

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 11, 2018

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey, Member

Slater W. Anderson, Associate Member

Laura Wernick, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members BZA Hearing October 11, 2018: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: Good evening. The Chair will open this meeting of the Zoning Board of Appeals. And as is our custom, we will begin with continued cases. These are cases that started at an earlier date, but for one reason or another had to be continued. We only have one continued case tonight and I will call that momentarily.

First let me read a statement:

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, or may transmit the meeting through any medium, subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as to not to interfere with the conduct of the meeting. At the beginning of the meeting, the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to advise those of you in the audience that there are two recordings are being made tonight. One, a citizen of the city has

left a tape recorder on the front desk. And second, our stenographer records the meeting to assist her when she prepares the minutes of our meeting.

Anyone else here has a recorder or recording this meeting or televising it or whatever?

(No Response.)

CONSTANTINE ALEXANDER: None.

Okay. With that, I will turn to our sole continued case.

* * * * *

(7:00 p.m.)

(Sitting Members Case No. BZA-016986-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: Case No. 016986, 187

Hampshire Street.

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

NAGER MICHAEL: Good evening.

CONSTANTINE ALEXANDER: Good evening. Give your
name and address to the stenographer, please.

NAGER MICHAEL: Nager Michael N-A-G-E-R. Michael
M-I-C-H-A-E-L. 839 Boston Post Road, Weston, W-E-S-T-O-N. Mass.
02493. I'm the owner of Beauty's Pizza.

NADIM PANWALA: I'm Nadim Panwala, N-A-D-I-M Nadim.

Last name Panwala, P-A-N-W-A-L-A and 43 Mountain Avenue, Revere,
Mass. 02151.

ANDREA HICKEY: And can you pull the microphone very
close? Thank you.

CONSTANTINE ALEXANDER: Let me say at the outset we
have a serious problem here. You're supposed to bring a piece of pizza
down so we can taste it to see if it meets our approval. I don't see any
pizza anywhere.

NAGER MICHAEL: I was worried about you guys.

CONSTANTINE ALEXANDER: Anyway, go ahead. It's your
case. I couldn't help it, I'm sorry.

You're looking for a Special Permit to operate -- you had taken
over someone else's pizza joint?

NAGER MICHAEL: Yes.

CONSTANTINE ALEXANDER: Are you the current owner?

NAGER MICHAEL: Yes.

CONSTANTINE ALEXANDER: And you're the proposed
new owner?

NADIM PANWALA: Yes.

CONSTANTINE ALEXANDER: Okay, got it.

On my time on the Board we've twice before given Special Permits for a transfer of ownerships. This is not a unique property to us. But tell us what you're going to do, hours of operation and the like.

NADIM PANWALA: I think I'm going to put everything same as it is, you know?

CONSTANTINE ALEXANDER: Okay.

NADIM PANWALA: Yeah.

CONSTANTINE ALEXANDER: What are your hours of operation?

NADIM PANWALA: Like from ten to around ten.

CONSTANTINE ALEXANDER: Ten in the morning to?

NADIM PANWALA: Ten at night.

NAGER MICHAEL: No. The hour we have it from six o'clock a.m. until three a.m. Summertime we usually do we stay late.

CONSTANTINE ALEXANDER: You're going to serve pizza at six a.m.?

NAGER MICHAEL: We have sometime that come in for breakfast. Sometime for catering for breakfast.

CONSTANTINE ALEXANDER: What do you serve for breakfast?

NAGER MICHAEL: We have like egg sandwiches. Sometimes people order some bagels. We make some trays of bagels or foods. We do, we'll do that.

CONSTANTINE ALEXANDER: So six in the morning until, I'm sorry, and I didn't catch when are you going to close?

NAGER MICHAEL: Three o'clock a.m.

CONSTANTINE ALEXANDER: What's that?

NAGER MICHAEL: Three o'clock a.m.

CONSTANTINE ALEXANDER: All but three hours? You're going to be open 21 hours a day?

NAGER MICHAEL: We usually like close one-thirty, two o'clock. If someone is still in the property setting, we don't want to bother. So we -- that's why I ask for three o'clock a.m. We have two shifts. One from the morning end at five, and from five to close, the second shift.

CONSTANTINE ALEXANDER: How many employees do you have working there?

NAGER MICHAEL: I don't have too many employees. We have maybe under ten people working in the place.

CONSTANTINE ALEXANDER: Not all at the same time I trust?

NAGER MICHAEL: No.

CONSTANTINE ALEXANDER: Two different shifts?

NAGER MICHAEL: Yeah, yes.

CONSTANTINE ALEXANDER: Does anybody have any problems --

NAGER MICHAEL: Mostly like delivery, especially during the lunch -- the lunchtime we have, like a lot of deliveries. And nighttime we have from Cambridge from Inman Square a lot of customer. They come to sit in the store for pizza.

CONSTANTINE ALEXANDER: Those are long hours. Do you have any crime problems?

NAGER MICHAEL: It is long hours. It is long hours. We

usually split the hours. We -- like, no one person can do like open to close. We usually split it. Not too many people in the restaurant at the same time, but we have like one work in the food, one in the pizza, one in the front. And I have two drivers.

CONSTANTINE ALEXANDER: I'm going to repeat my question. Any crime problems?

NAGER MICHAEL: No.

CONSTANTINE ALEXANDER: Anybody try to hold you up?

NAGER MICHAEL: No, no. Thank God. I've been in Cambridge 13 years. Before I was on Broadway. And now this area. Because the station next door is open 24. So it is good there. Thank God.

CONSTANTINE ALEXANDER: You're right.

NAGER MICHAEL: Cambridge. I'm glad to be in Cambridge all these years.

The request we have it in here to add additional seating outside, and this has help us a lot in the summertime.

CONSTANTINE ALEXANDER: And what about trash?

NAGER MICHAEL: We have Casella, the trash company. They pick up four times a week. And if we need additional pick up, he come and be pick up.

CONSTANTINE ALEXANDER: And what about people discarding stuff as they walk out of the -- napkins and stuff like that?

NAGER MICHAEL: We have the big container.

CONSTANTINE ALEXANDER: That's right, you have containers so people can -- they can throw their napkins and whatever in there.

NAGER MICHAEL: Usually like when someone he comes, come either to eat or to go. And if we have like someone for slices, you want it for to go, and we put it in a box and we serve actually now on china plates in the store. We don't serve paper. We will send paper plates for people, like when we have order, we send to be like convenient for the customer.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

ANDREA HICKEY: No.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I have no further questions or comments. Should we take a vote?

BRENDAN SULLIVAN: Yeah, that's fine.

ANDREA HICKEY: Yeah.

CONSTANTINE ALEXANDER: Okay. The relief you're seeking is called a Special Permit.

NAGER MICHAEL: Thank you.

CONSTANTINE ALEXANDER: I've got to deal with a bunch of things.

Okay, the Chair moves we make the following findings with regard to the Special Permit you're seeking:

That the requirements of our Ordinance cannot be met unless we give you the Special Permit.

That traffic generated or patterns of access or egress resulting

from your business will not cause congestion, hazard, or substantial change in established neighborhood character.

In this regard we will note what's proposed is a continuation of a business that's been there for a number of years and there have been no issues about congestion, hazard, or substantial change. No complaints from the public authorities that I'm aware of.

That the continued operation or development of adjacent uses as permitted in our Ordinance would not be adversely affected by the nature of what you propose. And, again, the history says it all. There's still the same old S&S Deli and all the other businesses around, not been affected by your pizza operation.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city. And that goes to we trust your pizza is good.

NAGER MICHAEL: Thank you.

NADIM PANWALA: Thank you.

CONSTANTINE ALEXANDER: And that generally what you're proposing will not impair the integrity of the district or adjoining

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

So on the basis of all of these findings, the Chair moves that we grant you the Special Permit to operate your -- continued to operate, really, your pizza business.

All those in favor please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted. Good luck.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

NAGER MICHAEL: We really appreciate everything. And I appreciate everything I got from Cambridge during 12, 13 years I've been here.

ANDREA HICKEY: Thank you.

NAGER MICHAEL: Hopefully I come back again to visit Cambridge soon after my surgery. Thank you so much.

CONSTANTINE ALEXANDER: Thank you.

* * * * *

(7:15 p.m.)

(Sitting Members Case No. BZA-016999-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: Okay, the Chair will now call
to order our regular meeting. And the first case I'm going to call is case
No. 016999, 163 Hampshire Street.

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

ATTORNEY ALFRED FARESE: Yes, please.

CONSTANTINE ALEXANDER: Give your name and address

to the stenographer, please.

ATTORNEY ALFRED FARESE: Attorney Paul Farese,
F-A-R-E-S-E, Jr., 366 Broadway, Everett, Mass. 02149.

DOLLY COSTELLO: Dolly Costello, C-O-S-T-E-L-L-O, 163
Hampshire Street, Cambridge, Mass. 02139.

CONSTANTINE ALEXANDER: Let me say at the outset we
have, this time we have a real problem. There was no sign posted.

ATTORNEY ALFRED FARESE: Well. I don't know why
because I have photographs.

CONSTANTINE ALEXANDER: I went one day --

ATTORNEY ALFRED FARESE: Are we talking about the
right place?

CONSTANTINE ALEXANDER: 163 Hampshire Street.

ATTORNEY ALFRED FARESE: I can show you one was
taken October 3rd because I asked her to take a photo. One was taken
two days ago. She has a few, if you would look, sir, she has a -- one of
these --

DOLLY COSTELLO: It's called a Ring doorbell.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ALFRED FARESE: If somebody comes within a certain distance of a bell, it goes to video. And I --

CONSTANTINE ALEXANDER: I don't know what to tell you. I went two different days within the two-week period and there was no sign posted.

ATTORNEY ALFRED FARESE: I don't know what to tell you except she posted it. We have photographs of two different days that was there. It was post -- it was on the outside of the window because this unit is right, right on the sidewalk.

CONSTANTINE ALEXANDER: When did you say the sign was posted, October 3rd?

ATTORNEY ALFRED FARESE: No, no, it was last week of September, about the 24th or the 25th. I was on vacation, I came back, and I spoke to Dolly, because I knew this was a problem with the last people who had come in for a Variance, because there had been some difficulty with them. So I specifically knew that this had, this had to be put up. I advised her to put it on the outside of the window in plastic so that

the rain wouldn't affect it, post it on the window, and send me a photograph. She sent me -- when I come back, it was probably the 2nd or 3rd of October. I made sure that she would go down and check it everyday. And she advised me that she had the push button, and the -- and if the Board requires it, I'm sure she can get copies to show that, on the dates that it was there. I, I don't know what to tell you except --

CONSTANTINE ALEXANDER: I understand. And I don't know what tell you either. All I can tell you is I went on a Sunday, a week ago Sunday and there was no sign. Definitely no sign. And I don't know when you went.

SEAN O'GRADY: I was there twice. I was there last week and this week.

CONSTANTINE ALEXANDER: And no sign either time?

SEAN O'GRADY: No sign either time.

CONSTANTINE ALEXANDER: We've got three different days and no sign.

SEAN O'GRADY: And that storefront is only a couple glasses wide.

DOLLY COSTELLO: It's there.

CONSTANTINE ALEXANDER: It may have been there now, but it's not there for the two weeks.

DOLLY COSTELLO: His office called and that day that somebody had told her that you guys were there. Dolly, they're saying there's no sign. I'm like I'm here, I'm looking at it. And that's when I sent him the other e-mail. She told me well, e-mail me now and I did.

CONSTANTINE ALEXANDER: Well, what do other fellow board members think about it? Should we hear the case or not? We know three different days within the two-week period there was no sign.

ATTORNEY ALFRED FARESE: I can tell the gentleman, I knew that -- your concern is because when we went to file for this, I went to the archives, and when I pulled out the documents for the archives, there seemed to have been a problem of this nature that there was a question whether the signs were there.

CONSTANTINE ALEXANDER: We would have thought someone could have gone there every day to make sure the sign was there.

ATTORNEY ALFRED FARESE: She has, she has video.

CONSTANTINE ALEXANDER: Every day?

ATTORNEY ALFRED FARESE: Yes, because this is a continuous loop. Whenever anybody walks by, it automatically goes on, it automatically records. Yeah. And it goes to her house. She --

DOLLY COSTELLO: It rings to my cellphone. Like it chimes anybody somebody is near I think within six to five feet. So I instantly either answer it or I have like recording if I don't get to answer it right away to see what's going on.

ANDREA HICKEY: So does your cellphone show the days they say it wasn't there? Does it show that it was there?

ATTORNEY ALFRED FARESE: I don't know what dates.

DOLLY COSTELLO: It's not pointing at the sign. It's just like on the -- if you look at the picture, it's on but the sign is on this side.

SEAN O'GRADY: So that's a sidewalk, though. I mean, people walk up and down that sidewalk within five feet of that -- your, you must be getting alerts every 30 seconds.

DOLLY COSTELLO: Yeah, a lot of signals.

SEAN O'GRADY: Well, okay, I'm not sure what it proves.

LAURA WERNICK: I'm sorry, but when the signal goes off, a picture is taken?

DOLLY COSTELLO: It's like either a video or I can click on it and it's live and I can see what's going on. I don't know.

LAURA WERNICK: So within the video we should be able to see a piece of the sign?

DOLLY COSTELLO: I can check now if you don't mind. I can't see it, a piece of the sign.

LAURA WERNICK: Oh, you can't?

DOLLY COSTELLO: On the video.

ANDREA HICKEY: Then I'm not sure that having a video has any sort of weight.

CONSTANTINE ALEXANDER: No.

Well, I am of a mindset we can't hear the case tonight, but if other members of the Board don't feel the same way, go ahead. I mean, we've got three days clearly that there was no -- at least the time that we drove by or went by there was no sign. I can tell you there was no sign.

I was there. And I had the right address.

ATTORNEY ALFRED FARESE: Sir, you know, I don't know what to tell you except that I made it specific that be sure it was there, because I knew there had been a problem the time before for the people who were there previously, and this has been a long process for Dolly. It's been four and a half months from the time we first started this procedure to reach here today, and it's just inconceivable that something --

BRENDAN SULLIVAN: It was up there today. Is it on the in or the outside of the window?

ATTORNEY ALFRED FARESE: It's on the outside of the window, sir.

BRENDAN SULLIVAN: Because I went by there today, the traffic, I saw it and I would have thought -- I think I would have posted it on the inside of the window rather than on the outside with --

ATTORNEY ALFRED FARESE: Well, part of the problem is when we received the notice of where to put it, it says do not put it on the inside of the window. And that was the reason why I made sure it was

put in the plastic and put on, put on the outside. Use waterproof tape.

And so the -- I just don't, really, I don't understand it.

BRENDAN SULLIVAN: That right on the sidewalk is subject to people going by and ripping it off. But anyhow.

ATTORNEY ALFRED FARESE: Yeah.

LAURA WERNICK: It doesn't seem to make any sense to hear it tonight if we don't have -- if we're not confident that the sign was fully posted.

CONSTANTINE ALEXANDER: That's my feeling.

DOLLY COSTELLO: I go there every couple days to do stuff in there until I get approved hopefully.

BRENDAN SULLIVAN: Sean, we're on for the 25th?

SEAN O'GRADY: The 25th is already full. We're not available until November 8th.

CONSTANTINE ALEXANDER: What date?

SEAN O'GRADY: November 8th.

CONSTANTINE ALEXANDER: What's the pleasure of the Board? I would vote to continue to November 8th.

ANDREA HICKEY: I agree with you.

BRENDAN SULLIVAN: Yeah, I mean I would defer. I mean I'm really somewhat agnostic on it.

CONSTANTINE ALEXANDER: This time put the sign inside the window.

DOLLY COSTELLO: I was going to ask you that, yes.

CONSTANTINE ALEXANDER: And go by everyday to be sure it doesn't fall down or the like.

ANDREA HICKEY: And take a picture.

ATTORNEY ALFRED FARESE: Well, that's --

ANDREA HICKEY: Everyday with a date stamp if it's a problem in that location.

ATTORNEY ALFRED FARESE: If this is what the Board wants I would have her buy a newspaper, put it up there, and have it taken. It's just, you know, it's inconceivable.

DOLLY COSTELLO: It's okay to put it in the window this time?

SLATER ANDERSON: Yeah.

DOLLY COSTELLO: No problems?

CONSTANTINE ALEXANDER: So what was the date again?

SEAN O'GRADY: November 8th.

CONSTANTINE ALEXANDER: November 8th. The Chair moves that we continue this case --

ATTORNEY ALFRED FARESE: If I might before.

CONSTANTINE ALEXANDER: Sorry?

ATTORNEY ALFRED FARESE: If I might. She says she's there. This is the type of work that she's doing on the inside to make it --

CONSTANTINE ALEXANDER: I know, but that's not relevant for right now, sir.

ATTORNEY ALFRED FARESE: Well, to tell you she's there.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case as a case not heard until seven p.m. on November 8th subject to the following conditions:

That you sign a waiver of time for decision which if you didn't, we would deny relief tonight.

Two, that you take the sign and -- or a new sign, post it for the

14 days. Make sure the date is changed. You can take the existing sign and with a magic marker cross out today's date and put November 8th and change the time to seven p.m., otherwise you have to wait, not 7:15.

ATTORNEY ALFRED FARESE: No problem.

CONSTANTINE ALEXANDER: And lastly, that -- well, this isn't relevant. You didn't give any plans or the like as part of your application, so we don't have to worry about the next thing. Just those two things.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case will be continued. I'm sorry.

ATTORNEY ALFRED FARESE: Anything else you require?

CONSTANTINE ALEXANDER: No, that's it.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

DOLLY COSTELLO: Put the sign in the window, leave it in until my next date, cross out the date that I have on there?

ATTORNEY ALFRED FARESE: Take a picture. Yeah, we have to change it to November.

DOLLY COSTELLO: And the time.

CONSTANTINE ALEXANDER: You can take it down. It's up now, you can take it down until the 14 days before November 8th. I wouldn't recommend it. But --

SLATER ANDERSON: Put it inside the window, November 8th, seven p.m.

CONSTANTINE ALEXANDER: We'll see you then.

ATTORNEY ALFRED FARESE: Thank you, sir.

DOLLY COSTELLO: Okay, thank you.

* * * * *

(7:30 p.m.)

(Sitting Members Case No. BZA-016995-2018: Constantine Alexander,

Brendan Sullivan,

Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No.

016995, 194 Harvard Street.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman and

members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of the petitioner. We have Mrs. Marie Deraville. And I'll let you spell your name for the record.

