

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 24, 2019

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green

Andrea A. Hickey

Jim Monteverde

Sisia Daglian, Assistant Building Commissioner

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1 desk there.

2 Anyone else planning to record this meeting?

3 Apparently not.

4 Okay, with that we will start the meeting, the
5 business of the meeting, and we will start with one
6 continued case, the case 017094, 44 Webster Avenue. Anyone
7 here wishing to be heard on this matter?? No one wishes to
8 be heard?

9 I will report to -- I want to remind actually the
10 members of the Board this case started back in June, that
11 the petitioner then requested a continuance, which we
12 granted. We kept to the date for the continuance, there was
13 no sign posted. We continued it again, until tonight.

14 Again, no sign posted, and we haven't heard at all
15 from the petitioner, so I'm going to make a motion that we
16 dismiss this case. We deny relief in this case, on the
17 grounds that the petitioner has not had complied with the
18 advertising requirements of our zoning ordinance.

19 Discussion, or are we ready for a vote?

20 ANDREA HICKEY: So we'll say, "Dismissed with
21 prejudice," they have to come back?

22 CONSTANTINE ALEXANDER: Well, I think if it's

1 dismissed it's dismissed, I don't think --

2 ANDREA HICKEY: Doesn't --

3 CONSTANTINE ALEXANDER: It doesn't make a
4 difference whether it's prejudiced or not.

5 ANDREA HICKEY: Okay.

6 JANET GREEN: They can't come back for two years?

7 CONSTANTINE ALEXANDER: Unless it is something
8 different --

9 JANET GREEN: Unless it's --

10 ANDREA HICKEY: Oh, that's what I mean, okay?

11 CONSTANTINE ALEXANDER: Oh, yeah. No, that --
12 they have an automatic under the ordinance to come back, but
13 we have to go through a whole process that if their new
14 proposal is -- I've got the words, "substantially different"
15 --

16 ANDREA HICKEY: Substantially different --

17 CONSTANTINE ALEXANDER: And then the Planning
18 Board's got to agree, and then we get to the case.

19 ANDREA HICKEY: All right. So they cannot come
20 back with this --

21 CONSTANTINE ALEXANDER: This --

22 ANDREA HICKEY: -- project for two years?

1 CONSTANTINE ALEXANDER: Yes.

2 ANDREA HICKEY: Okay.

3 CONSTANTINE ALEXANDER: Or anything like this
4 project.

5 ANDREA HICKEY: I just wanted to clarify that in
6 the record.

7 CONSTANTINE ALEXANDER: Yep. That's how it works.

8 ANDREA HICKEY: Thank you.

9 CONSTANTINE ALEXANDER: All those in favor of
10 dismissing this case on this basis, please say, "Aye."

11 THE BOARD: Aye.

12 [All 5 vote YES]

13 CONSTANTINE ALEXANDER: Five in favor, case
14 dismissed.

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2 (7:33 p.m.)

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

6 CONSTANTINE ALEXANDER: Okay, the Chair -- we'll
7 turn to our regular agenda. The Chair will now call Case
8 Number 017181 -- 77 Inman Street. Anyone here wishing to be
9 heard on this matter?

10 AUDIENCE: Attorney Rafferty's out in the hall.

11 CONSTANTINE ALEXANDER: No, they're coming right
12 behind me.

13 JAMES RAFFERTY: Good evening Mr. Chair.

14 CONSTANTINE ALEXANDER: Good evening.

15 JAMES RAFFERTY: For the record, my name is James
16 Rafferty. I'm an attorney with offices located at 907
17 Massachusetts Avenue in Cambridge.

18 I'm appearing this evening on behalf of the
19 applicant, Robert Purdy, P-u-r-d-y. Mr. Purdy is seated to
20 my right. Mr. Purdy's right is the Project Architects,
21 Steven Hiserodt, H-i-s-e-r-o-d-t.

22 Again, this is an application for a special permit

1 to allow for the construction of a conforming addition to a
2 nonconforming two-family structure. It would be two
3 families with the addition.

4 Before we filed this case, we spent some time with
5 the Building Commissioner exploring whether or not the case
6 in his view would qualify under the Section 6 provisions of
7 Chapter 40A, which, as the Board knows, creates a separate
8 distinction for the treatment of nonconforming one and two-
9 family houses.

10 CONSTANTINE ALEXANDER: And which is inconsistent
11 with our zoning ordinance in regard to nonconforming
12 housing. It's inconsistent with Section 6.

13 JAMES RAFFERTY: Only insofar as one and two-
14 families are concerned.

15 CONSTANTINE ALEXANDER: Sure, that's exactly
16 right. I wasn't precise, you're right. Only as far as --

17 JAMES RAFFERTY: Right.

18 CONSTANTINE ALEXANDER: -- one and two families.

19 JAMES RAFFERTY: And that does not make us unique,
20 however. As the Land Court noted, there are many cases
21 where that exists.

22 And the statute has supremacy -- the state statute

1 -- over the municipal ordinance, and I've provided to the
2 Board a case that I believe the Board to be familiar with,
3 the Brookline case, and --

4 CONSTANTINE ALEXANDER: Peralta?

5 JAMES RAFFERTY: What's that?

6 CONSTANTINE ALEXANDER: The Peralta case?

7 JAMES RAFFERTY: Yeah.

8 CONSTANTINE ALEXANDER: Yeah, okay.

9 JAMES RAFFERTY: Yes, and I put a yellow sticker
10 on the relevant finding in Peralta, which says that the role
11 of the Board with nonconforming one and two-families is to
12 first identify what the nonconforming aspect is, and then
13 make a determination whether or not what's proposed would
14 intensify the existing nonconformities or result in
15 additional ones.

16 If the answer to that question is in the negative,
17 the applicant will be entitled to the issuance of the
18 special permit. It's a significant finding through the use
19 of the word, "entitled." In this case, the nonconforming
20 aspect of the structure is the front setback. It's shy by a
21 little over a foot.

22 When the applicant was before the Mid-Cambridge

1 Neighborhood Association, there was actually discussion
2 about, well, they wouldn't need zoning relief at all if they
3 were to -- if they got permission to lift the house and
4 place it a foot and a half in.

5 That was not the preference of the Commission.
6 They thought the streetscape was established the way it was,
7 so in this case the distributor appropriateness, which I
8 believe the Board has a copy of -- it was filed today.

9 So at any rate, what we have before the Board
10 today is a conforming addition, conforming in all aspects of
11 the dimensional requirements of the zoning district. In
12 terms of setback, open space number of parking units and the
13 like.

14 We have Mr. Hiserodt here who could go through the
15 elements of that. We have plans today that you can detail
16 what's involved, but the existing structure remains
17 unchanged. The rear addition complies, including FAR, floor
18 area ratio gross GFA is permissible. And every other aspect
19 of the project is conforming.

20 And the only nonconforming, as I noted, is the
21 front setback. There is no change in the front setback, but
22 there is certainly no increase in the front setback.

1 So for the reasons set forth in the application,
2 which spells out the standard findings associated with a
3 special permit, that this case would satisfy and meet that
4 criteria.

5 And the added guidance of the Belotta case suggest
6 that pursuant to Section 6 of Chapter 40A, the applicant is
7 entitled to a special permit.

8 Now, in some jurisdictions, it suggests that a
9 building permit could be obtained directly. I'm informed by
10 the Building Department here that they take the view that
11 it's still a BZA case, you're the special permit granting
12 authority in cases such as this.

13 But at the risk of sounding too aggressive, the
14 word, "entitled" has legal relevance here, and the Board of
15 course has its discretion, and is charged with applying the
16 law, but in this case I think the law is rat straightforward
17 in terms of the applicant's ability to obtain the relief
18 being sought.

19 CONSTANTINE ALEXANDER: One thing that has puzzled
20 me is, as you say, Section 6 talks about that you get a
21 special permit from our Board. I wondered whether the
22 special permit is standard, or was standard; that what is

1 proposed shall not be substantially more detrimental than
2 the existing, nonconforming use to the neighborhood. And
3 I've always wondered --

4 JAMES RAFFERTY: Excuse me, Mr. Chair.

5 CONSTANTINE ALEXANDER: Yeah.

6 JAMES RAFFERTY: But the Belotta case says that
7 you only reach that question if what's being proposed
8 increases or creates new nonconformities.

9 CONSTANTINE ALEXANDER: Right.

10 JAMES RAFFERTY: We are not doing that, so.

11 CONSTANTINE ALEXANDER: You're right, you're
12 right. I'm thinking of -- the next case has this.

13 JAMES RAFFERTY: Okay, so yeah. As -- and in
14 fact, as did the Belotta case involved an addition, an
15 increase of GFA over the allowed FAR. So that was a case
16 where the Board -- the case was taken on appeal, but in that
17 case, the Board did -- was required to make the finding, no
18 substantial adverse effect, no substantial detriment.

19 In that case, they had to reach that finding, they
20 made that finding, it was appealed. But a lot of the
21 language in the Belotta case talks about how that finding is
22 made.

1 But in this case, however, you don't -- the Board
2 doesn't even reach that question, because there's nothing
3 proposed here that creates a new nonconformity or increases
4 the existing nonconformity.

5 If you look at the -- I have -- if you look at the
6 -- this paragraph in the Belotta case -- now, the one before
7 it, the page before it, I'm sorry -- no, the page before
8 that one. At the bottom of the page, if the Board would
9 review that language, that's where it establishes the two-
10 prong test if you will.

11 First question being, "is there -- what's the
12 nonconformity? Is anything contained in the application
13 going to increase the nonconformity or create a new
14 nonconformity?"

15 If the answer is in the negative, then you should
16 be entitled to the special permit. If the -- otherwise, you
17 then go on as the second page, where our highlighted directs
18 the Board to, then the Board is required then to make the
19 finding, the determination, where there's a new
20 nonconformity.

21 CONSTANTINE ALEXANDER: What was puzzling me was
22 -- maybe confused me is, your application speaks of special

1 permit. But your argument tonight is you don't need a
2 special permit.

3 JAMES RAFFERTY: No, my argument is we're entitled
4 to a special permit, just by what the Belotta case says.

5 CONSTANTINE ALEXANDER: Okay.

6 JAMES RAFFERTY: The last line of the Belotta case
7 says, "We are entitled to a special permit."

8 CONSTANTINE ALEXANDER: Then, what I was going to
9 get to before is, do we have to go through all the drill
10 that's required of special permits generally? And I don't
11 think we do, frankly.

12 JAMES RAFFERTY: Well, I don't know, I think your
13 authority to grant a special permit under the ordinance is
14 set forth in Section 10 --

15 CONSTANTINE ALEXANDER: Right.

16 JAMES RAFFERTY: So I would think a finding to
17 that effect is appropriate. I think that the -- it does
18 feel somewhat -- the exception in this case doesn't give you
19 much discretion. It's --

20 CONSTANTINE ALEXANDER: That's my point.

21 JAMES RAFFERTY: -- we're entitled to it, so.

22 CONSTANTINE ALEXANDER: If you have little

1 discretion, why go through the drill? I hear you, and I
2 think you hear me, and so, that's what the statute says,
3 even though the ordinance says -- even though the ordinance
4 is not consistent, this section of the ordinance --

5 JAMES RAFFERTY: Right.

6 CONSTANTINE ALEXANDER: -- is not consistent with
7 Section 6 of Chapter 40A.

8 JAMES RAFFERTY: Right. And it's -- and I think
9 until this case came along, there wasn't as clear-cut
10 direction on how to apply these exceptions. You recall --

11 CONSTANTINE ALEXANDER: Except you made this
12 argument before us a couple years ago in a case in a
13 different part of the city. And we granted the relief, we
14 accepted the argument that you've made.

15 JAMES RAFFERTY: Right. No, I remember it well,
16 but Belotta didn't spell it out as clearly, and the benefit
17 of this case now, and I know it has been reviewed by the Law
18 Department, and it clearly sets up a conflict between the
19 treatment of one and two-family houses.

20 But there was a case that went up years ago on
21 appeal on -- it was next to Melchelfin's house, that side
22 street between Raymond and Avon Hill is called Bates --

1 Bates Road. It may be somewhere in the book.

2 CONSTANTINE ALEXANDER: I don't remember the case,
3 but I know where Bates Road is.

4 JAMES RAFFERTY: Yeah, so on Bates Road there was
5 a case, and the neighbor -- a special permit was granted.
6 The neighbor appealed, and the Land Court ruled that the
7 special permit wasn't needed.

8 And we used to rely on that case a lot, but it
9 didn't seem to be as persuasive in the eyes of the Law
10 Department, perhaps. But this case has really spelled it
11 out.

12 CONSTANTINE ALEXANDER: I agree with that.
13 Questions from members of the Board?

14 JIM MONTEVERDE: I just have one.

15 CONSTANTINE ALEXANDER: Yeah.

16 JIM MONTEVERDE: Is there any work that's
17 happening on the -- the front façade is the one that
18 encroaches?

19 JAMES RAFFERTY: Yes, that's where the setback is.

20 JIM MONTEVERDE: -- at the moment? And is there
21 any work being done on the front façade?

22 JAMES RAFFERTY: It'll be restored, resided -- new

1 windows.

2 ROBERT PURDY: It's an 1848 house, so it'll be --

3 JIM MONTEVERDE: Right, so there's --

4 THE REPORTER: I think she can't hear you.

5 THE REPORTER: Can you state your name?

6 ROBERT PURDY: My name is Robert Purdy. I'm the

7 owner of the property. We're going to restore it to --

8 according to Mid-Cambridge's request to its historical

9 initial --

10 CONSTANTINE ALEXANDER: I don't think your mic's

11 on.

12 AUDIENCE: Yeah, get really close.

13 CONSTANTINE ALEXANDER: There you go.

14 ROBERT PURDY: Can you hear it now?

15 COLLECTIVE: Yes.

16 ROBERT PURDY: So anyway, it's going to be

17 restored, as per the request of the Mid-Cambridge.

18 JIM MONTEVERDE: So there's no -- is there any

19 work on that involved in that that makes the façade, brings

20 the façade closer to the street than it is now?

21 ROBERT PURDY: No.

22 JIM MONTEVERDE: Okay, thanks.

1 CONSTANTINE ALEXANDER: Any other questions from
2 members of the Board? I'll open the matter up to public
3 testimony. Is there anyone here wishing to be heard on this
4 matter? Yes, ma'am.

5 DEBRA ALLEN: Shall I use the mic?

6 CONSTANTINE ALEXANDER: Yes, you do. Answer your
7 name and address in the mic to the stenographer.

8 DEBRA ALLEN: Greetings. I'm Debra Allen. I live
9 at 83 Inman, and I'd like to read a letter from the
10 neighbor, and then make my own comment.

11 CONSTANTINE ALEXANDER: Sure.

12 DEBRA ALLEN: This is from Meghan Brook, homeowner
13 and resident of Inman Street. She says, "To the Board of
14 Zoning Appeal, I request the Board not to grant Robert Purdy
15 the nonresident owner of 75-77 Inman Street a permit to
16 build any structure or addition, which would harm the
17 important maple tree there.

18 "Our neighborhoods are under threat from people
19 with no feeling for them, who have never lived here, and who
20 see opportunities to make a lot of money and to sell housing
21 to newcomers, who will have no sense of what has been taken
22 from the whole neighborhood by such infilling projects.

1 "The city has in place a moratorium against the
2 unnecessary cutting of large trees. It was put in place to
3 give the elected government a chance to figure out how to
4 save more of our canopy, which otherwise would effectively
5 disappear under pressure of development.

6 "In my opinion, the moratorium didn't come nearly
7 soon enough, but now that we have it, it must be honored.
8 And I hope that some version of it will be permanent.
9 Meanwhile, permission to defy its intent should not be
10 granted.

11 "I wish to remind the Board of a fact I am sure
12 its members know very well, trees can be made to die by the
13 intentional or unintentional destruction of enough of their
14 root systems and compaction of soil around the rest. Then,
15 once they are dying, they are removed on the grounds of
16 hazard.

17 "Let us not see this pattern repeated here at 7577
18 Inman Street, where the changes proposed would be done using
19 equipment that might harm the roots of the tree. Even if no
20 harm were intended, it would be very likely to happen to
21 this grand tree.

22 "If we do not require the various boards and

1 agencies and departments which govern the city to coordinate
2 policy in favor of environmentally desirable outcomes for
3 the neighborhood, we will not be able to protect Cambridge
4 for those who live here now, and those who will come after
5 us.

6 "The reason for the moratorium is clear. I
7 entreat the Board to honor its intent. Sincerely yours,
8 Meghan Brook."

9 And I would like to add my own comments.

10 CONSTANTINE ALEXANDER: Go right ahead.

11 DEBRA ALLEN: Just that I respect all the work
12 that Robert has put into this, and I know he has reassured
13 some of us neighbors he will protect the tree, but I would
14 like you to make your own independent assessment of this and
15 make sure that there's no conflict between the moratorium
16 and any building that would go on there.

17 This tree is nearly three feet in diameter, it
18 shades four yards, it is -- it's a magnificent tree, it
19 contributes a lot to the neighborhood overall. So I'm
20 representing quite a few neighbors, whose concern is
21 environmental -- the environmental impact.

22 CONSTANTINE ALEXANDER: We have a letter in the

1 file basically to the same effect --

2 DEBRA ALLEN: Okay.

3 CONSTANTINE ALEXANDER: -- of the presentation you
4 made. It's from Carley, C-a-r-l-e-y --

5 DEBRA ALLEN: Yeah, Carley.

6 CONSTANTINE ALEXANDER: Yeah?

7 DEBRA ALLEN: She lives right behind, I think.

8 CONSTANTINE ALEXANDER: They live at 3 -- are you
9 sure I've got that right?

10 DEBRA ALLEN: Yeah, on the Avenue.

11 CONSTANTINE ALEXANDER: Okay. And it makes the
12 same -- basically the same point. I'm not going to read the
13 letter.

14 DEBRA ALLEN: Yeah.

15 CONSTANTINE ALEXANDER: Unless you want me to.

16 DEBRA ALLEN: Well, just to make sure that that
17 moratorium is respected, and anything you can do to --

18 CONSTANTINE ALEXANDER: I think the issue is
19 there's nothing we can do.

20 DEBRA ALLEN: Nothing you can do.

21 CONSTANTINE ALEXANDER: The zoning -- I mean, this
22 is a zoning petition, and they -- as Mr. Rafferty's pointed

1 out, they're not making any changes to the structure. And

2 --

3 DEBRA ALLEN: Well --

4 CONSTANTINE ALEXANDER: -- it's a nonconforming

5 structure, except for refinishing --

6 DEBRA ALLEN: -- they're putting on a big addition

7 in the back.

8 CONSTANTINE ALEXANDER: I'm sorry?

9 DEBRA ALLEN: They're putting on a big addition in

10 the back.

11 CONSTANTINE ALEXANDER: Putting an addition, but

12 they are -- it's a matter of law, it's a matter of right

13 they can do that.

14 DEBRA ALLEN: Uh-huh.

15 CONSTANTINE ALEXANDER: Because it is a -- it's

16 not changing -- there's still -- it's not increasing the

17 nonconformity of the structure.

18 DEBRA ALLEN: I understand.

19 CONSTANTINE ALEXANDER: Even though we're adding

20 more building, we had enough room within the ordinance to do

21 that. So --

22 DEBRA ALLEN: Okay.

1 CONSTANTINE ALEXANDER: If a side effect is that
2 it hurts the tree -- and I'm sad for that to be the case,
3 that's not a basis for us to --

4 DEBRA ALLEN: I understand.

5 CONSTANTINE ALEXANDER: Particularly since we do
6 not know whether it'll do that. Your concern isn't mine.

7 ROBERT PURDY: Understood.

8 DEBRA ALLEN: Yeah.

9 CONSTANTINE ALEXANDER: Okay?

10 DEBRA ALLEN: Good. Well, I wanted to register my
11 comment.

12 CONSTANTINE ALEXANDER: I appreciate you taking
13 the time to come down.

14 DEBRA ALLEN: You're welcome.

15 JANET GREEN: Well, I was just curious -- I'm just
16 curious if you can really tell us, not yourself, but the
17 neighbor -- could tell us what's being done with regard to
18 these neighbors' concerns about this tree?

19 ROBERT PURDY: Sure.

20 JAMES RAFFERTY: Just before Mr. Purdy answer that
21 question, it's highly relevant. It's contained in the
22 decision of the Mid-Cambridge Neighborhood Association. An

1 arborist was retained, an arborist has consulted, so -- on
2 construction issues and tree preservation planned.

3 And there's a condition in the Mid-Cambridge
4 Neighborhood Approval that requires ongoing involvement with
5 the arborist. Mr. Purdy can speak to that. He values the
6 tree. He recognizes the tree will be a benefit to this
7 property, as it has been in other properties. So there is
8 considerable attention being paid.

9 DEBRA ALLEN: Thank you. I think it's where the
10 cars are proposed, where the driveway's proposed that it
11 will be a lot of compression of the soil --

12 JAMES RAFFERTY: Right. But you address with that
13 with Mr. Kelly, maybe just briefly. Would you like to hear
14 what the arborist's conclusion was?

15 CONSTANTINE ALEXANDER: Yes, sure.

16 ROBERT PURDY: So the original arborist from the
17 City of Cambridge, Jack Kelly, came out to the first
18 neighborhood meeting that we had; not all of the neighbors
19 came.

