

BOARD OF ZONING APPEAL FOR THE  
CITY OF CAMBRIDGE GENERAL HEARING  
OCTOBER 14, 2010 7:00 P.M.

in

Senior Center  
806 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Vice Chair

Brendan Sullivan, Member

Tad Heuer, Member

Thomas Scott, Member

Mahmood R. Firouzbakht, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call this meeting to order. And as is our custom, we're going to start with the continued cases. I'm going to call case No. 9911. Is there anyone here wishing to be heard on this matter?

(No response.)

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

This is the Clear Wireless. She was here. Is there a letter?

SEAN O'GRADY: Yes, I believe there is. I expect it to be right on top.

(Whereupon, a discussion was held off the record.)

CONSTANTINE ALEXANDER: The Chair

will note although there is no one here on behalf of the Petition, the Petitioner has supplied the Board -- well, let me start again.

The Chair would note that the Board has been advised by Mr. O'Grady that the sign posting requirements have not been complied with by the Petitioner. As a result, I think we have no choice but to continue the case and we've been so advised by a representative of the Petitioner. So the Chair moves that this case be continued until seven p.m. on November 18th?

SEAN O'GRADY: November 18th.

CONSTANTINE ALEXANDER: On the condition that the Petitioner -- a waiver of notice being in the file. And on the condition that the Petitioner modify the sign, changing the date and time of the meeting. The Chair would further note this is a case heard.

All those in favor of continuing the case -- can everybody make it that night on the 18th?

THOMAS SCOTT: November 18th?

CONSTANTINE ALEXANDER: Yes.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Clear Wireless. Brendan, Mahmood, myself, you and Doug. Doug's not here either.

THOMAS SCOTT: I don't have to be here for that.

CONSTANTINE ALEXANDER: No, another case. You okay?

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: The case be continued until November 18th. All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: All five in favor. Case continued.

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

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will next call case No. 9931, 51 Brattle Street. Is there anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard. There is a letter in the file from T-Mobile the Petitioner dated October 12th addressed this to Board. "T-Mobile Northeast, LLC submitted an application for Special Permit for the property located at 51 Brattle Street, Cambridge, Mass. T-Mobile has decided to withdraw such application and not to proceed with the installation."

So the Chair moves that we accept the Petitioner's request to withdraw the case.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is withdrawn.

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

(7:05 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call next case No. 9933, 10 Fawcett Street. Is there anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one here wishes to be heard. We are in a possession of a letter from T-Mobile, the Petitioner, dated October 12, 2010. "T-Mobile Northeast, LLC submitted an application for Special Permit for the property located at 10 Fawcett Street, Cambridge, Mass. T-Mobile has decided to withdraw such application and not to proceed with the installation."

The Chair will make a motion that we accept the proffer offer to withdraw.



All those in favor say "Aye."

(Aye.)

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

(7:10 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9972, 128 Cherry Street. Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board. For the record, James Rafferty appearing on behalf of the applicant. Seated to my right is Nelson Oliveira. Spell your name for the stenographer, please.

NELSON OLIVEIRA: N-e-l-s-o-n Oliveira, O-l-i-v-e-i-r-a.

CONSTANTINE ALEXANDER: This is a continued case heard. So we'll pick it up from there.

ATTORNEY JAMES RAFFERTY: That's correct. When the matter was last before the

Board we seemed to be moving toward an affirmative vote and then there seemed to be some design questions expressed. And chief among them was the notion, you recall, the lot is particularly narrow and the addition which was an addition to the side of the house which really doesn't trigger any additional FAR, there was concern expressed about the impact. And that caused Mr. Oliveira to rethink his whole approach to the house. There was some talk about trying to retain at least the original facade from the street level, that kind of Greek revival facade and put a -- have the addition step back and not be as prominent. What we filed actually is two versions of the same plan. The only difference is that in one version, Mr. Oliveira's plan has a bit of a trellis or a -- what do you call that thing over the --

TAD HEUER: Pergola.

ATTORNEY JAMES RAFFERTY: Pergola.

Thank you.

A design feature that shouldn't have any FAR implications if the cross members are sufficiently -- I forget how the Department interprets that.

SEAN O'GRADY: Three feet.

CONSTANTINE ALEXANDER: Feet or inches apart.

ATTORNEY JAMES RAFFERTY: Right.

So, that's the only difference in the two approaches.

CONSTANTINE ALEXANDER: Two approaches being this approach now and the one you brought before us before?

ATTORNEY JAMES RAFFERTY: No. The two approaches, if you notice there's actually two, two elevations. The front elevation, the street elevation, one has the pergola and one does not. But it's otherwise the same.

CONSTANTINE ALEXANDER: Which one

are you asking us to approve though?

THOMAS SCOTT: Right. Can I see the pergola?

NELSON OLIVEIRA: I think the pergola would be more accurate.

ATTORNEY JAMES RAFFERTY: I think Mr. Oliveira prefers the pergola. But I think the thinking was --

NELSON OLIVEIRA: I just want to make sure -- (Inaudible).

ATTORNEY JAMES RAFFERTY: He wanted to give you enough -- giving the Board a choice in this unusual set of circumstances.

THOMAS SCOTT: Is this a set of windows here on the pergola?

NELSON OLIVEIRA: Yes.

THOMAS SCOTT: No access.

NELSON OLIVEIRA: No, no access.

THOMAS SCOTT: The pergola is just a decorative thing?

NELSON OLIVEIRA: Yes.

ATTORNEY JAMES RAFFERTY: It might also serve as a breeze solet to keep the sun -- it's an Italian term I believe. Breeze solet. I read your background. You must be a breeze solet.

TAD HEUER: I was going to say maybe it's a feature in Italian or Latin that does not require additional FAR.

ATTORNEY JAMES RAFFERTY: It's kind of a quid pro quo. It's totally a design feature I'm not sure.

CONSTANTINE ALEXANDER: I would rather you pick. Tell us which one you want.

ATTORNEY JAMES RAFFERTY: Well, his preference would be to have it. We're not aware of any FAR or dimensional implications for it.

THOMAS SCOTT: Can I give an opinion?

NELSON OLIVEIRA: Yes.

CONSTANTINE ALEXANDER: Go ahead.

THOMAS SCOTT: I don't particularly like it because I think it's distracting to what we've done, which was really nice, is you've set the new building back and you've maintained the integrity of the historic look of the original building which is really nice. And then this kind of -- I think it's distracting.

NELSON OLIVEIRA: That's fine.

THOMAS SCOTT: I think the other elevations in this sense it's cleaner looking.

BRENDAN SULLIVAN: The other one is busy?

THOMAS SCOTT: Yes.

I think in this one the building seems to recede and maintain its secondary nature, where this one kind of wants -- it's trying to come forward and it's competing with historical save that we've made on the facade on the original building. So, that's just my

opinion.

CONSTANTINE ALEXANDER: Opinion worth noting.

ATTORNEY JAMES RAFFERTY: Yes, I think we would defer to that opinion?

NELSON OLIVEIRA: Yeah.

ATTORNEY JAMES RAFFERTY: Because I think the reason the multiple submission was --

NELSON OLIVEIRA: It's the most preferred.

ATTORNEY JAMES RAFFERTY: Yes, I agree. I think the big design move here was in response to the notion not to have a continuous facade. To break up that mass at the street front.

CONSTANTINE ALEXANDER: There's the parking and the open space in the backyard, too, it's different.

NELSON OLIVEIRA: Yeah, we going to have (inaudible).



CONSTANTINE ALEXANDER: It looks like you have more green space now than you had before.

ATTORNEY JAMES RAFFERTY: Right. We hadn't adequately dimensioned the site plan previously to demonstrate the sufficiency of the 15-foot requirement. So this site plan as dimensioned demonstrates that that can be achieved.

CONSTANTINE ALEXANDER: You're here before us, just for the record, because of the setbacks. Technically why are you here before us?

ATTORNEY JAMES RAFFERTY: Setback and it's a non-conforming structure. The FAR is permitted by the right-hand side down of this whole addition is closer.

BRENDAN SULLIVAN: The number of units is okay?

ATTORNEY JAMES RAFFERTY: Yes. The number of units is existing.

NELSON OLIVEIRA: It's existing.

ATTORNEY JAMES RAFFERTY: Yes.

There's no change in the unit count.

BRENDAN SULLIVAN: It's three now,  
it will be three?

ATTORNEY JAMES RAFFERTY: Well,  
it's two now.

BRENDAN SULLIVAN: It's two now.  
It will be three?

NELSON OLIVEIRA: It will be three.

CONSTANTINE ALEXANDER: But you  
have parking for three?

ATTORNEY JAMES RAFFERTY: Right.  
We meet the lot area per dwelling unit  
requirements 1500, and we have 16. I'm  
sorry.

CONSTANTINE ALEXANDER: Did you  
show the revised plans to Charlie Sullivan?  
We talked a little bit about that the last  
time.

NELSON OLIVEIRA: (Inaudible.)

CONSTANTINE ALEXANDER: He had commented on the initial filing you made, remember?

ATTORNEY JAMES RAFFERTY: I think informally he had because what had happened is at that time the initial thinking was Mr. Oliveira explored whether he might demolish the house entirely.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So he went to see Mr. Sullivan who discouraged him from doing so.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: But I'm not aware that --

NELSON OLIVEIRA: And he just -- he never see the drawing, he just advised me to keep the front of the house kind of somewhat --

ATTORNEY JAMES RAFFERTY: I don't think he ever saw the first drawing either.

He was mentioned in the prior hearing in the context of demolition, he discouraged Mr. Oliveira from pursuing that approach.

CONSTANTINE ALEXANDER: Questions?

BRENDAN SULLIVAN: Sort of in the context of why don't you try to save it if you can?

ATTORNEY JAMES RAFFERTY: Yes.

BRENDAN SULLIVAN: Something along that line.

ATTORNEY JAMES RAFFERTY: So what was presented before the Board last time had never been seen by Mr. Sullivan. But I do recall now that you mention it, it was a suggestion.

CONSTANTINE ALEXANDER: Well, he had more involvement the first time around and he apparently did, then I would like to hear from him this time.

ATTORNEY JAMES RAFFERTY: He didn't.

CONSTANTINE ALEXANDER: I misunderstood. I thought he looked at the actual plans the first time. He just talked about the concept of demolition?

NELSON OLIVEIRA: Yes.

ATTORNEY JAMES RAFFERTY: We had that discussion about well, if he took it down he could build a three-family. And then -- but then we would be a house with very narrow proportions. And we went from the theoretical concept to actually flushing it out last time. And it was admittedly a challenge to see how one can manage the parking and do an as-of-right structure. So I'm no longer advancing that argument as vigorously as I was the last time.

CONSTANTINE ALEXANDER: Questions from members of the Board?

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one here is wishing to be heard. I don't believe there's anything in the file.

There was a letter of support last time around which I read into the record. It's basically a conceptual letter of support. I don't think it's affected in any way by these revised plans. I don't see any reason to reread it into the file.

Discussion or should we go to a vote?

THOMAS SCOTT: I appreciate the fact that you made the effort to save the historical facade of the original house.

NELSON OLIVEIRA: Thank you.

THOMAS SCOTT: I think that's very commendable and I appreciate it.

NELSON OLIVEIRA: Thank you.

TAD HEUER: And you're retaining the same cladding as it is now? I can't remember.

NELSON OLIVEIRA: I have a wood

shingles. I'll probably use a clapboard.

TAD HEUER: And you're keeping it double hung windows; is that right?

NELSON OLIVEIRA: That's correct. Double hung windows.

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

That a literal enforcement of the provisions of our Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the ability to use this as a legally three-family dwelling unit would be prohibited without the addition being sought.

That the hardship is owing to circumstances relating to the shape of the lot. It is a narrow lot. Which means any kind of addition runs into issues with regard to setbacks.

And that relief may be granted without

substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Ordinance.

The Chair would note in this regard that there has been no neighborhood opposition to this matter.

That the petitioner has been conscientious in trying to meet the suggestions of the Board and Mr. Sullivan with regard to preserving the historical nature of the structure. And that, otherwise it's an attempt to upgrade housing in the city which is also consistent with the intent of our Zoning Ordinance.