MARIE DERAVILLE: Marie, M-A-R-I-E Deraville,
D-E-R-A-V-I-L-L-E.

ATTORNEY SEAN HOPE: We also have project architect Mr. Campbell Ellsworth.

CAMPBELL ELLSWORTH: Ellsworth, E-L-L-S-W-O-R-T-H.

ATTORNEY SEAN HOPE: And we also have a member with the petitioner Francis Pierre.

FRANCIS PIERRE: P-I-E-R-R-E.

CONSTANTINE ALEXANDER: Let me say at the outset I want to congratulate you. In all of my years on the Board I've never had a case where we've had so many letters of support for the relief you're seeking. You set a world's record as far as I'm concerned.

Sean, go ahead.

ATTORNEY SEAN HOPE: Yes.

So this is an application requesting a Variance and a Special Permit to construct two townhouse dwelling units above an existing ground floor retail. This is a somewhat unusual case, not that the Board hasn't dealt with a lapsed case before. But this is a case where the -- a petition almost substantially similar to the ones that you're here tonight, with some modification on design was approved by this Board in 2003. The Board, and we can get into the details, approved the Variance. And at that time it was a Variance for parking and a Variance for the additional density, approved it. Petitioners recorded the decision. They actually retained a contractor, filed for a building permit, and then -- and from the determination of ISD before the Variance was exercised, the contractor took a deposit and actually ended up leaving the state. So, and to get to this point, and maybe to back up, Mrs. Deraville is the proprietor and owner of Camie's Bakery. And that has been in existence for 20 years. So approximately 20 years ago her and her family members purchased this one-story brick building as creating the family bakery, and they had been operating ever since. In 2003 part of the rationale for looking to create the dwelling units, they weren't developers then and they aren't

developers now, was actually to provide housing. Mrs. Deraville has been living with her sister since that time, and the idea was to maintain the ground floor retail and to build housing for her, and I believe she has nine siblings. So there's a large family. They have been in Area 4 I believe, you've been in Cambridge for I believe close to 40 years. And this was the intent and purpose of it.

One of the -- if you look at Columbia Street, they have about four to five existing ground floor retail establishments. Many of those have dwelling units either attached or above. So that is commonplace. So the idea of when -- of having ground floor retail with a mixed use component to really to help the ground floor retail survive, is something that is consistent throughout Columbia Street thoroughfare. Columbia Street is in the residential district, so all of the ground floor retail are pre-existing non-conforming uses. And so in order to add the residential uses, they needed a Variance.

And this particular structure it's on the corner lot. And the ground floor retail almost all but covers the available land. So there's very little open space. And any additional square footage would require

relief from the Zoning Board. There is one example of -- on the corner of Columbia Street and Hampshire Street, the Poor Little Rich Girl, it's another family-owned property and it had a series of clothing stores and grocery stores, that has been vacant for close to ten years now. And I'm assuming at one point it will be developed. But I think the point I'm trying to make is it's very challenging for these ground floor retail establishments to be able to survive without this additional component. And in this case, the case this was an idea to create for her family.

And this -- and so back to 2003, and one of the questions I asked is what happened between 2003 and now. And so the first couple of years that she can maybe speak to this if the Board wishes, she was devastated. She had saved a life savings, had gotten zoning relief, had her family and community support her, and then to have the contractor leave with the deposit and not do the work. And so, I don't think at the time she was even aware of the concept of lapse. Frankly, when Mr. Ellsworth first retained me, we went to see the Building Commissioner and we thought oh, there's a building permit, and we were actually having a conversation about what can we change and still be in compliance with

the Variance. After the discussions and determination, we realized not only were we not allowed to build what we had approved, but we actually had lost the ability to be able to come back before the Board. So, in part of the process we had to -- went to the Planning Board last week, and actually Tom Sieniewicz who is on the Planning Board now was actually the Zoning Board Chair there, so he was somewhat familiar with the case. And I was somewhat surprised that the Planning Board, they liked the proposal but they wanted, they were surprised by the lack of detail and also maybe lack of a better word, just the finish on the proposal. They noticed that the exterior was somewhat plain and they prompted us to upgrade some of the exterior finishes.

CONSTANTINE ALEXANDER: Can I ask you why go to the Planning Board at all? Was there a legal requirement at all?

ATTORNEY SEAN HOPE: There is not. The Planning Board has purview, any BZA case that they can decide that they want to have pulled if they have questions on it, and you're actually at an impromptu hearing because there is a letter -- a recommendation that you usually want to be positive. We actually went to the Planning Board last

week. And the point of bringing that up is that the housing that they're producing is not the granite, there's not the typical things that you would see in high end housing, because this is really for a family. So part of the proposal is for them to build housing that they can inhabit, that they can afford to live in. And so we did make some modest adjustments to the plan which we submitted into the file, but I think, again, the proposal is really for their family to be able to preserve what they started as Camie's Bakery, and also as well to be able to have family inhabit that. And specifically Mrs. Deraville will be living there because she has been wanting to live on the property as well as being the proprietor of the establishment.

I did mention that this is on a corner lot. And just to briefly touch on the hardship.

I think the hardship is a combination of factors. It is on a corner lot and it is fully built out. So I would say it's the shape of the lot but not by itself. It's the shape of the lot combined with this pre-existing non-conforming use. And I think that there's ample evidence that on its own that this ground floor retail use, without residential, is very challenging

to survive.

CONSTANTINE ALEXANDER: Let me ask you a question.

I mean, you got the Variance in 2003. We made the then Board, not the five of us, made findings about hardship, made findings that you met the requirements for a Variance. Nothing has changed since then.

ATTORNEY SEAN HOPE: Nothing has changed.

CONSTANTINE ALEXANDER: So why shouldn't we simply say if the Board of Zoning Appeals thought you were entitled to a Variance in 2003, you should be entitled to a Variance in 2018? Maybe you made some aesthetic changes, but it's the same project.

ATTORNEY SEAN HOPE: Same project, that's right.

CONSTANTINE ALEXANDER: Fifteen years later. Parking is something else. We'll get to that in a second. It seems to me I don't think we need to get into what the Planning Board liked or didn't like with regard to the design of the building.

ATTORNEY SEAN HOPE: I agree. And sometimes the Board may want to hear more about the hardship. But I think to your point, the hardship hasn't changed. I would also say, too, that the cost of

materials and some of the other challenges have only increased to pull this type of project off, especially when you're not looking to sell condos or to do some of the other things that developers do in this market. So to the Chair's point, I think the hardship is the same and the rationale is the same.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SEAN HOPE: I would say in the previous proposal there was parking that was located within 400 feet of the site. It was tandem parking. And that was part of the reason why they needed a Variance. I think tandem parking is a Special Permit now, but back then it was a Variance. So in this case, you know, one of the challenges, the growth in the neighborhood. I pushed the petitioners, and at the time of filing, there wasn't any parking so it was a straight Special Permit, reduction in parking. Subsequent to then I asked the petitioners can you go reach out to your particular neighbor. And so they were able to actually come up with a leased parking space directly across the street.

CONSTANTINE ALEXANDER: One parking space?

ATTORNEY SEAN HOPE: Two parking spaces. So it's

within the 300 feet. So we, so we actually have a lease, and I believe the lease is 50 years?

FRANCIS PIERRE: Yes, right.

ATTORNEY SEAN HOPE: Yeah. So it's 50 years and I put that in the file to support the idea that they would be reducing parking. There is a Special Permit to allow parking off-site within a certain distance. One for completeness, we didn't have that information prior to when we filed. I think very similarly the Board could find to grant the Special Permit for parking and include the lease agreement as part of the file as a condition if it so chose.

CONSTANTINE ALEXANDER: That's all right.

ATTORNEY SEAN HOPE: But I would just say that, again, was part of the previous proposal and this parking is actually closer and it's not tandem and it's available. So I think in many ways the proposal actually has improved. I think the design from Mr. Ellsworth. There are things that modern building, just the way the buildings were built, the layouts weren't as sophisticated as they are now. So I actually think the proposal is much more in line with the family's needs. Also there's

setbacks. We tried to respect the setbacks as well. There's two front yard setbacks. So we tried to keep the spirit of what would the site allow if there was no ground floor commercial? So the number of units also the setbacks. So we tried to keep the spirit of the C-1 Zoning in terms of taking away the ground floor retail. And I think that this is an important corner as part of the letters of support recognized, and they're really looking to maintain and grow the business. And part of the request would allow them to do also capital improvements to the ground floor retail.

CONSTANTINE ALEXANDER: I'm just looking to see if there's a letter in our files from the Planning Board. There wasn't as of yesterday.

ATTORNEY SEAN HOPE: It should be in there. Liza sent us a copy of it.

SLATER ANDERSON: Yes, we have it.

ANDREA HICKEY: Oh, no. This is what I'm looking for. I wanted to see something else.

CONSTANTINE ALEXANDER: Give me a second and I'll see if I can find the letter since I hadn't seen it before.

I don't see anything. Maybe it's buried under all the letters of support that you have. Yes, here there is something. No, this is -- I'm sorry, this is the old decision. This is not the letter from the Planning Board. I don't know where it is.

Anyway, summarize it again for me please what the Planning Board said.

ATTORNEY SEAN HOPE: So one, the letter of support, they supported the Variance. They thought that the proposal promoted the ground floor retail. They actually referenced that the hardship was very similar to the hardship previously, but they did recommend some exterior design changes to reflect the changes in that the quality of the design of the adjacent buildings in the neighborhood.

CONSTANTINE ALEXANDER: Okay, those changes if you wish to adhere to them don't, aren't relevant from us from a zoning point of view. Anything from a Planning Board point of view, even that.

Okay. Anything else, Sean?

ATTORNEY SEAN HOPE: Not at this time.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: What is the cladding on the --

CAMPBELL ELLSWORTH: The cladding would be a combination of hardy board and metal siding. So sort of standing seam metal siding to articulate different areas of the building.

I'd like to point out one thing that in the plans that you have, you don't, I don't think attorney Hope gave the old plans that had been approved in 2003, but the -- I want to point out that the footprint of what we are proposing is precisely what was approved. So we have not expanded that to grab any more square footage.

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

(No Response.)

CONSTANTINE ALEXANDER: I guess none. I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

BRENDAN SULLIVAN: Show of hands?

CONSTANTINE ALEXANDER: Sorry, Ma'am, I missed you.

JOYCE PROPHET: Could I speak from here?

CONSTANTINE ALEXANDER: Please come up because the stenographer has to take your testimony. Your name and address, please.

JOYCE PROPHET: My name is Joyce Prophet. I currently reside at 38 Mallard Drive in Sharon, Massachusetts.

Okay. Good evening Members of the Zoning Board. Thank you for this opportunity to speak on behalf of my family, my aunt Marie and Camie's Bakery and restaurant. My name is Joyce Prophet just as I stated, and I am here as one of Marie's several nieces. I wanted to share with you some of my memories of the bakery, the name that my cousins and I have fondly called the restaurant for many years now. For as long as I can remember, dating back to my middle school years, I can remember the pride I felt knowing that my family owned and operated their own business. I was so impressed with Marie's ability to build a business with the help of her siblings, despite many challenges so many small businesses face. I think that the key to her success and longevity has

been her strong commitment to family and to this local community. After immigrating to Cambridge from Haiti over four (sic) years ago, she and many of her -- of my family members have called Cambridge home ever since. So many in this community know and love Marie and her restaurant. She's been a staunch supporter of many local officials here and their initiatives. Not too long ago Marie candidly shared with me her dream to have her nieces and nephews take over the business in the future. She shared that she had worked so many years and so hard not so much for herself but for the benefit of her family. I was touched by that. As you know, Camie's Bakery and Restaurant suffered a loss due to a fire that occurred this past summer. In true steadfast form Marie has vowed to build bigger and better than before. My hope today is that you look favorably upon Marie's petition to develop her one-story commercial building to a three-story building. In doing so, you'll be assisting Marie in accomplishing one of her life's dreams, leaving a legacy of entrepreneurship and a sense of community for the next generation in our family.

Thank you.

CONSTANTINE ALEXANDER: Thank you. And thank you for taking the time to come down. Appreciate it.

Anyone else here wishing to be heard? Sir.

JEFF DERAVILLE: Good evening. Jeff Deraville. Last name is D-E-R-A-V-I-L-L-E. Marie's my aunt. Also known as my mother. Our family's really close. You know, for example, we have a huge family. So I have 21 first cousins. So, you know, we're always visiting, we're always spending time together. We spend pretty much every holiday together. So, you know, and just kind of tell you a little bit about my story. I grew up in Cambridge. I grew up on 184 Harvard Street, which is two buildings over from where Camie's is. And, you know, actually when I came from New Jersey, with -- my mom actually moved in with my aunt Marie and she, you know, helped raise me so that's also why she's called my mother. So, you know, her and my mother helped, you know, raise me and my sister right there right around the corner from the business. And I used to go into the business after school as a kid and man the register and, you know, people used to be pretty impressed with my math. And so that was great. And actually so over

the years in 2003 when she got the Variance approved, she, you know, that issue happened where the contractor, you know, took the money and all our family was kind of really devastated by that. And over time, you know, there was a lot of hardship there. There was a lot of struggles that the business went through, she went through, and to the point where actually in 2008 I actually stepped in and helped run the business of Camie's. So I did that for about five years just to really stabilize the business and get it up and running again. And it kind of refamiliarized me with the neighborhood. And, you know, I played basketball Area 4 and all that. So, you know, the community's really important. So, you know, I'm really in favor and, you know, I'm probably the No. 2 cheerleader behind her for this to go through just because it's something that she's envisioned. You know, I share that vision with her, you know, over the years talking about it and really want it to happen. So, you know, if you guys could grant that and, you know, and support it, that would be awesome for her and our family. And at the end of the day with me growing up in that community, it's kind of a one-story building where everything else is two or three. So it actually, you know, building up

would fit with the just the aesthetics of the community as well, and so I would love that, you know, also.

But yeah, thank you. Thank you for your time.

CONSTANTINE ALEXANDER: Thank you, too, for taking the time to come down and speak in favor. We appreciate it. Thank you.

Anyone else wishes to be heard? Sir.

JEFFREY GUERRERO: Hi. How you guys doing today?

My name is Jeffrey Guerrro. J-E-F-F-R-E-Y and last name is G-U-E-R-R-E-R-O. I am the owner of Columbia Market and it's located basically across the street. It's at 151 Columbia Street, Cambridge. I've only been there for two years and in those two years I learned something that I felt something that I never felt in my own community, and it's that I feel like Cambridge is more than just a community, it's more like a family and especially in that area. We all look out after each other and we see everything that's going on. And I have -- I can't think of a reason why not have this project going on because basically, again, around that area is all two stores or more and it makes -- it just makes perfect sense to just build

something there. And besides that, it will help out the community because you'll have more people buying stuff from local stores. And I think it will be a great idea.

Thank you, guys, for listening to me.

CONSTANTINE ALEXANDER: Thank you for coming down.

Anyone else wishes to be heard?

MARITANE GUILLAUME: My name is Maritane Guillaume.

So Miss Camie, I know her. We come from the same country, the same countryside. So I know her for a long time. And my parents also know her parents. Like Jeff's and we grow up. I live at 184 Harvard Street. So his growing up with my youngest daughter. So we live like a family. Especially we come the same countryside with my mother. My mother know her parents very well. And when I come here and I know when she opened the store, it was very touching for me. So I gave it so much pride to do the hard work. So, and also when that business got on fire, I was very sad. I was very touching, and I know was going to be a hard time for her. And what else she going to do? This is the only business she had. And still today I was sad for her. So if she can have a chance to have the

business back, I would be more happy for you to give it that chance to her again. And also going to be good for the Cambridge community as well. Because, as I said we live as a family. So, that's all I can say.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

Anyone else wishes to be heard on this matter? Going once, going twice?

(No Response.)

CONSTANTINE ALEXANDER: I guess not. Thank you.

I'm going to close public testimony. Well, before I close it, I'm going to report that we have many, many, many, many letters of support for the petition. And also we have a letter and other separate letters including one from City Councillor Denis Simmons. And there was no letters of opposition that I saw in the files. So now I'll close public testimony.

Any comments? Discussion?

ANDREA HICKEY: I just had a question about the parking.

So in the --

CONSTANTINE ALEXANDER: Oh, I'm sorry, I wanted to get to that. Go ahead.

ANDREA HICKEY: Yeah. So in the original version of this case that lapsed, the parking that was provided was on-site tandem?

ATTORNEY SEAN HOPE: No.

ANDREA HICKEY: I misunderstood.

ATTORNEY SEAN HOPE: Yeah. So it was off-site. It was within 300 yards and it was tandem. Basically what I read at that time tandem parking required a Variance. So it was within the distance allowed for off-site parking.

ANDREA HICKEY: And that was leased parking as well?

ATTORNEY SEAN HOPE: Yeah, I believe it was a ten year lease with an option to renew.

ANDREA HICKEY: Okay.

ATTORNEY SEAN HOPE: And this was more permanent what we're proposing only because I think the nature of the Board has changed where now a five-year lease may or may not be as appropriate. So I encouraged them to seek a much more extended lease so there

would be some permanency for the Board if you choose to approve the reduction.

ANDREA HICKEY: Yeah, I think the parking is important. I think the change between sort of tandem and the parking that you're proposing, that this is certainly much better. The length of the rental agreement is much longer. My only concern would be if the property changes hands where this parking is, if there's no notice of this lease on record that is might sort of disappear. Is there a plan to record a notice of lease so that a subsequent owner of this property would sort of be bound by the 50 year lease?

FRANCIS PIERRE: Yes, we do plan to record that, notarized as well.

ATTORNEY SEAN HOPE: So are you saying that we would be willing to -- so one, there's -- the owner of the property would have to also agree to that.

FRANCIS PIERRE: Yeah, he's been very helpful.

CONSTANTINE ALEXANDER: A piece of paper he signs to file it with the Registry of Deeds to put the world on notice is that you have

a lease for that property.

ANDREA HICKEY: Yeah, my only concern, not from your perspective, but what if that property is sold, and this document is just in a file someplace and a new owner isn't notified of it?

ATTORNEY SEAN HOPE: That's a very good idea.

CONSTANTINE ALEXANDER: Certainly it's protective of your interests.

ATTORNEY SEAN HOPE: Yeah. My only concern is that if the property owner for the parking lot, I don't know if he's here or not. I would hate to make a representation.

FRANCIS PIERRE: Yeah, he's not here.

