

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, DECEMBER 1, 2016
7:10 p.m.

in

831 Massachusetts Avenue
Lombardi Basement Conference Room
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Patrick Tedesco, Member
Douglas Myers, Associate Member
Jim Monteverde, Associate Member
George S. Best, Associate Member
Slater W. Anderson, Associate Member

Maria Pacheco, Zoning Secretary

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PROCEEDINGS

(7:10 p.m.)

(Sitting Members: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Board of Zoning Appeals to order. And at the outset let me make an announcement:

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

At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made. And I will inform folks that a recording is being made. Our stenographer also makes a recording to assist herself when typing up the minutes or the conduct of the meeting. So there is a recording. You should be aware

of that.

Typically a citizen of the city comes and also records. He's not here yet, but I suspect he will be. And if he does, I will advise you of that as well. So be advised.

Okay, let's move on to the actual conduct of the business.

As is our practice, we start by hearing continued cases. Continued cases are cases that started at an earlier date and for one reason or another were continued to tonight. In this case we have two cases that are being continued tonight.

* * * * *

(7:10 p.m.)

(Sitting Members Case No. BZA-009894-2016: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The first case I'm going

to call is 009894, One Kendall Square, building 100.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one here wishing to be heard.

Let me report to the my fellow board members the following circumstances: This petition was originally filed in July. The petitioner, because there was opposition to the relief being sought, it's a sign variance case. The petitioner requested a continuance. We granted it subject to the usual conditions that the posting sign be maintained for the 14 days prior to the date of the continued hearing. It did not post the sign. And it came and asked for another continuance. We gave that continuance. Same condition. It was being continued until tonight.

No sign has been posted. The petitioner or petitioner's representative has been in contact with Maria

Pacheco and sort of at one point says maybe I want to withdraw and another point says, well, I'd like to continue the case some more. My view is enough is enough basically. He's had two times we've continued the case at his request. Twice he has not followed our instructions as required by the statute to continuing the posting of the sign. So I'm going to move that we consider this case and dismiss it on the grounds that the petitioner has failed to comply with the essential procedural requirement of sign posting.

Any comments or I'll make a motion?

DOUGLAS MYERS: My only comment is one factor that I would consider is that the applicant being aware of these factors that you mentioned, has not communicated more specifically with the Board or with Maria to state its intentions and is not present tonight to present its own case.

CONSTANTINE ALEXANDER: Maria has been in touch with him. She told him that if he wanted to withdraw, he

had to send a request, formal request. If he wanted to ask for a continuance, he had to come down here tonight. Because our practice is after one or two continuances, we're not going to do it by mail. You have to come down here and give us a good reason. As you can tell, he disregarded that advice.

MARIA PACHECO: There is a letter in there.

There's an e-mail.

CONSTANTINE ALEXANDER: Okay, there's an e-mail where you made that point to him.

MARIA PACHECO: There's an e-mail where he specifically said that he wanted to postpone and at that time he would withdraw.

CONSTANTINE ALEXANDER: Yeah. I'd rather write a letter to postpone, but Maria -- see below. And below is a letter for withdrawal.

Just to be clear, I think we should take a vote on this case to dismiss the case for failure to comply with our

notification requirements -- of the Ordinance's notification requirements.

So the Chair moves that this request for a Variance be denied on the grounds that the petitioner has repeatedly failed to comply with the requirements of 10.42.1 of our Ordinance requiring that public notice of the hearing and the relief being sought be posted.

All those in favor of please say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Case is dismissed. The Variance has been denied.

(Alexander, Tedesco, Myers, Best, Monteverde.)

PATRICK TEDESCO: They could pursue it again in six months, correct?

CONSTANTINE ALEXANDER: Two years.

PATRICK TEDESCO: Two years.

CONSTANTINE ALEXANDER: Well, he can do it in less than that if he comes back with a different proposal. But

if he wants the same proposal, he's got to wait two years.

* * * * *

(7:15 p.m.)

(Sitting Members Case No. BZA-011371-2016: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 011371, 40 Cottage Street.

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

ROY RUSSELL: Yes.

CONSTANTINE ALEXANDER: Your name?

ROY RUSSELL: Roy Russell one of the owners of 40 Cottage Street.

I'd like to request a continuance. This is the second week -- we asked for a continuance at the last --

CONSTANTINE ALEXANDER: You've had two continuances. This will be the third if we give you a

continuance now. We continued the case on October 13th. We continued the case on October 27th. And you specifically -- I wasn't here at that meeting, but the transcript shows you specifically agreed we would hear this case tonight. Why are you not prepared to hear this case?

ROY RUSSELL: Okay, I'm sorry, I thought there was one continuance so far, but okay. We haven't had time. There was -- we were -- we had unexpected opposition at the last meeting.

CONSTANTINE ALEXANDER: That was a month ago.

ROY RUSSELL: And we have not had. We -- and so we have tried to engage counsel to discuss our options on that and haven't had time to do that. He hasn't, you know, he hasn't had time to meet with us yet.

CONSTANTINE ALEXANDER: Well, I'm -- to be honest with you, and maybe I'm just being persnickety tonight. But I'm a little troubled by continuing this case again.

Do we have anybody in the audience here for this

case tonight?

(Show of hands.)

CONSTANTINE ALEXANDER: One, two, three, four, five, maybe six, maybe seven. Can I just ask are you here in opposition or in support? Those in opposition please raise your hand.

(Show of hands.)

CONSTANTINE ALEXANDER: Just about everybody.

If we continue this case one more -- these people came down again relying on your requested date the last time. You met with them, with the -- at least the contingent of the neighbors during the hearing. We've recessed the hearing so you can meet in another room. You came back and continued the case to tonight. I don't understand why we have to keep continuing this case. We're inconveniencing your neighbors. And you have presented no reasons why to continue the case. You've had a tough case. Let's be very frank.

Not getting in on the merits. You're seeking a Variance to build a two-family -- convert your structure to a two-family house. That's a very difficult Variance to be granted if you can prove the case. But because of the -- because you've got to establish a hardship, substantial hardship that it's not just yours but it would run to anybody who owns this house.

ROY RUSSELL: Isn't that neighborhood zoned for two family?

CONSTANTINE ALEXANDER: Yes and no.

ROY RUSSELL: Okay.

CONSTANTINE ALEXANDER: Yes, you can convert to a two-family house if you meet four requirements under our Ordinance, and you do.

ROY RUSSELL: Okay.

CONSTANTINE ALEXANDER: But you want, what you want to do is also make an addition to the house that doesn't comply with our setback requirements.

ROY RUSSELL: Right.

CONSTANTINE ALEXANDER: So you can't do it as a matter of right. You do need -- that's why you're here, you filed the petition originally. You have to get zoning relief from us.

And also I would point out two years ago we granted you zoning relief to build an addition, not for a two-family, I guess you never pursued that.

ROY RUSSELL: That's correct.

CONSTANTINE ALEXANDER: So we have over two years that this property sort of in abeyance. And, you know, the reason I'm a little bit concerned about this is that it takes a bit of our time. We have continued cases, that clogs up our agenda and inconveniences us. We have longer meetings. It inconveniences neighbors or other interested citizens who have to come down and then find --

ROY RUSSELL: Okay.

CONSTANTINE ALEXANDER: -- the time to come down

again.

ROY RUSSELL: Well, so I'm confused. I don't know what my options are here. I would have -- should I have withdrawn the case and resubmitted a different case? It appears to me that we have, we have opposition that's unexpected.

CONSTANTINE ALEXANDER: Well, it's not unexpected. You've known for at least a month. Because you knew on October 27th.

ROY RUSSELL: We had -- a month ago we had opposition that was been unexpected.

CONSTANTINE ALEXANDER: Right.

ROY RUSSELL: We tried to retain counsel. We have been unable to -- it's time to sit down and meet with us. So you know I could, I suspect that we have to come back and file a different --

CONSTANTINE ALEXANDER: Let me explain to you how that works.

ROY RUSSELL: Yeah.

CONSTANTINE ALEXANDER: You can withdraw this petition. If you want to come back with the same proposal or essentially the same proposal, you can't do that for two years. If you come back with a different proposal, you know, a different -- we have to determine that, you could file any time and we consider that new case. Or if you come up with a solution which work on a two-family, maybe it would, that you could do this as a matter of right. You wouldn't have to bother with us at all. You just file for your building permit.

ROY RUSSELL: Right.

CONSTANTINE ALEXANDER: You would have an opportunity to come back within two years if you come back with a different proposal. If you don't come back with a different proposal, different as defined in the Ordinance, then you have to wait two years. Or you go, you come up with a -- if you can, an as-of-right solution that doesn't

require any zoning relief.

DOUGLAS MYERS: I was not at either of the two previous hearings. I'm here as an alternate member, but I read the file. There were two hearings at least there were two transcripts in the file. And just to respond to what's been said so far, I noticed that the second meeting, the last meeting, Mr. Sullivan spoke in a very plain, direct way that the purpose of granting the continuance a second time was to enable you to reach out to the people who were opposed to meet with them and to try to come to an agreement or at least give everyone a chance to feel that their views, their opinions had been aired and considered and that only then would the Board -- and that would be the basis on which we would go forward. I take note that none of that has occurred as far as I can tell. Not the slightest effort to reach out, and instead you've said you haven't been able to meet with your attorney. And I don't think that's what -- I can't, you know, I can't speak with terrific authority, but

I don't think that's what Mr. Sullivan and the Board had in mind. I really think that they had in mind that you would in fact deal with the issues raised by opposition of the community and its members. This Board very seldom takes a hardline in refusing a couple of continuances. But I just don't see why, especially in view of the fact that the public is here in a way relying on what Mr. Sullivan said and expecting that the Board would -- that there would be some action along those lines, and I don't see -- I mean, there is a confluence of several factors here that makes me think that maybe this is the time for the Board to take a hardline at least in this case.

CONSTANTINE ALEXANDER: Any other comments from members of the board?

PATRICK TEDESCO: I would just ask the petitioner have you had outreach with your neighbors or your abutters since the last?

ROY RUSSELL: We had, so prior to the last

meeting, we reached out to all of the abutters. We knew we had opposition from one. The rest of them supported what we were doing or sort of didn't object to what we were doing. We came to the meeting and we learned that abutters to the abutters are also considered abutters, which we didn't understand. Had we known that, we would have talked to abutters to the abutters. We have not spent a lot of time trying to reach out to the abutters to the abutters. Their objections at the last meeting indicated that they objected to us converting it to a two-family, which I'm a little mystified by that objection because that is the zoning for the area. They objected to us taking the L off the back, which had been approved by Historical Commission. And, in fact, suggested by the Historical Commission but they objected to us tearing that down and replacing it with a net zero structure. And the objections -- I'm not sure. To be honest, I don't know how to resolve that, that difference. So that's why we needed to speak with an attorney to

understand, is there a path that we can go as of right? You know, obviously it's a different plan because this one required variances. So as you suggested earlier, is there a path which we could go that's as of right where we don't have to involve variances.

CONSTANTINE ALEXANDER: Right, but that doesn't involve us tonight. We could turn you down tonight, hypothetically, and you would have every right tomorrow, next week, next month to come up with an as-of-right solution. So the action we would take tonight on what on the Variance requested in no way precludes or affects your ability to come up with an as-of-right solution. Nor does it prevent you from coming up with a different solution than a two-family with the different modification of your structure within the two years.

ROY RUSSELL: Okay.

I'm a little surprised because when I asked the BZA upstairs, they said that sounds like -- I explained to

them what the issues were, and they said, yeah -- they said I then couldn't continue with a letter or the office, I had to come to the meeting. And so I said fine. And he said the reasons you're giving seem like regular, you know, common reasons for a continuance. He didn't see any, you know, any reason to -- that it wouldn't be. But is it to my advantage to withdraw instead of continue? I mean, to be honest I don't know. If I had counsel, I would ask my counsel --

CONSTANTINE ALEXANDER: I can't be your counsel either.

A continuance is a decision on our part --

ROY RUSSELL: Yeah.

CONSTANTINE ALEXANDER: -- at your request that we continue.

You withdraw, it's your decision. And the consequences are that it's the same as if we heard the case

and turned you down.

ROY RUSSELL: So it's the same thing?

CONSTANTINE ALEXANDER: Same thing.

ROY RUSSELL: So it doesn't matter then. Okay.

CONSTANTINE ALEXANDER: Again, that doesn't -- if you withdraw or we turn you down, it does not affect your ability to do either an as-of-right solution or another solution depending on what it is, that requires zoning relief. It just means that you can't go forward for the next two years with this proposal.

ROY RUSSELL: With this plan. Okay.

DOUGLAS MYERS: Mr. Patrick Tedesco's question is a necessary question and a very fair question, and those are facts that should be elicited. So having listened to what you said about your first contact with the immediate abutters, since the last meeting when Mr. Sullivan spoke, what efforts have you made to be in touch with, organize meetings with, the second ring of the abutters, the abutters

of abutters, the people who showed up at the last meeting and made it clear that they were objecting?

ROY RUSSELL: I haven't.

DOUGLAS MYERS: You haven't done anything.

ROY RUSSELL: I haven't spent much time on that.

DOUGLAS MYERS: So in fact Mr. Tedesco's question is completely proper. And I should have asked it myself. In fact, since the last meeting you've done nothing that's responsive to Mr. Sullivan's and the Board's expectation that you would reach out to those objectors?

CONSTANTINE ALEXANDER: Let me make one other comment, too, I mean just to...abutters and abutters to abutters are entitled to get legal notice, written notice of relief, but those are not the only -- we listen to the views of any citizen of the city. And so people who are not entitled to get notice, nevertheless, can come down and read the sign or otherwise learn of your petition, can come down and speak and we listen to those folks just as we listen to

the abutters and the abutters to the abutters. So I just don't want to telescope this as it's the -- it's only the people --

ROY RUSSELL: Well, I've spoken to a considerable number of other people as well and since the last meeting. But I think --

CONSTANTINE ALEXANDER: We've had multiple letters in our files opposing it.

ROY RUSSELL: That's right, that's right.

CONSTANTINE ALEXANDER: Many, many letters. And you can look at the file any time you want. It's not just a few folks. And also I point out at the end of the day, it's not the neighbors or the abutters who make the decision, we do. And there are times when we will not listen to, we hear the abutters and nevertheless grant relief and vice versa. There are times when the abutters are enthusiastic for the relief and we find that legally we can't grant it. So it's not determinative as to what the neighbors say, but it's a

very important factor for us which is why, as Doug has pointed out, Mr. Sullivan, you know, had you meet with the neighbors during the meeting. It's not just during the meeting you -- as I read the transcript, you and --

ROY RUSSELL: Oh, we met with them for more than an hour. An hour, hour and a half.

CONSTANTINE ALEXANDER: A month has passed --

ROY RUSSELL: But there was no -- there was no forward motion during that interaction. You know, I couldn't, I couldn't see a clear path. They were essentially objecting to, you know, many of the things that we were doing. Some of the things I think we could probably do as-of-right if we changed the plan and didn't request a Variance and stuff. But they were objecting to those things. So I didn't see a -- I didn't see coming to a -- I didn't see reaching a resolution with that saying yes, we support what you're doing with these, you know, changes, move this window over here, change this, you know, change

this property line or something.

GEORGE BEST: So I have a question: Do you know what your as-of-right parameters are?

ROY RUSSELL: No.

CONSTANTINE ALEXANDER: Have you spoken with your architect Boyes-Watson about this?

ROY RUSSELL: Yes.

CONSTANTINE ALEXANDER: Okay.

By the way, they're very familiar with how we conduct our meetings. They've appeared before us quite often and they should have advised you. I'm sure they would have advised you of how the process works.

ROY RUSSELL: They advised me to request a continuance.

CONSTANTINE ALEXANDER: I'm going to unless there are comments from the members of the Board at this point, I'm going to take comments on the audience not on the merits of the case but on the request for a continuance to some

date to be determined.

