

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 10, 2013

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case #10232: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to start with continued cases. The first case I'm going to call is case No. 10232, 1 Matignon Road.

Is there anyone here wishing to be heard on that?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

The Chair will report that we are in receipt of a letter, the Board is, a letter from Anderson -- the law firm of Anderson and Kreiger, K-r-e-i-g-e-r, dated September 10th, addressed to this Board, signed by Ryan D. Pace, P-a-c-e. (Reading) Dear Board of

Zoning Appeal: I am writing on behalf of my client Ecole Internationale de Boston, International School of Boston, Inc., to withdraw the school's pending application in case No. 10232 for a one, a Special Permit for the redistribution of the approved enrollment figures of the school to reflect the construction for a proposed new building. And two, a Variance for an increase in the permitted maximum floor to area ratio for said new building. On behalf of my client, I thank the Board of Zoning Appeal for its consideration and attention to this matter.

The Chair moves that we accept the request for withdrawal on this case.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Hughes, Sullivan,
Scott, Green.)

* * * * *

(7:05 p.m.)

(Sitting Members Case #10496: Constantine
Alexander, Timothy Hughes, Brendan Sullivan,

Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10496, 126-5 Oxford Street.

Mr. Bram.

ATTORNEY ANDREW BRAM: We were here a few weeks ago on rebuilding this townhouse and increasing the floor area. My client has now decided that he's going to go with the other plan which is to simply A, frame the roof. It answers the question that Brendan had about this doesn't increase the floor area, and as such, only because it's an alteration, the conforming alteration to a non-conforming structure, it requires a Special Permit. But Ranjit has advised us that we have to withdraw this case and re-file for a Special Permit. So that's the request tonight is to withdraw this case.

CONSTANTINE ALEXANDER: Withdraw and not continue?

ATTORNEY ANDREW BRAM: It's not a Variance.

SEAN O'GRADY: Continue.

ATTORNEY ANDREW BRAM: I'm fine with continuing it, but it's going to be a Special Permit is a newly filed case.

CONSTANTINE ALEXANDER: If you withdraw it, you may run into repetitive petition.

ATTORNEY ANDREW BRAM: I ask to withdraw without prejudice.

TIMOTHY HUGHES: There's no such thing. Sorry.

CONSTANTINE ALEXANDER: You can't do that. There's no such thing under Ordinance. Our Ordinance doesn't allow you to do that. What we usually do is continue

the case --

ATTORNEY ANDREW BRAM: Glad I came.
I will make my motion to continue the case.

BRENDAN SULLIVAN: We would have
continued it --

CONSTANTINE ALEXANDER: Anyway.

ATTORNEY ANDREW BRAM: Thank you.

BRENDAN SULLIVAN: -- knowing the
pitfall.

ATTORNEY ANDREW BRAM: Thank you.

CONSTANTINE ALEXANDER: Do you have
any idea when you're going to file your
application for the Special Permit?

ATTORNEY ANDREW BRAM: Very soon.
Because we'd like to get on with
construction. So I expect it will be filed
within the next ten days probably, maybe
sooner. The plans are already done.

SEAN O'GRADY: Okay, I'm going to

put you on 12/5 then, because I think that that's when you're going to be heard if you file in the next few days.

CONSTANTINE ALEXANDER: We want to pick a date that's safe.

ATTORNEY ANDREW BRAM: I appreciate that.

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this motion for a continuance?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

Unless there are comments from the members of the Board, I'm going to move that we continue, we further continue this case until seven p.m. on December 5th; is that right, Sean?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: December 5th. On the conditions that or condition that the sign that's posted up there be further modified to reflect the new date and the new time. And that the revised sign be maintained for the period of time required by our Ordinance. You have -- this is a case heard. You've already signed a waiver of time for decision. And to the extent on this continued case, you want to submit new plans, that they be in the file no later than five p.m. on the Monday before.

ATTORNEY ANDREW BRAM: Thank you.

CONSTANTINE ALEXANDER: All those in favor of continuing the case, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

See you in December, not earlier.

ATTORNEY ANDREW BRAM: Later on
tonight.

(Alexander, Hughes, Sullivan,
Scott, Green.)

* * * * *

(7:10 p.m.)

(Sitting Members Case #10483: Constantine

Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair is going to call case No. 10483, 4 Central Square.

Is there anyone here wishing to be heard on this matter?

ATTORNEY BERNARD GOLDBERG: Thank you, Mr. Chairman, members of the Board. Bernard Goldberg, 620 Massachusetts Avenue, Cambridge. On my right is....

NITIN KUMAR PATEL: Nitin Kumar Patel, N-i-t-i-n K-u-m-a-r P-a-t-e-l.

ATTORNEY BERNARD GOLDBERG: Mr. Chairman, if I may?

CONSTANTINE ALEXANDER: Excuse me, one second. This is in the wrong file.

SEAN O'GRADY: I was just looking for that.

CONSTANTINE ALEXANDER: I'm sorry, Mr. Goldberg, go ahead.

ATTORNEY BERNARD GOLDBERG: That's okay.

We were here perhaps a month, month and a half ago at which time there was concern with regard to the physical portion of the store itself that was to be used by Nitin Patel for storage. It was suggested by the Board that we take a look around and see what was available. I know that we went over to the S&S and then we made some other visitations to Todesco's and they had pictures in the window as well. Of course our site is very small. And we did approach the Cambridge Artists Association and they accepted us. They had a hearing and then suddenly they decided that this is not was in their purview. As a result of which Nitin

has done extraordinary work, I do believe, by going to Fast Signs of which he has presented to the Board pictures of the suggested picture to hang from the window as well as being lit up. The signs themselves, some of them they're old signs that he obtained.

CONSTANTINE ALEXANDER: He has four.

ATTORNEY BERNARD GOLDBERG: There are four there.

CONSTANTINE ALEXANDER: Is the idea it's going to be one of those four?

ATTORNEY BERNARD GOLDBERG: One of those.

NITIN KUMAR PATEL: No --

ATTORNEY BERNARD GOLDBERG: Hold on.

One of those may be suggested and appreciated by the Board. There are other

signs that we have and we're going to, if those are not satisfactory, we have other signs that will depict either the old Cambridge or the new Cambridge. I have a sign here that was not submitted previously.

NITIN KUMAR PATEL: Because after I realized this idea and then I contact the Cambridge Historical Commission. So from there then I find some more picture, but it was too late to submit to you guys. So we thought like better we bring it if some of those idea out of that if you want to consider something new from this sign, so it might --

CONSTANTINE ALEXANDER: You're asking us to make a choice? You don't have a recommendation of your own?

NITIN KUMAR PATEL: No, our own, our own things I want to put the sign and at the same time I want to convey the message to

community that's keep the Cambridge clean. So that's why we bring that symbol, and it's saying here like keep the Cambridge clean. So on top of picture we want to put the symbol also and that's way, like, we can convey the message to community also because every time everyone looking, they gonna get some message because now recycle and green things going on. So we come to that idea.

CONSTANTINE ALEXANDER: I'm sorry, I'm just not following. The keep Cambridge clean, is that on that picture there?

ATTORNEY BERNARD GOLDBERG: Yes.

CONSTANTINE ALEXANDER: Can we see that?

NITIN KUMAR PATEL: Yes.

CONSTANTINE ALEXANDER: Even though it's not --

BRENDAN SULLIVAN: You see it here,

too.

CONSTANTINE ALEXANDER: Oh, it's here? Okay, I'm sorry.

NITIN KUMAR PATEL: Yes.

CONSTANTINE ALEXANDER: All right.

NITIN KUMAR PATEL: Like those symbol we want to use in any of the picture --

CONSTANTINE ALEXANDER: So whatever the four pictures that are in here --

NITIN KUMAR PATEL: Yes.

CONSTANTINE ALEXANDER: -- you're going to put this somewhere in the lower left-hand corner or somewhere.

NITIN KUMAR PATEL: Yes.

CONSTANTINE ALEXANDER: Okay. These are actually on the pictures.

Does the Board have any preference on which of the four or do we leave it to the --

BRENDAN SULLIVAN: It's a huge improvement, maybe I have generated this. It was a huge improvement. What I did not want to see is just putting up a curtain or brown paper or something like that. I didn't want somebody to look into and see a storage area, too. That is enormously welcoming to me anyway. I think that's exactly -- it's better than what I thought to be honest with you. It was a direction that I was hoping you would go at least to give something there.

NITIN KUMAR PATEL: Yeah, because before I came to my mind, like, if I put my store picture or something, that not going to convey the message to people. Rather than that --

BRENDAN SULLIVAN: Right. That's wonderful.

CONSTANTINE ALEXANDER: That's

fine.

BRENDAN SULLIVAN: That's fine.

CONSTANTINE ALEXANDER: From my perspective, we'll leave it back to you. Any of those four that you like for, would be fine with me.

NITIN KUMAR PATEL: And even if the Chairman wants, we can show more historical paper, picture, and if you would suggest we can do that.

BRENDAN SULLIVAN: I won't make it any more complicated than it is.

JANET GREEN: Is that this one?

NITIN KUMAR PATEL: That's first preference also. And then after Historical Commission we get some more pictures.

JANET GREEN: I really like this one.

THOMAS SCOTT: It's Central Square.

JANET GREEN: It is.

CONSTANTINE ALEXANDER: Should we require it then?

THOMAS SCOTT: We don't have to.

JANET GREEN: We can express it. Express a preference.

CONSTANTINE ALEXANDER: I agree with you.

TIMOTHY HUGHES: It's requiring a picture, but I don't care what picture.

ATTORNEY BERNARD GOLDBERG: This here, Mr. Chairman and members of the Board, is the new structure that is presently existing there. That's the old structure.

NITIN KUMAR PATEL: I got it from Historical Commission, yeah.

ATTORNEY BERNARD GOLDBERG: We were thinking of combining the two of them together if that's at all possible rather

than confusing, but nonetheless if that is --

JANET GREEN: Let me see this one.

CONSTANTINE ALEXANDER: We've got a
wealth of riches here all of a sudden.

I still like this one.

JANET GREEN: Yes, I still like that
one better.

CONSTANTINE ALEXANDER:
Mr. Goldberg, you mentioned something about
lighting. What's your plans?

ATTORNEY BERNARD GOLDBERG: Well,
it's going to be lit from the rear and depict
over the sidewalk if you will.

CONSTANTINE ALEXANDER: So in other
words inside?

ATTORNEY BERNARD GOLDBERG: Yes.

CONSTANTINE ALEXANDER: What hours?

NITIN KUMAR PATEL: We have three
option:

They said like directly they could put from inside window as every night. So like it lighting a little bit looks like lighting.

Other way they say like we can hang on ceiling on ball. The second one they say are -- option 3 like different media with decal mounted from inside of window facing out. So these three options.

CONSTANTINE ALEXANDER: So the lighting will be run 24 hours -- not 24 hours.

NITIN KUMAR PATEL: Right now we are not putting lighting. Right now the design company say they want to directly put on window as every night from inside, so we don't need to put the lighting. But if you suggest, then no problem, we can put the lighting and it will remain 24 hours.

CONSTANTINE ALEXANDER: Do members of the Board have a preference?

JANET GREEN: Is there any advantage to having a light on that street 24 hours a day? I mean, it's not a residential area, right?

ATTORNEY BERNARD GOLDBERG: It will show it off more.

CONSTANTINE ALEXANDER: It will show it off more. It's a bit of a dark street.

JANET GREEN: It is a dark street.

CONSTANTINE ALEXANDER: It's a little bit of a safety factor than anything else.

TIMOTHY HUGHES: It wouldn't hurt to have a little light.

JANET GREEN: It wouldn't hurt to have a little light.

THOMAS SCOTT: Is there a bus stop there, too?

CONSTANTINE ALEXANDER: It's around the corner. The bus stop is around the corner?

NITIN KUMAR PATEL: Yes, bus stop around the corner.

CONSTANTINE ALEXANDER: It's a back street. It's really a dark, deserted street.

ATTORNEY BERNARD GOLDBERG: It's an otherwise dark street.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: Yes, okay.

BRENDAN SULLIVAN: That's fine with me, whatever.

CONSTANTINE ALEXANDER: I'm with you.

THOMAS SCOTT: Good suggestion.

CONSTANTINE ALEXANDER: One last question. There was a comment made -- there

were comments made the last time with regard to the signs in the window on the front.

ATTORNEY BERNARD GOLDBERG: They have already been taken down.

NITIN KUMAR PATEL: We already taken down.

CONSTANTINE ALEXANDER: Okay.

By the way, I should have mentioned this at the outset, let me just mention it now. With regard to the posting for this case, you're required under our Ordinance to have two signs. You updated the sign in the front, you didn't do it in the back. Now, the one in the front is more important than the one in the back. I'm fine with letting the case go forward. But if anybody has a problem.

JANET GREEN: I'm fine.

TIMOTHY HUGHES: I'm fine.

CONSTANTINE ALEXANDER: For the record, I wanted to get that on the record. You understand that.

THOMAS SCOTT: I'm fine.

CONSTANTINE ALEXANDER: I think -- I'm ready -- well, jumping ahead. Anything further?

ATTORNEY BERNARD GOLDBERG: No.

CONSTANTINE ALEXANDER: Any other questions from members of the Board at this point?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No.

And I don't think we have any new letters in the file. There was a letter with regard to the old proposal that I read.

I'm going to make a motion if everyone on the Board is fine.

JANET GREEN: With appreciation. I mean, they really listened to everything that we said.

CONSTANTINE ALEXANDER: Yes, you should be congratulated. You listened and you performed.

JANET GREEN: We appreciate that.

CONSTANTINE ALEXANDER: Okay, the Chair moves that the Petitioner be granted a Special Permit to expand its fast food food establishment enterprise on the following basis:

That no traffic generated or patterns of access or egress will -- no congestion will be caused by what is proposed.

No hazard or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected by what is being proposed. In fact, I would suggest that they will be enhanced given the improvement of the street life.

That no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant or the citizens of the city.

And, again, in view of the lighting we're going to require that in fact hazard will be diminished by virtue of the fact that the streetscape on Green Street will be approved by what is proposed.

And then what you're proposing to do will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the Chair moves that a Special Permit be granted on the condition that in the window on Green Street, one of the four pictures that you have -- that you have submitted to us and which have been initialled by the Chair, be selected. That these -- and maintained while you occupy the premises. And that the picture be internally illuminated when dark falls on the area so that there is light emanating through the picture on to the streetscape.

I think that's it. All those in favor of granting the Special Permit on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Sullivan,

Scott, Green.)

CONSTANTINE ALEXANDER: And, again,
good job.

* * * * *

(7:30 p.m.)

(Sitting Members Case #10511: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10511, 1343-1345 Cambridge Street.

Is there [anyone] here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one here.

The Chair is in receipt of a letter from James J. Rafferty, Esq. addressed to Ms. Pacheco. (Reading) Please accept this correspondence as a request by the Petitioner in the above-captioned case to continue the hearing on this application currently scheduled to be heard on Thursday, October

10th. The Petitioner would like additional time to meet with neighbors and address their concerns.

Sean, what date do you suggest?

SEAN O'GRADY: November 14th.

CONSTANTINE ALEXANDER: November 14th.

I wonder if we should push it back a little further than that. They're going to come back --

SEAN O'GRADY: I sort of made promises.

CONSTANTINE ALEXANDER: I'm sorry, you did?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued until seven p.m. on November 14th on the condition that the Petitioner sign a

waiver of time for a decision.

That the Petitioner modify its sign to reflect the new time -- new date and the new time of seven p.m.

And that the sign as so modified be maintained for the period of time required by our Ordinance.

And lastly, that to the extent that the Petitioner has new plans it wishes to bring to the attention of the Board, they must be in our files than no later than five p.m. on the Monday prior to the November 14th hearing.

All those in favor of continuing the case on this basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Sullivan,

Scott, Green.)

* * * * *

(7:45 p.m.)

(Sitting Members Case #10512: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: Now being 7:45, we'll continue our hearing and the Chair will call case No. 10512, 4 Mercer Circle.

Is there anyone here wishing to be heard on this matter?

CHARLES MYER: I'm Charles Myer. Charles Myer and Partners, 875 Main Street, Cambridge, Mass., architects. And with me from my office is Alice Dunne, the project architect. And also with me is Peter Lipson and Debbie Longstreet. And we're here tonight because we have a pre-existing, non-conforming house, 39 feet, six inches tall. And we -- it was built in 1885 by

Gardner Hubbard, and the architect was Francis Allen of Allen and Fenway. And there were four of these houses done by the same architect on this Mercer Circle.

And so the reason we're here is for two-fold: One is we want to increase the size of the house by re-organizing the third floor. And because the house in 1940 was 5,978 square feet. In 1988 Robert Wright had Donovan-Sweeney renovate the house and added more square footage, and now we're asking to increase it even more, by 530 more square feet, which makes us -- we're above the 10 percent as-of-right allowable. We're actually at 17 percent is what we're asking for. And the purpose of that is because the third floor has very steep gables and roof lines that make the rooms very awkward. Doorways are -- it's very hard to move

through rooms and it's very hard to use a lot of the third floor. And that's one part of it.

The other part of it is we'd like to fix some oddities about the house. And I can run through it, but the house has a -- well, I'll read what from 1967 historic surveyor wrote about the house. (Reading) The designer fights hard to avoid symmetry which is implicit in the center hall entrance. Irregular height balance of the gables near regular but almost balanced fenestration is given coherence only by the front porch which extends across the facade and minimizes the different window schemes on the first floor. The house is awkwardly massed. The all facade, the house behind seems incidental, a curious polygon blob tacked on the left elevation.