CONSTANTINE ALEXANDER: It's a recommendation. It's not part of the zoning relief. What Andrea is doing is giving you some good legal advice.

ANDREA HICKEY: Well, it wouldn't have to be a rental agreement. Just a notice of it I think would protect the city that we know that that parking would continue if that parcel changes hands, that's all. But I certainly support the petition and I'm very happy by all the community

support here today.

SLATER ANDERSON: Well, and I think the record of this hearing will reflect that there's a 50 year lease of parking next-door. So it will be memorialized somewhere. But I agree that it probably makes sense to have a brief notice recorded.

CONSTANTINE ALEXANDER: Okay, good. Thank you.

Any other comments?

(No Response.)

CONSTANTINE ALEXANDER: Are we ready for a vote. It will be two votes, one is to vote for the Variance and the second is a Special Permit for the parking.

With the Variance I'm going to be brief. The Chair moves that we make the following findings that are required for a Variance, and these findings were made once before when we granted the Variance -- this Board granted a Variance in 2003. So I just propose that we incorporate those findings by reference into this decision. Don't have to spend time making the new ones up.

So based on these findings, the Chair moves that we grant

the Variance requested by the petitioner on the grounds that the work proceed in accordance with the plans prepared by Ellsworth Associates. The date is March 27, 2018. Each page of which has four pages I believe, have been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance has been granted.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

CONSTANTINE ALEXANDER: Turning to the Special Permit. This is a little bit longer.

SLATER ANDERSON: Can I ask a question?

CONSTANTINE ALEXANDER: Sure.

SLATER ANDERSON: There is one here that says amended. Is this relevant?

CAMPBELL ELLSWORTH: Sure. Well, as attorney Hope said, two Tuesdays ago we were at the Planning Board. And they requested greater detail on the exterior and that's what those are.

SLATER ANDERSON: All right.

CONSTANTINE ALEXANDER: Okay, now, with regard to the Special Permit for parking, the Chair moves that we make the following findings:

That the requirements of the Ordinance cannot be met unless we grant you the Special Permit you're seeking.

That traffic generated or patterns of access or egress -- no, I'm reading -- well, I can make those findings as well -- will not cause congestion, hazard, or substantial change in established neighborhood character. It's basically there's parking on the lot before and it will continue as now. That continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is proposed, simply creating two parking spaces is not going to affect the operation of development or adjacent uses.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city. And that is self-evident from the fact that it's just a parking. This is -- these requirements are more appropriate and we're

talking about a building of a structure, and now we're talking just about parking.

And that generally what is -- this parking will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

And in regard to Section 6.35.1 which requires us to make findings when we reduce the parking set forth in our Ordinance, that this lesser parking, which we're proposing will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other users, or otherwise adversely impact the neighborhood. Again, what we're talking about is creating two parking spaces in this area which will make life better and easier for those who occupy the new dwelling units that are going to be constructed and will reduce the amount of on-street parking because it will be off-street parking for those dwelling units.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit requested. All those in favor please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Special

Permit granted. Good luck.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

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(8:00 p.m.)

(Sitting Members Case No. BZA-016991-2018: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016991, 407 Concord Avenue.

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

ATTORNEY KATHLEEN MOORE: Hard act to follow.

CONSTANTINE ALEXANDER: I don't think you have the neighborhood support that they have. Your name and address for the stenographer, please.

ATTORNEY KATHLEEN MOORE: Yes. I'm Kathleen Moore from Galluccio and Watson, 10 Pleasant Street, Cambridge, Massachusetts, 02139. And this is the petitioner.

ANNE LEE: My name is Anne Lee. And the address? My home address? 36 Sullivan Street, Lexington.

CONSTANTINE ALEXANDER: Ma'am, are you going to speak? If so, you have to give your name and address.

ANNA CLARK: I will speak. My name is Anna Clark, and I'm the daughter of the owners of the property Emory Clark and Sanibel

Clark. My parents are sitting in the back there.

CONSTANTINE ALEXANDER: I remember he's the owner of the pharmacy.

ANNA CLARK: Yes, exactly.

CONSTANTINE ALEXANDER: I remember when we granted the Special Permit -- or the Variance for the -- is Violette or Violet? How does she pronounce it?

ANNA CLARK: Violet.

CONSTANTINE ALEXANDER: Violet. When we granted a Special -- actually a Variance to allow Violet to operate. And we -- this is going to be significant later. We imposed certain conditions to ensure that it wouldn't adversely affect the neighbors --

ANNA CLARK: Yes.

CONSTANTINE ALEXANDER: -- which is residential. And we'll come to that later in the discussion. Why don't you tell us a little bit, and one other thing. We have a number of letters in our file that have just come in asking us to postpone this case because the certain -- the neighborhood feels that they have not been adequately advised what

exactly you're going to be doing in terms of the bakery. Have you had any -- did you reach out at all to the neighborhood?

ANNE LEE: Yes, we did.

CONSTANTINE ALEXANDER: If so, explain how and when.

ANNE LEE: We did last Saturday to our neighbors telling me we are going to have hearings this coming Thursday night. And we are going to have a bakery, the same bakery, but a little bit different.

BRENDAN SULLIVAN: Excuse me, could you pull the microphone and speak into that so that people in the audience can hear.

CONSTANTINE ALEXANDER: People may not be able to hear.

BRENDAN SULLIVAN: You have to talk real close to it like a telephone.

ANNE LEE: Okay.

The current bakery is a Violet Bakery, it's gluten free. But our bakery is more health conscious bakery. So using organic ingredients, less sugar. And it's a different, you know, bakery, but --

CONSTANTINE ALEXANDER: But it is a bakery. Cakes

and muffins and cookies?

ANNE LEE: Right, right. Same, you know, category, it's a bakery.

CONSTANTINE ALEXANDER: Right.

ANNE LEE: So we introduced myself and, you know, that's all.

ATTORNEY KATHLEEN MOORE: Yes, right. And we sent letters to -- I think sometime ago we sent letters to the abutters.

CONSTANTINE ALEXANDER: Well, I'm puzzled, then, by the letters we have in our files that we got in the last couple of days saying they didn't know what's going on.

ATTORNEY KATHLEEN MOORE: Well, that only has come to our attention in the last week or so. Mr. Clark's lawyer -- is he here?

CONSTANTINE ALEXANDER: Let me ask you a question, not that I'm advocating it, maybe other members of the Board might. Would you -- do you think it might be advisable to not hear the case tonight, have your meeting with the neighbors, and get rid of these potential objections? I mean, if we go ahead and we grant you relief, we

might, you might start off on the wrong foot with your neighbors.

ATTORNEY KATHLEEN MOORE: Yeah.

Well....

CONSTANTINE ALEXANDER: That's up to you. I'm asking.

ANNA CLARK: Are any of those neighbors here and would like to discuss?

CONSTANTINE ALEXANDER: I see a number of hands going up, so I guess the answer is yes.

ANNA CLARK: Is it possible that we could answer questions?

CONSTANTINE ALEXANDER: Well, you know what, let me make a suggestion. We have other cases tonight.

ANNA CLARK: Okay.

CONSTANTINE ALEXANDER: And there's a room back there.

ANNA CLARK: Okay.

CONSTANTINE ALEXANDER: Why don't you -- we will just

recess this case, you and the neighbors can go in the back and have your discussion.

ANNA CLARK: Okay.

CONSTANTINE ALEXANDER: And when you're finished, come back and then we'll hear your case.

ANNA CLARK: Okay.

CONSTANTINE ALEXANDER: Okay?

ANNA CLARK: That sounds like a good idea.

ATTORNEY KATHLEEN MOORE: Okay.

(Case recessed.)

* * * * *

(8:05 p.m.)

(Sitting Members Case No. BZA-017003-2018: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

ATTORNEY SEAN HOPE: Good evening Mr. Chair, members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here on behalf of the petitioner. We have 418 Media Real Estate, LLC. We also have project architect Michael LeBlanc.

You want to introduce yourself.

MICHAEL LeBLANC: Michael LeBlanc. I'm with Utile Architects in Boston. Do I need to spell my name? Last name is L-e-B-L-A-N-C.

And Nick Buehrens.

NICHOLAS BUEHRENS: Nick Buehrens with Utile

Architects. It's B-U-E-H-R-E-N-S.

ATTORNEY SEAN HOPE: And so this is an application requesting Variance relief and dimensional in nature. This mixed use development was before the Planning Board, and this actual development encompasses two sites: One is usually and commonly known as the University Monument site because it has the gravestones at the corner of Webster and Cambridge Street, and then the Automatic Cone Building. They're abutting buildings. And the unique part about these two lots combined, which is a development parcel, it has close to five different sides. It actually has fronts on Cambridge, Webster, and also a small portion on Elm Street. And to cut right to the chase, that's really the nature for our hardship. It is a uniquely odd-shaped lot with five sides. And when you -- so one of the impacts is when you do the formula for setbacks, it really impinges on the building to the extent in which there's not the project that you see here today. One of the benefits, because it's of a certain size, there are affordable units and that's part of the component. If we adhere to the zoning, we would probably fall below the amount for affordable units and then it would also make it challenging with

the amount of ground floor retail. And this project has been ongoing for about three years. And partially, you know, it was due to the neighborhood outreach which was mostly positive, but there was a strong incentive on Cambridge Street for ground floor retail. The owners are actually restauranteurs. So they have a series of restaurants in Boston, and also on Assembly Row. And so there was a proposal to do a similar restaurant on this location. Part of the Planning Board application they did not specify a certain restaurant use because market forces may change. But also the residential units above this, their idea was that these would be rental units, and I know that things changed with the market. But one of the aspects that we heard from the neighborhood was that they wanted to make sure that there was a balance of bedroom counts. And so initially there was no three bedrooms. It was mostly two and one bedrooms. Cambridge Street is an area that has a lot of density, so they were concerned that even a three-bedroom might not be inhabited by families, but the result of the Planning Board was that we converted a studio into a two bed. So we kept the unit count the same.

CONSTANTINE ALEXANDER: What is the unit count again?

ATTORNEY SEAN HOPE: So it's 18 total units.

CONSTANTINE ALEXANDER: Dwelling units?

ATTORNEY SEAN HOPE: Dwelling units.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SEAN HOPE: And then the ground floor retail.

CONSTANTINE ALEXANDER: And there's parking on-site?

ATTORNEY SEAN HOPE: There is parking. There's covered parking. Part of the Planning Board request was granted a Special Permit to reduce the parking. So we actually have 13 spaces for 18 units. Not that it's necessarily relevant for this, but we are on the direct bus line, and it was found that the lesser amount of parking wasn't going to cause the congestion or hazard.

One of the other elements that's a little -- there's a footnote in part of when you're doing a residential unit dwelling in a Business A, is this Footnote K. That's kind of an obscure footnote. And it's not the open space, because we meet the open space requirement. But it is a footnote that requires a certain amount of green yard area. We can't achieve that. One, primarily because the -- some of the areas that would have to be

green, those are adjacent to Cambridge Street, those are completely covered with a former parking and it's in an industrial area. So dimensional in nature, again, under Article 5, but we adhere to the open space and it's -- so it's the setbacks and it's also that footnote as well.

CONSTANTINE ALEXANDER: I don't see any reference in your advertisement to the hearing.

ATTORNEY SEAN HOPE: Yeah, so I would say it would be covered under the dimensional relief because it's not necessarily like an open space. We meet the open space requirement.

CONSTANTINE ALEXANDER: Yeah, but what your advertisement says, to locate the residential portion of the mixed use development approved by the Planning Board within the side yard setbacks. Where is this in reference to the green space?

ATTORNEY SEAN HOPE: That reference to the actual footnote was not in the advertisement.

CONSTANTINE ALEXANDER: I'm not sure we can give you relief on that. How can we give you relief on that footnote, that K without it being advertised? We have to have a separate hearing. We can

either adjourn this hearing, you re-advertise for that, and then we can hear both together. Or we hear one part tonight and one part later. But you're not going to be able to walk away from this in this regard to the Footnote K tonight.

ATTORNEY SEAN HOPE: Yeah, I don't think it makes sense to bifurcate the hearings because it would mean re-advertising and doing all of that. And I respectfully for the Board that should have been advertised. I would say that there's no lack of notice in terms of the community on that.

CONSTANTINE ALEXANDER: That doesn't work, Sean, you know that.

ATTORNEY SEAN HOPE: Okay. Also --

SEAN O'GRADY: I'm sorry, could I just add --

CONSTANTINE ALEXANDER: I'm sorry?

SEAN O'GRADY: Footnote K actually is a 5.31 footnote.

CONSTANTINE ALEXANDER: It is a 5.31 footnote?

ATTORNEY SEAN HOPE: Yeah, that was my other point.

There have been times when the Board has -- because this section is

cited as opposed to a separate section. But, again, for clarity, it would have been better if that was also brought forward.

CONSTANTINE ALEXANDER: I mean the text of the advertisement should be, should summarize the relief being sought and then you make the technical citations. Here you just have the technical citations. I'm not thrilled about hearing the case on this Footnote k tonight despite what Sean points out, which is correct, but if other members of the Board are willing to move ahead.

LAURA WERNICK: State again -- statement what K specifically refers to?

ATTORNEY SEAN HOPE: Yeah, so Footnote K is about green yards. And when you're doing a residential dwelling in a business -- Business A district, they have this green yard requirement that is based on the amount of sides and actually green yards. So this is not permeable. This is not open space. This is specific green yard requirement. So we can't meet that green yard requirement. It is under the dimensional requirements of 5.31. So it is under that section under dimensional relief. And, you know, we satisfy the open space. There is

a patio and there are other things that are amenities to the ground floor restaurant, but we weren't able to satisfy that green yard area. I think when you take into account that the commercial building could have zero frontage, which is why the building is right on the lot line, you have an awkward shaped lot where actually there's a pinch point. We have the site plan if you want to see. I think that might help illustrate the challenge.

CONSTANTINE ALEXANDER: And this is good. But let me just take a step back.

Are board members satisfied with acting tonight with regard to the with what I'm going to call Footnote K relief?

ANDREA HICKEY: I'm fine with the notice.

CONSTANTINE ALEXANDER: Okay.

ANDREA HICKEY: The footnote gives adequate notice.

CONSTANTINE ALEXANDER: Anybody else feel the same way?

LAURA WERNICK: As am I.

SLATER ANDERSON: Yeah, I'm fine.

CONSTANTINE ALEXANDER: Okay. All right. Then you

should go ahead.

ATTORNEY SEAN HOPE: Okay.

So and as you see the pink line denotes the lot. And so you see how there's probably a two-foot pinch point that when you go to that dog leg around to the Elm Street side. So that passageway is actually a passageway that's in between buildings, so there really is no way to grow any green grass or any green yard in between there. The access to Elm Street was formerly used as -- is actually rented as parking to one of the auto garages. So what we don't see here is this abuts a pretty industrial area. And so this is introducing residential. And so there -- we achieve the open space creatively through the pockets of our building, but we wouldn't be able to meet the green yard requirements which requires green yards on multiple sides. So we're -- and we just can't do it. We have a -- what we have, a building on the street frontage. The area in between -- this is called the service entrance. That's for bikes. So that can't be green area because that's where the bikes go from the parking area to the street. The exterior patio, which is some open space, but still again, you know, there just wasn't an opportunity to be able to meet the

green yard area.

LAURA WERNICK: So what are you going to do on that little rectangle of land there? What would that look like?

ATTORNEY SEAN HOPE: Yeah. Do you want to speak to that?

MICHAEL LeBLANC: Sure.

The idea right now is that it's going to be used as yard for the occupants of the building. What we're going to do is actually fence it off, gonna have a six-foot fence that will have a gate on it that could be operable. The idea is to kind of clean it up, make it -- you know, tidy it up, make sure it's not an eyesore, because right now it's not pretty to look at, and create a much better looking screen in front of it.

LAURA WERNICK: But you can only get there from Elm Street, can you actually physically squeeze in from --

MICHAEL LeBLANC: You can. But it's, it's a journey through there, yeah. You could -- I think most people would access it from the Elm Street side.

ATTORNEY SEAN HOPE: So, again, the relief is

dimensional in nature, and part of it is the shape of the lot, as I said. I think that it's -- I'm not sure that -- I have so much more to add. I do apologize for the failure to be as clear on the advertisement. But, again, I think just in terms of the spirit of the notice, it's been several years of community outreach, and we've had positive support about the design throughout the process.

CONSTANTINE ALEXANDER: Go back to 18 dwelling units, three of which are going to be affordable. The other 15 -- and what's the inventory of studios, one bedroom, two bedroom, three bedroom of the 18?

NICHOLAS BUEHRENS: We have one, three bedroom, nine, two bedrooms.

CONSTANTINE ALEXANDER: Is the three bedroom going to be the affordable?

NICHOLAS BUEHRENS: That's our understanding, and we've been working, you know, with Cambridge Housing and, you know, I think if you're familiar with the way that the new inclusionary zoning section has been updated, there's a little bit of a complicated square

footage calculation that has to be made about the dwelling unit net floor area I believe is the definition. And so I think, you know, we allocated that. And the intent is to go back, you know, before we finalize for a building permit and confirm that the three bedroom and, you know, hopefully some of the larger units as well will be set aside for affordable venues.

CONSTANTINE ALEXANDER: I would encourage you to have the three-bedroom unit be affordable.

NICHOLAS BUEHRENS: Yes.

ATTORNEY SEAN HOPE: That's the intent.

NICHOLAS BUEHRENS: That's the intent.

ATTORNEY SEAN HOPE: And I would say to the Chair's point, we were encouraged to create the three for the affordable piece, and the affordable is also a square footage calculation, but I think there's a strong likelihood that the City will select the three-bedroom unit as part of that.

CONSTANTINE ALEXANDER: Right.

Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: Apparently none. I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt -- well, receipt of a memo from the Planning Board which you gave us, Mr. Hope, which I'll read into the record.

(Reading) The Planning Board granted a Special Permit for a mixed use building at the corner of Cambridge Street and Webster Avenue with 18 dwelling units and ground floor retail, and supports the requested yard setback variances. They didn't deal with K. Shame on you.

The Planning Board conducted a thorough review of the proposal, which successfully provides open space at the corner and for each unit as a clever design of the correct -- I have to read that again. I'm sorry. The Planning Board conducted a thorough review of the proposal, which successfully provides open space at the corner and for each unit.

