

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 30, 2020

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green

Andrea A. Hickey

Jim Monteverde

Laura Wernick

Slater W. Anderson

Sisia Daglian, Assistant Building Commissioner

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1 P R O C E E D I N G S

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3 (6:32 p.m.)

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

6 CONSTANTINE ALEXANDER: Okay, the Chair will call
7 an Executive Session of the ZBA (sic). I recommend that
8 this Board go into Executive Session to discuss strategy
9 with regard to the pending litigation known as Darby et al.
10 versus Port of Authority Appeals et al. and Court Case
11 Number MISC-000095.

12 Since discussing this case in an open session may
13 have a detrimental effect on the litigating position of the
14 city, such an Executive Session for this purpose is
15 permitted by General Laws Chapter 30A, Section 21-A3.

16 Upon adjournment of this Executive Session, the
17 Board will reconvene an open session. And so, the vote,
18 with regard to going into the Executive Session is a roll
19 call vote.

20 Okay, I'll start with you, Brendan.

21 BRENDAN SULLIVAN: Brendan Sullivan, yes.

22 JANET GREEN: Janet Green, yes.

1 ANDREA HICKEY: Andrea Hickey, yes.

2 CONSTANTINE ALEXANDER: And Constantine Alexander,
3 yes. So we're now officially in Executive Session.

4 ANDREA HICKEY: All right. So we need to confirm
5 that everything is shut down.

6 CONSTANTINE ALEXANDER: Yeah. I think the first
7 case we're going to call is the 238 Brookline Street.

8 BOARD MEMBERS: [Conversation about electing the
9 Chair.]

10 CONSTANTINE ALEXANDER: Only regular members vote
11 on that.

12 ANDREA HICKEY: Oh, okay, I'm sorry.

13 CONSTANTINE ALEXANDER: The Chair will call this
14 meeting of the Board of Zoning Appeals to order. The first
15 item of business is to elect officers for the coming year,
16 present Chair and Vice Chair.

17 But before I do that, let me make a statement so
18 we can listen to the record.

19 After notifying the Chair, any person may make a
20 video or audio recording of our open sessions, or may
21 transmit the meeting through any media, subject to
22 reasonable requirements that the Chair may impose as to the

1 number, placement and operation of equipment used, so as not
2 to interfere with the conduct of the meeting.

3 At the beginning of the meeting, the Chair will
4 inform other attendees at that meeting that a recording is
5 being made.

6 And I wish to advise that at least two recordings
7 are being made, one is being made by our stenographer to
8 assist her when she prepares the transcript for tonight's
9 meeting, and the second is by a citizen of the city, who's
10 left his tape recorder on the front table.

11 Is there anyone else here going to be recording
12 this meeting? Taping it? On, no one else. So we're the
13 record all set.

14 With that out of the way, the very first order of
15 business is to elect officers, Chairman and Vice-Chairman
16 for the coming year. Start with the Chairman. Anyone has
17 any nominations?

18 BRENDAN SULLIVAN: I would nominate Constantine
19 Alexander to be Chair of the Board of Zoning Appeal for the
20 ensuing year.

21 JANET GREEN: I enthusiastically second that
22 nomination.

1 CONSTANTINE ALEXANDER: Without enthusiasm, let me
2 just comment. I make my usual speech, and I'll make it
3 again, and I mean this sincerely -- anyone else wants to be
4 the Chair this year, I'd be happy to decline the nomination.
5 I guess not. Okay. Nominations have closed.

6 All those in favor of electing me as Chair,
7 please say, "Aye."

8 COLLECTIVE: Aye.

9 [All vote YES -- Andrea Hickey, Janet Green,
10 Brendan Sullivan.]

11 CONSTANTINE ALEXANDER: Motion carries. So now we
12 go to the election of a Vice Chair. Nominations? Anybody
13 have a nomination?

14 ANDREA HICKEY: I would like to nominate Mr.
15 Brendan Sullivan as Vice Chair.

16 CONSTANTINE ALEXANDER: Second?

17 BRENDAN SULLIVAN: Would anybody like to be Vice
18 Chair? You make the same speech. I don't succeed any time
19 I make that speech, but you will.

20 JANET GREEN: I second that motion.

21 CONSTANTINE ALEXANDER: Anyone else? Any other
22 nominations? Nominations are closed. All those in favor

1 of electing Brendan as Vice Chair please say, "Aye."

2 COLLECTIVE: Aye.

3 [All vote YES -- Andrea Hickey, Janet Green,
4 Brendan Sullivan]

5 CONSTANTINE ALEXANDER: Unanimous vote. We now
6 have Officers for the coming year. With that out of the
7 way, let's turn to the first order of business, and as those
8 of you who may not have been at our meeting before, we start
9 with continued case. These are cases that have started at
10 an earlier date, but for one reason or another we have to
11 continue it until tonight.

12 And after we finish with the continued cases, and
13 we have several, then we'll turn to our regular agenda. I
14 just would say we probably have several continued cases. A
15 good number of them are going to be dismissed pretty
16 quickly, or at last postponed very quickly.

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2 (7:18 p.m.)

3 Sitting Members: Brendan Sullivan, Janet Green, Constantine
4 Alexander, Andrea A. Hickey, Jim
5 Monteverde, Laura Wernick, Slater W.
6 Anderson.

7 CONSTANTINE ALEXANDER: Anyway, with that, I'm
8 going to call Case Number 017127 -- 238 Brookline Street.
9 Anyone here wishing to be heard on this matter? Name and
10 address for the stenographer, please?

11 ROY HODGEMAN: My name is Roy Hodgman; I live at
12 238 Brookline Street.

13 CONSTANTINE ALEXANDER: As you know, I think --

14 CONSTANTINE ALEXANDER: Spell your last name?

15 ROY HODGEMAN: H-o-d-g-m-a-n.

16 CONSTANTINE ALEXANDER: You filed amended plans.

17 ROY HODGEMAN: Yep.

18 CONSTANTINE ALEXANDER: You did not do a table of
19 -- what's the word -- and you are required to do that.
20 Anyway, it's the -- here it is -- dimensional form. And
21 your new plans are different.

22 The dimensional form you filed the last time, it

1 needed to be modified. And you were directed if you were
2 going to submit amended plans, which you did, that you had
3 to give the amended plans and the dimensional -- a revised
4 dimensional form has to be in our files by 5:00 p.m. on the
5 Monday before this night. You did not do that.

6 Because of that, I'm not prepared to continue --
7 to hear this case tonight. Because there's information on
8 there that I would like to know about in advance of the
9 hearing.

10 ROY HODGMAN: Okay.

11 CONSTANTINE ALEXANDER: So other members of the
12 Board feel about this?

13 BRENDAN SULLIVAN: No, I think you're correct.

14 CONSTANTINE ALEXANDER: Okay. So I don't see --
15 it says here in this case record -- continued one more time,
16 we've got to decide when, which we'll do right now.

17 ROY HODGMAN: Okay.

18 CONSTANTINE ALEXANDER: But you understand --

19 ROY HODGMAN: No, it's my fault.

20 CONSTANTINE ALEXANDER: Oh, okay, yeah.

21 ROY HODGMAN: I'm sorry.

22 CONSTANTINE ALEXANDER: We're not here to impart

1 blame.

2 THOMAS ROSE: My name is Thomas Rose, I'm the
3 architect, and I submitted the plans last week, and I
4 thought I had everything prepared, but obviously I hadn't.
5 So I apologize.

6 CONSTANTINE ALEXANDER: No apologies necessary.
7 Just simply can't go forward with the plans.

8 THOMAS ROSE: Yeah.

9 CONSTANTINE ALEXANDER: You may have to apologize
10 for any abutters here who came down and now are not going to
11 -- will have to come down again, but that's neither here nor
12 there. Sisia?

13 SISIA DAGLIAN: Janet and Brandon aren't here in
14 February -- I mean not Janet, Laura. Either you or Brandon.

15 LAURA WERNICK: I'm not here the thirteenth.

16 SISIA DAGLIAN: Right. So March 12 is the first
17 date that we're --

18 CONSTANTINE ALEXANDER: We have to get the same
19 five people who were at the initial hearing.

20 BRENDAN SULLIVAN: Right.

21 CONSTANTINE ALEXANDER: Are we all set? I can
22 make March 12.

1 BRENDAN SULLIVAN: Yep, yes, hold on.

2 CONSTANTINE ALEXANDER: Okay.

3 BRENDAN SULLIVAN: Hold on.

4 SLATER ANDERSON: It says I have a continued case
5 that night.

6 CONSTANTINE ALEXANDER: Okay, we'll have now two
7 continued cases then.

8 SLATER ANDERSON: I'll be here. Okay. We're all
9 set.

10 CONSTANTINE ALEXANDER: Okay. And obviously this
11 works for you, March 12?

12 THOMAS ROSE: We'll make it work.

13 CONSTANTINE ALEXANDER: Can't do it any earlier
14 than that. We'd like to make it earlier, but we just can't
15 get five of us together any earlier than May 12.

16 CONSTANTINE ALEXANDER: The Chair moves that we
17 further continue this case, again as a case heard, subject
18 to the following conditions:

19 1) That the petitioner sign a waiver of time for
20 decision, and you've done that already for the emergent one.
21 That's taken care of.

22 2) That amended plans and dimensional form that

1 goes along with those must be in our files by 5:00 p.m. on
2 Monday before March 12. And you agree to further modify
3 these plans if you choose to, but we've got to get the
4 further revised plans in our files 5:00 p.m. on the Monday
5 before, with the dimensional form that's consistent with the
6 revised plans.

7 If there are no revised plans, then just the
8 dimensional form with these plans.

9 And then last, have a posting sign for 14 days.
10 You've got to do it, and you've got to maintain it for the
11 14 days before the hearing. Either get a new sign from
12 Maria or if there's any room left, modify the old sign. The
13 sign must reflect the date, March 12, and the time, 7:00
14 p.m.

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

17 THE BOARD: Aye.

18 [All vote YES -- Brendan Sullivan, Constantine
19 Alexander, Jim Monteverde, Laura Wernick]

20 CONSTANTINE ALEXANDER: See you on March 12.

21 COLLECTIVE: Thank you.

22 CONSTANTINE ALEXANDER: I'm going to call Prospect

1 Street next, so the people who must be here for that are
2 myself, Brendan, Jim if he's here --

3 JANET GREEN: I think Laura.

4 CONSTANTINE ALEXANDER: Laura? Yep, and Jim.

5 JANET GREEN: Yes.

6 CONSTANTINE ALEXANDER: So they're all here.

7 JANET GREEN: Yes.

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2 (7:22 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Laura Wernick, Janet
5 Green.

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017164 -- 141 Prospect Street. Anyone here
8 wishing to be heard on this matter?

9 JAMES RAFFERTY: Good evening Madam Chair and
10 members of the Board. For the record, my name is James
11 Rafferty, R-a-f-f-e-r-t-y. I'm an attorney with offices
12 located at 907 Massachusetts Avenue in Cambridge.

13 I'm appearing this evening on behalf of the
14 property owner, Mark Roos, R-o-o-s. Mr. Roos -- actually
15 the petition is filed by the prior owner, George Sallum, S-
16 a-l-l-u-m.

17 And I know the Board has -- the case has been
18 continued once before. I recently became involved and have
19 spent a bit of time examining the files in the case. It's
20 quite an interesting case, and it dates back to the history
21 of zoning and rent control.

22 And in this case, this case goes all the way back

1 to a 1993 Superior Court action where the decision of the
2 rent control Board denying the removal permits -- this was a
3 five-unit building under rent control, and the finding in
4 the Rent Control Board was -- and here's a copy of the
5 transcript, you can see the first finding of fact is 1) --
6 this was a five-unit, this was a five-unit building.

7 And in rent control, the Board members may be
8 aware there was a distinction between a five-unit building
9 and a two or three-unit building that's owner-occupied.

10 So in this case, if the Board, if the removal
11 permits were issued, the property would have gone off of
12 rent control. And that was something people used to put
13 some effort into.

14 So there was a BZA case in 1998 --

15 BOARD MEMBER: Right.

16 JAMES RAFFERTY: And in this case, they wanted to
17 legalize it as a three-family.

18 BOARD MEMBER: Right.

19 JAMES RAFFERTY: I -- when I first looked at the
20 card on this, I assumed it was like this case, an effort to
21 add a unit to go from two to three.

22 But if you read the decision, and you read that

1 the opposition to the decision -- and it says in the Case
2 Number 5672, a 1988 case, one of the few cases that not a
3 single member of this Board was sitting on, but they
4 recognized a great deal of opposition to the petitioner's
5 approval; said opposition contending that the variance
6 request was simply a ruse -- they say rise -- to obscure the
7 petitioner's true goal of removing the property from under
8 the rent control ordinance.

9 So when the commissioner first pointed this out to
10 me, my assumption was that this is yet another attempt at a
11 variance that had been rejected in the past to go from two
12 to three.

13 This was actually an attempt to go from five to
14 three, with the reason being so there was an appeal taken in
15 the rent control matter, and in the end the court ruled in
16 favor of Mr. Sallum, but the Rent Board said that the only
17 they would allow the removal permits is if Mr. Sallum found
18 apartments for the displaced tenants.

19 And I met with Mr. -- I'm probably saying his name
20 wrong, am I?

21 BOARD MEMBER: Sallum.

22 JAMES RAFFERTY: Sallum. I met with him. He came

1 to my office a few weeks ago, and he explained that he found
2 that objectionable, he never did that. And then by 1993,
3 rent control went away.

4 He did provide me with permits, and he did do work
5 to alter the premises with permits to be a three-family
6 dwelling. He sold it to Mr. Russo, and one of the
7 conditions was that he would current this conflict, because
8 the ISD records reflect a two-family dwelling, and he was
9 unable to get a CEO for a three-family.

10 So he thought that the easiest thing to do would
11 be to come here and have the Board resolve it. And I think
12 he was here pro se a while ago, and then I was asked to get
13 involved.

14 So I know the Board in these cases needs to find
15 a hardship, because we're talking about a dimensional --
16 this exceeds the lot area per dwelling unit, but there is
17 precedence here has that this predated -- this goes into
18 '70s as a five-unit dwelling, and the conversion to three
19 units occurred -- what Mr. Sallum did was after rent control
20 went away, he then occupied it as a three.

21 He told me the second-floor unit was divided, and
22 it's in the record, the way the building worked was the

1 first-floor unit, a single unit, a third floor is a single
2 unit, but the second floor had been carved up into three
3 units, which probably never met any building codes or had
4 adequate egress until that.

5 So he merely -- went rent control ended, he merely
6 combined with permits, altered the premises to make the
7 second-floor unit a single unit.

8 So that's the history of the case. The hardship
9 really has to do with the long-standing use of the property
10 as a three-family, and this attempt to rectify it.

11 CONSTANTINE ALEXANDER: We have to go through the
12 rest of the requirements for a variance, like the soil
13 conditions, et cetera, et cetera.

14 JAMES RAFFERTY: Well --

15 CONSTANTINE ALEXANDER: Excuse me, I thought you
16 were going to continue this case, and you were coming with a
17 procedure that would avoid needing any zoning relief, and
18 you would be able to use it as a matter of, right?

19 JAMES RAFFERTY: Well, that had -- and I think,
20 candidly I think we could do that in this case. But the
21 more I got into the case, I said, "Well, since it's on the
22 -- " and I thought what I might hear tonight, which I

1 wouldn't say would be an improper response, is that this is
2 an argument best delivered to the Building Department and
3 not to the Zoning Board.

4 CONSTANTINE ALEXANDER: Right.

5 JAMES RAFFERTY: And perhaps if the Board would
6 indulge us, we would continue it one last time to allow us
7 to do that.

8 CONSTANTINE ALEXANDER: I would be all in
9 favorite, but it's up to the whole Board if we're continuing
10 this case tonight to allow you to go ahead with the Building
11 Department and hopefully -- from your point of view at least
12 -- avoid having to come back before our Board.

13 JAMES RAFFERTY: That's nothing I look to avoid
14 doing, but if that were the case, I could live with that.

15 CONSTANTINE ALEXANDER: Okay. Because I think --
16 just temporizing, I think you have a tough case on the
17 zoning side.

18 JAMES RAFFERTY: I don't disagree.

19 CONSTANTINE ALEXANDER: So if you can proceed
20 without coming to our Board, I think you'd be better served.
21 But that's neither here nor there.

22 JAMES RAFFERTY: I recognize that. Well, in that

1 case, then I would -- I think we would appreciate the
2 opportunity to flesh this out.

3 CONSTANTINE ALEXANDER: How much time do you need,
4 and when would you like the case continued to?

5 JAMES RAFFERTY: I would say I need a few weeks
6 sometime in the end of February, early March. I don't know
7 if we consider this a case heard?

8 CONSTANTINE ALEXANDER: No, it's not a case heard.

9 JAMES RAFFERTY: No? Did you hear -- I think you
10 might have heard --

11 CONSTANTINE ALEXANDER: No, I'm sorry, I did.

12 JIM MONTEVERDE: I think it is a case heard.

13 JANET GREEN: It is a case heard.

14 JIM MONTEVERDE: So I would say what's at the
15 convenience of the Board, I know you have some continued
16 cases, so.

17 CONSTANTINE ALEXANDER: Well, we have March -- it
18 can't be --

19 JANET GREEN: March 12.

20 CONSTANTINE ALEXANDER: -- any earlier than March
21 12, right? Oh, you're not here in March either? Well,
22 hopefully this is a case to be continued.

1 JAMES RAFFERTY: Yeah, I would say -- that's a
2 good way of putting it. I suspect -- and I have suspected
3 for a while, that the remedy probably isn't here.

4 CONSTANTINE ALEXANDER: Right, it's there.

5 JAMES RAFFERTY: It's probably across the street.

6 CONSTANTINE ALEXANDER: Well, that being said, do
7 you still want to have it continued to a date when, if need
8 be, the five necessary people will be here?

9 JAMES RAFFERTY: I bet we could go with four,
10 given the unlikely aspect --

11 CONSTANTINE ALEXANDER: Okay.

12 JAMES RAFFERTY: -- that we would go. And I --
13 only because if that were to save us dealing with the
14 Commissioner with the taint of a denied variance, as opposed
15 to one that was left unresolved here.

16 CONSTANTINE ALEXANDER: When can we get the four
17 members who were here the last time? You know Janet can't
18 do it.

19 JANET GREEN: I can't do it.

20 CONSTANTINE ALEXANDER: What's the date?

21 JAMES RAFFERTY: The March 12 date?

22 CONSTANTINE ALEXANDER: So March 12?

1 JANET GREEN: Yeah, the twelfth.

2 CONSTANTINE ALEXANDER: Jim? Because you weren't
3 here.

4 JIM MONTEVERDE: I'm here.

5 CONSTANTINE ALEXANDER: You're here? Because I
6 remember the others are. Okay. The Chair moves that we
7 continue this case, once again, as a case heard until 7:00
8 p.m. on March 12, subject to the following conditions: You
9 know what they are, but I've got to read them for the
10 record.

11 First, that a waiver of time for decision needs to
12 be filed, and I think your new owners, I think the last time
13 it was signed by Mr. Sallum. So, like you sir, with your
14 permission, or authority, to sign a waiver of time for
15 decision. Otherwise, we'd have to take time for action, and
16 you don't want to hear that action.

17 Second, that the -- to the extent that you're
18 going to file new plans, they must be in our files no later
19 than 5:00 p.m. on the Monday before March 12. Together with
20 a new dimensional form. As you may have heard from the case
21 right before, the last person who we continued a case for
22 didn't do that. We refused to hear the case.

1 So if you are getting new plans or modified plans,
2 and dimensional form that conforms to those plans must be in
3 our files no later than 5:00 p.m. the Monday before March
4 12.

5 And lastly, the posting sign that's there now,
6 there must be a new posting sign or modification of the old
7 one, but I think a new one -- I noticed the last time the
8 sign was almost washed away and somewhat hard to read.

9 JAMES RAFFERTY: Probably need a new one.

10 CONSTANTINE ALEXANDER: Yeah, you need a new one.
11 It must be posted and maintained for the 14 days before
12 March 12. If this were a new petition, I'd have an issue.
13 All those in favor of continuing the case, please say,
14 "Aye."

15 THE BOARD: Aye.

16 [All vote YES]

17 JAMES RAFFERTY: No, I'm happy to state for the
18 record too that the petitioner will waive the right to be
19 heard by 5:00. So if we did come back on the fourth, we're
20 --

21 CONSTANTINE ALEXANDER: There's no requirement
22 that --

1 JAMES RAFFERTY: Well, I think we could elect to
2 require a full quorum when --

3 CONSTANTINE ALEXANDER: No, we usually offer the
4 petitioner the opportunity to continue the case if there's
5 not five.