20 JAMES RAFFERTY: Let me just make clear, he's in
21 private industry now. I don't want to -- he's not the city
22 arborist.

1 ROBERT PURDY: Oh, he's not the city arborist any
2 longer.

3 JAMES RAFFERTY: Yeah, okay. That's confusing.

4 ROBERT PURDY: Not for some 25 years.

5 JAMES RAFFERTY: Okay.

6 ROBERT PURDY: He's the owner of Bartlett Tree
7 Service in Cambridge. In any case, he came out and spent a
8 couple of hours with the neighbors explaining exactly how we
9 were going to determine where the root system went to, how
10 deep the root system was, what we should do -- in effect
11 explained there are several remedial things that needed to
12 be done for the tree immediately in terms of tying it
13 together.

14 Quite a bit of time was spent on developing a plan
15 to make sure that the tree lived and in fact thrived. And
16 it's my intention -- I have great respect for trees, we do
17 not do a lot of taking trees down -- and the one is a
18 special tree, I agree with the neighbors.

19 So we're going to do everything we can and more.
20 In fact, it's going to improve the health of the tree.

21 CONSTANTINE ALEXANDER: Anyone else wishes to be
22 heard on this matter? Apparently not. As I indicated, did

1 have a letter in the files from another neighbor, and as I
2 said, basically the substance of the letter is the same as
3 will be heard in testimony. I mean, concern about the tree
4 is very valid, very meaningful, but I don't know why we can
5 deny zoning relief, given the way the ordinance is written.

6 But I would hope that you can, so the tree will
7 not be disturbed or die. I mean, hopefully it is not going
8 to die. I will close public testimony. Discussion, ready
9 for a vote?

10 COLLECTIVE: Mm-hm.

11 CONSTANTINE ALEXANDER: Okay. The Chair moves
12 that we make the following findings with regard to the
13 special permit being sought: That the requirements of the
14 ordinance cannot be met unless we grant the special permit.

15 That traffic generated or patterns in access or
16 egress resulting from what is being proposed will not cause
17 congestion, hazard, or substantial change in established
18 neighborhood character.

19 That the continued operation or development of
20 adjacent uses, as permitted in the ordinance, will not be
21 adversely affected by what is proposed, and that is the
22 point that you made basically. The closest thing is whether

1 this is -- whether this project will adversely affect the
2 operation of adjacent uses.

3 But as we've heard testimony, the petitioner has
4 represented that he's taken all steps possible to minimize
5 or avoid any adverse effect on the neighboring properties by
6 virtue of damage or destruction of the tree, the tree that's
7 the subject of all the concerns.

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

11 And generally, what is being proposed will not
12 impair the integrity of the district or adjoining district,
13 or otherwise derogate the intent and purpose of this
14 ordinance.

15 So on that basis of all these findings, the Chair
16 moves that we grant the special permit be sought on the
17 condition that the work proceed in accordance with plans
18 prepared by Boyes-Watson Architects, dated September 21,
19 2019, the first page of which has been initialed by the
20 Chair. All those in favor, please say, "Aye."

21 THE BOARD: Aye.

22 [All vote YES]

1 CONSTANTINE ALEXANDER: Five in favor.

2 COLLECTIVE: Thank you so much.

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2 (7:52 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017174 -- 15 Channing Street. Anyone here
8 wishing to be heard on this matter?

9 SHIPPEN PAGE: Good evening, Mr. Chairman. My
10 name is Shippen Page of the law firm of Page & Powell.

11 THE REPORTER: Could you spell that for me,
12 please?

13 SHIPPEN PAGE: Sure. My first name is Shippen, S-
14 h-i-p-p-e-n, my last name is Page, P-a-g-e, and the firm is
15 Page & Powell at 174 Lakeview Avenue in Cambridge. I'm
16 here, Mr. Chairman, on behalf of my clients, David and Janet
17 McCue, who are seeking a special permit for modest additions
18 to their home at 15 Channing Street.

19 We are applying, as my colleague, Mr. Rafferty has
20 so artfully stated in the previous hearing, for a special
21 permit under the Belotta case, and we have submitted an
22 application for the permit, and we have submitted an

1 application for the permit, and Chris Dallmus here of Design
2 Associates, will be happy to take us through the particulars
3 of the design.

4 CONSTANTINE ALEXANDER: Just to be clear, this
5 case differs from the prior case --

6 SHIPPEN PAGE: It does.

7 CONSTANTINE ALEXANDER: -- in that you're making
8 -- your increasing the nonconformity of the use?

9 SHIPPEN PAGE: That's correct, Mr. Chairman, thank
10 you. So what we're essentially doing is enclosing a side
11 porch, adding a new deck, changing some windows and adding
12 some windows, and then there's a rear carriage house that's
13 right on the property line, and they are moving the front
14 entry of that carriage house.

15 And then we're subtracting some windows and doors
16 and adding others, so the net effect would be a slight
17 increase in the number of doors and windows.

18 CONSTANTINE ALEXANDER: Let's go back to the --
19 you say closing the porch. What you're really -- your
20 client's really doing is creating another room --

21 SHIPPEN PAGE: That's correct, Mr. Chairman.

22 CONSTANTINE ALEXANDER: -- and 155 foot --

1 SHIPPEN PAGE: It's about 185 square feet, as I
2 recall?

3 CONSTANTINE ALEXANDER: Well, some of that is the
4 garage. No?

5 SHIPPEN PAGE: The garage is a very modest --

6 CONSTANTINE ALEXANDER: 185, even worse. But I
7 think it was 155. I mean --

8 SHIPPEN PAGE: Yeah. And it's about a 0.2 change
9 in the FAR overall.

10 CONSTANTINE ALEXANDER: Okay.

11 SHIPPEN PAGE: Yeah.

12 CONSTANTINE ALEXANDER: But, that requires a
13 different standard.

14 SHIPPEN PAGE: That's correct. It requires
15 specific findings that we are in fact increasing the
16 nonconformity. And then the second finding is whether or
17 not we're increasing the intensity of the change in the
18 structure.

19 And then I put in my application the arguments
20 that I cited from the Belotta case; that given the extremely
21 modest nature of this, one couldn't find as a matter of law,
22 but of course I defer to the Board, because it's your

1 determination.

2 CONSTANTINE ALEXANDER: And my concern about that
3 is the examples that we use in the Belotta case --

4 SHIPPEN PAGE: Yep.

5 CONSTANTINE ALEXANDER: -- are more modest than
6 what is being proposed tonight. You're talking about
7 changing a one-car garage to a two-car garage. Here, you're
8 talking about adding another room to a house.

9 SHIPPEN PAGE: That --

10 CONSTANTINE ALEXANDER: And that's a different --
11 I'm not saying -- that's a different kettle of fish.

12 SHIPPEN PAGE: I think it's a matter of degree,
13 Mr. Chairman, rather than a difference in kind.

14 CONSTANTINE ALEXANDER: Okay, yeah.

15 SHIPPEN PAGE: But perhaps Mr. Dallmus would like
16 to speak to that?

17 CHRISTOPHER DALLMUS: Christopher Dallmus, D-a-l-
18 l-m-u-s, Forensic Design Associates, at 1035 Cambridge
19 Street in Cambridge. We are making an addition. It's
20 really an expansion of the kitchen and living room, sitting
21 area and dining area. It's not really an additional room,
22 but we are expanding.

1 CONSTANTINE ALEXANDER: Well, okay. But you're
2 increasing the living space, let's put it that way?

3 CHRISTOPHER DALLMUS: We are increasing --

4 CONSTANTINE ALEXANDER: Okay --

5 CHRISTOPHER DALLMUS: -- gross floor area, yes.

6 CONSTANTINE ALEXANDER: Okay. And as I said,
7 that's different than the examples that we use in the
8 Belotta case -- much more -- I'm going to call it more
9 substantial. Too much emphasis on those words, but much
10 more substantial than the kinds of things that the Belotta
11 case said was okay.

12 CHRISTOPHER DALLMUS: And we understand that. I
13 have packets here, if I could share these packets, if you
14 want?

15 CONSTANTINE ALEXANDER: Sure.

16 CHRISTOPHER DALLMUS: Okay. And let me just pass
17 these around first.

18 CONSTANTINE ALEXANDER: Now, we have in our files
19 already?

20 CHRISTOPHER DALLMUS: I don't know.

21 AUDIENCE: You should.

22 CHRISTOPHER DALLMUS: These may be more legible.

1 CONSTANTINE ALEXANDER: Mm-hm. I think this is
2 within our filing.

3 CHRISTOPHER DALLMUS: Yes.

4 CONSTANTINE ALEXANDER: Yeah. Keep going.

5 CHRISTOPHER DALLMUS: For the purposes of I think
6 clarifying where zoning relief is being requested, we've
7 shown highlighted the areas that are requiring zoning
8 relief. You may notice that the setbacks -- one of the
9 setbacks, one of the side yard setbacks actually runs down
10 through the middle of the house.

11 So we have shaded here every areas where we're
12 either building outside or within the setback, or we are
13 changing windows and doors. If you progress through the
14 drawings, we've got a bit more clarification. And I think
15 probably if you get to the building elevations, I think the
16 building elevations will --

17 JANET GREEN: What's the page number, please?

18 CHRISTOPHER DALLMUS: Page number 82.0.

19 CONSTANTINE ALEXANDER: These are already in our
20 files, so I've looked at them. Go ahead.

21 CHRISTOPHER DALLMUS: Fine. So I think it's --
22 the intent is really to sort of give you a snapshot of

1 essentially the expansion there. It's a single-story
2 addition, and it's basically taking its characteristics from
3 an existing shed and roof that exist in present.

4 And also, at the back of your packets, if you
5 really want sort of a quick summary, there are 3Ds of the
6 existing conditions, two images, and 3Ds of the proposed
7 addition.

8 CONSTANTINE ALEXANDER: And again, when you -- the
9 Custom House is 15 feet or whatever, that's not -- that's
10 clearly not a substantial, to my mind, change. We've got to
11 make the finding -- the legal finding, this is what drives
12 this -- we've got to grant the relief here you're seeking.
13 You know, what it is, but I'll give this anyway for the
14 record.

15 We have to find that such change, extension or
16 alteration -- so alteration's the right word -- such
17 alteration shall not be substantially more detrimental than
18 the existing nonconforming use to the neighborhood. So
19 that's a question that we have to answer to get you relief
20 in the affirmative. Not be -- that's in the affirmative,
21 right?

22 And that's it. And then we've got to make other,

1 ancillary findings.

2 SHIPPEN PAGE: So Mr. Chairman, to that issue, I
3 know that the word, "substantial" is important, but in that
4 regard, there are two issues I'd like to raise. One is the
5 increase in the FAR, while it may be over 100 square feet,
6 or it may be over 150 square feet, is very small in relation
7 to the overall size of the house, which already is
8 nonconforming.

9 CONSTANTINE ALEXANDER: That's the point.

10 SHIPPEN PAGE: It's already nonconforming, I
11 concede that. The other point I'd like to make though is
12 when you talk about the detrimental effect on the
13 neighborhood, the McCues have taken special pains to go to
14 every single neighbor on their left, behind them and on
15 their right, and they have 100 percent of those folks in
16 support of this project.

17 CONSTANTINE ALEXANDER: Do we have any letters
18 from them?

19 SHIPPEN PAGE: I do. Forgive me, Mr. Chairman.
20 I'll make them later.

21 CONSTANTINE ALEXANDER: I'll take the other.

22 SHIPPEN PAGE: I'll take that. And I have one for

1 Mr. Joseph Sanborn, that lives at 20 Trail Street. But
2 unfortunately, he was between meetings, and he e-mailed it
3 to me, and I've got it on my phone.

4 CONSTANTINE ALEXANDER: Read it.

5 SHIPPEN PAGE: Yeah. Just a sec. "Shippen,
6 attached please see my letter in support of your client's
7 project on 15 Channing. Doing this on my mobile between
8 meetings, so apologies for not getting it to you earlier
9 today. If the Board has any concerns about authenticity of
10 attached, they can call my mobile below. Good luck this
11 evening."

12 And the letter reads, "Dear Zoning -- Board of
13 Zoning Appeal, I'm writing in support of David and Janet
14 McCue's proposed renovations for their house at 15 Channing
15 Street. We are their neighbors across the rear fence, as we
16 live on Trail Street.

17 "David and Janet have reached out to us several
18 times to discuss their plans and the placement of the fence
19 between us. And they have shared their plans with us and
20 heard our concerns.

21 "We believe they will be good neighbors, and we
22 hope you will grant them the relief they seek. Thank you

1 for considering our support. Sincerely, Joseph S. Sanborn,
2 S-a-n-b-o-r-n, of 20 Trail Street."

3 CONSTANTINE ALEXANDER: Thank you.

4 SHIPPEN PAGE: Thank you. So those would be the
5 additional points insofar as the detrimental effect on the
6 neighborhood.

7 They do know that they are increasing the FAR of
8 the substantial house on Channing Street, and they were
9 particularly careful to reach out to folks to their
10 immediate left, who were very concerned about the effect on
11 the planting, the open space, the views from their window --
12 I'm trying to remember their name -- John Ludvica MRE?

13 CONSTANTINE ALEXANDER: Yep.

14 SHIPPEN PAGE: -- and John --

15 AUDIENCE: John Marshall.

16 SHIPPEN PAGE: -- and John Marshall. And they met
17 with him several times, they took pains to deal with the
18 vegetation to make sure that they could get out of the
19 driveway appropriately, and make and reassure them that
20 their planning, they met with their planning expert, with
21 the McCue's planning expert, and they allayed, and in fact
22 Ms. Lori and Mr. Marshall were very impressed by how the

1 McCues have responded to their concerns.

2 So these are folks who've taken a lot -- made a
3 lot of effort to make sure that the neighbors are
4 comfortable with what they're proposing.

5 CONSTANTINE ALEXANDER: Okay. Anything at
6 present?

7 SHIPPEN PAGE: I don't believe so.

8 CONSTANTINE ALEXANDER: You don't have to sign
9 that. I'll reopen.

10 SHIPPEN PAGE: I just want to be sure that I read
11 into the record whatever of the elements that you have to
12 make findings on, so that we can make sure this to the
13 record is --

14 CONSTANTINE ALEXANDER: We can. You're talking
15 about the ancillary finding for all special --

16 SHIPPEN PAGE: Exactly, so I mean --

17 CONSTANTINE ALEXANDER: You can address it if you
18 like.

19 SHIPPEN PAGE: They are included in the
20 application on the record, but to the extent that I want the
21 record to be complete, I don't want to waste the Board's
22 time. If it's --

1 CONSTANTINE ALEXANDER: Why don't you just briefly
2 touch -- because there's only one or two that are going to
3 really be relevant anyway.

4 SHIPPEN PAGE: Sure, sure. The requirements of
5 the ordinance cannot be met --

6 CONSTANTINE ALEXANDER: Right.

7 SHIPPEN PAGE: -- because of the dwelling. The
8 traffic generated, it's a single-family house, there's going
9 to be no change to the traffic, or the intensity of the use.
10 The continued development of the uses would be adversely
11 affected. They're residential in nature.

12 As I said earlier, the applicants have discussed
13 all their plans in considerable detail with all of the
14 abutters, and all are in support.

15 A nuisance or hazard would be created to the
16 detriment, it's a --

17 CONSTANTINE ALEXANDER: That, we're not going
18 back. Just want to make --

19 SHIPPEN PAGE: Yeah, sure. Continued operation or
20 development --

21 CONSTANTINE ALEXANDER: This is, that's the real
22 issue among these --

1 SHIPPEN PAGE: Sure.

2 CONSTANTINE ALEXANDER: That the continued
3 operation or development of adjacent uses will not be
4 adversely affected. And what I heard is -- at least
5 initially, one of your neighbors believed they would be
6 adversely affected.

7 SHIPPEN PAGE: Lodovica Aillari --

8 CONSTANTINE ALEXANDER: I'm sorry?

9 SHIPPEN PAGE: Lodovica -- her name is Lodovica,
10 Aillari, A-i-l-l-a-r-i, is a -- she's an astrophysicist at
11 MIT, I believe.

12 And David and Janet, the McCues, met with her and
13 her husband, and they discussed in considerable detail the
14 planting, the open space and the basic presentation from
15 their window into the McCue's back yard. And they were both
16 satisfied, and they have the letters --

17 CONSTANTINE ALEXANDER: Is there -- because I was
18 going to ask you that question.

19 SHIPPEN PAGE: -- their support in the file --

20 CONSTANTINE ALEXANDER: Good.

21 SHIPPEN PAGE: -- that articulates their support
22 for their proposal.

1 CONSTANTINE ALEXANDER: Good.

2 SHIPPEN PAGE: And so, we would contend that
3 there's no adverse relationship, no adverse impact rather,
4 on the neighbors or the neighborhood in general.

5 We also have a letter of support from a fellow who
6 lives across the street, across Channing Street, who's fully
7 in support of this as well.

8 As I look at the map of the area, there is a house
9 that is -- faces on Mount Auburn Street, and the rear of it
10 faces onto the back yard of the petitioner's property, and
11 she -- her house was burned, apparently, and she has not
12 been living there.

13 But they met with her as well, and she's also
14 fully in support, and she is a professor at Harvard. And her
15 other support is also in the file, Mr. Chairman.

16 CONSTANTINE ALEXANDER: Okay. Questions from
17 members of the Board? I'll open the matter up -- sorry?

18 SHIPPEN PAGE: I'm all set.

19 CONSTANTINE ALEXANDER: Oh.

20 SHIPPEN PAGE: Thank you.

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

1 on this matter? Apparently not. And, as Mr. Page has
2 mentioned, he handed us several letters, which I'll read
3 into the record; one from -- you've already referred to this
4 -- Lodovica Aillari and John Marshall.

5 "We live next door to 15 Channing Street at Number
6 17, overlooking the property with very little space in
7 between. Originally, we were concerned that the proposed
8 kitchen extension on the south side of #15 brought the two
9 houses even closer together.

10 We met with our new neighbors, David and Janet
11 McCue, and discussed the plans carefully. They reassured us
12 that the new extension will stay within the footprint of the
13 existing deck, and that the trees and bushes in between our
14 two properties will be kept in place to shelter the view of
15 the addition.

16 We also discussed the plans of the new garden. We
17 were reassured that the grassy area in front of the carriage
18 house will be kept and landscaped to improve the existing
19 garden. After these exchanges, we felt more comfortable
20 about the renovation, and believe that we could be good
21 neighbors. We are therefore writing in support of David and
22 Janet McCue's proposed renovations at 15 Channing Street."

1 It's a letter from David Orfao, O-r-f-a-o?

2 SHIPPEN PAGE: Correct.

3 CONSTANTINE ALEXANDER: And it's hard to -- it's
4 very vague, it's very dim.

5 "We are writing in support of David and Janet
6 McCue's proposed renovations for their house at 15 Channing
7 Street. They have reached out to meet us, shared their
8 plans and heard our/my concerns. We believe they will be
9 good neighbors, and I we -- oh, we will grant them the
10 relief they seek."

11 Another letter from -- I think that you will refer
12 to this too, Ioli, I-o-l-i Kalavrezou -- K-a-l-a-v-r-e-z-o-
13 u, who resides at 341 Mount Auburn Street.

14 "I'm writing in support of David and Janet McCue's
15 proposed renovations for the house at 15 Channing Street.
16 They have reached out to me, shared their plans and heard my
17 concerns. I believe they'll be good neighbors, and I hope
18 you will grant them the relief they seek."

19 And last but not least, we have a letter from
20 Guido Brosio, B-r-o-s-i-o, who resides at 14 Channing
21 Street.

22 "I'm writing in support of David and Janet McCue's

1 proposed -- " It's the same letter that the other person
2 before just read, Io. I'm not going to try the last name
3 again. It's to the same effect and the same words. It's
4 identical.

5 And he is in support as well. That's it for
6 public testimony.

7 SHIPPEN PAGE: I'm sorry, Mr. Chairman?

8 CONSTANTINE ALEXANDER: Yes.

9 SHIPPEN PAGE: There's one more from 11 Channing
10 Street that's only an e-mail from Sylvie Gregoire, who is
11 selling --

12 CONSTANTINE ALEXANDER: Why don't you just read it
13 --

14 SHIPPEN PAGE: She's selling 11 Channing Street.
15 "David, welcome to the street. You will enjoy its proximity
16 to Harvard Square and the leafy neighborhood. Although we
17 will not attend the hearing, we have no objection to your
18 proposed changes. Sincerely, Sylvie -- Sylvie Gregoire."

19 CONSTANTINE ALEXANDER: Thank you very much.

20 THE REPORTER: Can you spell that name for me,
21 please?

22 SHIPPEN PAGE: G-r-e-g-o-i-r-e. First name is S-

1 y-l-v-i-e, Sylvie. Thank you.