And something -- then it goes is a clever design at the correct scales. Something got dropped in the typing. And not the maximum allowed, incorporates the right uses and provides a three-bedroom dwelling unit. Board members also recognize that the site is an unusually shaped lot and that the design drawings were very clear and resolved many site details such as the location of the transformer, bus stop, and screening that were concerns of the Board. The Planning Board supports the application and hopes that the BZA grants the modest relief being requested.

Then we have this letter from -- or an e-mail I should say, from Marilyn Wellons, W-E-L-L-O-N-S who resides at 651 Green Street and I'm just reading it for the first time so bear with me.

(Reading) As an abutter to Envision Cambridge's proposed corridor on Mass. Ave., I've watched ED's proposals for the Res C-2B section that abuts Green Street where I live. Recently our neighborhood opposed 955 Mass. Ave.'s request for relief for setback from -- from setback and that district's other requirements.

I don't understand what this is all about.

In 1998 our neighborhood work for Res C-2B zoning to protect low and moderate income housing on Mass. Ave. and in our abutting neighborhoods, new construction must be housing only. Ground floor and basement units may not be converted from housing to retail or office. Given Envision Cambridge's scenarios that would drastically change housing here, 955 Mass. Ave.

LAURA WERNICK: That's the wrong --

CONSTANTINE ALEXANDER: Yeah, she started off by saying -- it looks like this is misfiled. This is not for this case. Yeah, no wonder it didn't make any sense to me.

SLATER ANDERSON: Well, what does this say?

CONSTANTINE ALEXANDER: It has Re: 1043-1059 Cambridge Street on here, but all the discussion is about Mass. Ave.

Well, it does get on. Let me keep reading. I'm sorry.

As Envision Cambridge continues to work with the development department, I've tried to follow proposals in the Cambridge Street corridor as well. It is zoned Business A but with Res C-2B dimensional requirements for housing construction. So it was noteworthy

that architect for 419 Media, LLC's project is Utile, consultant to Envision Cambridge. I wonder if this, like the apparently unrelated 955 Mass., may be understood as a test of the City's resolve on Res C-2B in the proposed corridors before any submission to the City Council. So far as I can tell from maps, the two parcels at 1043-1059 are oddly shaped, difficulty of providing a 20-foot rear setback for 1059's portion with paved access to Elm Street is clear. It is not clear that rises to the level of a hardship, though, and it does raise the question of why the abutting property at 302 Elm Street is not party to 419 Media's, LLC's request. It may be that a Variance now would allow that parcel to join and later and argue more easily for a Variance of a zone. A 20-foot rear yard setback for 302 alone would render it undevelopable. A lot is 50 feet deep from Elm Street and it's real lot is 1059's side lot line and beyond. Please note that if 302 were to join 1059's Variance, there would be no Res C-2B side or rear setbacks with all the provisions of green along Elm Street. Current zoning says that in that case residents on Elm Street would be adversely affected and the Variance should be denied. But there is no such combined property at the moment, only 1059's request for the Variance.

These continuances may provide reason to deny it. They are, however, significant possibilities to consider as you decide whether to grant an exemption to the law tonight. You do not have easy work. And I thank you for your effort.

I agree about not having easy work. What's not easy is understanding this letter. I've read it. I don't understand what they're saying, but --

LAURA WERNICK: I think they're saying that if the --

CONSTANTINE ALEXANDER: I know.

LAURA WERNICK: -- the adjacent property, together as one property it would be easier.

SLATER ANDERSON: Does 418 Media, LLC Real Estate own the property next-door?

MICHAEL LeBLANC: Not that we're aware of.

SLATER ANDERSON: Enough said.

CONSTANTINE ALEXANDER: Anyway, it's in the record.

I'm going to close public testimony. Discussion?

Comments? Ready for a vote?

I would note that the Variance being requested is modest in nature and it's certainly in terms of hardship is -- well, hardship but particularly with regard to the shape of the lot, it's a very odd-shaped lot. And this is a project that's been fully vetted by the city. It will create some additional affordable housing. It will create other types of housing and retail on Cambridge Street. It strikes me as a desirable project going forward, and it also strikes me as something we should grant a Variance for.

LAURA WERNICK: It looks like a very nice project.

CONSTANTINE ALEXANDER: Yeah. Except for the street's too wide.

BRENDAN SULLIVAN: It's a tough site and I think that something plain and clunky could have gone in there far more -- it's nicely designed and seems like a nice spot.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: Well done.

CONSTANTINE ALEXANDER: I thought so, too.

Okay, time for a motion I believe.

The Chair moves that we make the following findings with regard to the Variances being sought. And I'm talking now about both the Variance for side yard setback and for the so-called Footnote K.

That a literal enforcement of the provisions would involve a substantial hardship. Such hardship being that the number of units, particularly residential units, would be reduced, should we vigorously enforce the requirements of our Ordinance with no corresponding benefit.

That the hardship is certainly owing to circumstances relating to the shape of the lot. It's an odd shaped corner lot which causes the problems that you're addressing tonight.

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

In this regard the Chair would note that the project has Planning Board approval.

That there appears to be no neighborhood opposition.

And that I think as we've all expressed so far, it is a useful addition to the housing and retail stock of our city.

So on the basis of all of these findings, the Chair moves we grant the Variances being sought, including Footnote K, on the condition that the work proceed in accordance with the plans, multi -- many pages prepared by Utile Architecture and Planning, the first page of which has been initialled by the Chair. This is it. If you change them, you're going to have to come back. Okay? Sean knows that.

All those in favor please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

* * * * *

(8:30 p.m.)

(Sitting Members Case No. BZA-017002-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No.
017002, 15 Field Street.

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

Name and address for the record, please.

SUK-YEE HON: Suk-Yee Hon at 15 Field Street in
Cambridge.

MATT DOOLEY: Matt Dooley, 15 Field Street, Cambridge.
D-O-O-L-E-Y.

CONSTANTINE ALEXANDER: And you're here seeking a Special Permit to alter some windows in the side of the building.

SUK-YEE HON: Yes.

Yeah, we're here to request a Special Permit to reconfigure three windows on the left side of the house. The size of these windows will be similar or smaller than what is existing there. Overall the total area of windows on that left side will actually be reduced from its current number of windows or area. And in addition I think it would also increase the privacy of the abutter. The position of the windows will actually face more directly into the siding of the house rather than another -- their existing window on their side.

Additionally, we've received kind of letters of support from the abutting house at 17 and 19 Field Street for the Special Permit.

CONSTANTINE ALEXANDER: It's interesting, usually we have these cases about altering windows in a setback, we have to be concerned about privacy. Usually it invades or may invade the privacy of an abutter. In your case you're pointing out, and your plans support that, that you're improving the privacy of your abutters.

SUK-YEE HON: Yeah.

CONSTANTINE ALEXANDER: Good.

Comments or questions from members of the Board?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: None.

I'll open the matter up to public testimony. Is there anyone wishing to be heard on this matter?

(No Response.)

No, not too many people here anyway.

We do have letters, which I think I should read into the record.

We have a letter from Thomas M. Wenderlich if I got it right.

W-E-N-D-E-R-L-I-C-H who resides at 171 Chilton Street. (Reading) To my knowledge, I've never met Suk-Yee Hon, but I can clearly see 15 Field Street, including a section of that wall from my property. If they want to spend that much time, money, and effort to move a few windows, I'm guessing they consider it a quality of life issue, I can tell you I have no problem with that. I also can't see how this would affect the general public in any way. Call if you have any questions.

We also have an e-mail from Paul McDonald -- I'm sore Faith McDonald. Faith McDonald. (Reading) I am responding to the notice of public hearing to be held October 11, 2018, regarding this case. My property is at 18 Field Street which is located directly across the street from 15 Field Street, the petitioner's residence. Having had the privilege of having Suk-Yee and Matthew as neighbors, I'm quite sure that what they propose to do will improve, enhance, and beautify their home and will be both tasteful and appropriate. They have been thoughtful and considerate of all things, and I am certain the updates they have in mind will reflect their shared investment in preserving the charm of our community.

Very nice letter. I think there's one more if my memory is correct. Yeah.

It says it's from Prudence Baxter, 19 Field Street. (Reading) I am writing to give my full support to my neighbors, Matthew Dooley and Suk-Yee Hon of 15 Field Street for their Special Permit application. My property, 19 Field Street, abuts to the left side of 15 Field Street, which is a location of the petitioner's proposal. Based on the pictures provided by

the petitioner, the proposed signs and locations of the windows will not negatively impact me nor will it affect my privacy. I support the request for Special Permit to relocate the windows to the new locations.

I'm sorry, there's still one more letter. It's from Emanuel Stefanakis, S-T-E-F-A-N-A-K-I-S, 21 Field Street. (Reading) I am writing to give my full support to my neighbors Matthew Dooley and Suk-Yee Hon of 15 Field Street for their Special Permit application. My property at 19-21 Field Street abuts to the left of 15 Field Street, which is the location of the petitioner's proposal. I have reviewed the proposed changes to the size and location of the windows and support the request for a Special Permit to relocate the windows to the new locations.

And that's it. I'll close public testimony.

Any -- I'll open the matter up to discussion. Discussion or ready for a vote?

ANDREA HICKEY: Ready.

LAURA WERNICK: Ready.

SLATER ANDERSON: Let's vote.

CONSTANTINE ALEXANDER: When we grant relief, we tie

it to the plans that you've submitted. If you decide to change them after tonight, you're going to have to come back. So you're happy these are the final -- this is it?

MATT DOOLEY: That's it.

CONSTANTINE ALEXANDER: Okay. The Chair -- this is a Special Permit case so we have to make a bunch of findings.

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

That the requirements of the Ordinance cannot be met unless we grant you the Special Permit.

That traffic generated or patterns of access or egress resulting from the relocation of the windows will not cause congestion, hazard, or substantial change in established neighborhood character.

In this regard, certainly not going to create hazard or congestion and/or substantial change in established neighborhood character except to the extent of increasing the privacy of the abutters affected by the window relocations.

That the continued operation of or development of adjacent

uses as permitted in the Ordinance will not be adversely affected by the nature of what is proposed. And, again, it's not going to be adversely affected, it's going to be beneficially affected by increasing the privacy of adjoining properties.

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

So on the basis of these findings the Chair moves we grant you the Special Permit you requested on the condition that the work proceed in accordance with this one page of plans that I've initialed.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

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(8:40 p.m.)

(Sitting Members Case No. BZA-017006-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case
017006, 9 Crescent Street.

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

Welcome.

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman,

members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of the petitioners. We have Mrs. Deidre Deegan and we also have Mahmood Firouzbakht, the owners the 9 Crescent Street.

You want to spell your name for the Board?

DEIDRE DEEGAN: Yeah. D-E -- oh. Hi. D-E-I-D-R-E, and the last name is Deegan, D-E-E-G-A-N.

ATTORNEY SEAN HOPE: And I'm not going to try Firouzbakht.

MAHMOOD FIROUZBAKHT: You may remember this. First name is Mahmood --

CONSTANTINE ALEXANDER: She didn't recognize you because you're hair is long.

THE STENOGRAPHER: You're still in here. I got it.

ATTORNEY SEAN HOPE: So this is a Variance application requesting dimensional relief, one in terms of the FAR, and I believe also a portion of the setback to add a roughly 100 square feet to an existing third floor. And just by way of background, I don't remember exactly how

many years ago, but I think it was close to five years ago, the applicant was before the Board. This was a two-family house.

This -- Mrs. Deegan's family had lived there for many years, and as part of planning for the future, Mrs. Deegan's family moved to the first floor.

There were some renovations, including a rear yard deck that required Variance relief. And there was also making changes to the third floor to allow this family to be able to occupy with their one child at the time, now they have two children. So there was Variance relief in order to create this additional habitable space on the third floor and there was a dormer granted.

So part of the rationale for this proposal is about the functional interior layout. What we've done is, and I think it might be helpful for the Board to understand --

CONSTANTINE ALEXANDER: Can I just stop you right there.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: Because there's a serious issue here. I don't mean to be difficult. I'm generally in support of the

relief being granted, but you're proposing a 32-and-a-half foot dormer.

ATTORNEY SEAN HOPE: Understood.

CONSTANTINE ALEXANDER: Dormer guidelines are 15 -- we've never, ever granted a dormer this big. How can we do it tonight?

ATTORNEY SEAN HOPE: Well, the dormer guideline wasn't missed. We looked at that. And I think part of what we wanted to talk about the interior third floor is the rationale behind it.

CONSTANTINE ALEXANDER: That doesn't give you -- I don't mean to be difficult. But there may be a great rationale for inside, the interior layout, but that doesn't justify a dormer that's twice as big, more than twice as big as our dormer guidelines permit.

ATTORNEY SEAN HOPE: I would only say that I think that -- I understand the dormers are guidelines, and I don't think that we took those lightly. I do think that if we explain -- there wasn't a way to achieve the additional bathroom and that's the essence of this. So all the bedrooms -- so there's two floors of living. There are three bedrooms. There are two children, one is five and one is ten, and the couple. They

live on the third floor. There's one bathroom with one tub. So they now have three people using one bathroom. For construction purposes, it makes a lot of sense to put the bathroom on the same side for efficiency on the same side of that house. So you already have a gabled dormer, that's already there, that hosts the existing bathroom. The only other way to create an adjacent bathroom, which I believe is really to allow this family to remain in place, is to take that party wall and extend it. Now, it's possible, and if you look at the ridge line, that you could, you could create the second bathroom which is a series of three windows without the additional dormer. It still would be over the dormer guidelines, but frankly and aesthetically, it would look very awkward. You would have a dormer, you would have a case of three windows, and they would just drop off. So there is some symmetry to it.

Now if we could achieve the second bathroom and stay within the dormer guidelines even if it looked poor, we could have considered that. But the existing dormer is almost eleven feet. To create the bathroom, you have another ten feet. So you're already over the dormer guidelines just to achieve the second bathroom, which I think is

reasonable in the context of a family trying to maintain in their current living situation. So I think, and I mean, Mahmood, if you can bring it up, I think it does make sense to look at what the second dormer is looking to do.

So this is the existing dormer. This is what houses the bathroom with the tub in it.

CONSTANTINE ALEXANDER: Right.

SEAN HOPE: And we actually have the floor plans because we have the -- if you wanted to look at this. So this section here, this is really the second bathroom. So this is about eleven feet. This is about another eleven feet. So you're already over the 15 feet. This dormer right here, this is really, because there's a knee wall. And then the bedroom, although it looks decent size, there's a five-foot line is really -- and we can look at the plans, but it really, it really truncates the bedroom. So one option is we wanted to try to fully respect the dormer guidelines, we could -- I guess we could end this dormer right here. It would still be over 15 feet. You would still have a second bathroom, but it would look very awkward if you had a dormer, this portion, and it just

stopped off. So I do think this extra piece here does allow the functionality in the bedroom and not the bathroom, and we're admitting that. But I also think that the two dormers side by side with this bathroom in the middle does create a balance that without that. So I understand your point. We did -- 32 is twice the dormer guidelines, but I think the layout on the interior, and if you can actually turn to that, I think the rationale is sound. So as I said, this is the first, this is the first dormer. This is the existing bathroom. These are the three bedrooms. This is the parents' bedroom. This middle part is three windows. And this right here, this is for -- to create additional head height. But even if you said, hey, are you asking for more than you need for the bathrooms? What it would mean is you would have this dormer, you'd have this bathroom and it would just end. And I think aesthetically it would look very awkward.

And so, you know, part of understanding they're guidelines, they're in keeping so we didn't just throw them out the window. But I think functionally you already have a 20-foot dormer. This was granted on the first approval. This is for the second bathroom. So you really have another ten feet and that's really -- because this knee wall is here. So

this is less than five feet. So it seems like maybe a decent size bedroom when you have currently the bed is oriented and if you want to show.

This is how it is, so you open this door. This is the five-foot line, so this is the current bedroom. And so by capturing this space, which is close to 20 feet, this extra feet makes the room more functional, but again, when we looked at it, by cutting this off, it -- aesthetically it looked awkward, and too, we still didn't meet the dormer guidelines.

CONSTANTINE ALEXANDER: We have approved cases where people don't meet the dormer guidelines, but only for a couple of feet; two feet, two or three feet often because they need more headroom for a staircase. Not twice as much. We've never -- I'm sorry to be redundant. I'll defer to my colleagues who are more sophisticated in construction matters, but I just can't get there personally.

SLATER ANDERSON: Is that a full bathroom or a three-quarter bathroom on the second floor?

ATTORNEY SEAN HOPE: On the second floor is a three-quarter bathroom. And when you have young children, the bathroom they use is the bathroom with the tub. And so that's -- they're

all on the third floor. And so, you know, getting up in the morning, everyone's going to school, everyone's going to work, everyone's using this bathroom. And so this bathroom, I think for any family, not just this family, any family is really a necessity. A necessity to be comfortable and to be able to stay long term. And so I guess, I mean, when we looked at it, I mean we could have had a 20-foot dormer which would have been less than the 30 feet, but it really would have looked awkward and displeasing. I mean, if that was something the Board -- I mean, I can't speak for the petitioners, but we did recognize this other element did make the dormer much bigger than the Board typically grants, but I do think there is an interior rationale I think from the letters of support. I don't know if we would have gotten the same exterior design support if we just had this very awkward L-shaped addition that didn't seem like it made sense for the structure. I think it's a combination of the interior layout and from the aesthetics from the exterior.

LAURA WERNICK: I think maybe there are alternatives there. For instance, instead of having just a continuous face, you know, the two big dormers and the connecting dormer, you could recess the

bathroom back so it looks like there are just two dormers and then like -- so it looks like with the closets, you could shift the bathroom away from the exterior and take over those closets.

DEIDRE DEEGAN: Then we don't have any closets.

LAURA WERNICK: Well, that would be a choice. There may be other ways to do it as well.

ATTORNEY SEAN HOPE: Just to understand the point, that would still be the same size dormer, it would just be less projected?

LAURA WERNICK: Yeah, I don't know if the Board would go along with it, but at least it's not one continuous --

CONSTANTINE ALEXANDER: 32-foot long.

LAURA WERNICK: -- 32-foot long.

ATTORNEY SEAN HOPE: Maybe go back to the exterior?

LAURA WERNICK: It breaks up the facade a little bit.

CONSTANTINE ALEXANDER: It does break it up, but, but, you know, nothing's perfect.

ATTORNEY SEAN HOPE: I mean we would take some design critique. But I think when they worked with the architect, they

were really trying to achieve the goal of the second bathroom. And when they had that done, this just looked very, very awkward. And so it is more. If the Board felt very strongly about the size, but, you know, I would say that the guidelines are guidelines, and I think when there is a practical reason behind that, I think the Board might be able to make exceptions.