Does anyone wish to speak to this matter? Ma'am.

Give your name and address to the stenographer, please.

KAREN PARMETT: I'm Karen Parmett, P-A-R-M-E-T-T.

I live at 44 Cottage Street, direct abutters to 40 Cottage Street. And as the mother of four school-aged children this is an extraordinary hardship to make this kind of time. It isn't a partnership. There have been no ongoing discussions, and it's really stressful to get one's self together and come here and I just -- I'm not sure what the petitioners seek to gain by continuing to bring this forward, yet not preparing or making the appropriate efforts either regarding an attorney, revising plans, discussing further. It isn't just immediate abutters, it isn't just folks on Cottage Street, it's a lot of different folks who have a lot of different feelings about why this isn't right for Cambridge. And it's, I would suggest that the three reasons that you can grant a Zoning Variance under the law;

soil, topography, and lot shape, don't apply to this case at all. And that this petitioner is continuing to bring it forward, not prepare, ask for a continuance, bring it forward, is really a hardship and I just want that on the record.

CONSTANTINE ALEXANDER: Good. Thank you very much.

Is there anyone else who wishes to speak on the request for a continuance, not the merits?

(No Response.)

CONSTANTINE ALEXANDER: There's no one else wishing to speak.

Further comments from members of the board or I'll make a motion to -- since the petitioner's requested a continuance, I'll start with a motion to continue this case.

To what date do you want to continue the case to? And, again, it's a date you better be ready for if we were to grant the continuance.

What date do you want?

ROY RUSSELL: So what are the next....

CONSTANTINE ALEXANDER: In a month you haven't gotten anywhere, you better not --

ROY RUSSELL: That's why I'm asking what are the possible dates?

MARIA PACHECO: January, February, March.

CONSTANTINE ALEXANDER: We meet twice a month, and in February we're only going to meet once next year. Usually a second -- roughly the second and fourth Thursdays of each month.

ROY RUSSELL: So, I think probably given, given the speed at which the attorney has responded since the last one, I would say something like six weeks which is the mid -- is it mid-January?

MARIA PACHECO: January 26th.

CONSTANTINE ALEXANDER: January 26th.

JIM MONTEVERDE: Really? With the holidays? It's

your decision.

ROY RUSSELL: That's why I'm pushing it rather than just saying a month from now which is the beginning of January, right?

CONSTANTINE ALEXANDER: A month from now would be -- January?

MARIA PACHECO: 12th.

CONSTANTINE ALEXANDER: 12th, right.

But you have to remember this is a holiday season, too, so getting --

ROY RUSSELL: I know. Thanksgiving probably didn't help either.

CONSTANTINE ALEXANDER: You want to do January 26th?

MARIA PACHECO: Want to do February 16th?

ROY RUSSELL: That would be February 16th, that would be even more sure.

CONSTANTINE ALEXANDER: This being a case not

heard, we don't need all five of us.

Let me ask those of you in the audience interested in this case, do you have any reaction -- I'm not saying we're going to pass the vote, but do you have any reaction to a February 16th date?

Ma'am?

KAREN PARMETT: I think if that's possible if we can check whether that's February school vacation?

MARIA PACHECO: It is not.

CONSTANTINE ALEXANDER: It is not. We don't meet on February school vacation. Good question, though.

Sir, you had your hand up?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Same question.

CONSTANTINE ALEXANDER: Okay.

I'm going to make a motion that we -- well, the Chair moves that we continue this case as a case not heard until seven p.m. on February 16th subject to the following

conditions:

One, well the petitioner has already satisfied the first. He's had to sign a waiver for time of decision.

Two, that the posting sign that's there now be modified to reflect the new date, February 16th, and the new time, seven p.m. And that the sign be maintained for the 14 days prior to that date.

And lastly, to the extent that the plans or dimensional forms that are in our files now are going to be modified, you're going to propose a modification, that they have to be in our files no later than five p.m. on the Monday before that date. That is to enable us, the members of the board, and the public to come and inspect what you're going to propose the night of the 16th.

Okay. Question?

GEORGE BEST: Well, I have more of a statement I think.

CONSTANTINE ALEXANDER: Go ahead.

GEORGE BEST: I think you might want to make sure that you understand what you're doing so that you can have critical conversations with your abutters, so that you're not wasting everyone's time.

CONSTANTINE ALEXANDER: Thank you, George.

All right, all those in favor of granting the continuance on the basis I've just indicated, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: One, two.

(Tedesco, Monteverde.)

CONSTANTINE ALEXANDER: All those opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: One, two, three. The request for a continuance is denied.

(Alexander, Myers, Best.)

CONSTANTINE ALEXANDER: So we're going to go to the merits or you can withdraw now or go to the merits of

the case now if you're ready to go.

ROY RUSSELL: I'm not ready to go and my architect isn't here and my attorney isn't here.

CONSTANTINE ALEXANDER: Either you can withdraw or we're going to hear the case and make a decision on the merits, it's up to you. You may save time for you and your neighbors if you withdraw, but I think you can see which way the wind's blowing. But it's up to you.

ROY RUSSELL: I guess I should withdraw this case because it seems to me -- I mean, the other -- we could waste a lot of time. I think it would be a waste of a lot of people's times because you could suspect -- I could ask for a hands who are going to approve it as is. But that just seems like that's a waste of everybody's time.

CONSTANTINE ALEXANDER: You can see which way the wind is blowing.

ROY RUSSELL: Right.

CONSTANTINE ALEXANDER: Anyway, since you haven't

been able to convince your neighbors and other citizens of the city of the wisdom or desirability of what you want to do with these plans --

ROY RUSSELL: Well, I will say --

CONSTANTINE ALEXANDER: You can come back with other plans.

ROY RUSSELL: Quite a number of members of the city who think they're excellent plans.

CONSTANTINE ALEXANDER: Yeah.

ROY RUSSELL: And there are some neighbors who continue to oppose.

CONSTANTINE ALEXANDER: I understand that.

ROY RUSSELL: And to be honest with you I don't think they're gonna change their mind about that opposition. So, you know.

CONSTANTINE ALEXANDER: Well, again, we can go through the motions. We can hear the merits or you can withdraw. I'm pointing out to you that if you withdraw, you

can still come back with a different proposal or you can certainly pursue without even having to come back before us an as-of-right solution.

ROY RUSSELL: Okay. Well, I'll just withdraw.

That seems easier. It's the same as --

CONSTANTINE ALEXANDER: The Chair moves that we accept the petitioner's request for a withdrawal.

All those in favor say "Aye."

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Withdrawn.

(Alexander, Tedesco, Myers, Best, Monteverde.)

* * * * *

(7:35 p.m.)

(Sitting Members Case No. BZA-011418-2016: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 011418, 650 East Kendall Street.

Is there anyone here wishing to be heard on this matter? Name and address to the stenographer, please.

JOHN TOWNSEND: Good evening. Thank you. My name is John Townsend. I'm with NorthStar. We're at 1050 Mass. Ave., right here and working at Shire which is. Action Elise Kendall Square area.

KRISTIN BROWN: Kristin Brown with NorthStar, 1050 Mass. Ave., Cambridge.

ATTORNEY BRIAN GROSSMAN: Brian Grossman. Anderson and Kreiger, 50 Milk Street, floor 21 in Boston.

CONSTANTINE ALEXANDER: Floor is yours.

JOHN TOWNSEND: Thank you, sir.

As I mentioned, my name is John Townsend. I was retained by Shire two years ago. Actually Baxalta at the time, since it merged with Shire, and I've been working at their facility at 650 East Kendall. We have a number of boards here that I'd like to go through if it's okay. The printouts give you a preview of that and I have boards in

the front that are a little larger to read.

Since working at 650 East Kendall and spending the last two years there, the Shire folks and myself realized that we have a reoccurring issue, wayfinding issue that has not been resolving itself primarily due to this building being 500 feet approximately from the primary access road. It's on a private way surrounded mainly also by private ways. And I have a board to show where they are. It's frequently mislabelled on the mapping software as either Kendall Square, One Kendall Square, or Kendall Street, sometimes called Kendall East, sometimes East Kendall.

So as the boards will show the instructions showing the building, street furniture, other buildings that we've gone to great concern.

The -- what we did when we realized that this issue is, we went back and worked with the security group at the building and to identify how many guest badges they were issuing on a month basis. We did a couple samples. They

had issued 254 guest badges, which would not include other Shire employees coming from other offices globally that they have, and there are 300 guests or visitor work spaces. And in addition to that, there's 400 full-time employees at the building, 50 percent of those travel monthly. So we have a situation where there are more visitors to this building from abroad and nationally and others --

CONSTANTINE ALEXANDER: What type of visitors?

Give me an idea. Give me a census of --

JOHN TOWNSEND: Right. So this is the R&D innovation center globally for the company. So mainly partners in studies that they're doing, sometimes patients, doctors, anyone that is involved in the potential study. Contractors that are helping to work on that, business partners, and sometimes other pharmaceutical companies.

CONSTANTINE ALEXANDER: This building is pure research and development facility.

JOHN TOWNSEND: Research and development but not in the classic sense of lab -- it's not laboratory. It's all office which is interesting. It's more of a meeting space for their research and development groups internationally.

So as a result of this, we have looked into and had looked into the possibility of wayfinding signs and looked at as-of-right possibilities and found that the as-of-right height was of a particular issue because it was not visible from anywhere that could be seen either on foot or by car.

We, as a result, reached out to the community working primarily through the East Cambridge Planning Team and met on a number of occasions; March, April, May, and throughout the summer. Very well attended meetings because you know I'm sure, very interested parties. Walked through a lot of concerns they had. We visited -- requested that those who were concerned and were abutters visit the site.

We did a full walk through from kind of walked from the T station, walked up Binney, walked up all around, visited the site, the building and the interior, and reviewed the possibilities for where the sign would go that could be effective from a wayfinding standpoint but also not be obtrusive or, you know, offensive for the neighborhood.

So as a result of this, we greatly reduced the size of the sign more than what was requested by the ECPT. And also we eliminated the lighting. We had -- it was originally backlit. We eliminated the lighting. They requested that we potentially limit the hours of lighting.

CONSTANTINE ALEXANDER: Why don't you just say for the record how big is the sign you're now proposing as compared to what is allowed by our Ordinance? Our Ordinance says you're no more than 60 square feet.

JOHN TOWNSEND: Yeah.

CONSTANTINE ALEXANDER: How big is your sign?

KRISTIN BROWN: 65.

JOHN TOWNSEND: 65.

CONSTANTINE ALEXANDER: So less than ten percent bigger?

JOHN TOWNSEND: Right.

CONSTANTINE ALEXANDER: And there's a second --

DOUGLAS MYERS: No, you go ahead.

CONSTANTINE ALEXANDER: And there's a second issue with regard to the sign, is the height.

JOHN TOWNSEND: The height.

CONSTANTINE ALEXANDER: You've already identified.

JOHN TOWNSEND: Yes, sir.

CONSTANTINE ALEXANDER: And the Ordinance requires no more than 20 feet high off the ground. And you're going to be on the sixth floor; is that right?

JOHN TOWNSEND: Yes, it's the sixth floor. If I could show.

CONSTANTINE ALEXANDER: So you're looking for zoning relief both as to size and to height of the sign?

JOHN TOWNSEND: And the height, right. Height is of critical importance and we'll see why on the boards, but it's, it's an 88-foot, one inch height. And the reason for that dimension is really the architectural feature of the building itself which is this overhang up here. We had studied placing the sign lower on the building on the glass, it's a full curtain wall glass facade. The issue there was it was still not visible, but it also stood out more, it was more prominent than what we have up here which is set back 14 inches and under this roof line or the level of the roof line. And so as you walk up to the building, the proposal would disappear from view because it's set back a little bit if that makes sense from the distance.

CONSTANTINE ALEXANDER: But this is the only sign you're going to be putting on the building that identifies Shire?

JOHN TOWNSEND: Yes.

CONSTANTINE ALEXANDER: Because you're on four

sides, right?

JOHN TOWNSEND: Right. We have -- we're on 75 percent of the building.

CONSTANTINE ALEXANDER: And the sign is going to be facing, if you will, away from Land Boulevard in that way?

JOHN TOWNSEND: Correct.

DOUGLAS MYERS: What about the sign that's shown on the lower picture here?

JOHN TOWNSEND: Yeah, that's just for example. That is a by-right sign located at the 20-foot or seven-foot sill.

DOUGLAS MYERS: And that will not be installed?

JOHN TOWNSEND: That will not be installed. That's just to show that it cannot be seen. What's in the background here is the skate rental structure, which is a permanent building. And other than that obviously the tree line as well. I showed that there to show what a sign at

the 20-foot height would look like only. So it's just as a comparison.

So to explain the location and height of the sign, this is quite a large board. If it's okay with you I'll put it in front here.

CONSTANTINE ALEXANDER: Go ahead.

JOHN TOWNSEND: What we've studied -- so the different approaches to the building are obviously Binney Street and Third Street. Most of the folks that visit the building come in by T. Shire has a very aggressive public transportation policy, and they pay for a lot of costs for that. But also the signage coming from the airport kind of leads folks through Kendall Square and then they come out Third Street most typically.

So these pictures show the view as you come from Third Street, Third and Kendall. The area's blocked by both this building and the foliage here, but also there's, I believe, a structure scheduled for this area eventually. At

Third and Athenaeum is a location that we would propose to put the sign up here at the sixth floor. That is the one area that we feel that you can catch the attention of someone trying to find the site. I'll get back to that in one second.

Third and Linskey, there's a parking garage down here and there's a parking sign on the building that you still can't see it because of the way the building's aligned perfectly and the permanent furniture.

And then as you turn the corner, of course, you get into some much larger buildings. Here's the Alnylam building and their sign there. That's the corner of Third and Binney. If you're walking on foot and you miss the right to come down to this area, you'll end up right here which is an extremely busy road. It's quite dangerous to cross there to be honest with you.

And then, again, proceeding down Binney and Second, large structures. Binney and First, completely

blocked out by a large structure.

So the point here is that this, this is the building location. This is not a, it's not really a destination area. It's also not a commonly traveled through area. It's not -- you wouldn't come from Third down these roads. The First doesn't connect. You wouldn't, you know, you wouldn't likely come from Binney either to come through here for any reason other than to try and find this building or the adjacent buildings.

So coming down Third Street, if you catch the sign here, you take your next right and you're at the parking garage. Or if you're on foot, you come right down the street where you see the sign and you're right there.

Likewise coming the other direction, you see the sign here and you come down Kendall Street which wraps you around back in front of the back in front of the building. We really feel it's the best location.

CONSTANTINE ALEXANDER: And, again, this sign is

not illuminated.

JOHN TOWNSEND: Not illuminated, no, sir.

There are -- in this canopy in the other board I should just point out there are can lights in the canopy itself, down lights that are part of the building structure. But the sign itself is placed outside of that canopy and they're pretty spaced out. So it's, it wouldn't illuminate the sign.

Also working with the neighborhood we had removed -- there was a Shire logo as you see here on the boards, and it was a much larger one, and it has this kind of swoosh effect here and it's been removed from the sign. The sign is a very simple brushed aluminum block letter sign, not intended to be branding of any kind, just informational.

So, what we think, I guess the point I want to stress is that we have -- there's one other board which is the -- just showing the private roads. This is a very

unique area, I think, for Cambridge. Maybe -- I could be proven wrong there. But these are all private roads here in front of the building and adjacent to it, the access points, the main primary access points to private roads. I think that's what causes a lot of the issue with people expecting packages to show up there or they're at One Kendall Square or somewhere else. It's a unique building and it's a unique location primarily, and we feel that, you know, through working with the residents and our abutters on the design and the style, that we developed something in our proposal here that the letters of support that you see I think indicate that -- it speaks well for what they would hope to see a wayfinding sign to look like and it also is effective for the occupant of the building that I'm here to represent.

That's everything I -- for the most part. I would love to answer questions.