I mean of all the surveys I've read, that's probably the most damning I've seen. And so it's true. And what we're -- since we're doing such an extensive renovation of the house. We're replacing -- the windows are tired and a lot of issues. This is an opportunity to make the house lovely.

So this is the street facade. It's a center entrance Queen Anne Victorian. And this is the existing house. You can see the asymmetry gables that I refer to and the curious window placement. And this is -- our proposal is to remove this gable and replace it with a much smaller one and add a shed dormer here so to --

CONSTANTINE ALEXANDER: You are aware, of course, of our dormer guidelines.

CHARLES MYER: Yes.

CONSTANTINE ALEXANDER: Do these

comply with the former guidelines?

CHARLES MYER: No. We asked for relief on that.

CONSTANTINE ALEXANDER: Relief? If we don't apply the former guidelines to this petition, you would get the relief. But you have to deal with the former guidelines, and you haven't in any way that I can see. What you're proposing to do is far in excess of what our former guidelines permit.

CHARLES MYER: We discussed this with --

ALICE DUNNE: This is what we were talking about when we were talking on the phone about the former guidelines and all the different relief we were asking for, that was the area that we were talking about.

SEAN O'GRADY: I think there's some confusion. The former guidelines are a set

of guidelines that are just say if you need relief and you want to do the dormers, here's the suggestion of how you do them. So the Board's simply saying your design doesn't meet those guidelines. It's not something that you get relief from. It's just asking --

CHARLES MYER: Oh, okay. Gotcha, thank you. Well, we like it.

CONSTANTINE ALEXANDER: No doubt.

CHARLES MYER: I know.

CONSTANTINE ALEXANDER: No, but seriously, we have these dormer guidelines, we very often -- we're hearing later on this evening another case. Very people come in with very modest homes want to put dormers on. We hold them to the dormer guidelines.

CHARLES MYER: Right.

CONSTANTINE ALEXANDER: You're

going far, as best I can tell, far, far -- you're departing into a very great extent of the dormer guidelines. And I want to understand why we should allow -- I have no problem with the project, but why we should allow such a radical departure from the dormer guidelines. You haven't told me why.

CHARLES MYER: I'm trying to think of a reason other than that we'd like them and we think they're appropriate for the house. And I mean that's.... you know, we've gone to great effort to make this -- to improve the appearance of this house. The purpose of the dormer guideline is so that you don't turn a two-and-a-half story house into a full three-story house. And I had one, two-family in North Cambridge like that same issue. But this is a very different kind of animal. So, I don't sure that it's really

germane to this house. You could argue --

CONSTANTINE ALEXANDER: Well, I won't argue and take everybody's time up. But you can design dormers that are much closer to the dormer guidelines that would be germane to this house.

CHARLES MYER: We've added gables to rather than -- you know, this is a new gable. That's a shed. That's just a flat roof here. There's the new gable. In the rear we've done the same. This is that polygon shape that we've removed, want to remove, and put this one-story, you know, addition on here.

And in the rear this is, you know, this has now been renovated into a, you know, symmetrical gable with a shed between. So that's, that's our speech.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: Not questions, but an observation is that this is really a different kind of animal in terms of dormers and the way they've been integrated and used. So I mean the rest of the parts of it that make perfect sense to me even though they don't -- strictly speaking.

CONSTANTINE ALEXANDER: Oh, I don't doubt that.

TIMOTHY HUGHES: I'd need to see the third floor plan on the interior to see what kind of space is being gained by all of this stuff. But it's true, it's not just, you know, somebody sticking an oversized dormer on the side of an otherwise straight, you know, barn-like structure.

JANET GREEN: It's not that. I think part of it is, from my perspective, is that, you know, there are guidelines that are

applied all the way across the city of Cambridge for these dormers. I mean, it's a request that people consider this, the dormer guidelines were, you know, they were result of architects and people putting that together. So to come in and not even address that you've looked at the dormer guidelines --

CHARLES MYER: Oh, we did. We actually --

JANET GREEN: Excuse me.

CHARLES MYER: I'm sorry.

JANET GREEN: And made -- and then made some kind of, you know, decision relevant to that or why you changed it. I mean, maybe you had various other conversations but now you've come before the Zoning Board --

CHARLES MYER: Yeah, I hear you.

Yep.

JANET GREEN: -- and to not -- to just say to us well, we talked to somebody else doesn't really make sense.

CONSTANTINE ALEXANDER: And just to --

CHARLES MYER: And I apologize for that. I hear you.

CONSTANTINE ALEXANDER: -- and just to follow up a little bit. To be sure what you're proposing is an improvement to my judgment, improvement in the aesthetics of the house, but you're going beyond that, or you're asking for a lot more space -- not a lot, more space. And the reason for the largeness of the dormers, and my question is, why? Why should we allow that to happen given the fact that we have dormer guidelines? But that's -- I'm just one

person.

JANET GREEN: And that if you need a Variance, you should show a hardship.

CONSTANTINE ALEXANDER: It's a Special Permit.

JANET GREEN: Sorry. Good point.

CHARLES MYER: But I would argue that's why you're here. I mean, there are places where dormers -- where the guidelines are --

JANET GREEN: That's right.

CHARLES MYER: -- are relevant and important.

JANET GREEN: That's right.

CHARLES MYER: And there are places where the deviations make sense.

CONSTANTINE ALEXANDER: Right.

JANET GREEN: Right. But you didn't come in and say that.

CHARLES MYER: I know. And I do apologize. I should have said that.

CONSTANTINE ALEXANDER: I'd like to be convinced why you need this set of dormers, this plan? Why you couldn't do something less that it's closer to the dormer guidelines than what you're proposing.

CHARLES MYER: Well, the problem is we have a height so we can't put another gable dormer on the side without hitting the height limit. And so we're kind of squished in this condition. It's really this one is the long one here. But I can't get a gable without creating the same issues that I had before. Now, I could do a faux gable, which we've done before, where you put little gable roofs on this and still really a shed. That could be done.

CONSTANTINE ALEXANDER: Any

thoughts?

THOMAS SCOTT: How about simple things like the dormer guidelines suggest that the edge of the dormer should be back, what is it, three feet or something from the edge of the roof? And, like, and on this particular shed it extends the full width of the building right out to the outer edge. So I don't know, they're guidelines and I suppose that, you know, you don't have to follow them, but...and I understand this house is really different architecturally. And I think some of the things you've done are really improving the aesthetics of the house, but maybe some of the -- maybe some of the dormers could have been reduced in some way to help minimize the impact, you know, based on what the guidelines suggested anyway.

CONSTANTINE ALEXANDER: That's

exactly my observation, too. Not that we don't like what you're doing. Not that we -- we're going to slavish -- in my view -- slavishly follow the dormer guidelines. On the other hand, you come in here with something that just disregards them as if we don't have them, and I frankly take offense.

Comments by other members of the Board?

TIMOTHY HUGHES: I understand the elevation from the front and how that works and it kind of does reduce the kind of -- even though it's a longer dormer, it reduces the kind of awkward massing of the house on the front. I don't understand the necessity for all the dormers going towards the back in all honesty.

CONSTANTINE ALEXANDER: Brendan, do you have any thoughts?

BRENDAN SULLIVAN: Well, I guess my thought is that in looking at the house existing conditions, the -- I guess I came to the same conclusion as the critique, but not as elegantly as that critique, in that it does seem to be sort of different moving parts that really don't really relate to one another. And that I think that the plan that Mr. Myer has done actually does tie it in, and it's almost like in a perfect world if this house were going to be built in 1885, it would have been built like the proposal.

CHARLES MYER: Thank you.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: As opposed to the way it was built. And it ties these elements in. He's also doing the gable, gable matching to bring that feature, and the middle parts sort of ties it all together.

Yes, you get a lot of extra room on the third floor and so on and so forth, but it doesn't look to me like a typical dormer which is a structure stuck on top of a roof which I think is what the dormer guidelines was enacted to try to address rather than people just putting these shed structures on top of --

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: -- and to make houses look top heavy. So, I guess that -- it's an evolving thought process. But yes, the house in its existing condition looks odd in the aspects of it. I haven't been to the inside, but I think that by fine tuning and doing it I think probably the way you've designed it, will add to the elegance of the outside of the house and much more functionality to the inside. So it's a good form on the outside which lends to good

function on the inside. But I still haven't got to the conclusion of that, but that's sort of what my initial thought was seeing how you asked.

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one who wishes to be heard.

There is correspondence in the file, but it's mostly between the Petitioner and neighbors which is not relevant, I won't read it into the record. They're not typically germane to the relief tonight.

So, any further final comments, Mr. Myer at this point?

CHARLES MYER: No. I would ask for your, you know, support. I, you know.

CONSTANTINE ALEXANDER: I hope so.

CHARLES MYER: Of course. And we've put a lot of love and care into this, and I do understand that I did fail to address that and apologize. I mean, there is --

CONSTANTINE ALEXANDER: Okay, thank you.

We're going to close public --

BRENDAN SULLIVAN: I think the other saving grace, too, is that it is still within the FAR for the permitted area.

JANET GREEN: That's right.

CONSTANTINE ALEXANDER: That's true.

JANET GREEN: That's right. I think that's right.

BRENDAN SULLIVAN: And as far as the

height exceeding, I mean that's an existing 1885 feature.

CONSTANTINE ALEXANDER: Thank you.

I will second that observation by the way. That this -- if you were seeking relief from FAR, well, then you would need a Variance. You wouldn't necessarily need a Variance. It would be a different case. But you are staying within the FAR which is important to this Board.

I'm going to close public testimony. We've had a lot of discussion already. Do you want to further the discussion? Any thoughts? Additional thoughts?

JANET GREEN: It doesn't seem that there's opposition from the neighbors. There's been a lot of outreach to the neighbors and giving them of information that they could reach out to contractors and

architects and everything about the house, so it seems like a real effort to blend in with the neighborhood.

CONSTANTINE ALEXANDER: Time for a motion?

TIMOTHY HUGHES: Sure.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this Board make the following findings with respect to the Special Permit being sought this evening for this property:

That what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed.

That no nuisance or hazard will be

created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city.

And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate the intent and purpose of this Ordinance.

In this regard the Chair would note for the record that what is being proposed does not comply with our dormer guidelines, but the structure is a unique structure and that the aesthetics that are designed to be improved by the dormer guidelines are inherent in the design that's being proposed tonight.

So on the basis of all of this, the Chair moves that a Special Permit be granted to the Petitioner on the condition that the work proceed in accordance with plans submitted by

the Petitioner prepared by Charles R. Myer and Partners. They're numbered and initialled by the Chair SP1.1, SP1.2, SP2.0, SP2.1, SP2.2, and SP2.3.

All those in favor of granting the Special Permit on the basis so moved say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: I abstain.
Motion carries. Special Permit granted.

* * * * *

(8:05 p.m.)

(Sitting Members Case #10513: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10513, 207 Prospect Street.

Is there anyone here wishing to be heard on this matter?

GARY GILBERT: I'm Gary Gilbert, G-i-l-b-e-r-t. I'm a perspective purchaser of this property. Sorry, I didn't bring an easel. I kind of thought you'd have one.

Yeah, this is 207 Prospect which is pictured over here, this white building -- white vinyl sided building that's currently being used by Pan -- I'm not exact sure of the name of it. I think of it as Pan Oil Company, but they're a heating

ventilating contractor.

CONSTANTINE ALEXANDER: Robert Pan Plumbing and Heating.

GARY GILBERT: Sorry, Robert.

It's a three-family building being used as offices for his business. What I want to do is transform this from a property that's got no open space and houses about 10 cars plus a dumpster, and turn it into what it has been -- had been, is a three-family building, nice residential units to fit better in with the neighborhood and create true usable open space and three car parking.

The hardship that I'm claiming here is because of the building and the size of it, it's been there quite a while and added on to. And because of the lot size, there's not quite enough width to accommodate the five-foot side yard setback for the three car parking.

There's also potential economic hardship that to renovate this and to restore it, which is part of what I want to do, is restore it to wood siding and beautify it and landscape it and narrow down the curb cut which I think would be a real benefit to the neighborhood for sure. That this is -- it doesn't really work unless we can get three units there legally. Or perhaps we can, but maybe there's something that can be done about the parking aspect of it.

We can accommodate about two feet of parking but not -- of a setback, side yard setback for the parking but not fully five. So, again, I want to reduce it from the current ten cars it's holding to three.

I think to some extent making this into a nice, pleasant residential structure would be in accord with the Planning Board's goals

for that part of town which is to see more residential on Prospect Street. And the reason I made these drawings was to sort of -- this here represents two blocks of Prospect Street starting at the 7/Eleven that's over there at Inman Square. Which is the only building that has any side yard setback, but I think that was a complete tear down for the corner lot and reconstruction.

But if you walk down the street, you can see there's zero setback for parking or driveways all down Lincoln street, every single building, including all the way to the other convenience store at the far end. They're driving and parking right along the property line. And in particular, my neighbor I guess to the east, you can see there are gates to their driveway. It's right on the property line.

The neighbor to the west, the building -- the bay of the building and the side yard is already some good open space. There's about at least 20 feet or so I think from the property line to that, the neighboring building, so we would be adding an extra couple feet.

I was planning on putting a fence in there. I could put a taller fence or more landscaping there, but I intend to landscape it as much as we can fit things in there to make it a nice place.

CONSTANTINE ALEXANDER: The area where -- the neighbor where you're going to be too close to in terms of the parking.

GARY GILBERT: Over here.

CONSTANTINE ALEXANDER: Have you spoken with the neighbor?

GARY GILBERT: I didn't, and they

don't live there. It's all rented out or it's -- I'm not even certain. Actually, Mr. Pan might know if it's -- are they apartments or condos?

ROBERT PAN: Yeah, they're condos and they're half -- they're condos and half and half rented out. You never see the same people. They're always being sold back and forth.

CONSTANTINE ALEXANDER: I notice in your plans -- usually when we have cases where someone wants relief because they want to park cars within this parking setback, would require landscaping to buffer against the effected neighboring property. I notice you have landscaping on your plan that you submitted.

GARY GILBERT: Yeah.

CONSTANTINE ALEXANDER: What kind

of landscaping do you have in mind?

GARY GILBERT: Well, being an architect I have, you know, I hate to use it, but arborvitae is very handy because it's green and it stays green year round.

CONSTANTINE ALEXANDER: What is it?

GARY GILBERT: Arborvitae. They're pretty easy plants to plant. They're green and they get tall and they work quite well as buffers.

CONSTANTINE ALEXANDER: How tall do they get?

GARY GILBERT: It depends on which species you buy. But I was thinking of getting stuff close to human height, six or eight foot maximum and have a row along the side yard. And definitely -- well, as I show you here in this illustration, definitely narrow down the front curb cut and landscape

it, put some low level lighting there, too, so that when they come home, they feel like they're coming to -- they're own enclave. It's closed off from the street right now because curb cuts are -- wide curb cuts are the bane of urban existence.

CONSTANTINE ALEXANDER: Well, certainly landscaping of that type would improve the appearance of the property and my the neighborhood, in my judgment anyway.

GARY GILBERT: And I would reflect for a minute -- I mean, I've been on the Planning Board in my town and I'm currently on the Zoning Board in my town, and laws like this are -- I can understand the idea to try to suburbanize to some extent the town, but it's hard to have rules like this that apply everywhere. Like, East Cambridge I don't see how they can such side yard setbacks.

And so I think ideally if all the towns have budgets, they would have nuance, you know, district specific and corridor specific dimensional criteria. And I would just look to you to sort of interpret the current law in the town in a way that's sympathetic to what else is already in a built form, the fabric there, and what my intention is for the project.

CONSTANTINE ALEXANDER: My suggestion is going to be to my fellow Board members, that we grant relief, that we do so on the condition that you maintain -- that you install and maintain landscaping of this sort you have on your plan, that same areas, with bushes or shrubs whatever.

GARY GILBERT: Absolutely.

CONSTANTINE ALEXANDER: At least five feet in height.

GARY GILBERT: I would want that. And I don't know how fences are viewed. But I would be happy to put a taller than the normal. A fence is eight foot. A ten-foot fence is sometimes a good idea. When you're outdoors in the patio there, more a sense of privacy but I don't know if that's encouraged or what.

THOMAS SCOTT: Is that how that side yard used on the adjacent house; is that a patio area?

GARY GILBERT: The adjacent house? I don't think they've used it --

THOMAS SCOTT: Is it landscaped?

GARY GILBERT: Barely. There's some stuff to the left of the entry. There's a grassy little yard here. Maybe in the summer people do sit out there. I would if I lived there, but I haven't -- I've been in

and out of there all through the summer and haven't seen anybody.

CONSTANTINE ALEXANDER: Right now it's used by Pan Plumbing, it's not the most attractive place to sit out there, you know, with trucks coming in and out.

No offense, Mr. Pan.

ROBERT PAN: 60 years of Cambridge, hey, I can take it. I can take it.

GARY GILBERT: It's also a really large building, and I think it's appropriate use is for three units. You know, he added a big addition in the back.

CONSTANTINE ALEXANDER: As to whether we should require a further condition about fencing, I'm indifferent. I don't know. If other Board members feel we should do it, then I'm fine. But I don't personally think a need for that. I think landscaping

would be more than sufficient.

SEAN O'GRADY: I just have to interject. Please don't ask us to police the health of bushes.

CONSTANTINE ALEXANDER: The health of bushes?

SEAN O'GRADY: The health of bushes.

CONSTANTINE ALEXANDER: I know you've had that --

SEAN O'GRADY: The maintenance of shrubbery is not something that we're -- it's all we're asking.

CONSTANTINE ALEXANDER: We could at least require them to plant them.

SEAN O'GRADY: Yes.