2 CONSTANTINE ALEXANDER: Ma'am. You have to come
3 for and give us your name and address, please.

4 AUDIENCE: I'm Ioli Kalavrezou, the one --

5 CONSTANTINE ALEXANDER: You're, I'm sorry?

6 IOLI KALAVREZOU: I'm Ioli Kalavrezou, the one who
7 read the letter for me? The neighbor --

8 CONSTANTINE ALEXANDER: Yep.

9 IOLI KALAVREZOU: -- in the back. And I just
10 wanted to say that I actually went on the side.

11 THE REPORTER: I'm sorry, could you spell your
12 name for me please?

13 IOLI KALAVREZOU and the last name is K-a-l-a-v-r-
14 e-z-o-u. I'll come afterwards if you want.

15 THE REPORTER: Can you give your address?

16 IOLI KALAVREZOU: Huh?

17 THE REPORTER: Can you give your address, please?

18 IOLI KALAVREZOU: 341 Mount Auburn Street.

19 THE REPORTER: I have my back yard that is --

20 CONSTANTINE ALEXANDER: Right. And we have your
21 letter, too. Are you going to add anything to the letter,
22 or are you going to change --

1 IOLI KALAVREZOU: I just wanted to say that I went
2 physically on the site, and actually looked how far this
3 extension is going to go, and it remains within the deck
4 space. Even more deck is going to still sort of exist
5 there, and it doesn't even cover the whole thing, if I'm not
6 mistaken, right?

7 So it does not destroy or affect anything that we
8 will have any objections to. So that's all I want to say.

9 CONSTANTINE ALEXANDER: Thank you for taking the
10 time to come down and tell us.

11 IOLI KALAVREZOU: Thank you.

12 CONSTANTINE ALEXANDER: Public testimony now has
13 been closed. Discussion for members of the Board, or ready
14 for a vote?

15 COLLECTIVE: All set.

16 CONSTANTINE ALEXANDER: Everybody ready for a
17 vote? Okay. The Chair moves that we make the following
18 findings with regard to the special permit being sought:
19 That the provisions of the -- the requirements of the
20 ordinance cannot be met unless we grant you the special
21 permit.

22 That pattern -- traffic generated or patterns in

1 access or egress resulting from what you're proposing will
2 not cause congestion, hazard, or substantial change in
3 established neighborhood character.

4 That the continued operation or the development of
5 adjacent uses, as permitted in the ordinance, will not be
6 adversely affected by the nature of the proposed use.

7 In this regard I would just cite the letters of
8 support we received and testimony we received as well, all
9 of which say or indicate that there will not be adverse
10 effect resulting from the proposed work.

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

14 And that generally, what is being proposed will
15 not impair the integrity of the district or adjoining
16 district, or otherwise derogate the intent and purpose of
17 this ordinance.

18 Further, as required by the case law, a further
19 finding is that what is being proposed will not be
20 substantially more detrimental than the existing
21 nonconforming use to the neighbor.

22 So on the basis of all of these findings, the

1 Chair moves that we grant the relief being sought on the
2 condition that the work proceed in accordance with the plans
3 prepared by Design Associates, Inc.

4 I'm looking for the date. I don't know what the
5 date is. All right. Maybe it's over there -- the most
6 recent date of 09/15/19, and the first page of which has
7 been initialed by the Chair.

8 All those in favor, please say, "Aye."

9 THE BOARD: Aye.

10 JANET GREEN: Is that the right date?

11 AUDIENCE: 09/05.

12 CONSTANTINE ALEXANDER: 09/05.

13 SHIPPEN PAGE: 09/05.

14 CONSTANTINE ALEXANDER: Okay, thank you. Nine-
15 five. All those in favor, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor, relief
19 granted.

20 COLLECTIVE: Thank you.

21 SHIPPEN PAGE: Thank you very much, Mr. Chairman.

22 * * * * *

1 (8:14 p.m.)

2 Sitting Members: Constantine Alexander, Brendan Sullivan,
3 Janet Green, Andrea A. Hickey and Jim
4 Monteverde

5 CONSTANTINE ALEXANDER: The Chair will now
6 call Case Number 017178-219 Grove Street. Anyone here
7 wishing to be heard on this matter? Name and address for
8 the stenographer?

9 ANNE KAO: Hi, my name is Anne Kao. It's
10 spelled K-a-o is the last name, and I'm at 219 Grove Street,
11 Cambridge, Mass, 02138.

12 SYDNEY CASH: Good evening. I'm Sydney Cash,
13 C-a-s-h, also at 219 Grove Street in Cambridge.

14 TIMOTHY BURKE: And my name is Timothy Burke.
15 I'm the architect for the project. My business address is
16 142 Berkley Street in Boston.

17 CONSTANTINE ALEXANDER: Okay. The floor is
18 yours.

19 TIMOTHY BURKE: Yes. I met Syd and Anne last
20 year when they had an event where their house is sort of the
21 left coast of Cambridge on Grove Street. It backs up to the
22 city-owned golf course that's there.

1 CONSTANTINE ALEXANDER: Yeah.

2 TIMOTHY BURKE: And one of the trees from the
3 golf course fell on their house. So this is one of those
4 things where, you know, you get lemons and you make
5 lemonade.

6 They decided this was a time to make some
7 improvements. They have been in the house for 10 years;
8 they really enjoy the neighborhood and the community.
9 They'd like to stay; they have a growing family.

10 So we added on a dormer on the back of the
11 house too, because the bedrooms were fairly small because of
12 the pitch of the roof. The -- as part of that project, we
13 would like to add a small, like, Juliet balcony that would
14 be off the master bedroom, so that they could look out into
15 the yard, see the kids playing, and it's over an existing
16 deck, which is existing nonconforming.

17 The proposed balcony would actually not go
18 beyond the overhang of the roof. So we're not creating any
19 more covered space, but ISD decided -- you know, since it's
20 only a little -- almost 22 feet from the rear lot line --

21 CONSTANTINE ALEXANDER: That's the issue.

22 TIMOTHY BURKE: Yes.

1 CONSTANTINE ALEXANDER: The zoning issue.

2 TIMOTHY BURKE: Yes, it is.

3 CONSTANTINE ALEXANDER: Rear yard intrusion.

4 TIMOTHY BURKE: And the reason this comes about is
5 the house is unusually cited, way back on the lot. It's
6 almost 70 feet back from the street, which is a benefit for
7 the street because it's a lot of greenery, and the house
8 isn't really --

9 The other houses on either side are more forward,
10 and don't even really see this. I have letters from each
11 abutter in support.

12 CONSTANTINE ALEXANDER: I'll get it, thank you.

13 TIMOTHY BURKE: So they have met with the
14 neighbors, and they're both in support of this appeal, and
15 we feel it's a minor -- sort of a modest change, but it
16 would mean a whole lot to the family to be able to have this
17 small balcony. And we'd be happy to answer any questions
18 about that.

19 CONSTANTINE ALEXANDER: Questions? No one wants
20 to take you up on your offer. I'll open the matter up to
21 public testimony. Is there anyone here wishing to be heard
22 on this matter? Apparently not. We do have two letters

1 that were given to us by Mr. Burke. One is from Tessa
2 Kadet, K-a-d-e-t, who resides on 215 Grove Street.

3 "I live at 215 Grove Street, next door to 219
4 Grove Street, and support that petition of Anne Kao and Syd
5 Cash to construct a balcony on the rear of the second floor.
6 In fact, I urge them to consider this as part of their
7 construction."

8 She's going to get a commission for this?

9 TIMOTHY BURKE: She does, yes.

10 CONSTANTINE ALEXANDER: And a letter from Mr.
11 Walid, W-a-l-i-d Khalidi, K-h-a-l-i-d-i.

12 "I live at 225 Grove Street, directly next to 219
13 Grove Street, the home of Sydney Cash and Anne Kao. They
14 have told me of their plans to build a small deck off the
15 master bedroom on the second floor of a house.

16 "That part of the house is not adjacent to her
17 home, but is on the opposite side of their house. It is
18 going to be a small deck, and will not impact us at all.

19 "I don't think we would even be able to notice it
20 from our back yard, and certainly not from any windows or of
21 our house. We do not see any problem with them adding it
22 on."

1 And that's it for that. I'll close public
2 testimony. Discussion? No discussion. Okay. The Chair
3 will make a motion.

4 The chair proposes we make the following findings
5 with regard to the variance being sought:

6 That the literal enforcement of the provisions of
7 the ordinance would involve a substantial hardship, such
8 hardship as to whoever resides in that house, it would be
9 desirable to have the small addition to the rear, to enjoy
10 the views of the Fresh Pond.

11 That the hardship is owing to basically the
12 location of the structure of the lot, which results in any
13 addition to the back that's going to create rear-yard
14 setback issues from a zoning perspective.

15 And that relief may be granted without substantial
16 detriment to the public good, or nullifying or substantially
17 derogating the intent or purpose of the ordinance.

18 In this regard, the Chair would note that this
19 project has the support of abutters, immediate abutters,
20 that it enhances the house and desirability of living in
21 that house, and therefore improves the housing stock of the
22 city of Cambridge.

1 So on the basis of all of these findings, the
2 Chair moves that we grant the variance requested on the
3 condition that the work proceeds in accordance with plans
4 prepared by Timothy Burke, dated 09/03/19. September 03,
5 2019, the first page of which has been initialed by the
6 Chair. All those in favor, please say, "Aye."

7 THE BOARD: Aye.

8 [All vote YES]

9 CONSTANTINE ALEXANDER: Five in favor, variance
10 granted.

11 COLLECTIVE: Thank you very much.

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22 (8:21 p.m.)

1 Sitting Members: Constantine Alexander, Brendan Sullivan,
2 Janet Green, Andrea A. Hickey and Jim
3 Monteverde

4 CONSTANTINE ALEXANDER: The Chair will now call
5 Case Number 017185 -- 87 Washington Avenue. Anyone here
6 wishing to be heard on this matter?

7 MICHAEL WIGGINS: Good evening, Mr. Chairman.
8 Michael Wiggins from the Law Firm of Weston Packard. I
9 know you're representing Brent Reynolds.

10 JANET GREEN: Excuse me, Councillor, I'm sorry.

11 THE REPORTER: I'm sorry. Could you just spell
12 your name for me, please?

13 MICHAEL WIGGINS: Oh, W-i-g-g-i-n-s. And I'm here
14 representing Brent Reynolds, excuse me on my left, R-e-y-n-
15 o-l-d-s, and Sarah Kelley, his wife, K-e-l-l-e-y, who's the
16 owner of the property. Brent and Sarah have lived in this
17 property for a long time. It's a very small house in a
18 small subdivision.

19 I don't know if you're familiar with the
20 subdivision, but in 2013 the Board gave a variance to one of
21 the other small lots in the subdivision.

22 The subdivision is sort of atypical of an A2

1 district, and what happened evidently was that a large house
2 burned down in 1940, and then a subdivision was made at that
3 point.

4 And I have copies of the subdivision, which I'd
5 like to just present to you to look at, because it is
6 instructive as to the difficulty.

7 CONSTANTINE ALEXANDER: Which one of the -- A and
8 B? A or C?

9 MICHAEL WIGGINS: We are C.

10 CONSTANTINE ALEXANDER: C, you're C.

11 MICHAEL WIGGINS: So A and B are down on the
12 street. We're C, and then in the back is the large lot from
13 that came out of that subdivision and that doesn't have a
14 designation, but that's 91.

15 CONSTANTINE ALEXANDER: And the right of way,
16 that's on the right, that's a big issue in this case, at
17 least by virtue of the neighbors. Is that a legalese thing?

18 MICHAEL WIGGINS: Michael has actually owned that
19 property, and it's subject to the easement in favor of --

20 CONSTANTINE ALEXANDER: Okay, but --

21 MICHAEL WIGGINS: -- the other. But if you see
22 the lines going across each of -- see Lot B and Lot C

1 actually own land over which the right of way --

2 CONSTANTINE ALEXANDER: Right.

3 MICHAEL WIGGINS: -- is located. So there's an
4 easement for the back lot.

5 CONSTANTINE ALEXANDER: But my question is, the
6 back lot -- one of the issues is the person in the back lot
7 -- her, it's an elderly woman -- her ability, or whoever
8 owns that back lot -- her ability to get to Washington
9 Avenue would be obstructed by virtue of what is being
10 proposed. And I see you nodding your head. That's what I
11 want you to address.

12 MICHAEL WIGGINS: Oh, certainly. There's no
13 building that's going to take place in the right of way.

14 CONSTANTINE ALEXANDER: What about the
15 construction template of the building?

16 MICHAEL WIGGINS: Well, certainly during
17 construction, trucks will come and drop stuff off, and they
18 will park in our lot on other --

19 CONSTANTINE ALEXANDER: But is that going to
20 prohibit means of access or egress from the back lot,
21 because of the -- lying construction equipment, trucks on
22 the right of way?

1 MICHAEL WIGGINS: We will do everything -- I mean

2 --

3 CONSTANTINE ALEXANDER: You've got to do better
4 than that. You've got to answer my question.

5 MICHAEL WIGGINS: You can't give an ironclad
6 guarantee that there won't be some day when a truck is
7 temporarily there dropping materials off.

8 The other thing -- we are sensitive certainly to
9 that need to come and go, and we -- one thing we are willing
10 to do is schedule construction at a time when the neighbor,
11 who I understand goes away for the summer.

12 We can do our utmost to make it not happen until
13 then, so that the major excavation and things like that, the
14 framing, could happen while she's not there.

15 So certainly, that's a practical issue. I don't
16 see it as a zoning issue, because we're not going to be
17 impeding on that at all. We have a 20-foot setback that
18 we're observing there.

19 So -- but as you can see from the shape of the
20 lot, there's definitely a challenge, and there was when the
21 house was built. It's fairly narrow, and leaving aside the
22 walkway that comes up to it, which is about 700+ square

1 feet, the lot itself is rectangular. And so, the house when
2 it was originally constructed really couldn't observe the A2
3 rear yard setback, and it actually, you know, it's slightly
4 within it.

5 CONSTANTINE ALEXANDER: Exactly -- I'm sorry for
6 being rude, I don't mean interruptions. But I'm looking at
7 the plans. And you have a front elevation here, and you
8 show the addition, which is going to be as you face the
9 front of the building to the right side of the building.

10 MICHAEL WIGGINS: That's correct.

11 CONSTANTINE ALEXANDER: Which when I look at this
12 plot plan, that right side is up, it's where the right of
13 way is.

14 MICHAEL WIGGINS: Well, if we could put this into
15 evidence --

16 CLAUDIA NOURYELLO: In the same way, is this
17 helpful for me to show this?

18 CONSTANTINE ALEXANDER: It's upside-down right
19 now.

20 CLAUDIA NOURYELLO: I'm trying to orient it the
21 same way that your drawing is, so that you can see the
22 addition is --

1 THE REPORTER: Could you give your name for the
2 record, please?

3 CLAUDIA NOURYELLO: Oh, I'm sorry, Claudia
4 Nouryello, spelled N-o-u-r-y-e-l-l-o. I'm the architect.

5 MICHAEL WIGGINS: I'm sorry, I didn't introduce
6 Ms. Nouryello.

7 CONSTANTINE ALEXANDER: So go ahead.

8 CLAUDIA NOURYELLO: So just to orient you in the
9 same way, you can see the right of way is maintained.

10 JANET GREEN: Can you -- I think we're going to
11 have to work out so you can talk into the microphone,
12 because a lot of people can't hear you.

13 CLAUDIA NOURYELLO: Okay.

14 CONSTANTINE ALEXANDER: All right.

15 CLAUDIA NOURYELLO: Well, I wanted to orient it
16 the way he's got his -- so the right of way is maintained.

17 CONSTANTINE ALEXANDER: I know.

18 CLAUDIA NOURYELLO: And the addition is going in
19 his face. So really all you can see when you look at
20 photos, they can show you Washington Avenue is really down
21 this pathway, because this neighbor almost entirely blocks
22 the addition. It's really difficult to see each other.

1 CONSTANTINE ALEXANDER: So the addition is marked
2 in red?

3 CLAUDIA NOURYELLO: Correct, yeah.

4 CONSTANTINE ALEXANDER: Okay. So --

5 CLAUDIA NOURYELLO: And I wanted to show you the
6 -- if it's helpful.

7 CONSTANTINE ALEXANDER: And the right of way is
8 the area between the two buildings on Washington Avenue,
9 your building and -- not yours --

10 CLAUDIA NOURYELLO: The right of way is this arrow
11 that's these 20 feet. So even though the Reynolds, the
12 Hannahs own --

13 CONSTANTINE ALEXANDER: Oh, there it is, yeah.

14 CLAUDIA NOURYELLO: -- the zone of their property,
15 but that's the right of way basically for the next two
16 neighbors, and then the Reynolds own the space, the driveway
17 that's the right of way for the next neighbor behind has
18 that. But it's technically their property, it's just --

19 CONSTANTINE ALEXANDER: Okay. This confirms what
20 you said, sir, is that -- or maybe you did, I'm sorry, but
21 the addition is not going to be in the right of way?

22 CLAUDIA NOURYELLO: No.

1 CONSTANTINE ALEXANDER: Okay. That's what I
2 wanted to see.

3 CLAUDIA NOURYELLO: I just wanted you to also see
4 what it looks like now. We thought it was helpful to show
5 the neighbors, so we've updated this wrong, but this is
6 where they -- it's kind of a death drive right now.

7 I don't remember it ever -- it just goes down
8 right now, and they park here. And so, basically, we're
9 filling in the zone, where there's a deep drive right now.

10 ANDREA HICKEY: I just have a question. On the
11 plan in back of this wall, you're showing a proposed parking
12 space. If you could go back to the --

13 CLAUDIA NOURYELLO: Yes.

14 ANDREA HICKEY: -- other plan?

15 CLAUDIA NOURYELLO: Yeah.

16 ANDREA HICKEY: That seems to be right on that
17 rear lot line, without -- is there -- does that meet setback
18 requirements from that lot line, this participated parking
19 space?

20 CONSTANTINE ALEXANDER: What she's asking is it --
21 maybe there's additional relief you may need, that you
22 haven't been seeking in this case. There are setback

1 requirements for parking spaces.

2 CLAUDIA NOURYELLO: Okay. I thought that I read
3 it -- I don't have a lawyer, but I thought that I read it
4 and that we were allowed to park in that area.

5 CONSTANTINE ALEXANDER: Did you check with the
6 Inspectional Services Department? Then what -- Andrea's
7 raised a very good point, but the upshot of it is if it's
8 correct is that even if we were to grant you relief tonight,
9 night and you're not free, you've got to come back before
10 us, you have permission to have to park too close to the
11 lot.

12 ANDREA HICKEY: If you're requesting that
13 permission.

14 CONSTANTINE ALEXANDER: Yeah.

15 ANDREA HICKEY: I see it proposed on the plan. So
16 I assume you intended that to be part of --

17 CLAUDIA NOURYELLO: Yes, oh yeah.

18 ANDREA HICKEY: -- what you were asking.

19 CLAUDIA NOURYELLO: Oh, yeah, yeah.

20 CONSTANTINE ALEXANDER: Okay. And they will need
21 --

22 CLAUDIA NOURYELLO: Yeah. Tell me if I'm flying

1 through too many things.

2 CONSTANTINE ALEXANDER: That's all right.

3 CLAUDIA NOURYELLO: The conversation about parking
4 is oriented again the same way. Right now, there's kind of
5 a fence that's falling apart and a dead tree that is this
6 tree right here. And it is kind of choked by ivory. And we
7 were thinking that we would be putting a green screen, some
8 kind of --

9 CONSTANTINE ALEXANDER: And how many feet back
10 from the lot line would that parking area be? You may not
11 be able to tell?

12 CLAUDIA NOURYELLO: Well, if the width of the
13 space is 12'4", then --

14 JIM MONTEVERDE: You have about -- well, a typical
15 is 8'x 12" so it would be about --

16 CLAUDIA NOURYELLO: Four feet.

17 JIM MONTEVERDE: -- four feet.

18 CLAUDIA NOURYELLO: -- to the car.

19 CONSTANTINE ALEXANDER: I think you need five
20 feet.

21 ANDREA HICKEY: You do.

22 CONSTANTINE ALEXANDER: Okay, all right.

1 CLAUDIA NOURYELLO: We've always thought that this
2 deck was going to have to pinch.

3 CONSTANTINE ALEXANDER: Well, this is not before
4 us tonight, because you may -- if you want to proceed with
5 the parking, you're going to have to come back before our
6 Board.

7 CLAUDIA NOURYELLO: That's okay.

8 CONSTANTINE ALEXANDER: So we must turn back to --

9 JIM MONTEVERDE: Sure.

10 CONSTANTINE ALEXANDER: -- no more discussion on
11 this for now. Let's go back to the issue before us tonight.

12 CLAUDIA NOURYELLO: Okay.

13 JIM MONTEVERDE: All right. So I'm going to ask
14 Ms. Nouryello to just walk you through the plans, so that
15 you can see how they've evolved, that they are the setback
16 within the envelope of the nonconforming.

17 CLAUDIA NOURYELLO: So you can see that we have --
18 we unfortunately are -- it was built as an existing
19 nonconformity, so that's primarily our hardship. But also,
20 as an architect, I take great pride in squeezing things into
21 tight spaces, but this was a challenge.

22 And what I tried to do -- I first showed them the

1 gabled addition. So it was -- you know, a variation, an
2 extruded variation of what they have, and then flat roof.
3 And they showed it to the Hannahs, who in my opinion are the
4 only people that are most directly impacted by this
5 addition, who they love and are their neighbors.

