

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, FEBRUARY 13, 2014
7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Thomas Scott, Member
Janet Green, Member
Arch Horst, Associate Member
Marc Truant, Associate Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members Case #BZA-002604-2013:
Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair
will call this meeting of the Zoning Board of
Appeals to order on this snowy night.

As is our practice, we're going to start
with the continued cases, and I'm going to
call first case No. 002604, 18 Blackstone
Street.

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

Do you have a set of plans?

ATTORNEY SUSAN ROBERTS: I do.

DAVID FORD: Right here.

CONSTANTINE ALEXANDER: I have the
photo sims. I want the actual plans.

The floor is yours.

ATTORNEY SUSAN ROBERTS: Good

evening. Susan Roberts from Anderson and Kreiger representing AT&T in this matter. With me is David Ford from Centerline Communications and Deepak Rathore from AT&T.

You may recall that we actually were before you on December 5, 2013, and at that time the board members indicated that the photo sims we had submitted were a bit dark and so they -- you all preferred to move forward when we had revised photo sims that were a little bit more discernable in terms of the building and some of the pictures were just clearer.

So you may recall that there was also an abutter who had also appeared and we talked with him afterwards. And as a result of our meeting here, even though we never were heard and the meeting was rescheduled to this evening, we actually changed the facility as

a result of, you know, potential concerns by this neighbor. And what we ended up doing, if I might just explain briefly what we did on the design and then David can go into more detail, but originally we had each antenna in a separate cannister and there were four cannisters along the Memorial Drive side of the property, on the building. And there were eight separate cannisters in the rear along with an equipment shelter. And what we did, because we thought that looked sort of toothpick-like and not attractive, was we consolidated so that there would be fewer cannisters. So there will be two antennas in each cannister. So along Memorial Drive instead of four cannisters, there will be two. They are similar to other wireless facility cannisters that are already on the building. And in the back, on the Blackstone

side to address the neighbor's potential concerns, what we did was we moved the antennas on to the equipment shelter and we put -- we're going to put up some fiberglass screening so he won't be able to see the antennas from the Blackstone side in the direction of this particular building where this neighbor lived, and we put the other four antennas in two cannisters as well, those would match the ones in front.

CONSTANTINE ALEXANDER: That screening is not reflected in the photo simulations?

DAVID FORD: It is. We can go over it.

CONSTANTINE ALEXANDER: Sorry. Okay, good.

ATTORNEY SUSAN ROBERTS: So that's generally --

CONSTANTINE ALEXANDER: Did you -- I'm sorry, did you change the size of the equipment shelter?

ATTORNEY SUSAN ROBERTS: No.

CONSTANTINE ALEXANDER: It's not higher than it was before?

ATTORNEY SUSAN ROBERTS: No.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: So those were the changes that we did, and we had our structural analysis complete which shows that our, the antennas, the equipment, along with the natural gas generator, that's also going in the equipment shelter, that that does not affect adversely the roof, and that the roof is able to withstand the capacity of the equipment that we're planning to -- that we're planning to install there.

In terms of our need for the facility,

Deepak Rathore is with us to provide any -- to provide answers to any questions you have on our coverage needs. But as you know, the Board knows AT&T like the other carriers goes on the basis of linking up one facility with the facilities in the area so that there is a sort of a seamless network of coverage. And we have a coverage gap in this area that this facility is going to fill for us.

So I would turn it over to David who can go into more detail about the design, and then take any questions.

CONSTANTINE ALEXANDER: Thank you.

DAVID FORD: Thank you.

So just to clarify, we passed out the old photo simulations just so you guys can remember what it looked like. This is the darker set right there.

JANET GREEN: I was going to say.

DAVID FORD: Yes.

There's 12 individual cannisters. So that's our previous design. We can revert back to that to see where we came from. Just to flip through these and explain it briefly.

If you flip to photo 1B, you can see our two proposed cannisters up there along the Memorial Drive side as Suzie explained. Those are the only two cannisters that would be mounted in view of Memorial Drive. Within those they're to be 10 feet tall, eight feet antennas, two per cannister.

If you flip photo 2B, it shows, again, the city alpha sector in the back next to Blackstone, two antennas per, as well as the screened wall that you just mentioned.

Where it says proposed beta sector antennas mounted behind the screen wall, we're actually putting -- enclosing the

screen wall to match with the shelter, mounting the four antennas and two condensing units along with ancillary equipment, including radio heads and surge arresters all behind that screen wall.

CONSTANTINE ALEXANDER: I can't see the screen -- is the screen wall just the wall?

DAVID FORD: Yeah. If you look at the plans, it might help.

So plan Z2 it does a better job. As you can see, we have the shelter section of it which is 16 feet. That's just for equipment. We have an eight-foot extending pad at the back for the generator that's going to be screened in and not visible. And the other side where it says beta sector, proposed steel frame with the screen wall around it. So we're just building the shelter out a

little longer to screen it in so we can hide those antennas, they're not visible from Blackstone as well as the abutter's house.

ATTORNEY SUSAN ROBERTS: So if you look on Z2, the last red note on the right-hand side.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SUSAN ROBERTS: Proposed fiberglass enclosure.

CONSTANTINE ALEXANDER: Yes, I see it now.

DAVID FORD: And photo 2B matches up with that. So the fiberglass enclosure is that grey --

CONSTANTINE ALEXANDER: Okay, yes, because in the photo sims I can't see a separation between the equipment shelter wall and the screen.

DAVID FORD: It's supposed to be

completely flush so it looks like one big unit.

CONSTANTINE ALEXANDER: So everything's going to be flush?

DAVID FORD: Yes.

CONSTANTINE ALEXANDER: It looks like from this it's not flush from the drawings.

DAVID FORD: No, that's just the door to get inside.

CONSTANTINE ALEXANDER: Oh, all right.

DAVID FORD: It's flush that's how it's made.

CONSTANTINE ALEXANDER: Okay.

One wall of the shelter is going to be screened. I envisioned a screen like a fence in a backyard. And then there would be some space and then the equipment shelter.

DAVID FORD: Right, right.

CONSTANTINE ALEXANDER: That's not the case?

DAVID FORD: No. We decided to close it all in.

CONSTANTINE ALEXANDER: Okay.

DAVID FORD: And previously we had the cannisters right in front of that shelter and they were visible and now they're no longer. And to clarify, the condensing units, there's two of them. And the generator is going inside that screen wall shelter as well. So everything is contained internally and not visible.

Just to explain a little bit about the rooftop. There's a lot going on as you can see. There's 10 plus existing flue pipes that are used by the tenants of the building. There are two generators up there already.

There's multiple HVAC units. They're exchangers, they're more like shipping containers almost. They're 40 plus feet in length. There's six of those up there.

There's Sprint's condensers are up there. There's two. Sprint has 12 ballast-mounted antennas and a 10-by-22 equipment platform up there already as well.

Towerstream, which is a broadband and Wi-Fi provider is also up there. And they also have some microwave dishes.

There's two existing penthouses on the roof. There's cooling fans. So as you can see, there's a lot going on. And adding an AT&T facility really doesn't change or alter the characteristic of this rooftop.

So I would be happy to answer any questions about the designs or coverage objectives. I just open it up to you.

CONSTANTINE ALEXANDER: Questions from members of the Board?

JANET GREEN: What would you say your coverage objectives are?

DAVID FORD: Memorial Drive -- I could go over the plots and then if you have any specific questions, Deepak can answer. Just from here, this is our existing coverage. So the site, proposed site is right here, smack dab in the middle. This is Memorial Drive right here. So in here you see a lot of dead zone, a lot of red, and a lot of yellow as well. So that's not your building coverage. That's our goal to get a lot of the office buildings and technology centers in the area are experiencing tough coverage inside the building. And actually our landlord even mentioned that, that he was excited that we were doing the rooftop to help

with the in-building coverage.

So when we turn the facility on, as preparing these coverage maps, you can see that Memorial Drive, all of this green this is in-building coverage, the blues are hard coverage. So this strip of Memorial Drive is our key main focus and it's going to be tied in right here connecting the two existing sites north and south.

CONSTANTINE ALEXANDER: What about the yellow? What does that represent?

DAVID FORD: The yellow here?

CONSTANTINE ALEXANDER: On the other side between the two greens if you will.

DAVID FORD: Right. Yellow is just another level that's going to be outdoor coverage. So the real coverage area that it's improving is directing Memorial Drive. As you see, if you go to the left and to the

right, you're going to lose coverage as well.
So our main goal here is Memorial Drive.

JANET GREEN: Where are the towers
that cover that sort of round circle to the
right?

DAVID FORD: Right here?

JANET GREEN: Yes.

DAVID FORD: Deepak, do you know
where this existing site is?

JANET GREEN: What's outside?

DAVID FORD: It's Mass -- 0235.

DEEPAK RATHORE: It's right there,
Mass. Ave.

JANET GREEN: Oh, it's that corner
right on the corner, the one on Prospect?

DAVID FORD: They're approving 678
Mass. Ave. That's the site. So....

CONSTANTINE ALEXANDER: Other
questions from members of the board?

JANET GREEN: And so this is all business coverage, right?

DAVID FORD: Right, right.

JANET GREEN: What about residential coverage?