GARY GILBERT: Usually we have a one year -- they have a one year warranty a lot of times. It's weird, but they do.

SEAN O'GRADY: I worry about five

and ten years.

JANET GREEN: So will people back out on to Prospect Street?

GARY GILBERT: I would do what I do at my own house, I would back in to park instead of driving in and parallel parking.

CONSTANTINE ALEXANDER: But there's no way of turning around within that --

JANET GREEN: There's just not enough room to turn around.

GARY GILBERT: Not enough room for a three-point turn.

JANET GREEN: The other thing is, while I appreciate the landscaping in the front and closing down the curb cut down, I wonder if that makes it hard to see if you're backing out of there. It cuts off the view. How wide is the side -- I was there today but I don't remember how wide that sidewalk is.

GARY GILBERT: At my house I have a spot that's blocked also. I just inch out in the beginning and then you just go. You've got to do that anyhow. This is Prospect Street. There's a lot of stuff going up and down the street.

JANET GREEN: Yes.

GARY GILBERT: But we could, we could potentially pull the landscaping further back from the street. I think we have a 10-foot front yard setback. So we could pull the landscaping back an additional couple of feet to four feet maybe. But I think it's kind of nice to have some greenery right on the street, on the sidewalk edge also. So maybe, maybe I could have the taller stuff about four feet back and have the lower shrubs in front of it.

CONSTANTINE ALEXANDER: We're not

going to require you as a condition to maintain whatever landscaping you do at the outset.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: I think we can let the circumstances -- if it turns out that the landscaping proves to be obstructionist in terms of views, take it out. But I think initially you should probably try it and see how it works. Because it does, in my judgment, improves the over all aesthetics of the property.

BRENDAN SULLIVAN: It becomes a safety issue with pedestrians, too, cars backing out. Not only vehicles going up and down Prospect but also pedestrians. So that's something you may have to do on-site at the time as to what works and what will not work.

GARY GILBERT: You've convinced me. I think the taller bushes should be at least I'm gonna say at least four feet back from the sidewalk edge so you have a line of sight. That's really important.

CONSTANTINE ALEXANDER: To me the most important thing is the landscaping along the lot line with your neighbor where you're too close because they're -- the front or back of the cars so close to the neighboring structure, having some bushes in between will help certainly ameliorate the impact of the parking.

GARY GILBERT: And I'd want to do that so they have a sense --

CONSTANTINE ALEXANDER: I know you do.

GARY GILBERT: And they're going to have their own patio in the back. They're

going to want their privacy.

JANET GREEN: And your neighbors are in the condo building next-door would have received the city notice that this hearing was happening if they had any concerns.

CONSTANTINE ALEXANDER: If they're condos, the owners of the condos would get the notice.

TIMOTHY HUGHES: If they're not owner-occupied, they probably won't respond.

JANET GREEN: Right. They might have seen the sign.

GARY GILBERT: I have the impression that they're rejoicing that it's going to be turned into a residential use again.

JANET GREEN: I'm sure they are.

CONSTANTINE ALEXANDER: That's right.

JANET GREEN: I wouldn't be

surprised.

GARY GILBERT: The other issue we didn't talk about is the window wells. There's a large very well finished basement, but because of the State Building Code in its wisdom for some reason requires seven foot, six inches of height. We're six inches shy of technically using it as living space, but it's really good -- there's an office bathroom, big classroom down there, which I want to turn into storage space. But it would be really nice to have the window wells to get some natural light down in there. Because it's, you know, in reality it's a very usable space for storage. So that was why I wanted to have a couple of window wells. One of them is in the -- one of them's in the rear yard setback. I think that's what it is, yeah. So that's part of the application.

CONSTANTINE ALEXANDER: Anything else at this point? You're all set?

GARY GILBERT: I'm open to any suggestions.

CONSTANTINE ALEXANDER: Any questions from members of the Board at this point?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: The Chair will open this up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

The Chair further notes that we are in receipt, this Board is in receipt of a memo from the Planning Board which states with respect to this petition: (Reading) The

Planning Board supports the conversion of the commercial building to residential use in the Residence C-1 District.

And that's all she wrote.

Unless you have any final comments, I'm going to close public testimony.

GARY GILBERT: I like to stay in Cambridge.

CONSTANTINE ALEXANDER: Okay, public testimony is closed.

Comments from members of the Board? Anybody have any problems with requiring of landscaping condition at least in terms of initial installation?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Okay.

All right, the Chair moves that this Board make the following findings with respect to the relief being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that this property could not be returned to its residential use which is the use zoned for the district because it would be unable to provide sufficient parking for the residents or the occupants of the lot.

The hardship is owing to the circumstances relating to the shape of the lot. The lot is very long and narrow which again creates problems for parking that meets the setback requirements for parking in our Zoning Ordinance.

And with respect to the -- it also impacts the window well that you're seeking to install. That you're required by state law to have the window well. And, again, without relief you'll not be able to comply

with State Building Code.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this Ordinance.

In this regard the Chair would note that granting relief will allow the structure to be returned to residential use which is the use for the district, it will end a non-conforming commercial use, a legally non-conforming commercial use.

That this petition has the support of the Planning Board and there appears to be no neighborhood or other city opposition.

So, on the basis of these findings the Chair moves that a Variance be granted to the Petitioner to for the relief being sought with regard to this parking setbacks and with respect to the rear window well on the

condition that the work -- well, that the -- when the project is completed, that the landscaping set forth on plan No. A1, initialled by the Chair, be complied with initially. And that the plantings be of such that they be at least five feet -- when they reach maturity, five feet in height. And that with respect to the plantings that are on or about the street, Prospect Street area, that the Petitioner has the right not to put all the plantings in that are on the plans if he determines that to do so would cause safety problems either for people who drive in and out of the parking lot or for pedestrians walking down Prospect Street.

All those in favor of granting the Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Variance granted.

Thank you very much.

(Alexander, Hughes, Sullivan,
Scott, Green.)

* * * * *

(8:20 p.m.)

(Sitting Members Case #10514: Constantine

Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10514, 74-78 Lakeview Avenue.

Is there anyone here who wishes to be heard on this matter?

CHARLES MYER: Charles Myer. Charles Myer at Charles Myer and Partners, 875 Main Street, Cambridge, Mass. And with me tonight is Mark Goodman of 78 Lakeview Avenue.

This is a pre-existing non-conforming house due to the height. It's actually an unusual house in that it's a condominium. There's a number of these in the city as Sean knows because we've been through some of these, done by Bell and Vendetti (phonetic) in 1988 I think.

So the reason we're here tonight is because we would like -- we have an existing house, it's a beautiful home, and we would like -- we have an existing covered porch that's in the side yard setback. It's an A-1 Zone, and this is about ten and a half feet to here, and so we're in the side yard setback.

CONSTANTINE ALEXANDER: You need to be 15 feet.

CHARLES MYER: Should be 15, correct.

And what we'd like to do is to build to use that -- no new FAR, no -- nothing except that we're building underneath the existing roof a mudroom. And that mudroom will be --

CONSTANTINE ALEXANDER: Right there.

CHARLES MYER: -- right here. It

will have no window facing the side. Only a window facing the street. It's 40 square feet, and --

CONSTANTINE ALEXANDER: Just out of curiosity, the fact that there would be no window, does that make it like unattractive aesthetically because you've got a long massive wall with no break?

CHARLES MYER: No. It's okay, because actually what you really see here is a carport that's right up against the property line. It's just the way it was built a long time ago. So it doesn't feel like something that is hurting the house to do this. You can sort of see it. It's a kind of a funny little spot. There's a little railing here. See that little railing? So really, you know, graphically the only thing difference between this drawing and this

drawing, is that this railing is gone. I mean, that's how simple it is. The front elevation gets a stained, you know, a patterned window to mimic the patterned windows up above. And it's really quite simple.

BRENDAN SULLIVAN: Where is the orientation into the house? In other words, they pull in to the carport --

CHARLES MYER: Okay, so what you do is you come in, the carport here, and you would walk up the stairs here.

BRENDAN SULLIVAN: And that's his entrance?

CHARLES MYER: And that's how you come in.

BRENDAN SULLIVAN: Okay, now the back unit, is that --

CHARLES MYER: There's no back unit.

BRENDAN SULLIVAN: Side by side?

CHARLES MYER: No, this is a one, single-family house.

BRENDAN SULLIVAN: Okay, but there's -- I'm sorry, you live at 74?

MARK GOODMAN: 78.

BRENDAN SULLIVAN: 78?

CHARLES MYER: 78. 74 was a carriage house that was converted into a house, so it's a whole separate structure.

CONSTANTINE ALEXANDER: Oh, separate structure?

CHARLES MYER: That's what's unusual about it. Which they subsequently have changed the Zoning Law so that you can only have one primary structure on a lot which got rid of this, but there was a period where I think -- I only know of two of these in Cambridge, and I've been involved in both of

them. One was on Hemlock Road where Gerald Vendetti used to live, and that was a condominium project, too. But for all intents and purposes --

BRENDAN SULLIVAN: So you pull in underneath the carport --

CHARLES MYER: Right.

BRENDAN SULLIVAN: -- and then you park and then you enter the house.

CHARLES MYER: You enter here.

BRENDAN SULLIVAN: Now, what about the people in the back?

CHARLES MYER: They have a separate driveway.

BRENDAN SULLIVAN: On the left side?

CHARLES MYER: Yes, way in the back.

BRENDAN SULLIVAN: So you're not blocking them or anything like that?

CHARLES MYER: Right.

BRENDAN SULLIVAN: And your normal modus operandi is not to go all the ways to the back and in sort of the back way?

MARK GOODMAN: No, we go in that exit.

BRENDAN SULLIVAN: In and out that door there?

MARK GOODMAN: Yeah.

CHARLES MYER: And we talked with the neighbors here, and they've actually written a letter of support which we don't have with us, but there's been a dialogue between -- they're fine with this project.

BRENDAN SULLIVAN: Yes, it's somewhat hidden underneath the roof there.

CONSTANTINE ALEXANDER: Anything else?

CHARLES MYER: Questions?

CONSTANTINE ALEXANDER: Any

questions from members of the Board?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: I'll open the matter to public testimony.

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there appears to be no one who wishes to be heard.

We are not in receipt of any correspondence pro or con with regard to this matter.

So before I close public testimony any final remarks you want to make?

CHARLES MYER: No.

CONSTANTINE ALEXANDER: Okay.
Public testimony is closed.

Comments or ready for a vote?

TIMOTHY HUGHES: My only comment is I'm ready for a vote.

CONSTANTINE ALEXANDER: Is what?

TIMOTHY HUGHES: My only comment is that I'm ready for a vote.

CONSTANTINE ALEXANDER: You already delayed it. If you said nothing --

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: The Chair moves that this Board make the following findings with respect to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that they have a carport that is not --

TIMOTHY HUGHES: Gus, I'm reading this as a Special Permit.

CHARLES MYER: It is a Special Permit.

CONSTANTINE ALEXANDER: I'm sorry. Thank you. Thank you.

The Chair moves that we make the following findings with respect to the Special Permit being sought:

That traffic generated or patterns of access as a result of this project will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected by what is proposed.

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

And that the proposed relief will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In this regard the Chair notes that the relief being sought is rather modest in nature.

That the neighbor affected by the property appears not to object.

And that otherwise what is being proposed is consistent with the Zoning goals of our city.

So on the basis of all of these findings, the Chair moves that a Special Permit be granted to the Petitioner to perform the work proposed on the condition that the work proceed in accordance with the plans submitted by the Petitioner. There

are two pages; SP1 and SP2, both of which have been initialled by the Chair.

All those in favor of granting the Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Special Permit granted.

(Alexander, Hughes, Sullivan, Scott, Green.)

* * * * *

(8:30 p.m.)

(Sitting Members Case #10515: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10515, 43-45 Saville Street.

Is there anyone wishing to be heard on this matter? Please come forward. As you observed, we need to have your name and address for the stenographer because we keep a record.

MARGARET CURRIER: I'm Margaret Currier of 45 Saville Street and my husband Samuel Kachmar, 45 Saville Street.

CONSTANTINE ALEXANDER: Are these the same plans that we have in the file?

SAMUEL KACHMAR: Yes, the exact same

plans that you guys have.

We're requesting from the Board both a Variance for the FAR at our house as well as a Special Permit for the windows on the left side of the home. Our house is an existing two-family that was built back in the '20s. And as you might be able to see from some of the photos towards the back of the plans, it's been well used but might be in need of a little bit of updating which my wife and I are trying to do.

CONSTANTINE ALEXANDER: Just to be clear for the record, and I don't mean to interrupt you, that the reason you need relief is you're currently a non-conforming structure in terms of FAR.

SAMUEL KACHMAR: Correct. We're pre-existing --

CONSTANTINE ALEXANDER: A 0.62 in a

.05 district --

SAMUEL KACHMAR: That's correct.

CONSTANTINE ALEXANDER: And you want to go to 0.75.

SAMUEL KACHMAR: Yes. We're --

CONSTANTINE ALEXANDER: You're adding about, I think I got it right, about 500 square feet?

SAMUEL KACHMAR: 497, yes.

CONSTANTINE ALEXANDER: Okay. So you're increasing the amount of GFA in the property by about 20 percent?

SAMUEL KACHMAR: That is correct. Yes.

CONSTANTINE ALEXANDER: And you're seeking to raise the roof height. And your adding -- your application says a dormer, but you're looking to add two dormers, are you not?

SAMUEL KACHMAR: Correct. I'm sorry, did it not say dormers? Yeah, there's two dormers.

CONSTANTINE ALEXANDER: We'll get to this in a second. But you heard us talk about the dormer guidelines before.

SAMUEL KACHMAR: Yes, and --

CONSTANTINE ALEXANDER: And you should address that before you finish your remarks. But I'm sorry, go ahead now.

SAMUEL KACHMAR: No problem. Speaking of the dormers and the ones that we're seeking to add on there, we did try to follow the dormer design guidelines in terms of keeping it at least three feet back from the end of the gable, keeping it 15 feet, trying to center it on the house and over the windows that are existing within the structure. Keeping it below the ridge line

of the existing house. And all of those things -- the one thing that we weren't able to do well was to be able to keep the existing eave of the house. The reason for that is with raising the roof up a little bit, basically if we kept that eave line, we'd only be able run like little (inaudible) story windows that would basically start at six feet high and go up to like seven feet. So that was our reasoning for trying to break the eave line there within the house.

In terms of trying to make it not become a large imposing wall, we wanted to run sort of the standard kind of sweep between the second floor and first floor with the water tables to help break up the elevation and to try to help the house fit in --

MARGARET CURRIER: We have a sample of what that looks like so you can visualize.

CONSTANTINE ALEXANDER: By the way, you suggested that the dormer -- you comply with the dormer guidelines as to length, 15 feet --

SAMUEL KACHMAR: Correct.

CONSTANTINE ALEXANDER: But I don't see that from your plans. Is it 17 or 18 feet of dormer?

SAMUEL KACHMAR: It's a three-sixteenth plan not a quarter-inch plan.

CONSTANTINE ALEXANDER: Yes, but I'm looking at your own dimensions.

SAMUEL KACHMAR: That's a 15 -- it's an overall. It's a 15-foot dormer. I'm sorry if there's any confusion. We're not seeking to do anything bigger than is recommended within the design guidelines.

CONSTANTINE ALEXANDER: Yes, this

plan here shows 15 feet from one dimension to another. And then I see about two and a half feet on the one side and maybe three feet on the other side.

SAMUEL KACHMAR: That says 12-foot, four, sir, and then 51 is up above. That's the overall -- I'm sorry if that was confusing.

CONSTANTINE ALEXANDER: 12, 4 -- no, no. 12, 4.

SAMUEL KACHMAR: Correct.

CONSTANTINE ALEXANDER: And that's just the middle if you will.

SAMUEL KACHMAR: Yes.

CONSTANTINE ALEXANDER: And then on the left-hand side of that middle, looks like you're going to do about a half of five feet, which is two and a half feet roughly. And on the right side of that, you look like you're

going to do 3.7 inches.

SAMUEL KACHMAR: I don't have the scale with me, sir but it is 15 feet is what it's drawn out on the computer. We don't wish to do anything --

CONSTANTINE ALEXANDER: Is it your representation to us it's not going to be any more than 15 feet?

SAMUEL KACHMAR: Yes. We wish to do nothing more than 15 feet and stay within the dormer guidelines on that.

CONSTANTINE ALEXANDER: Okay.

SAMUEL KACHMAR: I'm sorry if I didn't clarify that well enough on the drawings.

CONSTANTINE ALEXANDER: I don't mean to focus this all on the dormer guidelines. There are bigger issues here. The reason for the Variance in the first

place. Why don't you go to that next.

SAMUEL KACHMAR: Certainly.

The reason that we're seeking the Variance is my wife and I purchased the house in 2011 and, you know, we plan to stay in this community. You know, we want to raise our family here. We want to expand our family. And the house right now, I mean there's no insulation in the walls. You know, it's, it's not very energy efficient, and it's not really up to sort of modern day living standards. It's all horse hair plaster and falling apart a bit. And what we'd like to do is gut the interior of the unit, insulate it, make it much more energy efficient and make it a place that can, you know, house our family for the next, you know, 20 or 30 years.

CONSTANTINE ALEXANDER: You're putting dormers on each side which means to

me one of the dormers is going to be on the side of your tenant? You have a two-family house, right?

SAMUEL KACHMAR: There's a two-family house. There's an apartment on the first floor --

CONSTANTINE ALEXANDER: Oh, okay.

SAMUEL KACHMAR: -- and we currently live on the second floor.

CONSTANTINE ALEXANDER: Thank you. I thought it was different, side by side.