6 JAMES RAFFERTY: Right. But --

7 CONSTANTINE ALEXANDER: You don't need to add
8 that. If you came to the hearing -- I learned this recently
9 -- and we said we've only got four, you can say, "I'll go
10 ahead with it.

11 JAMES RAFFERTY: Oh, that I know. But I think if
12 you came to the hearing and there was only four, I could
13 elect and request a continuance, because I would then need
14 to get four -- I mean --

15 CONSTANTINE ALEXANDER: Right.

16 JAMES RAFFERTY: -- that's always been the
17 practice, right?

18 CONSTANTINE ALEXANDER: Right.

19 JAMES RAFFERTY: Right. And I'm saying we'll
20 waive that. I wouldn't want to suggest we would then show
21 up here on the twelfth and say, "Oh, there's only four
22 members, we want another continuance." We wouldn't do that.

1 CONSTANTINE ALEXANDER: I'd probably just deny
2 that request and we'd throw the case out, so it wouldn't be
3 a problem. All those in favor, please say, "Aye."

4 THE BOARD: Aye.

5 [All 5 vote YES - Brendan Sullivan, Jim
6 Monteverde, Constantine Alexander, Janet Green, Laura
7 Wernick]

8 CONSTANTINE ALEXANDER: Five in favor, case
9 continued.

10 JAMES RAFFERTY: There's a certain efficiency to a
11 dictatorship. Thank you very much.

12 CONSTANTINE ALEXANDER: Thank you.

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2 (7:22 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: The Chair is now going to
7 call Case Number 017185 -- 87 Washington Avenue. Anyone
8 here wishing to be heard on this matter? No one wishing to
9 be heard? I want to advise my fellow Board members that the
10 petitioner is withdrawing that petition.

11 I believe they've come up with a solution that
12 avoids the need for any zoning relief, because it's a
13 construction of a new -- building of a new structure that
14 has raised a zoning problem. They've redesigned it, and so
15 the zoning problems have gone away.

16 In any event, all those in favor of accepting the requested
17 withdrawal, please say, "Aye."

18 COLLECTIVE: Aye.

19 [ALL FIVE VOTE YES - Brendan Sullivan, Jim
20 Monteverde, Constantine Alexander, Janet Green, Laura
21 Wernick]

22 CONSTANTINE ALEXANDER: Five in favor, case

1 withdrawn.

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2 (7:33 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: The last continued case is
7 Case Number 017169 -- 45 Orchard Street. Anyone here
8 wishing to be heard on this matter? Okay. Name and
9 address, as you know, for the stenographer.

10 ABIGAIL LIPSON: My name is Abigail Lipson. I
11 live at 45 Orchard Street in Cambridge.

12 CONSTANTINE ALEXANDER: Sir?

13 DIMITER KOSTOV: My name is Dimiter Kostov, I'm
14 the architect. I live at 118 Adena Road in Newton,
15 Massachusetts.

16 THE REPORTER: Could you spell your name for me,
17 please?

18 DIMITER KOSTOV: Last name -- first name is
19 Dimiter, D-i-m-i-t-e-r. Last name is Kostov, K-o-s-t-o-v.

20 CONSTANTINE ALEXANDER: At the outset, you filed
21 amended plans?

22 DIMITER KOSTOV: We did.

1 CONSTANTINE ALEXANDER: And it reduced the size of
2 the building, because the FAR went back. But the
3 dimensional form shows no reduction. You had 4712 last
4 time; you have 4012 on the new amended plans. What is it?

5 DIMITER KOSTOV: I -- that must have been a typo.
6 It is 4379.

7 CONSTANTINE ALEXANDER: Okay. We want to get that
8 out of the way. 4379?

9 DIMITER KOSTOV: Yes.

10 CONSTANTINE ALEXANDER: Now, there was substantial
11 neighborhood opposition the last time. Where does that
12 matter stand with the neighbors? Maybe we'll hear from the
13 neighbors in a second, I don't know.

14 ABIGAIL LIPSON: The -- I submitted -- oh, I've
15 been talking again with the neighbors. I had begun talking
16 with the neighbors way back when I -- this was just in
17 sketch form, and there was a whole Plan A that didn't even
18 come to the Board because I took my neighbors' concerns very
19 seriously and reduced the height and the square footage and
20 removed some windows and sort of made changes that would
21 make sense to my neighbors before it came to the Board last
22 time.

1 CONSTANTINE ALEXANDER: Actually, let's go back --

2 I'm sorry to --

3 ABIGAIL LIPSON: Sure.

4 CONSTANTINE ALEXANDER: Let's start from the
5 beginning, as if this was the first hearing.

6 ABIGAIL LIPSON: Okay.

7 CONSTANTINE ALEXANDER: Exactly what is it you're
8 trying to do and why?

9 ABIGAIL LIPSON: So I'm a longtime Cambridge
10 resident, owner-occupant. I have a house -- the house on
11 Orchard Street has a big barn in the back. And I am now
12 actually the oldest member of my family.

13 And I'm looking to try and find ways in my
14 retirement to age in place, as they say, and that includes
15 some prospect for one-floor living, for maybe some live-in
16 help. I'm trying to think ahead and make plans.

17 And the house in which I currently live is a very
18 kind of vertical house. It takes stairs to get up, stairs
19 to get to the garden, stairs to get up the stairs, and it's
20 split not sort of first-floor versus second floor, but it's
21 split in half vertically, so that both halves of the house
22 are very sort of vertical.

1 The barn offers a big, open, flat space inside.
2 And so, what I'm looking to do is make the property as
3 affordable and accessible as it can be in my retirement, and
4 turn the barn into a living space where there's the
5 opportunity to have a -- all one floor ground level living.

6 The -- I started off with a much more ambitious
7 plan, as I started to say. I learned a lot from bringing it
8 around to my neighbors and hearing what their concerns were,
9 and made a lot of modifications that proposed the first
10 proposal that you heard.

11 You heard that there were still neighborhood
12 concerns, and I'm -- I know that you'll invite that here.
13 I've gone around again to all the neighbors, and talked
14 about the idea of just the even more modest plan that's on
15 the current footprint of the house.

16 So, you know, roofline change, no square footage
17 change, no setback. It's just within the current structure
18 of the current building.

19 And there's actually a lot of support in the
20 neighborhood. I've had letters of support and shared my
21 notes with you. As of today, it looks like this. Do you
22 have that?

1 CONSTANTINE ALEXANDER: I have them. They're on
2 file.

3 ABIGAIL LIPSON: Okay. The neighbors who -- I
4 think would appreciate weighing in most are the ones that
5 are actually close to the barn. There are a number of
6 neighbors who aren't actually physically very close to the
7 barn, the barn's kind of sitting in the middle of the block.

8 But immediately behind the barn at 166A, those
9 neighbors actually are very close. And they're very
10 supportive of this project. I think from talking with my
11 neighbors and my own feeling, it's that it's a good idea to
12 maintain and look after and improve existing structures --
13 and also, that we've been reading about sort of the need in
14 Cambridge for housing units and for responsible, small-scale
15 building by owner-occupants as opposed to, or in addition
16 to, rather, you know, larger-scale. And this seems like a -
17 - sort of it would fit in well with that kind of a plan.

18 My neighbors -- I think one thing I've discovered
19 is that we share -- a lot the concerns that they have I
20 share, because I live there. So I'm also concerned about
21 privacy or noise or -- you know, the open green spaces. And
22 I'm hoping that all along, the changes that I've been making

1 to the plan address those concerns of my neighbors and their
2 concerns I have as well.

3 CONSTANTINE ALEXANDER: Okay, and for the record
4 --

5 ABIGAIL LIPSON: Yeah.

6 CONSTANTINE ALEXANDER: -- the reason why you need
7 zoning relief is that you're currently over the FAR for the
8 lot? You're at 0.55.

9 ABIGAIL LIPSON: Yep.

10 CONSTANTINE ALEXANDER: With the changes you'll
11 not increase the nonconformity, unlike --

12 ABIGAIL LIPSON: Right.

13 CONSTANTINE ALEXANDER: -- the first time you were
14 here.

15 ABIGAIL LIPSON: Right.

16 CONSTANTINE ALEXANDER: So you'll still be at 0.55
17 and you're still over.

18 ABIGAIL LIPSON: Right.

19 CONSTANTINE ALEXANDER: Which is why you need to
20 be here for your yard setback issues.

21 DIMITER KOSTOV: Right. And we're in compliance
22 with side and rear setbacks on the property.

1 ABIGAIL LIPSON: Yeah, it already is.

2 DIMITER KOSTOV: Right.

3 CONSTANTINE ALEXANDER: But you need the variance.
4 You need to go over the requirements for the variance. And
5 then I'll open the -- I just want to have you address those,
6 and then I'll open the matter up to public testimony after
7 all the members of the Board ask any questions that they
8 wish to ask.

9 The first one is a literal enforcement of the
10 provisions of the ordinance would involve a substantial
11 hardship. That hardship has got to run not just to you --

12 ABIGAIL LIPSON: Mm-hm.

13 CONSTANTINE ALEXANDER: -- it would be to anyone
14 who occupies, or owns your lot, or occupies the lot. Why --
15 what's the substantial hardship?

16 ABIGAIL LIPSON: I think -- did we submit in the
17 materials a statement with some pictures of the barn from
18 before, when we first bought the property? I don't know if
19 you saw that?

20 JANET GREEN: Can you hold it a little closer?
21 Because it's harder for them to hear in back.

22 CONSTANTINE ALEXANDER: Whatever you submitted --

1 ABIGAIL LIPSON: Okay.

2 CONSTANTINE ALEXANDER: I think you should assume
3 we've -- at least some of us have read --

4 ABIGAIL LIPSON: Okay.

5 CONSTANTINE ALEXANDER: In the file.

6 ABIGAIL LIPSON: The barn was originally twice the
7 size it is now. And we tried to see if it could be fixed
8 up. The front half had caved in, it was rotted, it was
9 infested, it was kind of a fire trap. It was not a good
10 thing for the neighborhood or for the property.

11 We couldn't find somebody who could either tear it
12 down or fix it up in an affordable way. And we found
13 somebody who could chop it in half and haul away the rotten
14 front half and put the front back on the way it was, so it
15 became half the size.

16 But it was a little more manageable. And we also
17 had a lot of neighbors saying that they wanted -- they
18 didn't want to see the barn torn down, because it was kind
19 of a buffer between the two avenues. And so, that was
20 great. And I'm glad that we were able to do that.

21 But, ever since then, it's just a barn. It's good
22 for being --

1 CONSTANTINE ALEXANDER: I was going to say --

2 ABIGAIL LIPSON: -- a shed, and it costs a lot of
3 money to maintain it and keep it painted, and the gutters
4 and the tree branches falling on it, and the critters, and
5 it's --

6 CONSTANTINE ALEXANDER: Well, unless you're going
7 to take them horseback riding, you don't need a barn that
8 size.

9 ABIGAIL LIPSON: Don't need a barn that size --

10 CONSTANTINE ALEXANDER: And so, --

11 ABIGAIL LIPSON: -- and it costs a lot to --

12 CONSTANTINE ALEXANDER: You're creating housing
13 for the city, or --

14 ABIGAIL LIPSON: -- that's my hope.

15 CONSTANTINE ALEXANDER: -- there is a need for
16 additional housing throughout the City of Cambridge.

17 ABIGAIL LIPSON: Exactly.

18 CONSTANTINE ALEXANDER: So that sort of would
19 explain the hardship.

20 ABIGAIL LIPSON: Yeah.

21 CONSTANTINE ALEXANDER: It's just that --

22 ABIGAIL LIPSON: It would be a good thing.

1 CONSTANTINE ALEXANDER: -- it's a structure that
2 has seen its time.

3 ABIGAIL LIPSON: It's a loss right now, yeah.

4 CONSTANTINE ALEXANDER: And you'll have to -- then
5 we have to find that the hardship that we talked about is
6 owing to circumstances relating to the soil conditions,
7 shape or topography of such structure, and especially if
8 that -- I don't think soil conditions are involved here, but
9 the location of the barn is right now too close to the lot
10 line.

11 DIMITER KOSTOV: Correct.

12 CONSTANTINE ALEXANDER: And so, unless you tore
13 the building down --

14 ABIGAIL LIPSON: Yep.

15 CONSTANTINE ALEXANDER: You have in the zoning --
16 you have a hardship.

17 DIMITER KOSTOV: Correct.

18 CONSTANTINE ALEXANDER: That's owing to what the
19 statute says the hardship is relevant to.

20 ABIGAIL LIPSON: Yeah. We couldn't move it --

21 CONSTANTINE ALEXANDER: You can't move it.

22 ABIGAIL LIPSON: -- anywhere that would be inside,

1 yeah.

2 CONSTANTINE ALEXANDER: And then lastly that we
3 can grant relief without substantial detriment to the public
4 good, or nullifying or substantially derogating from the
5 intent and purpose of the ordinance. And you want to
6 address that just a little bit?

7 The fact is that you -- again, it's the point that
8 you're creating the housing, additional housing for the city
9 --

10 ABIGAIL LIPSON: Yep.

11 CONSTANTINE ALEXANDER: And with neighborhood
12 support, and the nature of the landscaping as I recall it,
13 around the property. You're not going to impact other
14 properties, unless we hear otherwise from neighbors who are
15 here tonight.

16 ABIGAIL LIPSON: Yeah.

17 CONSTANTINE ALEXANDER: We have no letters in the
18 file -- new letters -- that oppose what you want to do.
19 There was a lot of letters before, for another project.

20 ABIGAIL LIPSON: Yep.

21 CONSTANTINE ALEXANDER: Any other comments from
22 members, or questions from members of the Board before I

1 open the matter to public testimony?

2 ABIGAIL LIPSON: Is there anything about the
3 specifics or logistics that -- Dimiter --

4 CONSTANTINE ALEXANDER: Specific what, I'm sorry?

5 JANET GREEN: You need to get a little closer.

6 ABIGAIL LIPSON: Is there anything about the
7 specifics or logistics of the project that Dimiter can speak
8 to, or do you feel like that's clear?

9 CONSTANTINE ALEXANDER: The logistics of the
10 project? What do you mean by that?

11 ABIGAIL LIPSON: Yeah, just what --

12 DIMITER KOSTOV: You know, any of the --

13 ABIGAIL LIPSON: What we planned to do with the
14 plans, or --

15 DIMITER KOSTOV: Any questions regarding the
16 revisions.

17 ABIGAIL LIPSON: The revisions within the planned
18 footprint.

19 CONSTANTINE ALEXANDER: They're your revisions.
20 You know, we'll either accept them or not, or to the
21 neighborhood. If we have problems with them, I think we
22 agree with your intention. I'll open the matter up to

1 public testimony.

2 Is there anyone here wishing to be heard on this
3 matter? You'll have your opportunity to -- if you could
4 come up and take the mic? If you want to bring a chair up.

5 THE REPORTER: Could you spell your name.

6 SHAREN OLIVER: Sharen, S-h-a-r-e-n Oliver, 49
7 Orchard. I am a direct abutter, and I was here for the
8 original --

9 CONSTANTINE ALEXANDER: Right.

10 SHAREN OLIVER: -- November hearing, along with
11 five other abutters who couldn't be here tonight because of
12 the traveling. And I think I heard you say that they all
13 wrote -- e-mailed or wrote letters to the Board in
14 opposition to this.

15 CONSTANTINE ALEXANDER: To the original?

16 SHAREN OLIVER: Yeah, I mean, in the past week or
17 so.

18 CONSTANTINE ALEXANDER: I didn't see very many
19 letters of opposition in the file, when I looked at it.

20 SHAREN OLIVER: Well, there should be --

21 CONSTANTINE ALEXANDER: New letters.

22 SHAREN OLIVER: -- at least five in mine.

1 CONSTANTINE ALEXANDER: Well anyway, why don't you
2 summarize what those letters of opposition are. I mean,
3 what are the reasons for your continued opposition to it?

4 SHAREN OLIVER: Well it's basically the same.
5 Everybody else is traveling but me. Even though the plan
6 has changed, eliminating the two additions, it still doesn't
7 comply with the five-foot setbacks and --

8 CONSTANTINE ALEXANDER: Only in the rear, I think.
9 I think it complies with --

10 DIMITER KOSTOV: No side and no rear setback
11 compliance.

12 COLLECTIVE: Yeah.

13 SHAREN OLIVER: Right. And that's require for
14 accessory structures. And I just don't think that there is
15 a --

16 CONSTANTINE ALEXANDER: Should we deny the relief?
17 And then we're back to the status quo. Is that to your
18 satisfaction? The barn still sitting there as a barn, not
19 being used as --

20 SHAREN OLIVER: Yes.

21 CONSTANTINE ALEXANDER: -- any kind of residential

22 --

1 SHAREN OLIVER: Yes.

2 CONSTANTINE ALEXANDER: -- purposes?

3 SHAREN OLIVER: Because it's -- I mean, the
4 property line of the barn is -- well, I guess a little less
5 than five feet from my --

6 CONSTANTINE ALEXANDER: Right.

7 SHAREN OLIVER: -- property, my back yard. And --

8 CONSTANTINE ALEXANDER: Is there any landscaping
9 behind your property or their property that obscures or
10 shields the barn from the --

11 SHAREN OLIVER: Oh, I have some forsythia.

12 CONSTANTINE ALEXANDER: You have some what? I'm
13 sorry.

14 SHAREN OLIVER: Some forsythia.

15 CONSTANTINE ALEXANDER: Forsythia. Yep. I spend
16 a lot of time in my back yard, as do Pam and Harry, who are
17 the other abutters at 51. And it's really converting this
18 barn into another house in that back yard. I mean, I know
19 it's -- you know, right now it's just --

20 JANET GREEN: I'm sorry, it's really hard to
21 understand you. So you need to put the microphone up. She
22 has to take this -- the stenographer has to be able to hear

1 you and --

2 SHAREN OLIVER: Sorry. So it would intrude on our
3 privacy and our enjoyment in our own back yard. And, you
4 know, we just feel that -- I mean, we feel that -- because
5 I'm a little confused about the legal hardship, but we don't
6 feel that that really fits into the legal hardship.

7 And to me, it just -- you know, it's kind of a
8 slippery slope. It's kind of guarding this into another
9 dwelling, where it's another dwelling, where it's supposed
10 to be a one- and two-family. And it opens it up to other
11 people, property owners who have accessory buildings in
12 their back yard saying, "Oh, maybe we could try this."

13 And it just -- I'm just really strongly opposed.
14 And I'm a little concerned that now we don't seem to have
15 all those letters. But trust me, they were sent some copies
16 of them.

17 CONSTANTINE ALEXANDER: Okay. Is that it?

18 SHAREN OLIVER: So yes. Hopefully you will, again
19 --

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

22 SHAREN OLIVER: Thank you.

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SUSAN MATKOSKI: My name is Susan Matkoski, and I hope I'm speaking for my husband and my --

THE REPORTER: Spell your name and your address.

SUSAN MATKOSKI: Susan, S-u-s-a-n Matkoski, M as in Mary -a-t-k-o-s-k-i, and I speak on behalf of -- for my husband too. I don't know. We're at 168 Elm Street North. So we're kitty-corner to Abigail, behind Sharen, Sharen who just spoke. We are in favor of Abigail converting -- Abby very much in favor of the conversion of a barn to a small residence.

I've noticed all these barns around the neighborhood that are in dilapidated shape and I strongly feel, both me and my husband, we feel that these barns that are feeling down could be put to a better use, and will be better taken care of. So we favor Abigail turning her barn, which is probably currently just used for storage, into a very small residence.

We can see her barn from our property from our back windows. I mean, I don't see how using it for storage, or using it for a small residence will impact our life whatsoever. I think that in fact, it will probably be

1 pleasant to have somebody living there instead of having a
2 -- just a structure used for storage where the squirrels go
3 hang out. So that's our standpoint. So --

4 CONSTANTINE ALEXANDER: Okay. So you are in
5 support?

6 SUSAN MATKOSKI: Definitely in support, yes, yep.

7 CONSTANTINE ALEXANDER: Okay. Thank you for --

8 SUSAN MATKOSKI: Okay.

9 CONSTANTINE ALEXANDER: -- taking the time to come
10 down. Anyone else wishes to be heard? Apparently not. As
11 you heard, or as in the testimony, there are substantial
12 letters in our files, both pro and con.