DAVID FORD: There are some residences. As we explained to the abutter, there are some condo building and associations up and down Blackstone.

ATTORNEY SUSAN ROBERTS: Blackstone and Putnam.

DAVID FORD: There's also, if you see the photo simulations, we took some photos from houses. So photo 4B, there's a neighborhood, residential neighborhood right up and down that street, Putnam Ave. So there is some residence in the neighborhood.

JANET GREEN: So they get some benefit?

DAVID FORD: Right, exactly. So it's not just for offices and technology centers, but also the tenants who live in the area.

ATTORNEY SUSAN ROBERTS: It reaches back into the neighborhood.

The building is zoned --

CONSTANTINE ALEXANDER: Office.

ATTORNEY SUSAN ROBERTS: Office 2.

DAVID FORD: Right.

I'm not sure when exactly Sprint -- I believe in the late nineties or early thousands, they joined -- they've been there for a while, and they don't have -- utilize any type of camouflage technique. They just have crude ballast-mounted antennas.

JANET GREEN: Right.

DAVID FORD: We thought we'd go one step above theirs and install some sort of

camouflage.

CONSTANTINE ALEXANDER: As you know, we're more scrupulous about the visual aspect than they were 10 or 20 years ago.

DAVID FORD: Exactly right. Right.

JANET GREEN: The future became clear.

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

Is there anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one who wishes to be heard.

The Board is in receipt of a memo from the Planning Board dated November 26th, that's when this case, if you will, sort of started at least at the Planning Board stage. The memo says: The Planning Board reviewed

the Special Permit application to install antennas and equipment on the building and recommends that this installation is consistent with the roofscape and not a Planning Board concern.

For the record, they obviously reviewed something a little bit different than what we're seeing tonight.

ATTORNEY SUSAN ROBERTS: That's correct.

CONSTANTINE ALEXANDER: But I don't think what you changed would affect the conclusion of the Planning Board, at least in my judgment.

With that, there's no other correspondence. As you pointed out, there was a neighbor who was here last time. He doesn't appear to be here tonight, and doesn't appear to have communicated with us

at least in writing.

I'm going to close public testimony.
Is there anything else you want to add?

ATTORNEY SUSAN ROBERTS: No. If you want me to go through the various points that we need to.

CONSTANTINE ALEXANDER: Yes, you did it in writing. Why don't you do it orally as well.

ATTORNEY SUSAN ROBERTS: Okay.

So under the Wireless Ordinance 4.32G1 and 4.40 footnote 49, AT&T does have the requisite licenses to show the authority to operate the facility.

The visual impact of this facility is minimized because the antennas are hidden from view and the cannisters and behind the screen wall on the equipment shelter.

The cannisters are consistent with

other wireless rooftop equipment there already; namely Sprint's. And the rooftop is replete with various types of wireless and other rooftop height units and our facility is consistent with all of those, including the equipment shelter.

It's in a 0-2 residential district.

CONSTANTINE ALEXANDER: Not residential, office.

ATTORNEY SUSAN ROBERTS: I'm sorry. An 0-2 Office Zoning District. So we don't need to make any finding concerning non-residential uses. And as David pointed out, the facility is not inconsistent with the character of the neighborhood because of the already busy roof.

Let's see. In terms of the Special Permit criteria under 10.43 of the other requirements of the -- the requirements of

the Wireless Ordinance are met, as I just said.

There is no traffic access or egress that would cause congestion, hazard, or substantial change to the neighborhood character.

Continued operation of the adjacent uses would not be affected by the facility. And there's no nuisance that's created that would cause detriment to the health, safety, welfare or occupants or citizens.

And there would be no impairment of the integrity of the district or the adjoining districts nor derogation from the intent and purpose of the Ordinance.

CONSTANTINE ALEXANDER: Thank you.

With that, we're open for discussion or are we ready for a vote?

TIMOTHY HUGHES: I'm ready for a

vote.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this Board make the following findings with respect to the petition:

That the Petitioner is a duly licensed federal communications carrier in good standing.

That the project that they're proposing for tonight, they have taken steps to minimize the visual impact by a use of screening and cannisters, the face of which is consistent with the -- similar to the face of the structure.

And that traffic generated or patterns of access or egress as a result of this project will not cause congestion, hazard, or substantial change in established

neighborhood character.

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

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

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

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

That there is no neighborhood opposition.

That this site, in fact, has numerous

other rooftop structures, including telecommunications antenna. So this is not a departure from established neighborhood character.

So on the basis of all these findings, the Chair moves that a Special Permit be granted to the Petitioner as requested on the condition, subject to the following conditions:

That the work proceed in accordance with photo simulations submitted by the Petitioner, the first page of which has been initialled by the Chair, and the photos were taken on 12/27/13.

And further, that the work proceed in accordance with drawings and plans submitted by the Petitioner. They're numbered T1, Z1, Z2, Z3, and Z4. The first page of which has been initialled by the Chair.

On the further condition that the nature of the additions, the cannisters and like be maintained in the condition as they're shown throughout their use consistent with what is shown in the photo simulations. And that if for any period of six months or more or less, no, six months or more should the antenna be discontinued in use, you will promptly remove them and restore the face of the structure to its current state as nearly as reasonably practical.

On the basis of that I move that we grant the Special Permit. All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Hughes, Scott, Green,

Horst.)

* * * * *

(7:20 p.m.)

(Sitting Members Case #BZA-002668-2013:

Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002668, 102 Sherman
Street.

Is there anyone here wishing to be heard
on this matter? And at the outset let me
congratulate you on actually posting a sign
and keeping it up for the entire time.

ATTORNEY SUSAN ROBERTS: You
couldn't get that sign down --

CONSTANTINE ALEXANDER: You're
absolutely right.

ATTORNEY SUSAN ROBERTS: It was
going to take 40 people to take that sign
down.

CONSTANTINE ALEXANDER: Why didn't
you do that the first time or the second time?

DEREK PATTON: We've got two shelter

locations, so it's going to be two sets of plans and two sets of sims.

ATTORNEY SUSAN ROBERTS: I'll explain.

DEREK PATTON: Yeah.

CONSTANTINE ALEXANDER: I'll pass them down. And these are the same plans and photo sims that have been in our file since Monday -- at least since Monday at five p.m. There's nothing new here.

ATTORNEY SUSAN ROBERTS: So what I filed on Monday were unsigned and unstamped. So today I sent Maria Pacheco signed and stamped versions.

CONSTANTINE ALEXANDER: But they haven't been changed?

ATTORNEY SUSAN ROBERTS: No, no.

CONSTANTINE ALEXANDER: When you say "signed and stamped," signed and stamped

by whom?

ATTORNEY SUSAN ROBERTS: By the architect here. So --

CONSTANTINE ALEXANDER: Oh, okay.

ATTORNEY SUSAN ROBERTS: -- they had not, for some reason, stamped them on Monday and I didn't get the signed and stamped ones until this morning.

CONSTANTINE ALEXANDER: No problem. The floor is yours.

ATTORNEY SUSAN ROBERTS: Ready?

Good evening. I'm Susan Roberts from Anderson and Kreiger representing AT&T. With me is Derek Patton from Centerline Communications and Deepak Rathore from AT&T.

We are seeking a Special Permit to install a wireless facility on the top of the roof at one of the apartment buildings at 102 Sherman Street, which is the Walden Square

Apartments.

Walden Square Apartments sit on approximately seven and a half acres along Sherman Street in between Raymond Avenue and Walden Square Road. There are 15 buildings on the site.

CONSTANTINE ALEXANDER: Wow, really?

ATTORNEY SUSAN ROBERTS: There are, 15 buildings. According to the Assessor's sketch, 15 buildings.

The facility that we're proposing is going on the largest of the residential buildings. It's a nine-story residential building. There's no other wireless carrier on there at the moment.

CONSTANTINE ALEXANDER: Is that -- place that structure relative to Sherman Street.

ATTORNEY SUSAN ROBERTS: So if you were to --

CONSTANTINE ALEXANDER: Going down Sherman Street.

ATTORNEY SUSAN ROBERTS: If you were going down Sherman Street from Walden and you take a right in the apartment complex --

CONSTANTINE ALEXANDER: Right.

ATTORNEY SUSAN ROBERTS: -- you go all the way to the end. All the way to the back on the Raymond Street side, and that's where this large, that's where this large apartment building is. So it's way down there, really closer to Raymond.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: And in terms of the Planning Board's review, we did go to the Planning Board.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SUSAN ROBERTS: I believe it was December 3rd. And the Planning Board had no issue with our design except they, the members did ask us to lower the antennas that were on the penthouse so that it didn't interfere with part of the facade design on the penthouse. And so we did that.

CONSTANTINE ALEXANDER: To be specific, they said it's about six inches below the flashing line.

ATTORNEY SUSAN ROBERTS: Correct.

And so we've done that.

What we also did was to change, or we -- what we also did was to address the results, the conclusions of the structural analysis that we had done for this facility. Those came in last week. And the structural analysis showed that our engineer's assumption about the building exterior,

walls being bearing walls, that that assumption was not correct. And in fact, the bearing walls were actually in the building in the center of the structure, not on the exterior. So as a result, our engineers came up with two options for this -- for the placement of the equipment shelter, and that's why we have provided to you two options.