CONSTANTINE ALEXANDER: You're finished. Any Members of the Board have questions at this point?

JIM MONTEVERDE: Just out of curiosity in this photo, the illustration of the one down at the, I assume this is the as-of-right location?

JOHN TOWNSEND: Yeah. The blue, yep.

JIM MONTEVERDE: Yeah. Why that's done in, is that done in white, the same brush thing that you're talking about here? Would it be as visible as this one is?

JOHN TOWNSEND: No. It's actually behind the skate rental building. So that it's a little --

JIM MONTEVERDE: Is there something in front of it that would block it?

JOHN TOWNSEND: If I may.

JIM MONTEVERDE: Sure.

JOHN TOWNSEND: It's, it's tough to see because it's black but there's the skate rental building right here.

JIM MONTEVERDE: Down here?

JOHN TOWNSEND: Yeah. That's in front of it blocking it.

KRISTIN BROWN: It might be a little better here.

JOHN TOWNSEND: That's the same building. There's a -- during the winter months there's ice skating rink out front that's sponsored by the buildings in this group.

JIM MONTEVERDE: Yeah.

JOHN TOWNSEND: And they have rentals there and I think they also service the canoe rental.

JIM MONTEVERDE: Yeah. But that building faces -- where is that -- is this just drawn floating in space?

JOHN TOWNSEND: Yeah, it's floating in space in front. And the intention was to really show that it couldn't be seen.

JIM MONTEVERDE: Okay.

KRISTIN BROWN: Yeah, so it was --

ATTORNEY BRIAN GROSSMAN: Yeah, so the Shire logo there is superimposed over all of the obstructions but it would actually be behind.

JIM MONTEVERDE: Okay.

ATTORNEY BRIAN GROSSMAN: So it would be tucked behind that skate building. It would be tucked behind, you know, the trees there.

JIM MONTEVERDE: Right.

ATTORNEY BRIAN GROSSMAN: And even in winter they would be blocking it, but certainly when they're leafed out for half the year, they continue to block it.

JIM MONTEVERDE: Too bad because it would look perfect.

JOHN TOWNSEND: I know, it would.

JIM MONTEVERDE: It was a winner.

Just for the Board, is there generally a concern about anything that has the feel of branding a building, naming a building?

CONSTANTINE ALEXANDER: I was going to get to that in a bit because we have the Planning Board comment.

JIM MONTEVERDE: Right.

CONSTANTINE ALEXANDER: Let me make my observation. I'm not sure I'm right on this. Maybe Doug has better advice than I do. But if -- we have no right, legal right to -- no community does to turn down a sign on the grounds, on the sole grounds it's branding. Because corporations like individuals have free speech rights. And I believe they're in court decisions, maybe you can advise of this, said that if a sign that's -- unless there's a community interest in terms of safety or visibility or whatever, that the -- you cannot turn down a sign just because it is quote/unquote branding. So although I think the Planning Board gets involved in this, I don't think we can turn it down if we believe there's just a matter of branding.

JIM MONTEVERDE: Okay.

CONSTANTINE ALEXANDER: Okay? I think I'm right on that.

You have a different view?

ATTORNEY BRIAN GROSSMAN: No, I would agree with you.

CONSTANTINE ALEXANDER: Okay.

JIM MONTEVERDE: Could I ask a different question?

CONSTANTINE ALEXANDER: Yes.

JIM MONTEVERDE: From, again, these suggestions, the one that as-of-right and then the one at the top of the building, is there a possibility of any other location between there and there that works for you?

JOHN TOWNSEND: Yeah. So we did study that actually with the East Cambridge Planning Team --

JIM MONTEVERDE: Right.

JOHN TOWNSEND: -- and looked at it -- we looked at a lower sign.

JIM MONTEVERDE: Correct, yeah.

JOHN TOWNSEND: It was still above the as-of-right level.

JIM MONTEVERDE: Correct.

JOHN TOWNSEND: But even at the same size it stood out much more because it's on the face of the glass as opposed to being set back the 14 inches. So when it's set back and kind of under that roof line, it works within the architecture of the building, especially inches and we looked at this from an architectural standpoint, and we decided and the neighborhood decided that it was a better fit, tasteful, handsome.

JIM MONTEVERDE: All right.

CONSTANTINE ALEXANDER: Other questions?

JIM MONTEVERDE: No, thank you.

CONSTANTINE ALEXANDER: We'll have time for comment later if need be.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently there is no one.

We are in receipt of some correspondence. We are in receipt of correspondence from the East Cambridge Planning Team which I will read into the record. And it's from the President of the East Cambridge Planning Team.

(Reading) I am writing to confirm that Shire has gone well beyond many applicants for zoning variances for signs by working with the East Cambridge Planning Team officers as well as Heather Hoffman and Carol O'Hare to address people's expressed concerns regarding the design, location, and illumination of their proposed sign.

At the May 25, 2016, meeting East Cambridge Planning Team's members voted to support the then proposed sign as presented by Baxalta which was acquired by Shire on June 1st. Since then, Shire has agreed to further reduce the impact of their sign on the surrounding East Cambridge neighborhood. Shire's changes include reducing the size of

the sign from 125 to 65.3 square feet, dropping their original plans to light the sign from a source that could not be seen from a public way and removing their corporate logo. Shire's building is a block away from Third Street and a sign at the permitted height, maximum 20 feet above ground, would be partially or completely hidden from view by trees and other obstructions. The proposed sign is only 5.3 feet -- square feet larger than permitted, 65.3 square feet instead of 60 square feet. Finally Shire's proposed sign will be installed not on the top of the building's mechanical penthouse but below the building's projecting platform.

We have a letter from Carol O'Hare, which I will not read into the record. It's long. But the sum and substance of the letter is that she is in support of the sign, the relief being requested and citing a number of reasons that the East Cambridge Planning Team cited.

And the last thing we have a memo from the

Planning Board, which I will read into the record.

(Reading) The Planning Board reviewed the Sign Variance application for 650 Kendall Street which is part of the Planning Board Special Permit #141 Cambridge Research Park. The Planning Board had no issues nor objection to the Variance for the larger sign as a tool for wayfinding. The proposed sign is a modest and well thought out response to the building design and scale. However, the Planning Board did find that the location variance for a sign higher than 20 feet on the building makes this sign a branding sign and that because of existing public objection to branding signs, board members do not support this Variance. The Planning Board is also concerned that approval of the sign would create a precedent in this development and other locations in Cambridge.

So, you have -- you or your counsel have any comments in response to this -- we always pay close attention to what the Planning Board says but we don't

slavishly follow what they recommend. So anyway, welcome response.

ATTORNEY BRIAN GROSSMAN: The only thing I would say in terms of the Planning Board recommendation, where it talks about because of existing public objection to branding signs, I hope it's -- it may not be clear from their letter. That was not specific to this proposal. There was not at the Planning Board hearing or as you've seen tonight, public opposition to the proposed Shire sign. I think they were talking more general philosophy throughout the city which certainly we've, you know, I've discussed with this Board one of the last times I was here. And so in terms of, you know, Planning Board recommendation is they recognize it's a well thought out response in terms of building design and scale, the one thing where the Planning Board -- we may have fallen a little short in terms of our explanation was the demonstration in which we didn't have that there that we do have here, showing what happens when you put the Shire sign

at 20 feet and that it's behind that skate building and that it's behind those trees. We discussed it with the Planning Board, but I think they felt that maybe 20 feet was actually a little bit higher on that building than it really was and would be more visible than really as the demonstration shows.

JOHN TOWNSEND: Yeah.

CONSTANTINE ALEXANDER: And I've already commented on the -- I think you're correct in saying that their objection is grounded on the fact of quote/unquote branding. And, again, I think they're misguided, in my view, that we cannot deny people -- a sign because of branding. We can for other reasons that are germane to the City's policies, but branding is something that corporations have a right to do subject to not being, endangering signs or signs that inconvenience the public.

PATRICK TEDESCO: I would also challenge the Planning Board's language a little bit because it sounds to

me like they suggested a sign 20 feet would be okay, but at the top of the building it's branding. I'm not sure why a sign at 20 feet would also be considered branding.

CONSTANTINE ALEXANDER: Good enough, fair point.

JIM MONTEVERDE: But I think the notion is when it's at 20 feet, it's the announcement of an entry. It could be that. There could be multiple entries. When you put it on top of the building, that's the building. And I think that's the essence of the branding concern. Is you're really not just -- and it's not part of the streetscape, it's not part of the cityscape as you're walking along, and there are -- you know, not just what you show here, trees and street signs and announcements for entries. It's claiming that that piece on the landscape. And I think that's the difference. One reads at an urban scale, one reads at a street level scale. And I think that's the issue I think of the branding.

CONSTANTINE ALEXANDER: Yeah.

JIM MONTEVERDE: And it's not the objection to the corporations. It's not the objections of the buildings. It's just using that signage as a -- for a dual purpose.

CONSTANTINE ALEXANDER: But given the nature of the narrow street, the high buildings, the trees, the wayfinding desire for the sign is best served by a sign that's higher than 20 feet.

JIM MONTEVERDE: I don't disagree.

CONSTANTINE ALEXANDER: That would be my view.

JIM MONTEVERDE: I just haven't gotten to 60 feet. I'm somewhere between 20 and 60. Do I hear something in between? No, okay.

CONSTANTINE ALEXANDER: Okay, well, that's -- we're going to close public testimony. And I guess there's no one else interested, and that's all we have in our files.

Any final concluding comments before we consider this matter?

ATTORNEY BRIAN GROSSMAN: No. Except I'm not a hundred percent sure what Mr. Monteverde said at the very end there. But, you know, somewhat jokingly do I hear something between 20 and the actual location? And that -- -

DOUGLAS MYERS: It's higher than 60. It's 88.

JIM MONTEVERDE: That's why I asked. Just get you within an intermediate location that, you know, gets you above all that streetscape stuff that's in your way. That you can do the wayfinding but it doesn't, to me, get to that -- I don't want to call it branding, but get to that position that seems to be more sensitive.

ATTORNEY BRIAN GROSSMAN: Right, but I think as John described during the process of the meeting with the community, they looked at all the -- we looked at all those options. And it was not even just Shire's opinion, but really the other two supporting letters we had. Their opinion that this location given the setback and, you know, under the overhang made it actually a more appropriate

location and less prominent than if you were to just put it on the glass wall.

GEORGE BEST: And also trees grow leaves.

JIM MONTEVERDE: No, no, I understand. That's why I'm with them. I understand the above the 20 feet, 30 feet, whatever the distance is.

JOHN TOWNSEND: Really the building architecture with the full curtain wall, glass curtain wall lends itself -- really lends itself to be up here. To be on the glass wall it was much more projected and this is a little recessed a bit which helped the proposal overall. And the building, you know, I think the tour of the building by the East Cambridge Planning Team was helpful in getting that.

CONSTANTINE ALEXANDER: I would just make the observation for the record is that the East Cambridge Planning Team is very active neighborhood group and particularly in the sign area. And so is Ms. O'Hare. And it's unusual to get their support, frankly, that you have

now. So I thought that to my mind a good endorsement for what you want to do.

I'm going to -- so I'm going to close public testimony.

Again, any final comments you want to make?

JOHN TOWNSEND: No sir.

KRISTIN BROWN: No, sir.

CONSTANTINE ALEXANDER: Discussion or ready for a vote?

(No Response.)

CONSTANTINE ALEXANDER: No discussion so I guess we're ready for a vote.

Okay, the Chair makes the following motion:

The Chair moves that we make the following findings with regard to the relief being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being is that given the location

of the structure and the general streetscape around it, including the vegetation, that the ability for visitors to the structure to identify where the Shire is located requires a sign that is not in compliance with the height and dimensional requirements of our Ordinance.

That the relief is due to the nature of the structure and its location in the city. As I've indicated, it's on a narrow street that requires some relief for wayfinding purposes.

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

In this regard the Chair would note that the proposed sign is not illuminated.

That it is in an area that has very little impact on abutting properties, particularly residential properties.

And that as I've indicated before, it does satisfy

necessary need with regard to this structure.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with two pages of plans you submitted, both which are initialled by the Chair. So if you're going to modify these, you're going to have to come back before us.

Understood?

JOHN TOWNSEND: Yes.

CONSTANTINE ALEXANDER: So on the basis of these two pages of plans that I've initialed.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four.

(Alexander, Tedesco, Myers, Best.)

CONSTANTINE ALEXANDER: Opposed?

(Monteverde.)

CONSTANTINE ALEXANDER: One opposed.

Motion carries. Relief granted.

* * * * *

(8:05 p.m.)

(Sitting Members Case BZA-011655-2016: Constantine

Alexander, Patrick Tedesco, Douglas Myers, George S. Best,

Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call Case
011655, 12 Harding Street.

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

UNIDENTIFIED MEMBER FROM THE AUDIENCE: What is
it?

CONSTANTINE ALEXANDER: Harding Street.
Your name and address for the stenographer,
please.

DINA RUGAMAS: My name is Dina Rugamas and I live
at 12 Harding Street -- 12 Harding Street in Cambridge, MA.

CONSTANTINE ALEXANDER: Okay. I don't know if are
you aware that your architect has requested a continuance?

DINA RUGAMAS: No, I did not. He called me today
and he said that the sign wasn't posted.

CONSTANTINE ALEXANDER: That's correct.

DINA RUGAMAS: But I did post it and I guess

somebody -- because I did take a picture when I post it. Because I post it in that door. I don't know if you can see it. My question to you is that, I don't know, I just came to see what's the next procedure for me to -- I don't know how to get a new sign or --

CONSTANTINE ALEXANDER: Oh, yes. Let me explain. It's interesting about that sign. I checked the property on one date and Mr. O'Grady, in the Inspectional Services Department, checked it on a different date and on neither of those dates was that sign up. So somebody must have ripped it down unfortunately.

DINA RUGAMAS: Right. Can I put it, like, up here, like, on the second floor or because --

CONSTANTINE ALEXANDER: I'd rather it not be on the second floor. The first floor --

DINA RUGAMAS: Or I can, I don't know, the trees.

CONSTANTINE ALEXANDER: It's got to be visible --

DINA RUGAMAS: Just a suggestion.

CONSTANTINE ALEXANDER: It's got to be visible -- the only suggestion is it's got to be visible to people who go by back and forth subject to vandalism I suppose. But that's the requirement. You can't stick it behind a bush.

DINA RUGAMAS: What if I take out the bush and just put it in -- does it have to be inside or the outside?

CONSTANTINE ALEXANDER: Well, inside makes it less likely to be vandalized. But it's got to be, again, visible. If it's inside -- if you had no bushes there and you put it inside your window, that would be ideal, first floor window.

DINA RUGAMAS: Maybe just to put it on the inside.

CONSTANTINE ALEXANDER: Well, what are you going to do with the bushes?

DINA RUGAMAS: Right.

CONSTANTINE ALEXANDER: You going to take them down?

DINA RUGAMAS: No, like just cut it.

CONSTANTINE ALEXANDER: Yeah.

DINA RUGAMAS: Because you see this is the first floor?

CONSTANTINE ALEXANDER: Yes.

DINA RUGAMAS: So this almost -- the way that the window, first window, the level where I put the sign if I put it in here and just cut the bushes like halfway, I think it will be visible from the inside on the first floor.

CONSTANTINE ALEXANDER: As long -- if you can do that, it's up to you. As long as that sign is visible.

DINA RUGAMAS: Okay.

CONSTANTINE ALEXANDER: And I would suggest that if you find that you don't do that, and you're going to put it on the door again, which people often do, that you every couple of days -- do you live -- the property is not --

DINA RUGAMAS: No, it's been abandoned. I've been waiting for the permit for almost like a year and a half.

CONSTANTINE ALEXANDER: Every couple of days going by and see if the sign is still up. And if it's not, even if it's in the window, sometimes they slip down. Go see Ms. Pacheco and go get a new sign.

DINA RUGAMAS: Oh, okay. And just continue putting it on?