6 And they prefer the clapboard, which just someone
7 who likes more modern things. That was great, but we tried
8 to differentiate the addition from the main house, so we
9 pinched it in.

10 And on the elevation, you can see that we pinched
11 it in so that we could get within the gable. It's actually
12 tricky business to both drain the roof and get water off the
13 roof, but also have something that's meaningful inside, that
14 they can actually lay out a kitchen. It's actually quite
15 tight. It might not look it to you, but it is.

16 You can't shave the dimension of that setback with
17 the existing nonconforming -- you can't conform and have a
18 kitchen that works, in my opinion. So this is not an
19 option, an addition that comes to the rear yard setback is
20 not an option for this project.

21 CONSTANTINE ALEXANDER: Why do you say the kitchen
22 wont work? It may not be your desire, but it --

1 CLAUDIA NOURYELLO: Well, upstairs on the second
2 floor, we have the bathroom and a bedroom. And to fit a
3 queen-size bed and get around it and get into a bathroom
4 that has a -- I mean, to spend the amount of money that it
5 costs today to do construction that actually be able to
6 expand for their family to fit in here, this is what they're
7 dealing with right now.

8 CONSTANTINE ALEXANDER: My point is -- point, this
9 is sort of the observation -- is that it's a substantial
10 addition to this structure. You right now have a structure
11 that's 1,231 square feet, and you want to go to 2,099.
12 That's almost a 16 percent increase in the size of the
13 structure in a tight area.

14 MICHAEL WIGGINS: Could I respond to that? Excuse
15 me, thank you. That's true. On the other hand, the FAR we
16 were allowed 50 percent, and we're going on 36 percent. So
17 this is -- in the scheme of things, it's not being very
18 aggressive, I would submit.

19 And again, hearkening back to the 85, they got a
20 variance to go substantially above the FAR. Granted, it was
21 a small lot, but we really are -- I think this is modest,
22 given what we could try to do in terms of FAR.

1 And I think it's also modest in terms of the -- it
2 staying within that nonconformity.

3 CONSTANTINE ALEXANDER: Okay.

4 CLAUDIA NOURYELLO: Is it helpful to show you the
5 photos? Is it helpful to show you --

6 CONSTANTINE ALEXANDER: It won't hurt. Let's start
7 at with the front, actually. So this is what you see each
8 other from Washington Street. You really can't see much.

9 JANET GREEN: Wait, where are you seeing -- the in
10 between those two?

11 CLAUDIA NOURYELLO: Yeah, that red door --

12 CONSTANTINE ALEXANDER: Yeah.

13 CLAUDIA NOURYELLO: -- is the front door.

14 JANET GREEN: Mm-hm.

15 CLAUDIA NOURYELLO: And so if you could imagine
16 the perspectival line of the Hannah's house going along,
17 that's sort of where you would see their addition down here.
18 And then this is the site where that petition would go. And
19 this is looking at it straight on, where they park their car
20 down.

21 Actually, what's nice about it, when you were
22 saying about disruption, the hole's almost already dug,

1 because they're already trying to go down to the basement
2 for the garage right now. So I would say that the
3 excavation relatively speaking is more minimal than it would
4 normally be.

5 JANET GREEN: Keep the microphone to your mouth,
6 please. You have to feel like you're yelling.

7 CLAUDIA NOURYELLO: I don't have a future on the
8 stage.

9 JANET GREEN: I know. But there are a lot of
10 people here who want to hear what you're saying, so I think
11 it's really important.

12 CLAUDIA NOURYELLO: Okay. I think that --

13 CONSTANTINE ALEXANDER: Otherwise, if anyone in
14 the audience would like to come around behind us and look at
15 the plans and things that are being shown to us, feel free.
16 Go ahead.

17 CLAUDIA NOURYELLO: Oh, this is another thing. So
18 this is the area of the admission. I think that clearly
19 shows where the new deck would be and the parking space, and
20 that's where the addition would be living.

21 And actually, when you -- so to the adjacent
22 property that you see each other at the end of the driveway,

1 which is up here, is probably -- their windows are all
2 facing out to the side, not towards this addition.

3 So this is the Hannah's -- oh, I'm sorry -- this
4 is the Hannahs' patio right here, you can see it. Oh, wow.

5 JANET GREEN: Excuse me, sir, could you move over
6 this way?

7 CONSTANTINE ALEXANDER: Or come around --

8 JANET GREEN: Yeah, or come around here.

9 CONSTANTINE ALEXANDER: -- just come around to the
10 back, because you're blocking the view of the stenographer.

11 CLAUDIA NOURYELLO: I was going to say, just
12 trying to orient you, this is the view of this. This is
13 what that represents. So they're really little to no
14 windows, actually looking back at this addition.

15 CONSTANTINE ALEXANDER: But is that their access
16 to the street?

17 CLAUDIA NOURYELLO: Correct. Yeah. That's what
18 you see at the end of the driveway, the end of the right of
19 way.

20 CONSTANTINE ALEXANDER: And there's no other way
21 for that property to get --

22 CLAUDIA NOURYELLO: Everybody does this crazy back

1 -- or not that I know of, that's the only way I've ever
2 seen it.

3 MICHAEL WIGGINS: I also want to show you a couple
4 of other pictures, and Brent maybe you can describe the
5 vantage point in detail, these two photos?

6 BRENT REYNOLDS: Yeah, sure. Okay, so this is the
7 --

8 THE REPORTER: Can you spell your name for the
9 record?

10 BRENT REYNOLDS: Yeah, my name is Brent Reynolds.
11 This is the view from the north side of our deck, at the end
12 of our house. This is the view facing I believe west,
13 right? Is that right? Toward the front of Inge's house,
14 Inge Hoffmann.

15 And I think for what it's worth, and you've seen
16 it in other photographs, the front façade of the house,
17 there are no windows. I mean, it's the front door, and just
18 one on the bottom floor, one on the top floor, and the whole
19 of the house is sort of oriented in the direction of her
20 yard. And so, for what it's worth, the addition will be
21 mainly visible, at least from the inside of her house.

22 So this is the sort of first floor and

1 second=floor window, one window facing out toward the
2 addition, toward our house, and this is a view from the
3 start of, where -- just about the start of where the
4 addition.

5 CONSTANTINE ALEXANDER: And all these plantings
6 that are in the picture, they will not be affected by the
7 construction or --

8 BRENT REYNOLDS: All of the plants -- I mean --

9 JANET GREEN: There's not that many.

10 CONSTANTINE ALEXANDER: I'm sorry?

11 JANET GREEN: There are not that many plants, but.

12 CONSTANTINE ALEXANDER: No, I'm looking at all the
13 greenery I'm seeing.

14 BRENT REYNOLDS: Yeah, I mean, these are on Inge's
15 property, so that's how -- I mean, we certainly wouldn't be
16 --

17 CONSTANTINE ALEXANDER: Okay.

18 BRENT REYNOLDS: -- doing anything there, but this
19 is sort of our property, and the rhododendron I think will
20 be to -- I mean given what we've learned tonight -- that we
21 would need to apply for an additional variance, will be to
22 sort of apply for that variance.

1 We were thinking and going to be granted it, we
2 were thinking of getting rid of this rhododendron, and as
3 Claudia suggested, putting in a green screen, so bushes,
4 views, four, five, six-foot views, that would constitute a
5 house that would shield sort of Inge's view of our car and
6 this sort of --

7 JANET GREEN: Well, their view of --

8 BRENT REYNOLDS: Yeah, I mean, sure. But both
9 ways, yeah, yeah. Mike, anything else?

10 MICHAEL WIGGINS: I would just point out that the
11 backyard -- the yard.

12 BRENT REYNOLDS: Yeah, so I think what the hope of
13 this photo is to just illustrate again the orientation of
14 Inge's house and to sort of -- is -- from the inside floor-
15 to-ceiling on both first and second story, all windows
16 looking out into front yard, this is the only window that's
17 going toward our addition. I think we did that.

18 MICHAEL WIGGINS: Okay.

19 BRENT REYNOLDS: I think we're good, yeah.

20 MICHAEL WIGGINS: Okay.

21 BRENT REYNOLDS: Yeah.

22 MICHAEL WIGGINS: Could you explain what you've

1 done in the back --

2 BRENT REYNOLDS: Yeah, I mean, I don't know, is
3 right now the time to say a little bit about why we want to
4 stay here, Mike?

5 MICHAEL WIGGINS: Sure, yeah.

6 BRENT REYNOLDS: So we moved in in 2011. Part of
7 what drew us to the neighborhood was that we appreciated --
8 as I think most of the people here tonight appreciated of
9 people's care and love of the green space, which is why we
10 decided with Claudia's different iterations and plans for
11 us, different proposals, which is why we decided to build
12 over our driveway to save our yard.

13 So that's the hope, and I think it's in keeping
14 with the character of the neighborhood. It's just too small
15 for our family. It's 1100 square feet approximately.

16 We have two kids under 5, and I think right now
17 that's okay, but in the future anticipating a family of
18 four, and maybe another dog. We think it's not going to be
19 enough space.

20 So it's our home, we're both from out of state.
21 It's the place that we've called home since 2011. We had
22 our kids there; we were married in our back yard. We want

1 to stay here. I don't think it's tenable for us in its
2 current sort of iteration, so I think we, along with
3 Claudia, tried to find the least offensive proposal
4 aesthetically.

5 Some people may have some feelings about it, but I
6 think in terms of what Mike said earlier, we wanted to go,
7 we don't have the resources to ask for more, we wouldn't
8 want to, given the neighborhood, ask for more space. So I
9 think this is sort of the minimum that we could ask for and
10 make it feel like it was worth staying in house.

11 So --

12 CONSTANTINE ALEXANDER: What type of neighborhood
13 outreach did you do as part of the process? Did you have a
14 neighborhood meeting?

15 BRENT REYNOLDS: Yeah. So we spoke to all the
16 abutters, and I am a bit pea-brained. I think there's two
17 -- there's one abutter that I didn't speak to. It's
18 Consuela and John. And I don't know of their exact address,
19 but --

20 JANET GREEN: 81.

21 BRENT REYNOLDS: 81. I'm -- but I think I was
22 sort of preoccupied with the people that were sort of most

1 immediately affected. We spoke with each of our neighbors -
2 - Matt Fisher, Leah Nation, 85 Washington Avenue. I sent
3 them a copy of the plans.

4 We spoke with Doug, Hannah, Carol Simone who as 89
5 Washington Avenue sat down with them, went over the plans.
6 We -- I sat down with Inge Schneider Hoffmann almost a week
7 and a half before the Preservation Committee meeting at Avon
8 Hill. I went over the plans as heard for an hour and a half
9 in her home.

10 I left the plans in her possession because she
11 says she wanted to confer with some friends of hers, and she
12 expressed some ambivalence about the proposed plan, and I
13 understand that. She and I had spoken about it.

14 And kind of parenthetically, we had talked for
15 years about the possibility, because Inge knew we were
16 having our family, we were expanding our family, and she
17 said that she would love for us to stay.

18 And I think when we showed her the plans, and I
19 understand that people can change their minds, but when we
20 showed her plans, I think she was worried rightfully about
21 the impact that that would have on her.

22 In our meeting, when I had discussed with her was

1 that we understood change was hard -- I don't like change
2 myself -- and that we would want to collaboratively try to
3 find an arrangement that sort of impacted everyone, all the
4 immediate abutters, in the sort of least offensive way
5 possible.

6 I also sent the plans to 101 Washington Ave,
7 Constantine and Shoma Vonwentzel. I didn't hear back from
8 him. He is the Chair of the Preservation Committee at Avon
9 Hill, so I think there was a conflict of interest. He
10 ultimately recused himself. So he and I weren't talking
11 about the plans, and I think that was appropriate.

12 So all of our immediate abutters, I think I was
13 under the assumption that I didn't sort of need to contact
14 John and Consuela, and I think that's a mistake, but it just
15 sort of slipped my mind, so leading up to it.

16 And I think there was a lot of discord --
17 certainly no -- Inge sort of worried about it, and we had
18 sort of made every sort of best effort to of do some
19 outreach, and I think, I think we're just sort of at a point
20 of -- yep, at an impasse.

21 CONSTANTINE ALEXANDER: You realize, of course,
22 that there is substantial -- at least based on the letters

1 in our file -- substantial neighborhood objection to what
2 you want to do?

3 BRENT REYNOLDS: I do. I realize that, yeah.

4 CONSTANTINE ALEXANDER: And tell me about the Avon
5 Hill Preservation meeting or approval. Was there many
6 people there? Was there -- I saw the approval, and there
7 was no conditions, no meaningful conditions that relate to -
8 -

9 BRENT REYNOLDS: I think there were some
10 conditions.

11 CONSTANTINE ALEXANDER: Well, there are
12 conditions, but --

13 CLAUDIA NOURYELLO: There were no people.
14 Constantin stepped down, recused himself and then became an
15 audience member. He was the only audience member. And we
16 were approved. And I've been in touch administratively with
17 Alison Crosby, who's amazing, but we've been approved, so we
18 have met all the conditions.

19 Everything -- some of the answers we can't give
20 her until we get there, you know, once the stain on the
21 shingles -- but we have been approved and they have the
22 letter.

1 MICHAEL WIGGINS: I'd also like to raise two other
2 points. One is that we had Claudia do a thorough sun study,
3 and we have it here to share with you, and it basically
4 shows that the only party affected really by this is 89
5 Washington, and they're here tonight approving it, because
6 they're located, the sun setting in the west could affect
7 them, and they're the ones that we've lowered the roof down
8 in order to minimize the effect.

9 But there is a full set of sun settings that
10 Claudia's put together, and basically almost zero effect to
11 the rear of the property.

12 So that said, I want to just go on to the
13 hardship. In a lot of cases, the hardship is somewhat
14 tenuous, it doesn't really relate to the shape of the lot.
15 But in this case, it's -- I think it's textbook.

16 The shape of this lot, a long rectangle, and a
17 long eight-foot wide, 80.9-foot front weight, we can't use
18 that. I mean, if we had a big square, more square lot, like
19 the one in the rear, certainly we wouldn't -- we could move
20 things around.

21 So I think it's quite palpable that the reason why
22 we can establish the hardship required under the ordinance,

1 it's very modest. It stays within the existing,
2 nonconforming -- at least a foot or so inside that envelope.
3 And I think it's been done really sensitively, as much as
4 possible.

5 So that's it for now. I certainly have more to
6 say later.

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

9 ANDREA HICKEY: I do still have a question, and I
10 feel like I need to go back to parking and ask you a couple
11 of questions. Under the proposed addition, the garage goes
12 away. Is that correct?

13 CLAUDIA NOURYELLO: Yeah, correct.

14 ANDREA HICKEY: Presently, do you park in the
15 paved area in front of the garage as well?

16 CLAUDIA NOURYELLO: No, I don't. I mean, no.

17 ANDREA HICKEY: So the only parking presently is
18 in the garage?

19 BRENT REYNOLDS: That's right, yeah.

20 CLAUDIA NOURYELLO: Not in the garage. You just
21 -- you park in that --

22 BRENT REYNOLDS: We park in the decline.

1 ANDREA HICKEY: That's what I meant.

2 BRENT REYNOLDS: Yes.

3 ANDREA HICKEY: That's what I was going to ask you

4 --

5 BRENT REYNOLDS: Yes, yes, yeah --

6 ANDREA HICKEY: -- about.

7 BRENT REYNOLDS: Yeah.

8 ANDREA HICKEY: So does that parking area go away
9 under?

10 BRENT REYNOLDS: That parking goes away. It's an
11 open question about whether or not we'd be able to park in
12 front of the addition, right? I don't know if that's a --

13 ANDREA HICKEY: So my point is if the garage goes
14 away --

15 BRENT REYNOLDS: Yeah.

16 ANDREA HICKEY: And the ability to park in the
17 incline in front of the garage goes away --

18 BRENT REYNOLDS: Yeah.

19 ANDREA HICKEY: -- then if the space in the back
20 that you propose isn't allowed, then there's no parking at
21 all? Just --

22 BRENT REYNOLDS: Yeah.

1 ANDREA HICKEY: -- conceptually.

2 CLAUDIA NOURYELLO: Well, conception --

3 CONSTANTINE ALEXANDER: Unless we gave relief.

4 ANDREA HICKEY: Right. So my point is if they're
5 not requesting parking relief, how can we possibly pass on
6 what they're proposing tonight, letting two parking spaces
7 go away, and not having a single space remaining that's a
8 certain space that we've allowed.

9 If the garage space goes away, and the space on
10 the incline goes away, as part of this proposal, then --

11 CONSTANTINE ALEXANDER: Right. So it requires
12 having one parking?

13 ANDREA HICKEY: That's my point. We need the
14 parking relief to be requested as part and parcel of your
15 proposal tonight.

16 MICHAEL WIGGINS: Okay, right.

17 ANDREA HICKEY: That's --

18 MICHAEL WIGGINS: Well, certainly. And I think we
19 could solve that easily with reconfiguring the deck, so that
20 we would have enough space. I think we said we had just
21 under the requisite space so the deck could be moved back to
22 the house to accommodate that.

1 ANDREA HICKEY: Yeah. My concern would be that if
2 we took the rear parking request as a separate case, if that
3 rear parking is not allowed, and we allowed more proposal
4 tonight, there would be no parking at all. And that's a
5 problem.

6 I think the request all has to come as part of the
7 space, with that space in the rear, and if we do not allow
8 that, then an option -- some other alternative for space in
9 the front, because we can't go from two spaces to the
10 potential for no spaces.

11 BRENT REYNOLDS: Can I ask you a question?

12 ANDREA HICKEY: Mm-hm.

13 BRENT REYNOLDS: So is the sort of zoning, would
14 it require that we have a five-foot setback, is that
15 correct? Is that -- so from --

16 ANDREA HICKEY: My understanding for your proposed
17 rear space --

18 BRENT REYNOLDS: Yes.

19 ANDREA HICKEY: -- it would have to be a five-foot
20 setback.

21 BRENT REYNOLDS: So, okay.

22 JIM MONTEVERDE: You're talking about eight

1 inches?

2 ANDREA HICKEY: Yeah.

3 JIM MONTEVERDE: Right?

4 BRENT REYNOLDS: We're talking about eight inches.

5 JIM MONTEVERDE: I mean, we're talking about eight
6 inches moving in one direction.

7 ANDREA HICKEY: Yes.

8 BRENT REYNOLDS: Can we --

9 JIM MONTEVERDE: You get the five-foot, you get
10 the eight-foot --

11 ANDREA HICKEY: Yeah, I think it's solvable.

12 BRENT REYNOLDS: Can we alter --

13 ANDREA HICKEY: The problem is the request for the
14 rear parking is not part of what you're asking for tonight.
15 In my opinion, it should have been included as part of your
16 proposal. It's not. The only place I saw it was on the
17 plan.

18 MICHAEL WIGGINS: Okay. So just a couple of
19 things. We could ask you to allow it subject to coming back
20 with a parking plan that meets the setback requirement. And
21 I think we could do that easily.

22 BRENDAN SULLIVAN: I think why need to do is to

1 fine-tune that point, and to possibly step away from
2 tonight, and address that issue, to see exactly what you
3 need to do to be compliant, or to request relief for it.
4 But I think that we would need a plan, showing that.

5 MICHAEL WIGGINS: Right.

6 ANDREA HICKEY: Right. And I think it all has to
7 be part of one case.

8 MICHAEL WIGGINS: Yeah.

9 ANDREA HICKEY: I don't think we can hear the rear
10 parking separate.

11 BRENDAN SULLIVAN: You can't piecemeal it. It's
12 really -- it's a total package.

13 MICHAEL WIGGINS: So hearing that, then what
14 you're suggesting -- we'd certainly -- I'd talk to my client
15 about it, we would withdraw this and resubmit?

16 CONSTANTINE ALEXANDER: No, no.

17 ANDREA HICKEY: Continue.

18 CONSTANTINE ALEXANDER: No, we'd just continue the
19 case.

20 MICHAEL WIGGINS: Continue the case, okay.

21 ANDREA HICKEY: Right, but I thought --

22 MICHAEL WIGGINS: Come back with the --

1 ANDREA HICKEY: -- before we get too far into the
2 sort of --

3 MICHAEL WIGGINS: Right.

4 ANDREA HICKEY: -- neighborhood opposition, if we
5 can't conclude the case tonight, then why go through that
6 step? But I'll leave that up to --

7 BRENT REYNOLDS: Can I --

8 ANDREA HICKEY: -- the Chair.

9 BRENT REYNOLDS: -- ask a clarifying question?
10 Mike, do you have some -- go ahead.

11 MICHAEL WIGGINS: Well.

12 BRENT REYNOLDS: Can we ask for parking relief
13 tonight?

14 CONSTANTINE ALEXANDER: No, because you have to
15 advertise it.

16 BRENT REYNOLDS: Okay, all right. Got it.

17 MICHAEL WIGGINS: So certainly, I think we'd be
18 will get to continue, because this is an easily solvable
19 problem. I think just tweaking the deck and having enough
20 space.