The antennas that were scheduled to be on the penthouse, and there are four on two different facades of the penthouse. So eight of the antennas are going to be on the penthouse and those remaining. With regard to the shelter, though, we were going to mount four antennas on the shelter.

So one proposal is -- and this is option 1, is to leave the shelter in its location as we originally submitted with the addition of

extra steel beaming that is going to post down to those bearing walls. And all of this is explained very well in the design, in the plans. If you look at Z2 on the plans, you can see very clearly where the steel beams are and how and where they're going to post down on to the bearing walls.

CONSTANTINE ALEXANDER: Will they be visible from the street?

ATTORNEY SUSAN ROBERTS: They will not be.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: And the other option, option 2, actually moves the shelter to the right-hand side, to the side that's closest to, I think, the next street over would be Cadbury, even though that's quite a distance away, but I think that would be -- or toward Lincoln Way, that area. And

with that, once we move the equipment over, there was -- there will not be a need to have the steel beaming. You would be able to post down on the concrete bearing walls right where the equipment shelter is proposed to be relocated.

CONSTANTINE ALEXANDER: For either of the options is the size of the equipment shelter being changed from what was shown to the Planning Board?

ATTORNEY SUSAN ROBERTS: No. Basically all that's being changed in option 2, the actual location --

CONSTANTINE ALEXANDER: Right.

ATTORNEY SUSAN ROBERTS: -- and in option 1 the addition of this steel beaming.

CONSTANTINE ALEXANDER: Do you have a preference as to which of the options you would like?

ATTORNEY SUSAN ROBERTS: Yes. We like option 2.

TIMOTHY HUGHES: The one without the steel beams.

ATTORNEY SUSAN ROBERTS: Correct.

TIMOTHY HUGHES: Yes, of course.

ATTORNEY SUSAN ROBERTS: For our radio frequency coverage needs which Deepak would be happy to explain to you why that would be better for us, but in any case, that would be our choice.

Let's see, in terms of the facility itself, the antennas are all painted to match the, you know, the color of the facade, double mounted.

There is a natural gas generator which is going to be installed on the ground. So this is going to be in a fenced-in area that's also shown on the plans on sheet No. Z2. You

can see where the generator is going to go.
That would be fenced.

DEREK PATTON: Yeah, it's an area
that's already fenced in.

CONSTANTINE ALEXANDER: Z2 on which
option?

ATTORNEY SUSAN ROBERTS: On the
plans. On both of them. They both are.

CONSTANTINE ALEXANDER: Oh, okay.

DEREK PATTON: We're just going to
increase the size of the fenced in area and
keep the generator in what is already an
equipment area for the apartment complex.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: Let's see.
So in situating the facility, AT&T believes
that it is --

DEREK PATTON: I can go over this.

ATTORNEY SUSAN ROBERTS: I'm sorry?

DEREK PATTON: I can go over this.

ATTORNEY SUSAN ROBERTS: Okay.

DEREK PATTON: SO when we first visited the rooftop, the thinking was that the elevator penthouse would naturally be best location for two of our sectors because we could do side mount, we didn't have to create anything. Visually we thought that was best. That's why two of the sectors are located on the existing penthouse there. And then on each end of the building is a staircase, comes up, which we wanted to look into for the last sector, but unfortunately because of the height of that staircase, doesn't work from an engineering standpoint. So if we were going to use that, we would have to increase the height of that which the landlord wasn't interested in. And just didn't seem like it would be very visually

appealing. So we wanted to -- we had a limited space because this rooftop is also covered with solar panels. So we knew we needed an extra space for the last sector in addition to our equipment. So we picked the shelter rather than just having outdoor equipment, because we obviously need to find the last place for the sector as well. So that's why we do feel that regardless a shelter is necessary as part of this design.

CONSTANTINE ALEXANDER: Why don't you at this point or before I open it up to public testimony, touch upon the criteria and including the one about -- because this is in a residential district.

ATTORNEY SUSAN ROBERTS: This is in a residential district, correct.

CONSTANTINE ALEXANDER: You have to do that as well.

ATTORNEY SUSAN ROBERTS: I was about to do that.

So if we do go through the criteria again, AT&T does have the requisite licenses to operate the facility.

Visually we think the impact is minimized by our design because of the antennas being mounted to the existing penthouse, and the antennas being painted to match the color of -- the color of the penthouse and the equipment shelter not being adversely or unsightly in any way. It fits with a large building of this kind as in terms of a rooftop type equipment.

Because we are in a residential district, this is a C-2 District, we do need to show that non-residential uses predominate in the vicinity.

CONSTANTINE ALEXANDER: But more

than that in the Ordinance, you have to tick off a number of other items. Just make sure you get there, that's all.

ATTORNEY SUSAN ROBERTS: I was going to tick off all of them and I will go back to this one.

CONSTANTINE ALEXANDER: Okay, that's fine.

ATTORNEY SUSAN ROBERTS: And I will go back to the non-residential uses. Again, the facility we believe is not inconsistent with the character of the neighborhood because the facility itself matches well within the building as a large apartment house.

In terms of the Special Permit criteria, we suggest that the requirements are the Wireless Ordinance are met as I've just outlined and will go back to the

non-residential uses issue.

There is no traffic access or egress that would cause congestion, hazard, or substantial change to the neighborhood character at all by our facility.

The continued operation of adjacent uses will not be adversely affected by the facility.

And no nuisance is created to the detriment of the health, safety, and welfare of the occupants or citizens.

And there will be no impairment of the integrity of the district or adjoining districts, nor derogation from the intent or purpose of the Ordinance.

In terms of the non-residential use, what I wanted to show is that there are a number of non-residential uses in the area. Most importantly at 80 Sherman Street there

is a T-Mobile Wireless facility. So if you were to look at where our property is located, we're set back from the road, Sherman Street. The next block -- the next building adjacent to the Walden Square Apartments as the brick yard -- it's the brick yard collaborative I believe is what it's called.

CONSTANTINE ALEXANDER: Something like that, right.

ATTORNEY SUSAN ROBERTS: And it's a low, a series of low buildings that house offices, and there are some retail there and so forth. And there's a T-Mobile facility right there.

CONSTANTINE ALEXANDER: Let me just push that a little bit. These are all right on Sherman Street.

ATTORNEY SUSAN ROBERTS: Those are right on Sherman Street. It's set back.

CONSTANTINE ALEXANDER: Set back. And you're smack dab in the middle, I believe, of only residential structures.

ATTORNEY SUSAN ROBERTS: There are, but not exactly. Because what I was also going to say is that there's a lot of open space around. There's a lot of ball fields. There's a lot of open space. There are also industrial uses right across -- there's the railroad tracks --

DEREK PATTON: Just to the north.

ATTORNEY SUSAN ROBERTS: Industrial buildings.

CONSTANTINE ALEXANDER: But that's all on the Sherman Street side.

ATTORNEY SUSAN ROBERTS: No, no, no. That's on the Walden Street --

CONSTANTINE ALEXANDER: The ball fields are.

ATTORNEY SUSAN ROBERTS: No,
there's a ball field --

CONSTANTINE ALEXANDER: Is there a
ball field back there up on Sherman Street?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: I thought
the ball fields were on the other side. All
right.

ATTORNEY SUSAN ROBERTS: There are
ball fields there, ball field there, ball
field there. Here's the collaborative.
Here's our building. And then there's all of
this activity here where there's industrial,
there's the DPW building there. And as I
said, the collaborative is residential.

There's also a Metro PCS Wireless on the
corner of Sherman and Walden which is pretty
close as well. And there are some, there are
some other uses as well. There's schools,

ball fields, the DPW property, the retail, and the commercial office buildings.

So --

CONSTANTINE ALEXANDER: Have you got any complaints, inquiries or the like from residents of the structures, that structure you're proposing to put your facility on or neighboring ones concerned about the health effects of, you know, telecommunications?

ATTORNEY SUSAN ROBERTS: We've asked.

DEREK PATTON: Have not heard any concerns, and part of the deal with the landlord was working with the manager of the residentials, like association of the building. And one of their biggest concerns was actually the generator, where we placed that. On-site with the manager at a

generator located here in the city to okay the sound of that for what's going to be outside of people's apartments. That was really their biggest issue that they had. And once they were able to hear that, they would --

CONSTANTINE ALEXANDER: The Planning Board makes this point as well. You're going to have to -- what's the word I'm looking for? Comply with the Noise Ordinance requirements of the City.

DEREK PATTON: Yeah, we are, we are complying with that. We've done a noise study.

ATTORNEY SUSAN ROBERTS: And we've filed a noise study with you. And we didn't do anything until we knew that the generator was going to be compliant. That was sort of our last issue.

CONSTANTINE ALEXANDER: What's the

nature of the residential housing in these structures? Is it just commercial? Is it subsidized housing?

DEREK PATTON: It's not just commercial. It's, yeah, subsidized.

ATTORNEY SUSAN ROBERTS: Some of it, yeah.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: Are there any other questions?

CONSTANTINE ALEXANDER: Questions from members of the board at this point?

JANET GREEN: No.

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

Is there anyone here wish being to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes there appears no one wishing to be heard.

The Chair is in receipt of a memo from the Planning Board dated December 3rd.