CONSTANTINE ALEXANDER: Yeah, just keep putting it up.

DINA RUGAMAS: Okay, I'll do that.

CONSTANTINE ALEXANDER: Now, so we're going to continue this case. I'll read the request. We'll see what your architect says. This is a letter from Benjamin Lee, the architect for the project. (Reading) Due -- there's a word missing. To is missing. Due to the failure of posting the notification panel at 12 Harding Street, I would like to continue the Board of Zoning Appeal application to construct two dormers at the attic level, one new window, and one new door at basement level. Please reschedule this case for

hearing at the earliest time.

Now the earliest time would be December 15th, but that's only two weeks from now. You got to get that sign up for two weeks. I'm not sure it's enough time.

DINA RUGAMAS: Okay.

CONSTANTINE ALEXANDER: I would suggest --

DINA RUGAMAS: I will continue daily --

CONSTANTINE ALEXANDER: I'm sorry.

DINA RUGAMAS: I will continue daily, checking daily this sign is up there from now on.

CONSTANTINE ALEXANDER: So you think you're going to be ready on -- you have to have two weeks --

DINA RUGAMAS: Yeah, I under --

CONSTANTINE ALEXANDER: Before December 15th.

DINA RUGAMAS: Yes. I'm ready.

CONSTANTINE ALEXANDER: I mean starting tomorrow morning that sign has got to be there and visible.

DINA RUGAMAS: I will get it from you,

Ms. Pacheco?

CONSTANTINE ALEXANDER: Maria?

MARIA PACHECO: Tomorrow.

DINA RUGAMAS: And put it up tomorrow.

CONSTANTINE ALEXANDER: It's your decision.

DINA RUGAMAS: No, I will.

CONSTANTINE ALEXANDER: What I'm saying is I'm
trying to give you a little bit of --

DINA RUGAMAS: No, I need it right away because
I've been waiting so long and like that one here and now the
sign is missing.

CONSTANTINE ALEXANDER: Okay.

DINA RUGAMAS: Thank you so much. But I think
it's the 15th would be enough time.

CONSTANTINE ALEXANDER: The Chair moves that we
continue this case as a case not heard subject to the
following conditions:

That the petitioner sign a waiver of time for

decision. Maria has that for you. That's required if we're going to continue the case.

Two, that the new sign reflecting the new date, December 15th, and the new time, seven p.m., be posted and maintained for the 14 days prior to December 15th.

And lastly, to the extent that the plans or dimensional forms that you've submitted in connection so far are modified, because you've -- your architect has some new ideas, those new plans or new dimensional form must be in our files no later than five p.m. on the Monday before December 15th.

DINA RUGAMAS: Okay.

CONSTANTINE ALEXANDER: If you don't do that -- you can check with Maria tomorrow. But if you don't do that or your architect doesn't do that, we're not going to hear the case on December 15th.

DINA RUGAMAS: Okay.

CONSTANTINE ALEXANDER: That's a requirement of

our Board. It gives us time and the public time to read what you want to do and to think about it.

DINA RUGAMAS: Okay.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

Don't forget to sign the waiver before you leave.

(Alexander, Tedesco, Myers, Best, Monteverde.)

* * * * *

(8:10 p.m.)

(Sitting Members Case BZA-011793-2016: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 011793, 30 Lopez Street.

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

ATTORNEY JONATHAN CACCIOLA: Hello. Good evening. Mr. Chairman, Members of the Board, my name is Jonathan Cacciola. I'm an attorney filling in for Sean Hope this evening. Mr. Hope couldn't be here. My office is at 200 Monsignor O'Brien Highway, Cambridge, Massachusetts. And seated to my left is Mr. Anthony Fava of 28-30 Lopez Street, LLC.

OKAY, so this is an application for Variance,

Special Permits. This is on Lopez street which is a small narrow street in residence C zone. The proposal seeks to locate six parking spaces in the rear of both 30 Lopez and 24 Lopez. 30 Lopez itself is an ample lot. It's an L-shaped lot. It's a lot that can accommodate many parking space.

24 Lopez, which is the subject of the next hearing, they're effectively companion cases. That's a smaller lot, and that's a lot dominated by the building but can nonetheless hold one parking space.

CONSTANTINE ALEXANDER: Let's, as you point out, you're seeking two forms of relief or your client is. Let's just focus on the Variance for now.

ATTORNEY JONATHAN CACCIOLA: Sure.

CONSTANTINE ALEXANDER: And then we'll hold off on the Special Permit until we consider the Variance.

ATTORNEY JONATHAN CACCIOLA: Sure. The Variance is for the open space requirement.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JONATHAN CACCIOLA: As it stands with the proposal, even with the parking spaces, we still do meet the open space. The open space minimum was 30 percent. We come in at almost 33 percent. Where we fall down on is the 15-by-15 open space. We cannot accommodate that with six parking spaces. But nonetheless, with the proposal up here, you know, the petitioner will still have an area to the left of some of the parking spaces. It won't be bereft of green space. And as it happens, this 30 Lopez abuts Lopez Park -- yeah, you know, an amenity for everybody on the street.

But that's where the Variance comes in because we cannot -- we do meet the open space but we don't meet the --

CONSTANTINE ALEXANDER: What's your hardship?

ATTORNEY JONATHAN CACCIOLA: The hardship is the lot. This is an L-shaped -- the lot is driving the hardship. It's an L-shape lot. If we had almost a perfect

rectangular that didn't loop around the side. You could accommodate maybe not six spaces, but you could accommodate at least four spaces.

CONSTANTINE ALEXANDER: Let me get to the chase from my point of view.

ATTORNEY JONATHAN CACCIOLA: Sure.

CONSTANTINE ALEXANDER: Open space is an important issue in the city, and in particular in this neighborhood. So seeking a Variance from the open space requirement is a big ask, No. 1.

No. 2, let's be clear, the hardship -- this property's been, and these two properties, have been around for many years and people have had no problem parking on the street. If they have problems, they live with it. What this case is about is your client can get more money for the units he's redeveloping if he can offer off-street parking. That's just hardship. He can't make as much money if we grant relief. That's not a hardship that justifies a

granting of a Variance by any stretch of the imagination.

ATTORNEY JONATHAN CACCIOLA: Well, I think you hit the nail on the head with the open space. That is the goal the Zoning Ordinance is trying. And another goal, a competing goal is the lessened street congestion. It's a conundrum. I've heard the Chair speak in other cases where people say we want parking but we want open space. And you said well, how do you figure to do that, because you're trying to square the circle and you can't square the circle.

CONSTANTINE ALEXANDER: Are you aware that many abutters and that people in the neighborhood are opposed to the relief you're seeking? You realize there's substantial neighborhood opposition?

ANTHONY FAVA: I'm not aware of that.

CONSTANTINE ALEXANDER: Well, there are letters in the file. I'm sorry, it is not --

ANTHONY FAVA: Okay, well I just want -- we went through a process where we sought approval and we had to get

abutter signatures from as many as we could, and we've had some no's, and but we had some yes's as well. We presented our proposal to the neighborhood association and they supported it. So that letter is on file. It should be on file.

So, you know, it's unfortunate that people aren't in support of this. I'll say that this building underwent a pretty substantial renovation. Definitely a major improvement to the neighborhood in terms of appearance as well as the people that were living there prior weren't the best character of people. The people that lived there prior, who had been there for a long time, many of them did not have vehicles. So with the new owners that are coming into this building, there will be at least one vehicle per unit coming in, possibly more. So this additional parking that we can fit on the site very comfortably will help to offset that fact. And I think that's a good point to make in all of this.

PATRICK TEDESCO: The property is being sold as condominiums?

ANTHONY FAVA: Absolutely.

PATRICK TEDESCO: How many condominiums?

ANTHONY FAVA: It's four units. Existing four-units.

CONSTANTINE ALEXANDER: Two in this case and two in the next case.

ANTHONY FAVA: No, no, no. Let me clarify. Four on 30 Lopez.

CONSTANTINE ALEXANDER: Oh, okay.

ANTHONY FAVA: That's a four-family. The abutting property, the 24 and 26, that's a two-family. I do not own that. I'm working in conjunction with my abutter on that. And they own that as a rental investment property.

CONSTANTINE ALEXANDER: Okay. And by the way -- we're not going to talk about the Special Permit. Not only are you looking for zoning relief to reduce the

open space, which in my mind is a very significant ask, but you want to park -- you want your driveway not to comply with our Zoning Ordinance. It's going to be too close to the structure and it's not going to have the five-foot setback that's the Special Permit.

ANTHONY FAVA: Understood. I mean I think --

CONSTANTINE ALEXANDER: So it's not exactly an easy parking situation.

ANTHONY FAVA: Yes. I understand what you're saying, and Jonathan can probably elaborate a little bit on this. But I think for a two-family, I mean I think that might be allowed for the closest factor on the driveway. It's more of when you get into the four-family which is --

CONSTANTINE ALEXANDER: I don't think that's right.

ANTHONY FAVA: Is that not right?

CONSTANTINE ALEXANDER: No. Driveway's are -- a driveway's a driveway and you've got to meet certain

requirements.

ANTHONY FAVA: I thought in terms of setback, a two-family verses four-family --

ATTORNEY JONATHAN CACCIOLA: I think what you're thinking of is 6.44.1 where there are exemptions for one, two, and three.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JONATHAN CACCIOLA: But the driveway itself goes right over the lot line. We're not hiding the ball on that obviously.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JONATHAN CACCIOLA: It's 13 feet which is longer, you know, the driveway minimums. But I mean that's the long and short of it. Is that you have the congestion on one hand and you want open space on the other hand. I just drove down Lopez Street a few hours ago. And, you know, there's a spot or two, but it's a narrow one way street. And, you know, the -- I understand that there's

opposition, but, you know, the tradeoff to the city is that you would get at least -- I mean, if you presume that you would lose one space with the curb cut but you gain five spaces in the rear and that would alleviate the congestion on the street. And that's, it's not a street just full of two-families and three-families. Right across the street is a huge 18-unit building. So I mean there is --

CONSTANTINE ALEXANDER: Doesn't that building have parking?

ATTORNEY JONATHAN CACCIOLA: What's that?

CONSTANTINE ALEXANDER: Doesn't that building have parking on-site?

ATTORNEY JONATHAN CACCIOLA: Yeah, I've seen garages. It's not --

ANTHONY FAVA: I'm not sure if everyone does, you know? And most of the people that are against this project have their own parking. People that are for this project that I've run into don't have parking. So they understand

that bringing some new cars are going to be there, they're coming in no matter what, bring them off the street, it's a benefit to them because then they'll be more opportunities for them to park and we're heading into the winter.

PATRICK TEDESCO: You're asking for six spaces for four units; is that correct?

ANTHONY FAVA: So, it's six spaces total, four for my building two for my abutters.

PATRICK TEDESCO: Which is the impending case?

ANTHONY FAVA: Yeah.

ATTORNEY JONATHAN CACCIOLA: So each unit would have its own parking space, yes.

CONSTANTINE ALEXANDER: Anything further? Or questions?

DOUGLAS MYERS: While we're asking questions, is there a reason why this request was not included in your in the original application for your BZA approval of the condominium development?

ANTHONY FAVA: The original -- so the project's an as-of-right project so I didn't have to go for BZA approval on that. It was a very long process just to kind of navigate the whole as-of-right. We wanted to stay as-of-right the whole time. So, you know, over the course of several months we had worked behind the scenes for getting abutters' forms, dealing with the neighborhood association, and it just so happens this is how it all aligned. I wanted to have them a lot sooner than this, but, you know, because I have units under agreement all ready to sell.

JIM MONTEVERDE: But the point is you proceeded with that redevelopment not having that parking available?

ANTHONY FAVA: Um --

JIM MONTEVERDE: And now you're coming back with the parking as a supplemental benefit?

ANTHONY FAVA: It is. Yeah, I mean, you know, it's definitely a benefit to the people that will own those

units. That's the bottom line. You know, those units will sell regardless of the parking factor, but it's, you know there's going to be more cars -- every buyer is a couple, you know? So there's a potential for two vehicles per unit.

JIM MONTEVERDE: No, I understand it's more about the process.

ANTHONY FAVA: Understood.

DOUGLAS MYERS: Are you actively marketing the property now?

ANTHONY FAVA: There's only one unit left available now. So three units are under agreement.

DOUGLAS MYERS: So you're marketing it as a property that does not have parking?

ANTHONY FAVA: It's been marketed both ways. So the buyers either -- there's an option for parking or not. So that, you know, whether we get the parking or we don't get it, it doesn't -- they're still going to be sold but they, you know, all these people obviously have vehicles.

CONSTANTINE ALEXANDER: Yes, I think what you're saying, let me just play it back to you. Is that the buyers, probably the people who signed contracts to buy the property, are aware of the fact that they may not have parking on-site.

ANTHONY FAVA: Yeah.

CONSTANTINE ALEXANDER: So they have no right to get out of the deal if you will --

ANTHONY FAVA: Correct.

CONSTANTINE ALEXANDER: -- if we were to deny relief.

PATRICK TEDESCO: And the people that have bought would essentially, if you were granting relief, they would option for additional money to have right to that parking? Is that how it works?

ANTHONY FAVA: In some cases, yes.

CONSTANTINE ALEXANDER: Okay. Just what I said before. This is all about getting more money for the

property. That's not a hardship that justifies a granting of a Variance.

ANTHONY FAVA: That's not the reason why we're here. So we're here to, again, we have the ability to fit this parking in here. And I think it's gonna be a benefit to this neighborhood, I guarantee you that, long after I'm gone so....

CONSTANTINE ALEXANDER: Okay. I just -- and I don't want to belabor it. For us to give grant you relief you've got to demonstrate it would be a substantial hardship to you if we don't grant relief, not that you're going to provide a benefit. Our Ordinance takes into account benefits and detriments, but the relief you're requiring shows that you have to demonstrate a substantial hardship. That's owing to the shape, soil, topography -- I can read the requirements later. So that's, just so you understand why we're here and what the issues before us are.

ANTHONY FAVA: Understood.

DOUGLAS MYERS: And in terms of what your attorney is saying, the shape of the lot is a factor, but the shape has to create a hardship in terms of the use of the property.

ATTORNEY JONATHAN CACCIOLA: Well, under that rubric, though --

DOUGLAS MYERS: Every property, every lot has a shape. But the question is how does the shape creates the hardship.

ATTORNEY JONATHAN CACCIOLA: Oh, yeah.

CONSTANTINE ALEXANDER: Exactly.

ATTORNEY JONATHAN CACCIOLA: But under that rubric, then, every time someone wanted a parking space, it would be very tough. Because like what you said, land is unique and there are different shapes, and I understand how -- I mean, you could say is that really a hardship not having a parking space? In and of itself, I guess, it is such an amenity to the city and to the developer that I do

think that things like the lot --

CONSTANTINE ALEXANDER: But this property had been occupied. These lots, these houses, for years and years and years without off-street parking.

ATTORNEY JONATHAN CACCIOLA: Yes.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: And to follow up on the Chair's question: When did the hardship arise?

CONSTANTINE ALEXANDER: Okay. I'm going to -- further questions?

JIM MONTEVERDE: I have one more question.

CONSTANTINE ALEXANDER: Go ahead.

JIM MONTEVERDE: So do you -- this is with six parking spaces?

ANTHONY FAVA: Correct.

JIM MONTEVERDE: If you did less than the six parking spaces, could you actually do it without violating the open space? Or is that not an option for you?

ANTHONY FAVA: So it's an option.

JIM MONTEVERDE: It doesn't solve the rest of the issues.

ANTHONY FAVA: Yes. So we can comply with open space on 30 Lopez. Absolutely we can. The goal is to provide one space per unit which I think is pretty standard, you know, I develop in all municipalities around this area. One space per unit is the standard when you're permitting something new. So that's the goal here. That's all.

CONSTANTINE ALEXANDER: And to further your point, that's what our Ordinance requires, one parking -- off-street parking space per dwelling unit.