21 ANDREA HICKEY: Right. So you're on your proposed
22 plan showing the parking, I think you're going to want a

1 dimension space --

2 MICHAEL WIGGINS: Right.

3 ANDREA HICKEY: -- within that area.

4 CONSTANTINE ALEXANDER: But if you need relief on
5 the parking, because you're going to be closer than five
6 feet to the lot line then you have to readvertise that part
7 of the case.

8 MICHAEL WIGGINS: Sure. But I think we won't need
9 it.

10 JANET GREEN: Just so you know.

11 CONSTANTINE ALEXANDER: Just so you know, that's
12 all.

13 CLAUDIA NOURYELLO: I hear you.

14 CONSTANTINE ALEXANDER: Well, I think where we're
15 at, it looks like this case needs to be continued.

16 JIM MONTEVERDE: Can I ask one other question --

17 CONSTANTINE ALEXANDER: Go ahead, go ahead.

18 JIM MONTEVERDE: -- before we say goodnight? Just
19 help me understand. What is this line?

20 CLAUDIA NOURYELLO: That's their buildable area,
21 as I understand it. That is there -- as I understand it,
22 that is their buildable area.

1 JIM MONTEVERDE: With respect to setbacks and --

2 CLAUDIA NOURYELLO: Correct.

3 JIM MONTEVERDE: -- et cetera. And the 20-foot
4 dimension here relates to -- does that say -- that line is
5 the buildable?

6 CLAUDIA NOURYELLO: That's the easement. No, no,
7 that's the easement. It's kind of funny.

8 JIM MONTEVERDE: Not this easement. There's a 20-
9 foot here, and there's a 20-foot -- are they both 20-foot
10 there?

11 BRENT REYNOLDS: Yeah, he's asking --

12 JIM MONTEVERDE: I guess I'm trying to figure out
13 -- sorry, to cut to the chase --

14 CLAUDIA NOURYELLO: We are on the -- we are in the
15 allowable setback. It's 20 feet. Yeah.

16 JIM MONTEVERDE: Right. And this line that cuts
17 through -- that clips a part of the addition, is that why
18 need relief for?

19 CLAUDIA NOURYELLO: Is -- yes, it's that little
20 strip.

21 JIM MONTEVERDE: So if you could live without that
22 piece --

1 CLAUDIA NOURYELLO: I tried.

2 JIM MONTEVERDE: -- let me finish. If you could
3 live without that piece, and if you could make that
4 conforming, you wouldn't be here?

5 CLAUDIA NOURYELLO: Correct.

6 BRENT REYNOLDS: That's right.

7 CLAUDIA NOURYELLO: Yeah. I -- believe me, we
8 wish we weren't here. You know, we're that close to
9 conforming and that's -- that to me is the hardship.

10 BRENT REYNOLDS: Can you say what -- so by right,
11 is that what you're saying, Jim?

12 CLAUDIA NOURYELLO: We're almost as-of-right.

13 JIM MONTEVERDE: Well, yeah. If you're that close
14 to as-of-right --

15 CLAUDIA NOURYELLO: We're that close.

16 JIM MONTEVERDE: -- I understand what you said
17 before about the desirability of the space you've created.
18 I can read the plan and I can see what it's all about, and
19 that's fine. I just want to make sure that option is on the
20 table. If you really want to tweak this, tweak that, you're
21 not here. You're on your way.

22 BRENT REYNOLDS: Right.

1 CLAUDIA NOURYELLO: Yeah.

2 JIM MONTEVERDE: That's your choice.

3 BRENT REYNOLDS: Yeah. And how many feet is that?
4 Two? Is it two exactly?

5 CLAUDIA NOURYELLO: I think it's a little bit over
6 three feet in the end. Yeah.

7 JIM MONTEVERDE: The width of this table.

8 CLAUDIA NOURYELLO: It sounds like nothing, but
9 it's something when you're in --

10 JIM MONTEVERDE: I'm not arguing.

11 CONSTANTINE ALEXANDER: We're not arguing one way
12 or another, we're just saying.

13 CLAUDIA NOURYELLO: Yeah. That's pretty clear to
14 me.

15 JIM MONTEVERDE: I'm just saying, I'm thinking if
16 there are objections for one reason or another, if you're
17 all as-of-right, I'm sure there may be other objections.
18 But --

19 CLAUDIA NOURYELLO: Could I just say honestly,
20 nobody showed up to the preservation hearing, and we had
21 such lovely approval from the people that I believe still no
22 matter what everyone says --

1 CONSTANTINE ALEXANDER: Did everybody hear about
2 it?

3 CLAUDIA NOURYELLO: Oh, yes. They were publicly
4 notified that the most directly impacted in every possible
5 way -- loss of light, encroaching into their yard, are the
6 people that are most in favor, and are most neighborly.
7 That doesn't matter, because they're our abutters.

8 But we went with the assumption when nobody said
9 anything, we heard nothing up until preservation. So we
10 didn't think that that little strip was contentious until
11 after we were approved at preservation.

12 So I get what you're saying, I hear it now, and I
13 see it now.

14 JIM MONTEVERDE: Yeah. Two moves, you wouldn't be
15 here.

16 CLAUDIA NOURYELLO: But Preservation -- the
17 meeting at Preservation gave me no indication that --

18 ANDREA HICKEY: Right.

19 CLAUDIA NOURYELLO: -- anything was going to
20 happen tonight.

21 JIM MONTEVERDE: Okay.

22 CLAUDIA NOURYELLO: They had heard nothing from

1 the neighbors, except for positive feedback. And all of a
2 sudden --

3 JIM MONTEVERDE: Well, I'm just saying.

4 CLAUDIA NOURYELLO: You know --

5 JIM MONTEVERDE: -- based on what you're heard,
6 and the folks who were in attendance.

7 CLAUDIA NOURYELLO: Based on tonight want to put a
8 bench in the kitchen and say you have to squeeze in and --

9 JIM MONTEVERDE: I can consider it.

10 CLAUDIA NOURYELLO: I hear you.

11 BRENT REYNOLDS: So can I ask -- so would we not
12 have to be here? I'm not sure how this --

13 CLAUDIA NOURYELLO: No, you have an as-of-right
14 project.

15 BRENT REYNOLDS: So by right.

16 JIM MONTEVERDE: That's was past two of my
17 question. I mean, where I was going is if there was a
18 proposal here, we'd would be in a different bag of worms, if
19 in fact we didn't have to come here. If you had an -- it
20 looked to me like you were this close to having an as-of-
21 right.

22 BRENT REYNOLDS: We were.

1 JIM MONTEVERDE: You can solve the parking with
2 reducing the deck, you could solve your stepping over that
3 buildable area by some reduction of -- you could live with
4 it in the plan. And then, unless I'm incorrect, you don't
5 think come here.

6 CLAUDIA NOURYELLO: No, we don't have to see each
7 other you guys.

8 JIM MONTEVERDE: We don't vote, it's not a public
9 hearing.

10 CLAUDIA NOURYELLO: It doesn't matter.

11 JIM MONTEVERDE: It's you do it as-of-right,
12 whether folks have some other opportunity to object, I'm
13 sure, but --

14 CLAUDIA NOURYELLO: What are the other
15 opportunities?

16 CONSTANTINE ALEXANDER: What you're finding out,
17 though, if you go and modify the plans, could make it as a
18 matter of right, you'd have to go back to the Inspectional
19 Services Department to confirm --

20 BRENT REYNOLDS: They said yes.

21 CONSTANTINE ALEXANDER: -- these new plans do not
22 require any zoning relief. And if they do that, then unless

1 a neighbor challenges that determination by the Inspectional
2 Services Department, the case is closed, over. There was
3 never -- you don't need any relief from us.

4 If there is a challenge then they'd have a case --
5 that case appealed from the Inspectional Services Department
6 will be the case that will be advertised. It wouldn't be
7 your case; it would be the case of the person who's
8 challenging the determination.

9 CLAUDIA NOURYELLO: And is it -- but I assume it's
10 based on fact, not just on -- I think it's not --

11 CONSTANTINE ALEXANDER: Well, I don't know until I
12 know the case.

13 CLAUDIA NOURYELLO: No, I mean, can you just say,
14 "I want you -- I'm questioning this case," and then we have
15 to come and pay for an attorney and all that? If we were
16 told by Inspectional Services that we're approved?

17 CONSTANTINE ALEXANDER: They say you're approved,
18 then the -- and an abutter or someone who's standing and
19 objects, doesn't agree, he or she would bring the case. It
20 would be their case; it would be their name. Since you have
21 an interest in the outcome of that case, you may decide you
22 do need counsel. That's your call. It's not your case any

1 longer, it's that person's case.

2 CLAUDIA NOURYELLO: Okay.

3 JOHN HAWKINS: And the Conservation District?

4 CONSTANTINE ALEXANDER: I don't know. I was
5 thinking about that.

6 JOHN HAWKINS: Would we have to go back and
7 propose --

8 CONSTANTINE ALEXANDER: You might. You'll have to
9 check.

10 CLAUDIA NOURYELLO: Well, we'd be impacting --
11 Preservation, is that what we're talking about?

12 JOHN HAWKINS: Yeah.

13 CLAUDIA NOURYELLO: You'd be impacting the rear
14 elevation, which is administrative.

15 CONSTANTINE ALEXANDER: I'm sorry, say that again?

16 CLAUDIA NOURYELLO: We'd be impacting the rear
17 elevation. I don't even know --

18 CONSTANTINE ALEXANDER: You'll have to talk to the
19 -- the Preservation group, and they'll tell you whether
20 you've got to go back to it. It's not our call.

21 BRENT REYNOLDS: Can we ask about the timeline for
22 -- so if we make the suggested changes and want to continue

1 with -- if the petitioner wanted to continue the case, can
2 you tell us to what -- what would be available for the next
3 hearing?

4 CONSTANTINE ALEXANDER: How much, time we need?
5 So let's talk about what you need for time?

6 MICHAEL WIGGINS: Oh, I think --

7 CLAUDIA NOURYELLO: We have a month --

8 MICHAEL WIGGINS: -- within a month --

9 CLAUDIA NOURYELLO: -- for the next hearing?

10 MICHAEL WIGGINS: Yeah, mm-hm.

11 ANDREA HICKEY: Yeah. If I could say where this
12 is a case that's heard, it does have to be the same panel,
13 unless you're willing to go forward with four.

14 MICHAEL WIGGINS: Right.

15 ANDREA HICKEY: Our next meeting, I believe, Sisia
16 is the seventh?

17 SISIA DAGLIAN: Yeah.

18 ANDREA HICKEY: And I'm not sitting, and neither
19 is Brendan.

20 CONSTANTINE ALEXANDER: Nor is Brendan. So that
21 case -- that date's out.

22 ANDREA HICKEY: So that night is not available.

1 SISIA DAGLIAN: The twenty-first, November twenty-
2 first.

3 CONSTANTINE ALEXANDER: The earliest we could hear
4 the case is the twenty-first of November. Or, it could be
5 later than that, but that's the earliest.

6 (Simultaneous speech)

7 CONSTANTINE ALEXANDER: Can everybody make the
8 twenty-first?

9 JIM MONTEVERDE: Yes.

10 CONSTANTINE ALEXANDER: Jim?

11 JIM MONTEVERDE: Yep.

12 BOARD MEMBER: I can make the twenty-first.

13 BOARD MEMBER: I mean, we can do that in the end.

14 BOARD MEMBER: Yeah, it sounds familiar.

15 BOARD MEMBER: Can we just not always continue.

16 ANDREA HICKEY: Yeah, that's why. I can do that.

17 CONSTANTINE ALEXANDER: You can do it too? Okay.
18 Twenty-first.

19 MICHAEL WIGGINS: Thank you for your flexibility.
20 Yeah, sure. We'd like to continue.

21 CONSTANTINE ALEXANDER: Okay. I'm going to make a
22 motion that the Chair moves that we continue this case as a

1 case not heard, until 7:00 p.m. on November 21, subject to
2 the following conditions:

3 First, that you sign a waiver of time for
4 decision, you're required to make a decision tonight. And
5 Sisia over there will have these waivers to be signed.

6 Second condition is that the posting sign, or the
7 advertised, has to be modified or get a new one, and
8 maintained reflecting the new date and the new time.

9 We have the time, people forget about the time --
10 7:00 p.m. on this twenty-first of November, and maintain
11 those 14 days required by ordinance, just as you did this
12 time.

13 And lastly, to the extent that there are new
14 plans, or revised plans, those must be in our plan no later
15 than must be in our files no later than 5:00 p.m. on the
16 Monday before November 21. That's to give us time to -- and
17 any citizens of the city -- time to read and review them and
18 think about them.

19 All those in favor of continuing --

20 JOEL SHAPIRO: Would you entertain a question from
21 the public?

22 CONSTANTINE ALEXANDER: Yes, go ahead.

1 JOEL SHAPIRO: Would then --

2 THE REPORTER: I'm sorry, you have to say --

3 CONSTANTINE ALEXANDER: You've got to come forward
4 sir, come here, speak into the microphone.

5 JOEL SHAPIRO: It's very short.

6 [Simultaneous speech about the public record]

7 JOEL SHAPIRO: My name is Joel Shapiro. I just
8 want you to know -- if people who question the assertions
9 made in the variance application, if there's any point in
10 such persons coming to the next meeting?

11 CONSTANTINE ALEXANDER: I'm not going to -- that's
12 your --

13 JOEL SHAPIRO: Is it relevant? Is it relevant?

14 CONSTANTINE ALEXANDER: I don't want to say -- I'm
15 not going to advise anybody not to come to the next meeting.
16 You make your call yourselves, okay?

17 SHIPPEN PAGE: Mr. Chairman, if I may?

18 JOEL SHAPIRO: Thank you.

19 CONSTANTINE ALEXANDER: Sure, Mr. Page.

20 SHIPPEN PAGE: If I may, Mr. Chairman, there are
21 certain --

22 CONSTANTINE ALEXANDER: And give your name again.

1 SHIPPEN PAGE: My name is Shippen Page.

2 CONSTANTINE ALEXANDER: Shippen, why don't you
3 take the mic.

4 SHIPPEN PAGE: Thank you. My name is Shippen
5 Page, and I live on 174 Lakeview Avenue. I represent Inge
6 Hoffmann.

7 As a part of order, Mr. Chairman, there were
8 several representations made during the presentation, and I
9 wanted to put them into the record -- put my concerns about
10 those representations into the record, if it would be
11 helpful for the Board to hear them.

12 The more important of which is that this is not an
13 easement, it is a right of way, and it's in the deed to the
14 petitioners here. A right of way is a street and you cannot
15 use the street as a setback.

16 And they've in their dimensional requirements put
17 18 feet as a setback from the side yard. It's a 20-foot
18 right of way, which means by definition they're going to be
19 building in the right of way.

20 CONSTANTINE ALEXANDER: That's question I asked --

21 SHIPPEN PAGE: By their dimensional requirements,
22 if you look at that --

1 CONSTANTINE ALEXANDER: I don't want to get into
2 that.

3 SHIPPEN PAGE: That's fine. I just wanted to
4 raise that point about right of way versus an easement, it
5 is not an easement, it's a right of way.

6 ANDREA HICKEY: So, I'm just going to --

7 CONSTANTINE ALEXANDER: Go ahead.

8 ANDREA HICKEY: -- jump in for a second. That's
9 extremely relevant --

10 CONSTANTINE ALEXANDER: Yes.

11 ANDREA HICKEY: -- in a discussion about whether
12 it might be allowed as-of-right.

13 CONSTANTINE ALEXANDER: Correct. Those arguments
14 should be raised in November 21, or your presentation.

15 SHIPPEN PAGE: I just want to be sure that we
16 reserve all our --

17 CONSTANTINE ALEXANDER: No one's avoiding any
18 rights with regard to --

19 SHIPPEN PAGE: Thank you very much.

20 CONSTANTINE ALEXANDER: I think I have a motion on
21 the floor? All those in favor, please say, "Aye."

22 THE BOARD: Aye.

1 [All vote YES]

2 CONSTANTINE ALEXANDER: Five in favor. November

3 21, 7:00 p.m.

4 COLLECTIVE: Thank you.

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21 (9:06 p.m.)

22 Sitting Members: Constantine Alexander, Brendan Sullivan,

1 Janet Green, Andrea A. Hickey and Jim
2 Monteverde

3 CONSTANTINE ALEXANDER: The Chair will now call
4 Case Number 017182 -- 150 Cambridge Park Drive. Anyone here
5 wishing to be heard on this matter?

6 JONATHAN ELDER: Good evening.

7 CONSTANTINE ALEXANDER: Good evening.

8 JONATHAN ELDER: How are you?

9 CONSTANTINE ALEXANDER: I've been better.

10 JONATHAN ELDER: Well, hopefully this will be.
11 Good evening. My name is Jonathan Elder. I'm with Anderson
12 Krieger. I'm an attorney for the petitioner tonight,
13 Cingular Wireless PCS, LLC, who I'll just refer to as AT&T
14 for ease of reference.

15 With me is Ms. Patricia Nowak from CenterLine
16 Communications, a consultant/agent of the petitioner.

17 As the Board noted, this regards a personal
18 wireless services facility at 150 Cambridge Park Drive. The
19 petitioner is requesting a special permit. What they
20 represented in their application to be an eligible
21 facilities request pursuant to Section 6409 of the Middle
22 Class Tax Relief and Job Creation Act of 2012, otherwise

1 known as the Spectrum Act, or in the alternative for a
2 special permit under the relevant provisions of the
3 ordinance.

4 CONSTANTINE ALEXANDER: Excuse me, with regard to
5 the position of the City of Cambridge, at least the Legal
6 Department, that you do need a special permit.

7 JONATHAN ELDER: Understood. We always just say
8 that for the record.

9 CONSTANTINE ALEXANDER: Okay.

10 JONATHAN ELDER: You know, to preserve any future
11 rights.

12 CONSTANTINE ALEXANDER: Fine.

13 JONATHAN ELDER: So fair enough. And information
14 about the project is in an application that was submitted,
15 or a petition that was submitted by CenterLine on top of
16 AT&T dated September 13, 2019. The application includes
17 information about the project, the construction plan.

18 CONSTANTINE ALEXANDER: What's most important for
19 us -- for me, anyway, are the photo simulations.

20 JONATHAN ELDER: I was just going to say
21 photographs and photo simulations.

22 CONSTANTINE ALEXANDER: Why don't you go through

1 those right now?

2 JONATHAN ELDER: Sure.

3 CONSTANTINE ALEXANDER: And pulling your papers
4 out, did you speak to the Planning Board on this?

5 JONATHAN ELDER: We did. CenterLine communicated
6 with the Planning Board, and in an e-mail on Tuesday,
7 October 22, the Planning Board indicated that they have
8 reviewed the application and needed no further review,
9 provided that -- now I'll just sort of paraphrase --

10 CONSTANTINE ALEXANDER: We didn't get a copy of
11 the e-mail.

12 JONATHAN ELDER: You didn't get a copy out? I can
13 submit it.

14 JANET GREEN: I have a copy here.

15 JONATHAN ELDER: They basically said that no
16 further review was necessary, provided the antennas were
17 placed below the roof façade and below the coping of the
18 roofline, so as not to add, --quote, unquote-- "visual
19 chaos."

20 Now, the application actually does have a single
21 antenna that is above the roofline. It's a new one, okay?

22 CONSTANTINE ALEXANDER: That's reflected in the

1 photos?

2 JONATHAN ELDER: It is, correct. And in the
3 drawings. But we just -- for clarification, we -- CenterLine
4 responded to point that out and make sure that the Planning
5 Board had a full appreciation of that. The response was, in
6 effect, "Yes, we are aware of that, and provided that
7 nothing changes, we are okay with it." I'm paraphrasing,
8 but that is my understanding of that exchange.

9 CONSTANTINE ALEXANDER: Okay.

10 JONATHAN ELDER: So the photo simulations I
11 believe are at tab 5.

12 CONSTANTINE ALEXANDER: I've haven't looked at it.
13 Let me have a little time to go review it. I had shown it
14 to other members before.

15 JIM MONTEVERDE: I saw it on the --

16 CONSTANTINE ALEXANDER: You saw it too?

17 JIM MONTEVERDE: I saw it in the file.

18 CONSTANTINE ALEXANDER: Okay.

19 JONATHAN ELDER: And basically think -- just I
20 guess to summarize them, I mean they do show some additional
21 -- there's three additional antenna --

22 CONSTANTINE ALEXANDER: Right.

1 JONATHAN ELDER: -- side-mounted antenna that are
2 being installed. There's one new dish antenna, that's the
3 one we just discussed. That's the only one that's going to
4 protrude above the roofline.

5 CONSTANTINE ALEXANDER: Right.

6 JONATHAN ELDER: And there are six assigned what
7 they call the remote radio units. There's also assigned
8 equipment and cabling and some other equipment, and all of
9 it will either be not visible or, you know, camouflaged
10 through appropriate painting.

11 And as you can see in, for example Location #2,
12 additional equipment is painted the same color as existing
13 equipment, which camouflages with the side of the building.