13 There are about five -- at least five letters I'm
14 now pointed out to be in opposition. I'm not going to read
15 them all, but they are from Sharen -- and I'm -- and then
16 Sharen Oliver, 49 Orchard Street, from another abutter, John
17 P. Mitarachi, M-i-t-a-r-a-c-h-i, and Regina Mitarachi, who
18 reside at 164 Elm Street #2. And Elm Street is the street
19 behind Orchard. Okay?

20 The letter next is from a Hanna -- H-a-n-n-a no
21 h, no second h -- White and Ross Marino, and they are the
22 owners of an abutting condo at 164 Elm Street.

1 "We are writing to let you know we would like to
2 remain neutral on the upcoming appeal for the barn
3 renovation. We had previously signed something that said we
4 dissented, as long as the footprint doesn't change, and the
5 trees in the surrounding area are not affected, we would
6 like to remain neutral, giving neither approval nor
7 disapproval."

8 There's a letter from Elinor -- E-l-l-i-n-o-r
9 Winslow, W-i-n-s-l-o-w, who resides at 53 Orchard Street, so
10 a couple of doors down, or a couple of sites down. It's a
11 short letter, so I'll read it.

12 "Ms. Winslow opposes the project that's being
13 proposed, for the following reasons. 1) The current barn
14 does not meet the five-foot setback requirement. 2) There
15 will be a negative impact on the privacy to the abutters. 3)
16 The current structure exceeds the 15-foot height
17 limitation."

18 They have a letter from Harry Shapiro, who resides
19 at 41 Orchard Street, a little closer. He opposes the
20 relief being sought for the following reasons. "Only single
21 and two-family dwellings are permitted in residential -- in
22 Residence B District. The proposed structure does not

1 comply with existing rear and side yard setback
2 requirements. It exceeds the height limitation. It
3 significantly exceeds the allowed GFA for a lot of its size.
4 It will reduce my privacy and substantially interfere with
5 the quiet enjoyment of my back yard."

6 And again a letter from Sharen Oliver -- it's the
7 same letter, from Sharen Oliver that I've read before
8 expressing opposition.

9 And then there are, as you've given us, a
10 petitioner, a summary of a number of people who are in
11 support. I guess it's in the file somewheres. I saw it
12 last time I looked.

13 ABIGAIL LIPSON: I can give you one.

14 CONSTANTINE ALEXANDER: Do you have an extra copy
15 of it?

16 ABIGAIL LIPSON: Mm-hm.

17 CONSTANTINE ALEXANDER: Thank you.

18 ABIGAIL LIPSON: And the closest abutters are the
19 final letter.

20 CONSTANTINE ALEXANDER: Okay. The letter from
21 Douglas R. Akun, A-k-u-n, who reside at 53 Orchard Street.
22 He is firmly in support of the relief you're seeking. A

1 letter from Krishna, K-r-i-s-h-n-a Agrawal, A-g-r-a-w-a-l,
2 53 Orchard Street, a letter of support. A letter of support
3 from Dick, Nick Spinelli, S-p-i-n-e-l-l-i, 176 Elm Street.
4 And no objections from -- I guess this is a type of a
5 voicemail message.

6 ABIGAIL LIPSON: That's the owner of 176, and --

7 CONSTANTINE ALEXANDER: That's the owner of 176 --

8 ABIGAIL LIPSON: -- and Nick Spinelli is his
9 property manager.

10 CONSTANTINE ALEXANDER: Yeah, and then we have a
11 letter from Nick Silva for the property manager and
12 designated representative from Mark Silver, the owner of 176
13 Elm Street North, in support. And I'm not going to keep
14 going on. There are a number of letters of support.
15 They're all to the same effect. There we are. Any final
16 comments you want to make? Sir?

17 DIMITER KOSTOV: Yes, if I may. So I just wanted
18 to make sure that I addressed the comment regarding the
19 privacy and noise. There was some concern about the privacy
20 and the location of the barn in its current placement.

21 The barn is surrounded by mature worth trees on
22 both sides, and in the rear. That's visible in the existing

1 photographs on page 10 of the documents that we have
2 submitted.

3 They provide not only shade, but also sound
4 attenuation, especially in the spring, summer and fall
5 months. The barn itself is considered -- if we're
6 considering that as a single-family residence for Mrs.
7 Lipson, and we feel that her lifestyle is such that it's not
8 really going to present specifically active or loud -- you
9 know, she's not going to occupy the rear of the yard in a
10 very active way that presents an uncomfortable condition for
11 the abutters.

12 And lastly, Ms. Lipson is a very avid gardener.
13 So we have actually -- and I think we brought that up at the
14 last meeting -- she has engaged the services of a tree
15 specialist who has evaluated the condition of the hissing
16 trees. We've already made some plans to bring in new trees
17 that will mature as the older ones die out.

18 So she's very sensitive to the way that her
19 presence will affect the neighbors, and we are in very
20 active conversations on privacy and sound screening methods
21 that can be incorporated into the construction itself,
22 through blinds, sound attenuation, insulation and other

1 methods.

2 CONSTANTINE ALEXANDER: Thank you. I will know
3 close all public testimony. Discussion by Board members?
4 I'll offer something up. I mean, I -- just to get the
5 discussion going if need be -- the objections, the reasons
6 for the objections puzzle me (not all of them) -- for
7 example, they say the building is too high at 15 feet.
8 Well, if we were to deny relief, the building is still going
9 to be 15 feet. So that's not going to change.

10 You're not proposing to increase the height.
11 You're not going to move the building. So it's still going
12 to be five feet from the rear lot line.

13 Now, if it's an unused barn, that's a little
14 different in impact in terms of noise and privacy, then in
15 my view the residence you're proposing is rather modest in
16 nature. And you're really looking to use the front half of
17 the structure, not the rear half.

18 So privacy yeah. I mean, there's always an issue
19 in Cambridge, where when new construction happens, people --
20 neighbors get affected. The privacy may get reduced.

21 But so be it. I mean, there is landscaping. I'm
22 not going to -- I would not propose that we put any

1 condition tied to landscaping, simply because the Building
2 Department has better things -- in my opinion -- better
3 things to do than be arborists or landscape people.

4 I think -- my personal view -- I think the fears
5 about invasion of privacy are ill-founded, and I like the
6 idea of increasing the housing stock of the city by at least
7 one more residence -- a modest residence in terms of it's
8 not something you'll find on Brattle Street, but it's -- it
9 will add housing to the city. So for all of these reasons,
10 I would vote in favor of granting the variance being sought.
11 Anyone else wish to speak?

12 JANET GREEN: I would say that I'm also in favor
13 of this project. I think that the ability for someone to
14 stay in place without doing a monumental restructure of the
15 entire property and building is really thoughtful. And I
16 believe that while there are some neighbors in opposition,
17 there seem to be an equal number of neighbors who are in
18 support of this project.

19 And so, I feel quite comfortable voting in favor
20 of this project. Anyone else wish to speak, or I can make a
21 motion and find out how the Board feels.

22 JIM MONTEVERDE: Motion.

1 CONSTANTINE ALEXANDER: Okay, motion?

2 JIM MONTEVERDE: Yep.

3 CONSTANTINE ALEXANDER: Okay.

4 SISIA DAGLIAN: Oh, sorry. There's also a special
5 permit.

6 CONSTANTINE ALEXANDER: Say that again?

7 SISIA DAGLIAN: There was also a special permit.

8 JIM MONTEVERDE: Special permit.

9 CONSTANTINE ALEXANDER: Oh. There is?

10 JIM MONTEVERDE: Yes, parking space.

11 SISIA DAGLIAN: Reduction in parking.

12 CONSTANTINE ALEXANDER: Oh, the parking space.

13 We'll get to that next. Or should -- we should -- well
14 yeah, let's finish the vote on the variance, and then we'll
15 get to the parking space. The Chair moves that we make the
16 following findings:

17 That a literal enforcement of the provisions of
18 the ordinance would involve a substantial hardship, such
19 hardship being as that the owner of the property, be it the
20 current petitioner or successor owners, will be left with a
21 barn that cannot be really effectively used, except for
22 nonresidential purposes, and that will be a continuing

1 hardship for the owner of 45 Orchard Street.

2 That the hardship is owing to the circumstances
3 relating to the shape of the barn and the topography of such
4 land, and that relief may be granted without substantial
5 detriment to the public good, or nullifying or substantially
6 derogating from the intent or purpose of the ordinance.

7 Again, the point I would make earlier I would
8 repeat for purposes of this motion is that the impact, in my
9 mind, on the neighborhood is not that great. We will get an
10 additional residential structure that will benefit the City,
11 and to my mind, the concerns about invasion of privacy I
12 think are exaggerated -- in my view, and it's easy for me to
13 say -- are exaggerated.

14 I think we're talking about a modest structure.
15 I'm converting the barn to a modest residence, and I don't
16 see any major impact on the abutters or the neighborhood.

17 So on the basis of all of these findings, the
18 Chair moves that we grant the variance requested on the
19 condition that the work proceed in accordance with plans
20 prepared by Dimiter?

21 DIMITER KOSTOV: Dimiter.

22 CONSTANTINE ALEXANDER: Dimiter, D-e-m -- D-i-m-i-

1 t-r (sic) Kostov, K-o-s-t-o-v, and initialed by the Chair.

2 All those in favor of granting the variance on this basis,

3 please say, "Aye."

4 THE BOARD: Aye.

5 [All vote YES]

6 CONSTANTINE ALEXANDER: Five in favor, the

7 variance has been granted.

8 DIMITER KOSTOV: Thank you.

9 CONSTANTINE ALEXANDER: All right. Now we're

10 going to turn to the special permit. Why don't you address,

11 while I'm fumbling about for the file, why don't you tell us

12 what the special permit you're seeking is?

13 DIMITER KOSTOV: The special permit we're seeking

14 is in regard to the additional off-street parking space,

15 required one per dwelling unit. So --

16 CONSTANTINE ALEXANDER: You want to reduce the --

17 DIMITER KOSTOV: So we want to maintain the two

18 parking spaces we currently have on site, so we can maintain

19 the amount of permeable and open space on the site.

20 Since our last hearing, we performed a parking

21 study on the street and it has been submitted, it's part of

22 the package, to show the amount of available parking spaces

1 on the street.

2 Just as a reminder to the Board, this is a permit
3 parking area. So residents and guests of residents who have
4 a permit can park there for a period of time. And we found
5 that at any time during a week of looking, there is anywhere
6 between three and seven available parking spaces within the
7 block, in adjacency to the property.

8 CONSTANTINE ALEXANDER: Okay. Questions from
9 members of the Board on the special permit issue? None?
10 Anyone wish to speak to this issue, matter? Public comment?
11 Is there nothing? I didn't see any in the letters in the
12 file that address this issue of the special permit. It's
13 all about the variance which we've just voted on.

14 Anyway, anyone wish to speak on the parking
15 special permit? I see none. So I think I'll close public
16 testimony. Discussion? Or are we ready for a vote on the
17 special permit? Okay. The Chair moves that we make the
18 following findings with regard to the relief being sought:

19 That the requirements of the ordinance cannot be
20 met unless we grant you the special permit.

21 That traffic generated or patterns in access or
22 egress resulting from the reduction of parking will not

1 cause congestion, hazard, or substantial change in
2 established neighborhood character in this regard. We're
3 talking about a street that is amply landscaped and there's
4 quite a bit of greenery on that street as compared to many
5 other areas in Cambridge.

6 And the traffic -- reduction of parking will not
7 affect that. The continued operation of or development of
8 adjacent uses, as permitted in the ordinance, will not be
9 adversely affected. We're talking about the reduction on
10 on-street parking in the general area by one.

11 And I believe many of the people who live on the
12 street or in that area have off-street parking already. So
13 it's not a dense neighborhood, where parking is precious.

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

17 And that generally, what is being proposed will
18 not impair the integrity of the district or adjoining
19 district, or otherwise derogate from the intent and purpose
20 of this ordinance.

21 So on the basis of these findings, the Chair moves
22 that we grant the special permit requested on the condition,

1 again, that it complies with the plans we approve with
2 regard to this area.

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

4 THE BOARD: Aye.

5 [All vote YES]

6 CONSTANTINE ALEXANDER: Five in favor, the special
7 permit has been granted.

8 COLLECTIVE: Thank you very much.

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2 (8:09 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: Okay. Now at long last,
7 we're going to turn to our regular agenda, and the first
8 case I'm going to call -- I'm going to call Case Number --
9 oh yeah, 017226 -- 763 Cambridge Street. Anyone here
10 wishing to be heard on this matter? Okay, you've heard the
11 drill, we need your name and address for the stenographer.

12 JIM CHEN: Good evening Mr. Chairman and members
13 of the Board. My name -- for the record, my name is Jim
14 Chen. I'm the architect at JCBT Architect. Our location is
15 at 585 Washington Street in Quincy. I'm here tonight
16 representing my client here tonight of Panda Bilingual Day
17 Care.

18 We're here tonight to seek a special permit
19 approval on six new openings -- window openings at the side
20 of the property. And these new six window openings will be
21 non-operable. And the main purpose of these windows is for
22 natural lighting only. And we believe these windows will

1 provide good, natural lighting for the kids in the
2 classrooms.

3 CONSTANTINE ALEXANDER: What accompanies natural
4 lighting is, like, invasion of privacy. Is there any --
5 what's -- you're looking out from the day care center, who
6 are you looking out onto, and will there be any impact on
7 neighbors' privacy, by virtue of the fact that there are new
8 windows being treated?

9 JIM CHEN: Yes, and those six new openings, two of
10 those are actually facing the abutter's house. And four of
11 the -- remaining four are actually high enough that it's
12 above the roof of an adjacent commercial space.

13 CONSTANTINE ALEXANDER: Okay.

14 JIM CHEN: So there's not --

15 CONSTANTINE ALEXANDER: And you don't have two --

16 JIM CHEN: Four are okay.

17 CONSTANTINE ALEXANDER: -- okay, my words.

18 JIM CHEN: That's correct.

19 CONSTANTINE ALEXANDER: Now, what about those two,
20 in terms of potential impact on the privacy of the people
21 next door?

22 JIM CHEN: I believe it's high enough that it

1 would not cause that impact.

2 CONSTANTINE ALEXANDER: Have you spoken with the
3 neighbors about this?

4

5 SIJIA WANG: They wrote the letter.

6 CONSTANTINE ALEXANDER: And they said what?

7 SIJIA WANG: And they say okay.

8 CONSTANTINE ALEXANDER: Okay.

9 THE REPORTER: You need to give your name.

10 JIM MONTEVERDE: And speak into the microphone.

11 JANET GREEN: She needs the microphone. And put it
12 right close to your mouth.

13 SIJIA WANG: I am Sijia Wang. Do you need to
14 spell that? Sijia, S-i-j-i-a. Last name Wang, W-a-n-g. I
15 am the business owner.

16 CONSTANTINE ALEXANDER: Okay. You say you have
17 spoken with those persons?

18 SIJIA WANG: Yeah.

19 CONSTANTINE ALEXANDER: And they expressed no
20 opposition to you?

21 SIJIA WANG: No.

22 CONSTANTINE ALEXANDER: You've got to say

1 something.

2 SIJIA WANG: Oh, no, no.

3 CONSTANTINE ALEXANDER: So she can put it in the
4 record.

5 SIJIA WANG: They give us green light.

6 CONSTANTINE ALEXANDER: They said?

7 SIJIA WANG: They give us green light, when we
8 asked to open the windows.

9 CONSTANTINE ALEXANDER: Okay. Anything further
10 you want to add at this point?

11 JIM CHEN: No, sir.

12 CONSTANTINE ALEXANDER: Okay. Questions from
13 members of the Board? I'll open the matter up to public
14 testimony. We have someone who's very anxious to speak, so
15 come forward please, and give your name and address to the
16 stenographer, and use the microphone, if you would, please.

17 NANCY DILANDO: Certainly.

18 CONSTANTINE ALEXANDER: Just take it off the
19 stand, like we've been doing. Pull it up.

20 COLLECTIVE: There you go.

21 NANCY DILANDO: Thank you, good evening. My name
22 is Nancy DiLando. I reside at 757 Cambridge Street. I'm

1 the --

2 THE REPORTER: Spell your last name, please?

3 NANCY DILANDO: Nancy D-i -capital L -a-n-d-o.

4 And I approve of what they're doing. The windows will
5 overlook our yard area, but because they're so high, they
6 don't really -- it's not a privacy concern issue for us. So
7 I do -- my husband and I do support this, these windows.

8 CONSTANTINE ALEXANDER: Thank you, thank you for
9 taking the time to come down, and the citizens of the city,
10 we appreciate that, and I'm sure the petitioner does too.
11 Anyone wishes to speak on this matter? Apparently not.

12 We have only in our file one letter, I believe.

13 JIM CHEN: Yep.

14 CONSTANTINE ALEXANDER: It's from Timothy J.
15 Toomey, Jr., Cambridge City Councillor.

16 "I'm writing to express my support for a special
17 permit application by Panda Bilingual Child Care, LLC on 763
18 Cambridge Street. There is a high demand of day care in
19 Cambridge, and I believe that this day care will be a great
20 addition to the Wellington-Harrington neighborhood.

21 "I have not heard any neighborhood opposition to
22 this special permit, and I thank the Board for their

1 consideration on this matter."

2 Any final words you want to say before we have our
3 own internal discussion and take a vote? Okay. Discussion?
4 Okay.

5 JAMES RAFFERTY: I would say let the sunshine --

6 CONSTANTINE ALEXANDER: I'm sorry?

7 BRENDAN SULLIVAN: -- I would say let the
8 sunshine light come in.

9 CONSTANTINE ALEXANDER: That's right. I have a
10 comment about Mr. Toomey's letter, but I'm going to bite my
11 tongue. Okay. This is a special permit application, so we
12 have to make the following findings:

13 That the requirements of the ordinance cannot be
14 met unless we grant you the relief you're seeking.

15 That traffic generated or patterns in access or
16 egress resulting from what is being proposed will not cause
17 congestion, hazard, or substantial change in established
18 neighborhood character -- in fact, the impact is very minor
19 in terms of the impact on the neighborhood.

20 That the continued operation of or development of
21 adjacent uses, as permitted in the ordinance, will not be
22 adversely affected -- and again, we have testimony from an

1 abutter who took the time to come down in support of what
2 the petitioner is seeking.

3 That no nuisance or hazard will be created to the
4 detriment of the health, safety and/or welfare of the
5 occupant of the proposed use, or the citizens of the city.
6 Clearly, there will be no nuisance or hazard for the
7 children who are -- will be occupying the day care center,
8 and again we have heard no promise from others in the
9 neighborhood that nuisance or hazard will result from what
10 is being resulted.

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

15 So on the basis of all of these findings, the
16 Chair moves that we grant the special permit requested
17 subject to compliance with the plans that are submitted by
18 the petitioner, all of which have been initialed by the
19 Chair.

20 So if you're going to change the location of the
21 windows in any material way, you're going to have to come
22 back before us. You're comfortable where they are right

1 now?

2 JIM CHEN: We are, yes.

3 CONSTANTINE ALEXANDER: All those in favor, please
4 say, "Aye."

5 THE BOARD: Aye.

6 [All vote YES -- Brendan Sullivan, Jim
7 Monteverde, Janet Green, Constantine Alexander, Andrea
8 Hickey]

9 CONSTANTINE ALEXANDER: Five in favor.

10 JIM CHEN: Thank you very much.

11 CONSTANTINE ALEXANDER: Good luck.

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2 [8:16 p.m.]

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 JAMES RAFFERTY: Good evening Mr. Chairman and
7 members of the Board. For the record, James Rafferty, 907
8 Massachusetts Avenue, appearing on behalf of the applicant,
9 Philips of North America. Seated to my right, Dr. Joseph
10 Frassica, F-r-a-s-c -- I'm going to let Dr. Frassica do
11 that.

12 DR. FRASSICA: F-r-a-s-s-i-c-a.

13 JAMES RAFFERTY: And only really plugged in
14 members of the Board would be able to honestly tell us where
15 -- I don't even -- this street is. What's it called?

16 CONSTANTINE ALEXANDER: Jacobs Street.

17 JANET GREEN: Jacobs Street.

18 JAMES RAFFERTY: The Board members probably know,
19 but until --

20 CONSTANTINE ALEXANDER: I visited the site. I
21 know exactly where it is.

22 JAMES RAFFERTY: Right, so. But that's good

1 you've been there. at any rate, I'm sure the Board
2 recognizes this is an application by Philips to install a
3 sign on the building that's -- they've just moved into at
4 Jacobs Street.

5 CONSTANTINE ALEXANDER: What does Philips do?
6 What's --

7 JAMES RAFFERTY: That's a very good question.
8 That's why Dr. Frassica himself is here, and we welcome the
9 opportunity to share a little bit about Philips. More than
10 light bulbs, I found out.