On the basis of these findings the Chair moves that we grant a Variance to the Petitioner on the condition that the work proceed in accordance with plans submitted by the Petitioner. They're numbered A1, A2, A3, A4, A5 and A6. The first page of which



has been initialed by the Chair.

All those in favor of granting the Variance on the basis so moved, say "Aye."

TIMOTHY HUGHES: Gus, can you read the current date of the plans into the record?

CONSTANTINE ALEXANDER: Yes. That's a good suggestion. The plans are dated September 22, 2010.

TAD HEUER: I noticed the plans without the pergola; is that right?

CONSTANTINE ALEXANDER: Yes, pergola is on a separate sheet.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: Yes. No pergola. All set?

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan,

Heuer, Scott.)

(7:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10001, 37-41 Fairfield Street. Is there anyone here wishing to be heard on this matter?

PETER KIM: Hello.

CONSTANTINE ALEXANDER: Good evening.

PETER KIM: I'm Peter Kim the homeowner.

CONSTANTINE ALEXANDER: Give your name and spell your name and address for the stenographer.

PETER KIM: Sure. My name is Peter Kim. My address is 37 Fairfield Street, Cambridge. Peter is spelled P-e-t-e-r. Kim is spelled K-i-m. What else do I need to

say?

TAD HEUER: That's it.

CONSTANTINE ALEXANDER: That's it.

PETER KIM: That's it? I have one more letter from another neighbor, she gave it to me.

CONSTANTINE ALEXANDER: You're looking both for a Variance and a Special Permit?

PETER KIM: Yes.

CONSTANTINE ALEXANDER: Let's talk about the Variance, exactly what do you want to do?

PETER KIM: So, the Variance is for -- the house today has a porch that is enclosed with screening, right? Recently there's been rotting -- this roof is a problem. We've been starting to look at what we can do with it. What we wanted to do -- the Variance is for the -- the Special Permit is to glaze this porch. The Variance

is to have a balcony up here on top of the existing footprint of the roof.

CONSTANTINE ALEXANDER: To do away with the shed roof, the slant?

PETER KIM: Yes.

CONSTANTINE ALEXANDER: Get rid of the flat roof and ballast straight around it?

PETER KIM: Right. And so what we have here is there's two apartments built on the side here. It has a little balcony that needs to be redone as well. That's also rotting, and it's also not to code. And what we wanted to do is to bring balance to the house by adding a balcony here that would match architecturally with that, and also this portion of the house, the colonial, is actually two separate apartments. And so the second and third floor is actually a significant space, right? It must be 1800 square feet. It's three bedrooms. It's a place where a family would logically live.

And the upstairs doesn't have real great access to the outside space.

So, the hardship really is, you know, we have small children now, is the just to access to outdoors. But also more so is the safety, being able to, you know -- all their activities -- there's really no significant backyard. All their activities involve going outside in the street, out to the park, etcetera, etcetera. Just having visibility to that. So we'd like to maintain the density of keeping this, you know, a four-family home.

CONSTANTINE ALEXANDER: You're still going to maintain the windows over the porch, though? You're not making that a doorway?

PETER KIM: We are making it a doorway.

CONSTANTINE ALEXANDER: You are making it a doorway?

PETER KIM: We are proposing a doorway. We could be flexible on that matter. But that was our intent, our thought.

CONSTANTINE ALEXANDER: Looking at the plans I couldn't tell.

PETER KIM: Yeah, the plan was to put in a door.

CONSTANTINE ALEXANDER: We don't have that in our plans.

TAD HEUER: Yes, we do.

CONSTANTINE ALEXANDER: Oh, we do?

PETER KIM: Oh, I thought I sent you an original.

TAD HEUER: Here.

CONSTANTINE ALEXANDER: Here?

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: Oh, okay. I'm looking at the drawings. It's in a separate place. You're right.

PETER KIM: So the idea was to put a

door in there. So we tried to use approximately the same aperture as the two windows to, you know, to be equivalent to about where the door is.

CONSTANTINE ALEXANDER: Are you changing the door on the other side, too?

PETER KIM: On this side?

CONSTANTINE ALEXANDER: Yes.

PETER KIM: No, no, not at all. No.

TAD HEUER: I just had a math question on your dimensional form.

PETER KIM: Yep.

TAD HEUER: And this may be a transition of numbers. So you're going from a smaller FAR, or a smaller GFA to a larger GFA. So from 7294 to 7334 but your ratio from GFA to lot area is your FAR looks like it's going down. Was that just a transposition? So should that be from 0.486 to 0.489? I'm guessing.

PETER KIM: Yeah, my architect did

this. I can't tell you what he did. You're right it makes no sense.

TAD HEUER: It's not a big deal but -- I'm not sure what it is.

SEAN O'GRADY: There shouldn't be any swing at all.

TAD HEUER: There's a swing in the thousandth place.

SEAN O'GRADY: Yes, but I mean I don't see anywhere where there would be FAR added. We have a balcony over. No FAR. And a porch enclosure. No FAR.

PETER KIM: He was assuming the porch enclosure would -- that's what he was --

SEAN O'GRADY: Oh. The porch is covered, though, right?

PETER KIM: The porch is covered. He assumed it would be new, new space.

SEAN O'GRADY: The answer is no, no swing.



THOMAS SCOTT: It should already be included.

SEAN O'GRADY: Yes, the higher of the two numbers is most likely the existing and proposed condition.

TAD HEUER: Is the existing. Okay. Can I make that change on this form?

PETER KIM: Yes, please.

CONSTANTINE ALEXANDER: Questions from members of the Board? Tom, any questions?

THOMAS SCOTT: I see in the photo that the railing on the old porch --

PETER KIM: Yes.

THOMAS SCOTT: -- is solid?

PETER KIM: Right.

THOMAS SCOTT: Is it going to be changed to pickets?

PETER KIM: That's the idea, we'd like to. Right? We'd like to open up that space there.

CONSTANTINE ALEXANDER: I think if you look at this drawing, it does show it.

PETER KIM: Yeah. This is currently about -- this is currently about knee height. It's maybe about 30 inch -- it's way too low. We don't tend to use it because of the danger actually. But we'd like to -- it's going to be the same, you know --

THOMAS SCOTT: Architecturally consistent. That will match this?

PETER KIM: Yes.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Same height, everything.

PETER KIM: Exactly.

TAD HEUER: And you have a ballast rated deck already on the third level?

PETER KIM: There is a deck up on the third level. You can sort of see it here. There's a -- up on the third level there's a

small roof deck off a bedroom up there sitting on top of the --

TAD HEUER: Is it currently fenced? I'm just looking at the photograph now.

PETER KIM: It's fenced?

TAD HEUER: Yes, with a picket ballaster?

PETER KIM: Yes, just straight squares, one-inch square, you know, ballaster.

TAD HEUER: Is that where you see it?

PETER KIM: Yes, I'm not sure when this photo is from. The porch doesn't look like this either because I had to repair it.

TAD HEUER: Okay.

PETER KIM: The picture of it now wouldn't do it justice. But, yes. --

TAD HEUER: So, all three of these railings will match either other?

PETER KIM: Will match, yes. There's examples of this. There's a couple

houses on the street that I just walked down there, they already have, you know, they already have glazed porches. You know, around the corner from us there's a -- this is far too grand to fit the architecture of the house, but, you know, an example of the kind of thing you would see.

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter? Do you want to speak or not?

GREG MURRAY : I support him all the way.

CONSTANTINE ALEXANDER: You have to come forward and give your name and address for the stenographer.

GREG MURRAY: My name is Greg Murray and I lived on Fairfield Street for 52 years. He's a great neighbor and I support whatever he's doing there. Okay?

CONSTANTINE ALEXANDER: Even though he's building a seven-story apartment house?

GREG MURRAY: And my uncle is the head of the library. My cousin's Mike Capuano. And I support this guy right here. And the biggest judge in Massachusetts is my other cousin, all right?

PETER KIM: Your cousin is Mike Capuano? I didn't know that. I should have asked for more favors then.

CONSTANTINE ALEXANDER: You don't need us.

Okay. The Chair notes that other than Mr. Murray no one else wishes to be heard.

We are in receipt of several letters. A letter from the resident at 16 Fairfield Street. "We are writing in support of the Variance at 37 Fairfield Street for a second full balcony above their front porch. As neighbors, the Kims have shared with us their plans and we understand the hardship and furthermore it will enhance the appeal of the neighborhood as a whole. It's vest

tastefully done and we love it."

We have the same letter from the resident at 60 Fairfield Street except for the comment about "It's very tastefully done and we love it." Otherwise it's the same letter.

And the same letter again without the "tastefully done and we love it" from the resident at 20 Fairfield Street.

And also from the residents at 28 Fairfield Street. So there's unanimous neighborhood support it would appear.

Further questions or comments from members of the Board?

(No Response.)

Ready for a vote?

TAD HEUER: Can I ask a question?

CONSTANTINE ALEXANDER: Sure, go ahead.

TAD HEUER: If there's no FAR, what's the Variance for again?

SEAN O'GRADY: The Variance is for the balcony being in the front setback.

CONSTANTINE ALEXANDER: Setback issue.

SEAN O'GRADY: Strangely enough where it's a two-family, that would be an as-of-right move. There's an exception for one and two families for that move.

CONSTANTINE ALEXANDER: But the door that's being requested is a Special Permit?

SEAN O'GRADY: Actually, the door is a freebie because it faces the street.

CONSTANTINE ALEXANDER: Why does the Special Permit say they're looking to do a door? What door is that?

SEAN O'GRADY: Well, I think there's things in here that don't necessarily need to be here. But the balcony is the Variance because it is itself.

CONSTANTINE ALEXANDER: Right.

SEAN O'GRADY: The low porch walls, that would be as of right. The glazing entry door at the porch, he means enclose the porch by putting a door and a glazing.

PETER KIM: Right.

CONSTANTINE ALEXANDER: But there's no Special Permit for the door?

SEAN O'GRADY: There's no Special Permit for -- this is funny. To cut a door, no Special Permit. To add a door, part of the enclosure is Special Permit. Windows go the other direction.

PETER KIM: Yeah, there's a screen door there now, but not a proper door.

CONSTANTINE ALEXANDER: Okay. We have two votes to take then. I'm ready to make a motion. One is for the Variance and one is for the Special Permit.

With regard to the Variance the Chair moves that we make the following findings:

That a literal enforcement of the



provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner needs better viewing space towards the front of the streetscape given the very small backyard, and that the current shed roof blocks the ability to view the streetscape from the second floor.

That the hardship is owing to circumstances relating to the nature of the structure itself. It's a non-conforming structure.

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

On that finding in this regard it would be on the basis that the relief being sought is quite modest. It is architecturally enhancing to the structure. It has -- appear to be unanimous neighborhood support.

Otherwise improves the housing stock of the City of Cambridge.

On the basis of these findings, the Chair moves that we grant a Variance on the condition that the work proceed in accordance with plans submitted by the Petitioner prepared by Eric Pfeufer, P-f-e-u-f-e-r architect. They're numbered EX1, EX2, EX3, EX4, EX5, P1, P2, P3, P4 and P5. Last page is not numbered at all. But the Chair will initial the first page.

On the basis of this, the Chair moves that a Variance be granted. All those in favor say "Aye."

(Aye.).

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht.)

CONSTANTINE ALEXANDER: We now proceed to the Special Permit.

The Chair moves that this Board grant a Special Permit to the Petitioner to proceed with the work proposed for the Special Permit on the basis of the following:

That the work being done, the glaze, the windows and to add the door will not cause congestion, hazard or substantial change in established neighborhood character.

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

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

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

The Chair noting with regard to all of the foregoing that the work proposed is quite

modest in nature and, again, has unanimous neighborhood support.

On the basis of the foregoing the Chair moves that we grant a Special Permit on the condition that the work proceed in accordance with the plans previously identified by the Chair in connection with the Variance we just granted.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

PETER KIM: Thank you.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht).

(7:45 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10002, 120-122-124-126 Webster Avenue.