ATTORNEY JONATHAN CACCIOLA: And if we were to do four parking spaces, then we would both -- I mean, we're compliant with the open space now, the -- over the 30 percent threshold, but we're not comply -- correct.

CONSTANTINE ALEXANDER: You're not compliant.

ATTORNEY JONATHAN CACCIOLA: We're not compliant

with the 15-by-15. But if we were to do the four parking spaces, we would indeed be compliant with 15-by-15. There is a way to skin the cat that way.

CONSTANTINE ALEXANDER: If you have an as-of-right solution, God bless you. That doesn't involve us at all.

JIM MONTEVERDE: Right.

CONSTANTINE ALEXANDER: But you're not asking for an as-of-right solution.

ATTORNEY JONATHAN CACCIOLA: And we would need Special Permits for the --

CONSTANTINE ALEXANDER: Plus you need Special Permits for the driveway and the --

ATTORNEY JONATHAN CACCIOLA: Right.

CONSTANTINE ALEXANDER: So it really isn't an as-of-right solution without some relief from our Board --

ATTORNEY JONATHAN CACCIOLA: Correct, correct. There is no as-of-right solution.

PATRICK TEDESCO: Just to clarify, you're creating

a curb cut for this driveway or it exists?

ANTHONY FAVA: We have to create --

PATRICK TEDESCO: So you're taking an on-street parking space away?

CONSTANTINE ALEXANDER: That's the tradeoff.

Further comments or questions at this point or I'll open the matter up to public testimony?

(No Response.)

CONSTANTINE ALEXANDER: Okay, is anyone here wishing to be heard on this matter?

Sir, I guess you had your hand up first. Just give your name and address and if you can come closer so we can hear you better, to the stenographer.

STEVE NASON: Hi. My name is Steve Nason, N-A-S-O-N. So I live across the street at 29 Lopez and have for 28 years. I think everybody's presented the facts pretty thoughtfully, and my neighbors and I wrote a lengthy letter that you'll have in your file. There's no apparent

hardship to us. The buildings have been there with the four units and two units forever, for the 30 years I've been there and for probably 100 years before that. It works just fine. The lot is an odd-shaped lot, 28-30 has some extra land that would appear, and 24-26 has almost no land. The lot backyard was sort of carved out from it. I understand that the desire to want to exploit that back lot, but it's open space. There's very little open space in the neighborhood. The relief of congestion isn't much help. The spaces will fill in regardless from the neighborhood. And it will take one to two spaces. And it more typically takes two spaces to a curb cut for what's really a driveway into the parking lot. So we have a variety of detailed concerns, but the gist of it is that we don't see a hardship and we think the open space is more valuable than the parking spaces. So any other questions of me, I'm happy to answer them.

CONSTANTINE ALEXANDER: No. Thank you for taking

the time to come down. Thoughtful comments.

Anyone else wishing to be heard? Ma'am, I can see a hand. Come forward, if you would, and give your name and address to the stenographer.

YVETTE GROSZMANN: Hi. My name is Yvette Groszmann. Yvette Y-V-E-T-T-E. Last name G-R-O-S-Z-M-A-N-N. I live at 19 Decatur Street.

So my yard is in contact with the property. I think it's 24 Lopez? I don't -- the one that got gutted and redone. I'm an avid gardener, /my neighbor Karen is an avid gardener. I love living in Cambridge. I've lived here for 12 years. I don't plan on ever leaving. And one of the things that I love about Cambridge is we have green space, you know? I have a friend coming to visit this weekend, she wanted to know how close I am to Boston. I can walk to Fenway Park. You know, the reason people want to live in Cambridge is because we're a city but we have so much green space you can bike around. And, sure, everyone would love

to have a parking spot. My brother owns the unit next to me. It's a two-family. He lived there with his wife, they only had one car because they had one spot, and that's the kind of people that we attract in this neighborhood. The reason it's so expensive is because it's so accessible. You have the T six blocks. For them it's five blocks. You know, we have birds. We have -- God, I saw a kingfisher once, that was a long time ago. But it's just the charm of Cambridge. And, you know, I'd love to have a bigger house, but it didn't happen, and I am happy to have my yard. And I just don't feel like it's a hardship. I feel bad saying, you know, no, to these people who are asking, but a lot of the properties in Cambridge don't have any off-street parking. And in my unit we have one, the unit next-door has one, and they shared a space. So, that's just my opinion.

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

YVETTE GROSZMANN: Thank you for listening.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard? Sir.

TODD CLARIZIA: Hi. My name is Todd Clarizia. Todd T-O-D-D Clarizia C-L-A-R-I-Z-I-A. I'm a trustee for Rollins Court Condominium. I live at 27 Lopez Street. Actually, my wife and I are on the letter with Steve Nason. Okay? And Steve made most of the salient points, but one point that I wanted to make is I really think that the way this is done, it creates a safety concern. Right next to the 30 Lopez is a toddler park. Okay? And this isn't, the typical curb cut where the car would be up close to the sidewalk and you can actually see what's going on when you're going to your car. Okay? Little kids go to the park, but often the older siblings are with them. Their older siblings come up with the scooters and ride up and down the sidewalk. So I think that's an important point to look at, the safety aspect of it, too. This is not the type of scenario where maybe these two houses were taken down,

the whole property was reconfigured, or something like that.
Nothing has substantially changed with these two houses.
There have been several cars associated with both houses
over the years and everybody seems to find a parking spot.
That's all I have.

CONSTANTINE ALEXANDER: Thank you.

Is there anyone else wishes to be heard? Sir.

DAVID PERLOW: My name is David Perlow,
P-E-R-L-O-W. And I just want to say that I agree with what
you said. I see this as nothing more than a money grab.
And, you know, I have a deck that overlooks these
properties, I really don't feel like sitting on my deck
looking at a parking lot all summer and having cars coming
in and out. And it just doesn't seem like a plausible deal
to me. It seems completely like a money grab. And that's
all I wanted to say.

CONSTANTINE ALEXANDER: Thank you.

Anyone else? Ma'am.

KAREN PIERSON: I'm Karen Pierson, P-I-E-R-S-O-N and I live right behind, I think it's 24. We have a nice garden -- a wonderful garden. It just has all kinds of birds in it all the year long. And it's very peaceful and we're thrilled that this building is -- these building are being renovated. This one because it was kind of a wreck and sort of a lot of noisy people in it. But I just can't see trading some nice open space for parking when you have on Green Street the public parking. There's a big garage, that's only four blocks away. And then you have the 47 bus going down Pearl Street and you have the 47 bus coming up Brookline and six blocks or five blocks away you have the T going all over Boston. So it's a perfect place to live without a car. Absolutely no need to have a car. So that's my spiel. And I really appreciate your explanation about how this is not a hardship. It's a -- created in the minds of the developers I guess really, but it's not a hardship. It wouldn't be a hardship for anybody who would buy such a

place. They'd be thrilled to be able to get to public transportation so easily. Besides it's better for your health if you walk, not just get in the car and drive everywhere.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard? Sir.

KELLEN ANDRILENAS: My name is Kellen K-E-L-L-E-N Andrienas A-N-D-R-I-L-E-N-A-S. I live at 22 Lopez Street and so two points: My husband and I --

CONSTANTINE ALEXANDER: Speak up a little bit, please?

KELLEN ANDRILENAS: Yeah. So two points: My husband and I actually recently, like, in the last two years moved into 22 Lopez Street, and we're two young professionals appreciate the fact that you don't have to have a car in the neighborhood to live there. So we don't have a car, and we love Boston. So -- and well, Cambridge.

And second point that hasn't been brought up is

that with the addition of all the asphalt that would be put in place of a parking lot, our property's actually downhill of the adjacent lots and we already have a lot of water washout issues as is, and adding -- like, removing that much drainage is gonna be very problematic for us.

CONSTANTINE ALEXANDER: Thank you, too.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of numerous letters which I will read into the public record. We have a long letter from Todd Clarizia. And you spoke, sir. Right. So I'm not going to read it. I assume everything you -- unless you want me to.

TODD CLARIZIA: No, that's it. Steve also made the points, yep.

CONSTANTINE ALEXANDER: Okay.

And a letter from Cambridge Neighborhood Association. I'm going to -- it starts off by just reciting

the facts. (Reading) Consequentially at the CNA, Cambridge Neighborhood Association meeting, our group of about 30 voted to support the curb cut with the understanding that Fava try to save the mature Norway maple in his backyard and that he include a screen of plantings between the parking lot and Lopez Street park.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Are we allowed to ask a question?

CONSTANTINE ALEXANDER: I'm sorry?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Are we allowed to ask a question? We just don't know what the Cambridge Neighborhood Association is.

CONSTANTINE ALEXANDER: I don't know either.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Even though we live there.

CONSTANTINE ALEXANDER: It has an address of 202 Hamilton Street if that's any help.

UNIDENTIFIED MEMBER FROM AUDIENCE: Never heard of

them.

CONSTANTINE ALEXANDER: Well, unless -- there are directors and the like. I won't read them into the file. But I take your comments -- we'll take -- we acknowledge what you're saying you never heard of this group. But, anyway, they did write a letter and they have a piece of letterhead so what can I tell you?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: None of us were invited.

CONSTANTINE ALEXANDER: I'm sorry?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Never heard of them.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: We were never --

CONSTANTINE ALEXANDER: Okay. We've got a letter --

PATRICK TEDESCO: As a Cambridgeport resident I will say they do post meetings. You'll see them on sign

posts. The Cambridge Chronicle also lists when the various neighborhood associations meet.

ANTHONY FAVA: They do exist. I mean --

PATRICK TEDESCO: They absolutely do exist and they opine on lots of issues in the neighborhood. I encourage people to get involved.

ANTHONY FAVA: Yeah, and it's a major checkpoint in this whole process. You know, any neighborhood that you may be interrupting in Cambridge, you have to go through their association and there's -- actually, it was very easy to reach out to them and they got right back to me and we discussed the project for several months. We met and it was a good discussion.

CONSTANTINE ALEXANDER: I'm just going through the file.

ATTORNEY JONATHAN CACCIOLA: So they're not a fictitious organization or anything like that.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY JONATHAN CACCIOLA: So it's not a fictitious organization.

CONSTANTINE ALEXANDER: I didn't believe -- I didn't suggest that it was.

ATTORNEY JONATHAN CACCIOLA: Right.

CONSTANTINE ALEXANDER: And there is a form that the City of Cambridge I guess requests of people do you approve or disapprove of the curb -- again, it's the off-street parking, so it's a curb cut I think requirement. Yeah, curb cut. One person didn't say approve or disapprove. She, it's Yvette. You spoke?

YVETTE GROSZMANN: Yeah, Yvette.

CONSTANTINE ALEXANDER: Is that you?

YVETTE GROSZMANN: Yep.

CONSTANTINE ALEXANDER: Okay, so I don't have to read it.

We have one that says disapproval from someone who resides at 236 Cross Street in Belmont. And one requesting

approval. Again, these are curb cuts and not the parking in the rear. But would facilitate, obviously, the parking in the rear.

From someone who resides at 31 Lopez Street.

Approval from someone who resides at 22 Lopez Street, No. 1.

A disapproval from someone at 20 -- or maybe it's 32 Lopez Street, No. 2.

Approval from --

UNIDENTIFIED MEMBER FROM THE AUDIENCE: That's probably 22.

CONSTANTINE ALEXANDER: 22? Okay.

Approval from someone at something Rolling Court? I can't read the handwriting.

PATRICK TEDESCO: Rollins Court.

CONSTANTINE ALEXANDER: Rollins Court. I'm sorry.

And the next one is Rollins Court as well is an approval.

And on and on. Another approval from Rollins Court.

And someone -- another one at Rollins Court approves. So, Rollins Court unanimous.

ANTHONY FAVA: Can I just point out one thing?

CONSTANTINE ALEXANDER: Go ahead.

ANTHONY FAVA: So when we went through the neighborhood, we couldn't reach everyone for whatever reason, but we did our best and that was the intent for the City --

CONSTANTINE ALEXANDER: We understand that and we accept that.

ANTHONY FAVA: And we also did explain what we were doing. So it wasn't just like we'll put in a curb cut so we can park one vehicle. You know what I mean? We told them it's going to be a six car lot shared between the two. So, and I know that one of the persons that was kind of up and down that is here tonight, I hope I get a chance to

speaking with her because we've had some nice e-mail exchanges, but I mean, I don't think there was any smoke and mirrors here. You know, we presented everything as we did. And I mean there are supporters out there. So I just want everyone to be clear it's not all negative.

UNIDENTIFIED MEMBERS FROM THE AUDIENCE: Are any of the abutters supporting it?

CONSTANTINE ALEXANDER: I don't want to get into a freestanding debate. Your comment's a rhetorical question. I'm going to take it as such and I'm not going to ask you to respond. Okay?

I think we got the sense of the neighborhood as it is.

Ma'am, you didn't speak before.

OKSANA BEREZOVSKA: Just -- no, I --

CONSTANTINE ALEXANDER: Your name, please?

OKSANA BEREZOVSKA: Oksana Berezovska.

O-K-S-A-N-A B-E-R-E-Z-O-V-S-K-A: I'm live at Rollin Court

and actually I sign the --

CONSTANTINE ALEXANDER: Yeah, we have your letter.

OKSANA BEREZOVSKA: Disapproval. No, no, no.

CONSTANTINE ALEXANDER: Oh, disapproval. Okay.

OKSANA BEREZOVSKA: The curb cut which you didn't include --

CONSTANTINE ALEXANDER: I didn't -- it wasn't in the file that's all I know.

OKSANA BEREZOVSKA: You said that Rollins Court is unanimously approved. And Rollins Court is next-door they said no, I know. So I guess it's not in complete information.

CONSTANTINE ALEXANDER: Okay.

I'm going to close public testimony at this point unless there's anyone else wishes to speak?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

Any final comments?

ATTORNEY JONATHAN CACCIOLA: So, yes, I think there are passionate supporters on both sides. As there is with any municipal issues, and many of them are here tonight. There are people who disagree. Even within the comments there were some interesting that, you know, such and such couples been living there for many years and they only had one space, which is a near identical situation with what we're asking. We're asking with couples just to have one space. It sounds like a lot of the concern is meeting the hardship with the Variance, and I do wonder if a proposal that did keep the open space intact would meet with better --

CONSTANTINE ALEXANDER: Well, again, if you have an as-of-right solution as to the Variance, you don't need a -- you would have to come back before us to get the Special Permits.

ATTORNEY JONATHAN CACCIOLA: Special Permits, right.

CONSTANTINE ALEXANDER: But I mean....

That's it? I mean, I didn't mean to cut you off.

Okay, I think discussion or we ready for a vote?

DOUGLAS MYERS: I just wanted to say, I mean I have nothing to add on the subject of hardship, I think the Board has discussed it. The public has discussed it. I have nothing to add.

As far as the two-step procedure of approval and the subsequent request for a Variance, sometimes the Board is skeptical of that. In this case clearly the applicant chose to proceed a right to build a project realizing that the question, and it's clear in terms of the way the property is being marketed, realizing that the question of parking a Variance will be subject to the discretion of this Board.

And the third thing I'd like to say is a little bit about open space. There is, not every yard on Lopez Street, not every building or property has a backyard, but

this, the backyards here are a band of three lots that have open spaces. And if you go down the driveway and look to your left, there's open space to the left for considerable distance. To the right the same way. That would be greatly altered. It would be reduced. I'm not saying it would be congested but it would be significantly reduced if the middle lot were turned into a parking lot. And also, there's a very attractive pocket park and playground right next-door, and I think that the conversion of one of the neighboring or adjacent backyards to a parking lot would be detrimental. I would be -- it would be deleterious to the effect of the -- of that zone of life and quality in that zone. So that, those open space elements particularly concern me.

