering has the

1 pool.

2 So the -- I mean I guess our goal here was to do
3 the combination of what the most sense from sort of a
4 privacy and that type of prospective, but also what was the
5 most efficient use of everybody -- the trains that needed to
6 come in and run various, you know, lines, and the other side
7 of the yard, which is much sort of more open, was much --
8 was considerably more difficult to do that.

9 JULIANNA DAVIS: Additionally, getting it to that
10 other side of the yard, with the particular company that
11 does the prefabricated pools is not possible. We considered
12 doing it there first, actually -- you know, even though we
13 prefer to do it where it was more private, but we considered
14 it there first, and the company is not capable of getting it
15 to that place.

16 JIM MONTEVERDE: Really?

17 JULIANNA DAVIS: Yes.

18 JIM MONTEVERDE: So how did they get it -- but
19 they can get into that location behind where you're
20 proposing?

21 THADDEUS DAVIS: This is -- it's a prefabricated
22 metal. I mean, I'm sorry --

1 JIM MONTEVERDE: Yeah, no, I saw the photos, yep.

2 THADDEUS DAVIS: It's very heavy, and the -- and
3 crane necessary to reach to our other yard, which would be
4 the --

5 JULIANNA DAVIS: Was impossible.

6 THADDEUS DAVIS: -- was very --

7 JIM MONTEVERDE: Yeah. No, no, I can see the
8 logistics of that.

9 JULIANNA DAVIS: Yeah. We contacted three crane
10 companies and got -- and they all said the same thing.

11 JIM MONTEVERDE: Yeah. And I'm sure the
12 helicopter was too expensive.

13 JULIANNA DAVIS: It was.

14 THADDEUS DAVIS: We actually looked at a
15 helicopter.

16 JULIANNA DAVIS: No.

17 THADDEUS DAVIS: The new Sikorsky would do it.

18 JIM MONTEVERDE: The Sikorsky would do it.

19 JULIANNA DAVIS: Yeah.

20 JIM MONTEVERDE: And looking at the plan again --
21 not that I want to beat this thing mercilessly --
22 but there's a stair that's modified that's extended. Again,

1 I'm just looking to find a way to either rotate your full 90
2 degrees to get it out of that setback --

3 THADDEUS DAVIS: Yeah.

4 JIM MONTEVERDE: -- or the other option. I see
5 the stair that is at the top of that pool plan. Is there a
6 way to relocate it so you could snug the pool in that inside
7 corner of your existing dwelling to get it out of the
8 setback and find another location for that stair down to the
9 patio area?

10 THADDEUS DAVIS: No. Well, to answer your
11 question in all honesty, not to get it out of the setback,
12 but we are accurately trying to figure out a way to skinny
13 that stair. So that's an important egress from our house.

14 We're trying to figure out how we might be able to
15 keep the pool a little bit underneath it. That's where our
16 filter is, and that's where some necessary mechanics are.

17 JIM MONTEVERDE: Mm-hm.

18 THADDEUS DAVIS: So we are assessing that. But
19 what we wanted to do is show kind of warts and all, this is
20 worst-case scenario. We are going to try once we get under
21 there to see if we can move it away from that back property
22 line.

1 JULIANNA DAVIS: Actually, we still have the issue
2 of it being not 10 feet from the house. So we have the --

3 THADDEUS DAVIS: Yeah.

4 JULIANNA DAVIS: -- two issues.

5 JIM MONTEVERDE: Right, but you have that either
6 way.

7 JULIANNA DAVIS: Right, correct.

8 THADDEUS DAVIS: Right, right, exactly.

9 JIM MONTEVERDE: You've got that either way. All
10 right. I can deal with that one I think easier, then the
11 sitting and the setback. So I'm just looking for those in
12 this location, those two opportunities -- rotated 90
13 degrees, or modify the stair, get rid of it so you can tuck
14 the pool up into that corner so you don't have to deal with
15 the setback issue --

16 THADDEUS DAVIS: Correct.

17 JIM MONTEVERDE: -- and yes, you may have to
18 rearrange plumbing or your egress from the house, but there
19 should be a way to enable that to happen with the pool in a
20 slightly revised location so you're out of the setback.

21 THADDEUS DAVIS: Mm-hm. Right.

22 JIM MONTEVERDE: So that's my comment. I would

1 just ask you to look at those, those two particular options
2 in that location and just make it work.

3 THADDEUS DAVIS: Yeah. And I would just offer
4 that because of the proximity to the fence line there, you
5 know, that makes for an awkward transition as we come around
6 the house, and we'd like as much space there as possible
7 too.

8 So we are well incentivized to create as much
9 space between the pool that -- you know, you think of an 18-
10 inch, you know, shin wrecker, this is that. So you want to
11 have a little bit of a lift there between that and the fence
12 line.

13 JULIANNA DAVIS: And we just figured if we needed
14 a variance anyway, we could consider --

15 THADDEUS DAVIS: Yeah, right, exactly.

16 JULIANNA DAVIS: If it's a deal killer, we would
17 rotate it 90 degrees.

18 JIM MONTEVERDE: Yeah. And I'm just looking for
19 the grounds to be able to support it. You know, what could
20 be modified that I could be in support of this proposal?

21 And I think at the moment it's just -- you know,
22 I'm trying to figure out a way -- it looks graphically like

1 there should be a way to be able to maintain this setback at
2 least by the -- as we said, either rotating the pool, and if
3 that's an option for you, then I would encourage you to
4 explore that route and suggest modifying this. That I could
5 support.

6 JAMES RAFFERTY: Mr. Chair, it's worth noting in
7 the exchange with Mr. Monteverde, it's helpful that the
8 relief does involve two components, and it seems like if the
9 Board were to evaluate this, it seems like there might be
10 more support for the 10-foot separation from the house than
11 for the relief, the two-foot relief being sought in the rear
12 setback.

13 And if that proved to be the case, I wouldn't want
14 the matter to go to a vote tonight from the Board, because -
15 - as you know -- if there was an adverse finding on the
16 application, it would affect the ability to explore the 10-
17 foot separation issue with a turned pool or a --

18 CONSTANTINE ALEXANDER: Mr. Rafferty, are you
19 suggesting that we sort of bifurcate or vote on part of this
20 proposal tonight? And continue the other part of the
21 proposal?

22 JAMES RAFFERTY: Well, I was trying to see whether

1 I was sensing that there may not be four votes for the
2 setback, given the fact that there is an as-of-right
3 alternative in the general area this far that would not
4 require relief from the five-foot setback.

5 And I was gathering from Mr. Monteverde's comments
6 that perhaps compliance with the rear setback might be
7 sufficient for his willingness to support the 10-foot
8 separation request. And I'm guessing that once that spa
9 gets turned, the 10 feet probably gets reduced to about five
10 feet.

11 So I'm trying to -- it's hard not to be able to
12 lean over to one client in this format and say, "You know,
13 we've got an option here you could continue. The Board
14 doesn't typically allow for alterations by hand at the
15 hearing.