11 CONSTANTINE ALEXANDER: That's what I was
12 wondering when I first saw the application.

13 DR. FRASSICA: I'm the Head of Philips Research in
14 North America, and Philips is a health care company, not a
15 light bulb company, and we have services and devices that
16 help to care for patients from childhood or from birth all
17 the way to --

18 CONSTANTINE ALEXANDER: You're a non-profit or for
19 profit?

20 DR. FRASSIC: A for-profit company. We have had a
21 research presence in the United States since 1945, and it
22 was in Briarcliff New York. In 2015, we recognized that the

1 place to do health care innovation was Cambridge. And we
2 brought our health care innovation and research team to
3 Canal Park. And that was about 200 people. And over the
4 course of the intervening years, we were about 500 people.

5 CONSTANTINE ALEXANDER: These are all employees or
6 consultants?

7 DR. FRASSICA: All employees for Philips. And at
8 that point in Canal Park, it was decided that because our
9 location was so much in the epicenter of health care
10 innovation, we would move our entire presence in North
11 America, our headquarters and our innovation center, to a
12 new building, and that's the 222 Jacobs Street location. We
13 will have now 200 -- we will grow to 2000 employees at that
14 site.

15 CONSTANTINE ALEXANDER: What are the size of the
16 employees and consultants who will use the structure to go
17 back and forth? What's the foot traffic or the pedestrian
18 traffic to the building? How important is it to have signs?
19 Do you have a lot of -- I'll let you answer the question.

20 DR. FRASSICA: Our North America innovation center
21 will be the site where we bring health care systems to show
22 them the future of health care. So we'll have a customer

1 experience center and our innovation laboratories where we
2 bring health care systems from around North America to see
3 what's happening in the sort of future funnel for innovation
4 in Health Care across the continuum of care.

5 JAMES RAFFERTY: So the volume of visitors to the
6 building?

7 DR. FRASSICA: We think it'll be between -- if we
8 gauge by what we're doing in Canal Park, it will be between
9 2000 and 5000 visitors a year.

10 CONSTANTINE ALEXANDER: A year?

11 DR. FRASSICA: Yes.

12 JANET GREEN: A year.

13 CONSTANTINE ALEXANDER: So that on a daily basis,
14 what does that translate down to? I can't do the math so
15 quickly in my head. I mean, 10 or 15 people a day?

16 DR. FRASSICA: Maybe.

17 CONSTANTINE ALEXANDER: On average?

18 DR. FRASSICA: On some days it may be 50. And on
19 some days, it may be 20, and on some days, it may be 100.
20 It would just depend on the day. But -- and that's really a
21 guesstimate, because we have never had our center all
22 together in one building.

1 So we're basing it on scaling from where we are,
2 and, you know, we think it won't inordinately affect
3 traffic, but it will -- there will be a substantial volume
4 of people from out of town, who will be visiting us to learn
5 about our innovations.

6 CONSTANTINE ALEXANDER: Okay. Thank you.

7 JAMES RAFFERTY: Thank you. So the -- candidly,
8 the application was not made without a careful
9 consideration, understanding the hardship requirements
10 associated here. I have advised the client on a range of
11 experiences that the Board has encountered with signage, and
12 the history of signage in Cambridge of course.

13 So at the outset, I want to draw to the Board's
14 attention that this sign is intentionally not illuminated.
15 It has no lighting at all. You may recall in parts of East
16 Cambridge it has been a longstanding concern. There were
17 objections about the impact of lighting on this sign.

18 That factor, frankly, was noted by the Planning
19 Board, and I hope Board members have had an opportunity to
20 see their comments, because they were quite thoughtful,
21 including the unique location here. Within a few hundred
22 feet of this location, three municipalities intersect. The

1 back side of the building is in Somerville, across the
2 street is in Boston, this is about as far on the outskirts
3 of Cambridge as one can get.

4 And the second issue associated with the sign is
5 Philips' preference was to have their logo attached to their
6 sign. It's the way their signs appear in their other
7 locations, it's what their letterheads look like, it's like
8 bacon and eggs, the logo goes there.

9 I shared with them the Kayak case a few years ago
10 that the Board had at Canal Park, where there was found to
11 be a hardship based on the topography and the landscaping
12 around the building, but the Board in its wisdom, to use an
13 expression Mr. Hawkinson gave me, he "acted Solomonesque"
14 and said, "Sign is acceptable, logo is not."

15 So those types of cases informed the sign that's
16 been developed here. The sign in addition to being higher
17 than the 20-foot allowed actually is larger. The overall
18 wall sign limitation is at 60 feet. But when you --

19 CONSTANTINE ALEXANDER: Can you just tell me --
20 tell the Board, I should say, you're right, the sign can't
21 be more than 60 square feet. Probably 50 square feet. I
22 want the exact numbers.

1 JAMES RAFFERTY: I'm going to the signed
2 certification form done by Mr. Paden.

3 CONSTANTINE ALEXANDER: It wasn't in our file.

4 JIM MONTEVERDE: It may be 6.6. Yeah. It's on
5 the drawings too.

6 CONSTANTINE ALEXANDER: Is it?

7 JAMES RAFFERTY: Yeah, it's on the drawings too.

8 CONSTANTINE ALEXANDER: Oh, it's on the drawings.

9 JAMES RAFFERTY: It's on the drawings too, yeah.
10 So, as Board members probably know, you submit the sign to
11 the sign certification. 196.3 is the area of the signs.

12 CONSTANTINE ALEXANDER: And 60 is the -- more of a
13 max under our zoning ordinance?

14 JAMES RAFFERTY: That's correct.

15 CONSTANTINE ALEXANDER: Now the -- and what about
16 the height?

17 JAMES RAFFERTY: The height for all signs, with
18 the exception of the MXD District, is 20 feet.

19 CONSTANTINE ALEXANDER: Right.

20 JAMES RAFFERTY: So this significantly exceeds the
21 height. This is at the top of the building. I think it's
22 173 feet.

1 CONSTANTINE ALEXANDER: Okay. I think it's
2 important for the record, exactly.

3 JAMES RAFFERTY: Understood. So there is a
4 significant hardship occurring at the 20-foot level for this
5 sign. And we've attempted to depict that both
6 photographically and narrative in our application.

7 We did anticipate that an engineer from the MBTA,
8 who would be attending tonight, because we've been
9 discussing with them the wanting to understand as much as we
10 could about the new Lechmere Green Line Extension, and it's
11 coming right across the 20-foot height. So I was able file
12 with the Board, but only this evening.

13 I don't believe Board members have had a chance to
14 see a letter from Terrence McCarthy, who's the Deputy
15 Project Manager, and he says in his second paragraph right
16 there, it's a brief letter.

17 He references the appearance we were at at the
18 East Cambridge Planning Team, and he says, "We listened to
19 Philips representatives explain to the group that site lines
20 to the building from Monsignor O'Brien Highway would be
21 obstructed by elements of the new Lechmere Station and
22 Viaduct, now under construction.

1 "At that meeting, we attested to the fact this
2 would be the case, and presented visual materials supporting
3 this."

4 In the next paragraph, he goes onto describe those
5 obstructions, and he attached a copy to his letter of the
6 plan. As you can see, the new -- the second page of that
7 has an image that shows -- it was interesting to learn of
8 the plans there.

9 So we did go to the East Cambridge Planning Team,
10 because we knew the importance of having community support.
11 I reviewed with the applicants the EF sign that was approved
12 by the Board and the role the community support played, and
13 the successful application in that case.

14 And I'm pleased to report the communication from
15 ECBUT reflects their support for the sign application. I am
16 just, the Planning Board asked to review the case.

17 The way the Planning Board works is sometimes
18 they'll ask to see cases. In this case, they did ask to see
19 it, and they had an extensive discussion about it. There
20 was some overall conversation about the sign process in
21 general, which I think most people recognize as not always
22 as consistent as other aspects of zoning.

1 But the -- I would say the sentiment expressed and
2 contained in the Planning Board comments is that the sign is
3 not objectionable, and there was acknowledgment and
4 recognition, that was the attempts that have been made to
5 mitigate the impacts of the sign.

6 The hardship really involves three areas. If you
7 look at the 20-foot line here, there's a significant
8 landscape burn in front of the building. There's also
9 another structure that is right in front of the 20-foot
10 line, that will totally obscure the sign.

11 And the third, of course, is the introduction of
12 the new Green Line Station. It's a unique set of
13 circumstances. It's a unique lot in its location and its
14 orientation facing three different municipalities, and it
15 will be abutted by buildings that will be following a
16 different signed regulatory system. It has no adverse
17 impact on any surrounding operators. The owner of the
18 development has signed an ownership certificate in support
19 of the application.

20 We strongly believe that the sign itself is an
21 important part of the success of Philips in this location,
22 and we have -- Philips, long before they began talk of

1 building a sign here, became engaged early on with the
2 Cambridge community.

3 Councillor Toomey has sent a letter that reflects
4 that. There are other letters of support. Because, like,
5 other good corporate citizens, Philips is taking its role in
6 the community very seriously. And that's why they were
7 pleased to receive the type of support they have.

8 And for those reasons, we believe the hardship is
9 present in this case. The relief requested is warranted,
10 and we would urge the Board to act favorably.

11 CONSTANTINE ALEXANDER: Of course, you've not
12 addressed one issue you have to address, unfortunately. And
13 I mean that very sincerely, unfortunately, under our zoning
14 ordinance, and that is the hardship must be owing to
15 circumstances relating to the soil conditions, shape or
16 topography of such structures.

17 JAMES RAFFERTY: Well, the berm certainly affects
18 topography. If you look at the -- if the green berm --

19 CONSTANTINE ALEXANDER: Right.

20 JAMES RAFFERTY: -- at the 20-foot line, there is
21 that aspect of it. I'd say it's nearly identical to the
22 circumstances the Board found prevalent in the Kayak case,

1 where along Canal Park there was a similar berm. It's
2 nearly identical. There's a landscape berm with trees
3 placed in front of it. I think that's the topography issue.

4 The shape of the lot also has been known to
5 include the location of the lot and unique characteristics,
6 and there's certain uniqueness associated with this.

7 And the infrastructure being installed in front of
8 the building welcome also makes the 20-foot line, the 20-
9 foot location. So if the -- admittedly there are places
10 above 20 feet where the sign could be seen. But if you look
11 at the building elevation, the façade of the building
12 doesn't lend itself to signage, other than at the top of the
13 building. And that would -- it is the conclusion of the
14 architectural team and others that that was the best place
15 for the sign.

16 It's not unlike the Genzyme sign in Kendall
17 Square. Granted, the MXD District is different, but placing
18 this on mechanical equipment, non-illuminated sign, no
19 impact at night, seems like the way to make this sign most
20 compatible and not detract from the façade of the building.

21 So that's why at 20 feet, the signage at the 20-
22 foot band is retail at the base of this building. Philips

1 will occupy about eight of the floors of this building.
2 It's going to be their North America headquarters, and I
3 think the hardship is present both in terms of topography
4 and public conditions.

5 CONSTANTINE ALEXANDER: I'm going to just
6 extemporize for a second. Put up with me. You're a very
7 good -- from what I can see -- a very noteworthy
8 organization. You're a good corporate citizen. You've got
9 support, as has been pointed out from the Planning Board.
10 We've got letters in the files, et cetera, from the local --
11 East Cambridge Planning Team; from I think the East
12 Cambridge Business Association, et cetera, et cetera, et
13 cetera.

14 The problem is that big signs like this don't fit
15 within our zoning ordinance when it comes to signage. What
16 the city needs is to have -- take zoning out of -- take
17 signage out of zoning, and have a sign bylaw with standards
18 for relief that are more appropriate for a sign.

19 We can't deal with this. I want to go on record,
20 though. I think the city is shortchanging itself by trying
21 to shoe in -- shoeshine -- fit into the zoning ordinance
22 something that doesn't work, at least in the business area.

1 JAMES RAFFERTY: Right.

2 CONSTANTINE ALEXANDER: And it puts our Board in a
3 very difficult situation.

4 JAMES RAFFERTY: That was noted. And I mean the
5 history here is there was a zoning amendment, you may
6 recall, a few years ago.

7 CONSTANTINE ALEXANDER: But the zoning amendment
8 is -- get it out of zoning. Zoning you get -- if it's in
9 the zoning bylaw, you got to go through the hardship. And
10 you've got to go --

11 JAMES RAFFERTY: No, no, no, excuse me. That's
12 only the case when you need a variance.

13 CONSTANTINE ALEXANDER: Yeah.

14 JAMES RAFFERTY: The proposed amendments would
15 have allowed signs like this to be addressed through special
16 permit, with a set set of criteria. Now that, after passage
17 there was a campaign run to revoke, and that was repealed.
18 But the issue has been left unresolved, admittedly. That is
19 why applicants find themselves as EF did, and Kayak did,
20 having to come here and seek the variance relief.

21 In this case, I feel that the physical
22 characteristics and the constraints at the 20-foot level are

1 real and provide the hardship needed for the Board to make
2 the necessary finding. And I think all the other
3 requirements associated with the findings in terms of not
4 derogating from the intent of the ordinance or having an
5 adverse impact.

6 I do think that the Planning Board really put a
7 fair bit of those into it, and I hope Board members will be
8 attentive to the issues addressed by --

9 CONSTANTINE ALEXANDER: Let me take this occasion
10 to read the Planning Board letter that's in the record, so
11 people in the audience can hear what you're referring to. I
12 will not get in later on to all the other letters, other
13 than to identify that we have them, who we got them from.

14 But I think the Planning Board -- we always give
15 deference to what the Planning Board has to offer to us.
16 And the memo from the Planning Board is, the Planning Board
17 reviewed the sign variance request by Philips North America
18 Signage in the Cambridge Crossing area.

19 This building is part of the Planning Board's
20 special permit PB #179, which has been under Planning Board
21 review since the permit was granted in 2002.

22 The development is spread across three cities,

1 with three separate and different sign regulations. The
2 building is set back from Monsignor O'Brien Highway behind
3 the MBTA viaduct being constructed for the Lechmere Green
4 Line.

5 Planning members generally did not object to the
6 proposed sign in this location. Some Planning Board members
7 commented that the sign represents a thoughtful compromise
8 by providing nonilluminated identification signage with
9 letters only, and that the approach is appropriate in this
10 location, given the adjacency to jurisdictions where taller
11 building signage is allowed.

12 However, other Planning Board members noted that
13 the process reviewing building signage of this type lacks
14 consistency, given that it requires a variance, and is
15 therefore determined based on the existence of a hardship an
16 not solely based on design criteria -- this is a comment
17 that I was trying to mimic or support, but anyway, there we
18 are.

19 Anything further you wanted to --

20 JAMES RAFFERTY: No, thank you. Questions from
21 members of the Board?

22 ANDREA HICKEY: Are there other tenants in this

1 building, or does Philips have the whole building?

2 JAMES RAFFERTY: There is I think one biotech
3 company, a small startup, that would be in the first floor
4 and part of the second floor.

5 COLLECTIVE: [Use the microphone.]

6 JANET GREEN: There are a lot of people
7 interested.

8 JAMES RAFFERTY: But I think the more relevant
9 point is the signage rights under the LEED --

10 ANDREA HICKEY: That was going to be my --

11 JAMES RAFFERTY: Right.

12 ANDREA HICKEY: -- follow-up question, because --

13 JAMES RAFFERTY: -- the signage rights go to
14 Philips.

15 ANDREA HICKEY: -- what if we get additional
16 requests for the same building?

17 JAMES RAFFERTY: No signage.

18 ANDREA HICKEY: So only your organization --

19 CONSTANTINE ALEXANDER: Yeah, we're only going to
20 put this -- yes.

21 DR. FRASSICA: That's correct.

22 JAMES RAFFERTY: Yes.

1 ANDREA HICKEY: Okay. Thank you for anticipating
2 that.

3 JAMES RAFFERTY: Yeah. It's explained in the
4 lease.

5 ANDREA HICKEY: Thanks.

6 CONSTANTINE ALEXANDER: Anyone else wishes to add?
7 Jim?

8 JIM MONTEVERDE: Did you -- is there any study or
9 any analysis to show a smaller sign, one that's close to
10 compliance, or a location of a sign that's -- in terms of
11 height more into compliance, as opposed to the obvious spot,
12 which is at the top of the building, and the scale of the
13 top of the building, or the building proper, as opposed to
14 more in keeping with the ordinance?

15 JAMES RAFFERTY: Well, in the case of the 20-foot
16 area, these studies are intended to show we've inserted the
17 20-foot line across there. So once you get above the 20
18 feet, you're now dealing with a complete glass façade. So
19 the conclusion was that the sign, if it -- there's a sign
20 being for the retail, that's at the lower level.

21 So candidly, there was an S for the height of the
22 sign. That was based on an extrapolation of the size.

1 I can't say candidly that I've seen a study as to
2 would it make a difference if the letters were reduced in
3 size? No, I don't believe that study was undertaken.

4 But I think it would appear -- and we do have the
5 sign manufacturer here, the sign rep, or the -- actually
6 he's the sign architect.

7 I think it was probably informed by as much by the
8 size of the canvas, if you will, the mechanical space and
9 the relationship of the letters to that.

10 But if there was a sentiment that that was larger
11 than preferable, I suppose that could be easily reduced.

12 CONSTANTINE ALEXANDER: Does that answer your
13 question?

14 BRENDAN SULLIVAN: Is the exercise -- is the
15 higher you go, the bigger the sign has to be?

16 CONSTANTINE ALEXANDER: Yes.

17 JIM MONTEVERDE: Maybe. That's maybe.

18 JAMES RAFFERTY: Well, I think that's the obvious
19 solution.

20 BRENDAN SULLIVAN: Yeah, right, yeah.

21 JAMES RAFFERTY: But we could say more later.

22 CONSTANTINE ALEXANDER: I'll open the matter up to

1 public testimony. Is there anyone here wishing to be --

2 JAMES WILLIAMS: Should we start with information
3 questions first?

4 CONSTANTINE ALEXANDER: Well, yeah. That can --
5 sure, go ahead. Yeah.

6 JAMES WILLIAMSON: I have a couple.

7 CONSTANTINE ALEXANDER: You're going to have to
8 come across, sir, and speak into a mic.

9 JAMES WILLIAMSON: Thank you.

10 THE REPORTER: Name and address?

11 JAMES WILLIAMSON: Yes. James Williamson, 1000
12 Jackson Place here in Cambridge. First of all, in terms of
13 you were asking about you understand a little bit about the
14 company. Is this -- so this is not the same company that
15 does light bulbs?

16 CONSTANTINE ALEXANDER: No.

17 JAMES WILLIAMSON: Okay. Totally different
18 company.

19 DR. FRASSICA: I don't have a microphone. It spun
20 off three years ago.

21 JAMES WILLIAMSON: Oh. So it was a spinoff?

22 DR. FRASSICA: Philips Lighting is a spinoff.

1 JAMES WILLIAMSON: From that?

2 DR. FRASSICA: Yeah.

3 JAMES WILLIAMSON: And so, this is the same
4 company that I was trying to find out a little bit more
5 about it, and the first thing I found when I looked online
6 is for this past year, 2019, there was a \$450 million-dollar
7 contract with the Pentagon, having to do with it health care
8 services. Is that the same company, as far as you know?

9 JAMES RAFFERTY: The U.S. Government is a customer
10 of Philips. So I believe that if we provided anything from
11 the Pentagon, it would have been for health care provision
12 for soldiers, yes.

13 JAMES WILLIAMSON: The question -- when I went
14 online, the other question is when I went online, I found
15 looking to see what the logo actually was -- all I saw, or
16 almost all I saw -- was that this is the typical logo. So
17 it would be the typical logo sign for the company.

18 So I'd be interested in a little bit clearer
19 explanation of why this is not -- because it appears to be a
20 pretty standard, you know, corporate logo for Philips, as
21 find it on --

22 CONSTANTINE ALEXANDER: I'm not sure what the

1 relevance of that is.

2 JAMES WILLIAMSON: Well, because Mr. Rafferty said
3 we are not -- they wanted to use what is their logo, their
4 corporate logo, and this is not that, but --

5 CONSTANTINE ALEXANDER: Even if you consider this
6 as a corporate logo, and it is, it identifies the name of
7 the company. And it doesn't do it with any fancy curlicues
8 or other things. It was just straightforward Philips.