SAMUEL KACHMAR: No problem.

And, you know, we've spoken with all of our neighbors. We have a couple of letters of support with us. We also have some, I think, from the City Councillors and some other people. But, you know, we --

CONSTANTINE ALEXANDER: If you have letters, why don't you give them to me now,

I'll read them into the record at the appropriate time. We have one letter from Brian Leahy who resides at 94 Richdale.

SAMUEL KACHMAR: Yes. Here's another one from an abutter, Tyler Robinson who has grown up in the neighborhood there and lived there.

CONSTANTINE ALEXANDER: Okay.

SAMUEL KACHMAR: And we reviewed the plans with the rear abutters as well as the direct side abutters and the people across the street. And as you can kind of see from some of these photos, a lot of the people on the street tend to have like sort of second story porches on the street which is kind of a nice part of Saville Street. And we're kind of seeking to do that on the front of our home as well, because in the summertime a lot of people sit out and just kind of have a

presence on the street which makes it much more friendly. We're seeking to bring the house up to date and kind of do some of those things.

CONSTANTINE ALEXANDER: You don't have to stand. You can sit if you like.

SAMUEL KACHMAR: Thank you.

MARGARET CURRIER: He doesn't listen to me.

CONSTANTINE ALEXANDER: Make yourself comfortable.

SAMUEL KACHMAR: Thank you.

MARGARET CURRIER: Our abutting neighbor Jessica Lahey, her sister just passed away. She has expressed a desire to submit a letter. Perhaps it will show up in the mail tomorrow, but all of our direct abutters have given us their full support.

CONSTANTINE ALEXANDER: Thank you.

MARGARET CURRIER: And I don't think that Sam mentioned, but I was born and raised in Cambridge on Lexington Ave. My family has owned a home there since 1982. I think my father bought his first house in 1979. And I was a class of 2002 at Rindge and Latin and I attended the Hegarty and the Agassiz School. So we are second generation Cambridge family.

CONSTANTINE ALEXANDER: We won't hold that against you don't worry.

MARGARET CURRIER: We just want our kids to grow up here, too, and not have to move for spatial purposes.

CONSTANTINE ALEXANDER: Okay.
Anything further?

SAMUEL KACHMAR: I mean, mostly that was essentially what we wanted to present in there and then have a discussion with you guys

in terms of the proper way to proceed.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: I will make an observation that I do have a scale here and it doesn't measure out at 15. It does measure out to what Gus said closer to 18 on this drawing.

THOMAS SCOTT: Can I make a point? The dormer guideline --

TIMOTHY HUGHES: 18 is the roof, but the side to side to side wall is still over 15. I got it at 16 and a half.

THOMAS SCOTT: It's dimensioned out at 14 and a half in the plan center line to center line.

CONSTANTINE ALEXANDER: Is it?

JANET GREEN: Which plans?

TIMOTHY HUGHES: The plans.

THOMAS SCOTT: No, no, the plan,
plan.

JANET GREEN: So this is a computer.

THOMAS SCOTT: Right here.

SAMUEL KACHMAR: Yeah, this is all
modeled within the building information
model.

THOMAS SCOTT: It's this sheet.
14.5, I think it's center to center.

SAMUEL KACHMAR: Yep.

CONSTANTINE ALEXANDER: Okay. It
doesn't show it. The other plan is
inconsistent. Look at that one, it looks
much -- that's roof --

THOMAS SCOTT: It's the roof.

SAMUEL KACHMAR: The roof overhang
is more than 15 feet. And from my
discussions with Sean on the phone, my
understanding was that that was okay. That

it's the wall is 15 feet and the roof can have a six-inch overhang on each side. So I'm sorry if there was confusion.

CONSTANTINE ALEXANDER: One more time, go ahead.

JANET GREEN: Yes, I noticed you have a number of pictures here. One of the things I noticed when I came over and looked at your house was that it's a lovely neighborhood. But I noticed that the other houses don't seem to have raised the roof four feet. And it was quite a different -- and so I see you have pictures of houses that have. Are any of those continuous to your house? Is that the one across the street?

SAMUEL KACHMAR: This one's on the corner. This is Saville and Walden sort of up by T.W. Greens. And then there's two houses and then our house further down the

road. This one is directly across the street. And this one does go up to I believe it's a 34 feet. So they're not -- we're asking to go to 34-foot, 9. We're staying three inches below the 35-foot height line. And then this one here goes up -- this one is next-door. This one goes up to about 33 feet.

JANET GREEN: That's when the bump on, top, right?

SAMUEL KACHMAR: Correct.

JANET GREEN: It didn't lift the whole floor up four feet?

SAMUEL KACHMAR: That is correct.

MARGARET CURRIER: It was built that way from what we understand.

JANET GREEN: Because they're all similar houses with a basic design, right?

MARGARET CURRIER: The heights do

get a little bit lower as you go from the corner of Saville and Walden. They progressively get a little lower.

JANET GREEN: Right, right.

MARGARET CURRIER: Until you get to the corner of Fayerweather and Saville which actually this house is not pictured, but it's a yellow house, and it does have a quite substantial roof line. But we felt that it was within keeping with some of the homes on the street and the three homes that were probably built in between the 1950s and 1960s certainly do resemble that time period which are not overly elegant or historic but there's no reason why a future owner might want to add another level or request relief if they changed hands.

SAMUEL KACHMAR: Essentially the way the attic is set up right now, the collar

ties are set too low to make it a usable space so we're requesting relief to bring that up high enough to insulate the roof, you know, kind of and to run the duct work and stuff like that.

JANET GREEN: And my only other comment would be that I found it a little bit difficult that it gave us the plan, but it didn't give us the existing. Did I miss it in here?

SAMUEL KACHMAR: No. We didn't really provide the existing height. It's just an attic. It's just an open attic. And from our general understanding we were mostly trying to focus on the exterior. From our discussions it was more -- we tried to make sure that we conveyed what we're trying to do on the exterior as much as --

MARGARET CURRIER: Page 301 kind of

gives you kind of a side-view, a photograph of the actual house.

BRENDAN SULLIVAN: I think having existing and proposed gives us, superimpose over the existing to see the impact, the amount of growth and massing of the house a lot easier. And we normally do have existing conditions and then proposed so that there is a lot easier to compare.

SAMUEL KACHMAR: We had hoped that providing the photos of the existing from the exterior would suffice for that and we're not changing the footprint.

BRENDAN SULLIVAN: It doesn't though.

MARGARET CURRIER: I'm sorry, we don't have it.

BRENDAN SULLIVAN: I think my first impression is that it's, it's getting massive

and the impact, it's a lot. And I know you're not down here for the back decks, but that almost seems like it doesn't even belong. I mean, it seems like as a tipping point for that whole house. I mean it would just -- you know, we're getting bigger and you look around at the back deck and it almost seems out of scale, that's all.

MARGARET CURRIER: There's a wonderful community of people in the back. All of us have larger decks than what you see in Cambridge, and we all sit out in the summer and it's really nice because we talk amongst one another. And the kids next-door, there are three foster kids who are wonderful and they play basketball, and such a nice, open community in the back where we know all of our neighbors and we have a lot of cookouts at our house.

CONSTANTINE ALEXANDER: You're fortunate that you have neighbors that don't have big parties late at night.

MARGARET CURRIER: We're the people that have the parties and we invite everyone.

CONSTANTINE ALEXANDER: Smart. We've had that problem with other properties before where neighbors complain about the decks and we're real sensitive to that. As Brendan points out, that's not before us tonight anyway.

SAMUEL KACHMAR: Yeah, we're very fortunate to have a good community on Saville Street, and have like a block party every year. And for the most part there's a whole e-mail list that goes out throughout on the lower portion and upper portion of the street.

THOMAS SCOTT: What contributes to

the increase in FAR? I know the dormer does, but is there anything else that contributes to that?

SAMUEL KACHMAR: Essentially the attic height right now, you know, basically the roof rafters sit right down upon the second floor ceiling. So by raising that up a little bit, it increases the area within the attic itself that is above five foot on there. So that basically by propping that up a little bit, that's what increases the square footage. We're not changing the footprint at all, you know, the footprint of the house stays the same. And we're just --

BRENDAN SULLIVAN: So you're taking the roof up and raising it four feet?

SAMUEL KACHMAR: That's exactly correct.

BRENDAN SULLIVAN: And so the

existing, if you're standing in the attic from floor to ridge, is what?

SAMUEL KACHMAR: From floor to ridge right now I believe is seven-foot, six and then the collar ties are down and about four foot, eight.

BRENDAN SULLIVAN: We can deal with the collar ties, and then you're raising that up. I don't know, I'm not convinced that you can't put a dormer in without, you know.

SAMUEL KACHMAR: Without raising the roof line?

BRENDAN SULLIVAN: Right.

SAMUEL KACHMAR: Right, we looked into --

MARGARET CURRIER: They did that on a house on Fayerweather and Vassal. It's almost like our home that was made into a three-family, and the ceiling height is -- it

just feels extremely claustrophobic up there. And, you know, we want to make this a space that we can be in for the next 20, 30 years. And my husband's quite tall. My brother and father are quite tall. I, I'm going to out on a limb and say our kids are probably going to be quite tall, and I just don't know that we're going to be able to be somewhere in the long term if the ceiling height is just scratching the surface at eight feet. And then we would also have to increase the width of the joists as well to conform with the code.

SAMUEL KACHMAR: Right. If we do raise the roof, we would have to -- right now it's old two-by-sixes, so basically we would bring that up to two-by-ten which would increase the depth of the floor plate to be able to make it safe. And the one other item

in terms of trying to raise the roof, is the current stairs that go up to the attic, I have to kind of go like this right now to make it up those stairs because they don't give you a head height in any way of six foot, eight to be able to meet code. So by raising that roof, it provides to be able to have those stairs actually be accessible and be able to get up to that third floor to make it usable.

THOMAS SCOTT: I think your biggest problem is FAR increase, you know? You're at a 0.5 district and you're going 0.7.

CONSTANTINE ALEXANDER: 0.75 or 0.72?

THOMAS SCOTT: 0.75.

MARGARET CURRIER: If we could have afforded the home on Mercer, then we would have bought it.

CONSTANTINE ALEXANDER: 0.73.

THOMAS SCOTT: 0.73.

SAMUEL KACHMAR: Yeah, we would love to have a bigger lot.

CONSTANTINE ALEXANDER: It is an issue. It is 50 percent more than if we grant the relief than is permitted in the district. So you're really pushing the limits from our perspective.

SAMUEL KACHMAR: Right. You know, we are keeping it as a two-family home. You know, we have a tenant that, you know, that lives with us that plans to stay the long term. She's been there for a few years. She's a scientist over at Pfizer. And we enjoy sharing our home in that way. I mean, that adds to the FAR and contributes to it. I mean, I think on a certain level that that urban density is a good thing. It's nice having neighbors that when, you know, if you

go away for a day or two, that they're there.

THOMAS SCOTT: Could you go up less and increase the FAR less and still achieve what you're trying to do?

JANET GREEN: Almost where it's harder not to have the existing because we can't -- you know, you're asking for a great deal. I mean, you may not realize it, you don't come before us a lot. But you're asking for a lot. A big, a very big increase. And if you give us some chance to kind of work with you about where you could -- I understand you'd like to have the whole thing, but that may not be possible. And where would you -- where could you think about, you know, altering it is what I would guess some of us are thinking.

THOMAS SCOTT: How many bedrooms is the unit now? You have no usable space in the

attic, right?

SAMUEL KACHMAR: Right. Currently it's a two-bedroom unit. So what we would be looking to do is convert it to a four-bedroom unit essentially with an office that we would use as a Home Office.

CONSTANTINE ALEXANDER: So you have on the third floor, you would have two bedrooms?

SAMUEL KACHMAR: Two new bedrooms.

CONSTANTINE ALEXANDER: Office?

SAMUEL KACHMAR: A master bedroom and a nursery.

CONSTANTINE ALEXANDER: And presumably a bathroom as well?

SAMUEL KACHMAR: Yes, and a bathroom. Right now it's a one bathroom unit.

CONSTANTINE ALEXANDER: You have

your master bedroom and office on the top floor?

SAMUEL KACHMAR: Correct. Two kids' bedrooms.

CONSTANTINE ALEXANDER: And below would be where your children are going to --

SAMUEL KACHMAR: Right. Two kids' bedrooms. But essentially what we would have --

CONSTANTINE ALEXANDER: The suggestion that --

BRENDAN SULLIVAN: Is there a floor plan for the second floor at all?

MARGARET CURRIER: Yes.

CONSTANTINE ALEXANDER: It's a suggestion that you're going to use the top floor for a master bedroom, needs to maybe a possibility that you could come up with a solution that adds less GFA, maybe in a

smaller master bedroom for you on the top floor, but other solutions that would meet Tom's objections which would reduce your GFA.

SAMUEL KACHMAR: We could certainly consider that. You know, the bedrooms size is 220 feet which we can certainly, you know, try to make that smaller.

CONSTANTINE ALEXANDER: Well, I'm trying to explore ways we can work --

SAMUEL KACHMAR: Yeah, right. No, no, I understand.

MARGARET CURRIER: The floor area ratio is already is -- we're already exceeding the FAR.

CONSTANTINE ALEXANDER: Yes, you are. You're not conforming already.

MARGARET CURRIER: Correct. But the hardship falls in that we have this attic space that's rendered unusable so we've got

space that isn't functional for anyone.

CONSTANTINE ALEXANDER: No, I understand that. But what Tom is getting at --

THOMAS SCOTT: So doesn't every other house in Cambridge.

MARGARET CURRIER: We don't have a basement that has high ceiling height.

CONSTANTINE ALEXANDER: If we can add more GFA, gross floor area to the property, you're going to increase your non-conformance but not as much perhaps as what you're seeking tonight. That's what we're getting. There may be solutions that gives you less space but comes closer to complying with the Zoning Ordinance. That's what we're exploring with you right now.

SAMUEL KACHMAR: I think we understand. We tried to keep the increase in

the GFA as minor as possible. You know, we didn't try to, you know, crank out all the space that we could and, you know, reduce the slope of the roof to try to, you know, garnish all the space as possible. You know, we really just tried to add a couple of bedrooms and a bathroom on the floor that tried to make space to expand our family in the long term.

CONSTANTINE ALEXANDER: Let me come back to this subject that we're on right now. Let me, if you don't mind, Tom, and everybody else, let me get the public testimony out of the way and read some letters and let's come back to this issue that we're talking about right now.

Does anybody here wish to be heard in this matter?

RICHARD CURRIER: Richard Currier. I'm Margaret Currier's dad and Sam's

father-in-law. And I moved to Cambridge in '67. It was a very different town in those days. In '69 we had rent control all over the town and somehow or other I bought a three-family and then another three-family and then I ended up with a two-family on Lexington Avenue where Maggie was born. And had no idea at 67 that I would be here this long. And I have no idea how much longer I'll be here, but I know I'm going to be here for the duration. The reason I'm here tonight is just to say that I'm very helpful that my daughter can continue to stay in the city. It's hard. There are multiple bids on everything. Small properties are going \$500, \$600 square foot and higher. I would like to see Sam and Maggie stay here and see my grandchildren here. And that would be my hope. It's hard to find the property for

people this age that they can look to the future and see the long picture. So many people move to the city here three and four years and leave. While Sam and Maggie are proposing is the ideal that they be able to stay here for the long term.

So thank you for your time.

CONSTANTINE ALEXANDER: Thank you.

Let me just comment on behalf of the Board is that we're very cognizant of the point that you're just making. And we try to work with people who come before us to allow younger couples to stay in the city. But on the other hand, we do have to work with the Zoning Ordinance the City Council has given us. We didn't write it, they did. And we've got to deal with that.

RICHARD CURRIER: I understand that. I appreciate that.

CONSTANTINE ALEXANDER: Anybody else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: There's no one else.

We have letters which I will read into the record. We have a letter from City Councillor David Maher. (Reading) I am writing in strong support for the application for a Variance submitted by Maggie Currier and Samuel Kachmar to increase the roof height and to add two, 15-foot dormers to their home located at 43-45 Saville Street. Maggie and Sam purchased their home in 2011 and are both active in the Cambridge community. Maggie grew up in Cambridge and the couple plans to remain in the city and raise a family on Saville Street. As their family grows, so too will their need for

additional space and increasing the roof height and adding two dormers to their home will enable them to raise a family in their current residence. Both Maggie and Sam have strong connections to the City of Cambridge and want to raise their family in our vibrant and diverse community. Unfortunately the current layout of their home is not conducive to accommodating more than two people comfortably, and this addition would ensure that the home will meet the needs of the family for many years to come.

The Petitioners plan to expand their home at 45-45 Saville Street and remain in that home while they raise their family. It is also important to note that Maggie and Sam's neighbors have given their approval to this Petition. As a long time resident of this neighborhood, I am pleased to see that

this family wants to stay in Cambridge and raise their children in our great city. I urge you to grant a Variance for Maggie Currier and Samuel Kachmar.

We have a letter from Brian P. Leahy, L-e-a-h-y who resides at 94 Richdale Avenue, No. 3. Not exactly in your neighborhood. (Reading) I am writing to convey my -- which doesn't mean we don't take consideration of this by the way, it's just an observation -- I am writing to convey my support for the granting of the Variance for the proposed modifications to 43-45 Saville Street. As a local resident of Cambridge and a supporter of responsible design and property development, I believe that this project will enhance the quality of the neighborhood and offer no detractions from the quality of life for the surrounding neighborhood or

residents. It is my opinion that the design was thoroughly prepared, displays good taste in judgment within context of its surroundings, has a pleasant and proportional stylistic value and will allow the property owners Samuel and Margaret to remain active and contributing civic members of the community. It is my belief that the requested Variance by the owners is reasonable and worthy of an approval by your Board. Please consider an approval of the Variance to allow this project to continue forward. I have no reservations or doubts that this project will positively contribute to the growth of an already thriving community.