14 Location #1 shows the dish antenna, and that's the
15 only one again. It protrudes above the roofline.

16 JIM MONTEVERDE: But that one's also set back from
17 the parapet.

18 JONATHAN ELDER: Yeah.

19 JIM MONTEVERDE: Correct?

20 JONATHAN ELDER: Correct.

21

22 JIM MONTEVERDE: Correct. Yeah.

1 JONATHAN ELDER: Correct. And so, I like to think
2 these are self-explanatory. I think I've summarized what
3 they --

4 CONSTANTINE ALEXANDER: I think they are, at least
5 in my opinion.

6 JONATHAN ELDER: Yep. And so, we believe this
7 complies with all the relevant provisions of the ordinance,
8 which most notably is Section 4.40, Footnote 49. It
9 minimizes the visual impact due to the scope of the upgrades
10 and the height and the location and the color of the
11 equipment.

12 Its nonresidential uses predominate in the
13 vicinity of the location of the facility. The facilitate is
14 not inconsistent with the prevailing character of the
15 surrounding neighborhood.

16 The last special permit for the existing facility
17 was granted in August of 2016. I don't believe the
18 character of the neighborhood has changed.

19 CONSTANTINE ALEXANDER: Some of those things you
20 refer are only if you're going to do this -- if your
21 property was located in a residentially zoned district, this
22 is not.

1 JONATHAN ELDER: You know, I noticed that. As the
2 lawyer, I noticed that when I was looking at reviewing that
3 tonight. I'm not sure why that's in there, I apologize.
4 But I think there was some mistake when the letter was
5 written.

6 CONSTANTINE ALEXANDER: All right. I just want to
7 make sure we're all on the same page.

8 JONATHAN ELDER: And other salient portions of the
9 ordinance -- you know, this isn't going to generate traffic,
10 or adversely impact the character of the neighborhood. It
11 won't impact the development of adjacent uses. It won't
12 create a nuisance or a hazard. There's not a health or
13 safety impact or hazard here, and it's consistent with the
14 Urban Design Objectives of Section 19.30.

15 And beyond that, I think I've covered sort of the
16 important --

17 CONSTANTINE ALEXANDER: You have --

18 JONATHAN ELDER: -- compliance issues. Are there
19 any technical issues that the Board would like to inquire
20 into?

21 CONSTANTINE ALEXANDER: Not from me, anyway.

22 JONATHAN ELDER: Ms. Nowak is definitely the

1 person to talk about that.

2 CONSTANTINE ALEXANDER: I'll open the matter up to
3 public testimony. Is there anyone here wishing to be heard
4 on this matter? No one wishes to be heard. We have no
5 written communication other than the memo that referred you
6 sir, from Liza Paden, from the staff of the Planning Board.

7 And she states very briefly -- I'll read it into
8 the record, "The donor antenna shown in A2, that's one of
9 your plans -- is acceptable, and is the only piece of
10 equipment that is going to be above the parapet. The goal
11 is to minimize the visual chaos on the rooflines, since one
12 of the Design Guidelines is use screening of rooftop
13 mechanicals and such."

14 CDD -- Community Development Staff do not plan to
15 take this detail to the Planning Board for review. Okay?
16 So you've got basically a sign-off from the Community
17 Development.

18 Discussion, or are we ready for a vote?

19 COLLECTIVE: Ready.

20 JANET GREEN: I'm ready.

21 CONSTANTINE ALEXANDER: Everybody's ready. Okay.
22 Find my notes. We have to make a whole host of finding to

1 go through.

2 JONATHAN ELDER: The cheat sheet, right?

3 CONSTANTINE ALEXANDER: I'm sorry?

4 JONATHAN ELDER: You've got the cheat sheet. I've
5 seen that before.

6 CONSTANTINE ALEXANDER: That's right. We have a
7 lot of these cases, so it's the only way to make sure you
8 get them all, all the requirements. Okay. First, we have
9 to go through the general requirements for a special permit.
10 That applies to all kinds of special permits.

11 And then the Chair moves that we find that the
12 requirements of this ordinance cannot be met unless we grant
13 you the relief, as the ordinance is written. We do need
14 zoning relief for what you're proposing.

15 That traffic generated or patterns in access or
16 egress resulting from what you're proposing will not cause
17 congestion, hazard, or substantial change in established
18 neighborhood character.

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

22 No nuisance or hazard will be created to the

1 detriment of the health, safety and/or welfare of the
2 occupant of the proposed use, or of the citizens of the
3 city.

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

8 In general, and with regard to these various
9 findings, the Chair would note that the Chair would note
10 that the relief being sought is modest, it's on a very high
11 -- it's on the top of the building that's quite high, and
12 that the visual impact, which is usually the major concern
13 for this Board is not very meaningful.

14 Further, the Chair moves that we find that the
15 modification of its existing telecommunication facility at
16 the site by the petitioner does not substantially change the
17 physical dimensions of the existing wireless tower or base
18 station at such facility, within the meaning of Section
19 6409a, of the Middle Class Tax Relief and Job Creation Act
20 of 2012, also known as the Spectrum Act.

21 So based upon all of these findings, the Chair
22 moves that the petitioner be granted the special permit it

1 is seeking, subject to the following conditions:

2 One, that the work proceeds in accordance with the
3 plans submitted by the petitioner, and initialed by the
4 Chair. I have initialed those.

5 Two, that upon completion of the work, the
6 physical appearance and visual impact of the proposed work
7 will be consistent with the photo simulations submitted by
8 the petitioner, and initialed by the Chair, and I've done
9 that.

10 That the petitioner shall at all times maintain
11 the proposed work so that its physical appearance and visual
12 impact will remain consistent with the photo simulations
13 previously referred to.

14 But should the petitioner cease to utilize the
15 equipment approved tonight for a continuous period of six
16 months or more, it shall promptly thereafter remove such
17 equipment and restore the building on which it is located to
18 its prior condition and appearance to the extent reasonably
19 practicable.

20 And five, that the petitioner is in compliance
21 with and will continue to comply with in all respects the
22 conditions imposed by this Board with regard to previous

1 special permits granted to the petitioner, with regard to
2 the site in question.

3 And then we go on, and this is -- we do this in
4 all these telecom cases. In as much as the health effects
5 of the transmission of electromagnetic waves is a matter of
6 ongoing societal concern and scientific study, a special
7 permit is also subject to the following conditions:

8 a) That the petitioner shall file with the
9 Inspectional Services Department each report it files with
10 the federal authorities regarding the electromagnetic energy
11 waves and emissions emanating from all of the petitioner's
12 equipment on the site.

13 Each such report shall be filed. with the
14 Inspectional Services Department no longer than 10 business
15 days after the report has been filed with the federal
16 authorities. They are to timely file any such report or the
17 Inspectional Services Department, shall ipso terminate the
18 special permit granted tonight.

19 b) That in the event that at any time federal
20 authorities notify the petitioner that its equipment on the
21 site, including but not limited to the special permit
22 granted tonight fails to comply with the requirements of law

1 or governmental regulation, whether with regard to the
2 emissions of electromagnetic energy waves or otherwise, the
3 petitioner within 10 business days of receipt of such a
4 notification of such failure shall file with the
5 Inspectional Services Department a report disclosing in
6 reasonable detail that such failure has occurred, and the
7 basis for such claimed failure.

8 The special permit granted tonight shall ipso
9 face-to-face terminate if any of the petitioner's equipment
10 -- if any of the petitioner's federal licenses is or are
11 suspended, revoked or terminated.

12 c) That the extent that a special permit is
13 terminated, pursuant to what I've read before, the
14 petitioner may apply to this Board for a new special permit,
15 provided that the public notice concerning such application
16 discloses in reasonable detail that the application has been
17 filed because of a termination of special permit pursuant to
18 paragraphs a) or b) above. Those are the paragraphs I've
19 previously read.

20 Any such new application shall not be deemed a
21 repetitive petition, and therefore will not be subject to
22 the two-year period, during which repetitive petitions may

1 not be filed.

2 And lastly, that within 10 business days after
3 receiving a building permit for the installation of this
4 equipment subject to this petition, the petitioner shall
5 file with the Inspectional Services Department a sworn
6 affidavit of the person in charge of the installation of
7 equipment by the petitioner, with the geographical area that
8 includes Cambridge stating that a) he or she has such
9 responsibility and b) that the equipment be installed
10 pursuant to the special permit we are granting tonight will
11 comply with all federal safety rules, and will be situated
12 and maintained in locations of appropriate barricades and
13 other protections, such that individuals, including nearby
14 residents and occupants of nearby structures, will be
15 sufficiently protected from excessive radiofrequency
16 radiation under federal law.

17 So on the basis of all these findings, or
18 findings, the Chair moves that we grant the request being
19 sought tonight. All those in favor, please say, "Aye."

20 THE BOARD: Aye.

21 [All vote YES]

22 CONSTANTINE ALEXANDER: Five in favor.

1 JONATHAN ELDER: Mr. Chairman, thank you. And I
2 just have to respectfully request, or respectfully object
3 for the record to condition 6 to the extent that it's
4 preempted by the Spectrum Act.

5 CONSTANTINE ALEXANDER: That's fine. Your
6 reservation will be noted in the record.

7 JONATHAN ELDER: Thank you.

8 CONSTANTINE ALEXANDER: The case over.

9 JONATHAN ELDER: Thank you all very much.

10 COLLECTIVE: Thank you.

11 BRENDAN SULLIVAN: Patricia, CenterLine does the
12 install, right?

13 PATRICIA NOWAK: They have a contract.

14 BRENDAN SULLIVAN: Yeah. And who does the
15 monitoring of these facilities going forward?

16 PATRICIA NOWAK: It depends on -- I mean it kind
17 of gets vetted out to different vendors.

18 BRENDAN SULLIVAN: Oh, okay.

19 PATRICIA NOWAK: So, you know, --

20 BRENDAN SULLIVAN: Depending upon --

21 PATRICIA NOWAK: -- it's one vendor that -- and
22 that's who installs, but for the next upgrades it could be

1 another --

2 BRENDAN SULLIVAN: Yeah, yeah.

3 PATRICIA NOWAK: -- person, another GC.

4 BRENDAN SULLIVAN: Thanks.

5 PATRICIA NOWAK: But the overall management of it
6 should be the towner owner or the carriers.

7 BRENDAN SULLIVAN: Yeah, yeah, okay.

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22 (9:06 p.m.)

1 Sitting Members: Constantine Alexander, Brendan Sullivan,
2 Janet Green, Andrea A. Hickey and Jim
3 Monteverde

4 CONSTANTINE ALEXANDER: The Chair will now
5 call Case Number 017183 -- 310 Columbia Street. Anyone here
6 wishing to be heard on this matter?

7 CONSTANTINE ALEXANDER: Good evening. Name
8 and address for the record -- Is it the same plans that are
9 in the file?

10 ALFONSO SIRA: Yes.

11 CONSTANTINE ALEXANDER: Okay haven't filed
12 them.

13 ALFONSO SIRA: Good evening.

14 CONSTANTINE ALEXANDER: We can -- other
15 members might want then.

16 ALFONSO SIRA: One thing that I did modify is
17 I added a sketch of the -- because there was a question that
18 was raised about this.

19 CONSTANTINE ALEXANDER: Where is that
20 modification?

21 ALFONSO SIRA: It's on the demo.

22 CONSTANTINE ALEXANDER: The first page?

1 ALFONSO SIRA: It's just steady supporting
2 information.

3 CONSTANTINE ALEXANDER: Okay, that's all. Okay.
4 Name and address for the record.

5 ALFONSO SIRA: Okay. My name is Alfonso Sierra,
6 I'm the architect for the project.

7 THE REPORTER: Could you spell that, please?

8 ALFONSO SIRA: The name?

9 COLLECTIVE: Yeah.

10 THE REPORTER: Yeah.

11 ALFONSO SIRA: A-l-f-o-n-s-o Sira, S-i-r-a, and my
12 home address is 270 --

13 CONSTANTINE ALEXANDER: We don't need your
14 address.

15 ALFONSO SIRA: Oh, no? Oh, okay.

16 CONSTANTINE ALEXANDER: You can do it if you want.
17 We respect your privacy in this.

18 ALFONSO SIRA: Oh, okay. So basically, what we're
19 trying to do is to modify a two-family, an existing two-
20 family, and we're looking to get a variance to add to the
21 roof. So we're exceeding the FAR at this point by about 559
22 square feet. So that's a variance. And then a special

1 permit to add additional --

2 CONSTANTINE ALEXANDER: Accessory apartment in the
3 basement.

4 ALFONSO SIRA: Exactly. So we would have to dig a
5 bit to get more headroom in the basement, and that's the
6 scope.

7 CONSTANTINE ALEXANDER: Well, the variance you're
8 seeking -- special permit --

9 ALFONSO SIRA: Uh-huh.

10 CONSTANTINE ALEXANDER: -- is -- the relief you're
11 seeking is substantial.

12 ALFONSO SIRA: Okay.

13 CONSTANTINE ALEXANDER: You want to add -- you're
14 going to go through FAR from a compliant 0.64 to 0.93 in a
15 district that only, you're not supposed to go over 0.75.

16 ALFONSO SIRA: Okay.

17 CONSTANTINE ALEXANDER: So -- and tell me a little
18 bit about the inside of the building. When -- if we grant
19 you the relief you're seeking tonight, besides accessory
20 apartment, you're going to have one unit that's going to
21 have three bedrooms, and one is going to have five bedrooms?

22 ALFONSO SIRA: Yes.

1 CONSTANTINE ALEXANDER: One --

2 ALFONSO SIRA: Let's see, the second one, right.

3 So the second -- well, the second one would have four. The
4 second one on the floor, because the --

5 JIM MONTEVERDE: Five, right? Not to disagree,
6 but I'm looking at your plan A100.

7 ALFONSO SIRA: Oh, no, you're right, you're right.

8 JIM MONTEVERDE: Right?

9 ALFONSO SIRA: Yes.

10 JIM MONTEVERDE: It's three on the second floor
11 and -- it's two on the second floor --

12 ALFONSO SIRA: Right.

13 JIM MONTEVERDE: -- three on the third floor?

14 ALFONSO SIRA: Yep, you're right. Yep.

15 JIM MONTEVERDE: How many bedrooms are there now?

16 ALFONSO SIRA: Right now there's three.

17 JIM MONTEVERDE: Will you see where I'm going, at
18 least I'm going with my questions. You're asking for a big
19 ask from this Board to add an awful lot of bedrooms in a
20 tight neighborhood, a neighborhood that's not a lot of
21 setbacks, and it's a very dense neighborhood.

22 ALFONSO SIRA: Yeah.

1 CONSTANTINE ALEXANDER: And that's a concern.

2 ALFONSO SIRA: Okay.

3 CONSTANTINE ALEXANDER: I mean, what's the
4 hardship that requires you to have this amount of additional
5 space.

6 ALFONSO SIRA: Where they -- I mean, the family,
7 and they didn't want to speak a little bit farther to my
8 case.

9 JIM MONTEVERDE: You have to speak into the
10 microphone.

11 CONSTANTINE ALEXANDER: You have to speak into the
12 microphone, and give your name and address, please.

13 ABDUL AHAD: Good evening, my name: Abdul Ahad,
14 310 Columbia Street and --

15 THE REPORTER: I'm sorry, you need to spell it.

16 ABDUL AHAD: My name, my name: Abdul Ahad.

17 THE REPORTER: Spell that.

18 ABDUL AHAD: 310 Columbia Street, I am the owner
19 of the home.

20 THE REPORTER: Can you spell your name, please.

21 JIM MONTEVERDE: You've got to spell your name.

22 ABDUL AHAD: Actually, my case --

1 COLLECTIVE: Spell your name.

2 AUDIENCE: Spell your name, A-b-d-u-l.

3 ABDUL AHAD: Abdul Ahad; A-b-d-u-l Ahad; A-h-a-d,
4 Ahad; Abdul Ahad. 310 Columbia Street, homeowner.

5 COLLECTIVE: Good.

6 COLLECTIVE: Thank you, thanks.

7 ABDUL AHAD: Actually, this house, my kids -- all
8 of them, they all grow up, everybody.

9 CONSTANTINE ALEXANDER: I'm sorry?

10 ABDUL AHAD: This house, my kids grow up, my
11 daughter bigger, now 27 years, you know, family bigger,
12 bigger. I have three boys grown. My living room is very
13 small. My living room second floor, I break it and make it
14 big living room, two-bedroom second floor.

15 And attic I want to my family comes, we're living,
16 bath, kitchen sleeping. Living room is -- we have a very
17 big family.

18 SELINA AHAD: It is small.

19 ABDUL AHAD: Very big family.

20 CONSTANTINE ALEXANDER: I understand that.

21 ABDUL AHAD: So I needed extra room.

22 CONSTANTINE ALEXANDER: I guessed that when you

1 went through -- you've got to tell us -- you have to
2 understand to grant the hardship, which is you have to
3 demonstrate --

4 ABDUL AHAD: Yes.

5 CONSTANTINE ALEXANDER: -- to get the variance
6 you're seeking -- has to be a hardship, not peculiar to you
7 or your family. It's got to run with the structure. It
8 would be a hardship for anybody who owns this property.

9 And so, the fact that you need a lot of bedrooms
10 for your family is understood completely, but it doesn't
11 necessarily address the legal standard we have to apply.

12 ABDUL AHAD: At my front of house, other side,
13 they have a basement that makes it literally an apartment.
14 What's the name -- the apartment, the front door, opposite
15 it, they have a left side, or I have taken an apartment.

16 And not not for the street, where I have saw them
17 base -- digging, they have an apartment, not far the street
18 but in front, across the Charles.

19 CONSTANTINE ALEXANDER: We're not talking about
20 the basement.

21 ABDUL AHAD: So I want to --

22 SELINA AHAD: No, no, no, not the basement.

1 CONSTANTINE ALEXANDER: We're not talking about
2 the basement apartment, that's a separate issue. And it's
3 probably not controversial. I'm talking about the two units
4 above the basement.

5 ABDUL AHAD: Okay.

6 CONSTANTINE ALEXANDER: Which you want to put a
7 lot more living space in for your family.

8 ABDUL AHAD: Yes.

9 CONSTANTINE ALEXANDER: And that's a problem from
10 our point of view.

11 ABDUL AHAD: Yes.

12 CONSTANTINE ALEXANDER: That that's not necessarily
13 -- that doesn't justify us granting the relief you're
14 seeking.

15 SELINA AHAD: Because -- I would say because the
16 room is --

17 CONSTANTINE ALEXANDER: You've got to give your
18 name.

19 SELINA AHAD: Thank you. My name is Selina. I am
20 the wife of Abdul Ahad. S-e-l-i-n-a and the last name is
21 Ahad, A-h-a-d. The reason we are, now seeking that because
22 the rooms are very small and narrow. And, you know, it's

1 like always I will say I one bedroom is just like you can
2 consider it's not the bedroom. It's like so small. Even
3 the bed is like it's hard to fit in, you know?

4 And the other room is like cold and like still.
5 You know, my son, you know, over there, and one is me and my
6 husband. So that's actually -- you can say it's two-bedroom
7 inside.

8 CONSTANTINE ALEXANDER: How old is this house?

9 SELINA AHAD: It's --

10 ALFONSO SIRA: I think it's over 50,

11 SELINA AHAD: Yeah, 50, around.

12 CONSTANTINE ALEXANDER: And people have lived in
13 this house and use it with the bedroom situation it's in
14 right now.

15 SELINA AHAD: And the one bathroom is --

16 ALFONSO SIRA: I do have to agree if you look at
17 the existing plans, and if you were to visit, it's tiny. I
18 mean, the space where they live, it's a tiny unit. And some
19 of the rooms are minuscule. I mean, it's almost --

20 SELINA AHAD: Yeah, and the bathroom is very
21 narrow. You know, it's been hard for us to get the light in
22 the morning or light.

1 ALFONSO SIRA: If I may add also, I mean it's not
2 taking away from the volume of existing adjacent structures
3 too. I mean, right next door the volume is going to meet
4 exactly what is there, existing.

5 So I would question why could they have that type
6 of structure to the left, and they're basically meeting the
7 neighborhood context. It's all there.

8 CONSTANTINE ALEXANDER: Have you talked to your
9 neighbors about this?

10 SELINA AHAD: Yes. We have the letter --

11 ALFONSO SIRA: A letter here supporting from the
12 neighbor --

13 ABDUL AHAD: -- a neighbor to my left side.

14 ALFONSO SIRA: -- to the left side.

15 CONSTANTINE ALEXANDER: Oh, okay.

16 ABDUL AHAD: Just a brother.

17 CONSTANTINE ALEXANDER: Okay.

18 ABDUL AHAD: I have not talked to her, because I
19 look uncomfortable.

20 JANET GREEN: Okay. So how many -- I see two
21 kitchens, right? How many people?

22 ALFONSO SIRA: Well, there's two units.

1 JANET GREEN: There are two units.

2 ALFONSO SIRA: The first floor is one unit.

3 JANET GREEN: And has how many bedrooms?

4 ALFONSO SIRA: And the second --

5 JANET GREEN: -- in the first floor?

6 ALFONSO SIRA: Three.

7 JANET GREEN: And then in the second unit?

8 ALFONSO SIRA: The second unit right now is three,
9 but we're going to take one away to add to the living space
10 to make it a little larger, and then we're going to add
11 additional --

12 ALFONSO SIRA: On the third floor.

13 JANET GREEN: An additional bedroom on the third
14 floor?

15 ALFONSO SIRA: No, additional three bedrooms.

16 JANET GREEN: Additional three bedrooms.

17 ALFONSO SIRA: Right. So in essence we're taking
18 -- right now it's half an attic. It's like two and a half
19 stories, and we're going to make it three stories, by taking
20 away that problem.