ATTORNEY SEAN HOPE: Good evening. Attorney Sean Hope, 130 Bishop Allen Drive, Cambridge, Mass.

Tonight the Petitioner and owner Paul Camarrata could not attend. He had a family emergency. Due to the nature of the requested relief, he wanted to proceed as long as it's okay with the Board. And I have handouts now. The elevations are in the file. I wanted you to each have a copy of what we're looking at.

CONSTANTINE ALEXANDER: They're the same as in the file?

ATTORNEY SEAN HOPE: Yes, the same as is in the file. Existing and proposed.

We're seeking a Variance to add an additional 72 square feet in the form of two decks to the rear of the property. This property is a four-family. It was before the Board recently, and it is over the allowable FAR. These two proposed decks could have been built as of right. They are in a conforming side yard setback which means they are not encroaching what would be the side yard requirements.

The reason that we're here before the Board tonight is because the second floor decks have a roof. And as you know, under the Code, if you have a roof, it's counted as additional GFA which puts it over the FAR.

On the first floor there's a landing so there's no proposed decks. But there's a

landing so the second floor -- the floor of the second floor decks covers the first floor and so that's the nature of why we have --

CONSTANTINE ALEXANDER: Although the additional GFA is minimal as you say, the FAR right now is quite in excess of what's permitted in the Zone.

ATTORNEY SEAN HOPE: Right.

CONSTANTINE ALEXANDER: So you're going to go from 1.35 to 1.37 --

ATTORNEY SEAN HOPE: Right.

CONSTANTINE ALEXANDER: -- in a 0.5 district.

ATTORNEY SEAN HOPE: And so when we looked at it, we figured we could actually build the second floor decks without the roof which would take half of that GFA away. We thought because the bottom floor already adds GFA and it was more architecturally sound. It made sense to actually put the roof on there being in the New England area.

We also reached out to the rear neighbor which is on 14 Second Street which the decks would look into his backyard. We actually sent him elevations and plans. As the Board knows, this is a property that was, you know, was before the Board to convert it to a four-family. So there's been lots of renovations going at this property. It's a full gut rehab. In that process the owner Paul Camarrata had just met with the neighbors. There were some trees that were being moved that were on the property line. Mr. Camarrata did that for the neighbors. Obviously that would actually open up a line of sight. The owner at 14 Central Street was open to that. He was more interested in having these trees taken down because they were falling down. So there was neighborhood support, and that's not necessary for the decks, but the fact that they knew the decks were happening and that



the overall renovations were going to be done. We thought it was significant because now instead of one to two units, as was before there are four units. These are two-bedroom units. So there's likely to be two trash receptacles for each unit. The other owners didn't want them to be put in the backyards. They wanted them put in the side yard. So we figured, you know, there was some room but not for all eight. So part of this idea was the people on the second floor probably are not going to be able to be using the back yard the same way if you have trash receptacles. So we thought two de minimus decks that we put on there would be -- allow for them to have light and air and some limited outdoor space. And we also felt -- and there's two architectural features to the property. As you can see from the elevations, there are two staircases that protrude into the rear yard. And so what we're doing with the decks, we

actually wanted to in-fill.

Now, these two staircases on either side protrude about five feet back. So that these actual proposed decks would actually in-fill. And there's probably about 11 to 12 feet in between these two staircases. So these decks would not protrude, but they would actually fill in. And so we make sure they stay within the footprint of the building. Which actually was important to some of the neighbors. Because the initial thought was you're going to take these and put these on the rear of the stairwell which would actually really overhang. So this would be -- there actually are windows on the stairwells, so the line of sight did not really increase by putting the decks on there.

CONSTANTINE ALEXANDER: Why wasn't these deck proposals brought before us when you came before us with the Variance before?

ATTORNEY SEAN HOPE: The previous owner was the Shuman family. It's a new owner for one. The Shuman family were actually looking to convert to a four-family as part of settling their estate. So now this is --

CONSTANTINE ALEXANDER: A different Petitioner this time?

ATTORNEY SEAN HOPE: A different Petitioner.

TAD HEUER: On the proposed -- I'm just comparing which of the existing bump outs in the back, one of them is 1010 and the other is 1110? Is the new owner expanding the bulk of the building here and here by a foot?

ATTORNEY SEAN HOPE: No.

TAD HEUER: So, what's the discrepancy between 1010 on existing and 1110 on proposed?

ATTORNEY SEAN HOPE: I actually

think the 1110 doesn't go for the bump out. See how there's another foot that it actually lines up with the staircase?

TAD HEUER: Okay.

ATTORNEY SEAN HOPE: So it's not the.... So that the 1110 is actually not just a bump out.

TAD HEUER: It's kind of a meaningless dimension there.

ATTORNEY SEAN HOPE: Right, it's not helpful. There's no desire to move or to expand the stairs the on either side.

CONSTANTINE ALEXANDER: Other questions from members of the Board? Do the Board members have any questions?

THOMAS SCOTT: Is the upper deck separated by a wall?

ATTORNEY SEAN HOPE: So it's going to be like a wooden fence. So that 36-square feet would be the total dimensions of the upper deck. It would be six foot and a half.

So each one would be 18 square feet.

THOMAS SCOTT: Each deck is 18?

ATTORNEY SEAN HOPE: Yes. So there would be not a wall, but some kind of wooden --

THOMAS SCOTT: A separation?

ATTORNEY SEAN HOPE: Yes, a separation. So with 18 square feet, it's really not even enough to have a Hibachi, but more to maybe go out and have a coffee. And that was important, because we didn't really want potential issues. There's a density there as you know and so, you know, and that's what really the lot allows for that space.

TAD HEUER: And does the new roof go to the edge of the old roof or does it go to the edge of the deck?

ATTORNEY SEAN HOPE: It goes to the edge of the deck. And we made sure that the new roof would not exceed --

CONSTANTINE ALEXANDER: The plane.

ATTORNEY SEAN HOPE: -- the plane. Exactly, that wall plane. So it would cover on the slant, the full three feet and depth of the proper.

TAD HEUER: But will it -- so it won't cover necessarily all of the stairs on the first level, right?

ATTORNEY SEAN HOPE: Right, the stairs on the first floor will be open, exactly. There's a landing that you can't see because it's two dimensional. So, that will still be open.

MAHMOOD FIROUZBAKHT: Are these units proposed to be condos or rentals?

ATTORNEY SEAN HOPE: It's not quite sure yet. I think as market factors will determine, you know, whether or not they sell or not. I mean, it's a full gut renovation. But, you know, that hasn't been decided yet. But either way whether they're rental or sell unit, the trash and, you know, the occupancy

would probably be the same as two-bedroom units.

THOMAS SCOTT: I have a code question. The stair that they're introducing in the middle is more than eight feet wide. And I think when you go beyond eight feet, you need a third -- you need an intermediate railing. Are they going to propose an intermediate railing or make the stairway smaller?

Is that true.

SEAN O'GRADY: Well, Brendan might actually be better on that question. That's building code and I just don't know it.

THOMAS SCOTT: You're not sure?

BRENDAN SULLIVAN: You may be correct. But they would then add that as part of the permitting.

ATTORNEY SEAN HOPE: So you mean on --

BRENDAN SULLIVAN: You may have to

put a railing in the middle.

THOMAS SCOTT: Eleven, eight would be an additional ramp. Or you can make the stairway smaller to meet the maximum requirement.

BRENDAN SULLIVAN: Yes, I think maybe the rail would look better than --

THOMAS SCOTT: Yes.

BRENDAN SULLIVAN: -- squishing the stairs. The building inspector -- you may make a note of that too. Relay that to your client just to ask that question of the building inspector.

ATTORNEY SEAN HOPE: And to that point I do think a railing in the middle would make more sense, but actually it's hard to see on the proposed.

BRENDAN SULLIVAN: Right.

ATTORNEY SEAN HOPE: There's a railing on either side.

THOMAS SCOTT: I see that.



ATTORNEY SEAN HOPE: Right, but I think, you're right, a railing in the middle makes more sense.

CONSTANTINE ALEXANDER: Further questions?

(No Response.)

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

(No Response.)

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

I don't think we're in receipt of any letters so I think we're ready for a vote unless people have further questions or comments.

THOMAS SCOTT: I just see this as evolution of kind of enclosing space, you know? It wasn't there, now it's there. The next thing you know, there's a wall and a window and it becomes, you know, interior

space.

BRENDAN SULLIVAN: I think from a design standpoint this lends itself to that. And as Mr. Hope mentioned, we see decks, we think of people going out there and congregating. And I don't really think it happens all that often. But Mr. Hope mentioned a very practical application for this and purpose is recycle bins and trash bins and what do you do with them? You know, you've got to get them out of the back hall. You've got to get them out of the apartment. And you don't want to be schlepping down stairs all the time. And so I think that's going to be a home for the trash bin and the recycle bin more so than it is people. So I think it has a very practical application to it. Aside from I think from a design standpoint too, I think.

CONSTANTINE ALEXANDER: I guess the neighbor facing this back, I would hate to see

a deck up there with trash bins, but I guess it's elevated off the ground, but that's just one person's comment.

BRENDAN SULLIVAN: Right.

THOMAS SCOTT: Are you going to put some plants there, too?

CONSTANTINE ALEXANDER: A window box.

ATTORNEY SEAN HOPE: Put the recycle bin someplace else.

CONSTANTINE ALEXANDER: In any event, if you do want to enclose the porches, you have to come back before us.

ATTORNEY SEAN HOPE: Right exactly, I know.

CONSTANTINE ALEXANDER: Then you can yell at Sean.

THOMAS SCOTT: It's a practical solution.

ATTORNEY SEAN HOPE: And I think but for the staircases -- stairwells, I don't

know that we can necessarily -- that they would feel the same about a deck because it would feel like an intrusion as opposed to an in-fill in this case.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves that this Board make the following findings:

That a literal enforcement of our Zoning By-Law would involve a substantial hardship to the Petitioner.

The hardship being is that it's got space in this building, exterior space that is not utilized to its best potential. And we're talking about a multi-family structure on a relatively small lot. And it's a corner lot as well.

That the hardship is owing to circumstances relating to the location and shape of the lot and the shape of the structure.

And that relief may be granted without substantial detriment to the public good or nullifying or substantial derogating from the intent or purpose of the Zoning By-Law.

The relief being sought is quite modest in nature. It serves a function in terms of trash removal and aesthetics. And it appears to have drawn no neighborhood opposition.

On the basis of these findings, the Chair moves that the Variance be granted the Petitioner on the condition that the work proceed in accordance with three pages of plans submitted by the Petitioner and initialed by the Chair. Except that the plans can be modified to put in a railing, if necessary, to comply with Building Code requirements.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

ATTORNEY SEAN HOPE: Thank you.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht).

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10003, 138-140 Larch Road. Is there anyone here wishing to be heard on this matter?

DAVID DAVIS: I do, thank you. My name is David Davis. My wife Katharine and I are the owners for 30 years of 138-140 Larch Road. We live at 140 which is upstairs, and 138 is a rental unit down below. This petition is to make a change in 138. And I think a picture says a thousand words. It's in the file. And if this looks a little familiar to you --

CONSTANTINE ALEXANDER: We were talking about that.

TAD HEUER: We were just saying.

DAVID DAVIS: I've been here before. And I've paid the price for my inexperience, and hopefully I'm not going to pay it twice.

I did receive a Variance. I thought I had gotten the Variance that I thought I'd come for. I did that until the working drawings were presented to Mr. O'Grady, and he pointed out that in fact the Variance I sought was not what I had asked for from the architect. And what was the deficiency?