(Reading) The Planning Board reviewed the plans for installation of cellular telecommunications equipment and had the following comments:

One, the proponent should explore lowering the antennas mounted to the mechanical penthouse to fall about six inches below the flashing line so that they do not interrupt the visual continuity of that feature.

And you've reported and your plans showed that you've addressed that.

DEREK PATTON: Yes, sir.

CONSTANTINE ALEXANDER: By the way, you didn't show them option 1 and option 2,

did you? What did you show them?

ATTORNEY SUSAN ROBERTS: We showed them option 1.

CONSTANTINE ALEXANDER: Just option 1? Okay.

ATTORNEY SUSAN ROBERTS: Without the steel beams.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SUSAN ROBERTS: We didn't learn about the structural analysis until last week.

CONSTANTINE ALEXANDER: Okay.

DEREK PATTON: But either way both are meeting that standard.

CONSTANTINE ALEXANDER: No, I agree with you and understand that. But tonight you're pushing option 2.

ATTORNEY SUSAN ROBERTS: Option 2, we are.

CONSTANTINE ALEXANDER: And the other comments from the Planning Board was: The BZA is advised to insure that the proposed generator will comply with all codes and ordinances including the Cambridge Noise Control Ordinance.

We've talked about that as well.

And that appears to be the only public commentary on this matter. Unless you have something further, Ms. Roberts, I'll close public testimony.

ATTORNEY SUSAN ROBERTS: No, I have nothing further.

Thank you.

CONSTANTINE ALEXANDER: I'll close public testimony.

Any comments from members of the board? Questions or do you want to go to a vote?

TIMOTHY HUGHES: I'm ready.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay. I'm going to frame the motion in terms of option 2 unless anyone has an objection to that.

The Chair moves that with respect to option 2 as identified by the Petitioner, that this Board make the following findings:

That the Petitioner has demonstrated that it is a duly licensed FCC carrier in good standing.

That it is taken steps to minimize the visual aspects of the various elements by use of coordinating the color by attaching the antennas to the penthouse facility and using visually compatible exterior colors.

That -- oh, you didn't get back to the all the -- did you touch -- I'm sorry to interrupt the motion.

ATTORNEY SUSAN ROBERTS: Yes, I did.

I went through all the criteria.

CONSTANTINE ALEXANDER:

Demonstrated public need. The existence of alternative functional sites. You didn't deal with that.

You have to -- are there alternative functioning suitable sites in non-residential locations?

ATTORNEY SUSAN ROBERTS: Oh, so we looked at other sites in the area, and this one that was found to be the best for us in terms of its linking up with other -- with other existing and proposed AT&T sites. Did you want to speak about any other alternatives that we took a look at?

DEREK PATTON: The best alternative that we found was an additional apartment building just to the southwest, but the landlord was not interested in working with

us at that property.

CONSTANTINE ALEXANDER: Okay.

DEREK PATTON: Other than that, from an engineering standpoint, there really wasn't anything that worked.

CONSTANTINE ALEXANDER: You're saying this is the only functional site in the area?

DEREK PATTON: From an engineering standpoint.

CONSTANTINE ALEXANDER: That's available to be rented or to be leased?

ATTORNEY SUSAN ROBERTS: The radio frequency report that we submitted cites that the only other building that would work for AT&T in terms of RF coverage for our targeted coverage area is a building 225 Walden Street which is also a residential building.

CONSTANTINE ALEXANDER: Right.

That's an apartment house. And that's the one the landlord was not interested?

DEREK PATTON: Correct.

CONSTANTINE ALEXANDER: Now, when you say not interested he was not interested at all or he was only interested in a rate, in a rental that you didn't want to pay.

DEREK PATTON: He didn't even engage in contract talks. It never got that far.

CONSTANTINE ALEXANDER: All right, I'm going to return to the motion then.

The Petitioner has submitted evidence that there was a demonstrated public need for the facility at the proposed location. That need being the fact to eliminate reoccurring dead spots and to improve the telecommunications services in the area.

That there are no alternative functionally suitable sites in

non-residential locations available to the Petitioner.

That what is proposed, the character of what is proposed is consistent with the prevailing uses in the area.

And we make a finding that non-residential uses predominate in the vicinity of the proposed location, and that the telecommunication facility is not inconsistent with the character that prevails in the surrounding neighborhood. In that regard the Petitioner has submitted evidence to that affect identifying a number of non-residential uses in the area, and that this facility will not be inconsistent with the character that does prevail in the neighborhood.

Further, we have to make the following additional findings, that the traffic

generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

In this regard telecommunications antenna need minimal maintenance. It's not a matter of on a daily basis there will be people coming and going to check the antenna. Typically it's once a month someone comes by to check them out or service them.

DEREK PATTON: That's correct.

CONSTANTINE ALEXANDER: That the continued operation and development of adjacent uses will not be adversely affected by the nature of what is proposed. In this regard given the fact that there are other telecommunication antennas in the area that in itself demonstrates that there will be no -- that the continued development of uses

in the neighborhood will not be affected by one more telecommunications antenna or carrier equipment.

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

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

In this regard the Chair would note that the project has the support of the Planning Board. And with the conditions that we are going to impose the impact on the neighborhood will not be detrimental.

So on the basis of these findings, the Chair moves that this Board grant the Special Permit being sought with regard to what has

been identified as option 2 on the materials submitted by the Petitioner subject to the following conditions:

That the work proceed in accordance with plans submitted by the Petitioner for option 2. They are dated -- most recent date is February 7, 2014. They're numbered T1, Z1, Z2, Z3, and Z4. The first page of which has been initialled by the Chair.

That the work proceed in accordance with photo simulations submitted by the Petitioner identified as option 2, and they're based on photos taken on September 13, 2013. The first page of which has been initialled by the Chair.

On the further condition that the additions or the equipment or antenna that is being -- that will be placed on the property will be maintained in the condition that it

currently -- in its initial condition. So that if there's wear and tear, you have to maintain them and don't let them deteriorate to the visual detriment of the city.

On the condition that should you discontinue the use of these antenna for a period of six months or more, that the antenna must be removed and the building be restored to its previous condition to the extent reasonably practical.

And finally, on the condition which I think is implicit anyway, but I'll make it explicit, that the generator that you're proposing to put on the roof as part of this project will comply with all codes and ordinances, including the Cambridge Noise Control Ordinance as from time to time in effect.

TIMOTHY HUGHES: And can I clarify?

Is that generator on the roof or on the ground?

DEREK PATTON: It's on the ground.

CONSTANTINE ALEXANDER: On the ground. Okay, the generator on the ground. It's being installed in connection with the project?

ATTORNEY SUSAN ROBERTS: Correct.

DEREK PATTON: Right.

CONSTANTINE ALEXANDER: Thank you.

On the basis of these findings with these conditions, all those in favor of granting the Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Hughes, Scott, Green, Horst.)

(7:50 p.m.)

(Sitting Members Case #BZA-003077-2014:
Timothy Hughes, Thomas Scott, Janet Green,
Arch Horst, Marc Truant.)

TIMOTHY HUGHES: The Chair will call
the case No. 003077, 13 Appian Way. The Vice
Chair. The Acting Chair.

Please identify yourself for the
record.

MARK VERKENNIS: Yes, Mark
Verkennis with Harvard Planning and Project
Management. And I'm here tonight with Jason
Carlson from the Graduate School of
Education. He's the operations director.
And Steve Baker with Baker Design Group, who
is the project architect.

TIMOTHY HUGHES: Go ahead. Let us
know what you want to do.

MARK VERKENNIS: Sure.

Harvard Graduate School of Education is

taking undertaking a renovation of its property at 13 Appian Way. And just to familiarize you, you're probably all familiar with the Radcliff Yard area, but this is Longfellow Hall and Radcliff Yard. The buildings in red are all the GSE's, Harvard Graduate School of Education building. So it's a small campus that's centered along Appian Way.

The project involves the renovation of the building including a major upgrade of all of its building --

JANET GREEN: Which building in that picture?

MARK VERKENNIS: Yep. It's this one, the large one, it's at the southern end of Radcliff Yard.

JANET GREEN: The only hard thing is you never number your buildings, you know?

MARK VERKENNIS: Oh?

JANET GREEN: So it's really hard to find them.

MARK VERKENNIS: Yeah.

JANET GREEN: When they're listed here as 13 Appian Way, you would be hard pressed to find 13.

MARK VERKENNIS: There is no -- 13. That is 13. And if you use the City's numbering system, it's a different number completely, but that is the building.

MARC TRUANT: Use the MIT system and number their own buildings.

STEVE BAKER: One or the other.

MARK VERKENNIS: One or the other.

The project involves, as I said, major upgrades to the building's mechanical systems, life safety systems. It's also going to include major improvements in terms

of accessibility for persons with disabilities.

The Graduate School of Education is also, as part of this project, undertaking a reprogramming of existing space within the building trying to increase the utilization of that space. And as part of this project and the focus of our Variance request this evening, we're looking at a rooftop addition that adds both dormers and a -- what we're calling a penthouse which would be the fifth floor of the building.

We're here tonight seeking two Variances. One concerns the front yard setback requirement, and the other would allow the enlargement and alteration of an existing non-conforming structure.

So with that I think I turn it over to you, Steve, to just walk through the project

and to familiarize the Board with the changes we're making.