9 JAMES WILLIAMSON: Yeah.

10 CONSTANTINE ALEXANDER: Unilluminated.

11 JAMES WILLIAMSON: Yeah. And I'm only asking
12 because it was presented as if there had been sort of a
13 concession or a compromise that this is not their -- what
14 they wanted, and is not what they --

15 CONSTANTINE ALEXANDER: But even if that's the
16 case, that would --

17 JAMES WILLIAMSON: For the record, I thought it
18 would be reasonable --

19 CONSTANTINE ALEXANDER: That would not be relevant
20 to us.

21 JAMES WILLIAMSON: -- to clarify that in fact in
22 my understanding this is the untypical corporate logo sign.

1 JAMES RAFFERTY: Just to be clear, that's
2 incorrect. We have pictures of signage in other places with
3 the logo, but I didn't bring it.

4 JAMES WILLIAMSON: I can --

5 JAMES RAFFERTY: Only if the Chair wants us to.
6 Maybe we've covered that.

7 CONSTANTINE ALEXANDER: I don't think we need to
8 get into what this logo is.

9 JAMES WILLIAMSON: I asked because it was brought
10 up as if it were a favorable recommendation for this --

11 CONSTANTINE ALEXANDER: Right.

12 JAMES WILLIAMSON: -- application. But the other
13 thing is, is there any way of better understanding. I mean,
14 I appreciate the images that were provided about the 20 --
15 the estimate of where the 20-foot from grade would be, but
16 we don't really know is there any way of better
17 understanding that might be available, what the final
18 condition is going to be once the Green Line Extension is
19 completed?

20 So not what it looks like now, because it's pretty
21 trashy, obviously, there's construction, but what it will
22 look like, and what the alleged impact will be when the

1 Green Line Extension is completed. Because I think that's
2 what's really relevant, if that's considered relevant.

3 CONSTANTINE ALEXANDER: You want to respond?

4 JAMES RAFFERTY: No.

5 JAMES WILLIAMSON: Anyway, so thank you.

6 JAMES RAFFERTY: That's the logo.

7 JAMES WILLIAMSON: Can I see? At least that's
8 where the -- yeah, that's one of them.

9 CONSTANTINE ALEXANDER: Now you got your
10 information, and you want -- that's it for now, or at least
11 --

12 JAMES WILLIAMSON: I thought we were doing
13 information.

14 CONSTANTINE ALEXANDER: Okay.

15 JAMES WILLIAMSON: Thank you.

16 CONSTANTINE ALEXANDER: Anybody else wants
17 information?

18 JAMES WILLIAMSON: Yes.

19 HEATHER HOFFMAN: Hi. I'm Heather Hoffman, 213
20 Hurley Street. And it's a question I didn't think about
21 asking the other night at the Planning Board meeting, which
22 is, "Where is the front door, and how does is this sign

1 related to someone finding the front door, which I assume is
2 the major goal of wayfinding?"

3 JAMES RAFFERTY: Aren't those in the middle of the
4 building on the ground floor?

5 CONSTANTINE ALEXANDER: I see the building --

6 HEATHER HOFFMAN: My point being, if I'm down on
7 the street trying to find the building, I often cannot see
8 that. I need something at ground level. I've seen places
9 like in Kendall Square and the MXD rules vary -- if you're
10 actually trying to find the front door, you can't. You can
11 find the billboard on top of the building when you're not
12 trying to find the front door. But actually getting to the
13 building and knowing how to get into it, which, as I said is
14 --

15 CONSTANTINE ALEXANDER: I wouldn't have thought --

16 HEATHER HOFFMAN: -- is related to wayfinding. So
17 that's why I'm asking, you know, like, from Jacobs -- when
18 you find Jacobs Street, can you find this building?

19 CONSTANTINE ALEXANDER: Speaking of the -- first
20 of all, the sign, according to Mr. Rafferty, will allow
21 people to find -- to identify the building. You walk to the
22 building, I can't believe when you get to the building,

1 you're not going to be able to find the front door -- not a
2 building of this sort.

3 HEATHER HOFFMAN: Then I didn't state it well.

4 CONSTANTINE ALEXANDER: Okay.

5 HEATHER HOFFMAN: What I mean is, right now this
6 isn't incredibly built up. It will be.

7 CONSTANTINE ALEXANDER: Right.

8 HEATHER HOFFMAN: And I think about Kendall
9 Square. So I might be able to see the sign on top of the
10 building from a distance, but when I get closer, and I am
11 trying to find the actual building that I could see a ways
12 back, but now I can't see the sign because it's up there and
13 I'm down here, and I'm too close to see it, how -- so --

14 CONSTANTINE ALEXANDER: One of the --

15 HEATHER HOFFMAN: My purpose is wayfinding is
16 useful down at street level, and so, I am asking if there
17 are -- if we have looked to see if people will be able to
18 see this sign when it's really useful? When they're trying
19 to get to the front door of the building.

20 ANDREA HICKEY: I would think the number of the
21 building at street level would be useful.

22 HEATHER HOFFMAN: Is there such a thing?

1 ANDREA HICKEY: I don't --

2 JAMES RAFFERTY: Yeah, I would think so.

3 ANDREA HICKEY: Yeah, I mean --

4 CONSTANTINE ALEXANDER: I'm troubled, Heather,
5 upon why this is -- your concern is about this is relevant
6 to whether we should allow this sign, that they have
7 inadequate signage with regard to the front door. That's a
8 problem they'll have to deal with and they'll either have to
9 get zoning relief or not.

10 Why should we deny, if that's what --

11 HEATHER HOFFMAN: Oh, because -- well, for
12 example, because I can see the Akamai sign from my house --

13 CONSTANTINE ALEXANDER: Right.

14 HEATHER HOFFMAN: -- does not mean that I can find
15 the Akamai building, because it's many blocks away.

16 CONSTANTINE ALEXANDER: But that's not a zoning
17 issue.

18 HEATHER HOFFMAN: But -- so, well, only because
19 they're in the MXD District.

20 JAMES WILLIAMSON: If I may --

21 HEATHER HOFFMAN: If you are saying that the sign
22 is for wayfinding, which means, "Can you find the building?"

1 just because I can identify it on the streetscape does not
2 mean I can find it. So that's my point. Wayfinding is
3 getting you to the building, not being able to see --

4 ANDREA HICKEY: From how far away? I mean, come
5 on.

6 HEATHER HOFFMAN: Well, like, it could be -- can I
7 see -- can I tell which one it is? I'm --

8 JAMES WILLIAMSON: I think Heather is saying the
9 closer you get, the less helpful it is to have a big sign up
10 on top of the building.

11 ANDREA HICKEY: I get that, but also people that
12 are far away need to see it.

13 HEATHER HOFFMAN: At what point, though? I mean,
14 Jacobs Street is going to be built up, and it's going to
15 have lots of stuff, and it's going to be a street that
16 people can find. So --

17 ANDREA HICKEY: I've never heard of it, until this
18 case.

19 HEATHER HOFFMAN: Well, that's because they're
20 still building up that part of the world. And they just
21 changed the name.

22 CONSTANTINE ALEXANDER: Okay.

1 HEATHER HOFFMAN: Yeah. So anyway, that was my
2 question. Have we -- are we actually -- is this actually
3 wayfinding, or is this a billboard?

4 JANET GREEN: Heather, it seems to me that there
5 are -- you know, there are too -- wayfinding isn't just one
6 thing. There are two kinds of things. One is you find the
7 building, and the second is the information helps you find
8 the door when you get there.

9 But that part of the information isn't really our
10 purview. Our purview is to say, "This side actually does
11 serve a purpose." And wayfinding from a distance might be a
12 different purpose than whether we can find the front door.
13 That's my opinion of that.

14 HEATHER HOFFMAN: Yeah. I think I'm failing to
15 express myself well enough, although I'll adopt what James
16 said as my issue. Like, I think there is a qualitative
17 difference between a billboard and a sign that helps you
18 find where the heck the building is.

19 CONSTANTINE ALEXANDER: Thank you. Anyone? Ms.
20 O'Hare.

21 CAROL O'HARE: So, Carol O'Hare, 172 Magazine
22 Street.

1 So as I understand it, any time a building is
2 blocked, say the City of New York, where buildings are
3 blocked all over, that building has a hardship and needs a
4 sign up top. That's the rationale.

5 This building has an elevated T, it has a berm, I
6 can't remember the third thing that blocks a sign. Well,
7 other buildings have buildings blocking their sign at 20
8 feet.

9 Now, Jacobs Street was just renamed, in honor of
10 an African-American woman of yore. I looked it up on
11 Google. Google took me there from Cambridgeport 3.1 miles,
12 zip, zip, zip.

13 The people who will be coming to this building are
14 the employees and the visitors. I understand that it is a
15 wonderful operation. There are plenty of wonderful
16 operations in this city; profit-making and nonprofit making,
17 educational and not.

18 So are we going to allow every building that is
19 blocked by another building that is an educational
20 institution a non-profit that's struggling to have a sign at
21 the top of the building because it's blocked by another
22 building?

1 MXD District, as Mr. Rafferty well knows, because
2 he represented Microsoft, which at the gateway to Kendall
3 Square had this sign --

4 CONSTANTINE ALEXANDER: Put things on the table --

5 CAROL O'HARE: Okay. Had this sign at the top.
6 Does everybody see this? I know you -- you know, this is a
7 sympathetic case. And they've got a lot of support. But
8 now we've got three signs over in NorthPoint.

9 CONSTANTINE ALEXANDER: I'm going to try to make
10 your life easier --

11 CAROL O'HARE: Yeah. We've been at this for so
12 long. Does East Cambridge -- does NorthPoint really have to
13 be signs all at the top of their buildings? Does every
14 building need a sign on top? As I said, you can get there
15 with GPS.

16 We don't need signs at the top of the buildings.
17 If they want them, they should amend zoning for NorthPoint.
18 Okay? Do we really want brand names filling our sky? Why?
19 Why distract us? Because the visitors, who are plenty
20 sophisticated, need signs in the sky?

21 I like buildings. It's a city. Let's look at the
22 buildings, the designs, the beauty of the structure, instead

1 of branding everything.

2 I don't -- oops, I do have a little brand. We'll
3 do, because we can't get away from it. This is a little
4 teeny brand. I don't generally choose to wear brands, but
5 you can. I don't mind if you do. But I do mind if they
6 brand our sky. And yes, they've made concessions -- no
7 lights.

8 CONSTANTINE ALEXANDER: Which I think, by the way,
9 is a very important concession.

10 CAROL O'HARE: I do too. I think it's a really
11 important concession. But do people really need a sign in
12 the sky. Do you want people driving looking up like this to
13 find the building? People found buildings before they put
14 signs on the roof. That's it. Thank you.

15 CONSTANTINE ALEXANDER: Again, I think you
16 endorsed what I was saying earlier, is that we -- our zoning
17 ordinance is applied so that signs like these buildings --
18 is terribly, terribly inadequate.

19 And the Council needs to do something about it...
20 ask our Board on an ad hoc basis to pass different sign
21 leads to very unfortunate consequences.

22 CAROL O'HARE: Well, then, you know, tell them to

1 do it. They tried to do it. It -- as you know, a decade
2 ago, 15,000 people signed a petition, and Mr. Rafferty will
3 say they didn't know what they were signing, but it was
4 pretty simple.

5 We don't want signs up in the sky. 15,000 people
6 in 21 days -- not business days -- signed a petition that
7 said, "We don't want branding signs for -- they called it,
8 'The Microsoft sign' -- we don't want branding signs in the
9 sky." That was 10 years ago. Are we going to start it all
10 over again, over in NorthPoint? Thank you.

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

13 JAMES WILLIAMSON: So thank you. James
14 Williamson, 1000 Jackson Place, Cambridge. So this has been
15 a little difficult to follow the process. And I will say a
16 word about that. I did stick around.

17 I actually left and came back for the sort of
18 informal -- well, the review at the Planning Board, and the
19 materials available then did not include, for example, the
20 letter from the East Cambridge Planning Team. I only was
21 able to -- and it was presented not in its full content, it
22 was presented as support from the East Cambridge Planning

1 Team.

2 When I actually was able to get -- provided with a
3 copy of the letter, I could see that there was actually some
4 dissent at the meeting, and among people who attended the
5 meeting -- people on the board I believe, and members of the
6 East Cambridge.

7 But in total, the last sentence expresses support
8 after the content of the letter indicates that there was not
9 universal support.

10 CONSTANTINE ALEXANDER: Well, not universal.

11 JAMES WILLIAMSON: I'm just pointing out.

12 CONSTANTINE ALEXANDER: The key is what the
13 conclusion is.

14 JAMES WILLIAMSON: Well, I'm pointing out --

15 CONSTANTINE ALEXANDER: Not the debate that goes
16 back and for this.

17 JAMES WILLIAMSON: -- both the letter was not
18 available and it -- you know, without seeing it, you might
19 think that there was no dissent at the East Cambridge
20 Planning Team.

21 And also, I know some members of this Board
22 sometimes watch the videos of these discussions, and I'm not

1 sure that that letter reflects exactly in one key sentence,
2 you know, what was going on there, if these are going to be
3 used to indicate, you know, sort of support for this. We
4 think that there was a little more of a reservation about
5 supporting -- but then there is the however.

6 So I'll grant you that some of the uneasiness
7 about going forward and about recommending that to this
8 Board was expressed there. So I'll just say that.

9 I -- you know, the logo thing has come up. I
10 think if you look, you'll see that there are Philips
11 buildings with this as the corporate logo, whether you want
12 to think about that or not. I just -- for the record, this
13 is their, evidently certainly one of no more than two key
14 logos that they use for their corporate logo, and it is in
15 fact what's on top of some of their buildings. I think --

16 JAMES RAFFERTY: Not to interrupt, but if it
17 helps, that is the font -- I don't want to mislead -- that
18 is the font of the Philips brand.

19 JAMES WILLIAMSON: Yeah, but you --

20 JAMES RAFFERTY: -- I don't disagree with that,
21 but it's also a shield.

22 JAMES WILLIAMSON: So sometimes you have the

1 shield, sometimes not.

2 CONSTANTINE ALEXANDER: People do not seem to
3 understand what we mean. If it's branding, that's bad. You
4 know, there's -- corporations have Constitutional rights.
5 The First Amendment applies.

6 JAMES WILLIAMSON: I know, they're considered
7 persons in this country, which was -- that's --

8 CONSTANTINE ALEXANDER: That's not the issue.

9 JAMES WILLIAMSON: -- we could get into that if we
10 really want to.

11 CONSTANTINE ALEXANDER: That's something else.
12 The fact of the matter is there's been court cases in the
13 Superior Court that said that corp -- that business -- that
14 municipalities cannot forbid signs based upon logos. They
15 --

16 JAMES WILLIAMSON: No, no, that's not what I'm
17 saying. I'm just -- it was brought up as if it were a
18 concession. One member of the Board said, "Okay, this is
19 the logo." I'm sorry, that's not accurate. There is a --

20 CONSTANTINE ALEXANDER: So what? So what?

21 JAMES WILLIAMSON: Well, if -- I'm responding to
22 its having been brought up. If it's brought up, and I think

1 it's fair to say that's not accurate.

2 My view is the issue with these signs, one issue
3 with them is -- and it relates to the colloquy about
4 wayfinding -- is that the -- if you want to be able to see
5 something from a distance, that to me really does reflect
6 the concern that people have about corporate branding.

7 Because basically what you're talking about is
8 somebody driving on the highway somewhere being able to see
9 a sign up on top of a building and say, "Oh, that's where
10 the Philips is." But for most people, it's, "Oh, there's a
11 Philips." So that's one of the concerns about corporate
12 branding, why people talk about it in those terms, and why
13 it's I think a legitimate concern.

14 CONSTANTINE ALEXANDER: I've got to say it one
15 more time, and I'm going to shut up. Corp -- we can't make
16 a decision, or the city can't make a decision just because
17 it's corporate branding.

18 JAMES WILLIAMSON: I get it, Gus. I think you're
19 misunderstanding what I'm trying to say about it, but okay.

20 CONSTANTINE ALEXANDER: I don't think I am, but --

21 JAMES WILLIAMSON: I concur with what Ms. O'Hare
22 has said about, you know, if you really want to find a place

1 these days, everybody has a phone and have GPS and all the
2 rest of it. So that issue is I don't think relevant.

3 The key question I think is what you have already
4 talked about as the Chair, which is the zoning. Look, we
5 have zoning in this city.

6 If you want, if you do not like the zoning that we
7 have, you know, fight to change the zoning like all the rest
8 of us in the city have to do when we don't like something,
9 and we have to struggle through the political process to get
10 the zoning change to reflect what we would like to see, what
11 our values are, and what we believe our needs are.

12 And if that's not the case here, I would submit
13 that it would be a big mistake for, and wrong, for the Board
14 of Zoning Appeal to grant it in this case. And if you want
15 to talk about specifics of hardship and no significant
16 detriment to the public, to me it is a significant detriment
17 to the public if you undermine public confidence in
18 government, and you undermine confidence in the zoning
19 regulations and the political process that had led to the
20 existing zoning, and say, "Well, we can just change it,
21 because somebody who, you know, maybe is impressive enough
22 or have deep enough pockets or whatever come before you on

1 the specifics of the alleged hardship." I don't see that.

2 I don't see that -- there were three that were
3 brought up. I don't see that a sign couldn't be placed.
4 Maybe you want to go in the direction of smaller and lower
5 on the building, but to my mind, there could very well be a
6 sign that would be in compliance that would meet all the
7 important needs that are not really significantly undermined
8 by the claim of hardship.

9 And I would say -- and this is in light of what
10 Carol O'Hare said -- I think it's an actually an elegant
11 building. I think putting this on it, it undermines and
12 detracts from its elegance as a building.

13 And I'd much rather see an elegant building and
14 have that -- I think that's a more positive piece of our
15 building environment than an elegant building otherwise, you
16 know, festooned with -- call it a corporate brand or just
17 the sign that they would like to have there for whatever
18 reason. So I hope you'll say -- go and get the City Council
19 to change the zoning. Thank you.

20 CONSTANTINE ALEXANDER: Thank you, James. Anyone
21 else wishes to be heard? Heather? One second. No, no. Is
22 there anyone else besides Heather who wants to be heard?

1 You already talked once. The gentleman over there, let him
2 speak first, Heather, then you can talk.

3 HEATHER HOFFMAN: Absolutely.

4 BILL ZAMPARELLI: Thank you. My name is Bill
5 Zamparelli. It's Z-a-m-p-a-r-e-l-l-i. I live at 7 Emmons
6 Place in Cambridge, and I'm a long-term resident of
7 Cambridge. I'm here tonight, and I didn't really plan to do
8 this, but -- it became -- it came to my attention that there
9 was an issue on -- a signage issue with Philips.

10 I have -- well, I sit on the Board of Directors at
11 the Chamber of Commerce. I'm on the Board of Directors at
12 Cambridge School volunteers. I'm also a member of the
13 Climate Change Advisory Committee for the City Manager, and
14 I've been involved in the city for 40 or 50 years.

15 I'm concerned -- I guess it goes back probably a
16 year and a half. I was sitting on the -- I guess it's the
17 Board Development subcommittee for the Cambridge School
18 Volunteers, and I had had a chance to meet a gentleman who
19 works with Philips, who was interested in joining the Board.

20 So we had an opportunity to meet with Amir
21 Abdullah. And Amir expressed a lot of interest in
22 participating in the community. Cambridge School Volunteers

1 is a group that basically provides tutoring and mentoring to
2 Cambridge children. I guess it's kindergarten through 12th
3 grade. Philips has actually had a number of people who
4 participated in this program, and we were quite interested
5 in having Amir join the Board.

6 He came to me about a week ago, and he said,
7 "We're very concerned because we are trying to bring
8 approximately 2000 employees to Cambridge. Basically,
9 they're consolidating all of their operations to this new
10 location, so we're concerned about getting the employees
11 there. But moreover, they had many other business
12 associates who really wouldn't be coming there a lot.

13 And really, they were concerned because they
14 didn't know how they were going to find this building. If
15 you've seen this location, it's virtually right on the edge
16 of the railroad tracks that serve North Station. It's a
17 difficult place to locate, even when you look for it, if you
18 try to find it.

19 And I -- and basically, the way he was explaining
20 this to me I said, "Well, you know, this shouldn't be that
21 difficult. You know, you should be able to put some kind of
22 signage up, so they could at least find the building."

1 And it appeared that nobody appreciated, you know,
2 the commitment that Philips is making to the Cambridge
3 community. I guess I would urge the Board to look at this
4 positively. This is important to retail, to these kinds of
5 businesses, to, you know, strengthen our communities. And
6 realize that this is what they need to do to be successful
7 and so forth.