I should preface this by saying that 138-140 was built in the twenties on filled land which was not just filled land, but there was a pond there we were told. And our foundation is cracked, vertical walls. We've lived with this. It hasn't gotten a whole lot worse since we've moved in 30 years ago, and there are eaves in our basement and they haven't gotten a whole lot worse since we've been there. And there's water that



runs through our basement and hasn't gotten a whole lot worse since we've lived there. In fact, we may have even improved that a bit. But there are concerns about the stress we would put on the foundation. And so the concept that was presented here, which I did not know it more than a year ago, was the notion that we would carry what I call our birdhouse down, that's the bath extension of our bathroom, down to the ground. But as drawn, I did not see this, it was to be a cantilever which I had always made clear I opposed because of the stresses on the foundation. I wanted a good, strong, new foundation to support this and support the new extension. So it was with the drawing of the new foundation -- I had estimates. I had people ready to start work. So, I was a little blind sided but I --

CONSTANTINE ALEXANDER: Let me get this straight. Your architect drew a plan

for a cantilever and you didn't realize that?

DAVID DAVIS: I guess I can only say that -- yes. I mean what I can say?

CONSTANTINE ALEXANDER: You didn't look at the plans?

DAVID DAVIS: It's a lot easier for me to kick myself than it is to kick him let's put it that way. He being a neighbor. So I kick myself, thank you.

The other piece of it was I had always -- which was a complete novel to me when I came in here the last time, and that was a complete revelation also, was I wanted, to the extent that this window has a certain dimension, I always wanted to have a window or windows that gave in that much light. This is north facing. And so to have a smaller window with something I was completely opposed to, that too I knew had been drawn differently than I wanted and expressed that, but I had been -- what would

you say?

TAD HEUER: Resigned?

DAVID DAVIS: No. I had been led to believe that that was of no consequence. Wrong again. And so those were the two big wrongs that made me say no go, come back. The only opportunity I have to do this construction, given our tenants, is they are prepared to move out when their child is not in school. And they did. I lost the rent last summer because of this, because they had agreed to move out and then it couldn't happen. So I've paid the price in hearing myself you didn't notice it was cantilevered? Yes, I paid that price.

But I would like to be able to do this, what I consider correctly. I consider cantilever incorrect. Although to quote Sean O'Grady, "It's done all the time." He looked at me like I had two heads. I don't hold it against him.

And so I don't want the cantilever. I want it to go all the way down. And there are other reasons other than just the support. I think you can imagine with a bathroom it's nice to have access to the plumbing rather than through a cantilevered space. And secondly in this day and age, who doesn't want the insulating value of the ground underneath the pipes.

CONSTANTINE ALEXANDER: But even if we grant you the relief and you move your building all the way down, that window is still going to be a small window. It's going to come out. The window on the first floor.

DAVID DAVIS: Oh, yeah. But the window as drawn is three feet by three feet. Nine square feet. The one that is there now is approximately 13 square feet. I've gone over this with my neighbors. And, therefore, I have asked, and the drawings show on the east side here -- I want to be able

to put in a small, small windows. These would all be -- what is it?

THOMAS SCOTT: Double hung?

DAVID DAVIS: No. Block the light passing through. Translucent. Opaque?

THOMAS SCOTT: No, translucent.

DAVID DAVIS: But there would not be -- if you recognize we had 13 square feet of window here and here as well, it's being considerably reduced here. This window is about 19 inches glass diameter. Which, if my math serves me right, is not even two square feet of glass. So....

CONSTANTINE ALEXANDER: But you're not putting the translucent windows in, are you?

DAVID DAVIS: On the new plan they're drawn in there.

THOMAS SCOTT: They face the tub.

CONSTANTINE ALEXANDER: Can they do that have windows in a setback should be a

Special Permit rather than a Variance?

SEAN O'GRADY: Well, it's a new structure. So that's part and parcel of the new structure.

CONSTANTINE ALEXANDER: Okay. If you say so.

SEAN O'GRADY: Is it not new structure?

CONSTANTINE ALEXANDER: It is a structure.

TAD HEUER: That's what we had a few weeks ago in Brattle Street we were corrected in exactly the same way.

CONSTANTINE ALEXANDER: Right. You're right.

SEAN O'GRADY: At least I'm consistent.

CONSTANTINE ALEXANDER: Questions from members of the Board?

While Mahmood is looking at that, is there anyone here wishing to be heard on this

matter?

(No Response.)

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

The Chair is in possession of various letters. We have one letter that has been signed by several different persons. The letter says: "We the neighbors of Katharine and David Davis are in favor of their project to extend the bathroom on the first floor. We have no objection and feel that it might, might improve the appearance of their house. We herewith support the Board to grant the Variance." And the letter is signed by Bruno D. and Franziska, F-r-a-n-z-i-s-k-a, X. Tfister, T-f-i-s-t-e-r, 144 Larch Road. Actually one letter --

DAVID DAVIS: There's one letter?

CONSTANTINE ALEXANDER: It's one letter, multiple copies of the same letter.

We also have a note from someone whose

name I cannot read. It just simply says, "I absolutely support this application." Oh, here, Jan Egleson, E-g-l-e-s-o-n, 131 Larch Road.

DAVID DAVIS: And I believe there was another because the party came up to me yesterday and said good luck, I've sent another letter in.

CONSTANTINE ALEXANDER: If there is, it's not in our files.

DAVID DAVIS: Okay.

TAD HEUER: And you're just removing the bulk entirely so there's no access?

DAVID DAVIS: Moving it down to where this skylight is.

TAD HEUER: Oh, okay.

DAVID DAVIS: Just moving it down.

CONSTANTINE ALEXANDER: Further questions or comments from members of the Board?

BRENDAN SULLIVAN: No. But I think



this is a classic case where soil conditions and knowing full well what Larch Road soil conditions -- you don't have to go down too far and you're into peat. In fact, there's a stream way, way down that keeps going.

DAVID DAVIS: We are at the bottom. We are the stream.

BRENDAN SULLIVAN: Right. And it goes from Fresh Pond and all the way to the river and stuff like that.

CONSTANTINE ALEXANDER: Really?

BRENDAN SULLIVAN: So, this is one case where the soil conditions absolutely, positively apply to this. And I think that you're right on point saying that the cantilever structure will add tremendous stress to the foundation. This structure should be supported independent of the land foundations because of the soil conditions.

CONSTANTINE ALEXANDER: Mahmood, any questions?

MAHMOOD FIROUZBAKHT: No, I concur.

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

That a literal enforcement of the provisions of our Ordinance would involve substantial hardship to the Petitioner. By the way, for the record, we should point out that the issue before us, why you're here, is that the structure will increase the FAR from 0.69 to 0.7 slight increase. Only 40 square feet additional. And the district is a 0.5 district.

Anyway, that the Chair moves that with a literal enforcement of the provision to the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being the inability to have a more functional first floor bathroom on the side of the house.

That the hardship is owing to the soil

conditions that especially affect this land and not the district generally.

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

In fact, the proposed work is modest in nature in terms of its impact on our Zoning Law. That it is architecturally a more sound approach than the cantilever that's there right now.

That there appears to be no neighborhood opposition to the proposal.

On the basis of all of this, the Chair moves that a Variance be granted to the Petitioner on the grounds that the work proceed in accordance with plans. You've read these plans?

DAVID DAVIS: There being so many plans that have been in here, you know.

CONSTANTINE ALEXANDER: These are

what's in the file. I don't want you to have to come back.

DAVID DAVIS: I know, I don't want to come back, believe me.

(Looking through plans).

DAVID DAVIS: Okay. I note that missing from this plan is what is in the other drawings that were submitted, not here apparently, is our windows on the east.

THOMAS SCOTT: They're indicated here on the side elevation.

DAVID DAVIS: Oh, got it, yeah. Thank you.

THOMAS SCOTT: They did a mini-elevation.

DAVID DAVIS: So they're there, thank you.

BRENDAN SULLIVAN: We were confused, too.

THOMAS SCOTT: They're indicated on the plan.

DAVID DAVIS: Yeah, I'm sorry. I'm in the BSTS, better safe than sorry mode.

TAD HEUER: They are indicated there. They're not -- I'm looking at the second floor existing plan, there's some that say proposed future window. Is that being requested?

DAVID DAVIS: Which window is this?

CONSTANTINE ALEXANDER: Looks like a side window.

THOMAS SCOTT: Second floor.

TAD HEUER: Second floor side window.

DAVID DAVIS: Those are on the side -- I think we're talking about the windows here and here.

TAD HEUER: Yes.

DAVID DAVIS: Yes.

TAD HEUER: That says proposed future window. Is that the window that's involved in this --

THOMAS SCOTT: I believe it is.  
It's shown on the elevation.

BRENDAN SULLIVAN: There's another  
plan right there.

THOMAS SCOTT: Next plan. Showing  
two windows.

BRENDAN SULLIVAN: That's an odd  
place to put it.

THOMAS SCOTT: This is a side  
elevation.

TAD HEUER: Got it.

DAVID DAVIS: Yes, thank you.

CONSTANTINE ALEXANDER: Okay.

On the condition that the work proceed  
in accordance with the plans submitted by the  
Petitioner. They're prepared by Peter  
Wright Studio Architects dated August 24,  
2010. They're 1, 2, 3, 4, 5, 6 pages. The  
first page of which has been initialed by the  
Chair.

All those in favor of granting this

Variance on this basis sigh "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Good luck again.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht).

(8:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10005, 70 Griswold Street. Is there anyone here wishing to be heard in this matter?

For the record, we have a stenographer. Both of you give your name and address. And if you've got a business card -- are you the contractor?

ALLEN GAMANS: Yes.

CONSTANTINE ALEXANDER: If you have one, give it to the stenographer. It makes her life easier. If you don't, spell your name and address.

Tell us who you are, too.

ALLEN GAMANS: My name is Allen



Gamans and I'm the contractor of this project.

SHERRY MADDEN: My name is Sherry Madden or Cheryl Madden. I'm the owner of the property. I live at 70 Griswold Street. Long time Cambridge resident.

CONSTANTINE ALEXANDER: Okay. And tell us a little bit what you want to do and why you need relief from our Zoning Board.

SHERRY MADDEN: Okay. Well, my house is about a thousand feet -- I have a single-family house. It's on 4,000 square feet of land. It's only about a -- a little over a thousand square feet of living space. And I want to just put basically a room in the back that's like a little sun room. And I guess it's over by 20-square feet or something like that. Right?

ALLEN GAMANS: Yeah. We have a non-conforming lot.

CONSTANTINE ALEXANDER: Yes.

Non-conforming lot.

ALLEN GAMANS: Our addition is conforming.

SHERRY MADDEN: Yeah, he knows the technical stuff.

CONSTANTINE ALEXANDER: And the sun room is going to be 12.4 feet by 14 feet?

SHERRY MADDEN: Yeah. And it's not that big really. And it's not going to have anything in it special. It's just going to be a room where I can go. When you've got a house that's got a thousand square feet, it would be nice to have a room with windows, and, you know, make you feel like you're living in a bigger house essentially.

CONSTANTINE ALEXANDER: Are you comfortable -- this is not a Zoning issue necessarily, it's not going to leak or cause problems?

SHERRY MADDEN: No. Nothing.

CONSTANTINE ALEXANDER: Ice sliding

off the glass?

SHERRY MADDEN: No, because he lives in New Hampshire and my parents have the same thing. They have a house in Peterborough, New Hampshire, and there's a lot of snow up there.

ALLEN GAMANS: Another point, too, that this will be on the back of the house.

CONSTANTINE ALEXANDER: Right.

ALLEN GAMANS: On the gable end. So snow doesn't come off that side of the house.

SHERRY MADDEN: Yeah. Definitely.

CONSTANTINE ALEXANDER: All right.

SHERRY MADDEN: So I just want to have a little bit more of a living space.

CONSTANTINE ALEXANDER: You're looking actually for a Special Permit, not a Variance?

SHERRY MADDEN: No, right.

CONSTANTINE ALEXANDER: Which is all to your benefit in terms of getting

relief.

SHERRY MADDEN: And we could have had -- the house, the room, you know, I really just wanted to have a room that's like a little family room. Like, my dining room's only eight feet by eleven. I've been sleeping in a little room, six feet by eight.

CONSTANTINE ALEXANDER: Is this going to be a three season room, is it? It's not going to be heated?

SHERRY MADDEN: No.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TAD HEUER: So the reason your FAR is -- you say you have 1,000 square feet of living space, but you're at 1500. Is that because your basement was counted?

ALLEN GAMANS: It is counted.