CONSTANTINE ALEXANDER: To that, Doug, I would also add as a point I didn't appreciate, that someone brought it out, that there could be safety issues. If there's a driveway right next to the park, cars pulling in

and out and little kids, because it's a park for toddlers, going back and forth. So besides the visual impact on the neighborhood there's, I think, a safety issue as well. At least in my judgment.

Any other comments or ready for a vote?

JIM MONTEVERDE: No.

ATTORNEY JONATHAN CACCIOLA: Well, I guess before the vote there's the option if we prefer to withdraw and see if we can go back to the drawing board --

CONSTANTINE ALEXANDER: Well, okay, if we turn you down, it's the same effect of withdrawal. But you'll save me the need to make a motion.

Would you like to withdraw your request for a Variance? We're talking about the Variance, not the Special Permit. We'll get to that next.

ANTHONY FAVA: Yeah, I think that's -- I mean, we can come up with a plan for 30 Lopez that meets the open space. So that's, we'll lose two spaces. I have a sketch

of it here with me. I can present that to you.

CONSTANTINE ALEXANDER: Remember you have to still get a Special Permit from us, too.

ANTHONY FAVA: Understood.

CONSTANTINE ALEXANDER: Okay.

ANTHONY FAVA: Understood. But I want to at least point that out. I can present to you now if you'd like to see it.

CONSTANTINE ALEXANDER: No. This is not before us tonight.

ANTHONY FAVA: All right. So I mean the only other thing is that 24 and 26, you know, it always had an open space violation and that wouldn't be able to change.

ATTORNEY JONATHAN CACCIOLA: Right.

CONSTANTINE ALEXANDER: Do you want to withdraw it or do you want me to take it to a vote? Make my life easier, withdraw.

ATTORNEY JONATHAN CACCIOLA: We would withdraw.

CONSTANTINE ALEXANDER: The Chair moves that we accept the petitioner's request to withdraw their request for a Variance.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Tedesco, Myers, Best, Monteverde.)

CONSTANTINE ALEXANDER: The Variance is withdrawn.

Now, the Special Permit tonight without the Variance, it's a moot question. Do you want to withdraw that as well or do you want to continue that part of the case?

ATTORNEY JONATHAN CACCIOLA: We'd like to continue that part of the case.

CONSTANTINE ALEXANDER: Okay. Do the two of you have a date you would like to continue to? And, again, as you -- maybe you didn't hear it before, we don't like to have cases continued and continued and continued.

ATTORNEY JONATHAN CACCIOLA: No, correct.

CONSTANTINE ALEXANDER: So suggest a date that is comfortable for you.

Date in January?

ANTHONY FAVA: Is that the next date?

CONSTANTINE ALEXANDER: I'm sorry.

ANTHONY FAVA: Is that the next date available?

CONSTANTINE ALEXANDER: We have on the 15th of the December but that's not enough for the posting.

ATTORNEY JONATHAN CACCIOLA: A date in January then. The holiday season obviously.

CONSTANTINE ALEXANDER: What are the two dates, Maria?

MARIA PACHECO: The 12th and the 26th.

CONSTANTINE ALEXANDER: Do you have a preference?

ANTHONY FAVA: 26th.

CONSTANTINE ALEXANDER: 26th.

ANTHONY FAVA: Oh, of January?

CONSTANTINE ALEXANDER: Yes.

ANTHONY FAVA: Oh, sorry. 12th.

CONSTANTINE ALEXANDER: 12th.

Those of you in the neighborhood we're going to -- so you understand. What will happen is on the 12th of January, if we have the hearing that night, we'll consider the request for a Special Permit, not a Variance, with regard to the parking lot, the driveway location too close to the lot line, too close to the structure. Since you've taken the time to come down tonight, does January 12th work for you? Is that a date that's acceptable to you? Do I take your nod in favor?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes.

CONSTANTINE ALEXANDER: Okay.

Since this is a case not heard as to the Special Permit, we don't need to worry about the five of us being available.

So, the Chair moves that with regard to the

Special Permit being requested at 30 Lopez Street, we continue this case as a case not heard until seven p.m. on January 12th subject to the following conditions:

That the petitioner sign a waiver of time for decision. We have it right here.

Two, that the sign that you've posted now be modified and maintained for the 14 days prior to January 12th. And that sign has to reflect the new date, January 12th, the new time, seven p.m.

And lastly, and this may be relevant, to the extent that you modify what you, the plans or the dimensional requirements that are in our files now, you want to modify them. Those modified forms must be in our files no later than five p.m. on the Monday before January 12th. That's to allow us and the citizens of the city, your neighbors and the like, to come down and look at what you're now proposing as opposed to tonight. If you don't do that, we won't hear the case on January 12th.

ANTHONY FAVA: Sure, okay.

So, just so I'm clear and maybe I should talk to Jonathan about this.

CONSTANTINE ALEXANDER: Sure.

ANTHONY FAVA: Obviously we'll remove two spaces so we'll be good with the open space.

CONSTANTINE ALEXANDER: I don't want to get into what you can do. We're talking about the driveway really.

ANTHONY FAVA: Yeah, okay. I gotcha. I understand.

CONSTANTINE ALEXANDER: I don't want to get into that now, it's not appropriate.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Tedesco, Myers, Best, Monteverde.)

CONSTANTINE ALEXANDER: The Special Permit is

continued to January 12th. The Variance, the 30 Lopez has
been withdrawn and therefore is deemed to be denied. Okay?

* * * * *

(8:45 p.m.)

(Sitting Members Case BZA-011794-2016: Constantine Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: We'll move on to case No. 011794, 24 Lopez Street. And the relief being sought, a Variance and Special Permit is identical. Do I assume you're going to request a withdrawal on the Variance?

ANTHONY FAVA: Hold on a second.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JONATHAN CACCIOLA: Could we continue that case for the 12th as well?

CONSTANTINE ALEXANDER: On the Variance as well? I mean, you know, you haven't withdrawn -- I mean, you heard the comments. I'm not sure you're going to get --

ANTHONY FAVA: There's nothing we can do with that lot. I mean it doesn't meet the open space requirement now. It's existing without any parking and it never will. So

that's why --

CONSTANTINE ALEXANDER: There's no need to -- it's your call, but I don't know why you would continue the case. What's going to be accomplished? What do you want to do?

ANTHONY FAVA: I don't know.

DOUGLAS MYERS: It would be a case heard and we would all return?

CONSTANTINE ALEXANDER: No, no, it is a different case.

DOUGLAS MYERS: You're right. Okay.

CONSTANTINE ALEXANDER: Do you want to have a few minutes? We can take the next case. But I just assume get it over with now if I can.

ANTHONY FAVA: Yeah.

We'll withdraw that one.

CONSTANTINE ALEXANDER: I'm sorry, I didn't hear you.

ANTHONY FAVA: Withdraw.

ATTORNEY JONATHAN CACCIOLA: Withdraw the Variance.

CONSTANTINE ALEXANDER: Withdrawn, okay.

Okay, the Chair moves that we accept the requested withdrawal for a Variance in the case involving 24 Lopez Street.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The Variance request case is with withdrawn deemed denied.

(Alexander, Tedesco, Myers, Best, Monteverde.)

CONSTANTINE ALEXANDER: Special Permit January 12th?

ATTORNEY JONATHAN CACCIOLA: Yes.

CONSTANTINE ALEXANDER: The Chair moves that with regard to the Special Permit being sought at 24 Lopez Street, that the case be continued until seven p.m. on January 12th subject to the following conditions:

The same conditions. That you sign a waiver of time for decision, No. 1.

Two, that the sign, the posting sign for 24 be modified and maintained for the 14 days before January 12th with a new time -- new date, January 12th, new time, seven p.m.

And lastly to the extent -- with regard to 24 Lopez, any of the plans, dimensional forms that you've submitted are going to be changed from what is now in our files, these changed forms must be in our files no later than five p.m. on the Monday before January 12th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued as well.

(Alexander, Tedesco, Myers, Best, Monteverde.)

* * * * *

(8:50 p.m.)

(Sitting Members Case BZA-011834-2016: Constantine

Alexander, Patrick Tedesco, Slater W. Anderson, George S.

Best, Jim Monteverde.

DOUGLAS MYERS: Gus, the record should reflect I'm
disqualifying myself from the next case because I'm an
abutter.

CONSTANTINE ALEXANDER: The Chair will call case

No. 011834, 51 Trowbridge Street, No. 3.

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

BHUPESH PATEL: Good evening. My name is Bhupesh Patel from Design Tank. I'm representing the owner Michael Dahan and Michelle Dahan.

AUDREY PHILIPPOT-DAHAN: And I'm Audrey Philippot, A-U-D-R-E-Y P-H-I-L-I-P-P-O-T-D-A-H-A-N, an abutter of the owner.

BHUPESH PATEL: This case revolves around getting relief for specifically FAR. Presently this is a three-family house on a lot that has an FAR requirement of 3,000 square feet or 75 percent, and it's existing has 77 percent. So it's already exceeding the FAR, and we're actually asking to go to three more percent basically which is, equates about 120 square feet.

To go over the plan and then I'll quickly show the elevations.

CONSTANTINE ALEXANDER: Can I ask the purpose of this additional space that you want?

BHUPESH PATEL: Yeah. In plan basically the reason why we're looking for the space is because it's basically a bedroom here and a small room here and then this is sort of an open space. So it's sort of a loft. There was an architect that purchased this property 15, 16 years ago and basically added a flat dormer here and here to create the second bedroom and to create a dining room because it's basically a kitchen and a living room and a tiny room.

CONSTANTINE ALEXANDER: But you advertised this case you want additional space solely for storage?

BHUPESH PATEL: That's right. It's solely for storage because it's basically an open deck above the kitchen that's accessed.

CONSTANTINE ALEXANDER: All you're going to do is store things in there?

BHUPESH PATEL: Yes.

CONSTANTINE ALEXANDER: It's all full of windows.
What are you going to store, tropical plants?

BHUPESH PATEL: No, it's just an open deck so the light comes through into the kitchen. But basically all of the storage that is in this room is going to be in that loft space. So it's, it is a large space, but basically we wanted to make sure that we could store everything that's in this room and pretty much what used to be sort of a pantry area here above this.

The idea of creating a loft space that they could actually occupy was too hard to do because we have to get a real staircase up there, and Ranjit wasn't recommending it --

CONSTANTINE ALEXANDER: Well, you can't -- yeah, we can't grant zoning relief for something that doesn't comply with the Building Code. And if you had to put Building Code compliant stairs --

BHUPESH PATEL: Right.

CONSTANTINE ALEXANDER: -- you lose, you lose the space in the current unit than you would gain from upstairs.

BHUPESH PATEL: Correct.

So, well, actually there was two -- there were three options that we actually had for a layout for this. Even though there's a kitchen and a living room here and a dining room that's in this sort of shed dormer, this is the only real bedroom that's all the way back here. And this room can fit a sofa bed but you can't really walk around but you could put it out and a guest could stay there. Basically this couple is having a child so they want to turn this into a kid's room and that's basically the storage room presently because there really is no closet besides this closet and there's a small closet here. So we're just enlarging one closet and then taking everything that's in this room and putting it up in the loft.

There is no shed dormer here. So this is just the

roof coming down. This is actually a knee wall space. So it has a little bit of storage on this wall, but it's not really -- and the space is usable. Specifically it's basically to allow this to be a child's room when it currently isn't a child's room. It's just basically a storage room. And it doesn't have a closet per se, but it would, basically accommodate a child.

We actually did look at two other options that we were going to pursue that would have been preferable in the sense that we thought that you could actually garner a space that you could occupy. This shed dormer on this side and the shed dormer on the other side were quite long in the --

CONSTANTINE ALEXANDER: Yes.

BHUPESH PATEL: -- in length.

So we actually looked into pursuing this shed dormer as an actual sort of gable that would go here that would match this ridge and create a space up here. The neighbors obviously didn't want that because it's quite a

tight lot. So they thought it was more imposing to have that over the elevation over a driveway and sort of across from their side yard which was quite narrow.

We did also pursue trying to -- that was the preferable solution just because we thought historic might actually like that. It's basically taking a very plain vanilla shed dormer, which really doesn't have any character that's relative to the existing house and then creating basically a gable that would match the existing house.

The staircase for that would have come down in the living room, but actually it was okay because even though it was in the living room -- it's a big loft space, so we could just do an open staircase. But it would be an actual, you know, Building Code staircase that could qualify the space in the space that you could use.

Clearly if you do that it's not a very big space, it would be just a small triangle space that was here. So they actually currently have that same space that's here, so

the neighbors were basically encouraging us to use that space as the space that they could use. But that's a space that has all the old framing in it, has a chimney in it, and is -- it's got the mechanical system coming through it so it's not a space that we could use that easily. It's quite a large chimney. So what we decided to do was just use it as a loft space, leave the chimney there, leave the mechanical space one side, and just create a ship's ladder to get into it. And because you could sort of stand in basically two and a half feet in the middle, we decided that if we expand it, we could get more. Originally it was only six or seven space feet and now it's actually expanded to more. Because the neighbors weren't opposed to that being in the location it was, because relatively speaking it just means that they don't have to look at something larger and imposing that would be a gable here that would be sort of leaning over what is their property here. Or a second option was trying to put something back here, but there's a

very narrow vista green space back here. And this garage actually they would like to take down eventually. So nobody, including the downstairs neighbors, wanted to put anything back here because for the same exact reason, it sort of would be foreboding the shadow lines for the rear yard. And so everyone was happy with the idea of putting it here relative to the other two solutions, and they didn't care so much about the size relative to the idea that it was there. So then we just pursued that. And we actually wanted to do something a little more sort of heavy detailed to get it to be kind of an ornament on top of the house rather than just to match what was on the third floor (inaudible). So these are basically looking at the existing facia and the excessing dental work and sort of brackets that are on the house. And taking the brackets around the house and taking the dental work that's between these brackets and basically going a little heavy handed with that about here to create an ornamental tower that's quite stout

because we don't exceed the ridge line. And the neighbors actually liked that quite a lot. So, we just went to historic with that because we thought that would be a winner relative to something that sounds like a double dormer that just is on both sides.

So it's not cheap and they even suggested that we take these glass panels and the panelling that's below it, which is wood panelling. So you could see it a little better on this side. This side you actually can't see this wood panelling from anywhere on the street, but this side you can. So the wood panelling's basically here and it's just matching and sort of similar design that's on the bay window, walkout bay window.

They liked this, but two of the Historic Commission members thought well, why not make it all glass, and make it a glass box. We did look at that but it's just looked a little too industrial because it's little tall.

CONSTANTINE ALEXANDER: How would you use the

space for storage if it's all glass?

BHUPESH PATEL: Well, that's just it, too, it would be all glass. So it would be -- it just didn't look very residential when you made it all glass. So by putting on a significant skirt of wood panelling and then a clear story glass that kind of wraps around, it would basically look like a stout tower, kind of like a stair tower. So there are plenty of houses that have a stair tower on the corner of their properties. At the very top it's basically the same idea, sort of two feet, two and a half feet windows that wrap around and all it's really doing is throwing light down on the staircase. Same idea but throwing light onto a deck floor and into the kitchen.

And this is the main reason why they wanted to move it because they just didn't have a place to put anything relative to staying there. So it's not the most ideal because the room is still quite small for a child but basically the stress relief to be able to use that space

above to basically be able to put a lot of things they can get to.

CONSTANTINE ALEXANDER: How would you get up there to put the stuff you're going to store in what you're proposing?

BHUPESH PATEL: There is just a ship's ladder which is basically --

CONSTANTINE ALEXANDER: But if you use -- and I'm not suggesting you will do this, but if you wanted in the future someone decides to use this as a living space.

BHUPESH PATEL: Yes.

CONSTANTINE ALEXANDER: Ship's ladder would be the way to use it, but it's in violation of the Building Code. I'm a little bit troubled by creating a situation where the violation of the Building Code going forward is quite likely.