And a letter from Kyla Robinson,
K-y-l-a R-o-b-i-n-s-o-n. It doesn't have an address.

MARGARET CURRIER: 51 Saville.

CONSTANTINE ALEXANDER: 51 Saville.

(Reading) I am writing to lend my support for the Variance application to allow for the renovation of 45 Saville Street to add dormers and raise the height of the existing roof. I am a neighbor at 51 Saville Street -- sorry -- and was born and raised in the neighborhood. I remember the previous owners of Sam and Maggie's house, Mr. Dinkins (phonetic) whom the block is named after. Dinkins and Saville, okay. And I frequently tell Sam how much he reminds me of Mr. Dinkins.

Is that a compliment?

SAMUEL KACHMAR: I'm not sure.

Christie Dinkins --

CONSTANTINE ALEXANDER: Sam and Maggie are an asset to our neighborhood,

community, and block. I've had an opportunity to review the plans and discuss the project with Sam regarding the renovations. After careful review of the proposed plans, I believe the relief requested is appropriate in size and scale for the neighborhood and will enhance the property. For all of these reasons I strongly urge you to grant the Variance and allow full renovations of this property.

And that's it. The Petitioner has advised us that other neighbors who have not written have been contacted and are in support of the relief being sought. And by the way, the relief is both a Variance and a Special Permit. The Special Permit is to relocate -- to add additional windows within the setback in a certain elevation.

Any final comments on your side?

SAMUEL KACHMAR: Just in terms of the Special Permit, you know, the house exists, you know, six feet off the property line and the windows are --

CONSTANTINE ALEXANDER: Those windows are shown in the plans that we have in our file?

SAMUEL KACHMAR: Yeah, exactly. They're sited so as not to invade the privacy of neighbor. On the other side there's a driveway and a setback --

CONSTANTINE ALEXANDER: And the neighbor affected by this --

SAMUEL KACHMAR: Approves it.

JANET GREEN: Do you work at home?

MARGARET CURRIER: We both do. We both are self-employed.

SAMUEL KACHMAR: At night I work at home. During the day -- yeah, during the day

I work, and then at night home doing drawings and different projects and stuff to try to stay here in the community.

CONSTANTINE ALEXANDER: Okay. I'm going to close public testimony at this point. I think it's time for a discussion by members of the Board. Let me suggest that I've heard, listening to the questions, some doubt, not about granting relief but granting the relief that's specifically being sought tonight. That maybe it's too generous or too much in terms of our Zoning Ordinance. Maybe. And if we take a vote and people feel that way and we vote against it, these plans, then you're out for two years. Another possibility, and I'm going to sort of ask the Board to sort of weigh in on this, is to continue this case. If it looks like it's not going to get the relief, continue the

case, give you a chance to rethink the plans. Maybe come back with something less substantial. Maybe. It's up to you. I don't want to put you to that unless I think you may need that in terms of being turned down.

So, I don't know, what's the sense of members of the Board, would you like them to rethink the plans or are we ready to vote on these plans tonight?

BRENDAN SULLIVAN: Well, I'm not convinced because I've been involved in other projects that do it differently that, you know, breaking this plain is absolutely the only way to get a dormer there. Because the raising the whole roof line up, you're raising the roof up four feet which is fairly substantial enough to be able to reframe that entire attic space and still get a dormer in

there without breaking the line with the gutter there.

CONSTANTINE ALEXANDER: Brendan, what's your reaction? I don't want to put you on the spot. What's your reaction to the initial FAR being sought? Is it too much in your judgment? Or something that Tom has been alluding to in his comments.

BRENDAN SULLIVAN: It's --

CONSTANTINE ALEXANDER: You don't have to --

BRENDAN SULLIVAN: It's --

CONSTANTINE ALEXANDER: It's a lot but maybe not too much.

BRENDAN SULLIVAN: Yes. I mean, something has to be done with the house. And it's -- it needs something. You're going to put a substantial amount of money into it. I guess it just looks a little bit massive.

And you say well, it's really a small house. And I think maybe the deck on the front sort of adds to it. The deck on the back I just think is out of proportion to the house. I know you may want to use it and it may be sacred and what have you. If you took away part of the deck, you could save part of FAR, too, and reduce that number down. But, you know, if you feel you have to have both, well that's fine, too. And I guess I would just like you to maybe take one more pass, having heard the sentiment of the Board, and see if you maybe can't do those dormers a little bit differently. And you may come back and say, you know, we tried and we can't. And that's okay, too. You know. But we tend generally not to approve that much.

CONSTANTINE ALEXANDER: Or those type of dormers, too.

BRENDAN SULLIVAN: Correct.

That's correct.

CONSTANTINE ALEXANDER: That's an issue I haven't touched on myself.

Other members of the Board feel that they'd like to --

THOMAS SCOTT: Can I ask you a question?

SAMUEL KACHMAR: Of course.

THOMAS SCOTT: Have you considered -- I know you took the peak and raised it four feet so it was here. Have you considered keeping this line the same? What will happen is it will reduce your FAR increase because you're five feet line will move from here probably to here.

SAMUEL KACHMAR: Right.

THOMAS SCOTT: And what will -- the only thing that will suffer will be the rooms

on the end of the house as opposed to the rooms within the dormer will stay the same and you can get this eave line to be continuous on this side elevation.

SAMUEL KACHMAR: Right. We considered keeping the eave line there but because of the way the stairs come up to the third floor, that was what forced us to push the roof up. Because without that then we can't get the stairs built to meet code to be able to -- or even to be able to meet anything. To be able to really get up there.

TIMOTHY HUGHES: I will tell you, though, that one of the reasons that I would relax dormer guidelines would be to accommodate that stair.

MARGARET CURRIER: So something longer?

TIMOTHY HUGHES: Yes, I mean --

BRENDAN SULLIVAN: Well, the stairs can be done differently. And, again, this is a very typical two-family house and you come up the stairs, and then there's going to be a bit of a landing but you don't just automatically go back up again. Is that the stairs may start more towards the front of the house and then come up again. So it's not just a continuation of the first floor -- I'm sorry, the stairs from the first to the second landing, if you will, you know, but that you come up and then there is a bit of a foyer area and then the stairs actually comes up from the front of the house and then comes up somewhat as a wind.

THOMAS SCOTT: So sweeps back under the gable.

BRENDAN SULLIVAN: Which goes back in underneath the roof.

SAMUEL KACHMAR: Right. Right now the existing stairs are there and we're trying to stay within --

BRENDAN SULLIVAN: You're going to do a gut thing, those stairs go and you redo the stairs. And, again I'm -- I've done it and I've been involved in many projects that it works very successfully and that's why I'm -- when I say the dormer, oh, it can be done differently. But anyhow, I can't design it for you.

CONSTANTINE ALEXANDER: Tom, you feel somewhat similar you would like to have -- not vote tonight but have a --

THOMAS SCOTT: Yes, the continuation and maybe just take another look at it and see if you can reduce the FAR increase a little bit. And even if one of those dormers had to grow a little bit or not,

you know, I think we'd be a little bit flexible.

SAMUEL KACHMAR: Or it might be a little reasonable to fit the stairs in there.

CONSTANTINE ALEXANDER: Given the fact that you've heard two members that expressed some opposition to what you're proposing tonight, and to get relief you need four votes, so if those two were to vote against it, it's not a majority, it's a supermajority. You don't want to go tonight. But what you're hearing, if I can speak for the Board, support for what you want to do.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: It's not saying just get out of here, you can't touch it. But we'd like you to rethink -- you heard the comments -- rethink the design a

little bit, the amount of FAR that you're adding legally or GFA I should say adding legally, and come back with maybe a different set of plans or the same ones. If you can come back and say, look, we've looked at it and here's why we think this is the only thing that works for us. I think it's in your interest and certainly our desire, some members' of the Board desire that you take another crack of this.

MARGARET CURRIER: May I ask a question to Brendan?

CONSTANTINE ALEXANDER: Sure.

MARGARET CURRIER: You mentioned that you weren't really in favor of the front porch? Our feeling was that it kind of broke up just a very flat facade to the home and so I'm wondering your thoughts on that.

BRENDAN SULLIVAN: Well, I guess,

and, again, everybody has, you know, my father used to have a thing that's why Howard Johnson has 28 flavors or used to be because nobody likes the same flavor ice cream. But I know the house very well. I stood across the street from it in the last two weeks and looked, and I just thought that maybe if that were pulled in -- just sort of pull down the scale of it a little bit, not necessarily opposed to it, it's just maybe it's just too much, that's all. So that if it were just pulled in a little bit, just maybe fine tune it a little bit, maybe it makes it a little more elegant rather than all the way out. And, again, and again, you know, I'm not going to be on your back porches, but just to relook at those and maybe you -- I just thought they were out of scale for the house. Now you are getting a little bit bigger house, but -- and

you may say, look, we're going to spend a fortune here, I don't want to get into these back porches. And that's fine. Just something to look at. Can we just sort of make it look less massive.

MARGARET CURRIER: Okay.

SAMUEL KACHMAR: And so --

BRENDAN SULLIVAN: I don't know how much you actually use the front porch.

MARGARET CURRIER: It's more for air flow to be energy efficient so that we could cool off the third floor without using --

BRENDAN SULLIVAN: I know. Again, it's a nice feature. It's just -- take a look at it --

MARGARET CURRIER: It's more money for us to do --

SAMUEL KACHMAR: The other thing, though, looking at trying to find a way to

bring natural light into the front part of the house. Because right now there's a sort of a hip roof that kind of comes up there and so that -- we tried to put that deck on there would be a lot natural.

BRENDAN SULLIVAN: Again, look at the possibility that if it gets pulled in a little bit, that it softens the impact of it.

MARGARET CURRIER: Okay.

CONSTANTINE ALEXANDER: So I think you don't want to push a vote tonight.

SAMUEL KACHMAR: Could I just ask if I'm hearing the Board correctly? What you guys would like us to investigate is to see if we can reduce the amount of FAR and increase the --

CONSTANTINE ALEXANDER: And also redesign the dormers.

SAMUEL KACHMAR: And to see if we can

possibly redesign the dormers either to push the stairs to fit underneath there as well as to see if we can kind of push down the roof a little bit to fit everything in there and see what we can do on the redesign.

CONSTANTINE ALEXANDER: You heard us right.

THOMAS SCOTT: Yes. I don't think we want to see -- as long as the height falls within the 35-foot height limit, you can keep that.

SAMUEL KACHMAR: Right, you want us to look at the slope of that whether we can reduce that slope and actually increase the slope of the roof; right?

THOMAS SCOTT: Right.

SAMUEL KACHMAR: And keep the slope of the roof.

CONSTANTINE ALEXANDER: How much

time would you need to rethink and come back with a new set of plans?

SAMUEL KACHMAR: How about tomorrow night?

JANET GREEN: Winter's coming.

MARGARET CURRIER: He'll be up all night.

CONSTANTINE ALEXANDER: What's the earliest?

SEAN O'GRADY: November 14th.

CONSTANTINE ALEXANDER: November 14th. November 14th is gonna have to be. The other reason we also need to have all five of us here for that case again.

MARGARET CURRIER: We understand.

CONSTANTINE ALEXANDER: We started the case. We have to have the same people.

Can everybody make the 14th?

JANET GREEN: Yes.

SEAN O'GRADY: And, Gus, I should just say this, that's the fourth continued case. I generally don't do that but we just instituted electronic filing, and so we're not seeing a lot filings. We think things are backing up. So I expect that night to be light so that's -- I am overburdening.

CONSTANTINE ALEXANDER: I'd like to get it as soon as possible. If that's the soonest date, we'll take on the burden.

MARGARET CURRIER: Thank you. We really appreciate that.

CONSTANTINE ALEXANDER:
Definitely.

The Chair moves that this case be continued as a case heard on the following conditions:

That you sign a waiver of time for decision. Otherwise we have to turn you

down. He'll give you the piece of paper.

That the sign that you've posted on the property, you must change it. Just take a magic marker, change the new date, November 14th. The new time seven p.m. Make sure that the time as well as the date, and that you maintain the --

MARGARET CURRIER: It's still up.

CONSTANTINE ALEXANDER: You can take it down for now, but you got to put it back up for that 14 days, whatever it is, 14-day period.

SAMUEL KACHMAR: And that's November 14th.

CONSTANTINE ALEXANDER: And lastly, this is very important from your perspective, any revised plans and related dimensional forms must be in our files by five p.m. on the Monday before November 14th. So if you don't

make that deadline, we won't hear the case on November 14th.

MARGARET CURRIER: And would it be helpful to see as-builts in those plans?

CONSTANTINE ALEXANDER:
Absolutely. You heard that earlier. That would be very, very useful when you come back before us.

MARGARET CURRIER: Okay.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you in November.

MARGARET CURRIER: Thank you very much.

(Alexander, Hughes, Sullivan,
Scott, Green.)

* * * * *

(9:10 p.m.)

(Sitting Members Case #10517: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10517, 1 Broadway.

Is there anyone here wishing to be heard on this matter?

ATTORNEY TIMOTHY TWARDOWSKI: Good evening, Mr. Chairman. Timothy Twardowski, Robinson and Cole representing the Applicant Verizon Wireless. We had the appearance before the Planning Board on the 17th of September. We received some commentary and some direction as to some changes that they would like to see on this site. We are

currently working on making those changes to accommodate the Planning Board. We are hopeful to go back to the Planning Board on the 29th of this month. So we have requested that the Board continue this hearing until the first available meeting after the 29th.

CONSTANTINE ALEXANDER: Well, it's not going to be any earlier than the 14th of the November.

JANET GREEN: And it's not going to be the 14th.

TIMOTHY HUGHES: The earliest available -- Sean left this with me, is 12/5.

CONSTANTINE ALEXANDER: Okay.

It's going to be December 5th will be the date.

The Chair moves that this case be continued until seven p.m. on December 5th on the condition that Petitioner sign a waiver

of time for a decision. If you haven't done that already, Sean will give it to you.

That the posting sign be revised, modified to reflect the new date, December 5th, and importantly the new time, seven p.m.

And that the sign be maintained for the period of time required by our Zoning Ordinance. This is away off in the future. You can take it down now, but just put it back up.

And lastly, the revised plans and photo simulations, which are going to be the result of your further study, must be in our files no later than five p.m. on the Monday before December 5th.

ATTORNEY TIMOTHY TWARDOWSKI:

Agreed.

CONSTANTINE ALEXANDER: And any revisions to the dimensional form which

wouldn't apply in your case.

Got it?

ATTORNEY TIMOTHY TWARDOWSKI: Yes.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this basis, say "Aye."

(Aye.)

(Alexander, Hughes, Sullivan, Scott, Green.)

BRENDAN SULLIVAN: I would -- just as a word of caution, make sure that -- it is imperative that that sign be maintained there because signs have a way of being moved, falling down, building manager takes it, custodian takes it. And if we go by a few days beforehand, if that sign is not there -- or a week before, then you're going to have to be -- it's going to be another penalty lap and you don't want to waste your

time.

CONSTANTINE ALEXANDER: Let me follow up on that. Your client has had a bad history with us with regard to signs. They put these signs up and don't worry about them and they fall down all the time. We're going to hear on 799 Concord Avenue later on. We may have a problem there, the signs are gone, and they were not put up in a way that ensured their viability. So please, I know One Broadway, I checked, you have a sign inside the window, that's great. Make sure that whoever owns that building keeps it in the window. But you've got to do a better job with respect to posting signs so that they will stay for the period of time required under our Ordinance. Okay?

ATTORNEY TIMOTHY TWARDOWSKI: Yes, at One Broadway we do in fact have three signs

posted, and MIT's the owner of the building and they've been helping us with that.

CONSTANTINE ALEXANDER: You get a stake and stick it in the lawn and tape a sign to it and 15 minutes later the sign is gone and that doesn't work. We've been lenient in the past, but our patience only has -- goes so far. Okay?

ATTORNEY TIMOTHY TWARDOWSKI:

Understood.

CONSTANTINE ALEXANDER: And one other thing is that make sure the photo simulations that we get when you come back in December are visible. We've had a habit -- not we, you've had the habit or other telecommunication carriers have had habits of coming in with photo simulations taken in the middle of the night and it doesn't do us any good in terms of our ability to figure out

what's happening. Do a better job.

ATTORNEY TIMOTHY TWARDOWSKI: Sure.

CONSTANTINE ALEXANDER: Thank you.

ATTORNEY TIMOTHY TWARDOWSKI: Thank
you.

* * * * *

(9:15 p.m.)

(Sitting Members Case #10516: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10516, 157-159 Auburn Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY SARAH RHATIGAN: I'm Sarah Rhatigan. This is Susan Kuykendall one of the owners of the property and Andrew Bram.

So we're here for a Variance petition seeking to subdivide two lots which merged because of common ownership.

CONSTANTINE ALEXANDER: Subdivide

one lot into two lots.

ATTORNEY SARAH RHATIGAN: Exactly, thank you.