SHERRY MADDEN: Oh, is that right? Yeah. But it's not really a finished basement or anything. I don't think I got

taxed on it.

ALLEN GAMANS: The basement, it's ceiling heights.

TAD HEUER: Yes. That's fine.

SHERRY MADDEN: It's really not liveable. In fact, I thought well, maybe I should like redo the basement. But A, I had a water problem I had to take care of. And a couple times the sewerage backed up. So I says I don't really want to spend a lot of money on the basement if it's going to have a problem later on. It's not going to be so nice. So, you know, I said well, that's not really liveable space. I need just a little bit of space in my backyard. I want to go out, look at the snow, you know.

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

(No Response.)

CONSTANTINE ALEXANDER: Is there

anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair will note no one expresses a desire to be heard.

When you have a chance, when you're all through, Mahmood, I should read the letters in the file into the record. I thought there was a letter of support. I know there was one. I don't know what happened to it.

There is a letter in the file from Ann -- can you spell the last name? Emptons (phonetic). There's no address given. "To Whom It May Concern: I have no problem with Sherry Madden building the conservatory on the rear part of her house. Any questions, I could be reached at...." And it gives a phone number.

SHERRY MADDEN: I wonder who it is.

CONSTANTINE ALEXANDER: It's a

handwritten note so I can't.

SHERRY MADDEN: Where does it say?

TAD HEUER: Mr. John Tennis?

SHERRY MADDEN: No.

CONSTANTINE ALEXANDER: Ann Tennis,  
T-e-n-n-i-s.

SHERRY MADDEN: Yeah, yeah.

CONSTANTINE ALEXANDER: Who resides  
apparently at 71 Griswold Street.

SHERRY MADDEN: Oh, okay. Yeah,  
because they saw the sign.

CONSTANTINE ALEXANDER: The Chair  
moves that a Special Permit be granted to the  
Petitioner on the grounds that traffic will  
not be -- the proposed conservatory would not  
affect traffic or patterns of access or  
egress and would not cause congestion, hazard  
or substantial change in established  
neighborhood character.

That the continued operation of  
adjacent uses will not be adversely affected

by the nature of what you're proposing.

That this structure will not create nuisance or hazard to the detriment of the health, safety and/or welfare of the occupant or the citizens of the city.

And that the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this Ordinance.

The proposal being to add a modest three season conservatory to the rear of the structure and to create additional living space for the owner of the structure.

On the basis of this, the Chair moves that a Special Permit be granted to the Petitioner on the grounds that the one-story glass conservatory will have the dimensions and the siding as indicated on the plans submitted by the Petitioner and initialed by the Chair.

All those in favor of granting the



Special Permit, say "Aye."

(Aye.)

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

SHERRY MADDEN: Thanks.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht.)

(8:45 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10006, 13 Regent Street. Is there anyone here wishing to be heard on this matter?

THOMAS DOWNER: Yes, thank you.

CONSTANTINE ALEXANDER: As you probably heard for the record, you have to give your name and address to the stenographer.

THOMAS DOWNER: Good evening. My name is Thomas Downer. I, with my wife Rosemary, we own the property at 13 Regent Street in Cambridge. I'm also an architect so I prepared these drawings.

CONSTANTINE ALEXANDER: Those are not the drawings that are in our file.

THOMAS DOWNER: I just blew up the site plan just to make it a little easier to see.

CONSTANTINE ALEXANDER: It's the same plan?

THOMAS DOWNER: It's the same site plan.

CONSTANTINE ALEXANDER: Why don't you hand those out to us anyway. Is there one more?

THOMAS DOWNER: I was going to keep that for myself, but that's okay. I'm familiar with them.

CONSTANTINE ALEXANDER: We'll share.

THOMAS DOWNER: The house we have is 130-year-old house, you know, in an undersized lot. It's non-conforming in a number of ways: Side yard, floor area.

Primarily the floor area and the location of the side yard.

The house currently has a first floor deck on the back of the house. We are currently living on the first floor, and we intend to renovate the second floor and move up there and we would like to have a second floor deck.

CONSTANTINE ALEXANDER: This is a single-family house?

THOMAS DOWNER: It's a two-family house.

CONSTANTINE ALEXANDER: Okay. Where's the other family? Are they on the other side? Do they have a deck on the back as well?

THOMAS DOWNER: No. It's the first floor -- the family unit on the first floor. Second unit is above.

CONSTANTINE ALEXANDER: You're going to move to the second floor?

THOMAS DOWNER: We're going to move from the first floor to the second floor. There's nobody currently up there now.

CONSTANTINE ALEXANDER: You're going to make it a one-family house?

THOMAS DOWNER: No. We're moving upstairs and then we'll have the first floor to rent.

CONSTANTINE ALEXANDER: Oh, okay. I'm sorry. I'm a little bit dense. I get it now.

And on the second floor you want a deck?

THOMAS DOWNER: And we would like to have the deck on the second floor since the deck that we're currently using, it would be somewhat removed from the backyard that we do have. And under a more recent interpretation than I had gotten much earlier, by building one deck over another deck, it's now considered floor area. And because the house is already exceeding the

FAR, I need a -- I'm looking for a Variance.

CONSTANTINE ALEXANDER: Right now you're at 0.69. And with this deck -- just reading from your dimensional form, you're going to 0.73 and the district has got a max of 0.5. So you're going to increase your non-conformance in FAR by --

THOMAS DOWNER: That's correct.

CONSTANTINE ALEXANDER: Okay.

THOMAS DOWNER: And the second issue is in order to get egress from that -- a second means of egress from that second floor from that deck, I'd like to locate the stair along the side yard closer than the seven and a half feet. And this is the side yard that we're looking at. We're next to a commercial property, and our house is like three feet. We're just a little over three feet from that property line. It's not a particularly beautiful view. Anything we can do to screen that off is an improvement as far as we're

concerned. It makes a lot of sense for the stair to be over there in order to keep as much of the view to the -- for the first floor deck as well.

And then the third issue is a Special Permit for a window that was on the second floor in this approximate location that has been relocated further down. And it's also within that seven and a half foot --

CONSTANTINE ALEXANDER: And that window faces toward the back of the commercial structure?

THOMAS DOWNER: That's correct. It faces towards that parking lot. It's basically the same size window. It's about ten feet further down the wall. And those are the three issues.

CONSTANTINE ALEXANDER: And your hardship is?

THOMAS DOWNER: Well, it's an undersized lot. I mean, it was -- the house

has never been -- as I understand it, conforming since original Zoning.

CONSTANTINE ALEXANDER: And you need additional -- given the nature, you need additional outdoor living space which the deck will provide.

THOMAS DOWNER: That's correct. And I'm happy to have a condition that, you know, we can't enclose it, the first floor or whatever and make it, you know, an enclosed space because it's not something we intend.

CONSTANTINE ALEXANDER: We wouldn't have to condition it. You would have to come back before us anyway.

THOMAS DOWNER: As I said, I didn't understand -- as I said -- they're both going to be decks. So....

CONSTANTINE ALEXANDER: Questions from --

THOMAS DOWNER: I also spoke -- sorry. I spoke to both the neighbor



who owns the culinary school, which is the parking lot, and they have no objection. I spoke to my neighbor on the other side, and they have absolutely no objection. I spoke to my neighbor who is behind and sees it from the rear, and he's had no objection on it.

CONSTANTINE ALEXANDER: You're in a residential district, though, aren't you?

THOMAS DOWNER: Yes.

CONSTANTINE ALEXANDER: And I assume the cooking school is in a business district?

THOMAS DOWNER: Yes.

CONSTANTINE ALEXANDER: You're right on the district line in other words?

THOMAS DOWNER: On the district line, yes.

CONSTANTINE ALEXANDER: Questions from members of the Board?

THOMAS SCOTT: Is this creating a second means of egress for the second floor?

THOMAS DOWNER: Well, there is currently a second means now. But in order for the renovations that we're looking to do and make the kitchen work and function, I would like to move that stair out of there and make this be the second means of egress.

THOMAS SCOTT: This be the second. Okay.

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

(No Response.)

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

The Chair further notes there appear to be no letters in the file one way or the other with regard to interested parties.

I'll give members of the Board some more time to study the plans and the photos. And if anybody has a question or a comment, go right ahead.

TAD HEUER: How big is the deck -- are they just -- are you putting your second story deck directly over your first story deck?

THOMAS DOWNER: It's slightly further down the side, but it extends the same distance.

TAD HEUER: Out?

THOMAS DOWNER: Yes.

This is the first floor deck is here currently, and the second floor deck is basically over that, that deck there. And it sticks out a little bit here in order to get to where the door will be.

TAD HEUER: Right.

THOMAS DOWNER: So, you can see the deck here.

TAD HEUER: Right.

THOMAS DOWNER: And this is extending.

TAD HEUER: Just out of curiosity

what's the broken pediment?

THOMAS DOWNER: It used to be a two-story addition that was only that wide, and it was the porch I believe that was enclosed many, many, many, many, many years ago as an extra room apparently. For whatever reason, that's what they did with the roof.

CONSTANTINE ALEXANDER: Ready for a vote? We'll take the Variance first.

The Chair moves that the Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being that the Petitioner is in need of additional outdoor space given the location of the structure and the lot. And cannot get that except through the second floor deck.

That the hardship is owing to

circumstances relating to the nature of the structure and the lot -- it's an undersized lot, non-conforming lot and a non-conforming structure, so any modification of the structure would require Zoning relief.

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

In fact, what is being proposed is to really upgrade the nature and inhabitability of the structure by providing additional outdoor space on the second floor and a better means of egress particularly on the side of the house screening this residential property from a nearby commercial property.

On the basis of these findings, the Chair moves that a Variance being granted the Petitioner on the grounds that the work proceed in accordance with plans submitted by the Petitioner numbered A1, A2, A3 and A4, the

first page of which has been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht.)

CONSTANTINE ALEXANDER: Now for the Special Permit with regard to relocating a window.

The Chair moves that a Special Permit be granted to the Petitioner to relocate a window on the grounds that the relocation will not impact traffic or patterns of egress to the structure causing congestion, hazard or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected

by the nature of the proposed use.

What is being proposed is to take one window that faces the back of a commercial structure and moving it to a different location on the same side of the house.

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

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

In fact, what is being proposed here is to relocate one window from one portion of the wall to a different portion of the wall.

On the basis of this, a Special Permit would be granted on the basis that with regard to this relocation of the window, the work proceed in accordance with the plans

identified in connection with granting the Variance.

TAD HEUER: I have a question.

CONSTANTINE ALEXANDER: Sure.

TAD HEUER: On the rear elevation, it looks like three casement windows, are those being heightened?

THOMAS DOWNER: Yes.

TAD HEUER: They are?

THOMAS DOWNER: That's not within the --

TAD HEUER: Right. Not within the setback. Fine, thanks.

CONSTANTINE ALEXANDER: So all those in favor of granting the Special Permit -- you want more time?

THOMAS SCOTT: I'm just looking at something.

CONSTANTINE ALEXANDER: I'll wait.

THOMAS SCOTT: All set.

CONSTANTINE ALEXANDER: All set?



THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Okay. The motion has been made on the basis so moved. All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted. Thank you very much.

BRENDAN SULLIVAN: I noticed you're using five by five parallams. Now, are you going to cover those?

THOMAS DOWNER: I hope not. They're pressure treated.

BRENDAN SULLIVAN: Yes, I know. They'll be okay?

THOMAS DOWNER: My understanding is yes, they were intended to be left exposed. They could be -- I'll stain them.

BRENDAN SULLIVAN: You can leave them the way they are? I've used them inside, I've never used them outside. I

mean, they'll hold up to anything.

THOMAS DOWNER: Yeah. I was looking for something I didn't have to encase and, you know, try to keep --

BRENDAN SULLIVAN: I guess they should stay pretty stable.

THOMAS DOWNER: That's, again, my understanding is that they're used all over the country.

BRENDAN SULLIVAN: We use them inside but I've never, you know....

THOMAS DOWNER: They're specifically made for a pressure treated version.

BRENDAN SULLIVAN: Sorry. I didn't mean to digress.