8 CONSTANTINE ALEXANDER: Thank you. Sir, do you
9 want to speak? And then Heather, you'll have to wait your
10 turn.

11 YOUNG KIN: Good evening. My name --

12 COLLECTIVE: [Technical conversation]

13 YOUNG KIN: My name is Young Kin, Y-o-u-n-g K-i-n
14 of 17 Malden Street. I'm sorry, I came here for another
15 matter, and it sounded happened that this subject came up,
16 and I had to again apologize that I'm Johnny-come-lately,
17 and I have been following this project nearly to always
18 behind the schedule. And I've been talking to the Planning
19 Board about this project -- building.

20 The building looks great, except the mechanicals
21 at the top. And I've been talking to the Planning Board how
22 we allow it to be built like that without any screening.

1 And I -- one day I was coming in from Boston on the T, and
2 looking out the window I happened to catch the skyline, and
3 there is this beautiful building which is the mechanical
4 sticking up like a sore thumb.

5 And I think we could have designed the building --
6 certainly that will beautify the skyline, and now it's
7 compounding with a corporate log on top.

8 CONSTANTINE ALEXANDER: Now corporate logo is the
9 name.

10 YOUNG KIN: A name. If there is a way you can
11 beautify that line by some kind of screen with the name of
12 the company, get people to say, "Wow, they really thought
13 the design through, they are building a beautiful skyline,
14 wow, they have some really civic-minded people behind them."
15 Thank you.

16 CONSTANTINE ALEXANDER: Thank you. Okay, Heather,
17 now you have your opportunity.

18 HEATHER HOFFMAN: Hi. Still Heather Hoffman, 213
19 Hurley Street. And, you know, I am very, very happy to
20 stipulate that these guys are wonderful people; that they
21 are great neighbors, will be great neighbors, and I'm
22 missing the -- how that connects to topography, soil, et

1 cetera.

2 I -- and I think that there's -- that the notion
3 that the only way that people are going to be coming is by
4 private cars down the O'Brien Highway, and they will not be
5 able to figure out where Jacobs Street is, that might be
6 true right now, but it's not going to be true.

7 Now, one of the things -- and I was not the person
8 who brought this up in the East Cambridge Planning Team
9 meeting, but I completely agree with it, and I can tell you
10 that it comes up over and over and over, and that is the
11 idea of better wayfinding for campuses.

12 You've got that problem at Kendall Research Park.
13 That's been the reason why people have made out hardships
14 for high-up signs, because they're back in there. If you're
15 going to be writing a new zoning ordinance -- or not, a new
16 signage ordinance -- that is something that is actually
17 helpful to get people around -- you know, having something
18 like that, having a pillar sign in front of this building
19 that says, "Philips" -- I believe that would be zoning
20 complaint, and it would also be useful.

21 As soon as someone finds Jacobs Street, which, as
22 I said earlier, is going to be a thing that people are going

1 to be able to do easily, they will see that. And they will
2 see that at a time when it will actually work to get them to
3 the building.

4 So I strongly urge you not to grant this variance.
5 I -- you know, we were supposed to get copies of those
6 mockups and we didn't get them, and when I looked at them
7 quickly tonight, I thought that 20-foot line doesn't make
8 sense. It wasn't the 20-foot line on the building, it was
9 kind of the 20-foot line for where the person was standing.

10 So anyway, I think they haven't made out their
11 case. And I would be happy to work with people to make a
12 better signage ordinance, because none of us want to keep
13 doing this. Thank you.

14 CONSTANTINE ALEXANDER: Thank you. Anyone wishes
15 to be heard? Apparently not. As I've indicated in my
16 comments through the discussion, there are many letters of
17 support. I've read to the Board and the members of the
18 audience the memo from the Planning Board.

19 We have a letter of support from Councillor
20 Toomey, East Cambridge Planning Team, has identified. To
21 the comment James made before, I'm just going to read a
22 portion of the letter by the East Cambridge Planning Team.

1 The last paragraph, "After the presentation, the
2 members present at the meeting voted to support the proposed
3 sign as presented. The reasoning -- " and they're going
4 through the reasoning " -- the reasoning is that the sign
5 did not appear to have an adverse impact on the surrounding
6 uses or structures, as it will not be illuminated -- " a
7 very important point, in my opinion" -- nor does it appear
8 to create visual clutter.

9 "However, there was a concern by some of the
10 members that the presenters did not effectively make a case
11 for a hardship. Also the members would like Philips to
12 explore street-level wayfinding, as it is thought to be more
13 effective than the sign.

14 "In conclusion, East Cambridge Planning Team is
15 supportive of the Philips sign application." So that if
16 there's some wringing of the hands, the bottom line is there
17 is support from the East Cambridge Planning Team, and the
18 East Cambridge Planning Team has always been thoughtful in
19 their presentations, and very involved with their
20 neighborhood. And I think getting support from them, to me,
21 is meaningful.

22 And there's other correspondence relating to the

1 20-foot ability -- because of the -- and Mr. Rafferty
2 discussed the new Cambridge -- the new Lechmere Station and
3 the impact it will have in terms of on the ability to
4 identify the building, and therefore the need for a building
5 higher than our ordinance permits.

6 And again, I would -- and maybe I'm just
7 extemporizing here -- I would put a lot of faith in the fact
8 that it's not an illuminated sign, and it is not a sign that
9 has logos. It is a sign that has a name of a business. And
10 it's put up -- I'm sorry?

11 JAMES WILLIAMSON: I thought that wasn't relevant?
12 Is this permitted?

13 CONSTANTINE ALEXANDER: That's fine I'll keep
14 going. I'm not going to be -- anyway, that's how I feel.
15 I'm going to stop right there. I'm going to close public
16 testimony. Time for a discussion, if we want a discussion,
17 or we can go right to a motion. Anyone wishes to speak?
18 James?

19 JIM MONTEVERDE: I do. Just to repeat, I'm just
20 troubled by the size, or that how great the relief that's
21 being requested. I don't want to overexaggerate it, but
22 that it's -- you're at, what, 196 square feet as opposed to

1 the 16 that you're allowed?

2 JAMES WILLIAMSON: Mm-hm.

3 JIM MONTEVERDE: And then that -- and then I saw
4 the graphic in the material. And then the height. I
5 realize that the 20-foot is problematic for all reasons you
6 mentioned, but it doesn't get me to the 173. So -- and I
7 feel trapped that the zoning ordinance is probably from a
8 probably way different era when the buildings were very
9 different, and they were single-occupant, or major occupant,
10 but I feel like I'm bound to what the document says, the
11 zoning ordinance says.

12 And it doesn't -- I don't see the rationale for
13 the two types of relief to the extent that you're
14 requesting.

15 JAMES WILLIAMSON: Well --

16 JIM MONTEVERDE: So at the moment, I can't support
17 it.

18 JAMES RAFFERTY: I understand. Well, it is noted,
19 and I respect that. The lettering is at six feet. If the
20 sign were to be at the 60-foot height, that lettering would
21 have to be reduced by two-thirds would be my estimate, I
22 spoke to the architect.

1 I think it becomes quite obscure.

2 JAMES WILLIAMSON: Sorry, can you use the
3 microphone.

4 CONSTANTINE ALEXANDER: James, enough. You've not
5 been recognized. You can't interrupt another speaker.
6 Please.

7 JAMES WILLIAMSON: I'm asking him to use the mic,
8 so I can hear him.

9 BOARD MEMBER: Mr. Chair, he wanted the
10 microphone.

11 JAMES RAFFERTY: I recognize the point. The
12 reality is if it has to do with the height of the building.
13 Obviously, if the building was 120 feet high, then the sign
14 would be at 120. So it's not as if it's set out to get that
15 high.

16 So the height is a function of the building
17 height, and the opportunity to place the sign on a portion
18 of the building that does not mar the design of the
19 building, and the mechanical seems to be the appropriate
20 face to that.

21 There certainly would be a willingness to reduce
22 the size of the lettering. It's at six feet across. I

1 spoke to the designer. If a foot came off that, it would be
2 five feet. That would work.

3 If it was seen -- it would bring it more into
4 compliance on the area question, but we would consider any
5 -- obviously it's in the judgment of the Board if a
6 reduction of the size of the letters would obviously reduce
7 the area of the sign.

8 CONSTANTINE ALEXANDER: James, any reaction to
9 that? I mean, I -- it strikes me that that's a concession,
10 but I'm not sure how meaningful it is in terms of the
11 opposition to the signage.

12 ANDREA HICKEY: I'd like to see a reduction in the
13 area of the signage.

14 JAMES RAFFERTY: Would a verbal reduction suffice?
15 I mean, we have the designer here. We could -- may he be
16 permitted to address the Board?

17 CONSTANTINE ALEXANDER: He can address the Board.

18 JAMES RAFFERTY: Thank you.

19 THE REPORTER: Spell your name and give your
20 address, please.

21 JASON FIEDETTE: Yes, good evening. My name is
22 Jason Fiedette, F-i-e-d-e-t-t-e. My address is 125 Samuel

1 Barnet Boulevard, New Bedford, MA, 02745. Good evening.

2 So if the sign was reduced from 60 to five feet,
3 the portion would reduce down so it kept the same aesthetic,
4 would be approximately 28 feet wide, as opposed to the 32-
5 foot-10, 32-foot-8.75 that it is now. So the square footage
6 would go from a 196 to approximately 140 square feet. So
7 that would be what a portion of the reduction would be, to a
8 five-foot size.

9 CONSTANTINE ALEXANDER: Thank you.

10 JAMES RAFFERTY: Thank you.

11 JASON FIEDETTE: Thank you.

12 CONSTANTINE ALEXANDER: James? Maybe you want to
13 ask further questions from him, or do you want to -- or not,
14 it's up to you.

15 JIM MONTEVERDE: No, thank you. I think that
16 seems to address the issue about the size, and -- but it
17 just doesn't help the height. And I just feel like
18 handcuffed.

19 ANDREA HICKEY: Height meaning the location of the
20 sign on the building?

21 JIM MONTEVERDE: Correct.

22 ANDREA HICKEY: Or the height of the letters?

1 JIM MONTEVERDE: No, the height of the sign on the
2 above-ground.

3 ANDREA HICKEY: Understood.

4 JIM MONTEVERDE: Because if the ordinance is 20
5 feet, I realize that 20 feet is problematic for all the
6 reasons mentioned. But it doesn't get me to the top of the
7 hill again. without some presentation or discussion about
8 what the options may be, and I understand the building is a
9 certain shape, and therefore the quick conclusion is nice
10 and quick. But the conclusion is to put it to the top
11 without some exploration of what other options would be.

12 ANDREA HICKEY: So why don't we ask about that?
13 Can the sign or a sign that serves the purpose that you
14 request go anywhere that is not so high?

15 JAMES RAFFERTY: I think the answer is it's less a
16 function of the height and more a question of the palette or
17 the canvas. Where can it go? It's a totally glazed
18 building. So putting the lettering in the glass -- someone
19 sitting behind that glass will be looking at the back of a
20 sign. So I think it would be universally regarded as
21 aesthetically unpleasing.

22 So that hardship, if you will, is related to the

1 fact that the building architecture and design doesn't lend
2 itself to -- and the vast majority of the façade at heights
3 above 20, I don't believe there's another location that this
4 sign could work, without impacting the façade.

5 CONSTANTINE ALEXANDER: Okay. Brendan?

6 BRENDAN SULLIVAN: Well, I hear a Board member
7 concerned about the size of the sign, which is valid, and
8 another Board member of the location of the sign. So
9 there's two different angles, which somehow your, Jim, goes
10 to what is the purpose of the sign? And that's where I
11 struggle with, is what is the purpose.

12 Any signage is either wayfinding, identifying a
13 particular product, which helps you identify a particular
14 business -- you know, Ma Magoo's Subsequent Shop, or
15 whatever it may be or something like that -- Mount Auburn
16 Hospital, I mean we can see, "Entrance" this particular
17 section, that particular section, what have you.

18 And I think Ms. Hoffmann's comments are really on
19 point is that yes, you can identify this business -- this
20 building from a distance. But then when you get down near
21 the street level, you get into this maze of buildings and
22 streets, and you're getting into the T and all this other

1 stuff, and all these other future developments. That's
2 where it really becomes somewhat of a problem as to, you
3 know, you're not walking around with your head up.

4 You go down Kendall Square sometimes too, and most
5 people don't walk around with their head up. They're
6 actually looking at their GPS. And yes, as to where is the
7 entrance. You know, you have a -- "you have now arrived at
8 your destination" type of thing.

9 So I think either a monument sign or something
10 down at street level really -- most people are going to get
11 there by a GPS. Or, if they haven't Ubered or LYFT or
12 whatever to get to this particular address, you are now at
13 this address. But it's then getting to the front door of
14 the building or the building itself.

15 And with the future development and what have you,
16 a sign way up there becomes less beneficial, other than the
17 fact that you're at a huge distance away, which you can say,
18 "Yeah, it's over there" type of thing.

19 So I struggle with I don't think it identifies a
20 particular business or service, and I don't think it's
21 really wayfinding. I think it's branding. And it's nice
22 to, you know, big building and have my name on it. You

1 know?

2 CONSTANTINE ALEXANDER: Well, I have problems, but
3 not the ones that we've identified so far. Again, I have to
4 comment; it's that branding is not bad. Where people might
5 not like it -- but from a legal point of view, they're
6 entitled to brand.

7 BRENDAN SULLIVAN: If it were within the
8 ordinance.

9 CONSTANTINE ALEXANDER: That's right. Has to be
10 within the ordinance. But you can't condemn it because --

11 BRENDAN SULLIVAN: And the ordinance, again, to
12 extend the conversation --

13 CONSTANTINE ALEXANDER: Well, I --

14 BRENDAN SULLIVAN: -- is totally outdated, and
15 what happened is that the City Council has kicked it over to
16 here.

17 CONSTANTINE ALEXANDER: No, they don't kick it
18 over to here, they just don't want to deal with it, and they
19 leave the mess for us to try to clean up. Anyway.

20 JAMES RAFFERTY: With all due respect though, I
21 mean, it's not that case that the Board has never granted
22 variances for these signs. We have a mechanism within the

1 ordinance that's directly related to the hardship. We've
2 identified the hardship. We believe the hardship is quite
3 real and present. And I think Board members need to make
4 decision-making as to the adequacy of the hardship.

5 CONSTANTINE ALEXANDER: I --

6 JAMES RAFFERTY: Personal philosophies around
7 branding I think are outside of the jurisdiction -- the
8 purview of the ordinance.

9 CONSTANTINE ALEXANDER: I think that's right. My
10 problem, though, is I think you a little bit glossed over
11 the argument regarding hardship. The hardship is owing to
12 circumstances relating to the soil conditions, shape or
13 topography of such land or structures, and especially
14 affecting such land or structure, but not affecting
15 generally the zoning district, which is local.

16 I don't think the argument you make regarding
17 hardship, which of course you need to do to get the
18 variance, meets the little -- the language of the ordinance.
19 It's unfortunate. We should not be dealing one more time
20 with a variance procedure with this kind of restriction from
21 which you're designed for residential housing and
22 construction, and not signage. Signage should be dealt with

1 separately.

2 But we're given -- the city has chosen not to do
3 that, and we've got to live with the ordinance as drafted
4 and see whether you can meet the variance requirements as in
5 the ordinance.

6 I have a problem with that.

7 JAMES RAFFERTY: Mr. Chair, as I pointed out
8 before, maybe -- there is a berm only affecting this
9 building, it is nearly identical to the Kayak case, which
10 had a similar topographical condition about two blocks from
11 here, in fact, where they're located now in Canal Park. So
12 the burden is in there. But it's -- there are
13 characteristics present here that are consistent with
14 hardship findings made by the Board in other cases.

15 CONSTANTINE ALEXANDER: I will only say that in
16 these signed cases, the Board has been less than consistent
17 in how we apply the ordinance. And then maybe --

18 JAMES RAFFERTY: I would say you make people work
19 for hardship, as you should. And that's why I think you're
20 seeing less and less of these cases. Candidly, lots of
21 people look for them, and I advise them all the time, if you
22 don't have a hardship here, you're not going to get too far.

1 CONSTANTINE ALEXANDER: It's not the hardship --
2 the hardship's got to be related to something.

3 JAMES RAFFERTY: Understood.

4 CONSTANTINE ALEXANDER: We all -- including
5 members of this Board, myself included -- should, shorthand,
6 you have to establish hardship. But it's a hardship that's
7 linked to something.

8 And that link is -- I don't -- in my opinion, just
9 don't find. I can't comment on the Kayak case. I sat on
10 it. I don't remember it one bit. It was a good number of
11 years ago. But we were persuaded at that time.

12 Our Board has not been entirely consistent on
13 signage cases. I'll be the first to admit that. Because
14 we're pushed and pulled in so many directions with a statute
15 that doesn't really apply to the signage. It's not a
16 variance case. We shouldn't be using a variance standard,
17 we should have a different standard, which applies to
18 signage. And it's relevant to signage. But we don't, we've
19 got to live with the ordinance that we have before us.
20 Anyway, anyone else want to comment? Ready for a vote?

21 JAMES RAFFERTY: Yep.

22 CONSTANTINE ALEXANDER: The Chair moves that we

1 make the following findings with regard to the relief being
2 sought:

3 That a literal enforcement of the provisions of
4 this ordinance would involve a substantial hardship to the
5 petitioner, such hardship being that the nature of the MPA
6 modifications and other -- well, are such that it makes it
7 difficult for persons to find the building or identify the
8 building.

9 The hardship is owing to circumstances relating to
10 the soil conditions, shape or topography of such land or
11 structures, and especially affecting such land or structure,
12 but not affecting generally the zoning district in which it
13 is located.

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

18 So on the basis of these findings, the Chair moves
19 that we grant the variance being sought on the condition
20 that the work proceeds in accordance with plans initialed by
21 the Chair. Are these good enough, Mr. Rafferty?

22 JAMES RAFFERTY: Yes.

1 CONSTANTINE ALEXANDER: Okay. The first page of
2 which it says has been prepared by Poyant, P-o-y-a-n-t, and
3 it was just initialed by the Chair.

4 All those in favor of granting the variance as
5 moved, please say, "Aye."

6 JANET GREEN: Aye.

7 CONSTANTINE ALEXANDER: One in favor. Obviously,
8 well, all those opposed?

9 [Vote NO -- Brendan Sullivan, Jim Monteverde,
10 Constantine Alexander, Andrea Hickey]

11 CONSTANTINE ALEXANDER: Four opposed. The
12 variance has not been granted. The reasons -- we have to
13 get a vote of those who opposed it, why. I think all of
14 this is embodied in the public discussion we've had for the
15 last probably hour.

16 I don't know if you need -- if there's any sense
17 to repeating them. You can cull them from the transcript,
18 and what's been expressed before, that the sign is too high,
19 that the -- the hardship is not sufficient from a variance
20 point of view, that there should be a better location for
21 sign, than what is here, and that the case has just not been
22 made that they meet the requirements of the variance.]

1 All those in favor say "Aye."

2 THE BOARD: Aye.

3 [Vote YES -- Brendan Sullivan, Jim Monteverde,
4 Constantine Alexander, Andrea Hickey]

5 CONSTANTINE ALEXANDER: Case over.

6 JAMES RAFFERTY: Thank you very much.

7 CONSTANTINE ALEXANDER: We're going to take a
8 five-minute recess.

9 [BREAK]

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2 (9:33 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: I'm going to resume our
7 hearing. So if I could ask -- excuse me, do you mind
8 stepping outside and having your conversation? The Chair is
9 now going to call Case Number 017232 -- 747 Cambridge
10 Street. Anyone here wishing to be heard on this matter? No
11 one?

12 We have a letter in our files, if we can get to
13 it, from Nicholas Zozalla (sic). Zozula? I can't read it,
14 he brought over -- Z-o-z-u-l-a. They have council for the
15 petitioner, and I'll just take the portions of his letter.

16 "The petitioner has been asked by City Councillor
17 Toomey to request a continuance in order to have an
18 additional meeting with certain direct abutters regarding
19 the project. And the petitioner has agreed to honor this
20 request, but requires more time to schedule this meeting in
21 advance of its upcoming BZA hearing, currently scheduled for
22 tonight.

1 "As a result, the petitioner hereby respectfully
2 requests a continuance from this hearing date from the BZA
3 with a request for a new continued hearing date of February
4 27, 2020, if available."

5 I know one of the direct abutters has spoken with
6 us, and said that she can -- you cannot be present in
7 February? I think it's important this case has got a number
8 of substantial community interests, and the case has been
9 around for a while, that we not do it February 27. It's too
10 soon. I think a date is -- April you indicated would be
11 sufficient? What date do we have, Sisia?