STEVE BAKER: Sure. So from the exterior we have --

THE STENOGRAPHER: Can you speak up, please.

STEVE BAKER: Yes. My name is Steve Baker. Okay?

From the exterior we have Longfellow from the Appian Way side, and you've got an addition of three dormers on the street. And then the sort of what we refer to as the lander effect here and on the back side as well. What we've been trying to do is to allow for an expansion of square footage and usable space while balancing the symmetry of the building and working with Charlie Sullivan and the Historic Commission to make sure that it is in keeping with what a building like

this would want. And happy to say that he's quite happy with it.

One of the key things that sort of, you would never tell from looking at the Appian Way side, that on the other side of this ridge right here, is in fact a light well that comes down. And so what we've done is we've had to utilize the existing structure of the building here and here, and we've taken the expansion. It's at the ridge points of these two portions here which help balance it within the building and then balance it within the facade.

TIMOTHY HUGHES: Excuse me a minute. Are there people who are interested in seeing these plans that have an interest in this case? I mean, this gentleman obviously because he walked up to see it. Is there anybody else here? Should we be addressing

anyone else?

And I want to clarify, it's the Variance. You're seeking relief on two points, but it's a single variance.

MARK VERKENNIS: Yes, a single variance, correct.

STEVE BAKER: And so the area of concern is this area here that's hashed in red where it encroaches in on that setback.

Mark, you were going to speak to the original setback?

MARK VERKENNIS: Yeah, I'll address that in my comments.

STEVE BAKER: So that's the general.

MARK VERKENNIS: Yes.

STEVE BAKER: Yes.

MARK VERKENNIS: So with respect to the requested Zoning relief that we're seeking tonight, as Steve alluded to, when

Longfellow Hall was built in 1929, it actually met the City of Cambridge's Zoning requirements for the setback. And in 1943 the City amended the Zoning Ordinance to change how the setback is calculated, which made it a function of the building height. And in this case to our detriment it made it a function also of the building in length. So that line you see there, actually a little less than that, maybe about 50 feet back from the center line of Appian Way, at that time the building became non-conforming. And about a third of the building was now located within the required setback which brings us to where we are today.

With respect to the hardship, it's really several factors that we're looking at. One that we've mentioned really is the historic nature of the building. Longfellow

Hall is a nationally listed property. It's a contributing property in the Old Cambridge Historic District. And it is -- its setting in the Radcliff Yard really limits our ability to expand the building into the yard, for example, or adjacent to what's known as the Sunken Garden on the Radcliff side without really impacting either the building's character or the setting of Radcliff Yard. So as Steve mentioned, the building has a really strong symmetrical character. And, you know, one of the things that we discussed with Charlie Sullivan was if you were to add at either end of the building, it really is not respectful to that symmetry. It would be very detrimental to the overall architectural character of the building.

So if we were to strictly comply with

the Zoning, we would most likely end up with an addition that would not be in keeping with the character. And somewhat it bonds with that very strong symmetrical massing and architectural detail.

The other issue is the site topography. If you can see from the two different -- actually on this plan, the two different elevations from the Appian Way side of the building to the Radcliff Yard side of the building, there's a significant grade change. So if we were to design an addition on the Radcliff Yard side, to make that space usable and functional, we're really doing a severe amount of damage to the architectural integrity of the building on that side.

And then finally as Steve noted, one of the primary considerations is if we're to go up, and which, you know, the Historical

Commission felt it was an appropriate way to do this, obviously from a structural standpoint that penthouse has to tie into the existing structural framing of the building. And that largely dictates where that mass has been placed. So in summary, you know, these conditions at Longfellow Hall setting in general, it's in an area that is almost exclusively institutional in use and in terms of the buildings that are there. Those characteristics are not generally found in the Residence C-2 District. This is something that's unique to this property and in this area in particular.

So we're not -- the project is not going to create any physical change to the existing building footprint. The actual physical setback of the building footprint to Appian Way does not change. And with the exception

of the non-conforming front yard setback, the project is going to comply fully with the Zoning Ordinance including the gross floor footage that we're adding to the property and also the increased height which is about 11 or 12 feet. So the requested relief that we're seeking tonight is consistent with the intent and purpose of the Cambridge Zoning Ordinance and it will further the preservation of what is a legally non-conforming historic structure, and it's going to significantly improve the efficiency and functionality of this building and its intended use.

And we're here to answer any questions that you might have.

TIMOTHY HUGHES: Any questions?

JANET GREEN: Yes, I have two questions.

One is can you show me where you posted the sign that you were going to be coming before this hearing?

MARK VERKENNIS: Jason?

JASON CARLSON: So there are two signs that we posted. There is one right adjacent to the building along Appian Way. It's right along Appian Way. On this side there's some construction fencing. So it's right on the construction fencing.

JANET GREEN: Okay.

JASON CARLSON: And then that construction fencing is basically our site fence for the project. And it extends out to Brattle Street, and now there's a sign posted right on Brattle Street as well.

So one on Appian right by Longfellow Hall and one right on Brattle Street.

MARK VERKENNIS: Sort of the two

areas where people would be going by.

JANET GREEN: And my second question is: How does this affect the light on Appian Way? It seems like it would go up and maybe create the --

STEVE BAKER: Great question. We were just talking about that earlier today. And so because the actual addition is, it's sort of, you know, back from the edges, okay? For the most part of the day the shadows that would get cast by this, would fall on its own roof. And so it's really a case of it would only impact let's say sunrise, sunset as far as that goes. And so that's mostly affecting its own roof area.

Great question.

MARK VERKENNIS: And the other factor regarding that is, you know, you note the very prominent chimneys that are on the

building which add additional mass much higher than what is --

STEVE BAKER: Which is existing. Yeah.

MARK VERKENNIS: -- which is existing.

TIMOTHY HUGHES: Any other questions from board members?

(No Response.)

TIMOTHY HUGHES: Okay. I'll open this up to public testimony.

Is there anyone interested in speaking on this case?

(No Response.)

TIMOTHY HUGHES: Seeing no one, I will read into the record comments from the Planning Board which essentially said no comment. They'll leave it up to the Board of Zoning Appeal and the Cambridge Historical

Commission.

There's letter of support which I'll read but I won't be able to tell you who signed it. I can tell you one of the people who signed it.

(Reading) Dear Chairman Alexander and the Board of Zoning Appeal: I'm writing to support Harvard Graduate School of Education's application for a Variance at Longfellow Hall located on Appian Way. As the owner on the only property on Appian Way that does not belong to the Harvard Graduate School of Education, I am very familiar with the character and architecture of the street, the neighborhood, and the abutting campus. I strongly believe that the approach being taken by Harvard's GSE with this project is appropriate. The modest addition to the upper floors is consistent with and

respectful to the architecture of Longfellow Hall and the surrounding properties while allowing the GSE to achieve the academic goals associated with the project.

It's signed by, it looks like Gustav and Rosanna Alfaro (phonetic). That's my best guess.

Also there's a letter from Charles Sullivan and the Cambridge Historical Commission writing to support the application of the Harvard University for a Variance for the proposed rooftop alterations at Longfellow Hall at Appian Way. He goes on to say, you know, what the other letter said in keeping, in keeping with the historical context of the area and the campus.

Having read those into the record, I'll close public testimony.

Any other questions or observations from the Board?

THOMAS SCOTT: Can you just speak to like the programmatic improvements? What did you gain out of this and why do you need?

MARK VERKENNIS: Jason.

JASON CARLSON: Sure.

So the graduate school of education, we lease about 1500 square feet in Harvard Square. About 40,000 of that is in non-Harvard property, and it's a distance from the school. What we house there is research and our executive education program. And the distance makes it difficult sometimes programatically for faculty interaction and to get the best out of the programs that we have. So this project here is going to allow us to, like Mark said, reprogram our fourth floor and

create an addition on the fifth floor, and eliminate two of our leases to the square and bring that program back to the main campus.

THOMAS SCOTT: Okay, thank you.

MARK VERKENNIS: One of the goals that the graduate school of education has had is to try to consolidate its academic programs along this campus and Appian Way, and this is one project to further that.

JASON CARLSON: Great.

TIMOTHY HUGHES: Any other comments? Questions? Ready for a vote?

The Chair would move that a Variance be granted to Harvard University and the Graduate School of Education at 13 Appian Way for the improvements as illustrated and described by the presentation.

The literal enforcement of the provisions of this Ordinance would involve a

substantial hardship, financial or otherwise, to the Petitioner for the following reasons:

Among the goals of the proposed renovation expansion project is the more efficient utilization of the existing space of the building and the creation of additional space to meet HGSE's programmatic needs. The HGSE campus consists of only six buildings centered on Appian Way, and these buildings cannot house the school's entire academic programs, requiring many programs to be disbursed and lease space throughout Harvard Square. Longfellow Hall serves as the HGSE's academic and administrative hub containing classrooms, meeting spaces, and faculty and administrative offices, and renovation and expansion of Longfellow Hall is a key component of the HGSE's long-term

vision to develop a more cohesive physical campus on Appian Way.

The hardship is owing to the following circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the Zoning District in which it is located for the following reason:

Longfellow Hall is situated among several historic Harvard institutional buildings that surround Radcliff Yard.

The building is listed in the National Register of Historic Places as a contributing building to the Old Cambridge Historic District.