CONSTANTINE ALEXANDER: That's okay.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht.)

(9:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10004, 169-171 Windsor Street. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one has appeared for this case and we've received no communication as to why no one's here on behalf of this case. So the Chair would propose to continue this case

until seven p.m. on October 28th.

SEAN O'GRADY: That's correct.

CONSTANTINE ALEXANDER: Well, on the condition that the Petitioner modify the sign on the premises to indicate both the new date and time for this hearing. This being a case not heard.

SEAN O'GRADY: I was just wondering whether we should put the language with the waiver and the posting by tomorrow. I guess that doesn't have to be in this -- okay. I'm sorry.

CONSTANTINE ALEXANDER: I don't think we need to have -- I'd be happy to put it in. We don't need the waiver for the time for decision because we have time. Okay.

All those in favor of continuing the case until October 28th say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case continued.

(Alexander, Sullivan, Heuer, Scott,  
Firouzbakht.)

(9:00 p.m.)

(Sitting Members: Constantine Alexander,  
Brendan Sullivan, Tad Heuer, Thomas Scott,  
Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 10007, 135 Magazine  
Street. Is there anyone here wishing to be  
heard on this matter?

Good evening.

ATTORNEY JAMES RAFFERTY: Good  
evening, Mr. Chairman, members of the Board.  
For the record, my name is James Rafferty.  
I'm an attorney with the law firm of Adams and  
Rafferty located at 130 Bishop Allen Drive,

Cambridge. I'm appearing this evening on behalf of the Applicants, Cameron and Michelle Hicks. Mr. and Mrs. Hicks are seated to my left. And the project architect is Robert Trumbour, T-r-u-m-b-o-u-r.

ROBERT TRUMBOUR: Yes, correct.

CONSTANTINE ALEXANDER: You want a Variance and a Special Permit tonight?

ATTORNEY JAMES RAFFERTY: That's correct. It's fitting on a night where you have a case load. This may be one of the lighter cases you've seen in a while.

CONSTANTINE ALEXANDER: We'll decide that.

ATTORNEY JAMES RAFFERTY: True, true. They initially thought they could get through this without a lawyer, but they quickly came to the realization there's so many vexing Zoning issues with this case that they dare not attempt it on their own.

CONSTANTINE ALEXANDER: I'm not

going to comment.

ATTORNEY JAMES RAFFERTY: It was so easy they chose to hire me. We'll leave it at that.

But at any rate, this is an interesting case. It's a two-family house for which the Hickses are looking to convert it to a single-family house. They live in the neighborhood currently. They live on Brookline Street. They have three children, two of whom attend the Moore School. The third one will be doing so in the near future. And the property is appealing to them. It's a good size in a good neighborhood and a good location. They're making a few modest changes to the house. The interesting thing about the changes is that it will actually result in a net reduction in the existing amount of gross floor area. They're here, however, because the property is non-conforming in a couple of aspects. But

some of the things they'll be doing will actually make it conforming. In a Zoning District in which they're located the lot area of the dwelling unit because the lot is less than the 5,000 square feet is actually non-conforming. When they change this to a single-family, it will become conforming.

Similarly there's a one-story rear porch on the property now which encroaches into the rear setback. The Hicks's proposal is to remove the porch, replace it with a deck. The deck would be less than four feet in height so, therefore, it will not exceed the setback violations. So the rear setback will become conforming as a result of their move.

Probably one of the most significant changes they're doing is a modest addition to the third floor of the house. They're installing a dormer which would result in approximately 100 square feet on the third



floor, but it does give enough circulation on the third floor to make it liveable for an additional bedroom and for use for this growing family. So that's probably the single biggest move.

On the side of the house that faces the driveway, they're putting in some projecting bay windows that will actually accommodate a stairway. The house in its current configuration is a two-family house. It has a stairway that is, as you might imagine, is not connected interior-wise. It's a traditional stairway that goes from the front porch up. So the design that Mr. Trumbour has come up makes the stairway a little more central to the floor plan of the house. And the place that it would best be accommodated is in the center of the house in this new projecting bay window area.

And finally, there are some alterations to the fenestration along a non-conforming

wall. That non-conforming wall is non-conforming by a couple of feet. As a result, they've applied also for a Special Permit to allow for that addition or change or alteration in the fenestration. It's interesting to note that there's minimal privacy impact given the way that these windows are situated.

And finally, there is in the location where the rear porch is now, the Hicks's proposal is to include this deck. The deck, however -- there's a portion of the deck that it extends into the rear setback, but because it's coming off a wall that is non-conforming, it does not qualify for the setback exception that allows one -- the Board is well aware of the setback exception that says you can go 10 feet beyond the foundation wall on a conforming wall.

So, the effect here is that this -- as you look at the site plan, this deck extends

about three feet off the existing non-conforming wall in the direction of the side abutter.

There is a letter of support from that abutter with regard to the windows. And I believe that represents everything. But as I said, in nearly every dimensional criteria these changes actually result in a reduction in what's currently present both in lot area, GFA and setback.

CONSTANTINE ALEXANDER: What's the hardship?

ATTORNEY JAMES RAFFERTY: The hardship really is involved -- it's a modest hardship because it's a modest change. It's really -- change is being made to convert a two-family house into a single-family. It's largely located, involved with the location of the new interior stairway to provide for the circulation and to take advantage of the roof -- the third floor attic area. That

square footage in the attic is only 100 square feet. So it's a rather modest GFA request.

The counter-balancing amenity is a reduction of some three or four hundred square feet with the removal of the rear porch and some other elements --

CONSTANTINE ALEXANDER: So to convert this from a two-family to a single-family, the work you need to do required -- necessary, and that generates a hardship because unless we allow you to do that work, you can't convert from the two-family to a one-family?

ATTORNEY JAMES RAFFERTY:  
Essentially in a manner that is conducive to the type of family living that they are desirous of achieving. They're taking space that's currently on the ground floor in a non-conforming setback and relocating only about a portion of it to the third floor. And the dormer that meets the dormer guidelines

and that is very tastefully integrated into the new design. The house itself is of an older vintage so some of Mr. Trumbour's elements may give it a new life and a new design feature.

BRENDAN SULLIVAN: Which dormer conforms to the dormer guidelines?

ATTORNEY JAMES RAFFERTY: The dormer that's being proposed. The one in the front.

BRENDAN SULLIVAN: Okay. And what about the side?

ATTORNEY JAMES RAFFERTY: The side dormer doesn't have the look of a conventional dormer. It's the dormer that's --

TAD HEUER: It's kind of interesting, isn't it?

ATTORNEY JAMES RAFFERTY: Yes. In fact, when I first looked at it, I didn't regard it as a dormer. I thought it was more

of a projecting bay than a dormer. And I think it takes its cue from the two elements on the first and second floor. It's a somewhat of a three-story massing -- it is a conforming wall, so the relief on that is --

BRENDAN SULLIVAN: You may have to pull a rabbit out of your hat on that one.

ATTORNEY JAMES RAFFERTY: Well, no, no. I agree the dormer guidelines with regard to that level. But the square footage on that piece of the -- that's a conforming wall. So the square footage created by that is in the 15 foot, 12 to 15 foot range. It's not a considerable amount of square footage. The vast majority of the square footage is occurring in the dormer in the front of the house. Where the roof is being lifted there. So, it's within the height limit. And I do think, and I'll let Mr. Trumbour speak to it. I think it's more of a three-story projecting bay window as opposed to a dormer.

ROBERT TRUMBOUR: Right. It breaks the -- it breaks the top of the roof line.

BRENDAN SULLIVAN: That's exactly what they're saying. If I could have that back. I mean, you've seen this?

ROBERT TRUMBOUR: Yes.

BRENDAN SULLIVAN: And that's exactly what they're saying that they discourage.

ROBERT TRUMBOUR: Well, I would agree with what you're saying, that it's -- the difference between whether or not it's a bay, a projected bay or a dormer. In this case because it starts below and then rises up, it's essentially, I would say, a combination between the two. Both a bay and a dormer because --

TAD HEUER: Well, it can't be a combination of the two, right? Because you're asking to have your cake and eat it, too. You're saying to the extent that it's

a dormer above the top of the roof line, it should be a dormer. To the extent it's below, it should be a bay window. And together, a bay window should be able to extend to become a dormer. A dormer should be able to drop down below and become a bay window, therefore, there's no problem.

Isn't there a problem with both of them?

Because I mean, I'm looking at -- I don't know if this is a window. It must be a window, L, that breaks the soffit. Like, the L runs right through the roof line. I mean, it's not even as though we have a dormer that's attached to a bay window below. And you say well, okay, that roof line is what cuts one off and makes one and makes the other the other. You're smack in the middle of the roof.

ROBERT TRUMBOUR: Right. Well, the reason why we did that was in order to pull some additional light up into that space that



we're opening up on the third floor in the attic. So that's why we did break it as we did. To provide additional --

TAD HEUER: You broke it at a floor level I presume, right? Is there a floor below L?

MICHELLE HICKS: That's a whole stairwell. That's natural light going into -- bringing natural light into the entire house basically.

ATTORNEY JAMES RAFFERTY: You can see it in the floor plan.

MICHELLE HICKS: First floor and the second floor and the third floor. That's the stair. Those windows correspond with the staircase and no bedrooms or floors or anything.

ATTORNEY JAMES RAFFERTY: Right where your left hand -- right. So you can see where it projects from the -- so, it's a conscious effort to create this bay so the

stairway does project beyond the plane of the house in that location. And the third floor element of -- just continues that relationship between existing wall plane and the stair.

As you can see from the plan, it doesn't provide floor area. So it's very much an aesthetic design feature. It's not an attempt to --

CONSTANTINE ALEXANDER: But maybe one that has a technical violation of our dormer guidelines.

THOMAS SCOTT: The landing at that level is bigger than it needs to be. But I guess the question is why do we have to interrupt the eave of the house?

ATTORNEY JAMES RAFFERTY: It was a conscious design decision to do that. But my point is I don't think penetrating the eave of the wall in and of itself would require relief. It just so happens that in this case

the -- we're within the setback and we're not -- we're -- the net change in GFA is still below. So I think there was some sense that while the GFA is -- this represents GFA. It's a small portion of GFA, and it's offset by the reductions with the other changes in the house. But there's no question it's -- when I was referring to the dormer guidelines, I was clearly referring to the front dormer because that's an honest to goodness dormer that's creating floor area in the attic. If you look at the third floor attic plan, you'll see how that dormer is providing that function which is the typical function you see in dormers. This is an attempt I'm guessing to have a bit of a dramatic light-filled stairway that --

ROBERT TRUMBOUR: Right. Where you can borrow some light from that space into the upper attic space.

BRENDAN SULLIVAN: Is sheet A10 is

that -- well, I guess what I'm looking for is the existing floor plan. Do we have an existing floor plan?

ROBERT TRUMBOUR: There's not an existing floor plan in that set.

MICHELLE HICKS: The existing floor plan -- there's a staircase running up.

ATTORNEY JAMES RAFFERTY: Yes. This is a vestibule. That's into the first floor, and the stairway goes up to the second floor.

MICHELLE HICKS: And the existing house actually has a porch, covered porch right here.

BRENDAN SULLIVAN: What I'm looking at is this is a proposed staircase?

ATTORNEY JAMES RAFFERTY: Correct.

ROBERT TRUMBOUR: That's correct. The dashed information is existing, that would be removed.

MICHELLE HICKS: This is the

existing right here.

TAD HEUER: Is there an up there right now?

ROBERT TRUMBOUR: No.

MICHELLE HICKS: There's nothing.

ATTORNEY JAMES RAFFERTY: No, no. It's two separate units.

TAD HEUER: Yes, I understand. But it looks like there's an up there right now. It's not dotted.

ATTORNEY JAMES RAFFERTY: No. What's dotted is existing. It's kind of unusual.

THOMAS SCOTT: That's proposed.

BRENDAN SULLIVAN: And then at the second level then you're bumping it out?

ATTORNEY JAMES RAFFERTY: Yes.

ROBERT TRUMBOUR: That's correct.

ATTORNEY JAMES RAFFERTY: And the bump out continues up to the third floor.