Two lots by title purposes. And the reason we're here is one lot for Zoning purposes. The Kuykendall family, Susan and her husband Jake and their son and daughter-in-law together bought this property. And from the photographs you can see it's a unique property in that you look at it at the front, it actually looks like one structure but it's two. And at the time that they bought it, the deed into the four of them shows two separate lots. One is interestingly registered land. The other lot is unregistered recorded land. They did have one mortgage at the time. They financed the project themselves. But from the get-go the parents and the children, grown children,

owned and managed and maintained their separate sides of the property separately. And, in fact, they thought that they had two separate properties joined by, you know, side by side structures. It wasn't until later or several years later when they went to refinance their separate lots which had been deeded separately after maybe ten years, maybe a little less than ten years, I'm sorry, I don't remember the exact number of years, that at that time the issue of merger was raised for them which they hadn't been aware before. And interestingly before that time Susan and Jake Kuykendall had actually been before this Board on two different occasions because they did some substantial renovation of their side of the property which required a Variance. Their son and daughter-in-law had previously done some renovation but it

didn't require -- it required permits but no Variance. And I would just mention that when they bought the property, there was six apartments in these two structures, three on each side. And each of them when they renovated they reduced the number of units on each side from three to two.

So the Board in 2005 and 2006 -- in 2005 there was a Variance petition which was granted. When they want to actually begin construction, they needed to revise some of the work so they came back to the Board in 2006. Again, the Variance was granted at that time. So, what we have is two separate lots defined legally; one registered, one recorded. Two structures joined in the middle. And a hardship for the owners of the property because now this many years later the children need and want to sell their side

of the property and move on. They live in California. They don't have any interest in, you know, investing and continuing to own and manage this property. And the parents meanwhile, actually do have a long-term interest in continuing to own and maintain it as a two-family property. They can't -- they could as a matter of title sell each property, but they couldn't as a matter of Zoning Law. So they would be increasing non-conformity on the lot.

As it exists now the property is grandfathered either because the structure was built so long ago it predates Zoning or to the extent that -- sorry, as you look at this, this is 157, this is 159. So the 157 side was the one that was granted Variances. This, to the extent that the footprint expanded, that increase was granted by the

Board and so it was legally protected. But, again, if they go to sell the property or sell one side of the property, they're suddenly non-conforming anymore.

It's an interesting merger question, I think, because there are sort of two unique things about it. One is that one side is registered and we don't quite know why. And we tried to find out why, but I discovered that the plans are in storage and the people who drive the storage bins back and forth haven't signed a new contract. So I might be able to get those files three months from now maybe. I offered to drive out there, but they just I wasn't allowed to drive out there.

CONSTANTINE ALEXANDER: It's possible what you're suggesting is that the fact that one lot is registered and one is not registered may defeat the merger doctrine, in

which case you don't need to be before us tonight.

ATTORNEY SARAH RHATIGAN: And, yes, that's what I'm suggesting. There in fact there was some discussions back and forth with the City Solicitor's office, is there any argument here? We weren't able to locate any case law on this particular issue. I thought that factually it may be interesting -- and our supporting statement described the history -- the sort of the longer history of the lot. So it was actually built as quote, unquote a double house. I never heard that phrase before, but now I understand. So it's sort of historically built meant to be a two houses and was from the get-go owned by two different owners, taxed separately, deeded separately for 50 years, 60 years.

CONSTANTINE ALEXANDER: It's not unusual in Cambridge.

ATTORNEY SARAH RHATIGAN: It's unusual in Cambridge --

CONSTANTINE ALEXANDER: That double houses --

ATTORNEY SARAH RHATIGAN: Right. So what I mean is that it's an unusual merger case.

CONSTANTINE ALEXANDER: No, no, that's true because of the registered and unregistered land.

ATTORNEY SARAH RHATIGAN: At least so often the merger cases that we read about or hear about, usually if someone's just coming in to, you know, they've got a house and they've got a nice yard next-door and they want to sell it and be able to develop it and make some money. And in this case there's no

more development that can happen on either of these lots. So by subdividing the lot, we, we technically run afoul of the Zoning provisions. We reduce the square footage of each lot. We're dividing the pie basically, right? So we're not -- obviously we're not changing any of the facts on the ground. And we wouldn't, by subdividing the lot, allow one owner somehow to suddenly have a lower FAR and be able to come in next year and build more. Like, they're both built out as much as they can be. And so it's unique in that case.

We're essentially asking for the blessing of the Board to sort of recognize what, in all other respects, are two separate lots.

CONSTANTINE ALEXANDER: You know, let me just comment on that. The merger

cases are not unknown to us. Every once in a while we get them.

ATTORNEY SARAH RHATIGAN: Yes.

CONSTANTINE ALEXANDER: And the merger document is in many ways is an unfortunate -- in my view, an unfortunate doctrine because people inadvertently get themselves into trouble by buying lots at different times and they merge and all of a sudden they've got a problem. And we've recognized that. And usually in those situations, if we don't grant relief, the owner has got real serious problems. In other words, they have no alternatives.

In this case, and I'm not suggesting it's determinative, but in this case you do have alternative to solve your problem. One, you may not have a problem if you can come up with the conclusion that registered plus

unregistered land doesn't cause a merger. That issue is still out to the side. That doesn't concern us.

The other solution is condominiumize. You can condominiumize the site. That would solve -- you don't need to worry about merger. You can do it legally to be sure condominiumize isn't the perfect solution. But I notice in your supporting statement you realize you could condominiumize the site and you prefer not to do it. I understand why you wouldn't prefer it, it's not ideal.

ATTORNEY SARAH RHATIGAN: Well, I think in the supporting statement I was being gentle by saying preferred but --

CONSTANTINE ALEXANDER: Do you agree it's possible, legally possible?

ATTORNEY SARAH RHATIGAN: The children who are selling probably don't have

the strong opinion on this. I actually haven't talked to them about that. But for Susan and Jake who want to continue to own their side of the property and continue to own it as a two-family property, which is what they've planned on in the long term way thinking about their retirement, thinking about how they could live in one unit. And the one thing that we did not show you which we do have photos of is the interior renovation of this side of the property. When I was speaking to Jake on the phone about it, I said, wow, it's beautiful for a rental property. He said, yeah, well, we really were planning -- when we did this renovation, we said this is, this is our renovation. This is, like, the most, you know, perfect place for us to live. I'm speaking for you.

SUSAN KUYKENDALL: It's true.

ATTORNEY SARAH RHATIGAN: So the condominium, the creation of condominiums puts our clients in a situation of being forced to do something with the property that they do not want to do. They don't want to be condominium owners. They want to own a two-family property on their separate lot. They've got a firewall down the middle. Utilities are separate. They don't want to be condominium owners.

CONSTANTINE ALEXANDER: I can understand that. But....

ATTORNEY SARAH RHATIGAN: And the question is does the, you know, does the merger doctrine require them to do that?

CONSTANTINE ALEXANDER: That's exactly the issue.

ATTORNEY SARAH RHATIGAN: I think it's hardship to require that. And I think

it's a hardship -- I mean, the -- I mean, you know, they can deregister the one side of the property. But the condominium conversion would be more expensive than the usual. That's, you know, a financial hardship. It's not an enormous one.

BRENDAN SULLIVAN: It places a burden on the property.

CONSTANTINE ALEXANDER: But it's not a Superbowl burden, there's no question about that.

ATTORNEY SUSAN RHATIGAN: Right, right.

CONSTANTINE ALEXANDER: Address the fact as you know from a Variance, you need to demonstrate that the hardship that you've identified is owing to circumstances relating to the soil conditions, shape or topography of such land or structure. And

especially affecting such land or structure but not affecting generally in the Zoning district in which it's located. How do you meet that standard?

ATTORNEY SARAH RHATIGAN: So it's the two structures that share a party wall so there's no way to meet a side setback requirement with these two structures being down the middle.

CONSTANTINE ALEXANDER: Where does that go to soil condition shape or topography?

ATTORNEY SARAH RHATIGAN: I think it's the shape of the structures on the lot. The shape and size of the structures on the lot.

CONSTANTINE ALEXANDER: Okay.
Anything further?

Questions from members of the Board?

BRENDAN SULLIVAN: Separate sewer, separate water?

SUSAN KUYKENDALL: Yes.

BRENDAN SULLIVAN: The lines do not go over one property or the other?

SUSAN KUYKENDALL: No. Each comes off the side.

BRENDAN SULLIVAN: So -- okay. And there's a firewall between?

SUSAN KUYKENDALL: Two firewalls.

BRENDAN SULLIVAN: So basically we're being asked to just draw a line on a piece of paper?

ATTORNEY SARAH RHATIGAN: Right. And it's also -- I mean it's lessening a line that's already on paper to the extent that there are plans recorded at the Registry of Deeds. But, yes, to draw a line on a piece of paper.

BRENDAN SULLIVAN: An updated plan.

ATTORNEY SARAH RHATIGAN: Yes.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

I'll open it public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

I don't believe that we're in receipt of any correspondence. Do you have any that you want to bring to us?

ATTORNEY SARAH RHATIGAN: No, we did not. We had sent out letters seeking comments.

ATTORNEY ANDREW BRAM: Letters went to the abutters that got notice of this hearing and no one objected.

SUSAN KUYKENDALL: We had a verbal comment.

CONSTANTINE ALEXANDER: I'm sorry?

SUSAN KUYKENDALL: We had a verbal comment. Joseph who owns Middle East said that if anybody needed and wanted to testify, any of the neighbors would be happy to because they're so happy with the way we've improved the property.

CONSTANTINE ALEXANDER: Okay.
That's part of the record, thank you.

I will close public testimony.

Any further comments you want to make at this point?

ATTORNEY SARAH RHATIGAN: No, I don't think so.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: In the soon to be deed, will there be a restriction to maintain

the house, the structure in a uniform appearance or something or have we thought about that? In other words, I guess one of the fears that I have in any of these where we're taking a house and splitting it down the middle, this is somewhat down the side actually, is that, you know, somebody who wants to get creative and paint their half one color and then I mean -- and I think it's probably in the vested interest of the people who are staying to keep it all the same. But I'm just wondering is that part of the process at all?

SUSAN KUYKENDALL: We would certainly be amenable to that. We don't want -- we've worked really hard on this. We don't want anything to happen to it. So that would be perfectly acceptable.

BRENDAN SULLIVAN: Well, I think

you'll probably have an opportunity to do that.

SUSAN KUYKENDALL: Yes, we do.

BRENDAN SULLIVAN: But maybe outside of this Board.

CONSTANTINE ALEXANDER: Yes. He's giving you good practical advice.

BRENDAN SULLIVAN: On that thought to put a deed restriction on there, that's all, to protect you.

SUSAN KUYKENDALL: Certainly.

ATTORNEY SARAH RHATIGAN: Yes.

BRENDAN SULLIVAN: So anyhow.

CONSTANTINE ALEXANDER: Other comments from members of the Board?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: Ready for a vote?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that two properties which historically have been separate and which the Petitioners believed to have been separate are now merged by virtue of a Common Law Doctrine of Merger and that restricts the ability of the two owners of the property. The two properties from being able to sell them independently.

That the hardship is owing to the circumstances relating to the shape of the structure. There's one structure built as a double house, many, many years ago before the advent of Zoning in Cambridge.

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

On the basis of these findings the Chair moves that a Variance be granted to allow -- to demerge this lot to have two separate lots, each conforming to the legal description that appears in the deed.

That's what you want? You're not looking to redraw the lines?

ATTORNEY SARAH RHATIGAN: Correct.

CONSTANTINE ALEXANDER: And that appears in their deeds so that upon the granting of the Variance, there will be two separate lots owned by whoever now owns those separate lots.

All those in favor of granting the Variance on the basis of this motion say

"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in
favor.

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: One
against. Motion carries.

(Alexander opposed.)

(A short recess was taken.)

* * * * *

(9:30 p.m.)

(Sitting Members Case #10518: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: Okay, the Chair will call case No. 10518, 799 Concord Avenue.

Is there anyone here wishing to be heard on this matter?

ATTORNEY TIMOTHY TWARDOWSKI: Thank you, Mr. Chairman. Timothy Twardowski of Robinson and Cole representing the applicant Verizon Wireless. The applicant this evening is seeking a Special Permit to locate a mobile communications facility at property located at 799 Concord Avenue.

We were before the Planning Board on the 17th of September. The Planning Board did

provide some comments generally asking us to lower the height of the antennas. All of the antennas we're proposing would be located on rooftop penthouses. Across the top of the of these penthouses there are some metal flashing and when viewed in the photo sims there was some concern that these antennas crossed over into the flashing and created a less than optimum look. So they asked that we lower the height of the antennas on those penthouses which we have done so.

We did submit a set of revised site plans and photo simulations on Monday of this week. I did submit multiple copies, but if anybody doesn't have a copy with them this evening, I do have some extras.

CONSTANTINE ALEXANDER: Here are some here. I'm going to distribute what you gave to us.

ATTORNEY TIMOTHY TWARDOWSKI: Thank you.

CONSTANTINE ALEXANDER: Sorry, go ahead. Keep going.

ATTORNEY TIMOTHY TWARDOWSKI: Thank you.

Mr. Chairman, in the application materials that we initially submitted with the filing I did cover all of the Special Permit criteria in written form, and I have additional submittals in the packet to the extent that the Board would prefer, I'd be happy to give a brief overview of the facility using the plans or the photo simulations whatever the preference.

CONSTANTINE ALEXANDER: I would prefer something but make it brief.

ATTORNEY TIMOTHY TWARDOWSKI: Okay, sure.

Just briefly the -- as I mentioned previously, the building is 799 Concord Avenue. And this is the Sancta Maria Hospital fronting Concord Avenue. The building actually is as it fronts Concord Avenue, it's six stories, brick building. Towards the rear of the property it falls to two stories. What we are proposing is to install three arrays of antennas on two separate rooftop and penthouses. Each array would contain four antennas, and each of the arrays would be mounted on a facades and painted to match the red brick color of the exterior of the building.

We're also proposing to locate some ground equipment, support equipment for the electronics and an emergency generator located within an existing garage space on the ground floor towards the parking lot side

of the property. That space is currently vacant with a traditional roll-up style garage door. That door will be replaced with a facade and a typical single individual entry door to replace that.

As I did mention previously, the antennas would be mounted on four arrays on each of the three arrays painted to match the exterior. I see I think in the photo sims it probably best shows the cable tray that runs from the ground equipment in the garage, follows, goes to the top of the two-story element of the roof and then follows what exists as a concrete colored form in the building. And we would again color that tray to match the background exterior going up to the rooftop and then connecting to the antennas on top of the roof.

And that's a basic overview. I would

be happy to address any questions that the Board may have.

CONSTANTINE ALEXANDER: Mostly for members of the audience who are here I assume for this case.

Questions from members of the Board at this point?

BRENDAN SULLIVAN: Well, yes. There is a plan somewhere showing existing facilities that Verizon has in the immediate area.

ATTORNEY TIMOTHY TWARDOWSKI: Yes.

BRENDAN SULLIVAN: I believe you have one at 700 Huron Avenue, as everybody else does.

CONSTANTINE ALEXANDER: Huron Avenue?

BRENDAN SULLIVAN: Huron.

And the other one is at 525 Concord.

ATTORNEY TIMOTHY TWARDOWSKI:

Actually, I have with me this evening Keith Vellante who is the RF network consultant who can actually go over the RF existing sites as well as how this proposed site will fit in with the existing network.

BRENDAN SULLIVAN: That's the question I have. I wonder why there is a -- and you're going to tell me there's a gap in coverage.

ATTORNEY TIMOTHY TWARDOWSKI:

Right.

BRENDAN SULLIVAN: And yet when I look at the plan, and unless I'm convinced otherwise, it appears to me that it's located here but its target audience is really Belmont. And, you know, I'm aware that Verizon was turned down for a tower on Route 2 and Pleasant Street. And I'm wondering why

here and why there is a gap in coverage that's not servicing Cambridge from the other locations?

ATTORNEY TIMOTHY TWARDOWSKI: Well, I mean I think at tab 4 of the application materials we do have the RF propagation maps. The first of the two pages shows existing coverage.

CONSTANTINE ALEXANDER: I see tab 2 and I see tab 5. I don't see -- oh, here it is.

UNIDENTIFIED MALE: As a neighbor is there not -- being new to these procedures, can we look --

CONSTANTINE ALEXANDER: Anything that we're looking at, you're entitled to look at.

UNIDENTIFIED MALE: Could we have a copy as well? We just don't know.

CONSTANTINE ALEXANDER: What would you like?

UNIDENTIFIED MALE: The maps and the antenna and the packet.

CONSTANTINE ALEXANDER: Okay. There are photo simulations. There's the plans.

ATTORNEY TIMOTHY TWARDOWSKI: This is a copy of the original packet. I want to provide you with a copy of the revised site plan and the updated photo sims as well.

UNIDENTIFIED MALE: Thank you.

CONSTANTINE ALEXANDER: And do you want -- do you want a little time to look them over? We can -- I can recess the meeting for 15 minutes to give you some time since you haven't seen them.

UNIDENTIFIED MALE: No.

UNIDENTIFIED FEMALE: I think we're

okay. Thank you.

CONSTANTINE ALEXANDER: Sir, give your name and address.

KEITH VELLANTE: Keith Vellante, V-e-l-l-a-n-t-e, 65 Dartmouth Drive, Auburn, New Hampshire.

ATTORNEY TIMOTHY TWARDOWSKI: I can just provide an initial response to the inquiry. What you see on the two different coverage plots are first a coverage only. This depicts the existing coverage, the 700 megahertz LTE. And what you see the red dot where it's at the center of the page is the proposed location of this particular site.

BRENDAN SULLIVAN: Which tab are we on now?

ATTORNEY TIMOTHY TWARDOWSKI: This is tab 4. I think that's what you're looking at.

CONSTANTINE ALEXANDER: Could you turn it around so that we can look at it as well?

ATTORNEY TIMOTHY TWARDOWSKI: Sure. Actually Keith has some larger size boards for the benefit of the audience.

CONSTANTINE ALEXANDER: And us.