The building's location, surrounding topography, site characteristics, and historic character pose constraints on

Harvard's ability to increase the building's program area while respecting the building's architectural character and adequately addressing the school's programmatic needs.

Expanding the building towards Radcliff Yard would significantly impact the historic integrity of the yard and would also need to address a significant change in the grade from Appian Way. To the east the building's bordered by Radcliff Institute's Sunken Garden and the significant historic landscape element on the Radcliff Campus.

Essentially the building as proposed going up and adding to the top of it is the only thing that can be done without, you know, disrupting the historic situation of the buildings around Radcliff Yard.

Desirable relief may be granted without either substantial detriment to the public

good for the following reasons:

The proposed renovation and expansion of Longfellow Hall will result in public benefits including the significant improvement in building functionality and efficiency and improved access for persons with disabilities and a sizable investment in one of the City's historic resources.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance for the following reasons:

Both the Massachusetts Zoning Act and the Cambridge Zoning Ordinance allow non-conforming buildings to remain in place and to be altered and expanded.

The amount of nominal new gross floor area can be easily accommodated within the lot's existing FAR, and the proposed height

is well below the 85-foot maximum and the Residence C-2 Zoning District.

The proposed project will comply fully with current Cambridge Zoning Ordinance requirements with the exception of the proposed additions within the front yard setback.

And I would point out that that setback is already being violated by the building --

MARK VERKENNIS: By the building.

TIMOTHY HUGHES: -- as it exists.

And that the additional violation would be because the building is getting taller and not getting any wider in the setback or moving forward into the setback.

Therefore, the requested relief does not nullify or substantially derogate from the intent and purpose of the Ordinance.

The Chair would move that the Variance

be granted on the condition that it be done in a substantial conformity with the plans as presented.

These are the plans you're going to work with?

MARK VERKENNIS: Yes.

TIMOTHY HUGHES: And the plans are dated -- I'm sure there's a date on here someplace. This is very small print.

MARK VERKENNIS: My copy's even smaller so I'm not going to be much help.

TIMOTHY HUGHES: The plans are marked A110B, A111, A112, A113, A114, A115 and initialled by the Chair.

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

(Aye.)

TIMOTHY HUGHES: That's five in favor.

The Variance is granted.

(Hughes, Scott, Green, Horst,
Truant.)

MARK VERKENNIS: Thank you very
much.

* * * * *

(8:05 p.m.)

(Sitting Members Case #BZA-002749-2013:

Constantine Alexander, Timothy Hughes,

Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair will call case No. 002749, 24 Clinton Street.

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

MAHMOOD FIROUZBAKHT: All right. Mr. Chair, members of the board, I'm Mahmood Firouzbakht. I live at 7 Crescent Street. To my left is Mark Boyes-Watson from Boyes-Watson Architects of 33 Bow Street in Somerville.

MARK BOYES-WATSON: 30 Bow Street.

MAHMOOD FIROUZBAKHT: Sorry, 30 Bow Street.

We're here tonight to present the

application for a Variance for 24 Clinton Street. This project has gone through a sort of a robust and full community vetting process, and so we're here tonight to present this project that many of the neighbors and abutters to on this house are supportive of and, in fact, have sort of encouraged me to pursue this project in a Variance from the Zoning Board.

To give a little bit of background to this house in the project, my wife and I purchased this place in 2003 at which point it was used by a non-profit organization for 20 recovering alcoholics and addicts. And we bought the house then and converted it into a rental property, which the house has been operated as a rental property since then. We did some work on it, but the house is very tired. It's in reasonably poor condition

inside and out. And, you know, we've always wanted to do a nicer historic rehab of this house. And so my wife and I felt that this was the time to do it. So having seen Mark's good work, we called him up and said, hey, Mark, we want to do this project. Let's work together to come up with a nice design. And so Mark and I and Kelly Speakman worked together to come up with a design, which we were focussed on doing a project that from a Zoning perspective was an as-of-right-project which we came up with an as-of-right-project with respect to Zoning, and we presented that project to the Mid-Cambridge Neighborhood Conservation District Commission. And we went through a long process where ultimately many neighbors didn't necessarily like that proposal despite the fact that Mark and I really liked

that proposal. So the long and short of it is we pursued that project and actually were given the approvals we needed from the Mid-Cambridge Conservation District Commission to build that project which essentially involved two single-family houses on this lot, but two separate freestanding structures which I think that was problematic for some of the neighbors, particularly on Bigelow Street to have this separate freestanding structure on the back of the lot. So after having gone through that approval process, I decided that it just didn't quite feel like we had had a full discourse, and I thought that we would benefit from talking -- continuing the conversation with the neighbors about this project.

I lived on Clinton Street for many years

at Steve and Marie's house at 26 Clinton Street, and so frankly feel like this is my neighborhood, and I wanted to make sure to be responsive to the neighbors. So we gave it one more shot. We had subsequent meetings after my approval was upheld through an appeal process. And through that process we basically sort of all agreed that it would be better if we didn't do a second freestanding structure, and that we would essentially build off of the back out. And I communicated to people the reason why I didn't want to do that was because likely that would trigger Zoning relief and I would be in front of the Board here asking for a Variance which I prefer not to do.

CONSTANTINE ALEXANDER: For good reason.

MAHMOOD FIROUZBAKHT: For good

reason, yes.

So that's partly and mainly why we're here, because of that community process where people said you know what, we understand those challenges, but we prefer that you proceed. We really would like you to proceed with this project versus what was approved through the Mid-Cambridge Neighborhood Conservation District. And, therefore, that's where we are.

We came -- Mark and I kept -- and Kelly worked together. We came up with this proposal in large part, presented it to the neighborhood, and people really were in favor of this proposal that is being heard tonight.

This proposal does require Variance relief on FAR and on setback, and that's the relief being sought here tonight.

CONSTANTINE ALEXANDER: Bottom line

what you're proposing to do is to create two single-family residential units?

MAHMOOD FIROUZBAKHT: That's right.

MARK BOYES-WATSON: Two attached.

CONSTANTINE ALEXANDER: Attached.

MARK BOYES-WATSON: Yeah, yeah.

MAHMOOD FIROUZBAKHT: That's right.

We can't have three units.

CONSTANTINE ALEXANDER: You can't have three, that's right.

MAHMOOD FIROUZBAKHT: And we had considered -- I had considered with Mark possibly doing three townhouses here, because the lot and the structure would lend itself to that kind of a project. I just didn't want to do that, because I know of other townhouses in this neighborhood and in and around Cambridge, and I think one of the neighbors actually called them, like,

incubator homes where young couples come in, they buy, they have their first kid, and you know, when they think about having their second kid, they move out. And so you have this sort of constant cycle of sort of people, residents coming and going. Whereas here by reducing the number from three to two, these are two, like, good size single-family homes.

CONSTANTINE ALEXANDER: What's the floor area of these units going to be?

MARK BOYES-WATSON: It's about, including the basements, they're about --

CONSTANTINE ALEXANDER: Well, the basement is part of your FAR.

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: Are you planning to renovate the basements?

MAHMOOD FIROUZBAKHT: Yes. On the front house it's part of the FAR. On the back

house it's not.

CONSTANTINE ALEXANDER: Okay. So how big are the units?

MARK BOYES-WATSON: They are 2,400 square feet.

CONSTANTINE ALEXANDER: Each?

MARK BOYES-WATSON: Each.

CONSTANTINE ALEXANDER: Each.

I must say that I'm amused by -- amused. Bemused about the comment about "incubator" units for townhouses. As you know, we had a member of the board who thought that was a -- and I think rightfully so, a good idea because they become starter houses for people into the community. So I'm not sure it was a negative. But that's just an editorial observation on my part.

MAHMOOD FIROUZBAKHT: You know, that's an interesting position to take. I

guess having lived on Clinton Street maybe 15 years ago or so, I remember, you know, spending Halloweens there and there were just kids. There were a lot more kids in that neighborhood on that street. Whereas now I don't think that's necessarily the case as much. I think there's a maybe a shift back. But I think that this kind of housing stock lends itself better to having a growing family, you know, buy here and then stay here hopefully and sort of help with the fabric of the community and the street. It's a great street. So, I think the idea of adding two families that stay there longer term, I think would be preferred from my perspective would be, and I think the neighbors' as well.

CONSTANTINE ALEXANDER: Thanks. I understand. It's just an editorial comment on my part. It doesn't go to the merits to

what you're proposing.

MAHMOOD FIROUZBAKHT: Let me see here. Anything else?

Well, I know the MCNCDC has strongly supported of this case and approved the plans, you know, that are before you here tonight. We've got tons of letters of support, including from the President of the Mid-Cambridge Neighborhood Association.

We've got neighbors here who have trekked out in this awful weather to speak in favor and, you know, happy to offer more but I think maybe Mark can walk us through the design if you like.

CONSTANTINE ALEXANDER: Before you start that, let's go for the record in particular, the specifics of the relief you're seeking so we know exactly what we're talking about. FAR?

MAHMOOD FIROUZBAKHT: That's right.

CONSTANTINE ALEXANDER: And according to my notes from your dimensional form, the district requires or not -- allows up to 0.75. The structure right now is at 0.76. So you're slightly non-conforming. You're proposing, if we approve what you want to do, go to 0.97 which is roughly one-third more than what the Ordinance allows for this district. That's one relief you're seeking.