21 JANET GREEN: So there are two on the first floor
22 in that unit.

1 ALFONSO SIRA: Right.

2 JANET GREEN: On the second unit, that you have
3 one, two, three, four, five, six, how many?

4 ALFONSO SIRA: Five.

5 JIM MONTEVERDE: Five.

6 JANET GREEN: Five.

7 ALFONSO SIRA: Right. Five is going to be total
8 if the renovation happens.

9 JANET GREEN: Mm-hm.

10 ALFONSO SIRA: For the second unit.

11 JANET GREEN: And which part do you live in?

12 SELINA AHAD: We live in the second.

13 JANET GREEN: The second? Okay.

14 ALFONSO SIRA: But it's a tiny space. I mean the
15 volume is -- it's not generous at all.

16 SELINA AHAD: Really tiny, yeah.

17 ALFONSO SIRA: -- by any means.

18 CONSTANTINE ALEXANDER: Has any thought been given
19 to -- if we grant you relief for the third floor, before you
20 can add a third floor with your bedroom, and we would be
21 closer to the FAR requirements than what you're proposing?

22 ALFONSO SIRA: I mean it's -- I'm sure anything

1 would be welcome, but you know it's --

2 CONSTANTINE ALEXANDER: I know you want what you
3 want.

4 CONSTANTINE ALEXANDER: Yeah. I mean it's -- what
5 I'm saying is also, I mean to state that what I stated
6 before, the volume is not going to take away from the
7 neighborhood, it's very similar. I mean, I know that
8 there's numbers that come into play, but it's all over the
9 neighborhood. I mean, it's the same volume, same massing,
10 and it's the same kind of building.

11 CONSTANTINE ALEXANDER: Any questions for members
12 of the Board, at this point? I'll open the matter up to
13 public testimony. Sir, did you want to testify?

14 SRDJAN DIVAC: My name is Srdjan Divac, it's
15 spelled S-r-d-j-a-n as in Nancy, last name D-i-v-a-c. I
16 reside at 314 Columbia Street. I'm the nearest abutter.
17 It's -- I live in a typical Cambridge triple-decker, and the
18 long side we have the southern exposure, which faces that
19 310 Columbia Street.

20 For the record, the petitioner has not contacted
21 me.

22 CONSTANTINE ALEXANDER: Has not?

1 SRDJAN DIVAC: Has not contacted me.

2 CONSTANTINE ALEXANDER: Okay.

3 SELINA AHAD: I think they sent a letter, right?

4 SRDJAN DIVAC: Well, I got the letter from the
5 city.

6 SELINA AHAD: Yeah.

7 SISIA DAGLIAN: I find the current plans for the
8 addition of the third floor -- I strongly object to them.
9 Because that would affect the amount of sunlight that my
10 house gets, because my house gets all of its sunlight from
11 the southern side.

12 Currently, the first floor is darkish, as first
13 floors tend to be in those houses. The second floor is
14 where I reside, and with the current configuration of the
15 roof, because there is a portion of the house that has a
16 flat roof, and then there is some additional height, but the
17 roof is slanted.

18 During all parts of the year, I get direct
19 sunlight into the sunny side of the house. And the top
20 floor apartment has complete privacy and open space. All
21 three apartments in my house would lose sunlight, according
22 to the current plan.

1 And I can say certainly I would have never bought
2 this house, which I bought 19 years ago, had there been a
3 structure that close, eight and a half feet, obstructing the
4 southern exposure.

5 CONSTANTINE ALEXANDER: Did you do various shadow
6 studies, by the way?

7 ALFONSO SIRA: I have. But I would ask the same
8 for him, has he done any shadow studies? How does he know
9 that it's actually going to affect --

10 CONSTANTINE ALEXANDER: Okay, fair enough.

11 SRDJAN DIVAC: Because I can see the blue sky.

12 ALFONSO SIRA: yeah, but you don't know the angle
13 of the sky --

14 SRDJAN DIVAC: If I look --

15 ALFONSO SIRA: You have no idea.

16 CONSTANTINE ALEXANDER: one at a time, so the
17 stenographer can get it. Okay, I shouldn't have even asked
18 the question. Okay. Keep going. I'm sorry, sir.

19 SRDJAN DIVAC: I understand their desire to
20 optimize the use of their space and increase the income and
21 all of that. I would not object to the basement.

22 CONSTANTINE ALEXANDER: That's a separate case.

1 SRDJAN DIVAC: Separate case? Okay. So I
2 strenuously object to the permit plan.

3 CONSTANTINE ALEXANDER: Okay, thank you for taking
4 the time to come down.

5 ANDREA HICKEY: If I can just ask the neighbor, is
6 there any way you can envision a scaled-down version of that
7 third floor that wouldn't impact you so greatly? Maybe a
8 way to meet in the middle here?

9 SRDJAN DIVAC: Oh, I could certainly consider
10 that.

11 ANDREA HICKEY: Okay.

12 SRDJAN DIVAC: And I wish they had spoken to me
13 earlier.

14 ANDREA HICKEY: That would have been advised.
15 Thank you, sir.

16 ABDUL AHAD: Wintertime, my snow blowing machine,
17 they -- cleaning. City sewer line, I see cleaning all the
18 time, just the brother, you know, neighborhood, you know,
19 complaining about each other, you know?

20 CONSTANTINE ALEXANDER: Is there anyone else
21 wishing to be heard? No one wishing to be heard? We do
22 have a letter that you've given us from Laura Booth, B-o-o-

1 t-h and Melissa Tonachel, T-o-n-a-c-h-e-l, who reside at 303
2 Columbia Street.

3 "Please know we are in support of our neighbor,
4 Abdul Ahad's request for zoning relief to accommodate his
5 plans to expand his home at 310 Columbia Street.

6 "Abdul and his family are good neighbors and
7 community members, and have been so since we moved in across
8 the street from them, now some 20 years ago. We thank you
9 in advance for your consideration," bah-bah-bah.

10 Okay, so that's the letter in support. No, we
11 have no other communications that I'm aware of. So -- and
12 if no one else wishes to speak on this matter, so I'm going
13 to close public testimony. Sir?

14 JIM MONTEVERDE: Can I ask you a quick question?

15 CONSTANTINE ALEXANDER: Go ahead, anytime.

16 JIM MONTEVERDE: In the photo, just I'm just
17 trying to understand what you talked about previously about
18 the neighborhood context along the street. So if I
19 understand the photo correctly, from this photo, you're to
20 the right. You're the larger --

21 SRDJAN DIVAC: Well, I'm, if it's frontal view
22 then I'm this one to the left. Yeah, so these --

1 JANET GREEN: The brown house?

2 JIM MONTEVERDE: The bigger one, right?

3 SRDJAN DIVAC: Yeah, the larger one, yeah.

4 JIM MONTEVERDE: Yeah. So that's I think the
5 context you were referring to?

6 SRDJAN DIVAC: Yeah, right.

7 JIM MONTEVERDE: -- as adjacent?

8 SRDJAN DIVAC: Yeah.

9 JIM MONTEVERDE: And if you take this photo right
10 further down the street?

11 SRDJAN DIVAC: There are some smaller units.

12 JIM MONTEVERDE: What's next to you is smaller?

13 SRDJAN DIVAC: Yeah, you're right.

14 JIM MONTEVERDE: What's next to you is a triple
15 decker that's not quite as tall, so in fact the profile is
16 rather varied down the street.

17 SRDJAN DIVAC: Absolutely.

18 JIM MONTEVERDE: And the one you referred to is
19 really --

20 SRDJAN DIVAC: Right next to --

21 JIM MONTEVERDE: I don't know whether it's the
22 anomaly, but it's this one in particular, correct?

1 SRDJAN DIVAC: Yeah, exactly.

2 CONSTANTINE ALEXANDER: Well, discussion? I mean,
3 I think what I'm focusing on is I think this is a -- I'm
4 troubled by whether to grant the relief based on this
5 project. I'm not at all troubled about creating relief
6 that's less sweeping than this. We go to a vote; we still
7 might get the vote. I'm the only one of five. And you need
8 four votes.

9 JIM MONTEVERDE: I would have to second the
10 Chair's comments just about the size of the request.

11 CONSTANTINE ALEXANDER: Yeah.

12 JIM MONTEVERDE: And it's not the basement.

13 CONSTANTINE ALEXANDER: That's right.

14 JIM MONTEVERDE: It's the third floor.

15 CONSTANTINE ALEXANDER: That's right.

16 JIM MONTEVERDE: It's the third floor of the
17 basement. It's really just the size of it, the fact that if
18 you haven't had any direct communication with the
19 neighborhood or made any attempt to at least understand
20 their concern and address it, I don't know that I could be
21 in support tonight.

22 CONSTANTINE ALEXANDER: Right. Same thing. So

1 what the usual course of action in this case: We go to a
2 vote tonight, and it's defeated, and you need four votes.
3 And there are two -- at least two people are going to vote
4 against it, you're not going to get your four. That means
5 you couldn't come back with essentially the same project for
6 two years.

7 JIM MONTEVERDE: Mm-hm.

8 CONSTANTINE ALEXANDER: But the alternative is to
9 continue the case, give you time to rethink, talk to -- what
10 you want to do, talk to your neighbor, and see them come up
11 with another plan, which will be less ambitious I think than
12 what's here. But they may be one that we could live with in
13 your neighborhood.

14 SRDJAN DIVAC: Mm-hm.

15 CONSTANTINE ALEXANDER: So I'm going to recommend
16 -- and it's up to you, are you going to -- whether you're
17 going to continue the case, but I would recommend to you
18 that you continue, because I don't think you're going to get
19 anywhere tonight. And then you're out for two years.

20 ALFONSO SIRA: It sounds like -- you want to
21 continue, or --

22 ANDREA HICKEY: I should also say I'm in agreement

1 with both you and Jim that the scope and size of the ask is
2 more than I'd be comfortable approving, as requested.

3 However, I'm encouraged by the neighbor saying he'd be
4 willing to consider something smaller --

5 ALFONSO SIRA: Right.

6 ANDREA HICKEY: -- and I certainly would, as well.
7 So I'd encourage you --

8 ALFONSO SIRA: Yeah. No, I'm willing to do that.

9 CONSTANTINE ALEXANDER: You're not --

10 ALFONSO SIRA: I'm still puzzled by how could some
11 neighbors have a different volume? That is --

12 CONSTANTINE ALEXANDER: Well even, you know, I'll
13 tell you something --

14 ALFONSO SIRA: I mean, I'm kind of puzzled by it.

15 CONSTANTINE ALEXANDER: Speaking for myself, even
16 if a neighbor didn't show up --

17 ALFONSO SIRA: Yes.

18 CONSTANTINE ALEXANDER: -- I still would call
19 them.

20 ALFONSO SIRA: But even though if the next-door
21 neighbor has the same exact replica --

22 BRENDAN SULLIVAN: Because that was built prior to

1 the existing zoning, and at some point, the planners of the
2 city decided that was not a good thing to do was to
3 duplicate those all the way down.

4 ALFONSO SIRA: But you have many of them too. I
5 mean --

6 CONSTANTINE ALEXANDER: But they all probably are
7 nonconforming, they're --

8 SELINA AHAD: Sort of three --

9 ALFONSO SIRA: Huh?

10 SELINA AHAD: -- if you can say two, is that
11 possible?

12 ALFONSO SIRA: I'm sorry?

13 SELINA AHAD: Like, instead of three bedrooms,
14 then if you could do --

15 ALFONSO SIRA: Yeah, no. I mean, I'm not saying I
16 think it's worth taking a look at modifying it, but I'm just
17 still raising the question, how could you have a structure
18 that --

19 CONSTANTINE ALEXANDER: I believe Mr. Sullivan an
20 answered for you.

21 ALFONSO SIRA: Yeah, he answered. Yeah, exactly.
22 So.

1 CONSTANTINE ALEXANDER: We have to have --
2 continue this case. First of all, we have to have the same
3 five members here.

4 ALFONSO SIRA: Oh, okay. Yep.

5 CONSTANTINE ALEXANDER: When would you -- how much
6 time do you think you need, and we'll see if it fits in our
7 schedule?

8 ALFONSO SIRA: I mean, as soon as possible.
9 Whenever -- tomorrow?

10 CONSTANTINE ALEXANDER: Well, we can't do any
11 earlier than November 21.

12 ALFONSO SIRA: [Laughter] No, I'm kidding.

13 SISIA DAGLIAN: We already have three cases for
14 the twenty-first.

15 CONSTANTINE ALEXANDER: We can't really -- we've
16 got to do it in December.

17 SISIA DAGLIAN: December 12?

18 CONSTANTINE ALEXANDER: That's -- do we have cases
19 at that time there?

20 SISIA DAGLIAN: Just one case.

21 CONSTANTINE ALEXANDER: Then we'll keep it
22 December 12.

1 SISIA DAGLIAN: It actually says two cases, but I
2 only see one.

3 CONSTANTINE ALEXANDER: Does that work for
4 everybody, by the way?

5 ALFONSO SIRA: That works.

6 CONSTANTINE ALEXANDER: Okay. So we would
7 continue this case -- I'll give the motion --

8 ALFONSO SIRA: Yeah, yeah.

9 CONSTANTINE ALEXANDER: -- and then the
10 requirements in a second. We will continue this case until
11 December 12.

12 ALFONSO SIRA: Okay.

13 CONSTANTINE ALEXANDER: Give you time to rethink,
14 talk to this gentleman here, and come back with whatever you
15 think.

16 ALFONSO SIRA: So do I have to do anything with
17 ISD, or do I -- can I --

18 CONSTANTINE ALEXANDER: Oh, yes, I'll get to that.
19 Yep. For now, and we're not going to discuss the accessory
20 department (sic) tonight -- apartment tonight in the
21 basement. You'll still have the relief you need, special
22 permit. We'll take it up on December 12, when we take up --

1 ALFONSO SIRA: Oh, okay.

2 CONSTANTINE ALEXANDER: -- the house to sell.

3 ALFONSO SIRA: Yep.

4 CONSTANTINE ALEXANDER: There is three, and it'll
5 be -- you'll hear them in the motion. I'll make a formal
6 motion. The Chair moves that we continue this case as a
7 case not heard, until 7:00 p.m. on November 12, subject to
8 the following conditions:

9 One, that.

10 COLLECTIVE: December?

11 JIM MONTEVERDE: My bad.

12 CONSTANTINE ALEXANDER: December. He doesn't know
13 what he's talking about.

14 JIM MONTEVERDE: Too late.

15 ALFONSO SIRA: It's a Tuesday.

16 JIM MONTEVERDE: That's my bad.

17 CONSTANTINE ALEXANDER: Okay, subject to the
18 following conditions. Listen. First -- I'm sorry.

19 SELINA AHAD: It's okay, go ahead.

20 ALFONSO SIRA: No, no. He's just telling me that
21 he's working on Tuesday.

22 ABDUL AHAD: Tuesday I'm working, Wednesday and

1 Thursday.

2 ALFONSO SIRA: But I can just come. I mean I can
3 represent.

4 JANET GREEN: This is Thursday.

5 ALFONSO SIRA: You can come?

6 CONSTANTINE ALEXANDER: It's a Thursday.

7 ALFONSO SIRA: Oh, it's a Thursday?

8 CONSTANTINE ALEXANDER: We only meet on Thursday.

9 SELINA AHAD: That's probably fine.

10 ALFONSO SIRA: Oh, I'm sorry, you're right. Okay.

11 SELINA AHAD: Yeah, that's fine.

12 ALFONSO SIRA: So it's a Thursday.

13 SELINA AHAD: Yes.

14 CONSTANTINE ALEXANDER: And you don't have to be
15 here either, if --

16 ALFONSO SIRA: Yes.

17 CONSTANTINE ALEXANDER: Someone's got to be here,
18 but --

19 SELINA AHAD: Yeah.

20 ALFONSO SIRA: Yeah.

21 CONSTANTINE ALEXANDER: But it doesn't have to be
22 all three of you. Okay. Subject to the following

1 conditions:

2 First, you've got to sign a waiver, which Sisia
3 has, for a time for decisions. You can't decide tonight.
4 We have to get away with saying you agree that we can decide
5 the case on December 12?

6 ALFONSO SIRA: Mm-hm.

7 CONSTANTINE ALEXANDER: If you don't sign it, you
8 lose tonight.

9 ALFONSO SIRA: Yeah.

10 CONSTANTINE ALEXANDER: So you won't not sign it.

11 ALFONSO SIRA: Okay.

12 CONSTANTINE ALEXANDER: Second, the posting sign
13 that you have up right now has to be modified. You can do
14 it yourself with a magic marker, or get a new sign from the
15 Inspectional Services Department reflecting the new date,
16 December 10, and the time 7:00 p.m. Make sure the time is
17 also -- otherwise you'll sit here for hours. 7:00 p.m.

18 And that sign has got to be maintained for the 14
19 days before December 12, just as you've done for tonight.

20 And last, to the extent -- and there probably will
21 be revised plans, those plans must be in our files no later
22 than -- or the Inspectional Services Department's files --

1 no later than 5:00 p.m. on the Monday before December 12.
2 That's to give us time to read the, or review the revised
3 plans, and give neighbors, anybody who's interested, to
4 review them as well.

5 ALFONSO SIRA: Okay.

6 CONSTANTINE ALEXANDER: So that's the basis.
7 That's the motion. All those in favor, please say, "Aye."

8 THE BOARD: Aye.

9 [All vote YES]

10 CONSTANTINE ALEXANDER: Five in favor. Please
11 sign the waiver of time for decision and we'll see you
12 December 12.

13 ALFONSO SIRA: Thank you.

14 SELINA AHAD: Thank you so much.

15 ABDUL AHAD: Thank you very much.

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22 (9:44 p.m.)

1 Sitting Members: Constantine Alexander, Brendan Sullivan,
2 Janet Green, Andrea A. Hickey and Jim
3 Monteverde

4 CONSTANTINE ALEXANDER: The Chair will now call
5 Case Number 017175 -- 68 Orchard Street. Anyone here
6 wishing to be heard on this matter? Name and address for
7 the stenographer.

8 CARL DUMAS: Sure. My name is Carl Dumas, with
9 Kneeland Construction. And we're at 407 --

10 THE REPORTER: Spell that, please?

11 CARL DUMAS: So my name is Carl Dumas, and I'm
12 with Kneeland Construction Company.

13 THE REPORTER: Could you spell that, please?

14 CARL DUMAS: Dumas is spelled D-u-m-a-s, and
15 Kneeland is spelled K-n-e-e-l-a-n-d. And we're at 407
16 Mystic Avenue in Medford. I'm here tonight to help --

17 CONSTANTINE ALEXANDER: Excuse me, sir, I almost
18 have to apologize for this, but the fact of the matter is,
19 is you've never been here before our Board I don't think.

20 CARL DUMAS: I have once before, yes.

21 CONSTANTINE ALEXANDER: For a dormer?

22 CARL DUMAS: Yes.

1 CONSTANTINE ALEXANDER: Okay. Then you should
2 know that we have dormer guidelines put out by the Community
3 Development Department. They're guidelines, but we take
4 them very seriously, and we expect petitioners to, if not
5 entirely comply with them, to apply with them in all
6 material respects.

7 Now the major part of the dormer guidelines is
8 they can't be more than 15 feet long. What you're proposing
9 is a dormer that's 30 feet long; twice as long as our dormer
10 guidelines require.

11 We've never applied -- we've never approved a
12 dormer that's 30 feet long, not in my memory anyway. So I'm
13 going to suggest to you we shouldn't go forward with this
14 case.

15 CARL DUMAS: I'm actually surprised, because I
16 brought this to the building Department.

17 CONSTANTINE ALEXANDER: I'm sorry. You should
18 have been told.

19 CARL DUMAS: I was not informed.

20 CONSTANTINE ALEXANDER: Oh, no, I'm not
21 criticizing in any way.

22 CARL DUMAS: Yeah.

1 CONSTANTINE ALEXANDER: You should have been told
2 when you came in and said, "Wait a minute, are you aware of
3 their dormer guidelines?" blah, blah, blah.

4 CARL DUMAS: Right, we were never actually told
5 there were just two issues at hand, which was the setback
6 issue --

7 JANET GREEN: Yeah.

8 CARL DUMAS: -- and the FAR.

9 CONSTANTINE ALEXANDER: Yeah. Those are the
10 zoning requirements.

11 CARL DUMAS: Right.

12 CONSTANTINE ALEXANDER: But as I said, we are the
13 Board.

14 CARL DUMAS: So somewhere along the line, we
15 jumped to something --

16 CONSTANTINE ALEXANDER: I apologize on behalf of
17 the Building Department. They should have told you.

18 CARL DUMAS: Yeah.

19 CONSTANTINE ALEXANDER: It's clear, but the facts
20 are what they are. I'm going to -- I strongly recommend
21 that you continue this case, go back and rethink the dormer,
22 and get the dormer guideline, get the Inspectional Services

1 Department, and you don't have to comply.

2 I'm going to advise you, you don't have to comply
3 with them in every last respect, but you better get close,
4 not entirely compliant, with the 15-foot dormer. That's the
5 thing that we look most seriously at.