CONSTANTINE ALEXANDER: Well, usually when we do depart from the guidelines -- first of all, they are guidelines but we approach it almost as if it's required. And two, when we depart, it's for structural reasons. As I said, it's usually the headroom over a staircase. This is sort of awkward.

BRENDAN SULLIVAN: Do you have a floor plan for the second floor?

SLATER ANDERSON: Yeah, there's one on this plan. It's not in the filing.

ATTORNEY SEAN HOPE: We had them detail it, because I think that's part of -- part of the rationale was how the whole two floors together work for a family.

SLATER ANDERSON: What's the square foot?

BRENDAN SULLIVAN: So there's a bathroom on the second floor, and then you're looking to put two bathrooms on the third floor.

ATTORNEY SEAN HOPE: So there's a three-quarter bath on the second floor which is the main floor. There's two floors. And then the -- all the bedrooms are on the top floor, and there's one bathroom.

And so --

SLATER ANDERSON: What's the square footage of the second floor?

MAHMOOD FIROUZBAKHT: Give or take about a thousand square feet.

SLATER ANDERSON: There's a couple of -- can I comment?

CONSTANTINE ALEXANDER: By all means.

ANDREA HICKEY: Please.

SLATER ANDERSON: I feel like the existing dormer sort of you're using that as the sort of crutch on this, and to me is like, okay, if you want more space, well, you could eliminate that dormer and build a new

dormer that accommodates two bathrooms up there. That's one thing.

I live in a similar type house. Similar size. We have one bath. It's my wife, myself, two kids, 11 and 15. We have two full bathrooms, one's on the third floor, one's on the second floor. I'm, you know, if you need to have a third full bathroom, there's a way to build a new dormer and get two bathrooms. It may not be spacious, big bathrooms but you'll get two bathrooms. I'm not compelled by the 30-foot dormer, I just -- I feel like it's -- there's a solution there. There are alternatives. You could you do a shed dormer. You know, if you felt like he needed a few extra feet beyond 15 to make it work, you know, get rid of the gable and make a shed. I don't buy the argument that it's going to look awkward with a gable and a flat roof. You don't need to keep the gable.

ATTORNEY SEAN HOPE: Yeah, and I definitely think this is working with what's there. I do think that taking your suggestion, just fleshing it out, if we did create a new dormer, it would still be close to 20 feet just in terms of the interior --

CONSTANTINE ALEXANDER: Again, as I've said and as

Slater has said, we're not wedded exactly to 15 feet. We have departed from that. But we've never departed to the extent of 32 feet, that's my problem. And I think that sets a horrible precedent for us going forward. Other people come in and want bigger than 15-foot dormers.

We had a case by -- near Strawberry Hill where the architect came in and wanted a 30-foot dormer, and we said no. And he had the same kind of arguments. And he came back redesigned it. And they came back and they satisfied their needs, presumably, because they sought relief and we granted it.

SLATER ANDERSON: Can I ask Brendan as resident builder, the dimension on the bathroom, you do not need ten feet for bathroom in width.

BRENDAN SULLIVAN: Correct.

SLATER ANDERSON: And I understand you want to turn one because there's a closet in the hallway and you want to try to accommodate the closet and the bathroom.

ATTORNEY SEAN HOPE: I mean if you --

MAHMOOD FIROUZBAKHT: Well, I think can we'll -- do we

need the microphone?

CONSTANTINE ALEXANDER: Sure.

MAHMOOD FIROUZBAKHT: Okay.

So we, again, the 30 feet is bigger than you typically would grant and we understand that. And so we looked at -- Boyes-Watson was the architect. Unfortunately they weren't able to make it tonight. We did -- I think Kelly drew up one design where we did basically, you know -- and all of this was presuming that we're going to try to keep our existing bathroom. Because ideally, you know, it's a nice bathroom and the kids -- and it's functional. Ideally we wouldn't demo that whole bathroom to completely -- and demo this dormer. And the gabled dormers on this house, and I think you know, this has been in Deidre's family since her great-grandfather built in like 1931. We think the gable dormer style wise aesthetically fits, and it looks I think more pleasing than doing a shed dormer. And so we did, we looked at an option of putting another dormer here, another gable dormer, which I think then maybe was, I don't know, 20 feet or something of total dormer space which we, again, still would not comply with the guidelines. It just looked weird, you

know. And Deidre looked at it and I looked at it and Kelly looked at it, and we're like okay, okay, that works functionally on the inside, it gets us what we want but it just looks bad. And this is, you know, this is a family home that we want to keep forever. And so I guess we also want to do justice by the home, and that's partly why then we thought, okay, well, what would look nice? And I think we all agreed that this aesthetically looks nicer, but then we also recognize it's like way beyond, you know, what the dormer guidelines would provide for. So it's like that tough little balancing act. It's like all right, let's see, come here and I don't know, see if we can present this and figure out if there's a way to make this work.

CONSTANTINE ALEXANDER: Brendan, do you have any thoughts?

BRENDAN SULLIVAN: Yeah, I do. If -- let me vocalize maybe what we're all thinking. If the personalities before us were not known to us and you were just coming down, it would be a nonstarter right off the shoe, and we would just say no. The arguments and the reasons for what you're doing are ones that we hear over and over and over again. That, again, that we have to have it 18 feet, we have to have it 20 feet,

and these are the reasons and they all make good sense. Aesthetics, functionality of the room, so on and so forth. And the Board has always pushed back on that because, yes, they are the guidelines, but we really try to adhere to those. And Thursday night after Thursday night we keep pushing back on the dormers that are again, 18 feet, 20 feet, so on and so forth. And somehow we make people go back and rework it. They may have to work the interior a little bit. That one dormer that was approved before is really the tail that's wagging the dog here. And as Slater said, you're fixed on that and then how do we make something out of that? When in fact it's maybe a redo of that whole area there. And I think you can get what you want. I know it's another time and era, and I don't mean to be Father Time here, but we had three children and there were two of us and we had one bathroom and I don't think any of us suffered any deep psychological damage. Maybe yes, maybe no. But, you know, you make do. And I think what you're asking for is a lot. And if the -- if the personalities were unknown, it would be a nonstarter.

CONSTANTINE ALEXANDER: That argues for definitely for not granting relief as presently proposed. We can't show favoritism.

BRENDAN SULLIVAN: I think it can be redone, yes.

CONSTANTINE ALEXANDER: Yeah. I think you need to go back and rethink it. We're not adverse -- let me make it clear, we're not adverse of the basic concept of granting additional and getting the dimensional variances. I don't think we're absolutely wedded to 15 feet. I may be going on the limb here. But we want to be as close to 50 as possible and have good reasons, better reasons than I've heard tonight other than aesthetics for going as far as 32 feet.

ATTORNEY SEAN HOPE: Yeah, and I don't think we ever made the representation that this was the only. I think there was a combination of factors of aesthetics and functionality. And I do think that they're likely -- I'm not an architect, there is likely a way to get a second bathroom and make that work. I would dare to say, you know --

LAURA WERNICK: I think there are ways of doing it and having it look nice. You know, this is --

CONSTANTINE ALEXANDER: Especially Mark Boyes-Watson.

LAURA WERNICK: You're close. You've got some nice

things going there. What we're saying is you cannot have a continuous dormer. You got to think about it.

MAHMOOD FIROUZBAKHT: I think, you know, our hope was to not have to going back to the drawing board on this.

LAURA WERNICK: That's fine. I think you're going to have to make some small compromises in order to get by this Board. You have to think about what are the compromises. And if it means shifting the bathroom and having a smaller closet, flipping the bathroom having a smaller closet, that might be enough to do it. You have to think creatively.

MAHMOOD FIROUZBAKHT: We did go through some permutations, you know, before coming here where it was smaller. And then whatever we could -- but then, I mean I think the anchor was this, like sort of okay, we have this dormer here. How do we make this look nice and make it functional? And whatever we came up with just, I don't know, looked awkward and weird. And I mean Deidre can speak to, you know, like our family history here. And I mean I get the personalities. And I appreciate, you know, where you're coming from. I think there are unique

circumstances like what this home is and what this home means to Deidre and her family. And I think that's -- and also our -- our connection to the community and, you know, we go through this discussion a lot, you know, where -- and I mean, we grew up with one bathroom in our -- me and my brother and my parents. And we had a small two-bedroom apartment with one bathroom. We made do. And same thing with Deidre. I guess at this point, you know, you work hard and you want to have comfort in life. And we have this discussion a lot in our household. Gees, does it make sense for us to keep staying here? You know, we could go out a little further and have space and a yard and thing -- we go through that exercise a few times a year at least. And we keep coming back to the conclusion that we really want to stay. Deidre's parents are on the first floor. They're getting older. And we help them out and our kids get to be close with them. So we want to make this house work. And given our current needs like trying to figure this out with just making -- would make it work for us and then we could not have that conversation anymore and say okay, we can stay. And but -- we also understand what the parameters are and we try to come up with something that was really

pretty -- what we thought was really pretty that maybe could help --

CONSTANTINE ALEXANDER: Why don't we continue this case and give you time to come up with other solutions. If you feel you can't, you come back before us, and we'll vote on what you have. I don't think we're ready to grant relief tonight.

MAHMOOD FIROUZBAKHT: No, I hear that.

CONSTANTINE ALEXANDER: Or deny relief. Unless you want me to deny it.

MAHMOOD FIROUZBAKHT: We don't want to do that. Now, do you -- I'm sorry, do you want to say anything?

DEIDRE DEEGAN: I think you covered it pretty well actually. I mean I think the main, the main thing for us is also just the expensive piece of not wanting to have to kind of demo.

CONSTANTINE ALEXANDER: It would be more expensive than getting rid of that dormer I'm sure.

DEIDRE DEEGAN: Yeah. And I'm just thinking about what's next to the house, too, I think is helpful. Just to think that, you know, to remember that it's a driveway, that there's -- it's not that we're

blocking a view. There's no -- and in that sense there's no functional piece that we're prohibiting someone else from having -- by doing this.

And I think of, you know, the purpose of the guidelines in the first place is to allow for growth within the city to allow the city to have young families, to allow the city to have -- to accommodate all the different kinds of people that want to live here, and at the same time not encroach upon one another, right? That's the purpose of it. And in this situation, it's our driveway and a, you know, short store. There's nobody, you know, there's no one right there. And just having all of our neighbors kind of very firmly, yes, if -- we really want you to be here. We want you to have a comfortable home and, you know, like Mahmood said I grew up with a closet of a bathroom. So of course you can survive with a lot. People survive in tents, you know, there's a spectrum of survivability. And it's really about the balancing of the community aspect of it, right, which is the original purpose, and then the, you know, the liveability aspect of it, keeping people here, too. And so I guess I ask you to think about it from that perspective? Yeah.

CONSTANTINE ALEXANDER: Let me just make a

comment --

DEIDRE DEEGAN: And I'm no expert in any of this. But that's just my kind of layperson's sense of what it is.

CONSTANTINE ALEXANDER: The dormer guidelines are not designed to -- for liveability. That's the dimensional requirements. And I think you've heard, at least you heard it from me, the Board is sympathetic to giving you dimensional relief of the nature you're proposing.

DEIDRE DEEGAN: Right.

CONSTANTINE ALEXANDER: The dormer guidelines are pure aesthetics. The city has decided through the Community Development Department, that aesthetically, dormers that are too big are not desirable in Cambridge. Too big being more than 15 feet, and they also have to be set back from the ridge line, blah, blah, blah. And a dormer this big in the minds of the Community Development Department, the people who drew up the guidelines, said this is aesthetically not good for the city. And that's why we try to enforce it. Enforce is the wrong word. We apply it all the time. So don't get, let's not confuse liveability

with aesthetics. Liveability you need more space. I think you've been hearing we're -- depending on unless you increase it dramatically, you're going to get it. But you've got to approve the aesthetics and this dormer doesn't do that.

DEIDRE DEEGAN: Okay.

ATTORNEY SEAN HOPE: And maybe to your point as a suggestion, sometimes you get feedback from the Board and you try to figure out what they're gonna do and then you come up with something. And I think because it is aesthetic, maybe what we can do is look at a range of different options, because it could be that we achieve the 18 feet, and aesthetically it looks pretty poor. And so the Board would have an opportunity to balance. And what you don't see here is what would it look like if we kept to your typical 15 to 18 feet. So maybe what we do is not necessarily scrap this, but obviously we're saying look, this is bigger than we feel comfortable with, and maybe do a range of different options that are affordable to the petitioners, because I'm personally not convinced that aesthetically if we had shrunken this, that it would look aesthetically, which is dormer guideline's is about, something you would prefer. If we're not

just taking it's twice as much rationale, but I could be wrong. So maybe that's what we could do. If we were to continue, we can study it, work with the architect, and present what might be something that could be approved.

LAURA WERNICK: And obviously we're very sympathetic. We're constrained by guidelines, but I think there are ways you can get the same effect and be able to play with the dormer notion a little bit so it doesn't read as one big dormer and that might be a more, you know, satisfactory.

CONSTANTINE ALEXANDER: I didn't know what date we were going to continue the case to that's why. I'm sorry.

MAHMOOD FIROUZBAKHT: Right. No worries.

CONSTANTINE ALEXANDER: I didn't see him. I apologize.

MAHMOOD FIROUZBAKHT: Thank you for your comments.

SEAN O'GRADY: November 8th.

CONSTANTINE ALEXANDER: November 8th. Is that enough time for you?

MAHMOOD FIROUZBAKHT: I think so. I think that should give us some time.

CONSTANTINE ALEXANDER: Can't be any earlier because we're filled up. We can do it later if you want.

MAHMOOD FIROUZBAKHT: I think that's good. It's a Thursday it's school day. I think we're good. It should be good.

CONSTANTINE ALEXANDER: November 8th.

MAHMOOD FIROUZBAKHT: Perfect.

CONSTANTINE ALEXANDER: How about members of the Board? Can everybody make November 8th? I can.

LAURA WERNICK: I don't know.

SLATER ANDERSON: Yes.

LAURA WERNICK: Zoning Board of Appeals that's my only conflict. We're good.

CONSTANTINE ALEXANDER: You're good.

Brendan, you're good?

BRENDAN SULLIVAN: I'm all right.

SLATER ANDERSON: Yeah, I'm here.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this case be continued as a case heard until seven p.m. on November 8th subject to the following conditions:

That the petitioner sign a waiver of time for a decision.

Which has already been done.

Second, that the posting sign, and Mahmood knows this as well, and so does Sean.

MAHMOOD FIROUZBAKHT: I've messed it up before --

CONSTANTINE ALEXANDER: I'm sorry?

MAHMOOD FIROUZBAKHT: I said I've messed it up before, but this time I won't.

DEIDRE DEEGAN: It won't be upside down.

CONSTANTINE ALEXANDER: You can keep the same sign, modify the new date and new time, seven p.m., otherwise you'll be sitting here much later than you want to be. And that you maintain it for the 14 days required by our Ordinance.

And lastly, and this time you'll have new plans, presumably. They have to be in our files no later than five p.m. on the Monday before

the hearing date.

So don't, Sean knows it and Mahmood knows. Doesn't dally.

If you come the night before with the new plans, we're not going to hear the case. We're going to continue the case again. Okay?

DEIDRE DEEGAN: Okay.

CONSTANTINE ALEXANDER: All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: See you in November.

MAHMOOD FIROUZBAKHT: Thank you.

Nice to see you all.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

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(9:05 p.m.)

(Sitting Members Case No. BZA-017005-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No.
017005, 24 Decatur Street.

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

CHRISTOPHER WALSH: Hi.

CONSTANTINE ALEXANDER: Name and address for the

stenographer, please.

CHRISTOPHER WALSH: Sure. Chris Walsh. 24 Decatur Street.

CONSTANTINE ALEXANDER: Okay.

Sir, before we start the case you are aware I trust that there is a lot of neighborhood opposition to what you're proposing?

CHRISTOPHER WALSH: I'm aware of the opposition.

CONSTANTINE ALEXANDER: Okay. Do you want to proceed or do you want to spend some time talking to your neighbors and maybe coming up with something that will get their approval or support I should say.

CHRISTOPHER WALSH: The latter.

CONSTANTINE ALEXANDER: I'm sorry?

CHRISTOPHER WALSH: The latter. I want to continue the case if that's at all possible.

CONSTANTINE ALEXANDER: Oh, sure.

CHRISTOPHER WALSH: I signalled that to Maria Pacheco earlier today.

CONSTANTINE ALEXANDER: Oh, okay.

CHRISTOPHER WALSH: Last minute.

CONSTANTINE ALEXANDER: Sean wasn't aware you wanted to continue the case.

CHRISTOPHER WALSH: Right.

CONSTANTINE ALEXANDER: Okay. Do you have a date in mind?

CHRISTOPHER WALSH: I don't. Obviously that's something that would be convenient for the people who object. There's one gentleman there so he could say yay or nay. We're okay as petitioners.

CONSTANTINE ALEXANDER: Sean, November 8th open? We're going to continue the case. If not, that would be November 29th, right?

SEAN O'GRADY: Yes, November 8th we can do one more.

CONSTANTINE ALEXANDER: Do you want to do November 8th or do you want to do November 29th? Which works for you guys?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I can't speak for everyone.

CONSTANTINE ALEXANDER: I know.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: We're in the condominium. So it's hard for me to say. I'm guessing later would be better.

CHRISTOPHER WALSH: Let's do later then.

CONSTANTINE ALEXANDER: The later?

CHRISTOPHER WALSH: Be accommodating, sure.

CONSTANTINE ALEXANDER: Okay, yeah. I think the more time, the more likely you'll come to some solutions.

CHRISTOPHER WALSH: Sure. Six weeks from now? Sure.

CONSTANTINE ALEXANDER: Okay, the Chair moves that this case be continued as a case not heard until November -- seven p.m. on November 29th. You know, I'm sorry, we should just make sure Sean hasn't told us --

ANDREA HICKEY: Sean.

CONSTANTINE ALEXANDER: Sean, do we have room on November 29th? I know we have Arnold Circle.

SEAN O'GRADY: Yes, you can do November 29th if you like.

CONSTANTINE ALEXANDER: Okay. Why not?

The case be continued as a case not heard until seven p.m. on November 29th subject to the following conditions:

The first is that you sign a waiver of time for decision until then. Mr. O'Grady will give that to you right now.

Second, that the posting sign that you have up there must be modified to reflect the new date, November 29th, new time, seven p.m. Both can do it by marking up with a magic marker your current sign or getting a new sign. And they have to -- that new sign has got to be maintained for the 14 days before the hearing on November 29th, just as you did this time.