16 So if the Board were -- if the applicants were to
17 follow the suggestion of Mr. Monteverde to explore the
18 different alignment of the pool, I'm guessing the view of
19 the Chair would be that that would warrant a continuance of
20 this case and the submission of a new drawing.

21 CONSTANTINE ALEXANDER: You're correct. And I
22 encourage that exploration. But I think we have to continue

1 the case tonight and hear more after you've gone through and
2 worked with these -- some of the things that have been
3 talked about tonight.

4 So why don't we just continue this case? I think
5 it's the safest way from your perspective, Mr. Rafferty.

6 JAMES RAFFERTY: No, I share that view and I
7 appreciate your candor. And I just -- I just want to be
8 able to express that to the Davises while we're discussing
9 it.

10 Continuing the case really seems to be the only
11 vehicle, because four members of the Board would have to
12 vote to sign the necessary hardship for this relief, and I
13 think I'm sensing that before there was support for that,
14 there would at least be an expectation that an alternative
15 alignment be explored.

16 CONSTANTINE ALEXANDER: Okay. How much time -- so
17 let's talk about continuing the case -- how much time would
18 you like to -- before we reconvene? And then we'll see
19 about the availability of the Board members and our calendar
20 as well?

21 JAMES RAFFERTY: It really comes down to the
22 Davises being able to tell me how long do they think it will

1 take Ms. Brook's (sic) office to generate a --

2 JULIANNA DAVIS: They already have it. We have it
3 already.

4 THADDEUS DAVIS: I think what we've tried to do
5 here is put the combination forward of the most realistic
6 scenario, which we actually hope would -- as I mentioned --
7 the worst-case scenario, we were hoping the setback would be
8 actually ultimately less than this once we got really into
9 the specifics of what's underneath those steps.

10 But this is the orientation of the people involved
11 have advised us is that is the best. And so, this was the
12 case that we felt was the most representative of what we
13 wanted to achieve.

14 JAMES RAFFERTY: No. We understand that. The
15 question is do you wish to continue the matter to present an
16 alternative?

17 CONSTANTINE ALEXANDER: And I'd -- I'm sorry to
18 interrupt, Mr. Rafferty -- you may not continue when you
19 come back and say, "There is no alternative that works for
20 us. We want to go ahead with the project and take the
21 vote." But I think your case -- as Mr. Rafferty correctly
22 has assessed this, taking a vote tonight would be very

1 risky.

2 And I think it's -- I personally think, I'm not
3 your counsel -- it's worth the while to take the time and to
4 further explore this, taking into account what Mr. Rafferty
5 and other members of the Board have said.

6 THADDEUS DAVIS: Yeah.

7 LAURA WERNICK: Mr. Davis, could you -- or, could
8 you just clarify something for me? Are you -- do you feel
9 that there's a question if you did turn the pool 90 degrees
10 there's a possibility that could not work with the
11 installer? You're not confident that it will work?

12 THADDEUS DAVIS: The installer in tandem with the
13 landscape architect came up with this orientation. And we -
14 - in all fairness, we had oriented it the other way to begin
15 with. And this was their preferred orientation.
16 Accommodation of cost access and really kind of -- the way
17 that they wanted the pool oriented. And so, that's why we
18 were --

19 LAURA WERNICK: We live in a, you know, an
20 electronic time and I don't know if this makes any sense to
21 any party, but perhaps the Board might consider if you feel
22 you could go ahead with the other alternative and you have

1 it in hand, you could get autographs and scans sent to us,
2 and the Chair could conceivably sign that plan, and there
3 wouldn't have to be a continuance. I'm just offering that
4 as a possibility.

5 THADDEUS DAVIS: Yeah. Well, is that -- like, we
6 could do that this very minute type thing?

7 LAURA WERNICK: That's what I'm asking the Chair
8 if that would be acceptable?

9 THADDEUS DAVIS: We do have those renderings, and
10 we have had them assessed for feasibility, and we've gotten
11 signoff on it. This was our preferred avenue, as I said,
12 but we do have the other renderings. And I think we would
13 be willing to accept that.

14 I don't want to put a big gross, aboveground hot
15 tub back there. I was trying to do something that was
16 slightly more serene and calm and frankly nicer.

17 But we're thinking -- you know, now I sort of feel
18 -- I don't -- so it's a strange place we find ourselves in.

19 LAURA WERNICK: Maybe we're taking the two weeks
20 to think about it?

21 THADDEUS DAVIS: Yeah. I don't know if I can scan
22 this.

1 LAURA WERNICK: You can e-mail it to somebody, if
2 that helps?

3 JIM MONTEVERDE: Yeah. Photograph it, e-mail it,
4 I don't know.

5 CONSTANTINE ALEXANDER: I'm not sure --

6 JULIANNA DAVIS: And who should I send it to?

7 CONSTANTINE ALEXANDER: I don't think this is a
8 useful discussion right now. If you've got these other
9 plans, you're giving them to us on the spot, let's sit down,
10 take however long -- we'll figure out how long you need to
11 do that, come back with a new presentation that shows those
12 plans, if you want to, or other alternatives. Now, I'm not
13 going to do make -- on the fly. I don't want to vote on the
14 fly on these alternatives, I'm sorry.

15 JAMES RAFFERTY: I understand, Mr. Chair.

16 CONSTANTINE ALEXANDER: I'm sorry.

17 JAMES RAFFERTY: I think the answer is that we
18 would -- it appears that the applicants would be able to
19 come back as soon as the Board's schedule would permit their
20 return, since it appears they already have the plans
21 necessary. So we wouldn't need any time in preparation, it
22 would just be a question of how soon the five members could

1 assemble for it?

2 CONSTANTINE ALEXANDER: All right. Let's start --
3 fine. Sisia, if we want to do it on March 25, which is the
4 very next hearing --

5 SISIA DAGLIAN: Yeah, we already have three cases.

6 CONSTANTINE ALEXANDER: We have three cases?

7 SISIA DAGLIAN: April 8? Yeah, April 8 we could
8 do.

9 CONSTANTINE ALEXANDER: April 8 is the quickest?

10 SISIA DAGLIAN: Correct, yeah.

11 CONSTANTINE ALEXANDER: That's the date that
12 accommodates our schedule. I have to deal with the other
13 Board members to make it on April 8. That's what we're
14 looking at. So let me just ask that question before you
15 answer.

16 BRENDAN SULLIVAN: [Brendan Sullivan], I'm
17 available on the eighth.

18 CONSTANTINE ALEXANDER: Brendan's available. I'm
19 available.

20 JIM MONTEVERDE: Jim Monteverde's available.

21 CONSTANTINE ALEXANDER: Laura?

22 ANDREA HICKEY: Andrea -- I'm sorry, Laura, go

1 ahead.