KEITH VELLANTE: And the only difference on this map from what you folks are looking at is the size of the loop, that's the only change.

BRENDAN SULLIVAN: Just backing up just so I'm clear. We have or Verizon has a facility at 525-535 Concord Avenue?

ATTORNEY TIMOTHY TWARDOWSKI: All of the Verizon --

BRENDAN SULLIVAN: Where it says Fresh Pond -- where it says 53 feet.

KEITH VELLANTE: Fresh Pond --

UNIDENTIFIED MALE: 545 Fresh Pond Circle.

BRENDAN SULLIVAN: 545, okay. And then the other one is at 700 --

UNIDENTIFIED MALE: That's correct, 700 Huron.

BRENDAN SULLIVAN: Okay.

ATTORNEY TIMOTHY TWARDOWSKI: So generally speaking what you see here is the Verizon Wireless sites are marked in black. The green indicates Meg 85 DVM coverage which is Verizon Wireless's standard for reliable signal coverage for wireless. The location that we're looking at here, 799 Concord is shown in purple on the map. The white areas on the map in general are areas where we have less than mega 85 coverage.

CONSTANTINE ALEXANDER: I'm sorry, is that all Cambridge, the white area around

the --

ATTORNEY TIMOTHY TWARDOWSKI: It does extend over to Belmont here.

CONSTANTINE ALEXANDER: No, no. How much of it is Cambridge on that?

ATTORNEY TIMOTHY TWARDOWSKI: On the map?

KEITH VELLANTE: You may not be able to see it on the map. The maroon border, that's the city boundary so if you follow my --

CONSTANTINE ALEXANDER: So to Brendan's point, Mr. Sullivan's point is well taken, that most of what the reason you're doing this mostly is to benefit the City of Belmont, not Cambridge. The impact on Cambridge is relatively slight relative to the benefits to the community at Belmont, am I not right?

ATTORNEY TIMOTHY TWARDOWSKI: I'll just kind of flip this quickly. We will provide this all being in Cambridge here. This area will be filled in in green. Yes, it does provide some coverage in Belmont, but the majority of the coverage is being provided in Cambridge.

CONSTANTINE ALEXANDER: Give me that again. Say that again.

ATTORNEY TIMOTHY TWARDOWSKI: So here is where the city boundary line is.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY TIMOTHY TWARDOWSKI: So this is all shown in white.

CONSTANTINE ALEXANDER: Right.

ATTORNEY TIMOTHY TWARDOWSKI: With the new facility this is filled in with green. Yes, the coverage does extend further into further into Belmont, but --

UNIDENTIFIED FEMALE: Isn't that largely the Alewife Brook Parkway wildlife sanctuary? Isn't that mostly wildlife up there?

ATTORNEY TIMOTHY TWARDOWSKI: Well, extending --

UNIDENTIFIED MALE: Well, this is --

CONSTANTINE ALEXANDER: Wait, we have to keep an orderly hearing. If you want to ask questions, come to the Chair, please.

UNIDENTIFIED FEMALE: Oh, I'm sorry.

ATTORNEY TIMOTHY TWARDOWSKI: Certainly we'll be serving residential customers to the east -- to the west as well as residential and business customers to the north and the east as well as to the south.

CONSTANTINE ALEXANDER: Seems to me

you're providing coverage to the birds and the bees for the most part in terms of the reservation.

JANET GREEN: The birds and the bees in Belmont.

THOMAS SCOTT: Is that Route 2, the red line?

KEITH VELLANTE: Route 2, yes.

CONSTANTINE ALEXANDER: Okay.

Brendan has your question been answered?

BRENDAN SULLIVAN: Yes. I heard the answer.

CONSTANTINE ALEXANDER: Got the answer.

Keep going.

ATTORNEY TIMOTHY TWARDOWSKI: I was actually fielding questions.

CONSTANTINE ALEXANDER: Any more you want to add at this point? You'll have

a chance to make concluding comments. I'm going to open it to public testimony.

ATTORNEY TIMOTHY TWARDOWSKI: Sure, I'll be happy to reserve further comment until we hear from the public.

CONSTANTINE ALEXANDER: Any comments from the Board members at this stage. I am going to open it to public testimony. We have a number of written commentaries. Let me make just one observation at the outset and I'm not trying to chill public discussion, but a number of the comments we got in writing relate to health hazards from this facility and impact on environment, particularly wildlife and the neighborhood. And the neighboring Alewife Reservation. And I have to point out that the Federal Government has passed laws, a law or laws, regarding telecommunications

facilities. And basically it made the determination that they're safe. That whatever environmental damage is caused, so be it because it's important to whatever that we have telecommunication facilities. So you have to understand in terms of what our powers are, we have a right to deal with camouflaging or minimizing the visual impact. We certainly have a right if this were a residential area to look at the impact on the residential areas. This is not a residentially-zoned area. So understand what our limitations are as a Board. It doesn't mean that we have to grant relief automatically, but we, that's the restriction that we operate under. Anyway, with that by way of preface any comments?

EDWARD KUH: Sure. So my name is Edward Kuh, K-u-h. So Fayerweather Street

School is a preschool through eighth th grade school that abuts the property and we have just under 200 students, ages 3 through 14. And so we understand the regulations around the health issues that that's not an issue, so what we're -- we came for two reasons: One, to hear about some of these things to report back to our community. There is a part of our community that's worried about it because of all the unknown aspects. So there's a part of it from the business standpoint that we're worried that families who are currently at the school might un-enroll. And that new families, it's very competitive market, may choose not to look at or enroll at Fayerweather because of this. And it's mostly through the unknown and kind of more through the unsubstantiated aspect of things. And so then one, one question I have

is I did not know much about these towers, it looks like it's mounted on the side and is it -- we have a question about the directedness of what direction is it going towards. And I've read all sorts of things about the buildings and which way things go. So I'd like to hear, regardless of what our worry is, about that so I could report that back.

ATTORNEY TIMOTHY TWARDOWSKI: Sure. Actually, I have a full size copy of the plans which may help.

CONSTANTINE ALEXANDER: I think I gave him a copy of the plans.

ATTORNEY TIMOTHY TWARDOWSKI: Okay, sure. If you turn in the site plan to sheet Z2, which is actually the third page on the site plan. What you'll see is the two antennas on the bottom left-hand corner

labelled gamma sector and beta sector and then the other array of antennas which is located on the right-hand side is the alpha sector. If I understand correctly, your location, you're located closest to the east of this building? So you would be closest to the alpha sector antennas. And these are pointing to the north which I believe is not in the direction of your school. These antennas are directional. So they are not aimed at your school. That the antennas that would be providing direction coverage more towards the -- it's actually to the -- almost directly south, are located on the far left-hand corner of what you see on the site plan. So in terms of directionality I think the arrow's shown as the beta sector is essentially show the directionality of the signals being broadcast from the antennas.

EDWARD KUH: Again, I'm not -- so we also -- and why don't you choose to go.

CARROLL MAGILL: Okay, My name is Carroll Magill, C-a-r-r-o-l-l M-a-g-i-l-l. And I'm the Chair of the Board of Trustees at Evergreen Day School which is a small preschool located at 79 Concord Avenue on the ground floor of the Sancta Maria building. And we too share the concerns, while I realize you are prohibited from taking all the safety considerations into account, our parents are not, and we are very concerned that being the preschool underneath cellphone antennas, and these are more cellphone antennas than were indicated in Doctor Haes' report that was submitted by Verizon I believe. Significantly more. We're concerned that it could have an adverse affect on our enrollment. We're a small non-profit. We

really depend upon tuition to cover our operational costs and to pay our 13 teachers and salaries and benefits. Even if just a couple kids per class decided not to come because of this concern, and there's a lot of information out there, we have well-educated and well-informed parents, and this is the sort of issue that can really take off in a place like Cambridge. We're concerned that it could really affect our, you know, financials and our ability to operate. I realize there are other competing economic arguments, but we are worried that this could jeopardize our business financially. I don't know if that's something that you can consider.

CONSTANTINE ALEXANDER: Okay, we can consider a lot of things. Are you a tenant of the building?

CARROLL MAGILL: We are a tenant.

CONSTANTINE ALEXANDER: Okay. Did you -- were aware that land owner was planning to lease this space out? Did you speak to the landlord?

CARROLL MAGILL: We were not. We found out about this very late last week. I heard you mentioning that there were some signage issues?

CONSTANTINE ALEXANDER: Yes.

CARROLL MAGILL: You know, I think there was for one day a sign out front. Taking toddlers to and from school you don't notice the sign outside. There was a building, I discovered posted on the front entry of the building, but that's not the entry to our school. We've been asked not to use that entry. That's the nursing facility entry. So we had no idea about this from the

building. We found out I believe on Thursday last week because a parent had found out through another series of e-mails unrelated to the building.

CONSTANTINE ALEXANDER: Have you signed the lease for this rooftop?

ATTORNEY TIMOTHY TWARDOWSKI: Yes, we do have a lease.

CONSTANTINE ALEXANDER: You do have a lease. It's too late for you to lobby with the landlord to say, you know we're a more important tenant than they are. That's too late.

CARROLL MAGILL: Yeah, we were unaware of it.

CONSTANTINE ALEXANDER: Okay.

EDWARD KUH: So there's also Rafferty Park which is a public park that's in the back of Sancta Maria is used by both

schools as well as soccer teams and all this. But in terms of our concern of the perception of our families and the health, whether they exist or not, and we're not arguing that --

CARROLL MAGILL: And I will say my Verizon cellphone reception is perfect there. I have no complaints about the coverage right there.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

LYDIA KNUTSON: My name is Doctor Lydia Knutson. Lydia, L-y-d-i-a Knutson K-n-u-t-s-o-n, and I'm the director of the Lydian Center for Innovative Medicine and we are a direct abutter as well at 777 Concord Avenue. And I am here with my neighbors just to corroborate some of their concerns which is that I -- my clientele kind of overlaps with their clientele. And I have

already had parents coming to me saying, I trust your opinion as my doctor. I hear there are cellphone towers going in next-door, do you think I should withdraw my child from the Fayerweather School? So just to let you know that they're not making it up. And I'm just here to support them that I had been getting questions.

CARROLL MAGILL: I have a question. I don't know if this is allowed under the federal statute. Is there any way that we could, if you do approve this and they put up the towers, can we require Verizon to give us actual readings of the RF radiation? I mean, they've put forth a claim that it's going to be at the very miniscule levels. Can we ask them to verify that once they're installed? That could be a way that we could allay some of the fears or concerns of our community.

CONSTANTINE ALEXANDER: I don't know the answer to that to be honest with you. I suspect not, but I don't know the answer to it.

CARROLL MAGILL: And I guess another question would be that if you do approve this, which we hope you don't, but obviously if you do, I don't know, this might be -- I don't know what the process is, but is this sort of a blanket permit or is it very specific to these towers that they're requesting?

CONSTANTINE ALEXANDER: Oh, no. Two things --

CARROLL MAGILL: If they wanted to add more or modify them do they have to go through another hearing?

CONSTANTINE ALEXANDER: Yes. It would be -- we would approve -- if we approve them, the antennas that are shown on the photo

simulations. So if that -- if they move them, change them, they have to come back before this Board. There's also another possibility, too, that we can put a term of years on the Special Permit. We could say we'll give you a Special Permit only for one year. So that -- for two years, whatever. And which would -- which would mean they'd have to come back after whatever period of time it is, assuming that's what we did and demonstrate to us that the law hasn't changed. The scientific evidence hasn't changed. There may be things that would cause us to reconsider it. We don't have to give them an in perpetuity relief tonight. That's a decision we're going to make before the night's over. So that's my response to you.

Sir.

EDWARD KUH: So if that's an option, our understanding is that the FCC is re-looking at some of these kinds of things.

CONSTANTINE ALEXANDER: So I understand from the material that's been submitted which is why I raised that. Maybe we would want to, if we want to grant relief, maybe we will do it for a period of time so we can reconsider this in light of what the Federal Government and other scientific evidence has uncovered in the interim so they're not --

EDWARD KUH: So our preference is as businesses and schools is to say is -- for not to be granted until that evidence is found and we realize that -- I mean, the FCC reviews it. However, if for -- if the Board does agree, then the second thing, the second best thing for us is to put a time period on it so that

it can be reviewed when new information is available.

CONSTANTINE ALEXANDER: That's something I'm going to suggest to the Board when we get to that. But that's already being thought of.

Sir, you haven't spoken yet.

FRED LANGENEGGER: Yes. My name is Fred Langenegger, L-a-n-g-e-n-e-g-g-e-r and I am a co-owner with Doctor Knutson of the Lydian Center which is an abutter, about 300 feet away from the hospital. I just wanted to -- a point of clarification about the directionality of the antennas. I've been -- my understanding -- I've been corresponding with Doctor Donald Haes who is the physicist who has been, who has submitted his report, his analysis of the health impacts, I believe, as part of the file. And

Doctor Haes -- I understood from Doctor Haes that these antennas are going to be really projecting and overlapping fields that effectively make a 360-degree broadcast and not -- I mean, the attorney was just, from Verizon was just a little bit ago saying that the antennas would be pointing northward, not over the Fayerweather School, and I wanted to clarify that my understanding was different from that. So, can you clarify that?

ATTORNEY TIMOTHY TWARDOWSKI: Yeah, if I could. I believe what I said is that the antennas that are located on the building, or proposed to be located on the building closest to 777 Concord Avenue, are actually located on the penthouse that is furthest away from your property. If I -- if it came across that I was saying that no signal coverage would be in your direction,

that's -- I didn't mean to imply that. Just that the antennas that are closest are pointing in the direction not towards your property.

FRED LANGENEGGER: Okay, so the antennas that are pointing in the direction of 777 property and the Fayerweather Street School are located on the west side of the building?

ATTORNEY TIMOTHY TWARDOWSKI:
That's correct.

FRED LANGENEGGER: I see, okay.
Okay, so they're slightly farther away than I figured then. Okay, okay.

CARROLL MAGILL: I have two questions to clarify or is there someone else?

CONSTANTINE ALEXANDER: You raised your hand. Do you want to speak?

LYDIA KNUTSON: I do. I think part of what some of the slight sort of not hysteria or concern in our voices, we found out about this literally the middle of last week. And the e-mails that have been flying about concerned parents, some of them are my patients which is why I know about this. It's been very ratched up, and the concern level -- I think because of this very late notice, very late notice which makes everybody panic. And I did notice the sign there at 799 Concord Avenue. And I noticed it flat on the ground facedown. And I thought what is that doing -- what is that? I actually did not pick it up and look at it, but then several days later I was walking by and it was sort of taped up and strung up somehow and that's when I looked at it. So I feel like, you know, as an abutter I

really -- that's part of the --

CONSTANTINE ALEXANDER: You don't own your abutting property?

LYDIA KNUTSON: I do.

CONSTANTINE ALEXANDER: If you're an abutter or an abutter to an abutter within 300 feet, you should have gotten something in the mail, a letter from the city.

LYDIA KNUTSON: Did you get something in the mail?

EDWARD KUH: Yes, yes.

FRED LANGENEGGER: I received something in the mail.

CONSTANTINE ALEXANDER: All right. So you were put on notice. So you have no complaint about lack of notice.

FRED LANGENEGGER: I have been aware of it. I don't think that the Fayerweather, the Fayerweather and Evergreen Street has

been.

CONSTANTINE ALEXANDER: I understand that, but at least you have.

FRED LANGENEGGER: Yes, yes.

EDWARD KUH: I didn't know about it.

CONSTANTINE ALEXANDER: You wanted to say something?

CARROLL MAGILL: I have two questions. How many -- the reports we read from Doctor Haes was talking about the one array. Just so that we can go back and give our community accurate information, how many antenna arrays are we talking about?

DONALD HAES: Excuse me, I'm Doctor Haes. I would like to have a point --

LYDIA KNUTSON: Oh, you're Doctor Haes? Yeah, you're famous.

DONALD HAES: I would like a point of clarification. What I'm talking about here

in my report is that the physical conditions are that Verizon Wireless imposes to install wireless antennas. Directional panel antennas, four per array. Four antennas per array. Each, each what? Each array aimed about 120 degrees apart. That would tell me that three divided by -- are, you know, 360 divided by 120 is three. So I'm putting three arrays, three arrays of four antennas is 12.

Now there may be receive antennas, but I'm talking about transmit antennas. So I'm including four transmit antennas.

CONSTANTINE ALEXANDER: You disagree with that analysis that he just laid out?

DONALD HAES: How did I significantly -- how are there significantly more antennas?

CARROLL MAGILL: I'm sorry, I'm not an expert on this. So I think we were thinking that there was one -- I misread it I guess. I don't mean to imply that you were being misleading.

DONALD HAES: No, what I'm talking about -- may I be a little animated?

CARROLL MAGILL: The antennas are in three pieces.

DONALD HAES: May I be a little bit animated? I'm going through the Chair.

So when we have four antennas going out in here; right? Four antennas going out in here. They are not influencing the antennas going out in here. And they are not influencing the antennas going out in here. Because the antenna spread is such that when this edge touches this edge, it's far enough away so it's already below the halfway point.

You see what I mean? Here I'm at 100 percent. Once it starts to fall away, I get to the point where it's called a halfway point. Even if I add up this section and this section, a half each, I'm still further away down here. So these don't add up with each other. So in the analyses I can look at one at a time, but the total number there's 12.

CARROLL MAGILL: Okay. I just wanted to be able to report accurately to my community. I wasn't implying that you were being misleading.

DONALD HAES: No, I just want to make sure you get the right information.