CHRISTOPHER WALSH: So it could be taken down for a month or whatever?

CONSTANTINE ALEXANDER: I'm sorry?

CHRISTOPHER WALSH: It can be taken down?

CONSTANTINE ALEXANDER: Oh, yeah, yeah. Between now and then. Just those 14 days.

And lastly to the extent that you have new plans, modified plans from what is now in our files, they must be in our files no later than five p.m. on the Monday before November 29th. That's to allow us, as members of the Board to study them, it allows neighbors, interested citizens to do the same.

CHRISTOPHER WALSH: Sure.

CONSTANTINE ALEXANDER: So those are the three conditions.

CHRISTOPHER WALSH: Understood.

CONSTANTINE ALEXANDER: Sign, what you're just doing just now.

Posting sign.

And new plans if there are any.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you
on November 29th.

CHRISTOPHER WALSH: Thanks, appreciate it.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

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(9:10 p.m.)

(Sitting Members Case No. BZA-017007-2018: Constantine Alexander,
Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No.
017007, 40-42 Walden Street.

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

ERIC HOAGLAND: Good evening.

CONSTANTINE ALEXANDER: Good evening. Give your
name and address to the stenographer.

ERIC HOAGLAND: My name is Eric Hoagland, H-O-A-G land, L-A-N-D, 195 Lexington Ave., Cambridge. This regards 40-42 Walden Street, Cambridge.

CONSTANTINE ALEXANDER: And you have a dormer that is compliant with our dormer guidelines?

ERIC HOAGLAND: Yes.

CONSTANTINE ALEXANDER: Which is good. Okay. Anyway, the floor is yours. Why should we grant you relief?

ERIC HOAGLAND: The core issue is that the lot is under, it's zone B and the lot is under 5,000 square feet. We currently have three girls living on the top floor, and there's no bathroom on the top floor. And they asked us if we could add a bathroom, and that's what the dormer is for. And it gives them the kind of sense of privacy when they go upstairs to their rooms versus going back downstairs to the --

CONSTANTINE ALEXANDER: Hold is the structure roughly?

ERIC HOAGLAND: 100 years, 110 or so.

CONSTANTINE ALEXANDER: Okay. It says it predates

zoning.

ERIC HOAGLAND: Yeah, 1909 would be -- whatever. I'm taking a stab at it.

BRENDAN SULLIVAN: They're usually built in 1918, 1922.

ERIC HOAGLAND: Right. Pre-world war --

BRENDAN SULLIVAN: But anyhow.

ERIC HOAGLAND: Three identical buildings.

CONSTANTINE ALEXANDER: Okay.

ERIC HOAGLAND: The only thing is that we talked about today we might, we're suggesting a gable dormer versus a shed dormer.

CONSTANTINE ALEXANDER: Well, you've got a -- we're going to approve it, if we approve the -- tie it to plans --

ERIC HOAGLAND: Yeah.

CONSTANTINE ALEXANDER: So if you're thinking about redesigning it, we're not going to decide it tonight.

ERIC HOAGLAND: Okay, so I think we should stay with what we have.

CONSTANTINE ALEXANDER: That's up to you. What I'm

saying is what we do is if we grant relief, we say on the condition that the work proceed in accordance with the plans that we have.

ERIC HOAGLAND: Okay.

CONSTANTINE ALEXANDER: So you can't modify them.

ERIC HOAGLAND: No, I totally get that.

CONSTANTINE ALEXANDER: That's all I'm saying. So if you want to think about it or rethink more about it, we have to postpone the case.

ERIC HOAGLAND: I'm committed to what we're asking for.

CONSTANTINE ALEXANDER: Okay. I think you've said all. You need the dormer to allow for a new bathroom for the other unit. Right? A bathroom?

ERIC HOAGLAND: Yes.

CONSTANTINE ALEXANDER: On the floor. And that the fact is that when the building was built in 19 whatever, 1909, people didn't have the kind of bathroom requirements or beliefs that we now have.

ERIC HOAGLAND: Yeah, we're finding that people want more bathrooms in a unit for -- on the same floor.

CONSTANTINE ALEXANDER: Have you spoken to your neighbors?

ERIC HOAGLAND: I have. I've spoken to the neighbor on the right and the abutter to my left, but they're not here tonight, I don't have their representation, but I talked to them.

CONSTANTINE ALEXANDER: I don't think they wrote us a letter. There weren't any a couple days ago. Do I have notes here? No. Okay. But you can report to us they didn't express any opposition.

ERIC HOAGLAND: No, I talked to them about. I see them on the street, I talked to them about it. They got a dormer themselves. They understood what the issue was. And I went with the city guidelines for a dormer.

CONSTANTINE ALEXANDER: Okay.

Comments or questions from the members of the Board?

ANDREA HICKEY: No.

SLATER ANDERSON: You only need one bathroom on the third floor?

ERIC HOAGLAND: Only one, yeah.

Don't get me started.

CONSTANTINE ALEXANDER: You should talk to the petitioner a couple of cases before.

ERIC HOAGLAND: I think the one before, it was my observation. People are --

CONSTANTINE ALEXANDER: Let's not go there.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

I will close public testimony. And we do not have other letters of communications in our files. So, I'll close public testimony. Discussion or ready for a vote? Ready for a vote.

Okay, the Chair moves that we make the following findings with regard to the Variance, the Variance you're seeking:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that structure built over 100 years ago is not configured to have the type, the

amount and nature of bathrooms that is more common in today's society, and this would apply not only to you and you own the building. Whoever owns this building has got a need for a bathroom on the third floor which requires a dormer.

That the hardship is owing to the fact this is already a non-conforming structure, so that any modification requires relief.

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

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Black River Associates? Yeah, Black River Associates, which has been initialled by the Chair.

All those in favor please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

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(9:20 p.m.)

(Sitting Members Case No. BZA-017009-2018: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017009, 1 Hancock Street.

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

EDRICK VANBEUZEKOM: Yes. Good evening. My name is Edrick Vanbeuzekom. My firm is EVB Design. I'm the architect on this project on Hancock Street. And with me are the owners of the property.

HERMAN MAK: My name's Herman Mak, and I'm one of the owners.

KATIE NG MAK: I'm Katie Ng Mak.

EDRICK VANBEUZEKOM: Okay. I'd like to give a little bit of background to the project for members of the Board who weren't here

for the previous hearings.

CONSTANTINE ALEXANDER: Good idea.

EDRICK VANBEUZEKOM: The project, the property is on the corner of Hancock and Kinnaird Street. And the existing house is a two-story, two-family structure that was built in the 1860s. It's in pretty terrible condition. It has very low ceilings, only seven-foot ceilings on the first floor, and everything is out of whack. But anyways, so initially what we were looking to do was just to renovate the house, raise the floor heights in order to get them up to code, and make it more reasonable living space. And the issue that came up caused the height of the building to go up as well. The current building has a parapet around three sides of it, the two street sides and the right short side, the driveway side. And the parapet is about two feet higher than the flat roof that's on there. So our original proposal was to bring it up to that height, but what we really hadn't taken into consideration at that point was that it would affect the neighbor with added shadows on their property. So we initially did some shadow studies to show them what the difference was, and they weren't too happy about that understandably. So in the meantime we

also had gotten a couple of contractors out to take a look at the property and who said that it would be considerably cheaper if we could tear it down and start over. So we came up with the idea at the last continuance hearing to -- for the earlier renovation project to perhaps tear it down, build on the same footprint, that would allow us to lower the foundation and bring the height of the building down. So what we were able to do is get it down to where the roof height of the house and it basically steps down on the back side. And we were able to get that portion of the roof down to within six inches of where the current roof is. We did a set of shadow studies which we shared with the neighbors, and I -- they've consented. And so, again, we worked with them also on fence design on the corner of the property, too. And we're continuing to have dialogue with them on those issues.

So what we're proposing now is a new structure, expand the same footprint with the only addition to what was the old footprint being a mudroom addition on the front of the house, which you see in this view and here -- here's the, I can show you on the site plan. Basically that's this bump out here.

CONSTANTINE ALEXANDER: Right.

EDRICK VANBEUZEKOM: That allows us to get a weather break, get a closet, have a place to take your shoes off coming into the house. And Hancock Street is basically coming down the street. Most of the buildings are right out in the street or very close to the street. So this is -- this house is sort of the only house on the block, and actually across two blocks that really steps back from the street. So we didn't want to relocate the house and move it close to the street because we don't have much yard area, and my clients have young children and want to preserve the yard area. And we felt that doing a one-story mudroom addition did not intrude too much on the streetscape and would actually give a little more interest to the exterior of the house. So we're looking for zoning relief for basically everything that was pre-existing setbacks. The original house was actually right at the limit of the FAR, so we would be exceeding the FAR with this mudroom addition which brings us up to 0.75 to a 0.77.

CONSTANTINE ALEXANDER: Yep. Adding 48 feet.

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: There's no letters in our files.

Maybe there are some people who are going to testify.

EDRICK VANBEUZEKOM: Yeah, I think one of the neighbors is here to speak.

CONSTANTINE ALEXANDER: I was going to say you represented to us as far as you know the neighborhood is in support of what you want to do.

EDRICK VANBEUZEKOM: That's correct.

The Historic Commission basically told us that there was no historic value to the house and they've actually given us permission, we don't need to have the six-month moratorium. They were fine with us tearing it down right away.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

BRENDAN SULLIVAN: No, just one thing, Edrick, do you have the dimensional form there?

EDRICK VANBEUZEKOM: Yes.

BRENDAN SULLIVAN: A copy of it.

CONSTANTINE ALEXANDER: They're now at 0.75.

They're going to go to 0.77.

EDRICK VANBEUZEKOM: 0.77.

BRENDAN SULLIVAN: On the size of the lot, the depth --

EDRICK VANBEUZEKOM: Yes.

BRENDAN SULLIVAN: You have 36.7?

EDRICK VANBEUZEKOM: Yes. 36.7.

BRENDAN SULLIVAN: And then the size of the building, the length of the building is at 52 feet. Are those numbers --

EDRICK VANBEUZEKOM: So the length of the building is along the width of the lot, the 80 feet, right?

BRENDAN SULLIVAN: I'm sorry, so the --

EDRICK VANBEUZEKOM: The depth of the building.

BRENDAN SULLIVAN: I have the depth of the lot is at 36.

Where is that taken from?

EDRICK VANBEUZEKOM: So that's -- sorry. It's this dimension here for the lot is 36.

BRENDAN SULLIVAN: Yeah. And that's -- the lot is 36 feet deep?

EDRICK VANBEUZEKOM: Yes.

BRENDAN SULLIVAN: And then the length of the building is
52 feet?

EDRICK VANBEUZEKOM: That's this length. So that's in
this direction. The depth of the --

BRENDAN SULLIVAN: Oh, you're going....

EDRICK VANBEUZEKOM: I'm going the other direction
here.

BRENDAN SULLIVAN: You're going the other way?

EDRICK VANBEUZEKOM: Yeah.

BRENDAN SULLIVAN: All right.

EDRICK VANBEUZEKOM: Right. So the width of the
building here is about 21 feet. 20 feet, 11.

BRENDAN SULLIVAN: Okay.

EDRICK VANBEUZEKOM: Yeah, those numbers wouldn't
work.

BRENDAN SULLIVAN: All right.

EDRICK VANBEUZEKOM: Yeah.

BRENDAN SULLIVAN: So there's a difference between the depth of the width is I guess what we're saying?

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: Again, you're not changing the footprint of the building?

EDRICK VANBEUZEKOM: That's right, sticking with the same footprint.

CONSTANTINE ALEXANDER: Except for the front entry.

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Is there anyone here wishing to be heard?

DAWN BAXTER: Hi. I'm Dawn Baxter. I'm immediate abutter and I was the person who had the concerns at the last meeting about the height and the shadows. And I'm happy to report that we worked really collaboratively with Katie and Herman and Edrick. They

took our concerns seriously. This new design is really, you know, it works for us in that it brings the height down so that it's a minimal difference for us. And we're, you know, perfectly supportive now that it doesn't, you know, have any negative implications for us. And I also just wanted to say for the record that there were four neighbors who had either written or spoken in support of our concerns about that roof height, and they have said that if we're satisfied with the new design, that they would have no objection. They were objecting because they thought, you know, that it was having a negative affect on us. And those people were Joe Bourne, Carrie Saunders, and Morris Tyler on Kinnaird Street and Jim Spencer on Hancock Street. So I just wanted to make it clear that they've all, you know, sort of withdrawn their opposition to the support they had signed on because they were, you know, just helping to protect our interests. So....

CONSTANTINE ALEXANDER: Good, thank you. And thank you for taking the time and staying around as late as you have. You're a good neighbor.

Anyone else wishes to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. And as I indicated, we are not in receipt of any correspondence.

Any final comments you want to make, Edrick? You don't have to.

EDRICK VANBEUZEKOM: No, I mean in the drawings that we submitted, there are two different versions in the 3-D views.

CONSTANTINE ALEXANDER: Yeah, I have the latest one.

EDRICK VANBEUZEKOM: With different siting. The only difference is we're considering different options, yeah.

CONSTANTINE ALEXANDER: It has your letter attached to it.

EDRICK VANBEUZEKOM: Yeah, I didn't want to confuse you with that because we're exploring two different options.

CONSTANTINE ALEXANDER: Close public testimony. Discussion? Ready for a vote? What's your pleasure? I'm happy.

SLATER ANDERSON: It seems like a good outcome.

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: Good neighbors. Good neighborhood solution.

Okay, the Chair makes -- proposes the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being, and this is -- the existing building is over 100-years-old and is not in good condition. And so there's a need to upgrade the quality of the property because it's a substantial hardship to maintain that building. And the hardship that runs not only to you folks, if you were to -- and anyone who succeeded you on the property.

That the hardship is owing to the basically it's a non- -- it's already a non-conforming -- no, it's not a non-conforming structure. But it is a structure that the shape of the lot, it's a corner lot, which makes any kind of modification to the building difficult.

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

As a result of the relief being sought is that we'll have a new structure being built on the property without any substantial change in the impact on the zoning, and that what is proposed has the support of the neighborhood.

So on the basis of these findings the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans prepared by EVB Design dated October 4, 2018, the first page of which has been initialed by the Chair.

All those in favor please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

* * * * *

(9:30 p.m.)

(Sitting Members Case No. BZA-016991-2018: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Slater W. Anderson, Laura Wernick.)

CONSTANTINE ALEXANDER: Okay. We'll reconvene case No. 016991, 407 Concord Avenue. Back again.

ATTORNEY KATHLEEN MOORE: BACK again.

CONSTANTINE ALEXANDER: Did you have successful discussions?

ATTORNEY KATHLEEN MOORE: Yes, we did.

CONSTANTINE ALEXANDER: What do you want to report to us?

ATTORNEY KATHLEEN MOORE: We would like to report to you that we are here seeking a Variance for a retail bakery. And this Board granted a similar Variance in 2015. I think there's, there's no change in circumstances, so incorporating with the Board --

CONSTANTINE ALEXANDER: Now, when we granted the

Variance for your predecessor --

ATTORNEY KATHLEEN MOORE: Yeah.

CONSTANTINE ALEXANDER: -- we imposed four conditions --

ATTORNEY KATHLEEN MOORE: Right.

CONSTANTINE ALEXANDER: -- which I would propose to impose on you folks --

ATTORNEY KATHLEEN MOORE: Yes.

CONSTANTINE ALEXANDER: -- and any other ones if the neighbors -- well, it depends on if you agree with it.

ATTORNEY KATHLEEN MOORE: Yeah.

CONSTANTINE ALEXANDER: We'll ask the neighbors if there's anything else. And the conditions we imposed before was that the hours of operation be between seven a.m. and seven p.m.

And that's acceptable to you?

ATTORNEY KATHLEEN MOORE: That is acceptable.

CONSTANTINE ALEXANDER: And that suitable waste containers be situated in and around the store.

ATTORNEY KATHLEEN MOORE: Yes.

CONSTANTINE ALEXANDER: I should hope that wouldn't be a problem.

That the owner of the property -- not the owner, that the petitioner regularly survey the property to be sure that litter and debris are removed from time to time.

ATTORNEY KATHLEEN MOORE: Yes.

CONSTANTINE ALEXANDER: We want to maintain cleanliness here.

And that the food waste and trash generally be maintained at the far end of the building and picked up as frequently as reasonable under the circumstances so that it does not accumulate and create health issues.

ATTORNEY KATHLEEN MOORE: That's right.

CONSTANTINE ALEXANDER: That's the four we would impose.

ATTORNEY KATHLEEN MOORE: Yes.

CONSTANTINE ALEXANDER: I'll ask the folks in the

audience, are there any other conditions that you think should be appropriate besides the four that I've read? And if so, let us know what it is you think is desirable and we'll decide whether we incorporate it or not. You have to come to the front and give us your name and address.

ALICE HELLER: Alice Heller, H-E-L-L-E-R, 22 Corporal Burns Road. The -- so I'm speaking for the neighborhood, and in our discussions under the provisions clarified by the Variance that says retail bakery, we want to just clarify what those parameters are. What's written in code legalese is -- talks about baked goods being taken away. And so there is a question about beverages and questions about sandwiches, and we want to clarify that we're talking about a retail bakery under the guidelines that's written as such.

CONSTANTINE ALEXANDER: Well, let me say, we never have gotten to the level of dictating the menu or the product offering by a business. And businesses got to change with the times and the like. Retail -- as long as it stays a retail bakery, if they put a hardware store in there, that ain't gonna work. But if it's something that could reasonably be part of a retail bakery -- one second, Ma'am, you'll have a chance. I

don't want to get into -- personally I don't want to get into dictating exactly what kind of product line or what a retail bakery means. It's got to have a living meaning. It's got to change over time.

ALICE HELLER: So then we as neighbors, and we were advised to clarify with the Commissioner of Inspectional Services, that the bakery would include beverages but not sandwiches. To make sure that it doesn't -- if there's a required Special Permit for making it a fast food, that that is very separate of what a retail bakery is. That -- because the neighbors are concerned about how that Variance stands and that it stays with the property.

CONSTANTINE ALEXANDER: Could I ask what is the neighborhood's concern? Is it too much traffic?

ALICE HELLER: It's a number of issues. Stated, including to what you have written there, but it includes products coming in. More -- so more trash, more issues of --

CONSTANTINE ALEXANDER: Well, the trash is going to be maintained -- if there's more trash, they're going to have to pick up trash more frequently. I mean, it's not like -- I don't see what the impact of the

neighborhood having more trash.