2 LAURA WERNICK: I'm available as well.

3 CONSTANTINE ALEXANDER: We're all available, so we

4 --

5 ANDREA HICKEY: And Andrea Hickey. I'm available.

6 CONSTANTINE ALEXANDER: -- until 7:00 p.m. on

7 April 8.

8 JIM MONTEVERDE: There we go.

9 CONSTANTINE ALEXANDER: If that's -- should I make
10 the motion, Mr. Rafferty?

11 JAMES RAFFERTY: Yes, please. I'm looking at my
12 clients, and I think since that's the earliest the Board can
13 have us back, I think we'd appreciate that, and that will
14 give us time to review this and get a submission in, in
15 adequate time.

16 CONSTANTINE ALEXANDER: Okay. Well, time for a
17 motion then. The Chair moves that we continue this case as
18 a case heard until 7:00 p.m. on April 8, subject to the
19 following conditions, all of which are well known to Mr.
20 Rafferty:

21 First, that the petitioner must sign a waiver of
22 time for a decision -- well, Mr. Rafferty can explain is a

1 standard form. However, this waiver must be signed no later
2 than 5:00 p.m. on a week from Monday. If not, then the case
3 will be dismissed.

4 Second, the new posting sign, assuming there's no
5 winds this time -- a new posting sign must be put up for the
6 14 days prior to April 8, and maintained for those 14 days.

7 And last, to the extent there are new drawings,
8 plans, what have you, which I think there may be, those must
9 be in our files no later than 5:00 p.m. on the Monday before
10 April 8. Brendan, how do you vote?

11 BRENDAN SULLIVAN: Yes to the continuance.

12 CONSTANTINE ALEXANDER: Brendan votes yes.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: Jim Monteverde yes to the
15 continuance.

16 CONSTANTINE ALEXANDER: Andrea?

17 ANDREA HICKEY: Andrea Hickey yes to the
18 continuance.

19 CONSTANTINE ALEXANDER: Laura?

20 LAURA WERNICK: Laura Wernick yes to the
21 continuance.

22 CONSTANTINE ALEXANDER: And the Chair votes yes as

1 well.

2 [All vote YES]

3 Case continued until April 8 at 7:00 p.m. Thank
4 you.

5 JAMES RAFFERTY: Thank you very much.

6 THADDEUS DAVIS: Thank you. Have a good night.

7 CONSTANTINE ALEXANDER: Goodnight.

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2 (8:18 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Jim Monteverde, and
5 Laura Wernick

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 107327 -- 156 Hamilton Street. Anyone here
8 wishing to speak on this matter?

9 LISA D'ALMEDIA: Hi, yes. I am one of the
10 homeowners, Lisa D'Almeida.

11 CONSTANTINE ALEXANDER: Bonjour.

12 JOE ARTLEY: And I am Joe Artley. I am the
13 Architect for the project.

14 LISA D'ALMEDIA: I guess I'll start. We are
15 applying for a special permit for a window that is within
16 the rear setback of the property, but will be further into
17 the setback of the property.

18 Our current kitchen, the first floor, extends out
19 further than the second floor. So we're hoping to do an
20 addition on the second floor just to where the kitchen's
21 vertical line is. And the existing window would then be
22 further into the setback.

1 CONSTANTINE ALEXANDER: Okay. Short but sweet.
2 The relief you're seeking is not that momentous.

3 LISA D'ALMEDIA: Yes.

4 CONSTANTINE ALEXANDER: I mean, -- I don't mean
5 critical, I mean not as complicated as some other cases we
6 hear.

7 LISA D'ALMEDIA: Yep.

8 CONSTANTINE ALEXANDER: Questions from members of
9 the Board?

10 BRENDAN SULLIVAN: [Brendan Sullivan], no
11 questions.

12 CONSTANTINE ALEXANDER: Jim?

13 JIM MONTEVERDE: [Jim Monteverde], no questions.

14 CONSTANTINE ALEXANDER: Andrea?

15 ANDREA HICKEY: I have no questions.

16 CONSTANTINE ALEXANDER: Laura?

17 LAURA WERNICK: No questions.

18 CONSTANTINE ALEXANDER: And Laura, I've got to
19 apologize to you. I have you last on the list, but I'm not
20 --

21 LAURA WERNICK: I don't take it personally, and
22 being --

1 CONSTANTINE ALEXANDER: -- that's what Brendan
2 said.

3 LAURA WERNICK: -- I always, I'm a W, a Wernick,
4 so I always think I'm at the end of the line alpha blocker
5 anyway. I'm used to it.

6 BRENDAN SULLIVAN: I was going to say, Laura, the
7 Ws and the Ss are always sort of at the end anyhow, so --

8 LAURA WERNICK: Right, right.

9 CONSTANTINE ALEXANDER: Okay. Now I'll open the
10 matter up to public testimony. Any members of the public
11 who wish to speak should now click the icon at the bottom of
12 your Zoom screen that says, "Raise hand."

13 If you're calling in by phone, you can raise your
14 hand by pressing *9 and unmute or mute by pressing *6. I'll
15 wait a few moments to see if anyone wishes to speak. anym

16 [Pause]

17 Nope?

18 SISIA DAGLIAN: I'm not seeing anyone.

19 CONSTANTINE ALEXANDER: No one wishes to comment,
20 so I'll close public testimony. I would mention that we are
21 in receipt of a number of letters, all of which are
22 generally neighbors -- all of which are in support of the

1 relief being sought.

2 So with that, I will close public testimony. Are
3 we ready for a vote, or make a motion?

4 BRENDAN SULLIVAN: Ready for a vote.

5 CONSTANTINE ALEXANDER: Okay. One second. This
6 is a case for a special permit. So the Chair moves that we
7 make the following findings with regard to the special
8 permit that's being sought:

9 That the requirements of the ordinance cannot be
10 met unless we grant special permit. That traffic generated
11 or patterns of access or egress resulting from the window
12 change will not cause congestion, hazard, or substantial
13 change in established neighborhood character.

14 That the continued operation of or development of
15 adjacent uses, as permitted in the zoning ordinance, will
16 not be adversely affected by the window proposal.

17 In this regard, the Chair would note that that is
18 a concern of our Board and of the ordinance about privacy --
19 impact on privacy, with windows that are being relocated and
20 so it looks less advantageous position, but also to
21 neighboring structures.

22 And we have received no comment that any neighbors

1 are concerned about their privacy being invaded by what is
2 being proposed.

3 That no nuisance or hazard will be created to the
4 detriment of the health, safety and/or welfare of the
5 occupant of the proposed use, or the citizens of the city.

6 And generally, what is being proposed will not
7 impair the integrity of the district or adjoining district,
8 or otherwise derogate from the intent and purpose of this
9 ordinance.

10 So on the basis of all these findings, the Chair
11 moves that we grant the special permit requested on the
12 condition that the work proceed in accordance with a page of
13 the plans prepared by Joseph F. Artley, A-r-t-l-e-y -- we
14 have a date here -- yeah, dated January 29, January 21,
15 January 29, 2021. And that page has been initialed by the
16 Chair.