BHUPESH PATEL: Right. Well, that's why I explained to the owners that I actually have to write a sort

of an Affidavit on behalf of me as designer that it can't be used for that specific reason unless it's relative to them using it or them transferring the property. But it's not attached to the deed per se which is --

CONSTANTINE ALEXANDER: I'm sorry, say it again?

BHUPESH PATEL: It's not attached to the deed per se.

CONSTANTINE ALEXANDER: Well, that's the probably because somebody who buys the property next saying oh, I'm going to use this great space for living space.

BHUPESH PATEL: What I was going to say, though, is because we're actually taking the file and that Affidavit and submitting it at the Registry of Deeds, it would be part of the documentation that would be at the Registry of Deeds. But it's not legally attached.

CONSTANTINE ALEXANDER: It's not part of a deed, I don't think a lawyer doing a title search is going to pick it up. It's no good. It doesn't do anything.

BHUPESH PATEL: Well, it could be attached to the deed, but they were well aware it could be used for that and that's exactly why we chose to use the ship's ladder.

CONSTANTINE ALEXANDER: I know but that's them. I'm talking about the next owner of this property.

BHUPESH PATEL: I understand, I understand, and that's the reason why I prepared the letter and suggested that's what we would have to do to attach it to the deed to ensure that nobody would use that space as far as transfer of ownership.

CONSTANTINE ALEXANDER: It just puts the next owner on notice, but the next owner nevertheless ignores as people often do with the deed restriction --

BHUPESH PATEL: Right.

CONSTANTINE ALEXANDER: -- and uses it and we, our Board, has facilitated a potential future violation on the Building Code which is not a good idea is my trouble.

BHUPESH PATEL: But so from my standpoint my

Affidavit is what I submit to their home insurance because the home insurance would cover it.

JIM MONTEVERDE: It's more, it looks like a duck and it sounds like a duck and it walks like a duck.

BHUPESH PATEL: From the standpoint of anybody using that, if there was any situation where there was a fire, it wouldn't be covered. And so I would be more afraid as an owner of my home insurance policy than I would a building citation. So the fact that you wouldn't get coverage from your insurance policy if you did use it, beyond that is to me a much more significant deter and the compared to a citation from the Building Department: And that's just something I have to do from the standpoint of covering of what I'm designing it for as far as use goes and restricting that use relative to the what the insurance would cover.

I've done this before with a ship's ladder and it's the same condition. I've never actually attached it to

a deed mainly because the insurance is typically soon to be quite a deterrent and relative to attaching it to a deed as well.

JIM MONTEVERDE: Can I ask a question?

CONSTANTINE ALEXANDER: By all means.

JIM MONTEVERDE: If the cupola component functions as a light monitor --

BHUPESH PATEL: Yes.

JIM MONTEVERDE: And then that floor area is for storage, are there -- what else is happening? I assume this is the unit? The entire unit?

BHUPESH PATEL: Correct.

JIM MONTEVERDE: You come up that stair from down below, that's your one entrance. There's some other way to get out.

BHUPESH PATEL: Yeah, there's actually a fire stair out this door.

JIM MONTEVERDE: Right, okay.

And these must be -- these are under the eaves and there's the stair coming up?

BHUPESH PATEL: Correct.

JIM MONTEVERDE: That belongs to the unit? The cubbies belong to the unit. This obviously does because you can --

BHUPESH PATEL: These don't actually. This does. These are sort of where the chimney is.

JIM MONTEVERDE: Chimney's here.

BHUPESH PATEL: There's actually another chimney here. It's not drawn in because we haven't opened it up to see what it's shaped like.

JIM MONTEVERDE: Okay. So I'm asking this space isn't usable for storage at all?

BHUPESH PATEL: No.

JIM MONTEVERDE: You do use that one, correct?

BHUPESH PATEL: Yes, this is usable along this edge. You can kind of see it here, but there is

a -- there's a wall here and a space behind it.

JIM MONTEVERDE: Right.

BHUPESH PATEL: The back of the wall is basically this high.

JIM MONTEVERDE: I understand, but it's storage.

BHUPESH PATEL: It's storage, it's storage. But the entrance to get into it is where the shelving would be. Sometimes storage only from here over. This electrical panel and duct work. It's just basically storage along here. They put boxes lined up on that wall.

JIM MONTEVERDE: Yeah. Sounds like storage.

BHUPESH PATEL: Storage, yeah.

JIM MONTEVERDE: Okay.

CONSTANTINE ALEXANDER: Anything further?

PATRICK TEDESCO: I presume you've gotten support from the condo owner downstairs?

BHUPESH PATEL: We have a letter. It should be in the file for both the condo owners.

CONSTANTINE ALEXANDER: We don't have a letter in the file.

BHUPESH PATEL: It was sent electronically added to the file. I sent it to Maria.

CONSTANTINE ALEXANDER: Oh, wait a minute. I apologize. We maybe do have a letter. Yeah, I'll read it or I can read it now but there is a letter.

It's a letter addressed to the other two condo owners and it says: We are hoping to go add a loft space in our unit allowing us to use the existing second bedroom to sleep one or more person and move our Home Office space -- move our Home Office space in the newly created loft.

This is -- you said you're not going to use it for living.

BHUPESH PATEL: No, it's not a Home Office space. That's an old letter. There's a more current letter that's showing not what they're requesting but --

CONSTANTINE ALEXANDER: Let me get to it.

BHUPESH PATEL: Yeah. You know what, maybe it's not in there.

CONSTANTINE ALEXANDER: It's not in there.

BHUPESH PATEL: Yeah, that was originally what they were doing.

SLATER ANDERSON: Can I ask a technical question?

CONSTANTINE ALEXANDER: I'm sorry?

SLATER ANDERSON: Can I ask a question?

This might be a question for you actually while you look for --

CONSTANTINE ALEXANDER: Okay.

BHUPESH PATEL: Before you do. We did actually speak to these abutters on either side as well as the unit on this side of this building and the abutter back here relative to what we are doing. That's basically the conglomerate of people who are quite specific about what they did or did not like.

CONSTANTINE ALEXANDER: Your question, Slater?

SLATER ANDERSON: So was there a Variance granted for the two dormers, the existing dormers at some point in time?

CONSTANTINE ALEXANDER: I don't know.

SLATER ANDERSON: What's the history of those dormers? I mean, they didn't come with the house.

BHUPESH PATEL: They didn't. An architect designed it. There are no drawings on file for the project. And it's just not --

CONSTANTINE ALEXANDER: The dormers do not comply with the dormer guidelines which you are aware.

SLATER ANDERSON: That was my first question. They're more than 15 feet.

CONSTANTINE ALEXANDER: Oh, more. To my eye it's much more.

BHUPESH PATEL: The other side goes passed that building.

SLATER ANDERSON: So you say this architect, what was the vintage of the renovation of this?

BHUPESH PATEL: I wish I knew and that's why I went to get the file to see how he got such large shed dormers since that was sort of the rationale of taking one of the shed dormers and turning it -- actually turning it into a gable.

SLATER ANDERSON: So we don't know when those dormers were added or --

BHUPESH PATEL: That's why I say I think --

SLATER ANDERSON: You haven't seen the building file?

BHUPESH PATEL: I've seen the building file, it's not in there.

CONSTANTINE ALEXANDER: Is there a building permit in there for the dormers?

BHUPESH PATEL: There's a building permit.

CONSTANTINE ALEXANDER: For the dormers?

BHUPESH PATEL: Yes. But there's actually --

SLATER ANDERSON: What year?

CONSTANTINE ALEXANDER: What year, though? What year was it?

BHUPESH PATEL: I can not remember what year it was.

SLATER ANDERSON: Okay, second question --

BHUPESH PATEL: But I couldn't find drawings is the issue. I really wanted to see what was there before.

SLATER ANDERSON: Is it okay to ask --

CONSTANTINE ALEXANDER: Go ahead.

SLATER ANDERSON: So I was noticing on the dimensional form that -- so the building height, the Ordinance is 35 feet.

BHUPESH PATEL: Correct.

SLATER ANDERSON: The building, the ridge of the building is 39.5; is that correct?

BHUPESH PATEL: It's a little shy of 40, right.

SLATER ANDERSON: A little shy of 40. So you're proposing this structural element --

BHUPESH PATEL: Yes.

SLATER ANDERSON: -- in excess of the 35 feet?

BHUPESH PATEL: Correct.

SLATER ANDERSON: So it's not just an FAR thing, it's also a dimensional exceeding 35 feet.

BHUPESH PATEL: It is, it is, that's right.

CONSTANTINE ALEXANDER: Good point.

BHUPESH PATEL: It's not more detrimental but it is detrimental in height.

PATRICK TEDESCO: They're not seeking height?

CONSTANTINE ALEXANDER: Well, they cite 5.31, that would pick up height. They're okay in their advertisement. They didn't call it to our attention that's for sure.

SLATER ANDERSON: It's not in the narrative?

CONSTANTINE ALEXANDER: Sorry?

SLATER ANDERSON: It's not in the narrative? I didn't see that.

CONSTANTINE ALEXANDER: No.

BHUPESH PATEL: That's one thing I wanted to point out is that matching that ridge height makes that space roughly six-foot, eight as far as height goes. Standing height goes. And that's actually why we ended up putting kind of an open deck because the ceiling downstairs is also quite shallow. So basically we just divvied it between the two, ended up with six-foot, eight and six-foot, eight. But with the open beams down below it's actually less than that.

PATRICK TEDESCO: So you're creating a height in the kitchen to the underside of the loft deck would be 6.8?

BHUPESH PATEL: It's six -- actually, I'm sorry.

PATRICK TEDESCO: Isn't that also a Building Code violation for ceiling?

BHUPESH PATEL: Yeah, it was very shallow of 6.8, but it is --

SLATER ANDERSON: It's on the top there. Top.

BHUPESH PATEL: It's 7.2 because it's three inches plus the beam. So it's eight feet from floor to floor. It was 6.8.

PATRICK TEDESCO: So, yeah, seven-foot, two, seven-foot, three in your kitchen.

BHUPESH PATEL: Seven-foot, two, yeah.

PATRICK TEDESCO: Okay.

Because I think the code minimum is seven feet for habitable.

JIM MONTEVERDE: Seven feet.

PATRICK TEDESCO: Yeah.

Which again further deems the loft not a habitable space.

BHUPESH PATEL: Right. That was the idea. It was so shallow. And it was actually only six-foot, two originally but then we figured out a way to structure it with engineered lumber rather than regular beams to get it

to the six-eight.

CONSTANTINE ALEXANDER: Further questions, Slater?

SLATER ANDERSON: No.

CONSTANTINE ALEXANDER: Going back to the condo owners. It's not clear to me whether you have approval, a formal approval from the condo association.

BHUPESH PATEL: I do actually. Let me just --

CONSTANTINE ALEXANDER: Why isn't this in our files?

BHUPESH PATEL: It should be in the file actually. Electronically I turned it in because there was just the old letter and it had to be -- the new letter had to be signed by the condo owners. Just getting on the public Wi-Fi.

So this is the actual letter.

CONSTANTINE ALEXANDER: Okay, you can read it to us. Read it to us.

BHUPESH PATEL: Condo owners 51 Trowbridge --

CONSTANTINE ALEXANDER: Read it so I can

understand or at least I can understand..

BHUPESH PATEL: Sure. This is dated November 9, 2016, condo owners 51 Trowbridge Street, Cambridge, Mass., is who it's addressed from. Subject: Description of the construction project on the third floor unit of Michelle Dahan to the other condo owners and their approval.

Michelle Dahan, owner of the third floor unit is hoping to add a loft space in the unit allowing to free up space on the existing second floor -- second bedroom and use that bedroom to sleep one more person. We are very fond of the neighborhood and wish to be able to stay here as and when our family grows. This project would allow us to do so.

Michelle Dahan has shared/forwarded, discussed the detailed plan from his architect and details on the construction with the two other condo owners. Laurie Leadin (phonetic) from the first floor unit, and Daniel Chung and Joe Chart, the second floor unit. Laurie Leadin, Daniel Chung, Joe Chart all approved the project. For information, the project also

was represented to the owners of the neighborhood units, also approved by the -- Sue and Doug Myers from 49 Trowbridge Street and Mrs. Klein and her husband from 49 Trowbridge Street, unit 4. And Jack and Candy Hambro (phonetic) from 47 Trowbridge and Dolores Johnson from 53 Trowbridge Street. And it's signed all three condo owners.

CONSTANTINE ALEXANDER: Okay, thank you.

BHUPESH PATEL: I can just e-mail that again to Maria.

CONSTANTINE ALEXANDER: Can I ask what's going on right now?

BHUPESH PATEL: I'm just e-mailing the letter to Maria.

CONSTANTINE ALEXANDER: You can do that afterwards. You don't have to do it. We're all sitting around here waiting.

BHUPESH PATEL: I wanted to make sure she officially had it.

CONSTANTINE ALEXANDER: Anything else you want to add?

BHUPESH PATEL: That's it besides the FAR.

The other two options that were discussed relative to the abutters as far as what they would prefer, what the height ended up being as far as interior space goes. And, lastly, the fact that the Historic Commission wanted a little different variation on the filigree of this elevation from the number of rafter tails, if we could reduce them to the size of the windows.

CONSTANTINE ALEXANDER: Okay. Thank you.

Questions at this point from members of the Board? More questions I should ask.

JIM MONTEVERDE: No, thank you.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Mr. Boyes-Watson, you have any comments you want to make?

MARK BOYES-WATSON: I actually don't today. Thank

you.

CONSTANTINE ALEXANDER: No comments and there are no letters one way or the other in the file other than the one that was addressed that I referenced before and superseded.

I'm going to close public testimony.

Any final comments you want to make? You don't have to make them but I'm giving the you opportunity.

BHUPESH PATEL: I guess the most paramount being storage is the killer relative to moving or not for a lot of the condo units I work on. And it sounds superfluous in the sense as to that's not a reason to move, but being able to run up a down a ship's ladder on a daily basis and getting things that you don't have space for, is a good enough rationale to be able to raise a child in that unit even though it's a bit of an inconvenience to go up and down.

CONSTANTINE ALEXANDER: Thank you.

Closing public testimony.

Discussion from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll offer an observation.

I can't support relief here in this case. I am very suspicious not of you folks, but this loft space is going to be used for occupational purposes and that's in violation of our Building Code. I'm distressed at the fact that the height issue was not brought to our attention, and I don't think this is sort of -- and height is an issue. I mean, this building if we should grant relief, is going to be quite high. And it strikes me that the general design of this whole project is not to my liking, but that's a personal view. So I'm not going to vote in favor.

Other members can comment or we can go to a vote.

Ready for a vote?

BHUPESH PATEL: Can I add one more comment?

CONSTANTINE ALEXANDER: Sorry?

BHUPESH PATEL: Can I add one more comment?

CONSTANTINE ALEXANDER: I thought we closed public testimony.

BHUPESH PATEL: I just want to --

CONSTANTINE ALEXANDER: I thought we closed public testimony.

BHUPESH PATEL: Well, I didn't not want to raise the height, I just wanted to explain the height relative to verbal communication compared to putting it on the form. I just typically as always put the table on the sheet and assume I can present the fact.

CONSTANTINE ALEXANDER: Yes, but you identified during your presentation the FAR issue, you didn't identify the height issue.

BHUPESH PATEL: Because it was an existing height that was the same detriment which is why I didn't request that it was clearly --

CONSTANTINE ALEXANDER: Okay, I don't want to debate it.

SLATER ANDERSON: It is akin to the side yard, but even though you have it, you may have a violation in the side yard that if you extend into the side yard, you're extending into a side yard even though there's already structure in the side yard. Like if you extended another portion of the house into the side yard, right?

BHUPESH PATEL: Well, that's why it's placed where it is because then it wouldn't --

SLATER ANDERSON: No, no, but it's a dimensional limit. There's a box, you know, a box around the house, a dimensional box.