12 SISIA DAGLIAN: Well, Maria has it written down
13 here April 16.

14 CONSTANTINE ALEXANDER: April 16?

15 SISIA DAGLIAN: Yeah. That's the first April
16 date.

17 CONSTANTINE ALEXANDER: Okay. This is not a case
18 heard. So we have -- we can -- we don't have to be -- we're
19 not tied down to a date.

20 CONSTANTINE ALEXANDER: So the Chair moves that
21 this case be continued until 7:00 p.m. on April 16, subject
22 to the following conditions: and this case has been

1 continued once before, at least once before:

2 That the petitioner sign a waiver of time for
3 decision, and that's already been done in connection with
4 the earlier continuances.

5 That to the extent that there are modifications or
6 new plans relating to the project that's subject to the
7 hearing, that these new or revised plans together with a
8 dimensional form that supports those plans must be in our
9 files no later than 5:00 p.m. on the Monday before April 16.

10 And lastly, that the petitioner must -- probably
11 at this point either get a new sign, and post that sign like
12 they did before, posting that sign reflecting the new
13 hearing date, 7:00 p.m. on April 16. And that sign must be
14 maintained for the 14 days, as required by our ordinance.
15 All those in favor of continuing the case on this basis,
16 please say, "Aye."

17 [ALL FIVE VOTE YES]

18 THE BOARD: Aye.

19 CONSTANTINE ALEXANDER: Five in favor, case
20 continued.

21 [All vote YES]

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(9:36 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Janet Green, Laura
Wernick.

CONSTANTINE ALEXANDER: All right. Moving on to
-- the Chair will now call Case Number 017228 -- 34
Fairfield Street. Anyone here wishing to be heard on this
matter? I'm sure you know by now, name and address for the
stenographer. I appreciate your patience, hanging around
for so long.

NANCY ALLISON: Good evening. Hi, I'm Nancy
Allison, with Newbridge Architecture. I'm the architect.
Nancy Allison, A-l-l-i-s-o-n.

CATHERINE JODASH: Catherine, C-a-t-h-e-r-i-n-e,
last name Jonash, J-o-n-a-s-h, 34 Fairfield.

ERUC JONASH: Hi, Eric Jonash, E-r-i-c, same last
name, also 34 Fairfield.

NANCY ALLISON: 34 Fairfield is a two-family home
being converted into a single-family home. And Catherine
and Eric are here working hard to create improvements for
both the home and the property that they hope to enjoy as

1 their family home for many years to come.

2 So the zoning issue tonight is around FAR. The B
3 District requires an FAR of 0.5, and the existing home has
4 an FAR of 0.57. Our design includes demolishing a basement
5 stair head house, and that removes 24 square feet, thus
6 incrementally potentially improving the FAR.

7 We'd like to add a bay window on the master
8 bedroom, and that adds 26 square feet. And we'd also like
9 to add, or slightly enlarge the roof over the side door
10 entry to provide practical weather protection.

11 So there's a general overall delta of
12 approximately 21 square feet. The FRA (sic) remains the
13 same at 0.57, but since we removed, as part of demolition,
14 and added as part of our renovation, we're here before you
15 to ask for the variance.

16 CONSTANTINE ALEXANDER: Do you need any variances
17 to the setbacks? Are there any setback issues?

18 NANCY ALLISON: No setback issues. Before we open
19 it, I just want to mention two small items. One is that our
20 builder, we understand that we're in front of the BZA, and
21 we actually understood that when we got the permit. It's
22 part of the permit drawings.

1 For the sake of expediency in framing our builder
2 has framed the bay. As you probably know, it's easier to
3 frame that cantilevered joist floor when the floor joists
4 are open, understanding that if we needed to snip it off,
5 that's easier to do than to add it later.

6 CONSTANTINE ALEXANDER: Not necessarily.

7 NANCY ALLISON: Okay, in any -- the reason I
8 mention is I wanted to make it clear that there is no
9 intention to sneak something by --

10 CONSTANTINE ALEXANDER: I understand.

11 NANCY ALLISON: Or, you know, we are all on board
12 and come before you -- and I've come before you on other
13 projects, and wanted to make that clear.

14 CONSTANTINE ALEXANDER: That's clear. And I can't
15 speak to Ranjit. He has a problem?

16 NANCY ALLISON: No, Ranjit doesn't have a problem
17 with that.

18 CONSTANTINE ALEXANDER: Okay.

19 NANCY ALLISON: There are -- four of the neighbors
20 have signed letters, and we have them here today.

21 JANET GREEN: I think that we have them. We have
22 them.

1 CONSTANTINE ALEXANDER: Okay, I thought since they
2 were things we already have -- but okay. Go ahead.

3 NANCY ALLISON: The only other minor thing I want
4 to mention is that the BZA applications that were submitted
5 mentioned removing and adding a dormer, which would slightly
6 reduce square footage.

7 As the architect, I misunderstood my client's
8 homeowners' intent. At that time, they wanted to see if
9 they could preserve their dormer, but we weren't sure until
10 we had done demolition a little bit how it would work with
11 the plan. And we found out it could work with the plan, and
12 we would like to preserve the dormer.

13 So I want to make it clear, in case there's any
14 confusion around that, that the numbers I've shared with you
15 tonight, and their preservation of the same 0.57 FAR, are
16 based on preservation of the dormer. We don't need that
17 extra incremental square footage to do so.

18 CONSTANTINE ALEXANDER: That was concise, thank
19 you. Questions from members of the Board at this point?

20 JIM MONTEVERDE: No.

21 CONSTANTINE ALEXANDER: I'll open the matter up to
22 public testimony. Anyone wishing to be heard on this

1 matter? No? We do have letters, as -- some of which have
2 been delivered to us. I'm not going to read them, other
3 than the conclusions. They are supportive of the relief
4 being sought.

5 Yeah, I'm not going to read even the names. We do
6 have a number of letters. There's no letters of opposition.
7 The relief as indicated is rather modest in nature.

8 I think we're going to close public testimony.
9 Ready for a vote?

10 JIM MONTEVERDE: Yep.

11 JANET GREEN: Yep.

12 CONSTANTINE ALEXANDER: The Chair moves that we
13 make the following findings with regard to the variance
14 being sought:

15 That a literal enforcement of the provisions of
16 the ordinance would involve a substantial hardship, such
17 hardship being that this is an older structure that at this
18 point in time needs some modifications to be continued to be
19 a building that's useable for and desirable for residential
20 purposes.

21 So it's not just peculiar to you folks, it's to
22 anyone who going forward would be occupying this building.

1 That the hardship is owing to the circumstances
2 relating to the shape of the lot and the topography of the
3 lot, and especially affects this structure. And that relief
4 may be granted without substantial detriment to the public
5 good, or nullifying or substantially derogating from the
6 intent or purpose of the ordinance.

7 On the basis of all of these findings, the Chair
8 moves that we grant the variance being sought on the
9 condition that the work proceeds in accordance with plans
10 prepared by New Bridge Architecture. I don't see a date
11 here. I know it's from this variance. It's dated November
12 15, 2019. And the first page of which has been initialed by
13 the Chair.

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

15 THE BOARD: Aye.

16 [All vote YES]

17 CONSTANTINE ALEXANDER: Five in favor, variance
18 granted. Good luck.

19 COLLECTIVE: Thank you.

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2 (9:43 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017230 -- 16 Norris Street. Anyone here wishing
8 to be heard on this matter?

9 JAMES RAFFERTY: Good evening Mr. Chair.

10 CONSTANTINE ALEXANDER: Good evening.

11 JAMES RAFFERTY: Members of the Board, for the
12 record James Rafferty appearing on behalf of the applicants.
13 Seated to my left, Siobhan Reardon, S-i-o-b-h-a-n R-e-a-r-d-
14 o-n. And to my left (sic)-- to my left is Mr. Reardon's
15 brother, Robert Reardon.

16 This is an application to allow for the
17 construction of some additions and dormers on a two-family
18 house on Norris Street in North Cambridge. The Reardon
19 siblings have recently acquired this home. It was the --
20 the home has been in the Reardon family for three
21 generations now.

22 This was their grandparents' home. Their father

1 and his brother grew up in the home, and now both Robert
2 Reardon and Mrs. Reardon both work for the City of
3 Cambridge. Mrs. Reardon's a schoolteacher, Mr. Reardon's a
4 police officer.

5 This represents an opportunity where they're each
6 going to be able to have an enviable asset. They're going
7 to have a dwelling unit in the City of Cambridge.

8 They've hired the architectural firm of Peter
9 Quinn, and they've followed the dormer guidelines and come
10 up with a proposal to create additional living space on the
11 third floor. We have the architect present, who could walk
12 you through the plans if you wanted to -- need any
13 explanation.

14 The numbers do tell the story. It's an addition
15 that represents a change of -- we're going from 3,200 square
16 feet to almost 3,500 square feet; slightly less than 300
17 square feet.

18 There is also the enclosure of some rear porches,
19 that will also provide living space, but it's already
20 included in the square footage because they're covered
21 porches.

22 The changes are consistent with updating

1 residential dwellings to today's standards, including a
2 modern kitchen and bathrooms. So for that reason, we
3 believe that the age of the structure and the conditions
4 warrant the finding of a hardship, and the granting of a
5 variance. Happy to answer any questions.

6 CONSTANTINE ALEXANDER: Questions from members of
7 the Board? I'll open the matter up to public testimony.
8 Anyone here wishing to be heard on this matter? Apparently
9 not.

10 JAMES RAFFERTY: We have one neighbor; he does
11 wish to be heard.

12 CONSTANTINE ALEXANDER: Did you wish to be heard?

13 YOUNG KIN: My name is Young Kin, Y-o-u-n-g Kim.
14 I am the neighbor right across from the street, and I'm so
15 glad that I came tonight, and to meet my new neighbor.

16 I love this Norris Street, because it's such a
17 family-friendly neighborhood, and briefly talking with them,
18 I'm glad that the street has moved down to the third
19 generation, and I like the neighborhood to be kept within
20 the family. And I am telling everybody that the only way I
21 will be leaving my house is in a box.

22 COLLECTIVE: [Laughter]

1 YOUNG KIN: And I have already set up so that our
2 property also pass down to our -- my next generation, and my
3 third generation -- my grandson is already loving the house.
4 So I understand the condition of the old houses, and the old
5 houses needs to be built in order for that.

6 So long as they maintain the character of the
7 neighborhood, so long as they maintain the yard space in the
8 back, with no existing trees removed, and also, they
9 preserve the neighborhood and the west side is -- that they
10 don't impact the sunlight on the back yard, if those
11 conditions are considered and work together with our
12 neighbor, and we'll make sure talking and make sure that we
13 talk to the architect, which way it should, and there is no
14 impact on the shadow conditions, I'm all for it. Thank you.

15 JAMES RAFFERTY: Thank you.

16 CONSTANTINE ALEXANDER: How old is the structure,
17 by the way?

18 JAMES RAFFERTY: How old is it?

19 CONSTANTINE ALEXANDER: Yeah.

20 JAMES RAFFERTY: Built in the '20s?

21 COLLECTIVE: Yes

22 CONSTANTINE ALEXANDER: It's about 100 years?

1 COLLECTIVE: Yes.

2 CONSTANTINE ALEXANDER: Thank you. And what about
3 the shadow?

4 JAMES RAFFERTY: Give your name for the record --
5 take a microphone -- give your name and spell it.

6 MILTON YU: My name is Milton Yu for Peter Quinn
7 Architects, Davis Square, Somerville.

8 JAMES RAFFERTY: And could you address the shadow.

9 JANET GREEN: She didn't get it.

10 JAMES RAFFERTY: Spell it.

11 MILTON YU: Last name is Y-u. First name is
12 Milton.

13 JAMES RAFFERTY: You're going to need the
14 microphone. Can you address whether there will be any
15 shadow impacts from the dormer?

16 MILTON YU: Sure. So this direction is actually
17 north. So that actually the -- regarding when we were
18 meeting back there, we were just talking about this right
19 here. So if anything, the plants will be casting a
20 desirable shadow on this portion, not the other way around.

21 JAMES RAFFERTY: So there's nothing on the
22 addition that will increase the shadow on the abutter's

1 property?

2 MILTON YU: No, this is an existing garage.

3 JAMES RAFFERTY: Okay.

4 CONSTANTINE ALEXANDER: Feel free to come forward
5 if you want, to see the plans. If you wanted him to repeat
6 that, since you got here a little late?

7 MILTON YU: Oh, sure.

8 CONSTANTINE ALEXANDER: Why don't you just
9 summarize what you just said?

10 MILTON YU: So in our discussion prior to the
11 meeting, we were talking about a potential garden area in
12 this section, which actually would shadow towards our
13 property, not the other way around, because the south is
14 this way.

15 JAMES RAFFERTY: So to say it another way, the
16 building doesn't put shadow in the area in the abutter's
17 rear yard?

18 MILTON YU: Right.

19 JAMES RAFFERTY: Okay. Thank you.

20 CONSTANTINE ALEXANDER: Any questions about what
21 he said? Disputes? Okay. Thank you. Thank you, sir.
22 Anything else?

1 MILTON YU: No, thank you.

2 CONSTANTINE ALEXANDER: Questions? I'll open the
3 matter up to the public. We already have some -- we
4 obviously have people here who are interested in the
5 project. Any comments you want to make, anyone wanted to
6 make? Apparently not. So I will close public testimony.
7 We do have one letter in the file from Cambridge Vice Mayor
8 Alana Mallon --

9 JANET GREEN: Mallon.

10 CONSTANTINE ALEXANDER: -- Mallon, I'm sorry.

11 JANET GREEN: Yep.

12 CONSTANTINE ALEXANDER: I just drew a blank. "I
13 am writing on behalf of --" I can never pronounce it,
14 "Siobhan"?

15 COLLECTIVE: Siobhan.

16 CONSTANTINE ALEXANDER: I'm sorry, I'm not Irish.

17 "-- Siobhan Reardon and Bob Reardon, Junior, who
18 have submitted a variance request to construct a two-story
19 rear addition and a dormer on the left and right side, and a
20 request to construct windows on a nonconforming wall at
21 their home at 16 Norris Street.

22 "This variance request would allow them to do much

1 needed renovations and expand the living area slightly,
2 without making any significant changes to the existing
3 footprint.

4 "I have known the Reardon family for many, years,
5 as their family is one -- " and they go on " -- it's a nice
6 tribute to the family." I'm not going to -- it's not
7 necessarily relevant to the zoning issue, so I'm not going
8 to read the whole thing. But I will summarize it as being
9 very favorable. Anyway, she concludes:

10 "I support this variance request, as receiving the
11 small variance and special permit would ensure two valuable
12 public servants can continue to live in the community they
13 serve." A very nice thought.

14 "I encourage the Board to grant this variance."

15 And that's all we have. Questions? Comments? Or
16 take a vote?

17 COLLECTIVE: Ready.

18 CONSTANTINE ALEXANDER: Okay. The Chair moves --
19 yep, we have two votes to take. I just want to confirm the
20 variance and the special permit. The special permit we
21 haven't addressed at all, but it's the standard one that we
22 receive about constructing windows on a nonconforming wall.

1 And no neighborhood has expressed -- the concern we would
2 have here is that this nonconforming -- this window of the
3 nonconforming wall could interfere with the privacy there,
4 and we didn't receive anything that says that, so we have to
5 assume that you have no neighborhood opposition to that. At
6 least that's my assumption.

7 Okay, let me start with the variance. With regard
8 to the variance, the Chair moves that we make the following
9 findings:

10 That a literal enforcement of the provisions of
11 the ordinance would involve a substantial hardship, such
12 hardship being that this is an older structure in need of
13 update, whether it's by you folks or someone else who will
14 succeed your ownership, although it seems to me that it's
15 going to stay in the family for a good while.

16 That the hardship is owing to the -- basically the
17 shape and topography of the lot.

18 And that relief may be granted without substantial
19 detriment to the public good, or nullifying or substantially
20 derogating from the intent or purpose of this ordinance.

21 So on the basis of these findings, the Chair moves
22 that we grant the variance requested on the condition that

1 the work proceeds in accordance with plans prepared by Peter
2 Quinn Architects, dated -- the most recent date is December
3 3, 2019, and the first page of which has been initialed by
4 the chair.

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

6 THE BOARD: Aye.

7 [All vote YES -- Brendan Sullivan, Jim
8 Monteverde, Constantine Alexander, Andrea Hickey, Janet
9 Green]

10 CONSTANTINE ALEXANDER: Five in favor, the
11 variance is granted. Turning to the special are the windows
12 in the setback or the nonconforming wall. The Chair moves
13 that we make the following findings with regard to the
14 relief being sought:

15 That the requirements of the ordinance cannot be
16 met unless we grant the special permit.

17 That traffic generated or patterns in access or
18 egress resulting from these windows will not cause
19 congestion, hazard, or substantial change in established
20 neighborhood character, and that the window modifications
21 are modest in nature, and therefore there is no substantial
22 change in established neighborhood character.

1 And we have heard nothing about hazard, which
2 might result to neighbors as a result of the window changes.

3 That the continued operation of or development of
4 adjacent uses, as permitted in the ordinance, will not be
5 adversely affected by what you're proposing to do. And
6 again, I would turn to the fact that the neighbors have not
7 objected to what you want to do.

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

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

15 So on the basis of all these findings, the Chair
16 moves that we grant the special permit being requested --
17 again, subject to the plans that I've identified with regard
18 to the variance we just granted. All those in favor, please
19 say, "Aye."

20 THE BOARD: Aye.

21 [All vote YES -- Brendan Sullivan, Jim
22 Monteverde, Constantine Alexander, Andrea Hickey, Janet

1 Green]

2 CONSTANTINE ALEXANDER: Five in favor, approved,
3 good luck.

4 COLLECTIVE: Thank you.

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2 (9:56 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: The Chair will call Case
7 Number 017241 -- 170 Lexington Avenue. Anyone wishing to be
8 heard on this matter? Good evening. Name -- as you
9 probably know by now, name and address for the stenographer,
10 please.

11 ELIZABETH CAHILL: Hi, my name is Elizabeth
12 Cahill. I'm an architect at Albert, Righter and Titman
13 Architects, and I'm here with the owners of 170 Lexington
14 Ave, Robert and Lisa Hensey.

15 And we are here seeking zoning relief for an
16 increase to the gross floor area of an already nonconforming
17 building. And I have drawings here that I'm happy to walk
18 you through if you like.

19 But basically what we'd like to do is taken down
20 an existing rear open deck and small second-floor balcony
21 and replace it with a two-level screened in porch.

22 And now the reasons why this is an important

1 project to the homeowners is twofold. For starters, the
2 issue of disease-carrying insects is becoming more and more
3 of a problem locally, and a screened-in porch will allow
4 them a protected outdoor living space that is a little bit
5 more friendly and useful than what they have now.

6 And second of all, you can -- it's a little small
7 here, but on our plans, you'll see that the rear of the
8 house where we're proposing to put this addition is the
9 south, southwestern side of the house. And therefore it is
10 the very hot side of the house in summer.

11 And so, they are currently heavily reliant on
12 air-conditioning during those summer months to keep the
13 house cool.

14 CONSTANTINE ALEXANDER: So you're saying that
15 basically climate problems are -- first case we've heard
16 where someone has asked for zoning relief because of climate
17 change.

18 ELIZABETH CAHILL: Well, it is -- I mean, it is a
19 reality that, you know, the sun just bakes this side of the
20 house, and by creating a -- you know, protection in the form
21 of screened porches, it will protect that side of the house,
22 and will reduce the energy load required to run air

1 conditioning.

2 CONSTANTINE ALEXANDER: But to read the reasons,
3 it sounds like you're building this -- this house is located
4 in the tropics. I mean, the sun beating down and -- .

5 ELIZABETH CAHILL: Well, I, I, I -- it -- you
6 know, it's not in the tropics, but --

7 CONSTANTINE ALEXANDER: I know that.

8 ELIZABETH CAHILL: -- but it's an old house that
9 allows a lot of heat in. And this will help reduce that
10 problem.

11 And a couple -- one more note on the design of
12 this. The proposed new footprint of this screened-in porch
13 is about the same as the existing footprint of the deck
14 that's there now. So we're not significantly altering the
15 open space on the property.

16 We also have several letters of support from --

17 CONSTANTINE ALEXANDER: Right.

18 ELIZABETH CAHILL: Many neighbors.

19 CONSTANTINE ALEXANDER: Yep.

20 ELIZABETH CAHILL: And we also -- there are -- you
21 have those on file. There's also another note of support in
22 the form of a text message from their rear abutter on Tozer

1 (phonetic) Road, which we decided would be a little peculiar
2 to, you know, print out a text message and send it along,
3 but we can show it if you'd like to see it.