17 Brendan?

18 BRENDAN SULLIVAN: Yes to granting the special
19 permit.

20 CONSTANTINE ALEXANDER: Jim?

21 JIM MONTEVERDE: And Jim Monteverde yes to
22 granting the special permit.

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Andrea Hickey yes to granting the
3 comprehensive permit.

4 CONSTANTINE ALEXANDER: Laura?

5 LAURA WERNICK: Laura Wernick yes to granting the
6 special permit.

7 CONSTANTINE ALEXANDER: And the Chairman votes yes
8 as well.

9 [All vote YES]

10 Special permit granted. Good luck.

11 COLLECTIVE: Thank you very much.

12 JIM MONTEVERDE: Joe, nice to see you. Hope all
13 is well.

14 JAMES RAFFERTY: It's nice to see you too, Jim.

15 JIM MONTEVERDE: Yeah. Take care.

16 BRENDAN SULLIVAN: Five-minute break?

17 CONSTANTINE ALEXANDER: Okay, we have one more
18 case, but we want to take a 10-minute recess. So it is now
19 8:25, we'll resume at 8:35.

20 [BREAK]

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(8:35 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Jim Monteverde, and
Laura Wernick

CONSTANTINE ALEXANDER: We're can open the case,
but let me just frame it a little bit. You're talking about
taking a -- dilapidated to be sure -- three-family house.
You want to put seven units in there and one-bedroom, well
they're one-bedroom units. You're increasing the congestion
on the property.

Not increasing any of the parking, so there's
still going to only be one parking space. You're reducing
the setback -- not by a significant amount, but you're doing
that -- you're reducing the amount of open space, and at
least one neighbor has raised the question about zoning
relief for height -- I don't propose to answer that now.

And we have a number of letters of opposition from
the neighborhood. You've got a big -- you've got a long way
to go. I don't know how you're going to get there in terms
of getting the relief you want.

I'm -- the reason I say all this is the following:

1 We can go ahead with this case and you may get relief, the
2 relief you're seeking, but you may get turned down. Or you
3 may decide after the discussion you need to rethink what
4 you're doing. If you do that, postponing the case will be
5 significant.

6 And, if you get turned down, you can't come back
7 before us for a year, unless you have a much different
8 proposing from which you're proposing tonight.

9 And in there you've got to go through a whole
10 procedure where you've got to go there the Planning Board,
11 you've got to go before us.

12 And if after we decide it's a different project
13 than what you originally proposed, then we hear the case
14 again.

15 I tell you all of this because if we continue this
16 case tonight without hearing it, we can schedule it to be
17 heard or reheard in relatively short time, assuming that
18 you're ready to do that, sometime after April 8; probably
19 April 15 or thereabouts.

20 Or you can go ahead and roll the dice. If you
21 will and run the risk that you may be out of luck for two
22 years. So, that's what I wanted you to be aware of before

1 we went down and started hearing this case.

2 HUDSON SANTANA: Sure. Do I have permission to
3 speak?

4 CONSTANTINE ALEXANDER: I'm sorry?

5 HUDSON SANTANA: Do I have permission to speak?

6 CONSTANTINE ALEXANDER: Of course you do.

7 HUDSON SANTANA: Yeah? Okay. Thank you very
8 much. Yeah, so first of all, again, I'm a former Cambridge
9 resident, but I still am a property owner and a business
10 owner in Cambridge, and I have been for the last 10 years.

11 The main reason why we went in this direction with
12 this property, knowing that it's been dilapidated, but it
13 was after actually having meetings with the direct abutters
14 of this property, and hearing their -- you know, not
15 necessary request, but -- they really wanted to see smaller
16 units in there in order to benefit, you know, the type of
17 people that they were looking to move into the area.

18 And I am also looking to move my business into the
19 property.

20 So as far as our goal and the direction we went,
21 it's because the direct abutters were -- all of them that I
22 spoke with were in favor of this project. So I wasn't aware

1 of any that was not in favor. So I'm hearing this now.

2 It's unfortunate, but I wasn't aware that people were not --

3 CONSTANTINE ALEXANDER: Again, the purpose of my
4 doing this right now --

5 HUDSON SANTANA: Yeah, so -- yeah, mm-hm --

6 CONSTANTINE ALEXANDER: -- maybe I should say
7 likely goal is going to be you're going to have problems
8 with getting the project moving.

9 HUDSON SANTANA: Sure.

10 CONSTANTINE ALEXANDER: You can do it better if
11 you continue the case, maybe have a neighborhood meeting --
12 just not abutters -- because there are a number of neighbors
13 who are opposed.

14 HUDSON SANTANA: We have -- we've mailed this
15 plan, and we've -- again, to all the people that we could
16 send it to, and we made our phones and address available
17 prior to applying for this permit, and we did not hear from
18 any of the neighbors.

19 So as far as, you know, we did -- we did try that,
20 and just as you understand that we were dealing with COVID
21 and everything else.

22 So, again, I'm happy to pursue a deeper

1 neighborhood -- what I would love to understand at least is
2 what it is that the Board would like to see in this
3 property? Because the direct comment that I got -- I
4 received from the abutters is that they were hoping that
5 whatever we did had to do with smaller units.

6 And they seem very pleased with what we proposed,
7 and this presentation was after their comments and their,
8 you know, edits to the plans.

9 CONSTANTINE ALEXANDER: All we would do as a
10 Board, the Board of Zoning Appeals --

11 HUDSON SANTANA: Mm-hm.

12 CONSTANTINE ALEXANDER: -- would pass upon what
13 you're proposing.

14 HUDSON SANTANA: Yep.

15 CONSTANTINE ALEXANDER: We would -- you know, we
16 would vote it up or down, or based upon this discussion we
17 have with you, we could decide to maybe have a modified
18 plan, because I'm hearing opposition from Board members, and
19 in addition to the neighborhood opposition.

20 HUDSON SANTANA: Sure.

21 CONSTANTINE ALEXANDER: That means if we did that,
22 which is fine, it's up to you, but if we did that, we'd have

1 to maybe rehear the case farther down the road than if you
2 don't vote that way this time.

3 In other words, if you think you can -- I don't
4 want -- won't work, if you think you can get your thoughts
5 together and if you want to roll the dice, then the quickest
6 way to do this is to continue the case.

7 But you can come back before us probably in about
8 two months from now. If you don't, then you really are
9 rolling the dice, and as I've trying to suggest to you that
10 you've got a big -- the odds are not in your favor in my
11 opinion.

12 And that's -- I don't speak for the whole Board.
13 You can do it, it's up to you, but I think it's fair to let
14 you know what the alternatives are, what the situation is.

15 With regard to the letters of opposition, by the
16 way, I'm sure you were surprised by them. So tomorrow
17 morning or go online and get them. See who's opposing and
18 why, and see whether, "That's a lot of hogwash, "I'm just
19 going to ahead with what I proposed," fine. Or you could
20 say, "Wait a minute, there's people who are raising some
21 issues I maybe should have thought about some more. Maybe I
22 need to revise my plans."