I'm a little puzzled. I know you need setback relief as well. You said so. But I'm puzzled by the nature of that. Let me -- just help me, and maybe I'm just not a good reader, but reading from your statement, Mahmood, your supplemental statement, which was very useful, by the way, and very good. You say setback relief. The existing house at 24 Clinton Street is a pre-existing,

non-conforming structure as to the north side of the house sits in the required side setback. Fine.

Therefore, the proposed addition to the back of the existing house will require setback relief due to the pre-existing, non-conforming nature of the use of the existing house.

Then the next sentence: The proposed new construction complies with setback requirements.

There's a gap in there. Can you just elaborate? It doesn't make sense.

MAHMOOD FIROUZBAKHT: I'll lean on my nifty architect here to explain that.

MARK BOYES-WATSON: Yeah. So the left side setback existing house is only about two-foot, four from the property line in the historic house. The addition, the

back L of the house -- and without getting into it. The back L of the house actually sets back a lot more, and the new construction as you work off that same existing line. So this plane actually conforms to the requirements of the Zoning Code. So where we're building is actually compliant.

ARCH HORST: On that side?

MARK BOYES-WATSON: On that side and on the other side, too. So the setback relief that is really -- it's pretty obtuse. The setback relief required in the sense that that's a conforming for setback addition for a non-conforming house and doesn't necessarily need relief except in the context of the whole facade. So that is a conforming part of the building. There's that. And also that these porches or decks, they're actually decks, can be construed as being

attached to non-conforming elements and sometimes that's --

CONSTANTINE ALEXANDER: Okay. I don't want to beat a dead horse, but I still don't see it.

You haven't -- you're non-conforming today --

MARK BOYES-WATSON: Yep.

CONSTANTINE ALEXANDER: -- as to the side yard setbacks.

You're not changing that nature of that non-conformance.

MARK BOYES-WATSON: Right.

CONSTANTINE ALEXANDER: You're building an addition in the back that is conforming because it's part of the setback. So why do you need setback relief?

MARK BOYES-WATSON: The only way you would need it is if you construed that you

were using a multiplane formula and then you hadn't setback enough to make the bit that comes forward could -- you know how you can offset up and down? That's the only way. So it's just a very -- it was very conservative. I don't think there's sort of an obvious -- which is why you're having trouble with it -- an obvious side yard setback violation. We just didn't want, wanted to be very overt about what's going on there. And also that thing about I think maybe Sean can help about, there are actually porches and decks in both locations, we're putting them back. But to the extent they're attached to non-conforming elements of the building, that's construed as requiring a Variance. So I just wanted to make sure that we ask for anything that we might need and make it clear to the Board.

CONSTANTINE ALEXANDER: Okay.

And let's talk about the FAR, because you talked about substantial departure from our Ordinance. One third more than the Ordinance permits, and part is because of the basement because you're going to continue the basement as FAR or gross floor area.

MAHMOOD FIROUZBAKHT: That's right.

MARK BOYES-WATSON: Yeah. So if you were to do that, so which would mean you have to fill out this existing basement. So one of the things that's going on in this house is substantial sustenance of all of the internal bearing systems. So the basement's a mess. It's typically inside there.

So if you were to fill up that basement and bring it up to six-foot, eleven, less than seven feet, that would reduce the difference between the existing and the proposed FAR

from 0.76 to 0.83. So a very modest difference between the current and the proposed or more modest.

So, yes, so that's the idea that that, given the soils that are going on, etcetera, etcetera, to come here and say well, why -- actually Mahmood said to us why are we doing that? That's like, I don't think that's the right thing to be doing. Let's ask for the relief on that basement. So that inflates the difference.

CONSTANTINE ALEXANDER: It doesn't inflate it. It is what it is.

MARK BOYES-WATSON: It is what it is.

CONSTANTINE ALEXANDER: You're not changing it at all.

MARK BOYES-WATSON: Right, right.

MAHMOOD FIROUZBAKHT: So we can

certainly reduce that number by proposing to fill the basement but --

CONSTANTINE ALEXANDER: To be sure.

MAHMOOD FIROUZBAKHT: -- given the basement is what it is, and I've had, you know, subsequent discussions with neighbors on this very point. That will cost more money, and it will basically make this project more difficult to undertake. And sort of given the process that we've undertaken as a community, I think generally people felt like that is fine to not change the basement essentially and keep the rest of the project as proposed.

CONSTANTINE ALEXANDER: What's the contemplated use of the basement if you leave it the way it is right now? Are you going to use it for -- what are your plans?

MARK BOYES-WATSON: We plan to use

it --

CONSTANTINE ALEXANDER: Do you have any specific use?

MARK BOYES-WATSON: Yeah. Well, you know, we always show things down there, but we found that actually in all the projects we do it's a huge variation for what people use that for. Everything from their dog --

CONSTANTINE ALEXANDER: You're not going to finish it?

MARK BOYES-WATSON: It will be finished space.

CONSTANTINE ALEXANDER: But you're not going to put walls and rooms --

MARK BOYES-WATSON: We will.

MAHMOOD FIROUZBAKHT: It's probably going to be a media room and a laundry and a bathroom and probably a utility room.

CONSTANTINE ALEXANDER: And the

rest of the structure -- by the way, the basement is only on one of the two units, right?

MARK BOYES-WATSON: The new one we're building we're building at six-foot, eleven. So the existing one is eight feet I think now or something.

MAHMOOD FIROUZBAKHT: Yeah, it's pretty tall in there.

MARK BOYES-WATSON: Tall basement. The new one, we're just building at six-foot, eleven.

CONSTANTINE ALEXANDER: It's not GFA then?

MARK BOYES-WATSON: It's not GFA, exactly.

CONSTANTINE ALEXANDER: And the building where it is GFA --

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: -- the other unit?

MAHMOOD FIROUZBAKHT: Right.

CONSTANTINE ALEXANDER: What's the roughly the internal layout of the rest of the structure? How many bedrooms?

MARK BOYES-WATSON: So it's a three-bedroom home.

CONSTANTINE ALEXANDER: Three bedroom. How many baths?

MAHMOOD FIROUZBAKHT: The front house?

MARK BOYES-WATSON: The front house?

MAHMOOD FIROUZBAKHT: Well, I guess if you count the bedroom in the basement.

CONSTANTINE ALEXANDER: No, no. Without the basement.

MAHMOOD FIROUZBAKHT: Oh, without

the basement?

CONSTANTINE ALEXANDER: Yes.

MAHMOOD FIROUZBAKHT: Well, you got the master suite upstairs and then you have three bedrooms on the second floor. So it's a four bedroom, I don't know, three baths, four -- three bath house, three and a half bath house.

CONSTANTINE ALEXANDER: So with four bedrooms, presumably there's not a great need of bedrooms in the basement?

MARK BOYES-WATSON: No. There is -- right. It's much more like --

CONSTANTINE ALEXANDER: You thinking about a rec room?

MAHMOOD FIROUZBAKHT: Yeah, media room.

CONSTANTINE ALEXANDER: They used to call it a rec room in my day.

MAHMOOD FIROUZBAKHT: Yeah, media room. That's likely what it will be.

JANET GREEN: Right. Rec room before, media room now.

CONSTANTINE ALEXANDER: I'm showing my age.

MAHMOOD FIROUZBAKHT: I think that, you know, that space, we call it a bedroom I think because you also want to have the egress window provided for, but I think it would lend itself well to a Home Office use, you know, with the media room down there, and, you know, however way it sort of shapes out. But if you have a family of three kids and you have in-laws that come over to stay, then certainly it's nice to have that added space, particularly if it's not up a bunch of stairs.

MARK BOYES-WATSON: This is a four-bedroom house.

MAHMOOD FIROUZBAKHT: Above grade it's a four-bedroom house.

CONSTANTINE ALEXANDER: Yes.

MAHMOOD FIROUZBAKHT: Three bedroom on the second floor.

CONSTANTINE ALEXANDER: Above the basement, right.

MAHMOOD FIROUZBAKHT: Yeah.

CONSTANTINE ALEXANDER: I'm sorry, I've interrupted your presentation.

MARK BOYES-WATSON: Well, I don't know if I even started.

So just to get a sense of is the existing historic house is an Italian kind of Greek revival house that's all covered in vinyl siding right now. So it presents really lengthy to the street. It's this little bay, setback a little bit further along with the other structures.

The back L looks like this. It's a two-story very simple structure which is -- it was one of the reasons I think the neighbors prefer that look. It's very clean, it's a front historic house, and then there's a very simple back L. And so here you can see what's happening is the -- here's that non-conformity down here. Here's Clinton Street. And the other thing that I think is part of the Variance, is that the code provides that if you're making that extension of an existing non-conforming house more than 25, 10 or 25 percent.

CONSTANTINE ALEXANDER: 10.

MARK BOYES-WATSON: 10, or 25 for a Special Permit. We're over that threshold so that's why we're here for that relief extending this existing. Which if you do a freestanding structure, you don't get into

that, that Variance.