BRENDAN SULLIVAN: So why this

staircase just continue all the way up. And why do we --

THOMAS SCOTT: Does it have to bump out?

BRENDAN SULLIVAN: Why does it have to bump out?

THOMAS SCOTT: Why can't you put a traditional dormer on the third floor level and achieve what you're trying to achieve which is get some natural light into that space with the traditional dormer, that's the question? As opposed to creating this thing, that soffit at the eave of the house.

BRENDAN SULLIVAN: I mean, that's one element that really troubles me.

CAMERON HICKS: How far from the edge of the roof does a traditional dormer have to be? It can't be right at the edge?

ROBERT TRUMBOUR: Well, in the guidelines it will tell you that it needs to be setback or not put in the eave line of the

existing roof. Push it back like one foot six like we did on the front on the straight elevation.

CAMERON HICKS: Okay. So if we brought it back that far, you wouldn't be over the entire stairway. We were talking it was a traditional dormer.

CONSTANTINE ALEXANDER: You don't have to tell us. I'm just saying for the record.

ATTORNEY JAMES RAFFERTY: I think it's fair to say that these are design features which in most cases have little or no impact of GFA on a conforming wall. And it's a desire to have the stairway feed into the main portion of the house rather than the out in the front. And it does have a feature that as you get to the second floor and third floor, has vestiges of a bay window. So stylistically it is intended to be appealing and functional. But if it's -- and I think

the dimensional implications of it are quite, quite modest.

MICHELLE HICKS: The idea is to allow a lot of natural light into the house and also make it flow. The kids' bedrooms and our bedroom are downstairs.

CONSTANTINE ALEXANDER: I think what you're hearing from other members of the Board is you can get the natural light and also in a different design, and that design would comply with our dormer guidelines. As Mr. Rafferty pointed out, it's a design feature that's troubling members of the Board as I hear it.

MICHELLE HICKS: So does it actually violate it or is it just a --

CONSTANTINE ALEXANDER: You're seeking relief generally from us. And you know, we look at the whole, a wholistic set of plans in discussing design features. I think what's troubling for the members of the



Board they may not be interested in voting for the dimensional relief that you're seeking. Better design, better in the opinion of the Board members.

CAMERON HICKS: I guess my question to the architect that was mumbled over here was in a traditional dormer, it sounds to me like that's setback from the edge of the roof line, even from the edge of the house itself. So the roof line carries a foot or two over that, we're talking several feet in from there. That's a difference of four feet. And I would, you know, just say that you would accomplish the same thing with that sort of an opening below it. I don't think we would be. I think we would be getting much more light if it was extended further out with the skylights above it, that sort of thing. And I think we're getting a lot more lighting in that way.

CONSTANTINE ALEXANDER: Tom, you

have reaction to that?

THOMAS SCOTT: There's no requirement to do your design for headroom, right? You still achieve the headroom.

ROBERT TRUMBOUR: Right. I think it's clear -- well, I should say, it is a design -- it's a design issue. It's a design issue feature, you know. But you can't say the dormer is solving a hardship. I mean, if you can pull the wall back and you get daylight in.

CAMERON HICKS: Not as much.

ATTORNEY JAMES RAFFERTY: Well, you could say it. But an architect couldn't a lawyer could.

ROBERT TRUMBOUR: The idea -- the space on the third floor is a family space. It's not a second apartment. It's not a private bedroom. The idea to try and make it connected, a noticeable connection of space from the first floor up to the second floor

to the third floor. So if they have family members staying, the kids are up there, it's a swing space. It's not meant to be just a bedroom.

The wall that opens up into the stair is meant to be opened. So with sliding panels so you can actually see, it becomes a railing into that space. So as much light as we can get into a third floor, the better. And it's not uncommon to see a bay window projected out anywhere.

ATTORNEY JAMES RAFFERTY: It's consistent with the recent adoptions to the Ordinance under Article 24 Green Buildings and you're encouraged to have solar installations and look for ways. So I'm sure there's an energy benefit in terms of creating light coming into the house with this.

CAMERON HICKS: Save us on heating bills?

CONSTANTINE ALEXANDER: Nice try.

ATTORNEY JAMES RAFFERTY: It's true, though.

MICHELLE HICKS: It is true. We, you know, we were very thoughtful about what house we were looking for. We've been looking for three years. We have the exact same exposure where we are in Brookline Street, but it's a much more narrow street and there's triple deckers across the street from us. So we only get that natural light in on the second and third floors. And we truly believe in the idea that the more light you can let into a home, the less you have to use electricity and the less you have to heat it. I mean, that's the reality of it when you're putting new windows in and new siding in. It really does work. So, that was very much a part of our thought process. It is a design feature that the house is a rectangle. There's really nothing

interesting -- architecturally interesting about it. So what we're trying to do is just create some interesting elements to it. And doing that also just adding that natural light. There's the aesthetic, but then there's also the element of having the, you know, the additional windows. Because you do get that great sun coming up in the morning and then the great sun going down in the afternoon.

And so as you can see on the elevations, we tried to preserve the privacy to the two sides of the house by not adding a ton of windows there. Because we also don't get the sun as much. But the front and the back of the house we're trying to maximize that. But the way we can achieve it in the middle is with the skylights and kind of bringing out the windows. So, that was our thought.

ATTORNEY JAMES RAFFERTY: I must confess when I met with the Hicks and I

received their design, I did believe that the Board might -- understand the guidelines, but might take recognition of the fact that we are talking at the end of the day a reduction in GFA here. So, and it is a feature that tries to take a rather ordinary house and give it a little bit of modern aesthetic. And I frankly hadn't anticipated the dormer issue. It's certainly within the guidelines but I think it's an attempt to -- I don't think it's trying to be a dormer. I think it's trying to be an extension of a bay window. And I applaud Mr. Trumbour. It's not that the stairway couldn't be accommodated or the access into the attic couldn't be accommodated in a different configuration. This particular configuration is preferred and it is occurring on a wall that conforms and -- against the driveway of which the abutter supports it. And so, but I guess the question is whether --

THOMAS SCOTT: Is that the true north elevation of the house, that facing north?

ROBERT TRUMBOUR: It's not due north but it's north-ish. So, we tried to get as much ambient light as we can. It's not going to be direct light.

CAMERON HICKS: There's a sketch.  
(Handing document.)

MICHELLE HICKS: And I'll also point out again when we looked at the house, the back porch that's on there, our first thought was to take it down so we could have more green space. And again, more light to come into the back of the house. I mean, that's a huge structure that was added to the building. And it's not, it's not that nice to look at. And we hope that our neighbors would appreciate that we would actually be taking that off completely.

So, we're not trying to do anything

extreme, but if anything, we're trying to create more green space in Cambridgeport which there isn't a lot of.

MAHMOOD FIROUZBAKHT: What's the visibility of the bay, I guess, from the public street? Would be Magazine Street that would be most visible from?

CAMERON HICKS: It's --

ATTORNEY JAMES RAFFERTY: It's a couple --

ROBERT TRUMBOUR: Two foot projection.

ATTORNEY JAMES RAFFERTY: It can't be seen from Magazine Street.

MAHMOOD FIROUZBAKHT: Where can it be seen from, from the public way?

CAMERON HICKS: Well, yes, from Magazine Street.

MICHELLE HICKS: If you're looking at it from the house, you can see it two feet.

CAMERON HICKS: You can see it in



profile, yeah.

TAD HEUER: Well, notwithstanding, I mean, if you're coming down Magazine Street, can you see it obliquely?

CAMERON HICKS: I think the place next to us is much bigger and it comes closer to the street.

MICHELLE HICKS: Yeah, the place next to us is a tall triple decker. It's not exposed.

ROBERT TRUMBOUR: I don't think you would see it until you're, you know, on it.

MAHMOOD FIROUZBAKHT: You would see it more as a profile than head on?

MICHELLE HICKS: Exactly. You wouldn't see it head on at all.

ATTORNEY JAMES RAFFERTY: Right. The abutting house. That's what I was saying. The abutting house. You never see that elevation from the public way.

MAHMOOD FIROUZBAKHT: Right.

Profile of it.

ATTORNEY JAMES RAFFERTY: Profile.

CONSTANTINE ALEXANDER: If I can try to encapsulate where we are right now. I think what I'm hearing and what I'm sensing is that there is no -- I think the Board is supportive of granting relief. But the Board is troubled -- some members of the Board at least are troubled by the design features and might be more interested in granting the relief if the design were different with regard to this bay window dormer specifically. I don't think I heard any unique problems with anything else. And the question is -- sorry?

TAD HEUER: Later.

CONSTANTINE ALEXANDER: Okay. And the question is do we have to take a vote. I suspect we don't want to turn this thing down because of design features without giving you an opportunity to reconsider the design. So

I think what you'd like to ask from us and I think I'm going to try to squeeze out from members of the Board. Are you disposed to require them to come back with revised plans before taking a vote continuing the case or not? Or have you heard their explanations and satisfied that we can go forward with plans as proposed? I mean, I think in fairness we should give some indication.

ATTORNEY JAMES RAFFERTY: That would be helpful. Thank you.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY JAMES RAFFERTY: I said that would be very helpful. Thank you. It would seem to me if the thinking was that the projecting bay at the second floor was appropriate, but the relationship between that bay as it goes up to the third floor is such deviation from the dormer guidelines, it didn't have adequate support, I would think there would be enough direction for the

architect to make an adjustment. But if there was -- the guidelines are the guidelines as opposed to the Ordinance. It would be helpful to get a sense as to whether this is something that could be -- that needs to be amended or whether it was adequate.

CONSTANTINE ALEXANDER: Speaking only for myself, I'm prepared to vote for the proposal as submitted tonight. I hear and I appreciate and I defer to my colleagues on the design issues. But I would not go so far as to require you to redesign the structure. That's just one person.

MAHMOOD FIROUZBAKHT: I would concur with that viewpoint. I think there's, you know, benefits to this design element, you know, increasing the light and bringing that into the attic space. I certainly think there are benefits to that. And I think the down sides and not necessarily meeting all of the dormer guidelines are not

so injurious to justify turning this proposal down or requiring a redesign. And I think it's a unique design element that's maybe difficult to sort of work within the pegs of the dormer guidelines. And I -- frankly I like the design feature. So I can appreciate that.

ROBERT TRUMBOUR: Can I make one comment?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: It might be helpful if we heard from the Board first.

ROBERT TRUMBOUR: Okay.

CONSTANTINE ALEXANDER: If there are -- let's try it a different way. If there are two members that would like to see a redesign --

ATTORNEY JAMES RAFFERTY: Very well put.

CONSTANTINE ALEXANDER: I think we should, you know, get it on the table.

TAD HEUER: I think it's too harsh over the excess. It drops out well through the soffit. I prefer to see revised scheme that has standardized dormer on if they're looking for light on the third floor is perhaps bays on the second and third, but to sit soffit and don't have a kind of large packed-on feature when looking at the profile on the west elevations so it look like the back I presume the east elevation and the side on the front. It looks like something that's been tacked on to the roof. It runs very wide against the front of the house, and I just think there are other ways it could be achieved. I don't see a hardship. Particularly whereas the landing is sufficient in order to allow access up and down on a proposed stairway without creating safety hazard. I'm not convinced that there's a hardship with this particular feature where other features could achieve

fairly similar purposes with less impact on the neighborhood.

CONSTANTINE ALEXANDER: Other members concur or join with Tad?

THOMAS SCOTT: I'm on the fence. I think the design is really not a departing from the traditional nature of the house. So, because the design is kind of leaning in a different direction in the way the house is presented today, then this particular element is somewhat conforming to that more modern kind of look. So, I'm a little on the fence, and I'm not quite sure, if I was forced to vote, I'm not sure which way I would go at this point.

CONSTANTINE ALEXANDER: Brandon, do you have any views?

BRENDAN SULLIVAN: Well, I'm troubled by -- I'm not enamored by it at all and I studied it twice. And yet I guess what I'm asking myself is what is the alternative?