1 That's all. I'm just trying to make it as fair as
2 possible for you. I don't want any undue surprises. But
3 I've got to start -- end up where I started. You're asking
4 for a lot of relief.

5 DAN ANDERSON: Mr. Chair, if I may? Dan Anderson
6 from Anderson Porter Design -- I think likely Mr. Santana is
7 going to look at those letters carefully, and that we'll ask
8 for a continuance, but if it wouldn't be too much trouble, I
9 would like to hear what some of the members of the Board
10 feel about this in terms of any thoughts or objections that
11 might be presented based on this.

12 Certainly, this is a tight lot. It is, you know,
13 obviously has some upper limits because of its dimensional
14 C2B requirements. We're not exceeding the lot area per
15 dwelling unit, we're not exceeding the FAR, we really are
16 looking at talking about predominantly site setbacks,
17 although I would be interested -- certainly the conversation
18 today with the Commissioner about the head house indicated
19 that you might consider that as an increase in height,
20 because it accesses roof decks.

21 But I certainly would very much appreciate hearing
22 very briefly from members of the Board, just to prepare

1 ourselves in that case that we continue this case?

2 CONSTANTINE ALEXANDER: What I was explaining
3 tonight -- I'm -- that if we get into a reason for why Board
4 Members don't want to think there's a problem, that's going
5 to cause what we call a "case heard."

6 And that means at the end of the discussion, to
7 continue the case, we've got to find a date that all five of
8 us who are here tonight will be available.

9 DAN ANDERSON: Understood.

10 CONSTANTINE ALEXANDER: I'm not sure when that
11 will be. If we don't, if we don't -- we just plain continue
12 the case, any five members can hear the case on the date we
13 continue it to. So you don't have the -- you know,
14 potential delay. I can't give you a definitive answer, I
15 can only give you the framework and things to consider.

16 DAN ANDERSON: Understood. That clarification
17 helps considerably. Hudson, did you follow that?

18 HUDSON SANTANA: I appreciate those comments. I
19 honestly -- again, I would rather hear from the members of
20 the Board and be able to come back two months when you are
21 available, and actually present you something that is going
22 to be in the direction or in the lines that you're looking

1 for. Because, again, we basically made these plans in the
2 direction of what the abutters were asking for.

3 And again, we did not exceed the number of units
4 or -- you know, I believe the only height increase was the
5 roof decks, which could be easily eliminated. Again, the
6 abutters were happy to actually see that.

7 So I would prefer to hear from the members of the
8 Board, and if I have to wait two months, at least be able to
9 come back prepared and, you know, and follow your
10 instructions.

11 CONSTANTINE ALEXANDER: This has become a case
12 heard. And I'll start, although no reason why I have to
13 start. I've already -- I'm sure you --

14 JIM MONTEVERDE: Mr. Chair, this is Jim
15 Monteverde. I'm having a tough time hearing you. I don't
16 know if you can get close to your speaker, or the
17 microphone? Yeah, thanks.

18 CONSTANTINE ALEXANDER: I'm sorry, the microphone
19 was off for a second.

20 JIM MONTEVERDE: Thank you! **

21 CONSTANTINE ALEXANDER: I apologize. What I was
22 about to say is I've got a lot of problems -- personally --

1 with the members of the Board -- a lot of problems with what
2 you're proposing. Seven units is a lot for this structure.
3 You're going from three units to seven without any increase
4 in parking. That's a big problem for me.

5 Roof decks would be -- I think you're saying
6 you're abandoning it; roof decks would be -- I think you're
7 saying you're abandoning it -- roof decks would be a no goal
8 for me.

9 I don't like the strengthening of the open space.
10 I don't like the fact that you're doing a lot to the setback
11 -- you're changing setbacks, it's just in my mind too big a
12 project for what you have.

13 I'm willing, I would be -- look with favor upon --
14 not favor, but I would consider four units, going from three
15 to four; maybe five, I don't know, I'd have to see with a
16 little more facts; not seven. That's my view.

17 Brendan, you want to offer anything?

18 BRENDAN SULLIVAN: Yeah. Again, I have -- been
19 living with this thing for the last two weeks since the last
20 hearing.

21 At any rate, I know where you come up with the
22 seven units, and you've got 600 square feet per unit, you've

1 got 4400 square feet on the lot, so you said, "Oh, 6 x 7 is
2 42, so I'm allowed seven units." That's only one factor.
3 That's only one number that you then have to comply with all
4 the setbacks, the parking requirements and so on and so
5 forth.

6 So to come in and I read your pleadings, and it
7 says that you are "allowed" -- you know, allowable gross
8 building area and dwelling units. No, you're not. Because
9 you cannot comply with all of the other requirements.

10 That's only one factor -- the lot area per
11 dwelling unit. Setbacks, parking, and so on and so forth,
12 once you start factoring all of that, then you realize that
13 you can't support seven units in there.

14 As the Chair says, it is a huge ask. I think you
15 just bought the property back in January?

16 HUDSON SANTANA: Yep.

17 BRENDAN SULLIVAN: So your intent when you bought
18 the property was, "Oh, here I am, I've got a four-unit
19 building. I -- the numbers tell me I can put seven units,
20 so I'm going to do seven units." The previous building, was
21 it rental or was it condo?

22 HUDSON SANTANA: Rental.

1 BRENDAN SULLIVAN: And what is you proposed use?

2 HUDSON SANTANA: My goal is to move my business to
3 the --

4 BRENDAN SULLIVAN: Condo or rental? Very simple,
5 condo or rental?

6 HUDSON SANTANA: My goal is rental. My goal is
7 rental, yes.

8 BRENDAN SULLIVAN: All right. I mean, I would not
9 support this project as presented tonight.

10 HUDSON SANTANA: Okay.

11 BRENDAN SULLIVAN: And I don't see how -- any way
12 that you could talk it that I could connect the dots on it.
13 I read the pleading. The big thing is the legal hardship.
14 And you're saying that you have a 40-foot-wide lot, it's
15 narrow, I get that.

16 But what makes your lot unique to the size, shape
17 and topography as to the general area and the other narrow
18 lots in the area? There is nothing unique about yours.
19 Different size?

20 Potentially maybe a little better one way or the
21 other, but your site has to be unique, in that the hardship
22 has to be inherent with the lot, so that anybody who buys

1 this is going to have a hardship. Potentially, somebody
2 could have bought that four-unit building, rehabbed it, and
3 still made it a worthwhile project.

4 I think what you wanted to do is maximize the
5 potential here. That's not what we're all about is
6 maximizing it. I don't care really whether you make \$1 or
7 \$1 million dollars on the thing. The whole idea is how is
8 this going to affect the surrounding neighbors? So I would
9 not support this the way it's presented.