ALICE HELLER: If this Variance sticks, then what happens to the other -- if somebody else comes in --

CONSTANTINE ALEXANDER: Yeah.

ALICE HELLER: -- does that mean there are other fast food restaurants that can come in because it's Res B? And so this, if we're granting this residence, we as neighbors are worried that it's a slippery slope that turns into something that doesn't fit into the fabric of our neighborhood and that is our basic concern.

CONSTANTINE ALEXANDER: Well, I think if it's -- and I'm just speaking for myself, and other members of the Board can contradict me. Let's say a fast food enterprise, a McDonald's, they want to move out and they want to move McDonald's in. That McDonald's franchisee would have to come before our Board and get, get a Variance. They wouldn't be able to operate on the basis of the Variance that we might grant these folks. So you'll have your opportunity to deal with that, and we would, too. It's -- I just don't want to -- no one would suggest --

ALICE HELLER: How would that be?

CONSTANTINE ALEXANDER: What?

ALICE HELLER: Because -- I'm sorry, I'm just clarifying.

Because it's a different Variance?

CONSTANTINE ALEXANDER: Retail bakery -- I'm using my McDonald's as an example. No one would suggest McDonald's as a retail bakery.

ALICE HELLER: Okay.

CONSTANTINE ALEXANDER: You folks would --when the McDonald's comes in, this would have to be a case heard, advertised, and we would have to hear the case all over and we would have to decide whether we would want to grant a Variance for this McDonald's. And we're not -- but we're not here tonight -- we're not there yet.

ALICE HELLER: Okay.

CONSTANTINE ALEXANDER: Sandwiches, I don't know how you say you can't serve sandwiches in a retail bakery. These days every retail bakery that I know of also offers sandwiches. And I'm trying to figure out why that's a problem for your neighborhood.

ALICE HELLER: Does anybody else want to add?

CONSTANTINE ALEXANDER: I mean, there's problem let me know.

ALICE HELLER: It has to do with what is stated legally from what we've understood versus maybe what's happening with the City of Cambridge, and that's why we wanted clarification from Inspectional Services. Because from what we understand that that, that line is crossed when you have sandwiches, into fast food. And that as I stated from what we understand, is that this Variance once it goes through, and it's filed and is with the city, it stays with the property and so that's why we're concerned.

CONSTANTINE ALEXANDER: It stays with the property for a retail bakery. Let's just follow up. There's -- the product line expands in whatever way. You can go to the Inspectional Services and say, the neighborhood or a neighbor can say, hey, they got a Variance for a retail bakery. What they're doing now is not a retail bakery. Inspectional Services can say we agree with you and tell the new changes to be stopped. Or they can say they can disagree with you, and it still falls within the meaning of retail bakery. At that point, the neighborhood,

would have a right to take an appeal from that decision and come back before our Board and say hey, this is not a retail bakery, and give your reasons why, and we would make a decision yes or no. So it's not like this is going to be -- disappear once we -- if we grant relief, that's the end of it. There is, it's going to be a retail bakery, it's going to have conditions that I've identified, and maybe more if others have others. And then you will have a right to police those matters, going to Inspectional Services and complaining if you believe or you believe what is being done is not consistent with the retail bakery or the conditions that we've imposed. So I don't think you should feel that it's going to be -- if we grant relief, that's the end of it and anything can happen on that property. That's not the case.

ALICE HELLER: Okay.

CONSTANTINE ALEXANDER: Sir.

TYLER GIANNIANI: So my name is Tyler Gianniani, T-Y-L-E-R G-I-A-N-N-I-A-N-I. 16 Corporal Burns Road. So I think we would just want it noted in the record that the incoming tenant did represent that she would not expand the lines with food sandwiches in

light of the conversation with neighbors.

ATTORNEY KATHLEEN MOORE: Well, can I just say, what we said was she will stay within the confines of the retail bakery as it's defined.

TYLER GIANNIANI: She represented to us that she would not expand to do sandwiches in line with our concerns about it --

CONSTANTINE ALEXANDER: Again, I'm sorry, I have a problem --

TYLER GIANNIANI: -- and the concerns, the concerns about this starting to resemble a restaurant.

CONSTANTINE ALEXANDER: Yeah, but if it does that, then it's no longer a retail bakery. I don't want to say -- if they want to offer two or three sandwiches in a menu of doughnuts and cakes and cookies and also a few sandwiches. I'm not going to -- I don't want to sit here and say you can't do that. If it gets to the point where the sandwich operation overshadows or supplants the retail bakery, you'll have a right to come before Inspectional Services and say they're not living up to the terms of the Variance. And either, as I said before, Inspectional Services will

agree with you and shut it down or they'll disagree with you, in which case the neighborhood would have a right to come back before our Board and to challenge what's being done.

TYLER GIANNIANI: And I understand that that's the right of the neighborhood to do that.

CONSTANTINE ALEXANDER: Yes.

TYLER GIANNIANI: I think it also should be --

CONSTANTINE ALEXANDER: Yes.

TYLER GIANNIANI: -- that the incoming tenant --

CONSTANTINE ALEXANDER: You have a right to monitor the situation --

TYLER GIANNIANI: -- did represent that to us.

CONSTANTINE ALEXANDER: Again, you can monitor the situation. If you feel, as I said, it's overstepping the bounds of a quote/unquote retail bakery, keeping in mind in this day and age, retail bakeries often offer sandwiches. Go to Flour, go to Tatte's, you know, a lot of bakeries around.

ALICE HELLER: Those are restaurants.

CONSTANTINE ALEXANDER: And, again, we just can't define it so closely. I understand you're talking about your neighborhood, your homes, but I think it's going to be a matter of impact of the sandwiches or whatever else that's being offered there besides doughnuts and cakes and cookies. And we'll have to deal with that at the time. But I think to say no, deny this, then you're going to have a vacant property on your hands. And that building is going to be sitting there, it's worst to the neighborhood it seems to me, than what's there now.

TYLER GIANNIANI: So I think that that is correct. We want to support the owners in finding a good tenant. We want to support the neighborhood in finding clarity about what the incoming tenant will do to meet their representations to us as a neighborhood, and that included not doing the sandwiches. There may have been an ability to do that in compliance with what a bakery is, but that's what was represented to us, and I just want to make sure that that's on the record.

CONSTANTINE ALEXANDER: Do you want to agree to a condition that there's no sandwiches offered there?

ATTORNEY KATHLEEN MOORE: No, I think that we want

to stick within what the definition of a retail bakery.

CONSTANTINE ALEXANDER: But what we're hearing tonight is that retail bakery is not sandwiches. What did you agree to out there?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I have the notes.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY KATHLEEN MOORE: Well, I --

CONSTANTINE ALEXANDER: Stop. Let's not be cute here. If you told those people out there no sandwiches, no sandwiches.

ATTORNEY KATHLEEN MOORE: Nobody's being cute here.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Can I read the notes from our meeting?

CONSTANTINE ALEXANDER: Well, let her answer the question. You'll have a chance.

ATTORNEY KATHLEEN MOORE: Sure, she'll agree to no sandwiches.

ANNE LEE: That's because -- well, our location in the residential area, we don't want to compete, we don't want to against our residents.

CONSTANTINE ALEXANDER: Right.

ANNE LEE: That is why we just -- if they don't want us to send -- because sandwich is not our main, you know, selling items.

CONSTANTINE ALEXANDER: Right.

ANNE LEE: So if they don't want to -- we can, you know, we don't have to offer --

CONSTANTINE ALEXANDER: Okay. We'll put a condition in there will be no sandwiches offered on the premises. Right? That's what I think the neighborhood feels that you agreed to. What do your notes say?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay, the notes --

CONSTANTINE ALEXANDER: No, no. Come closer. Come closer and give your name to the stenographer.

LISA CAMACHO: Lisa Camacho. Is this the public part of

the meeting?

CONSTANTINE ALEXANDER: Yes, it is. You're going on record right now.

LISA CAMACHO: Lisa Camacho, C-A-M-A-C-H-O, 24 and 26 Corporal Burns Road. And so all I wanted at this particular time is to offer the clarification from the meeting. I'm taking notes was that Anne and -- had said that catering is the greatest part of their business. That she now makes sweets, tarts, wedding cakes. She has done two catering orders of sandwiches time to time.

CONSTANTINE ALEXANDER: Well, what are they catering, baked goods?

LISA CAMACHO: What she said was catering sandwiches and she can consider not doing sandwiches. But that's as far as it went.

CONSTANTINE ALEXANDER: I think we're on that, we're going to put a fifth condition beside the four I've added; no sandwiches can be prepared or can be offered for sale on the premises or prepared for delivery outside of the premises.

LAURA WERNICK: I think you're getting beyond -- if she has

a catering business or maybe I'm not clear here, if there's a catering business and she's preparing sandwiches for her catering business and not as a restaurant, which is what I think the neighborhood -- that there's not a restriction --

SLATER ANDERSON: No sandwiches for retail sale.

LAURA WERNICK: No sandwiches for retail.

ANDREA HICKEY: On-site.

SLATER ANDERSON: Sandwich preparation for catering.

LAURA WERNICK: Is that --

ATTORNEY KATHLEEN MOORE: Is that fine?

CONSTANTINE ALEXANDER: Yes, Ma'am. Name and address.

ROBIN BONNER: Robin Bonner, B-O-N-N-E-R, 15 Corporal Burns Road. And for me, I'm speaking for everybody in the room. The sandwich or no sandwich is not about the sandwich, it's about the character of the business. So call-ahead catering order sandwiches that somebody is going to come and take away is one thing. My understanding of a retail bakery is primary, and it actually points only to

sweet baked goods, but I take your point that in this day and age it might be sandwiches. But the second part of that definition that I can find from the city is that it's for the consumer to take and eat at home. So for me it's not the sandwich, not the sandwich, it's the character of the business. Are you offering -- and the catering is one thing. Even specialty goods to walk in and buy and take away is one thing. But I think -- I think at least for me, if the intention is to possibly grow in the direction of more food service rather than retail bakery, I think that's where there's concern. So I think what I'm asking for is clarification of the character of the business. Retail bakery such as what was there, what has --

CONSTANTINE ALEXANDER: We can't -- I'm sorry, we can't define retail bakery as -- I know what you want. I'm mystified. If they have a catering business and they prepare the items to be catered on the premises and they put it on a car or a truck and deliver it to wherever.

ROBIN BONNER: Yes.

CONSTANTINE ALEXANDER: What's the impact on the neighborhood?

ROBIN BONNER: Nothing. That's fine.

CONSTANTINE ALEXANDER: Okay, fine.

ROBIN BONNER: That's my --

CONSTANTINE ALEXANDER: So it's just a matter of you want us to prohibit retail sandwiches -- as Slater said --

ROBIN BONNER: But I am -- I would -- I take to heart your point that if it grows in a direction we're not happy with, we go to Inspectional Services.

CONSTANTINE ALEXANDER: Yes, that's the case.

ROBIN BONNER: I'm actually okay. Sandwiches or no sandwiches, it's not really about the sandwiches.

CONSTANTINE ALEXANDER: I am going to add a condition, because I think that's the sense of the neighborhood is no sale of sandwiches.

ATTORNEY KATHLEEN MOORE: So I -- I think that Ms. Lee was feeling that sandwiches were not within the definition of a retail bakery when she said she wouldn't make sandwiches. I would like to say that she can operate a retail bakery, whatever that means.

CONSTANTINE ALEXANDER: No, no. What you're

hearing you can operate a retail bakery of that means except that it doesn't mean you can offer sandwiches for sale on the premises. That's what it means. That's what we're hearing tonight. That's what the neighbors seem to have thought you agreed to out in the other room.

ATTORNEY KATHLEEN MOORE: Well, some of the neighbors, yeah.

CONSTANTINE ALEXANDER: I mean, you can't talk about one thing over there and another thing in here.

BRENDAN SULLIVAN: You know, there's retail bakery. So then you say, okay, what is the model of retail bakery? Is it Lyndell's Bakery? Is it High Rise Bakery? Now High Rise what do they sell? To be honest with you, I've been in there once in my whole life and I live right around the corner. But is High Rise considered a retail bakery?

ALICE HELLER: It's a restaurant.

BRENDAN SULLIVAN: They have breads obviously.

ALICE HELLER: It's a full restaurant. You can get -- they serve food, you can sit down.

ATTORNEY KATHLEEN MOORE: No, they don't serve food.

BRENDAN SULLIVAN: All right, so High Rise is not a retail bakery. It is a full blown --

ALICE HELLER: I don't know what their license is for, though.

BRENDAN SULLIVAN: But high Rise has their stuff -- it's prepared on premises?

CONSTANTINE ALEXANDER: Yes, yes.

BRENDAN SULLIVAN: All right. Okay. All right.

My thought of a bakery is something that is made on the premises, it is pastries, I mean what is your food line anyhow? It's pastries? It's --

ANNE LEE: Pastries.

BRENDAN SULLIVAN: Cookies?

ANNE LEE: Cookies, scones, and cakes. Dessert.

BRENDAN SULLIVAN: Huh?

ANNE LEE: Dessert.

BRENDAN SULLIVAN: Yeah.

ANNE LEE: Cakes.

BRENDAN SULLIVAN: Okay. And then you do cakes obviously?

ANNE LEE: Right, right.

BRENDAN SULLIVAN: Okay, so that's your product line. Okay. And then you do catering obviously.

ANNE LEE: Right, right.

BRENDAN SULLIVAN: And as part of that catering request would include sandwiches?

ANNE LEE: Sandwiches sometimes.

BRENDAN SULLIVAN: Okay. And those get all boxed up and then those go off, and so on and so forth. Yeah, I mean I would not preclude you from doing that.

CONSTANTINE ALEXANDER: No, neither would I.

BRENDAN SULLIVAN: And I think that just getting that on the record that if it were to expand and become a truck stop, which is I think is what maybe the fear of what we have here, is that, you know, the in and the out, and so on and so forth -- and do you have coffee there? Will you serve coffee?

ANNE LEE: We like to serve coffee.

BRENDAN SULLIVAN: So you do coffee, tea?

ANNE LEE: Tea.

BRENDAN SULLIVAN: Something like that, and soft

drinks --

ANNE LEE: Right.

BRENDAN SULLIVAN: -- and fruit juice and stuff like that.

ANNE LEE: Yeah.

BRENDAN SULLIVAN: Okay. To go along with the pastry.

ANNE LEE: With the pastry.

BRENDAN SULLIVAN: Okay. So it's not a Dunkin' Donuts

which I think maybe what the fear is here, too. Dunkin' Donuts I don't

think makes anything on premises anymore. All that stuff is shipped in.

All right, so we got that on the record.

And so I think if it were to deviate and go beyond and somebody were to raise an issue as to what your product line is, then they go to Inspectional Services, they would make a ruling after listening, and you either agree with it or disagree with it. And then whoever disagrees

with their ruling, then comes down before us. There's a transcript here of what we discussed, and then let this Board then be the arbiter of the discussion.

SLATER ANDERSON: Can I ask a question? I've never been in this building. And I see you guys are provided sort of rudimentary sketch here in your application, which doesn't seem to provide for any seating at all. This is people come in, there's a counter, they pick up whatever the baked goods are that they're getting, and they leave, right? So there's not tables like High Rise or anything like that.

ANNA CLARK: And the existent tenant has a small table on the inside about this big with two seats and two seats outside.

SLATER ANDERSON: But there's not going to be tons of people. I'm just trying to get a sense. I mean, it doesn't seem well suited to becoming a restaurant in any -- like could creep. It's just the practical layout of it.

CONSTANTINE ALEXANDER: But what I heard, I think the concern of the neighborhood is, they offer a wonderful line of sandwiches like maybe High Rise, and people would walk in, order the sandwich, and

take it out to their home or whatever and that would increase the amount of traffic that impacts the neighborhood.

LAURA WERNICK: I'm not sure -- the concern I heard is that it would turn into a restaurant.

SLATER ANDERSON: Yeah, that's what I'm sensing.

LAURA WERNICK: What Slater is pointing out is there's not physical room --

ANDREA HICKEY: It's not possible.

LAURA WERNICK: -- for this to become a restaurant.

SLATER ANDERSON: My only other concern would be outside seating in the warmer season. Is that something that we have any purview over? Or is that a permit from the City to put seating outside?

LISA CAMACHO: There was something else that came up in --

CONSTANTINE ALEXANDER: Excuse me, Ma'am. One second.

Sean?

SEAN O'GRADY: Yeah, if you want to limit seats, you just give me a number and we can....

ANDREA HICKEY: For outdoor seating you mean?

SEAN O'GRADY: Yeah, you can limit any seating on the site that you like.

ANNA CLARK: So the current tenant does have two other small tables on the outside with two chairs each, so it's four chairs, two small tables, and it's perfect, it doesn't interfere with anything. People will sometimes sit there for 15 minutes or so and eat their pastry and then they go.

SLATER ANDERSON: Four seats?

ANNA CLARK: Yes, she just has -- yeah.

LAURA WERNICK: Two inside and four outside?

ANNA CLARK: Correct.

CONSTANTINE ALEXANDER: Today. If we restrict it, they could make it six outside or eight outside.

SLATER ANDERSON: Well, we can restrict it from what I hear.

ANNA CLARK: Yeah, you can restrict it.

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: Is that helpful to --

ANNA CLARK: It's not practical to have more than that.

CONSTANTINE ALEXANDER: Yes, Ma'am.

LISA CAMACHO: Yes. There was something that came up at the end, that in fact most of the neighbors didn't know about, is that the previous tenant in the bakery had been serving some food and did not have Victualler license?

ATTORNEY KATHLEEN MOORE: Common Victualler license.

LISA CAMACHO: So we now know -- we didn't realize before, but we now realize there are of two steps; one is the Variance for tonight. And then if there were to be any food served, there would need to be that other license which, Anne, you don't have at the moment, but we know that you can apply for, but would do so with, you know, notifying the abutters and all of this kind of thing which needs to be done. So that's allay at least for me. I can't speak for anybody else, but it allays my

concerns. But the fast food and restaurant creep could not happen without the tenant having a Victualler license and that would trigger the notice to the neighbors, having a hearing, and all of that kind of thing. So as far as I'm concerned, there's kind of a safeguard for that happening.

CONSTANTINE ALEXANDER: What about where we started about serving sandwiches?