I'm not sure if the bays will be totally necessary, because I think it's creating a much grander staircase. Albeit very nice one. But it's the relationship of those bays and the dormer, and yet I'm not sure -- I don't have the answer, of if we were to put in the bays and then conform with the dormer guidelines or at least go in the direction of the dormer guidelines and not break up that plane, what the alternative would look like. I'm not sure what the alternative is.

CONSTANTINE ALEXANDER: Well, back to my summarization -- go ahead.

BRENDAN SULLIVAN: If the word I would probably be not inclined.

CONSTANTINE ALEXANDER: So we have two. And I think the head count is two -- one, two. Two probably would support the plans as proposed, one definitely would not, and we have two on the fence. One of those two on the fence might be enough to



torpedo this. So I would suggest you continue this case as a case heard and you can rethink -- based on the comments you've heard tonight rethink the design.

ATTORNEY JAMES RAFFERTY: I'm sorry, Mr. Trumbour, did you want to say something?

ROBERT TRUMBOUR: Yeah. The only comment I wanted to make was that the clients Michelle and Cameron are interested in a house that has some contemporary feel but fits in with the neighborhood. So the decision to create the dormer on the driveway side and do something different on that side, that amenity does not completely conform to the guidelines in that regard of a traditional dormer. We chose to do it on that side and then put the dormer that is a more historical side dormer on the street side. So that is the street side and the view that you see more often. The dormer -- I

mean, and the bay on the driveway side is not something that's highly been visible from the street. So we thought if there are moments on the existing house that we can make a more contemporary feel, that that's the place to do it versus on the street side. So we were conscious of that in trying to come up with a sort of happy medium.

Cam and Michelle both said that they wanted a house that has something different to it, but at the same time wasn't, you know, in everybody's face as sort of strong contemporary attitude, but had a nicer feeling to the neighborhood.

ATTORNEY JAMES RAFFERTY: Well, I appreciate the opportunity. And that's helpful and I appreciate the chance. I think Mr. Sullivan has identified the issue and that is: Can you separate the bay from the dormer? And if the message is that the breaking of the roof line in the manner that

this does, it might suggest that that's hard to do. So that might cause them to have to revisit the whole bay concept which would be unfortunate from the Applicant's perspective because as Mr. Trumbour noted, there was an intent, if you look at the front elevation, the front entry, they're getting rid of the kind of a traditional, almost an after thought boxed vestibule in putting in some modernistic elements. And this is in keeping with trying to move the house in that genre, so....

CONSTANTINE ALEXANDER: Continuing the case, you know, it will give you a chance to rethink it. You've heard us. And also you can come back and say, listen, we've looked at every possible thing, and this is really the best design. That may be enough to get the necessary votes, it may not. But at least it gives you more opportunity to reflect. You're just reacting to what you

heard tonight and don't have a lot of time to think about it.

ATTORNEY JAMES RAFFERTY: I think given that this has been a very helpful exchange and Mr. O'Grady informs me that November 18th the case can be heard again. Doesn't feel like one of those cases given the hour that the amendment in the room next-door would probably achieve.

CONSTANTINE ALEXANDER: Well, you tell me. If you think you can do it -- you've only got about ten minutes.

ATTORNEY JAMES RAFFERTY: You only have one case left.

Do you think you could -- would you want to give this time to study it?

ROBERT TRUMBOUR: Well, I think it's unrealistic to think that I can come back in ten minutes and say I have a better idea --

ATTORNEY JAMES RAFFERTY: Right. You don't have another plan in your

briefcase, do you?

ROBERT TRUMBOUR: I don't.

ATTORNEY JAMES RAFFERTY: Well, then I think then as much as I'm sure like most Petitioners to get going and get started we would request that the matter -- we'd be allowed to continue to study it further and be able to --

CONSTANTINE ALEXANDER: On that same basis we'll continue the Special Permit portion of the case too. Might as well do it all the same time.

BRENDAN SULLIVAN: It doesn't have to be a full blown, you know, I mean, it's just really focusing in on that feature. Well, you've heard the comments. I'm not saying free hand, but on the same token, a little bit -- it doesn't have to be --

CONSTANTINE ALEXANDER: Is everyone available, by the way, on the Board for the 18th of November?

MAHMOOD FIROUZBAKHT: Yes.

ATTORNEY JAMES RAFFERTY: So my sense is that the direction here is there needs to be some effort given to see if a design achieving the same objectives could be arrived at that demonstrated greater conformity with the former guidelines or closer.

CONSTANTINE ALEXANDER: Sounds like that to me, but I'm not the one who is raising the objections.

TAD HEUER: Yes.

ATTORNEY JAMES RAFFERTY: Okay. Thank you for allowing me to state what I believed to be the charge here. Thank you.

MICHELLE HICKS: Just out the curiosity for the fence sitter. What --

TAD HEUER: It's more fence sitters.

ATTORNEY JAMES RAFFERTY: Yes. We need four votes by the way.

MICHELLE HICKS: Right.

CONSTANTINE ALEXANDER: Be careful what you say. Don't offend anybody.

MICHELLE HICKS: Oh, no. Not my intent.

ATTORNEY JAMES RAFFERTY: That's my job.

MICHELLE HICKS: You get paid to do that.

ATTORNEY JAMES RAFFERTY: It comes naturally.

MICHELLE HICKS: Okay. So there are two fence sitters and you just want to see a new -- another --

CONSTANTINE ALEXANDER: You should also address Mr. Heuer's comments as well. Don't ignore him.

MICHELLE HICKS: Right. I have a feeling he doesn't like our drawing at all.

ATTORNEY JAMES RAFFERTY: He's far more open minded than you give him credit for.

THOMAS SCOTT: I'm definitely not

opposed to the design. I think, you know, the direction it's gone in is this very specific direction and I get that. It's just that I think this one element, especially when you look at it from the front of the house, it really -- it looks like something really big that's growing out of the side of the house. It just looks a little overwhelming. And I think although you say it won't be visible from Magazine Street, I think the grand size of it will be or make it visible. So that's my contention.

TAD HEUER: I don't have difficulty with the bays. I don't have difficulty with the dormer. I have difficulty of this new conglomeration known as bay dormer which we don't really have much precedent for. I know everyone says the dormer guidelines are guidelines. At least one member of this Board, I tend to think the guidelines that have some relevance. I don't think they



should always be waived as other members of the Board not sitting here suggest. So I do think they have some reason for being otherwise we wouldn't have them.

ATTORNEY JAMES RAFFERTY: True.

TAD HEUER: And I like to see -- personally I'd like to see some effort to see whether that's possible.

ATTORNEY JAMES RAFFERTY: Understood. It's been a very helpful exchange. Appreciate it. And I imagine we'll get to work right away on this. Thank you very much.

CONSTANTINE ALEXANDER: Let me make the motion.

The Chair moves that this case be continued as a case heard until seven p.m. on November 18th on the conditions that the Petitioner sign a waiver for time for decision.

On the further condition that the sign

that's on the house now be modified with a magic marker to reflect the new date and time.

And the last condition to the extent that you're going to modify the plans that are now before us, those modified plans, as Mr. Rafferty knows, must be in our files no later than five p.m. on the Monday before November 18th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Heuer, Scott, Firouzbakht).

(9:40 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10008, 72 Chestnut Street. Is there anyone here wishing to be heard on this matter?

(A discussion was  
held off the record.)

CONSTANTINE ALEXANDER: Anyway.

WALTER WILLETT: Thanks. I'm  
Walter Willett, W-i-l-l-e-t-t. I live at 72  
Chestnut Street where we've been since 1977.

And the hardship here is a safety issue.

CONSTANTINE ALEXANDER: Why don't you just briefly describe what you want to do that creates the hardship?

WALTER WILLETT: Right. It's a pretty small change that we want to make. But basically there's a side entrance to our house which we use as the primary entrance, and also have a tenant, and that's the only entrance for the tenant. And the side porch has a roof over it except it ends right where the door comes out and so there's no roof over the porch or the steps that come down. And the problem is -- in fact, I realize the house is 140-years-old. This is a design flaw that I just realized after all of that time. That the -- in the winter when there's snow on the roof, the sun hits the snow up there and it melts and it comes down and the side porch is completely shaded by the house next-door. And so it's colder and the water coming down

because there's no roof there, hits the deck and the porch and freezes. And then it also runs down the steps and freezes on the steps. So it gets very icy. And it's particularly problematic because I can go out and chip it off and put down salt and have to come out half an hour later and the salt's been washed away and it's frozen again. And my wife has actually fallen several times there. Fortunately not seriously injured. In fact she's having major back surgery next week and falling can be a problem.

CONSTANTINE ALEXANDER: And so by extending the porch roof, which is what you want to do, to avoid this you're creating additional FAR a slight amount.

WALTER WILLETT: Right.

CONSTANTINE ALEXANDER: 52 square feet of FAR that you're adding to the house?

WALTER WILLETT: Right.

CONSTANTINE ALEXANDER: So you're

going from 1.17 to 1.18, and the district has got a max of 1.75.

WALTER WILLETT: Right. So it's, somewhere -- yeah, it does cover FAR, but I guess by covering the porch.

CONSTANTINE ALEXANDER: And the hardship obviously you identified the hardship being safety issues. Being able to use this entrance.

WALTER WILLETT: Right.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

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

(No Response.)

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

The Board is in receipt of one letter from Wayne Klug, K-1-u-g at 308 Brookline

Street. "Doctor Willett has been a valued neighbor for decades. I support his sensible request for a Variance in this matter."

WALTER WILLETT: That's nice.

CONSTANTINE ALEXANDER: And that's all she wrote.

THOMAS SCOTT: It's going to be architecturally to recreate all of the (inaudible) work?

WALTER WILLETT: Yes. Right. Exactly.

THOMAS SCOTT: Okay.

WALTER WILLETT: We've done, you know, a lot to try to maintain that very nice historic structure. In fact, we have a sign in the front of the building now as part of the Cambridgeport history week. That house was actually built by a builder and it was his wife's wedding present. So he put a lot of effort into making it really fine. And we're

only the third tenant. Third owner.

BRENDAN SULLIVAN: That makes it bad for the rest of us.

THOMAS SCOTT: Put that on the record.

WALTER WILLETT: So we're trying to keep it in good shape.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to this Petitioner.

Such hardship being is he would be unable to put a roof over the side porch, and under inclement weather makes the side porch and this entrance there dangerous to use.

That the hardship is owing to the fact that this is a non-conforming structure as it is. And that any modification to the



structure, including this addition of 52 square feet for the new roof requires Zoning relief.

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

In fact, what's being proposed is modest in nature. It is architecturally consistent with the structure as it now exists and that it will improve the safety of the citizens of the city who have to use this entrance to get in and out of the house.

So on the basis of the foregoing I move that a Variance be granted the Petitioner on the condition that the work proceed in accordance with plans submitted by the Petitioner prepared by Amy Munsat, M-u-n-s-a-t. They're dated August 28, 2010. There are 1, 2, 3, 4, 5, 6 pages. The first page of which has been initialed by the Chair.

All those in favor of granting the relief say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

WALTER WILLETT: Thank you.

CONSTANTINE ALEXANDER: Good luck.

WALTER WILLETT: So this process wise how do I go get the permit?

SEAN O'GRADY: You'll get a letter from us about a month or a month and a half. It will tell you what to do. Basically you're going to take the recorded decision, walk it around town and bring it back to me with the Building Permit application.

CONSTANTINE ALEXANDER: You can't do anything right away.

WALTER WILLETT: Weatherwise, there's no way to speed that up a little bit?

SEAN O'GRADY: There isn't. You're in a big long line of red tape and appeal

periods.

WALTER WILLETT: So, four to six weeks?

SEAN O'GRADY: Yes.

(Whereupon, at 9:45 p.m., the deposition was concluded.)

**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:

I am not related to any of the parties  
in this matter by blood or marriage and that  
I am in no way interested in the outcome of  
this matter.

I further certify that the testimony  
hereinbefore set forth is a true and accurate  
transcription of my stenographic notes to the  
best of my knowledge, skill and ability.

**IN WITNESS WHEREOF**, I have hereunto set  
my hand this 27th day of October 2010.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 23, 2015

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