10 CONSTANTINE ALEXANDER: Dan, it's up to you, you
11 want to offer any comments?

12 DAN ANDERSON: Certainly, I would, Mr. Chair.
13 Thank you. So Mr. Sullivan, yes, I think that the intention
14 here was not strictly to maximize this, nor taking just the
15 lot area per dwelling unit as the critical factors here.

16 And I'm not sure if I have the answer to the
17 uniqueness of the lot, but quite honestly the 40-foot width,
18 anytime you apply any lot, any setback requirement to it, it
19 doesn't comply. It is -- just because of the nature of C2B,
20 you end up with really problematic issues on the setbacks.

21 So you -- in order to look at this from any --
22 really any financial perspective other than straight

1 renovation and no addition whatsoever, this becomes very,
2 very problematic. We live in a time when, you know --

3 BRENDAN SULLIVAN: But you know, Mr. Anderson, he
4 just bought the property. So --

5 DAN ANDERSON: Sure.

6 BRENDAN SULLIVAN: -- if he made a bad business
7 decision, he paid \$1. -- whatever it was for the property,
8 and what can you do with the property as of right, or
9 without having to come down and get relief from the Zoning
10 Board to pay for either enhance the investment, augment the
11 investment, or -- you know, I don't want to lose money on
12 this thing.

13 So at some point there was a business decision.
14 "I can pay \$1. -- whatever it is for the property, the
15 criteria -- " and again, paid for it supposedly market in
16 the condition it was in " -- what can I do with this
17 property that I've just paid for that with some renovations
18 that I can do as-of-right without having to come down before
19 the Zoning Board to bail me out?"

20 DAN ANDERSON: No, thank you very much. I
21 appreciate that clarification. We looked -- went through
22 that exercise together. My point really was that parking,

1 particularly because of the request of the neighbors to not
2 only address parking, but because there's a public lot
3 immediately adjacent, because Union Square is a transit
4 entity, because the -- sorry, because Inman Square is a
5 transit, and because the Green Line Extension is on its way,
6 there are a lot of transportation related reasons that would
7 lead us to say that a reduction in parking by special permit
8 would be a reasonable thing to request.

9 And essentially, we went at this understanding
10 that there would be variances, but on -- following Mr.
11 Santana's outreach to the neighborhood, there was from
12 everyone he contacted unanimous support for seeing this
13 having additional units.

14 So, you know, it's a reasonable piece to come and
15 put it in front of you. So I appreciate your candor in what
16 are objections in your mind, and I just wanted to respond
17 saying that it wasn't strictly a push to maximize this, but
18 rather really was looked at in combination with the
19 immediate abutters. So that was all I wanted to respond to.

20 CONSTANTINE ALEXANDER: Thank you. Jim, do you
21 want to speak or not?

22 JIM MONTEVERDE: Yeah, I do. This is Jim

1 Monteverde. So I agree with the comments that Brendan and -
2 - well, I share the sentiments that Brendan and the Chair
3 voiced. I also had some concerns about the modifications on
4 the street side of the building.

5 I believe you take out the staircase that there's
6 now going up to the entrance to the apartments, you put one
7 staircase up, one staircase down into the basement
8 apartment, you want to build out -- fill in part of that I
9 think it's a little porch that exists now, the steps go up
10 to.

11 I kind of -- problematic in filling out that
12 profile up to the street edge, and then frankly introducing
13 two staircases, one up, one down -- especially the one down
14 to the basement. Doesn't seem to be in keeping with the
15 neighborhood or a desirable feature.

16 HUDSON SANTANA: Okay.

17 JIM MONTEVERDE: When you modify that, when you
18 take that stair off of the Springfield Street side, which I
19 believe currently it appears acts as the entry to those
20 apartments, and you put it off of the service drive side of
21 the building, the side of the building: The service drive if
22 I read your drawings correctly is 9 and a half feet wide.

1 And I believe that's access for all the commercial
2 space, the various commercial entities along Cambridge
3 Street and parking for those entities as well?

4 HUDSON SANTANA: No, it's not parking for those.
5 I'm sorry, I apologize. It's not parking -- they don't have
6 parking; they have access there.

7 JIM MONTEVERDE: Would you like to see a
8 photograph of the cars that are there every day? So I take
9 your point, but I just say that the -- what I've seen
10 walking by, there are vehicles parked along the back of that
11 -- the, all of the commercial spaces. It's full of
12 vehicles.

13 If it means entrance and exit for service vehicles
14 to serve the back of those commercial spaces, it just puts -
15 - once you put the pedestrian entry to your building to the
16 seven residences along that service alley, to me it just
17 seems to be a dangerous item. It's not wide enough to have
18 a separate pedestrian path and then a vehicular lane.

19 So you're forcing people to walk in the vehicular
20 lane, either for your own parking -- and again, as I believe
21 people park in there now.

22 I'd like you to explain, I couldn't follow. I

1 understand how you sit in -- the lot sits in two zoning
2 districts; the Business District or Springfield Street, I
3 believe, and then the residential and back. Am I correct?

4 DAN ANDERSON: So this is Dan Anderson. Jim, no,
5 this is strictly a Business A district, but the dimensional
6 falls to C2B, because of the residential use. But it is --

7 JIM MONTEVERDE: Oh, okay. Okay, that clears it
8 up. Because my question then was if it affects it, and
9 looking at the zoning map, it looked like it fell into two
10 zones. And then it was kind of -- I wanted you to walk me
11 through how you get the additional floor.

12 Again, I tend to agree with the Commissioner's
13 sense of the penthouse where a doghouse going up to the roof
14 decks is counting as a floor, so I think that would be
15 problematic.

16 So in addition to the comments that the Chair gave
17 you and that Mr. Sullivan gave you, those are my other
18 thoughts about the pieces that I'm just not comfortable with
19 at the moment.

20 HUDSON SANTANA: Can I -- this is Hudson Santana
21 again -- just to clarify, and I appreciate all of your
22 comments -- so this side entrance, again, there is an

1 easement for this property.

2 So these commercial buildings don't have the right
3 to park any vehicles there. It is an easement. So again, I
4 just recently bought this property, so I'm not aware of it.

5 But my question to you is -- because, again my
6 goal of hearing your comments to give come back with
7 something that can be doable. Are you suggesting that we
8 should not have an entrance there whatsoever, and really
9 just keeping the entrance in the front, is that what you'd
10 like to see?

11 JIM MONTEVERDE: This is Jim Monteverde. Not that
12 I would like to see, I'm just saying right now you have a
13 shared easement, which I agree is just for passageway,
14 correct?

15 HUDSON SANTANA: Yeah, yes.

16 JIM MONTEVERDE: I don't think other commercial
17 spaces on Cambridge Street park in that shared easement.
18 They park off that easement behind their own property.

19 But that means it's not only your four vehicles,
20 but it's whatever vehicles come from those commercial spaces
21 that park next to their buildings come up and down that
22 drive. And at 9.5 foot wide, that doesn't strike me as wide

1 enough for a dedicated pedestrian passageway --

2 HUDSON SANTANA: Yep.

3 JIM MONTEVERDE: -- and for a vehicle lane, which
4 to me is just a safety issue. I don't want to have to walk
5 down there or with my stroller and my kids while cars are
6 coming up and down. So that was my point there.