LOIS SOLOMON: My name is Lois Solomon and I live on 12 Corporal Burns Road. What we found out was that coffee had been served and outside, inside, and, etcetera. And one of the people from the inspection office came and had it and said where's your license to do that? And she had to go get it. And supposedly the neighbors were supposed to know about this and we never -- we didn't know that until tonight at the end of the meeting. And what was agreed upon tonight was that there is in the ordinance exactly what a retail bakery means.

CONSTANTINE ALEXANDER: There is?

LOIS SOLOMON: Yes, there is. And it IS exactly what she makes most of the time, the cakes and the pastries and all of the things and what we all agreed to was yes, we're fine with that. That is, that

is -- that's what it says, that's what we want you to do. Anything else, that you have to apply for a license and we have to know and then we'll see, we'll see what we think.

CONSTANTINE ALEXANDER: Right.

LOIS SOLOMON: So sticking to that what we agreed to and what was suggested that you agreed to, we agreed to, and that's fine. So she can open up her bakery and we can decide about sandwiches and coffee and whatever it is if that's what she wants to do. And she has to get a license to do that.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Not to serve, though.

LOIS SOLOMON: To serve it.

BRENDAN SULLIVAN: Or licensing may define, may give them a Common Victualler license, Licensing Department issues that. They may have their definition.

CONSTANTINE ALEXANDER: Yeah, but what is the notice requirements?

SEAN O'GRADY: The Licensing Commission? I don't

know.

LOIS SOLOMON: Here's what the ordinance says for a retail bakery.

CONSTANTINE ALEXANDER: No, no. That's not the question. You're pointing out what I thought was a solution to this problem, is that if they're going to serve food, they'll need a Victualler's license, and you'll have an opportunity to deal with that. My questions is what kind of notice? You said you never got notice before. And my only concern is that if you're relying on the Victualler's license application but you're never notified of it --

LOIS SOLOMON: We didn't even know it existed until tonight.

CONSTANTINE ALEXANDER: So we're back where we started. We're sort of chasing our tail here.

LOIS SOLOMON: Well --

CONSTANTINE ALEXANDER: We don't, I know you, because I see it in the Cambridge Chronicle. If you want a Victualler's license, you have to put an advertisement in the newspapers saying

so-and-so is going to apply for a Victualler's license. Not -- I would have assumed, I don't know the answer, I would have assumed that also with that is some sort of notice mailed to abutters and the like?

ATTORNEY KATHLEEN MOORE: That's right.

CONSTANTINE ALEXANDER: But maybe not, I don't know.

SEAN O'GRADY: I know that. I mean, the limited understanding I have about them is that it's not so much whether you can serve food, it's if you are serving food then we have some things that we're going to control about your business. So it's really the agreement on what's going to happen there is really not what has to happen here.

LOIS SOLOMON: And if Tyler can just read to you what we agreed to in that meeting was what it says in the ordinance.

You want to say what it -- a retail bakery.

TYLER GIANNIANI: Well, what it says in the code as was e-mailed, I'm not reading directly from the code, but it's in quotes so: Bakery retail, the sale of breads, pastries, cakes, pies, and similar baked goods for consumption by the final customer at home whether or not final baking occurs on premises. This is the -- Robin's point about it being to

be taken home. So I don't know how that interacts with the other license about serving food outside.

JOHN HAWKINSON: First page of Article 2.

TYLER GIANNIANI: And coffee. We don't know the answer to that. That's where we were left. We want to support the bakery coming in but we also want it to be compliant, and we don't have clarity on what compliance looks like.

LAURA WERNICK: It sounds like we're getting to if there's some part of it that -- part of what we're proposing that --

JOHN HAWKINSON: It's on the first page of Article 2.

LAURA WERNICK: That limits sale on-site, then I think everyone is satisfied with that or not. You're not content with that?

ATTORNEY KATHLEEN MOORE: Again, I mean, I think that the definition of retail bakery is what we're --

CONSTANTINE ALEXANDER: Well, if we grant you -- you asked for relief to operate a retail bakery.

ATTORNEY KATHLEEN MOORE: Right.

CONSTANTINE ALEXANDER: If we grant that relief, retail

bakery is already defined in the ordinance.

ATTORNEY KATHLEEN MOORE: Yes, right.

CONSTANTINE ALEXANDER: The Zoning Ordinance. To say, and just repeat it: The sale of breads, pastries, cakes, pies, and similar baked goods for consumption by the final customer at home, whether or not the final baking occurs on premises. That's what you're going to be able to do and nothing more. Okay? If we grant you relief tonight. And if we do this subject to the conditions like seven to seven your operating hours, trash containers, etcetera, etcetera. If you deviate from that, those folks, the neighbors can come in, go to Mr. O'Grady and say they're not operating as a retail bakery any longer. And then the chips will fall where they may after that.

ANDREA HICKEY: And to me included in that definition is the products are to be consumed off site. And that would exclude seating.

CONSTANTINE ALEXANDER: A restaurant.

ANDREA HICKEY: It would exclude seating, customer seating, whether outdoors or indoors.

CONSTANTINE ALEXANDER: I think we're ready for a vote.

ANNA CLARK: And so does that mean she would then have to get the Victualler's license in order to be able to --

ANDREA HICKEY: We're not the Licensing Board. I really can't --

CONSTANTINE ALEXANDER: Can't answer that, I'm sorry.

SEAN O'GRADY: Gus, I just want to, before we take a vote, make sure we all agree on what --

CONSTANTINE ALEXANDER: What?

SEAN O'GRADY: So we're saying no seating or seating?

CONSTANTINE ALEXANDER: We don't have to get to seating, because consumption -- it says for consumption -- consumption by the final customer at home.

ATTORNEY KATHLEEN MOORE: I'm not sure we can control that. I sometimes eat in my car.

CONSTANTINE ALEXANDER: Whether or not final baking occurs on premises. So basically it says not on the premises.

SEAN O'GRADY: Here's the issue, the line between

restaurants, fast foods, bakeries, it's kind of blurry. And there's been a tolerance for accessory uses in all businesses. And so, given the level of concern, I think we really need to nail down, yes, coffee; no, coffee; yes, catering; no, catering.

CONSTANTINE ALEXANDER: I don't want to get into a --

SEAN O'GRADY: If we don't nail it here, it's just a big battle across the street. We really do need to come to an agreement of what we're talking about.

CONSTANTINE ALEXANDER: I'm speaking for myself, I would deal with that issue when it arises. I got a feeling that it worked before and it will work again. I think there's a lot of fears here about what's gonna happen, and I think if we say it's a retail bakery, we may have another fight, another case down here, I'll deal with it at the time. I can't -- I don't think we can try to dictate every possible problem or limit every problem tonight in trying to --

SEAN O'GRADY: You don't understand. She's going to open up, she's going to start serving coffee, and then we have an enforcement problem --

ANNA CLARK: Can we have some clarification about that?

SEAN O'GRADY: We've just got to get --

BRENDAN SULLIVAN: The way I envision this is that you're going to be a retail bakery that I would have absolutely no objection. In fact, I think it would be an added benefit for her to serve coffee, tea, fruit juices, soft drinks, so on and so forth. And that she be allowed to have a couple of tables outside with possibly four to six chairs where people can come sit. There's an awful lot of people who jog around Danehy, walk the streets, so on and so forth. They used to go to Violet. I used to see them, because I play in the park across the street, and it was a nice little ambiance to see people sitting there, and it adds I think to the neighborhood. That's what Violet used to do. And I think that you can continue, as far as I'm concerned, in that same vein.

CONSTANTINE ALEXANDER: Exactly.

BRENDAN SULLIVAN: And not to just restrict it to just those words for retail bakery. I would expand upon it; coffee, tea, hot drinks, cocoa if you want. Again, soft drinks, fruit drinks. And that you be allowed to have -- how many tables are outside, two I think, wasn't there?

ANNA CLARK: There were two tables on the outside --

BRENDAN SULLIVAN: Outside.

ANNA CLARK: -- and one on the inside.

BRENDAN SULLIVAN: And one on the inside, and that be
allowed to continue.

ANNA CLARK: And could she also --

BRENDAN SULLIVAN: Plain and simple. And then if you
were all of a sudden to expand upon that and put in a fryer and all that
other stuff, that the phones will ring and then you would make the
judgment call on that.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: And then if somebody was aggrieved
by that, then we would decide on that.

ANNA CLARK: And what about her sandwiches to the -- on
the catering side? Could we add that in?

BRENDAN SULLIVAN: I would have no problem with that.

ANNA CLARK: Okay.

ANDREA HICKEY: What about sandwiches on the retail

side?

SLATER ANDERSON: We're limiting it to catering.

Preparation for catering purposes.

LAURA WERNICK: Catering sandwiches.

CONSTANTINE ALEXANDER: Catering, yeah.

ANNA CLARK: And can I ask the neighbors, I mean, if she did sell two, three types of sandwiches -- like, if she baked bread and put a piece of ham and cheese inside, are you guys objecting to that as an incidental part of it?

ALICE HELLER: I can't speak for everybody, they're not all here, but that is crossing a line that we have to deal with. Everything else, the beverages, the catering is fine. After that there are other issues that have come up about that.

BRENDAN SULLIVAN: I mean, you can take a simple croissant and make a wonderful sandwich out of it.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: But anyhow, but where do we stop on that? So I think --

LAURA WERNICK: Well, especially we're limiting it to six seats, and that would, I would think would alleviate some of the neighbor's concerns, that there's not going to be any more than six seats there. And four of them are going to be outside.

ANNA CLARK: I mean because French bakeries, I mean all the time they have those little -- I mean, they're just an incidental part of the bakery. It's not a sandwich shop, but you throw some mozzarella and tomato on it.

ALICE HELLER: Again, from what we researched is that's a slippery slope that is something -- that's reaching our threshold of the neighborhood comfort level. Everything else --

LAURA WERNICK: I think -- is it with the -- I keep getting --

ALICE HELLER: It's around meats. It's around -- it's a whole different issue about serving, and that means those people eating there. And there are other issues.

LAURA WERNICK: We don't have room. This is a very tiny place.

ALICE HELLER: It's not just about room. I mean, the

neighbor that is the abutter went home, but she -- that would be something that would just be an added issue.

ANNA CLARK: If it was --

ALICE HELLER: So I can't speak for her on that.

Everything else up until that I know that we can agree to on that.

CONSTANTINE ALEXANDER: My suggestion is that we limit the table or the seating to no more than six. That we allow the preparation -- well, seating to no more than six. The definition of retail bakery covers just about everything else. It's got to be off the premises.

If there are sandwiches served, and you folks have a problem with these sandwiches, I assume if an occasional sandwich is served and it doesn't add to the traffic significantly, I don't know why you would have a problem with it. But if it becomes a Darwin's where you have sandwiches -- all they do is serve sandwiches and have a few cakes on the line, you can complain and say it's no longer a retail bakery and we'll decide it. That's what I'm going to try. I do not want to get into micromanaging the kind of business.

I know you have concerns, but we've got to -- this is -- we got

to community here. This has never been a problem before with Violet. Why do you think these folks are going to do something that you have a -- I got a letter of commendation in my files saying, you know, Violet was a very good neighbor. Now all of a sudden you got a problem. I don't understand. I just don't understand.

LOIS SOLOMON: There's one thing that Violet had only that one half of the building. There is the other half of the building that could easily hold, if that was made a part of this, very easily because it's just --

CONSTANTINE ALEXANDER: Where is that -- what is the other part of the building being used for now?

ATTORNEY KATHLEEN MOORE: That's not -- no, that's not an issue.

ANNA CLARK: That's not part of this.

ATTORNEY KATHLEEN MOORE: It's not part of this lease.

LOIS SOLOMON: She's not leasing that. But let's say in six months it's off the table and they decide -- right now I don't know what is it used for. What are you all using it for?

LAURA WERNICK: They have to come back for an

additional Variance.

ANNA CLARK: I mean, it's actually zoned to do way more than what you guys are concerned about. And it hasn't been used that way.

LOIS SOLOMON: It hasn't been used so far. But y'all could sell tomorrow and we have a much bigger problem.

CONSTANTINE ALEXANDER: Okay, but, again, even if they take to the other half of the building, they still are going to be limited to six seats, six seats.

LOIS SOLOMON: That's what you're say.

CONSTANTINE ALEXANDER: And if that use of that part of the building has enormous foot traffic because of the sandwich offerings they're going to offer, you can come back before us and say it's no longer a retail bakery. How many times am I going to say this?

TYLER GIANNIANI: So I spoke to several of the people here, and I think we actually -- as long as the character doesn't change the sandwiches to being ancillary, six seats, coffee --

CONSTANTINE ALEXANDER: Yeah.

TYLER GIANNIANI: -- the entity as a bakery primarily, incidental or ancillary sandwiches, so it doesn't change the character, same footprint as now. You guys get your tenants, we get Anne as a tenant, you get the place you want, and we don't have an expanding restaurant that is any way resembling --

CONSTANTINE ALEXANDER: You're not going to have a restaurant because there are only going to be six tables.

LAURA WERNICK: Three tables.

SLATER ANDERSON: Three tables.

CONSTANTINE ALEXANDER: Three tables. That's right.

TYLER GIANNIANI: From the language of ancillary sandwiches or it's an ancillary issue, it is not changing into a sandwich shop like Darwin's then we're good.

SLATER ANDERSON: Okay. Let's do this.

CONSTANTINE ALEXANDER: Any other comments? I shutter to ask that question but, yes.

LISA CAMACHO: This is what I originally came to say. In general, I support a bakery continuing on the property. The owners

Sanibel and Emory Clark have been longtime residents of the neighborhood and from what I've seen, care deeply for the area and its welfare. And in fact, they have contributed to its history when Emory opened the first African-American owned pharmacy in Cambridge. The City has recognized his accomplishments by naming the square there in his honor.

Sani has researched and contributed to the City's awareness of the African-American heritage here in Cambridge. I believe strongly that the Clarks have the community's well-being firmly in mind when they select a business to move into their commercial property.

And that's what I wanted to say when I first came.

CONSTANTINE ALEXANDER: Thank you.

ANDREA HICKEY: Thank you.

CONSTANTINE ALEXANDER: I'm going to try to frame a motion. I'll probably get it wrong so please listen carefully and correct me when I get there.

The Chair moves that we make the following findings with regard to the Variance being sought, this being a use Variance, to operate

a business in a commercially zoned area.

That a literal enforcement of the provisions would involve a substantial hardship --

SLATER ANDERSON: Isn't it a residentially zoned area?

CONSTANTINE ALEXANDER: I'm sorry?

SLATER ANDERSON: You said commercial.

CONSTANTINE ALEXANDER: Oh, I'm sorry, residentially.

In a residentially zoned area.

That a literal enforcement of the provisions of the ordinance would involve a substantial hardship. Such hardship being is that the nature of the structure is not conducive to residential use. And so -- and has been long term commercial use of this property. So that is the hardship that runs with this property.

The hardship is owing to the shape of the lot and the topography of the structure. Again, it's a structure now that is not going to be made into a residential property and, therefore, continuing the business use would not be offensive to our zoning laws.

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. Again, what we're talking about is continuing a business use on this property that's been going on for decades, and most recently with regard to a retail bakery that seems to have no neighborhood problems to date.

So on the basis of all of these findings, the Chair moves that we grant the Use Variance requested subject to the following conditions:

That the business will be used only to operate a retail bakery as defined in our ordinance. Except that beverages such as coffee, tea, hot chocolate, soft drinks may be offered.

That there may be seating no more than seating for six tables?

SLATER ANDERSON: No. Three tables, six seats.

CONSTANTINE ALEXANDER: Six seats. Three tables, six seats on or about the premises.

And --

LAURA WERNICK: You have to have the original four conditions from the previous.

SEAN O'GRADY: Is that accessory sandwiches?

CONSTANTINE ALEXANDER: Yeah, I'm going to get to
that --

SEAN O'GRADY: Gus?

CONSTANTINE ALEXANDER: That the hours of operation
be between seven a.m. and seven p.m.

That suitable waste containers be situated in and around the
store.

That the petitioner regularly survey the property to be sure
that litter and debris are removed from time to time.

And that food waste and trash generally be maintained at the
far end of the building and picked up as frequently as reasonable under
the circumstances so that it does not accumulate and create health
issues.

ANNA CLARK: And the accessory sandwiches?

SLATER ANDERSON: Sandwiches.

SEAN O'GRADY: And catering.

ANNA CLARK: And the catering.

CONSTANTINE ALEXANDER: Well, I think, you know, we're going down a slippery slope here. I'm going to say just occasional sandwiches can be offered. I think we should leave sandwiches out and see how it plays out. And if there's a -- if you become a sandwich shop, you're going to get challenged by the neighborhood. You're no longer a retail bakery. I think retail bakery covers it, but I'll be happy if you want -- if the Board wants me to --

LAURA WERNICK: I agree with you. I think with the six, to my mind the six seats address the concern about it being a restaurant.

CONSTANTINE ALEXANDER: Right.

ANNA CLARK: So just for clarity.

CONSTANTINE ALEXANDER: Sure.

ANNA CLARK: Does that mean she can make and offer sandwiches in some capacity?

CONSTANTINE ALEXANDER: I think you do it at your peril frankly. Because if you do that -- I'm not going to get into that. If you do that, the neighborhood's going to go to Inspectional Services if they don't like the idea --

LAURA WERNICK: I don't think -- I disagree with you on that. I think what we heard from this gentleman was that it's the nature of the restaurant, that they don't want this to become a restaurant. And the six seats and the size of the space restricted enough that it will -- as long as it's in keeping with the current nature of the use, the former use, that it's not -- there's no intent that this become a restaurant. There's simply not enough room.

CONSTANTINE ALEXANDER: Well, six seats --

LAURA WERNICK: There's not enough room.

CONSTANTINE ALEXANDER: There's not enough room. That ends it I think.

BRENDAN SULLIVAN: I think you will win them over with your their product.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: And I think they are reasonable people and I think you will work it out.

CONSTANTINE ALEXANDER: Right. I agree with that as

well. That's why I don't want to get too specific in our conditions because that's just going to raise potential for problems and arguments down the road.

LAURA WERNICK: Can we go now?

CONSTANTINE ALEXANDER: All those in favor of granting the Variance of this basis say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Hickey, Anderson, Wernick.)

CONSTANTINE ALEXANDER: Good luck.

(Whereupon, at 10:15 p.m., the
Zoning Board of Appeals Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to
Inspectional Services Department.

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After reading this volume of the Zoning Board of Appeals
transcript, note any change or correction and the reason therefor on this
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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of October, 2018.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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