6 The other requirements you've got to be down from
7 the ridgeline. If there are reasons not to do --

8 CARL DUMAS: This is going to be a tough one for
9 that, because --

10 CONSTANTINE ALEXANDER: Yeah. Well that one is
11 not -- I'm speaking out of turn.

12 CARL DUMAS: Yeah.

13 CONSTANTINE ALEXANDER: Often it is a tough one
14 because of the staircase to the third floor --

15 CARL DUMAS: That's another --

16 CONSTANTINE ALEXANDER: And we understand that and
17 we generally could accept that. And also, you need to be
18 set back from the edge a little bit. Again, that's

19 something we don't -- we like it to happen, but I'm not

20 going to say it's a showstopper. 30-foot dormer will be a

21 showstopper for us. And I don't want you to go down a path

22 --

1 CARL DUMAS: 29, mind you.

2 CONSTANTINE ALEXANDER: 29 inches? No, no, 29 and
3 6 inches according to my measurements anyway. Maybe I'm
4 wrong.

5 CARL DUMAS: Oh no, it's 29.

6 CONSTANTINE ALEXANDER: 29. Okay. I'm not going
7 to quibble over six inches short. So I'm going to do this
8 as a case not heard, so we don't have to get the five of us
9 here, which --

10 CARL DUMAS: Okay.

11 CONSTANTINE ALEXANDER: -- pushes the case out.

12 CARL DUMAS: Right.

13 CONSTANTINE ALEXANDER: I don't know how much time
14 you think you need --

15 CARL DUMAS: We don't need much time at all. As
16 long as we're okay with the owners, which are on my left.

17 CONSTANTINE ALEXANDER: [Laughter]. Let me ask,
18 Sisia, what is the next time we could hear? We have enough
19 --

20 SISIA DAGLIAN: Well, November 7 is two continued
21 cases.

22 CONSTANTINE ALEXANDER: Okay. But that means

1 you've got to -- let me ask you a question.

2 SISIA DAGLIAN: You have to go back to the drawing
3 board.

4 CARL DUMAS: Sure. We don't have a problem going
5 back to the drawing board, but if there is some issue where
6 the project doesn't -- where the owners decide the project
7 doesn't want to go forward, can we just stop our appeal?

8 CONSTANTINE ALEXANDER: Oh, absolutely.

9 CARL DUMAS: Okay.

10 CONSTANTINE ALEXANDER: You can terminate it any
11 time.

12 CARL DUMAS: And so, we'll have it on the
13 schedule, and we'll go forward if we make it, and if we do
14 not, maybe we could extend it or --

15 CONSTANTINE ALEXANDER: You can extend it one more
16 time.

17 CARL DUMAS: Okay.

18 CONSTANTINE ALEXANDER: We usually allow
19 continuances -- two continuances. So this is only the
20 first, to November 7. If that doesn't work for you, then
21 we'll try another one.

22 CARL DUMAS: Right.

1 CONSTANTINE ALEXANDER: I've got to warn you, if
2 you're going to do November 7, you've got to get a new
3 posting sign -- we'll see in a second, you may have heard
4 from prior cases of tomorrow, because you've got to give 14
5 days.

6 CARL DUMAS: Or we could change the one --

7 CONSTANTINE ALEXANDER: Or you can change. Oh,
8 yeah, right. The new one. Absolutely.

9 CARL DUMAS: Right.

10 CONSTANTINE ALEXANDER: All right. Absolutely.
11 You don't have to put a new one up. So do you want to
12 continue to November 7?

13 HONOR MCNAUGHTON: I think we should push further
14 out.

15 CONSTANTINE ALEXANDER: Okay.

16 HONOR MACNAUGHTON: -- to give us --

17 THE REPORTER: Get your name and address, please?

18 HONOR MACNAUGHTON: Honor McNaughton, H-o-n-o-r N-
19 a-c-n-a-u-g-h-t-o-n. And address 68 Orchard Street.

20 CONSTANTINE ALEXANDER: Okay. We have room on the
21 afternoon of November --

22 SISIA DAGLIAN: No, the twenty-first is filled.

1 We -- December 12.

2 CONSTANTINE ALEXANDER: So if we do it to November
3 7, it'll be December 12 for the hearing. I'm just -- which
4 would you prefer? It's pretty tight if you want to do
5 November 7.

6 HONOR MACNAUGHTON: I think it's too tight.

7 CONSTANTINE ALEXANDER: I think you're wise. I
8 think the seventh? December 12?

9 CARL DUMAS: December 12.

10 CONSTANTINE ALEXANDER: Okay. You may have heard
11 the motion I made with the continuance of the prior case,
12 but I'll go through it again.

13 The Chair moves that we continue this case, it's a
14 case not heard -- that's important -- until 7:00 p.m. on
15 December 12, subject to the following conditions:

16 One is you sign a waiver of time for decision,
17 because we have -- otherwise, we have to turn you down
18 tonight. That's condition one, and Sisia has it right there
19 for you to sign.

20 Two that the posting sign -- either a new one, or
21 you can modify the one you have with a magic marker, to
22 reflect the new date, December 12, the new time, 7:00 p.m.,

1 and that's going to be maintained for the 14 days before
2 December 21, just as you did for this hearing tonight.

3 And lastly, this is important, mostly for you,
4 sir. To the extent that -- and there will be -- new plans
5 --

6 CARL DUMAS: Yes, I us.

7 CONSTANTINE ALEXANDER: You've got to -- they have
8 to be in our file or the Inspectional Services Department
9 file, no longer than 5:00 p.m. on the Monday before December
10 12. That's to allow us to read them. Think about them, and
11 allows the citizens of the city to read them.

12 So you've got to get them in there by 5:00 p.m.
13 whatever the Monday before December 12 is. I guess it's the
14 ninth or whatever it is. Okay?

15 HONOR MACNAUGHTON: Can I ask a question?

16 CONSTANTINE ALEXANDER: I'm sorry?

17 BRENDAN SULLIVAN: That's the document you want of
18 download, anyhow. If you go on the Cambridge website,
19 Inspectional Services, there will be a link to the Dormer
20 Guidelines. So you can read it, and you're in the dormer
21 business, so you should have a copy of it.

22 CONSTANTINE ALEXANDER: Again, I'm not going to

1 scare you by saying every last inch has got to be complied
2 with. But you have to comply, or get very close to
3 complying with a good reason not to, to the size of the
4 dormer. Okay?

5 CARL DUMAS: So you had mentioned that you do at
6 the time approve longer dormers than 15 feet.

7 CONSTANTINE ALEXANDER: And if it's a really good
8 reason. It's got to be a really good reason, and it can't
9 be more than -- usually it's six inches.

10 CARL DUMAS: So one more question.

11 CONSTANTINE ALEXANDER: Sure.

12 CARL DUMAS: Would you consider that to be a
13 variance or a special permit?

14 CONSTANTINE ALEXANDER: Oh, no, it's all a
15 variance.

16 CARL DUMAS: It's a variance.

17 CONSTANTINE ALEXANDER: It doesn't change the
18 nature of the relief you need.

19 CARL DUMAS: I understand. Thank you.

20 CONSTANTINE ALEXANDER: Anyway, all those in favor
21 of going to continue this on the basis I mentioned, can you
22 say, "Aye"?

1 THE BOARD: Aye.

2 [All vote YES]

3 CONSTANTINE ALEXANDER: Five in favor. So we'll
4 see you on December 12, plans in the file by Monday before.
5 Good luck.

6 CARL DUMAS: Thank you.

7 CONSTANTINE ALEXANDER: And I'm sorry again that
8 you weren't --

9 CARL DUMAS: Right.

10 CONSTANTINE ALEXANDER: -- told about it.

11 CARL DUMAS: Thought we were getting away with
12 something.

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(9:54 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Janet Green, Andrea A. Hickey and Jim
Monteverde

CONSTANTINE ALEXANDER: We see you again.

CAMPBELL ELLSWORTH: Again. Never enough.

CONSTANTINE ALEXANDER: Sorry you have to wait
until the last case is over.

CAMPBELL ELLSWORTH: Oh, right.

CAMPBELL ELLSWORTH: The Chair will call Case
Number 017186 -- 194 Harvard Street / 152 Columbia Street.
Is there anyone here wishing to be heard on this matter? No
one.

CAMPBELL ELLSWORTH: Good evening. My name is
Campbell Ellsworth.

CONSTANTINE ALEXANDER: Ellsworth.

CAMPBELL ELLSWORTH: Do you want that spelled? C-
a-m-p-b-e-l-l, last name Ellsworth, E-l-l-s-w-o-r-t-h. I'm
the architect for the owner. To my right is Marie Deravil,
the owner of property. To her right is nephew, -- her
nephew, not my nephew -- Francis Pierre. And to his right

1 is Brian Butler, the owner's Project Manager.

2 CONSTANTINE ALEXANDER: Oh, you were the here the
3 first time. I congratulated you. We have more letters of
4 support of what you wanted to do than any case that I've
5 ever heard of.

6 CAMPBELL ELLSWORTH: Well, thank you for bringing
7 it up. I was going to remind you, but that's terrific.
8 Thank you so much. Right. That was a big showing that
9 night. We don't have that same showing.

10 CONSTANTINE ALEXANDER: No.

11 CAMPBELL ELLSWORTH: But the support is right
12 behind us. So we were before you just a little more than a
13 year ago for a set of relative, a variance and a special
14 permit, that was granted with all of that support.

15 And just to remind you that that variance on
16 October 11, 2018, was based on a variance that the owner had
17 been granted in 2003.

18 We took that 2003 and since it was determined by
19 Ranjit that that had fully expired, we went and we requested
20 essentially that that be -- that 2003 variance be granted
21 again, which it was, and we are essentially here to repeat
22 the request again.

1 CONSTANTINE ALEXANDER: Not quite.

2 CAMPBELL ELLSWORTH: Well, not quite. Not quite.

3 There's more.

4 CONSTANTINE ALEXANDER: Right.

5 CAMPBELL ELLSWORTH: More to it. That's -- okay.

6 So. And the reason why, it's in the Notes that I provided

7 for the case, but after you granted us this variance in

8 2018, we had -- I'll try to summarize -- we had further

9 investigation of the building.

10 There was a very high water table. In fact,
11 right under the existing basement slab, the basement ceiling
12 height is about five and a half feet. We had intended to
13 try to extend it to have a workable storage area. That was
14 impossible. It was absolutely denied by the DPW, who did
15 not -- would not let us go down and have 24/7 pumping.

16 It was explained to us by the DPW that that part
17 of Cambridge in particular is under stress for its
18 stormwater system, and in general they are very cognizant of
19 climate change, and they're working with that all throughout
20 the city.

21 The decision was made to try to lift the building
22 up, approximately two feet -- meaning lift the first floor

1 of the building up. It would allow us to have that decent
2 basement storage space, and in the DPW's eyes, also to
3 provide a much more resilient, climatically resilient
4 building.

5 That of course opened up a bit of a can of worms
6 with accessibility. It's a commercial space. It is -- you
7 walk directly, there's no level change between the sidewalk
8 and the first floor. So it is fully handicapped accessible.
9 By lifting the building up, nothing becomes handicapped
10 accessible.

11 We even presented before the architectural Access
12 Board Massachusetts AAB a solution. They came back with
13 modifications. We have fully complied with their
14 modifications. They were supposed to hear us this last
15 Monday, and something got in the way of their meeting and we
16 were bounced to a further one, but we expect to absolutely
17 pass that board.

18 In addition, sort of out of the blue, Friday Liza
19 Paden called and said that the Planning Board wanted to
20 review this case in front of you, and in fact, and they did
21 on Tuesday night.

22 CONSTANTINE ALEXANDER: We have a letter.

1 CAMPBELL ELLSWORTH: And they have a letter,
2 right. And they were in full support. I actually wasn't
3 able to be there, but the two gentlemen were, and they were
4 in full support.

5 CONSTANTINE ALEXANDER: What a you're doing;
6 you're going to be tearing the current building down?

7 CAMPBELL ELLSWORTH: That's correct.

8 CONSTANTINE ALEXANDER: And building a whole new
9 building?

10 CAMPBELL ELLSWORTH: That's right. In -- on the
11 same footprint.

12 CONSTANTINE ALEXANDER: Yeah, I understood that.

13 CAMPBELL ELLSWORTH: And the -- basically the same
14 mass.

15 CONSTANTINE ALEXANDER: That requires, because
16 it's -- we treat when a building is torn down as if there
17 had been never been a building there.

18 CAMPBELL ELLSWORTH: Right.

19 CONSTANTINE ALEXANDER: And this is a
20 residentially-zoned district.

21 CAMPBELL ELLSWORTH: Mm-hm.

22 CONSTANTINE ALEXANDER: So one of the -- you need

1 now, you didn't need before --

2 CAMPBELL ELLSWORTH: Right.

3 CONSTANTINE ALEXANDER: Is commercial use --

4 CAMPBELL ELLSWORTH: A use variance, that's
5 correct.

6 CONSTANTINE ALEXANDER: That's one variance you're
7 seeking?

8 CAMPBELL ELLSWORTH: Right.

9 CONSTANTINE ALEXANDER: Now, you want the second
10 issue is you want to have two units on the second floor,
11 which is what you wanted the last time?

12 CAMPBELL ELLSWORTH: It was a second and third
13 floor.

14 CONSTANTINE ALEXANDER: Second floor, sorry.

15 CAMPBELL ELLSWORTH: Yes.

16 CONSTANTINE ALEXANDER: And so, what else in terms
17 of relief?

18 CAMPBELL ELLSWORTH: Well --

19 CONSTANTINE ALEXANDER: I mean, parking, short-
20 term parking?

21 CAMPBELL ELLSWORTH: Parking relief is a special
22 permit, as we had requested and was granted a year ago.

1 CONSTANTINE ALEXANDER: Any of the variances
2 though? I thought you identified them.

3 CAMPBELL ELLSWORTH: We have setbacks, right? And
4 setbacks, yes.

5 JIM MONTEVERDE: Commercial use in the C1 zone,
6 you mentioned the --

7 CAMPBELL ELLSWORTH: Right.

8 JIM MONTEVERDE: -- setbacks, yes.

9 CAMPBELL ELLSWORTH: FAR.

10 JIM MONTEVERDE: And variance for FAR, right?

11 CAMPBELL ELLSWORTH: Yes, sir.

12 JIM MONTEVERDE: And then the parking relief.

13 CAMPBELL ELLSWORTH: Correct.

14 JIM MONTEVERDE: Okay.

15 CAMPBELL ELLSWORTH: And it is essentially, if you
16 will, to tear the building down and just to point out our
17 structural engineer has indicated that the foundation of
18 that building actually is sound. It's one of the big, round
19 block foundations. We intend to leave that in place.

20 That will also help as -- because that building is
21 right on the top of the line, so we won't have to go into
22 the street, we hope.

1 So yes. But we want to -- what had been approved
2 a year ago essentially will be recreated, but as you pointed
3 out, the tearing down of the building and the leveling of
4 the lot triggers other -- the -- well, specify the use
5 variance.

6 CONSTANTINE ALEXANDER: Where I'm going with all
7 this -- I'm trying to keep this -- the night is as late,
8 because we can, except for the use variance which is new --

9 CAMPBELL ELLSWORTH: Right.

10 CONSTANTINE ALEXANDER: -- we can use -- we can
11 basically incorporate all of the other variances, same
12 reasons we granted the variances before that apply now.

13 CAMPBELL ELLSWORTH: Okay.

14 CONSTANTINE ALEXANDER: So okay. That would make
15 life a lot easier, at least for me, anyway.

16 CAMPBELL ELLSWORTH: Okay.

17 CONSTANTINE ALEXANDER: And I think that's it.
18 Same with the special permit, we could just incorporate.

19 CAMPBELL ELLSWORTH: That is correct.

20 CONSTANTINE ALEXANDER: All right. Any questions
21 from members of the Board?

22 JANET GREEN: And then what happens with the whole

1 commercial part?

2 CONSTANTINE ALEXANDER: They'll have to get a
3 variance.

4 JANET GREEN: That will be a -- okay.

5 CONSTANTINE ALEXANDER: That will be a new vote.

6 JANET GREEN: That will be a separate vote for
7 that, but we do it tonight?

8 CONSTANTINE ALEXANDER: Yes, yes.

9 JANET GREEN: Okay.

10 CONSTANTINE ALEXANDER: Oh, yeah. Everything
11 tonight.

12 JANET GREEN: Everything tonight.

13 CAMPBELL ELLSWORTH: And I should point out also
14 even though the hearing when we were last with you was over
15 a year ago, decision on the hearing when it emerges out of
16 City Clerk's office was November 15. It's my understanding
17 that that's actually the start of our one year.

18 So were we to fail tonight with you, we at least
19 still have that variance that was granted a year ago? We
20 hope that you will --

21 CONSTANTINE ALEXANDER: Nothing to worry about.

22 CAMPBELL ELLSWORTH: Yeah, well, the case. Thank

1 you.

2 CONSTANTINE ALEXANDER: That's true. You've been
3 before us before. You know that's not always the case.
4 Questions from members of the Board? I think people can see
5 each other where I'm going with this.

6 JANET GREEN: Yes, we do.

7 CONSTANTINE ALEXANDER: Okay. I'll open the
8 matter up to public testimony. Anyone wish to speak? No.

9 CAMPBELL ELLSWORTH: She's in support.

10 CONSTANTINE ALEXANDER: I'll now close public
11 testimony. We do have a -- as Mr. Ellsworth indicated, a
12 memo from the Planning Board, which I'll read into the
13 record. "The Planning Board reviewed the revised plans for
14 the residential addition to this case, what was to construct
15 two housing units.

16 "The current plans would remove the existing
17 retail and rebuild as retail as well as the two additional
18 residential floors, due to the water table issues discovered
19 at construction.

20 "The new plans require Board of Zoning Appeal use
21 variances to replace the retail uses, as well as to waive
22 the residential setbacks on a corner lot, and a special

1 permit waiver of parking and floor area ratio.

2 "The Planning Board continues to support the
3 requested relief, and special permit and supports the
4 neighborhood businesses and residents."

5 So you have the Planning Board on your side. Not
6 surprising. Ready for a motion? Okay, I'm going to deal
7 with the use variance first, because that's new, if you
8 will, compared to the old. The Chair moves that we make the
9 following findings with regard to the use variance being
10 sought:

11 That a literal enforcement of the provisions of
12 the ordinance would involve a substantial hardship, such
13 hardship being that although this neighborhood and this site
14 is zoned residential, it has been for many, many years used
15 as a commercial site, and as a valuable addition to the
16 neighborhood, and the neighborhood would suffer if the
17 residential uses would no longer be available at this
18 location, particularly your baker.

19 That the hardship is owing to circumstances
20 relating to the fact that this site can only be used really
21 for commercial purposes at the ground floor. It would not
22 be suitable for residential use.

1 And that desirable relief may be granted without
2 substantial detriment to the public good, or nullifying or
3 substantially derogating the intent or purpose of the
4 ordinance.

5 In this regard, what we're doing is should we
6 grant you the variance, as preserving a very valuable
7 neighborhood benefit?

8 BRENDAN SULLIVAN: Asset.

9 CONSTANTINE ALEXANDER: I'm sorry?

10 BRENDAN SULLIVAN: Asset.

11 CONSTANTINE ALEXANDER: Asset, thank you. A
12 neighborhood asset, and which I -- and seeking the Planning
13 Board has unanimous, official approval.

14 So on the basis of all of these findings, the
15 Chair moves that we grant the residential -- the use
16 variance, with regard to the site, as indicated on the plans
17 submitted by Mr. Campbell. Did I get this wrong? Mr.
18 Ellsworth. I'm sorry. All those in favor, please say,
19 "Aye."

20 THE BOARD: Aye.

21 [All vote YES]

22 CONSTANTINE ALEXANDER: Five in favor. These

1 plans, by the way, have been initialed by the chair, and
2 they are dated -- I don't have my glasses, I'll have to
3 look.

4 CAMPBELL ELLSWORTH: I'm sorry.

5 JIM MONTEVERDE: 03/27/2018.

6 CONSTANTINE ALEXANDER: Geez, okay. All right.
7 The use variance granted. Now with regard to the other
8 variances being sought, the Chair moves that we just
9 basically incorporate the findings and rationale that we set
10 forth when we granted the variance the last time around,
11 noting in addition there's an additional reason for the
12 variance, and that is the water table and the soil
13 conditions, which is the reason why we should grant a
14 variance.

15 All those in favor, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor. The same
19 with we could do the special permit similarly with regard to
20 the special permit for parking. What we found the last time
21 and the reason why we granted the special permit for parking
22 applies equally this time with regard to the new plans. So

1 the Chair moves that we incorporate these and grant the
2 special permit. All those in favor, please say, "Aye."

3 THE BOARD: Aye.

4 [All vote YES]

5 CONSTANTINE ALEXANDER: Five in favor. Finally.

6 Hopefully you'll get this.

7 CAMPBELL ELLSWORTH: Thank you very much.

8 JANET GREEN: Thank you.

9 COLLECTIVE: Thank you.

10 [10:07pm. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

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

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

In witness whereof, I have hereunto set my hand this _____ day of _____, 2019.

Notary Public

My commission expires:

August 6, 2021