7 HUDSON SANTANA: I appreciate your clarifying
8 that. I --

9 JIM MONTEVERDE: Yeah, thank you.

10 DAN ANDERSON: Mr. Monteverde, if I might -- I'm
11 not sure if you spend any time looking at the existing site
12 plan, but if it would be possible just to look at the site
13 survey -- not our proposed, but the Civil Survey Plan,
14 second sheet I believe on the -- yeah, there we go. So do
15 you see at the back of that nine-foot-wide access easement
16 there's a set of steps?

17 JIM MONTEVERDE: Yep. No, I know.

18 DAN ANDERSON: And landing?

19 JIM MONTEVERDE: Yep.

20 DAN ANDERSON: So while I do very much appreciate
21 the challenges of shared access, vehicle and pedestrian, we
22 are talking about -- you know, not a street but it's a

1 drive. So it's very low speed. And really I think we were
2 making every effort to sort of really improve on the
3 existing condition.

4 So I think what a lot of these tenants and
5 business owners were looking for in the rear was really a
6 vastly improved internal lot experience. So that while yes,
7 vehicles need to come in and out of there, people are coming
8 in and out of there regularly. They certainly are doing
9 that now.

10 Granted, we're saying that there's going to be --
11 you know, four additional units, but it was also part of the
12 reason for providing those up/down stairs so that not
13 necessarily every unit needed to use that side entry.

14 But, you know, we were taking into account a lot
15 of really problematic things that were in place existing.
16 And to the Chair's point of increasing setbacks -- and yours
17 -- yes, we were proposing to come out a little bit more in
18 the front yard, and I think proposing three feet additional
19 at the rear.

20 But we were also suggesting to remove on the left-
21 side setback a kind of funky stair addition and things, and
22 we're keeping the property even closer to the property line

1 than it needed to be.

2 So there's some improvement of the setbacks, not
3 just extension of existing ones. So I just wanted to point
4 out that we were really trying to take into consideration
5 really improvements on this. Because what I'm seeing is a
6 lot that's fairly difficult to improve on at the moment.

7 JIM MONTEVERDE: I take your point, and yes I did
8 see the drawings, what you've removed from the existing
9 building. But my comments still remain about being
10 concerned about, you know, pushing the building out further
11 to the street. Introducing the staircase down I think is
12 out of character with the street.

13 DAN ANDERSON: Understood.

14 JIM MONTEVERDE: And I understand your comment
15 about improving the access easement, but, again, it's an
16 access easement. It's vehicle movement, and it's not where
17 I'd want to enter my apartment or have my mother have to
18 walk down in, you know, where it's -- even if it's slow-
19 moving vehicles coming and going.

20 DAN ANDERSON: Okay, thank you.

21 JIM MONTEVERDE: So my comments still remain.

22 DAN ANDERSON: Thank you.

1 JIM MONTEVERDE: Yeah.

2 CONSTANTINE ALEXANDER: Andrea, did you want to
3 add a comment? Or it's up to you.

4 ANDREA HICKEY: I'm sorry, who are you asking?

5 CONSTANTINE ALEXANDER: Yeah, I was going to say
6 do you want to add to the conversation about what you think
7 about the plans we have before us tonight or not? It's up
8 to you.

9 ANDREA HICKEY: Just briefly, I can't really add
10 any new comments. My trouble with this petition as
11 originally presented is it's way too big an ask. So too
12 many units, too few parking spaces, taking away from open
13 space, and roof decks and decks in general above grade I
14 have an issue with.

15 So those are my comments. There's no way I would
16 support this current initial petition. That's all I have.

17 HUDSON SANTANA: Andrea, if you don't mind me
18 asking -- this is Hudson Santana again -- when you're
19 referring to that, I got the point clearly on the roof deck,
20 are you saying that you're opposed to the overhanging, like
21 little back deck? Like the porches? Is that what you're
22 referring to as well?

1 ANDREA HICKEY: Well, definitely the roof decks.
2 The overhang decks, tell me a little bit about the
3 dimensions of those?

4 DAN ANDERSON: Sure. They're approximately 3 x --
5 the smaller ones on the side are about 3 x 6. And where
6 they're in the front, it's over the bay, so I think that
7 it's -- again, 3.5 x I want to say by 12, if memory serves.

8 ANDREA HICKEY: So if there were fewer units, I'd
9 have less of a problem with those decks. With seven units,
10 I have a big problem with all of them.

11 DAN ANDERSON: Thank you. If I may, certainly
12 we're looking at this with COVID eyes, certainly saying that
13 for multiple units on a lot that granted does not have a lot
14 of green space to begin with, we do hit the zoning minimum.

15 Although we are reducing it we are staying within
16 the guidelines. You know, every effort was made to be able
17 to provide units to have some form of outdoor space, which
18 is really desirable.

19 And I guess the only comment that I have about
20 more smaller units is despite the let's call it whether this
21 lot is over densified or not is really an issue about, you
22 know, the number of available units in the city. I mean,

1 this was an ongoing conversation about do we have fewer
2 larger units, or do we have more smaller units.

3 And there's -- I'm not saying I have an answer to
4 that, but I'm throwing it out there to say that there are
5 other reasons for thinking about doing more.

6 And again, it may not be in the end the
7 appropriate one here, but we were responding specifically to
8 neighbor requests, who we saw Inman Square being a
9 beneficiary of having more, smaller units. So just wanted
10 to add that in.

11 ANDREA HICKEY: Thank you very much. That's all I
12 have.

13 CONSTANTINE ALEXANDER: Laura, is there anything
14 you want to add or not?

15 LAURA WERNICK: No, no, I don't have anything to
16 add beyond what others have said.

17 CONSTANTINE ALEXANDER: Okay.

18 HUDSON SANTANA: Can I ask one other questions for
19 the Board members and just --

20 CONSTANTINE ALEXANDER: One more, and that's it.

21 HUDSON SANTANA: Yeah, thank you. I appreciate
22 all of the feedback. Again, my only other question is, do

1 you have any concerns as far as the -- were you hoping or
2 looking for a specific type of look of the exterior of the
3 building? I heard a couple --

4 CONSTANTINE ALEXANDER: We can't answer that. We
5 can't answer that.

6 HUDSON SANTANA: No?

7 CONSTANTINE ALEXANDER: You decide and you come
8 before us. Or you can do some research about what we've
9 approved in past cases. I do want to add, though, one thing
10 for your benefit, or your information. Roof decks are not -
11 - I don't know where you ended up with the Commissioner on
12 the proposed roof deck.

13 We generally do not look with favor on roof decks.
14 So I think that's going to be a problem, if you look through
15 it.