CARROLL MAGILL: My other question is there's something going to be in the garage on the ground level. If that could be clarified, what's going to be there, if that's equipment for repair, a generator you

mentioned but what other --

ATTORNEY TIMOTHY TWARDOWSKI:

Right. It's essentially the radio communications equipment which it's the electronics that essentially behind the antenna, that the, you know, the antennas are the receptors that send out the signal. The equipment will be located in the, I don't know if you're familiar with the parking lot area of the facility.

EDWARD KUH: It's like a separate garage.

ATTORNEY TIMOTHY TWARDOWSKI: Yeah, there's a garage space which is currently vacant. It's just passed the -- if you are in the parking lot looking towards, going towards the front entrance.

CARROLL MAGILL: It's a freestanding structure?

ATTORNEY TIMOTHY TWARDOWSKI: It's attached to the building. No, it is attached. If you look on the same sheet Z2, you can see that it is attached to the existing structure.

EDWARD KUH: Oh, okay.

THOMAS SCOTT: Can I? Why this site? And did you investigate other sites in Belmont or, you know, in other areas nearby? Why this site?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY TIMOTHY TWARDOWSKI: Right. And Keith can probably address this better than I, but essentially when -- in order to fill an existing gap in coverage, you know, a search ring is created. Basically it allows us to zero in on what are potential locations where we can install a new facility that will help us to close that gap. So we

need to be within the search area. And in this particular case, I mean RF signals don't know borders. So to the extent that, you know, we are in Cambridge providing coverage in Cambridge and admittedly providing coverage also in Belmont, from the RF perspective we need to locate it in a location that works with our existing network and that's really what drove this particular --

CONSTANTINE ALEXANDER: Might it be true that that location could be in Belmont?

ATTORNEY TIMOTHY TWARDOWSKI:

Pardon me?

CONSTANTINE ALEXANDER: Might it be true that this location -- I understand your RF calculation, but that doesn't mean it's -- is this is the only building within your circle that you're working with that you can locate this facility or are there other

buildings possible to look at in a different community?

ATTORNEY TIMOTHY TWARDOWSKI:

Right. I do not know for certain how many buildings were investigated in this particular instance, but I mean in proximity to the locations that we have in Cambridge was an important factor in choosing this particular location. The further west we get, the less benefit we get because we're not making the exchange between the locations in Cambridge and the facility.

THOMAS SCOTT: How do you propose to in-fill the rest of the white spaces? Are you going to continue adding antennas throughout Belmont and the adjacent towns? Or does it matter? Are those people just out of luck?

ATTORNEY TIMOTHY TWARDOWSKI: Well,

I mean eventually -- I can't speak to the global plan for filling in all the white spaces. You know, typically, you know, the approach is, you know, one step at a time. And a lot of that comes in terms of priority for the network. Also the need for additional coverage as is the case here. So there are a number of factors. And I honestly can't speak to that in terms of the need for future coverage.

THOMAS SCOTT: So the next question, if we deny this location, what would you do? Where would you go? What's the next obvious location? Is there one?

ATTORNEY TIMOTHY TWARDOWSKI: I don't know that.

THOMAS SCOTT: We don't know.

ATTORNEY TIMOTHY TWARDOWSKI:
Again, I don't know. I mean....

BRENDAN SULLIVAN: I think one of the tall buildings --

ATTORNEY TIMOTHY TWARDOWSKI:
Another factor obviously in searching for these locations is building height. You know, as we get, you know, just immediately to the west of this particular site getting into a residential area that has single-family homes and then one-story dwellings. So in that case, you know, we can't get -- with an installation of this sort, we can't get high enough to provide the coverage that we need.

CONSTANTINE ALEXANDER: No, but you go down and I don't know the name of the street, if it's Concord Street, there's a street right there that goes into Belmont. There are buildings of some height along those, and that's within, I'm sure, within

this ring. So my strong suspicion this is not the only building in the area you want to put antennas up. That's my best guess.

Anyway, further questions or comments?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to close public testimony.

We have a number of letters in our file. I'll either read some of the shorter ones and summarize the others.

We have a letter from -- or an e-mail from John Lobosco, L-o-b-o-s-c-o. The owner of 733 Concord Avenue. (Reading) I am opposed to the Special Permit that would allow the antenna at 799 Concord Avenue. I have two concerns. One, the visibility of the antenna would increase residential real estate values in the area, including my property. And two, with the antenna creates

negative health effects including cancer in addition to cardiovascular disruption among the fragile that may be living in the Neville Senior Center at 640 Concord. The Sancta Maria Nursing Facility at 799 Concord, the subject property, and homes nearby. Have these concerns been addressed by the Petitioner?

I've closed public testimony.

FRED LANGENEGGER: I understand.

CONSTANTINE ALEXANDER: I've closed public testimony.

We have an e-mail from Susan Bouffard, B-o-u-f-f-a-r-d, 15 Madison Street, No. 2. (Reading) I am writing to express my great concern about the proposed cellphone tower on the top of Sancta Maria Hospital at 799 Concord Avenue. I am the parent of a three-year-old child who is a student at

Evergreen Day School which is located in the facility. I'm also a developmental psychologist. I know that there are serious concerns about exposure to constant signals from cellphone towers posing significant harm to young children's developing brains and bodies. In one New York town many elementary school children have been diagnosed with cancer and experts believe it is related to cellphone towers located near their school. And there's an internet link. I, therefore, believe that it is extremely inappropriate to place such a tower on a building that houses a preschool educating many children under the age of five. Furthermore, other children play directly outside at Rafferty Park a Cambridge public park. I sincerely hope that you will deny the request to place a cellphone tower

on the premises as a more appropriate location can be found for the tower.

We have a letter from the Sancta Maria Nursing Facility. (Reading) On behalf of the Sancta Maria Hospital d/b/a Sancta Maria Nursing Facility, this letter is in support of the Verizon Wireless's application to install a mobile communications facility on our building at 799 Concord Avenue. I would observe, probably shouldn't, but I would observe that this letter is not from an disinterested party.

We have a letter from Ellen Mass, M-a-s-s, the President of the Board of Directors Friends of Alewife Reservation, Inc. The letter in its entirety will be incorporated as part of our record, but because of its length I'm just going to summarize its conclusions. The writer of

letter says she submits her vehement opposition to the proposed Verizon cellphone tower at 799 Concord Avenue. Less than a quarter of a mile from this precious wildlife refuge. And she goes on to say that Alewife Reservation is a unique natural oasis providing protective habitats for a wide variety of animals and birds and it is an important refuge to birds, and it goes on -- the point being is that the opposition is based upon the ecological impact of what is in her judgment of what is being proposed.

And last we have a long package from the Green Healey Press saying -- who reside who are located at 777 Concord Avenue. And it says: As an abutter, I wish to register my objection to the Verizon cellphone tower proposed for 799 Concord Avenue. And then the letter goes on to ask that we postpone a

decision until the FCC publishes its new regulations. So she says likely within the next few months. The objection she states is based on the economic loss of the inhabitants of Cambridge due to the destruction of habitat by the electromagnetic field produced by this tower.

And she also objects based on the economic loss to Belmont Acres Organic farm and also with regard to the loss of their bees, the impact of the bee population. And that's it I think in terms of letters.

So with that I'm going to close public testimony.

Do you have any final comments you wish to offer?

ATTORNEY TIMOTHY TWARDOWSKI: Yes, if I may. Just to respond to you some of the comments that were made this evening in

writing and by members in attendance.

With respect to the FCC regulations, Verizon Wireless and all the carriers are going to have to reply with the FCC emissions regulations, whatever they may be and whenever they may be released. If you go to the FCC website today, you'll see it's shut down just like the rest of the Federal Government. So there's virtually no information available. And as to the timing of those regulations, it remains uncertain under the circumstances. So we ask that that not be taken into consideration this evening.

Secondly as to the written testimony with regard to visibility, I believe that came from 733 Concord Avenue. I think the photo simulations that we've submitted do show that the visibility of this particular facility is minimal at best. We've done as

the Ordinance requires; mounted these on existing rooftop equipment and agreed to paint these to match the color of the background. So from a perspective of passersby or residents in the neighborhood these antennas will be virtually invisible.

As to the issue of the refuge and the birds and the potential impacts on wildlife, I do want to clarify for the record that the provision of the Telecommunications Act that preempts local boards from considering the health effects of these antennas, actually, the preemption applies to the environmental effects is the terminology in the statute, and I have a citation if you would like that for the record. And there is case law. Not in the First Circuit or in Massachusetts State Court, but there is a second circuit decision that specifically address the issue

as to whether or not that preemption extended to wildlife, and the Court did in fact find that it did extend to wildlife. So the preemption issue as it applies to the argument being made with respect to the wildlife refuge, we have it for the record that that is preempted by the Federal Telecommunications Act.

CONSTANTINE ALEXANDER: Okay.

With that I am going to finally close public testimony.

Commentary from members of the Board or do we want to go to a vote?

BRENDAN SULLIVAN: I would not be prepared to vote in the affirmative tonight based on a couple of things. That I'm not convinced that this is needed at this location, at the edge of the city. And I did not have the time to go back and look at the

presentation for 700 Huron Avenue to see that projected coverage. And I did not go back and check the projected coverage for the one down on Concord Avenue down the street to see if in fact those were insufficient terminals at the time and a known insufficiency which created this -- that there was a gap up in this area here. So that leads me and to whether or not this is really necessary here.

And I would only do justice to go back and convince myself that those were valid presentations at the time.

There is also somewhat of a fear of the unknown that is expressed, and I respect that and I think that it may behoove us to step away from tonight, not have a sort of a rush to judgment if we will, and maybe some of those fears may be aligned with a little bit more time, a little bit more suggestion of the

material, that even though the public notice went out, I went by there, I go by there daily, I did not see the sign. I mentioned it to -- and I guess the sign was down and then back up again. And whether or not that's -- I don't think it's fatal. Obviously we've heard the case. But I just think that some of this material needs to be maybe a little bit more digested by the abutters.

CONSTANTINE ALEXANDER: I must say I absolutely concur with that. I think that notice has been very sketchy. And I think there is a need for some community outreach by Verizon on this matter and education which has not been provided.

No. 2, I do question also the location of this facility. It's not been demonstrated to me yet that this is the place

for a facility to be built. There may be other places that would be more appropriate. We do have to take into account -- this is an unusual location. It's at the edge of town. It's across the street from a wildlife refuge, and it's in an area where there is a number of schools which all have impact. Not health impact, and the Federal Government I should point out, has determined that there are no adverse health impacts from these telecommunications facilities. But we do have to take into consideration the impact upon the people who live in the area who are concerned about this. And we have a lot of concerns expressed tonight both in writing and from the people who took the time to stay here at this late hour. And I'm not ready to decide this case. Plus we do have the fact that the FCC very well may be, if the

government ever opens again, on the verge of changing its rules. And I would like to see that. One way we can deal with that is to give a Special Permit with a very short time fuse, which I don't think would satisfy you the Petitioner because it could mean in a period of time you're going to have to tear everything down. And I think if you want to build something, you're going to want to build it with a view that's going to be permanent at least from your perspective.

I think there are a lot of reasons why we should not decide this case tonight. I think there's a lot of work to be done perhaps by you, to educate us, and to deal with some of the issues Brendan and to some extent I have raised. To reach out to the community, people who are here tonight and others, to explain and to try to dissuade their

concerns. And also I think -- well, those are the two major things. I want to be convinced this is where it has to be. And I want better communication with the neighborhood and the community with respect to what you're proposing to do. So I also would not be in favor of voting in favor tonight.

Other members?

TIMOTHY HUGHES: After hearing both what you have to say, I mean, it's -- what I have to say is irrelevant.

JANET GREEN: I was there today and there was no sign. There wasn't even a down sign. There was no sign.

CONSTANTINE ALEXANDER: And along the lines of that, you know, I have to comment. There's -- as I mentioned, you brought this wooden stake in the ground with

sticking tape to it. Right next door to where that wooden stake was -- when I came, the sign was down. The stake was there and I put it back up. There's a steel pole, a city -- just tack the sign or tape the sign to that pole and it won't fall down. Maybe the wind will blow it down, but sure as hell the wooden stake wouldn't fall down.

I mentioned this to you earlier, Verizon is less than forthcoming when it comes to posting signs. We have this problem with you all the time. And another reason why if we continue this case, I'm going to require that you put signage -- and you maintain it. And if it comes down any time in the 14-day period, I'm going to recommend this Board doesn't hear the case again. You've got to give notice to people. That's what we have it in our Ordinance and that's

what you're not doing to a large extent.

Anyway, ready for a vote?

JANET GREEN: I just have one other question.

Brendan, did you ask if they had already leased the roof?

CONSTANTINE ALEXANDER: I asked if they leased?

BRENDAN SULLIVAN: And the answer is yes.

JANET GREEN: So you lease it before you come before the Zoning Board? I mean you lease it before you have the Variance to put it up, the Special Permit I mean?

ATTORNEY TIMOTHY TWARDOWSKI: Yes. That's industry standard.

CONSTANTINE ALEXANDER: That's a business decision that they make and they run the risk --

JANET GREEN: You run the risk of not being able to use that space.

CONSTANTINE ALEXANDER: I expect their lease has a provision in there that if they don't get the necessarily approvals, that they can get out of the lease. Just a guess.

ATTORNEY TIMOTHY TWARDOWSKI: May I ask a question in response?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY TIMOTHY TWARDOWSKI: And all of your points are well taken. I am a little concerned that in the Zoning Bylaw or in the Zoning Ordinance, forgive me, the requirement as to demonstrating a need for the facility, the language in the Ordinance is that if where a proposed facility is proposed to be in a residential Zoning District, which we are not.

CONSTANTINE ALEXANDER: You are not.

ATTORNEY TIMOTHY TWARDOWSKI: So reading between the lines, it sounds like we are being held to that standard even though we're not in a residential district.

CONSTANTINE ALEXANDER: No, I don't think you are because the Special Permit requirements we've got to find that there's no hazard created, that there's no impact. I'll read the actual words rather than from memory. If we were to grant you relief, we would have to make the findings along the following lines, if I can find them.

That the continued operation or development of adjacent uses will not be adversely affected by what you're doing. And we've had a lot of testimony tonight that they may very well be adversely affected.

We have to find out that the proposed -- what you're proposing will not impair the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance. And I think we've also heard concerns tonight that go to this point. So I don't think we're imposing upon you the requirements for a residential district which you're not in. But what we are telling you is that you have to be able to build a better affirmative case as to why we should grant you relief. It's not a matter of coming before us, we're a telecommunications carrier, the Federal Government has told us we can do what we want to do, so please rubber stamp what we want to do.

ATTORNEY TIMOTHY TWARDOWSKI:

Right, certainly.

CONSTANTINE ALEXANDER: That's what we're trying --

ATTORNEY TIMOTHY TWARDOWSKI: And that's not a position.

BRENDAN SULLIVAN: And I would prefer that the intent and purpose of the Ordinance to allow cell towers would be to serve as the residents and businesses in Cambridge. Not to allow them in Cambridge to service even though there is obviously a ripple effect, but from what I can see, I think that the coverage is really -- there's a gap in that part of Belmont because this is right at the edge of the town. You know, I sort of raised this, I think, with 700 Huron Avenue. When, you know, they wanted to put a cell tower, they did. You know, they're shooting across the golf course and they're also shooting across the Belmont cemetery.

You know, and it doesn't really serve the intent.

CONSTANTINE ALEXANDER: In a word, if you're going to burden the community of Cambridge with a tower, you should show a cause or benefits.

BRENDAN SULLIVAN: And, again, whether the concerns are real or imagined, I respect them. And I think that they have real legitimate concerns that their client base, and again, those fears have to be aligned that their client base may choose not to go there. And that then has a direct economic impact on them. The intent and purpose of the Ordinance is to service the community to allow for better reception, to -- and all those other amenities, but not to have any kind of an adverse economic impact.

CONSTANTINE ALEXANDER: Okay. I think we're going to move to continue this case. As a matter of fact, I know we're going to move to continue this case. It's a case heard so the five of us have to be together.

Let me, I guess the next case is -- next time is December 5th.

SEAN O'GRADY: December 5th, that's correct.

CONSTANTINE ALEXANDER: Okay. Can you folks make it on December 5th?

CARROLL MAGILL: I think so. Is that a Tuesday or a Wednesday?

CONSTANTINE ALEXANDER: It's a Thursday. Always a Thursday.

BRENDAN SULLIVAN: If it's Thursday, we're here.

CONSTANTINE ALEXANDER: But it will be seven o'clock or as close to seven o'clock

as we can get it.

EDWARD KUH: If you have a second.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case heard until seven p.m. on December 5th on the following conditions:

That the Petitioner sign a waiver of time for a decision.

That -- this is an important one. That the sign, signs because there's more than one for the size of the property -- signs disclosing or stating the time and date of the hearing and the purpose, be posted and maintained for the period of time required under our Zoning Ordinance. And that the burden is on you to make sure that you post the signs in a fashion that under all, except for under reasonable circumstances, it will be maintained for the period of time. It's

not sufficient to put a sign up in any way and then walk away from it. You better everyday go there and make sure that sign is still there or signs. And if not, put them back up.

And on the last condition that the extent that you've got to modify the plans or your photo simulations as a result of the continuance, that these new photo simulations, new plans be in our files no later than five p.m. on the Monday before the December 5th. For the benefit of the audience, you can go to the -- you don't have to wait until the night to look at them. Starting at least five p.m. on the Monday before you can go to the Zoning office and the plans will be there and you can study them at your leisure.

All those of in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

(Alexander, Hughes, Sullivan,
Scott, Green.)

(Whereupon, at 10:30 p.m., the
Zoning Board of Appeals
Adjourned.)

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I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of October, 2013.

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Notary Public
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