BHUPESH PATEL: Right. And that's why I think it's more detrimental even though because it's the same height, because it's a massing change. That's why that massing change was such an issue with the neighbors relative to not putting it on the edge of the house even if that did meet the setback relative to putting it in the middle of the house.

SLATER ANDERSON: I'll just comment. I sympathize with these cases. We see these cases. And I see the, you know, the effort that's been, lengths that have been gone to here to try to solve a housing problem for a family. I respect that. But I also am seeing a unit that already had dormers added. I mean, if we didn't have dormers here and the mystery/history of these dormers, I don't know. But they're there and they're obvious and they were added after the fact, you know, in probably the last 20 or 30 years in all likelihood. And, you know, this was a unit -- you know, I live in the city. I've had to move twice because my family grew. You know, there are limits to the size of some units in the city. And you move into the unit with the knowledge that it may not meet your needs for, you know, as your family expands and grows. And, you know, that is part of just life in the city. In this city in particular and greater Boston where housing is a challenge, and I respect that. I see, you know, I see a unit that already has

dormers on it. I do feel like you're asking for another set of dormers in effect. And, you know, this loft concept, it seems right for, you know, a change of use once it's built and occupied and, you know, the inspectors go away and there's people in there. And so, you know, I feel like it's just, it's a little too much of a reach and, you know, for that reason I can't support it either.

CONSTANTINE ALEXANDER: Further comments? Thank you, Slater.

All right, I'll make -- proceed to a vote.

BHUPESH PATEL: Can I mention one thing to her just because the --

CONSTANTINE ALEXANDER: Yes, go ahead.

If you want more time we can take the next case and can you can go outside.

BHUPESH PATEL: I was going to ask a question relative if they wanted to change the size of the dormer as a separate application relative to how big it is, would that

have any bearing as far as if it's continued or if it's considered a new application?

CONSTANTINE ALEXANDER: It would be a new application. It would need completely new relief. You're seeking to modify a different part of the structure, if you will. It's all over again. You file the application. You got to keep in mind there are dormer guidelines, but that -- they're not binding but we pay a lot of attention to them and you have to overcome that issue I would think. To my eye that dormer already is more than 15 feet long.

BHUPESH PATEL: Right.

CONSTANTINE ALEXANDER: Maybe I'm wrong. Anyway, a whole new case.

BHUPESH PATEL: Right.

SLATER ANDERSON: You're talking about reducing --

BHUPESH PATEL: I'm talking about reducing that cupola is basically this loft, correct. And girth. Because it's the girth that makes it appear like it's going to be

used as a room, and originally it was six feet, a little bit, which is basically you come up the chimney half of that is three feet and the --

CONSTANTINE ALEXANDER: Actually you made me think of it. If we were to turn you down tonight, and it looks like you got two votes against which means you will be turned down.

BHUPESH PATEL: Correct.

CONSTANTINE ALEXANDER: You come back with a new proposal, we have to deal with whether it's a repetitive petition.

BHUPESH PATEL: That's my question.

CONSTANTINE ALEXANDER: And the issue is you'd have to file your new application. We would have to have a hearing and we can consider the case within two years if there are specific and -- I'm reading from the Ordinance. Specific and material changes in the conditions upon which the previous unfavorable action was based. So we'd have to

make that determination.

And then the Planning Board would have to make the same determination. For some reason the Planning Board gets involved in this. If we agree that there are specific material changes, then we would hear the case on the merits. So it would be a two step process.

One, you'd have to overcome the repetitive petition issue, which would take several hearings.

And then second a regular hearing like tonight. That's how it would work.

BHUPESH PATEL: So you have to appeal the fact that it is different to both Planning Board and to you?

CONSTANTINE ALEXANDER: Yeah. If you're talking about modifying the loft proposal, I think you have -- that's a procedure you'd have to go through. You have to come before us, convince us. Go to the Planning Board, convince them. We all are convinced, then we would proceed on the merits, that would be a separate hearing.

BHUPESH PATEL: Okay.

SLATER ANDERSON: What is it -- sorry, go ahead, please.

JIM MONTEVERDE: And is there no as-of-right alternatives here to add some space to be able to use for storage or are you just maxed out?

BHUPESH PATEL: They're at 77 percent and so they're two percent over and that space is basically here. But this space isn't really occupiable because it's really a triangle. So it's really this space. So that's why they're getting three percent more. Three percent more is only because there's this space is already there. That's already five feet tall, the loft. It's just this space they're asking for. So originally I was just trying to make it a symmetrical box that gets a triangle on both sides and a space that can stand in that's, it's not like this but it's just like this.

JIM MONTEVERDE: Okay. I'm just jumping for

another alternative.

SLATER ANDERSON: And what's the square footage of this unit? I mean, you've given us the square footage of the building on the dimensional form?

BHUPESH PATEL: Right.

SLATER ANDERSON: What's the square footage of the unit?

BHUPESH PATEL: I'll get the exact number because I just can't calculate it. It's 926 is existing.

SLATER ANDERSON: My experience, you know, 926 feet is enough for a two-bedroom unit. So I struggle a little bit.

JIM MONTEVERDE: I almost get three in a 900.

PATRICK TEDESCO: I live in a three that's 900.

JIM MONTEVERDE: Exactly.

SLATER ANDERSON: So I feel like, you know, your issue is more of a layout issue.

AUDREY PHILIPPOT-DAHAN: We have a lack of storage

space.

SLATER ANDERSON: I understand. I have lack of storage space. I understand that. But the city's -- there's a lot of two-bedroom, 900 square foot units. So, you know, that doesn't help make the argument in my view for building this, you know, room on the fourth floor of this building, you know.

BHUPESH PATEL: Right.

SLATER ANDERSON: It's just, you know, I don't, just trying to weigh the limits of what we can do here.

BHUPESH PATEL: And we did look at that. I just eliminated, wanted to eliminate this second bathroom to create a room. It was just one bathroom with a child.

SLATER ANDERSON: I mean, you know, you have two full baths there?

BHUPESH PATEL: It's two full baths.

AUDREY PHILIPPOT-DAHAN: (Inaudible).

BHUPESH PATEL: Right.

And this full bath isn't plumb correctly so we're fixing that as far as the plumbing goes. Actually, I'm completely forgot but there is like a relocation of a window here which has to be shifted over slightly for a vent pipe. So that actually should be part of the application, and -- which was referred to the Historic Commission. It is on the elevation. It was in your packet, but I didn't actually note it because it's an existing window that shifts over, but it's a shift and it's on the dormer. So it's part of the application from a standpoint of the Special Permit.

SLATER ANDERSON: It's on one of the existing dormers?

BHUPESH PATEL: Existing dormer, yeah.

The reason why I wanted to find the drawings is because I think some of that dormer was there because how did he get such a long dormer added in the 80s? And they're roughly 80's aluminum windows, so....

JIM MONTEVERDE: Right. That's what I would

guess. That's when it was converted to condominium --

BHUPESH PATEL: Yeah, and that's why I really wanted to find the drawings.

JIM MONTEVERDE: To make it more habitable.

BHUPESH PATEL: Yeah. I think he added this shed dormer here and he expanded this shed dormer. I mean, I haven't opened up the ceiling to see, but the way it's framed, it appears that way that there was something on this side and something on this side and he basically stretched them both. And you can -- you can tell that just by the way this is framed in these two corners the way the roof comes down, you know, it's original plaster and so on. And I just mention that mainly because with that and the fact it would be more of a long hallway than a rectangular room, I would rationalize that that would be a differentiation throughout the application because the use would not perceivably or persuasively seem like a room you could use but more like a storage, a long storage facility with you know, to occupy

with a chimney that's pretty large at one side and, you know, mechanical equipment.

CONSTANTINE ALEXANDER: Okay.

BHUPESH PATEL: And that's not for you to decide. I'm just saying that would be the differentiation.

CONSTANTINE ALEXANDER: Ready for a vote?

JIM MONTEVERDE: You want a vote?

BHUPESH PATEL: Can I ask you, what if I withdraw it? Can I just do that and make that change? Is that a process I can do?

CONSTANTINE ALEXANDER: Well, if you withdraw it, it's just like us turning you down, so you have the same repetitive -- you have to get over the repetitive petition issue that we mentioned.

BHUPESH PATEL: Is there any difference relative to the timeline?

CONSTANTINE ALEXANDER: No. No.

BHUPESH PATEL: It's still --

CONSTANTINE ALEXANDER: Withdrawal and turned down are identical.

BHUPESH PATEL: Right. Still within two years it has to be differentiated --

CONSTANTINE ALEXANDER: Yeah, right.

BHUPESH PATEL: And submit --

CONSTANTINE ALEXANDER: It's in the material that I read to you.

BHUPESH PATEL: Well, let's just withdraw it so we don't have to vote on it.

CONSTANTINE ALEXANDER: I'm sorry?

BHUPESH PATEL: Why don't we just withdraw it and we don't have to vote on it.

CONSTANTINE ALEXANDER: That would make our life -- make my life easier anyway.

AUDREY PHILIPPOT-DAHAN: Is it better?

BHUPESH PATEL: I mean, it doesn't make a difference technically. But instinctively it doesn't feel

good to get voted down so I'd rather withdraw it and then go through the process of differentiating it.

CONSTANTINE ALEXANDER: Okay. You're requesting withdrawal?

BHUPESH PATEL: I'm requesting withdrawal, correct.

CONSTANTINE ALEXANDER: Okay.

The chair moves that we accept the requested withdrawal of this petition by the petitioner.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Tedesco, Anderson, Best, Monteverde.)

CONSTANTINE ALEXANDER: Maybe we'll see you again.

* * * * *

(9:30 p.m.)

(Sitting Members Case BZA-011838-2016: Constantine

Alexander, Patrick Tedesco, Douglas Myers, George S. Best, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 011838, 330 Harvard Street.

Is there anyone here wishing to be heard on this matter? The A-team is here tonight.

MARK BOYES-WATSON: Yeah, I know. Bringing everybody up. I'm Mark Boyes-Watson from Boyes-Watson Architects. Our client actually had to go to a funeral today so couldn't be here. I'm here with Levy Tofias also from my office at 30 Bowes Street.

THE STENOGRAPHER: Spell that for me, please.

LEVY TOFIAS: T-O-F-I-A-S.

CONSTANTINE ALEXANDER: You're seeking a Special Permit?

LEVY TOFIAS: Yes. We are speaking a Special Permit for the addition of two egress windows in the setback in an existing non-conforming facade. So this house as it

stands a few months ago, we've been permitted -- we went through Mid Cambridge Historic District to take the historic house and remove the back L, split the historic house into two units and we've added two -- a new two-family in the rear. And all of that was as-of-right which is why we didn't come before you before.

So this is our -- so the house was in pretty rough condition before the process began. This is the existing house and then along Harvard Street. As you can see, the existing house is very close to the property line. It was originally about two feet and then as part of the permitting, we removed a bay which was obviously not conforming and increased their setback to 3.8 -- 3.9 feet, which is what it, which is what it currently is.

So this is the, this is the proposed project which is now under construction. The windows we're adding are on the north side of the historic house.

CONSTANTINE ALEXANDER: Do you have a board?

Because you have it in your plans that show exactly where the windows are going to be located.

LEVY TOFIAS: Yeah. So this is -- the site plan shows the demising -- the front unit. There's a front unit and a rear unit. Each has -- would be given a window well and egress window in the basement.

MARK BOYES-WATSON: There and there.

LEVY TOFIAS: Yes. And then the plans pretty much show that -- pretty much the same idea. And then the elevations here. You can see that the other windows on this side are existing. There's actually a few smaller windows along here which, which would be closed up as part of the construction process. And then we're adding, we're requesting the two egress windows and window wells because they extend below, below grade.

CONSTANTINE ALEXANDER: Can you help us non-architects to understand what's an egress window? How does that differ from a regular window?

LEVY TOFIAS: An egress window by Building Code is opening has to be a certain size. So it has to be -- Massachusetts --

CONSTANTINE ALEXANDER: So you're doing this egress window because the Building Code requires it?

JIM MONTEVERDE: Well, that was my question.

CONSTANTINE ALEXANDER: Yes.

JIM MONTEVERDE: What is it that drives -- is that because you want to occupy the basement and you don't have egress from the basement? What is it that drives it?

LEVY TOFIAS: Correct. If the basement is considered habitable space, then it needs to have a means of egress. And --

JIM MONTEVERDE: In addition to the way you get down there, I'm assuming by plan there's another way to get there?

LEVY TOFIAS: Yes, of course, yeah, there are stairs to get down.

JIM MONTEVERDE: So it's a second means of egress?

LEVY TOFIAS: A second means of egress.

MARK BOYES-WATSON: And that's required in any bedroom that is -- it's actually, you could -- theoretically you could have a media room or use the basement. But if someone is sleeping down there, the code reads any sleeping room --

JIM MONTEVERDE: Sleeping room.

MARK BOYES-WATSON: -- below grade.

And the Building Department which I think is wise, says that, you know, if there's a room down there and you can sleep down there, please provide an egress window.

JIM MONTEVERDE: Yes.

MARK BOYES-WATSON: And this window has a certain size. It's roughly three foot-by-five foot that the idea being that a family or a person can climb easily in and out of the window.

PATRICK TEDESCO: Is it in support of creating an

additional unit or just habitable space?

LEVY TOFIAS: No, just habitable space in the basement.

JIM MONTEVERDE: Sleeping room in the basement is what it -- right? That's what drives it?

MARK BOYES-WATSON: It allows it to be a sleeping room as opposed to -- you know, I think that the way that the Building Department -- you could create that room and still meet the Building Code, but the Building Department likes this more conservative reading of it. The possibility of sleeping down there, please provide the second window. Which we would -- I think the reasonable question is why aren't you providing that? We have a left-hand side yard and a front yard. And the answer is that if you look back at the photographs that Levy first showed, that one of the things about this house is that it's actually -- it's in disrepair obviously but a lovely house. So the way that it's configured, it has this side porch that gives out onto

a landscaped garden on this side. And the front is obviously the historic front on Harvard Street. Whereas, the left -- the right-hand side, although we need to be in front of this Board to ask for the Special Permit, it's the least intrusive place for it in the way that it's configured. And it's like the parking of a very large building on the right. So this way we can preserve the historic structure the way it presents to the street into its side yard. And also there's already a retaining wall down that side so we can tuck those new windows very inconspicuously on that side.

CONSTANTINE ALEXANDER: How much space is there between that retaining wall and the window itself?

MARK BOYES-WATSON: Sadly the same as the setback. Their retaining wall was more or less on the setback, so 3.8, 3.9 --

CONSTANTINE ALEXANDER: So someone could climb out the window and not bump into the wall?

MARK BOYES-WATSON: Exactly, yes. In fact, the Building Code also requires that that well be three-foot by three-foot, just, you know, enough for a person or two people to be in there and maneuver themselves out.

DOUGLAS MYERS: Irrelevant question, is there a full bathroom in the basement?

MARK BOYES-WATSON: Yes. Well, there will be.

DOUGLAS MYERS: According to the plans.

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: Anything further?

MARK BOYES-WATSON: That's it.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: See none. There's no one in the room so there's no public testimony. There's no letters in the file. So I think we can -- ready for a decision unless we want further discussion?

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: Guess not. Okay, I'll make a motion.

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

That the requirements of our Ordinance cannot be met without the Special Permit.

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

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what you're proposing.

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

And that what is being proposed will not impair

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

In fact, the purpose of these windows is to improve the safety for those who occupy the structure by giving a second means of egress from the structure in the case of an emergency.

So on the basis of these findings, the Chair moves we grant the Special Permit requested on the condition that the work proceed in accordance with plans prepared by Boyes-Watson Architects. They're dated 10/27/16. The first page of which has been initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Tedesco, Myers, Best, Monteverde.)

(Whereupon, at 9:45 p.m., the
Zoning Board of Appeals Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

I, Catherine Lawson Zelinski, a Certified
Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and
accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand
this 15th day of December, 2016.

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

My Commission Expires:
April 29, 2022

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