4 JANET GREEN: People do it.

5 CONSTANTINE ALEXANDER: That's all right.

6 ELIZABETH CAHILL: Okay. Any questions?

7 CONSTANTINE ALEXANDER: My only observation is
8 you're adding a lot of square footage to the structure. Not
9 to say that's negative and I'm going to vote against it, but
10 I'm just struck by the fact that it's 400 square feet.

11 ELIZABETH CAHILL: It's -- yeah, a little less.
12 It's 386 square feet, so close to 400 feet.

13 CONSTANTINE ALEXANDER: Okay. Any questions from
14 members of the Board?

15 COLLECTIVE: No.

16 CONSTANTINE ALEXANDER: I'll open the matter up to
17 public testimony. Anyone here wish to be heard on this
18 matter? Apparently not. I'll close public testimony. As
19 you've indicated, we have a number of letters in our file,
20 in support of the relief, I'm not going to read them -- of
21 the relief being sought.

22 So with that, I'm going to close all public

1 testimony. Ready for a vote?

2 CONSTANTINE ALEXANDER: The Chair moves that we
3 make the following findings with regard to the variance
4 being sought:

5 That a literal enforcement of the provisions of
6 the ordinance would involve a substantial hardship, such
7 hardship being that given the location -- the dimensional
8 location of the structure on the site, the ability to use
9 the back yard or the rear of the house is adversely affected
10 by how the sun impacts the property, and therefore what is
11 being proposed will make the structure more livable for
12 whoever occupies it. It's not just you folks.

13 I say that because the hardship is not -- can't be
14 just peculiar to yourself. It's got to be it runs with the
15 land. And so, I think you've identified why it does run
16 with the land, climate changing what it is.

17 That the hardship is owing to circumstances
18 relating to the -- basically it's the shape of structure.
19 It's where it's located now on the site, given the sunlight,
20 requires something more than the deck that you've had there
21 before, you do not have there now.

22 And that relief may be granted without substantial

1 detriment to the public good, or nullifying or substantially
2 derogating from the intent or purpose of the ordinance.

3 So on the basis of all these findings, the Chair
4 moves that we grant the variance requested on the condition
5 that the work proceeds in accordance with plans prepared by
6 Albert, Righter, R-i-g-h-t-e-r Titman T-i-t-t-m-a-n-n, dated
7 November, December 9, 2019, the first page of which has been
8 initialed by the Chair.

9 I would just mention, because I don't think you've
10 been before us before, that these are final plans. Because
11 as you go forward, if you decide you want to modify them,
12 you're going to have to come -- in any material way, you're
13 going to have to come back before our Board.

14 ELIZABETH CAHILL: Yes.

15 CONSTANTINE ALEXANDER: So you're satisfied this
16 is it?

17 ELIZABETH CAHILL: Yes. That is understood.
18 We've been through a pretty good design process with the
19 homeowners on this, and I think you guys are --

20 CONSTANTINE ALEXANDER: Okay.

21 ELIZABETH CAHILL: -- happy with this. We have no
22 plans to change it.

1 CONSTANTINE ALEXANDER: Okay. All those in favor
2 of granting the variance on this basis, please say, "Aye."

3 THE BOARD: Aye.

4 [All vote YES]

5 CONSTANTINE ALEXANDER: Five in favor, variance
6 granted. Good luck. Stay cool.

7 COLLECTIVE: Thank you.

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(10:04 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Janet Green, Laura
Wernick.

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017233 -- 23 Buckingham Street. Anyone here
wishing to be heard on this matter? Busy night for you, Mr.
Rafferty.

JAMES RAFFERTY: Yes. Volume business these days.
Stick around a little longer, you know, not too long.

CONSTANTINE ALEXANDER: Name and address for the
stenographer.

JAMES RAFFERTY: Good evening Mr. Chair. For the
record, James Rafferty appearing on behalf of the applicant,
Christopher Kimball. Mr. Kimball is the homeowner. He's
actually now present this evening.

CONSTANTINE ALEXANDER: Oh.

JAMES RAFFERTY: So -- but I venture to guess some
of you know Mr. Kimball?

CONSTANTINE ALEXANDER: Sorry, I don't.

JANET GREEN: Know of.

1 JAMES RAFFERTY: Know of Mr. Kimball, if you
2 follow baking and cooking and things like that.

3 CONSTANTINE ALEXANDER: I do, but that doesn't
4 mean anything to me.

5 JAMES RAFFERTY: I think he's on television.

6 JANET GREEN: He is on television.

7 BOARD MEMBER: He's everywhere.

8 JAMES RAFFERTY: You probably don't have a TV, but
9 he's --

10 CONSTANTINE ALEXANDER: Too busy attending zoning
11 hearings.

12 JANET GREEN: San Miguel, San Miguel.

13 CONSTANTINE ALEXANDER: We should have brought
14 some baked goods in.

15 JAMES RAFFERTY: he didn't want to compromise your
16 integrity.

17 CONSTANTINE ALEXANDER: [Laughter].

18 JANET GREEN: Not possible.

19 JAMES RAFFERTY: They have some very nice things
20 neighbors wrote about him, but I explained you don't pay
21 attention to those things anyway, so we left those out.
22 What we have here is a simple case of -- and this is Dave

1 Ricci, R-i-c-c-i. Mr. Ricci's the contractor, I apologize.

2 Paul Worthington is the architect.

3 This is a single-family home on Buckingham Street,
4 well below the allotted FAR. It has had a shed in the rear
5 for decades. It was deteriorating.

6 Mr. Ricci and his crew renovated or replaced the
7 shed on this very same footprint, but they neglected to get
8 a building permit to do so, and they were advised by
9 Inspectional Services that that constituted a zoning
10 violation.

11 So candidly, the shed has been rebuilt. It is on
12 the same footprint as the old shed. The pitch to the roof
13 has been modified to match what the pitch was before. So it
14 meets the -- it meets this --

15 CONSTANTINE ALEXANDER: I thought I saw something
16 that said it had been changed?

17 JAMES RAFFERTY: Well, it had been changed.

18 PAUL WORTHINGTON: Yes.

19 CONSTANTINE ALEXANDER: Oh.

20 JAMES RAFFERTY: Because when it was originally
21 constructed, the snow and rain got on it.

22 PAUL WORTHINGTON: The shingles were rotted. So,

1 you know, so we made it steeper. When it bothered in April,
2 we immediately corrected it.

3 JAMES RAFFERTY: So the idea was the 15-foot
4 height of the accessory structure, I don't think it exceeded
5 the 15 feet, but a neighbor raised an objection. It had a
6 higher profile above the fence. So the thinking was
7 replicate exactly what was there. So the roof was
8 reconstructed to the same pitch as previously.

9 So the prior shed was just shy of the five-foot
10 minimum requirements by a few inches on both sides. This is
11 on the very same footprint.

12 So the relief is related to the setbacks needed
13 for accessory structures, but it's a very modest increase,
14 and it merely is a return of a longstanding condition on the
15 shed.

16 So had they been a little more meticulous in
17 renovate get shed, they wouldn't have had. But the easiest
18 thing to do was take it down and start over, in which the
19 variance relief was needed.

20 CONSTANTINE ALEXANDER: Okay. Questions from
21 members of the Board?

22 COLLECTIVE: No.

1 CONSTANTINE ALEXANDER: I'll open the matter up to
2 public testimony. Anyone here wishing to be heard on this
3 matter? Apparently not we have. We do have a letter from
4 an abutter, or a neighbor -- Victoria and Matt Sutton, S-u-
5 t-t-o-n, 54 Buckingham Street.

6 "We are writing to provide our support for this
7 special permit application." I don't think it's a special
8 permit --

9 JAMES RAFFERTY: No, it's not.

10 PAUL WORTHINGTON: No, it's a variance.

11 CONSTANTINE ALEXANDER: "-- that you are now
12 considering for the property at 23 Buckingham Street. This
13 permit will allow Chris Kimball and Melissa Baldino to build
14 a shed on their property.

15 Melissa has discussed the renovation plans with
16 us, and as immediate neighbors of the Baldino-Kimballs, we
17 are able to see the shed in question, from the windows of
18 our home. We feel the planned renovation for the shed to be
19 attractive, and a further improvement on the already
20 aesthetically appealing property.

21 "We have no concerns or issues with their plans.
22 We fully support this project, and ask that you approve

1 their application for a variance. -- now they've got it,
2 'variance;' right -- for a variance to build a shed as
3 designed."

4 And that's it.

5 PAUL WORTHINGTON: We have a couple more letters.

6 CONSTANTINE ALEXANDER: Ready for a vote?

7 JAMES RAFFERTY: There might be another letter.

8 CONSTANTINE ALEXANDER: Save it. Save it for your
9 scrapbook.

10 PAUL WORTHINGTON: I have a few more.

11 JAMES RAFFERTY: They might do an addition later.

12 CONSTANTINE ALEXANDER: No, I appreciate it. I
13 don't want to make light of it. It's good that you talk to
14 your neighbors, and we pay attention to that, for the pro
15 and con.

16 PAUL WORTHINGTON: Yeah, right.

17 CONSTANTINE ALEXANDER: Whether the letters are
18 good or bad, we pay attention. All right. Ready for a
19 vote. The Chair moves that we make the following findings
20 with regard to the variance being sought:

21 That a literal enforcement of the provisions of
22 the ordinance would involve a substantial hardship, such

1 hardship being as that the shed that was there before is in
2 need of replacement, and this affects the ability to just
3 enjoy the property, and it would apply to whoever owns the
4 property, not just current owners.

5 The hardship is owing to the -- basically the
6 location of the structure, or the shed on the lot.

7 And that desirable relief may be granted without
8 substantial detriment to the public good, or nullifying or
9 substantially derogating from the intent or purpose of the
10 ordinance.

11 So on the basis of all these findings, the Chair
12 moves that we approve variance request on the condition --
13 and this has already been satisfied -- on the condition that
14 the work proceed or conforms to the plans that are in the
15 files, and which are -- they're handwritten plans, and which
16 has been initialed by the Chair. All those in favor, please
17 say, "Aye."

18 THE BOARD: Aye.

19 [All vote YES]

20 CONSTANTINE ALEXANDER: Five in favor, good luck.

21 COLLECTIVE: Thank you, appreciate it.

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1 * * * * *

2 (10:11 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Janet Green, Laura
5 Wernick.

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 017235 -- 315 Columbia Street. Okay. This is
8 an unusual case. Well, it's unusual for you.

9 We're not going to get to the merits of it,
10 necessarily, because you, I think you know from the Building
11 Department, because you were granted a special permit for
12 the parking, you moved it -- you moved the project, and
13 you're relocating the parking.

14 There's a provision in our ordinance about
15 repetitive petitions. We turned you down for the special
16 permit -- now I'm getting it.

17 JAMES STEINHILBER: But that's incorrect. We were
18 --

19 THE REPORTER: Could you give your name and
20 address, please?

21 JAMES STEINHILBER: Sure. James Steinhilber, S-t-
22 e-i-n-h-i-l-b-e-r. We were denied the variance last time.

1 The special permit was never voted upon.

2 CONSTANTINE ALEXANDER: Okay. But you were denied
3 a variance, and you're coming back seeking it, with new
4 plans seeking a variance? A different variance?

5 JAMES STEINHILBER: Yes. The variance we were
6 seeking is to modify the approved rebuild. The rebuild that
7 was approved in November I believe just entered a couple
8 weeks ago.

9 CONSTANTINE ALEXANDER: The problem was -- the way
10 our zoning ordinance works in Section 1050, "no appeal,
11 application or petition which has been favorably acted upon
12 by the Board of Appeals shall be acted favorably upon within
13 two years of the date of the unfavorable action.

14 So you're coming, the variance you wanted to get
15 before --

16 JAMES STEINHILBER: If I may again?

17 CONSTANTINE ALEXANDER: Yeah, go ahead.

18 JAMES STEINHILBER: We applied last time for a
19 variance and a special permit.

20 CONSTANTINE ALEXANDER: Yeah.

21 JAMES STEINHILBER: The variance was denied. The
22 special permit was never voted upon, and thus there has not

1 been any unfavorable --

2 CONSTANTINE ALEXANDER: I understood, I understood
3 that.

4 LINDSAY LOCKS: And our new application is not for
5 a variance.

6 JAMES STEINHILBER: Exactly.

7 THE REPORTER: Could you state your name?

8 LINDSAY LOCKS: It's to adjust --

9 THE REPORTER: Could you give your name, please?

10 LINDSAY LOCKS: Oh, sorry. Lindsay locks. Last
11 name L-o-c-k-s. We had to site the -- it's a variance
12 because our original approved proposal from November was a
13 variance.

14 CONSTANTINE ALEXANDER: Right.

15 LINDSAY LOCKS: But we're actually not asking for
16 a new variance today. The only request is for the special
17 permit.

18 JAMES STEINHILBER: Yes, the two things we're
19 asking today are a variance on a favorably acted upon
20 decision and a special permit that has not yet been voted
21 upon.

22 CONSTANTINE ALEXANDER: I thought we did -- my

1 recollection was we -- you withdrew, you withdrew the basis
2 of the special permit.

3 JAMES STEINHILBER: We would argue that, the exact
4 transmission.

5 CONSTANTINE ALEXANDER: That's to decide the
6 rejection you withdrew is treated as a rejection of your
7 special permit. That's what the building Department, at
8 least the position of Building Department.

9 And if that's the case under our ordinance, it's
10 not fatal, but you've got to get a vote for us to consider
11 this special permit, which we didn't grant, and then you've
12 got to go to the Planning Board and get a vote from them.

13 I'm reading it, 1050 -- all but one of the members
14 of the Planning Board must consent to what you want. Then
15 you come back to us, and we actually get to the merits. We
16 can't do it right now. That's the problem, unfortunately.

17 JAMES STEINHILBER: Respectfully, I would
18 disagree. The plain language is that it's unfavorably acted
19 upon, but thank you, yes.

20 CONSTANTINE ALEXANDER: The withdrawal is
21 considered to be a favorable action.

22 JAMES STEINHILBER: If it's not voted upon, the --

1 if it's defeated in the variance, the special permit was
2 never addressed, it's your position that it is withdrawn?
3 Okay. Understood.

4 CONSTANTINE ALEXANDER: So the Chair moves that we
5 -- well, let me make sure we get the right word -- that
6 there are specific and material changes in the conditions
7 upon which the previous unfavorable action was based. And
8 because of the relocation of the parking and modifications
9 of the structure.

10 So on the basis of that, the Chair moves that we
11 grant -- we agree with that position, and that you are now
12 satisfying the requirements of 1051, but that requires you
13 next to go to the Planning Board or get their approval
14 there, and then come back for a hearing.

15 LINDSAY LOCKS: So and in abundance of caution --

16 CONSTANTINE ALEXANDER: Yeah.

17 LINDSAY LOCKS: -- we are scheduled for the
18 Planning Board to come up tentatively based on what happened
19 today --

20 CONSTANTINE ALEXANDER: Right.

21 LINDSAY LOCKS: -- for February 11. And so, we
22 request to be continued as sort of as soon as possible --

1 CONSTANTINE ALEXANDER: No, I think actually we're
2 going to --

3 LINDSAY LOCKS: -- not continued to --

4 CONSTANTINE ALEXANDER: -- file a motion --

5 LINDSAY LOCKS: -- vote on the --

6 CONSTANTINE ALEXANDER: Yes.

7 LINDSAY LOCKS: -- actual proposal.

8 CONSTANTINE ALEXANDER: You have to file; you have
9 to do a new advertisement.

10 JAMES STEINHILBER: Understood.

11 CONSTANTINE ALEXANDER: Okay. Okay. So I don't
12 know how quickly you can get all that done. I know you
13 want to get the project going. We don't have a problem.

14 JANET GREEN: You've got the project going.

15 CONSTANTINE ALEXANDER: What? Sisia, do you have
16 an idea how long if they filed an application, how long
17 would it take to get through the advertisement process?

18 SISIA DAGLIAN: With us?

19 CONSTANTINE ALEXANDER: Yeah.

20 SISIA DAGLIAN: You mean, how far out are we
21 scheduling?

22 CONSTANTINE ALEXANDER: Yeah. How -- if we wanted

1 to schedule another hearing on this case?

2 SISIA DAGLIAN: I'd have to ask Maria.

3 CONSTANTINE ALEXANDER: Okay.

4 SISIA DAGLIAN: Probably, like, the eleventh, I
5 would guess.

6 LINDSAY LOCKS: So we -- I actually met with
7 Ranjit like three times for this. He didn't seem to think
8 it would be an issue for us to come back on the thirteenth,
9 the next zoning hearing. That was sort of -- because I
10 know that he had a whole long conversation with Jeff Roberts
11 from Planning. We sort of went through this back and forth,
12 about whether Planning would vote first.

13 But I guess I'm a bit confused about we have to
14 read -- be we're not changing the plan, we just have to
15 readvertise the date of the next hearing, correct?

16 CONSTANTINE ALEXANDER: That's right.

17 LINDSAY LOCKS: Okay.

18 ANDREA HICKEY: So the application stands as is?

19 CONSTANTINE ALEXANDER: Yes, we --

20 ANDREA HICKEY: There doesn't have to be a new
21 application?

22 SISIA DAGLIAN: So you're asking for a continuance

1 of a case not heard? It's a continuance?

2 ANDREA HICKEY: I'm not sure that's what we're
3 doing.

4 CONSTANTINE ALEXANDER: It's not a continuance.
5 It's a new -- it's a new petition. It can be the very same
6 material as they used in this one. I mean, you don't have
7 to do anything new, but you have to advertise it as --
8 readvertise it.

9 ANDREA HICKEY: So it doesn't have to be a new
10 case? It doesn't have to be a new application?

11 CONSTANTINE ALEXANDER: I think it does. Let's
12 see, hold on.

13 ANDREA HICKEY: But then, do they have to pay
14 again?

15 CONSTANTINE ALEXANDER: Let me just think for a
16 second.

17 JAMES STEINHILBER: Thank you for thinking about
18 it.

19 LINDSAY LOCKS: Yeah.

20 JAMES STEINHILBER: It's very -- quite expensive.

21 JANET GREEN: It is expensive.

22 CONSTANTINE ALEXANDER: I know, I know. No, we

1 can -- I think we can continue it too, without a new
2 advertisement.

3 JAMES STEINHILBER: Without it need to be the same
4 Board members?

5 CONSTANTINE ALEXANDER: No.

6 JANET GREEN: Excuse me -- I think you meant
7 without a new application, not without a new advertisement.

8 CONSTANTINE ALEXANDER: That's right.

9 JANET GREEN: You said advertisement.

10 CONSTANTINE ALEXANDER: Without a new application,
11 and therefore there would be no need of a new advertisement.

12 ANDREA HICKEY: Oh, you don't?

13 JUDY GREEN: You just need to change the date.

14 ANDREA HICKEY: The date. Okay.

15 JANET GREEN: You just need to change the date and
16 the time.

17 ANDREA HICKEY: On the sign.

18 JANET GREEN: On the existing sign.

19 ANDREA HICKEY: Okay.

20 JAMES STEINHILBER: So we will amend the existing
21 notice --

22 JANET GREEN: Yes.

1 JAMES STEINHILBER: -- to reflect the new dates
2 and schedule for the next available.

3 ANDREA HICKEY: So can we get that date?

4 SISIA DAGLIAN: Yeah, we have one continued case
5 on the thirteenth.

6 ANDREA HICKEY: Phew. All right.

7 CONSTANTINE ALEXANDER: Okay. So we'll continued
8 this case as if this was -- right now it's a case not heard,
9 and therefore you have no requirement of the same --

10 ANDREA HICKEY: Same --

11 CONSTANTINE ALEXANDER: -- five being before you,
12 until 7:00 p.m. on -- what was the date again, I'm sorry?

13 JAMES STEINHILBER: Thirteenth.

14 SISIA DAGLIAN: Thirteenth. February 13.

15 CONSTANTINE ALEXANDER: Okay. Subject to the
16 following conditions:

17 That you sign a waiver of time for decision. Sisia
18 has that.

19 That the posting sign be modified to reflect the
20 new date and the new time, and maintain for the 14 days,
21 again 7:00 p.m. on the February date, and continued for the
22 14 days prior to the hearing. And to the extent that you

1 decide you want to modify what you -- whenever you're ready
2 to filed, they have to make -- both modifications and
3 dimensional form must be in our files no later than 5:00
4 p.m. on the Monday before the Board date.

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

6 THE BOARD: Aye.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: Five in favor, we'll see
9 you in February.

10 COLLECTIVE: Thank you very much.

11 [10:19 p.m. End of proceedings.]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this _____ day of _____, 2020.

Notary Public

My commission expires:

August 6, 2020