16 Number 2, one of the -- one of the persons who
17 wrote a letter of objection -- a very good one, by the way -
18 - and I urge you or your representatives to go to the file
19 for this case and see the letters that have been written,
20 particularly the ones -- obviously, the ones that are
21 opposed, and you'll get more feedback, like you're getting
22 from us right now.

1 But a question has been raised about height of one
2 of them, and I think maybe by the Commissioner as well -- as
3 to whether what you're proposing violates the height
4 requirements or the restrictions of our ordinance. If it
5 does, then that's another variance you need to get from us.

6 And I can tell you that based on past practice,
7 we're not very predisposed to grant height variances,
8 particularly in a structure like this. So if you -- you
9 better get that resolved with the Commissioner, and if he
10 thinks you've got a height -- you need a variance for
11 height, you can try. It's up to you. But -- or you can
12 revise your plan. I want to leave you with that as well.

13 Okay, time to continue the case. What's the first
14 -- well what would you like? Let me start with you? How
15 quickly would you -- or not so quickly -- would you like to
16 have this case postponed to? We can note it -- we can
17 postpone it to midApril, or we can do it later. What would
18 you like?

19 SISIA DAGLIAN: It has to be later.

20 HUDSON SANTANA: I mean, I would say that midApril
21 would be ideal for us. I can work with the neighbors.

22 SISIA DAGLIAN: We don't have --

1 CONSTANTINE ALEXANDER: We don't have --

2 SISIA DAGLIAN: -- no, we have --

3 CONSTANTINE ALEXANDER: -- I'm being told that we
4 don't have -- may not have a ruling in April.

5 SISIA DAGLIAN: May 13 is the first day.

6 CONSTANTINE ALEXANDER: May 13?

7 SISIA DAGLIAN: Mm-hm.

8 CONSTANTINE ALEXANDER: May 13 is the date,
9 presuming by the way that all the members of the Board are
10 available on May 13. I'll find out in a second. May 13
11 would be the date, 7:00 p.m.

12 HUDSON SANTANA: Okay.

13 CONSTANTINE ALEXANDER: Brendan, are you available
14 May 13?

15 BRENDAN SULLIVAN: I am available.

16 CONSTANTINE ALEXANDER: He is. Jim?

17 [Pause]

18 Jim Monteverde?

19 JIM MONTEVERDE: [Jim Monteverde], yes I'm
20 available.

21 CONSTANTINE ALEXANDER: Okay. Andrea?

22 ANDREA HICKEY: Yes, I'm available.

1 JIM MONTEVERDE: Yes, this is Jim Monteverde, I'm
2 available.

3 CONSTANTINE ALEXANDER: I got it. Okay. And
4 Laura?

5 LAURA WERNICK: Yes, I'm available.

6 CONSTANTINE ALEXANDER: And the Chair is
7 available. So we can continue this case until 7:00 p.m. on
8 May 13. So I'm going to make a motion to that effect, and
9 everything else that goes along with it.

10 The Chair moves that this case be continued as a
11 case heard until 7:00 p.m. on May 13, subject to the
12 following conditions, and listen carefully:

13 First, we must sign a waiver of time for a
14 decision. Otherwise, relief would be granted automatically,
15 and we would not let that happen, so we would turn you down
16 automatically.

17 You must sign a waiver, which is a standard form
18 that the city uses, no tricks, nothing. But that waiver
19 must be signed and returned to Inspectional Services no
20 later than 5:00 p.m. on a week from Monday. If that's not
21 done by that time, the case will be automatically dismissed
22 and you'll have to wait two years or whatever before you can

1 come back. That's condition Number 1.

2 Condition Number 2: These are standard for all of
3 our continued cases, by the way. I'm not making these up
4 just for you.

5 And Number 2 is that the posting sign, which is
6 maintained for tonight's hearing, we need to get a new one,
7 or you could take the old one and modify it with a magic
8 marker and select the new date, May 13; new time 7:00 p.m.
9 And that sign must be maintained for the 14 days prior to
10 the May 13 hearing, just as is done with the sign for
11 tonight.

12 And then last, to the extent that -- I think it
13 will be true -- you're going to present to us modified
14 plans, new plans, dimensional forms, drawings, schematics,
15 whatever: They must be in our files no later than 5:00 p.m.
16 on the Monday before May 13. If that is not done, or it's
17 late, we will not hear the case on May 13, we'll continue it
18 further, which I don't think is what you want. Those are
19 the three conditions.

20 Brendan, how do you vote?

21 BRENDAN SULLIVAN: Brendan Sullivan yes to the
22 continuance.

1 CONSTANTINE ALEXANDER: Jim?

2 JIM MONTEVERDE: And Jim Monteverde yes to the
3 continuance.

4 CONSTANTINE ALEXANDER: Andrea?

5 ANDREA HICKEY: Andrea Hickey yes to the
6 continuance.

7 CONSTANTINE ALEXANDER: Laura?

8 LAURA WERNICK: Laura Wernick yes to the
9 continuance.

10 CONSTANTINE ALEXANDER: I'm sorry?

11 LAURA WERNICK: Yes to the continuance.

12 CONSTANTINE ALEXANDER: Okay. And I vote yes as
13 well.

14 [All vote YES]

15 So this case is continued until May 13. Thank you
16 all.

17 COLLECTIVE: Thank you.

18 DAN ANDERSON: If I need to clarify those dates,
19 can I do that now, or shall I do that at a later date? If I
20 understand correctly, one week from Monday is March 22, is
21 that correct?

22 SISIA DAGLIAN: For the waiver.

1 CONSTANTINE ALEXANDER: Yeah.

2 DAN ANDERSON: The waiver?

3 CONSTANTINE ALEXANDER: You've got the right date.

4 DAN ANDERSON: And 05/10 is the date for the
5 modified plans?

6 SISIA DAGLIAN: Um-- --

7 CONSTANTINE ALEXANDER: The modified plans is --
8 whatever the Monday before May 13.

9 SISIA DAGLIAN: That's correct. It's the tenth.

10 DAN ANDERSON: The tenth. Thank you for that
11 clarification. Mr. Chair, thank you very much. Thank you
12 to the Board.

13 CONSTANTINE ALEXANDER: Thank you.

14 DAN ANDERSON: Have a good evening.

15 CONSTANTINE ALEXANDER: And with that, I think we
16 can adjourn our meeting. Goodnight!

17 JIM MONTEVERDE: Goodnight all.

18 COLLECTIVE: Goodnight.

19 JIM MONTEVERDE: Goodbye. Andrea, I've got to
20 borrow some of your books someday.

21 [09:11 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

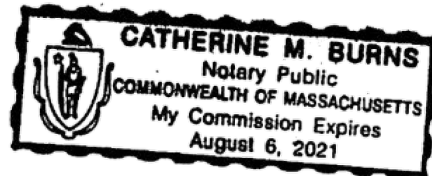
In witness whereof, I have hereunto set my hand this 18th day of March, 2021.



Notary Public

My commission expires:

August 6, 2021



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