So but the idea of the new is to simply concentrate the additional floor area as an extension of this architecture at the back of the house. So if I just quickly take you through to the plans, you'll see where that ends up. So, this is existing. And the dotted is the stuff that we're remodelling in the back. So this, the plans are as I showed you among the survey. But here you can kind of see what's going on right here. Here's the basement. We were just talking about where that's the higher basement. This is the new basement.

This is the front house again. And the blue hatching is where the additional GFA is occurring. So it's occurring here and here. And, again, there's no third floor. It's simply an extension to that.

CONSTANTINE ALEXANDER: You're not proposing with regard to the new house the six-foot, 11 basement? You're not proposing to use that for --

MARK BOYES-WATSON: We're proposing to do it similarly to the other basement. Same idea.

MAHMOOD FIROUZBAKHT: So there will be a media room down there as well.

MARK BOYES-WATSON: Which the Building Code allows.

CONSTANTINE ALEXANDER: Whatever it allows, it allows.

MARK BOYES-WATSON: Yeah. It's shifted over the years.

CONSTANTINE ALEXANDER: Yes, I know it's shifted.

MARK BOYES-WATSON: Yeah.
Just at a bigger scale, just so you can

see what's going on there. So here's that existing back L. And here's the very simple back house. And here's the house and the house. What's nice about the plan, and one of the things you get if you don't try and get that third unit just parenthetically is that you have much less car on the site. So the existing driveway gets reused just for a pair of cars instead of having cars come all the way to the back of the site, which is what they do today.

CONSTANTINE ALEXANDER: And you will have two parking spaces on site for the two units. So you will comply with the parking requirements of our Ordinance.

MARK BOYES-WATSON: Exactly. We haven't created a non-conformity relevant to that.

MAHMOOD FIROUZBAKHT: So we're

increasing the open space with this plan as well. Because currently there's a bunch of asphalt and a concrete pad at the back of the property which we're replacing with the nice landscaping.

CONSTANTINE ALEXANDER: I gather that's one of the reasons you got neighborhood support?

MAHMOOD FIROUZBAKHT: Yeah.

MARK BOYES-WATSON: Yeah.

MAHMOOD FIROUZBAKHT: We -- after we embellished the backyard from the previous plan so definitely.

MARK BOYES-WATSON: These are sort of just, again, just to take around then the exterior appearance of the building. As that happens, what we're looking at is existing on top and proposed on the bottom. And here when you're looking from Clinton,

we're basically restoring -- we're actually going to find the precise detail when we get everything off the house to make sure that we -- and we'll work with the Historic Commission to make sure we're putting back stuff. Our intention is to try to get that back to the way how it looked.

Very little change here. I have to see where I am.

So this is the -- looking from the south, the right side. And here's the existing house, and you can see any minor changes. And here is the bit that's getting reconfigured like this. So there's the new. So this is the difference between the new and the old.

And here you see that flat roof and it's a very, very simple piece.

Just the last two elevations. So the

rear elevation here is the back. The back L which is the L, it becomes a back L. It looks like this. And then looking at the non-conforming left side elevation, here you see again that there is a stoop here and there is a stoop here. We maintain that. This is the -- this is the new piece in this diagram. So you can see where the basically the architecture is very simple, the two-story architecture in the back that's preferable.

MAHMOOD FIROUZBAKHT: And that was one of the elements that I think the neighbors appreciated because the previous proposal had a gabled roof, so the height of the roof was somewhat higher than what's being proposed here. And also this is set back from the back of the property line. And the lot itself sort of grades down, and so this is -- this is going to be tucked closer to the

existing house. I think in terms of roof line, this is a preferred roof line than the as-of-right proposal.

MARK BOYES-WATSON: In order to achieve the as of right and get the building separation required by the code, pushed you further towards the back lot line.

CONSTANTINE ALEXANDER: Okay.
Anything further at this point?

Questions from members of the board?

THOMAS SCOTT: I know you seem close to the lot lines on either side. Did you do a shadow study for the adjacent residents so they can understand how this is going to impact their yards?

MARK BOYES-WATSON: Maybe you want to -- you used to live in the one that's to the north, right?

MAHMOOD FIROUZBAKHT: Yeah. I mean

the neighbors -- abutters who live on the street are here as well. And I think pretty much there's an abutter represented here tonight from all the houses right around this project -- this house.

CONSTANTINE ALEXANDER: That's not responsive to Mr. Scott's question.

MAHMOOD FIROUZBAKHT: You know, but we did -- to respond to that, we did a shadow study on the original plan and so, you know, we went through that. I'm not --

MARK BOYES-WATSON: I know that when we did this, we did it because as part of the historical process has that as part of it. So we, it was in discussion all throughout. And in fact, the elimination of the gable end actually brought the eave down. Actually, I don't think we re-did the shadow study for this version. But it was something that was

being discussed back and forth.

CONSTANTINE ALEXANDER: It was discussed in the context of a separate structure --

MARK BOYES-WATSON: Of a separate structure. And then obviously as being preferable in this situation where that eave line came down lower.

MAHMOOD FIROUZBAKHT: And I guess given that we had done a shadow study on that, the separate structure proposal, I think it was reasonable to extrapolate, you know, for abutters what the impact of, you know, the shadow impacts would be with this proposal. I guess that generally speaking people sort of preferred the site lines of this and the shadow impacts and we can hear from them directly. But I think we -- no, we didn't do a specific shadow study on this particular

proposal.

THOMAS SCOTT: I mostly ask because of the adjacency.

MARK BOYES-WATSON: Yeah, that's actually to the south so there's very little impact from shadows.

THOMAS SCOTT: Okay.

MARK BOYES-WATSON: And I think that's part -- and to the north side where the impact's the greatest, Mahmood was in very close contact with the neighbor to make sure that they're comfortable. They were comfortable actually with each scheme, but I think this one does bring down that line.

CONSTANTINE ALEXANDER: I think the underlying the question that Tom has asked is the fact that without, and I'm not -- without a shadow study, the neighbor may not appreciate the impact of what you're doing.

They may like the general concept, but they may wake up once the building is done and say oh, my God, I didn't realize we are going to be put in shadows. And the shadow study would eliminate -- would get that issue out of the way up front. That's the reason for the question.

MARK BOYES-WATSON: I hear you.

And so just to get a sense. So the -- to the -- so this is the piece, and I'm actually looking south now. But it's the same idea, right? And I can switch to the other one. And this difference, right -- this -- when you -- actually, I should get the right one. Let's do it right.

CONSTANTINE ALEXANDER: Always a good idea to do it right.

MARK BOYES-WATSON: No, never a bad idea.

So because I don't think it's -- you know how sometimes it's really -- and I think it's harder to visualize in the new structure, but this structure, there's a structure there at exactly the same height as the, and etcetera, etcetera.

And so what's going on here is it's this piece here, and here's the new piece. And so the shadows that are cast by this piece are -- either extends I think about eight feet. This is eight feet further. So it's not a really hard thing to understand because you can see what's out there. You see where the things go. So I don't think it was a big leap to get to comprehension of the impacts of extending that eight feet. It's not a new structure. That line is already existing today. It's an extension of that line here and then you --

THOMAS SCOTT: Look at that elevation, you can see the building extends substantially further to the, I guess it's the west.

MARK BOYES-WATSON: It does. Although the house in front of it has, not identical, but it's similar. But I think that was interesting, which I didn't bring actually, but the single-family house where we did look at the shadow impacts ran exactly the same way across the back of the lot. So if you're talking about your east/west sun behaves similarly to this, but this is better because it's lower. Do you know what I'm saying? That house stretched a little bit closer to the neighbor to the east, and the whole way across and closer to them and higher to them by the difference in the gable end. So more like 33. I think it was 33 or 34 feet

tall, that structure.

CONSTANTINE ALEXANDER: Do you have any questions about that?

UNIDENTIFIED FEMALE: Yeah, I wanted to be sure I saw what you were looking at. I understand the shadows or lack of shadows perfectly.

CONSTANTINE ALEXANDER: Thank you.

JANET GREEN: Excellent.

MAHMOOD FIROUZBAKHT: And I guess if you have a chance to look at the Assessor's map, I think another thing that's helpful in terms of the distances between this structure and the abutting structures, there's a generous amount of space because of the driveway spaces and also yard spaces that sort of buffer these, the proposed, the existing structure frankly, and the proposed structure particularly along, between my

property and 20 Clinton Street where Pat White lives. There's a row of very mature trees at our property line which frankly sort of, is a nice buffer and screens, at least when there are leaves on the trees. But even during the winter because they're pretty deep trees in terms of their habit the view between the two properties. So in that regard I think that's one of the nice things about this property and how it relates to the abutting properties.

MARK BOYES-WATSON: And so what I was, if I can illustrate what the -- the ridge line of the previous proposal was about here and was I think, I'm forgetting, I think it was 33 or 34 feet.

MAHMOOD FIROUZBAKHT: I think that's sound about right.

MARK BOYES-WATSON: And think we're

now at, I think it's -- it says here 24-foot, seven. So that was like, I think that was regarded as a massive of the alternative way design of the building.

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

(No Response.)

CONSTANTINE ALEXANDER: I will open this matter up to public testimony. By all means, I would encourage people to speak if they want to speak. We do have a lot of letters in the file to support. So if you want to say early -- well, you can say it anyway. I'm going to extrapolate what I'm saying.

Is there anyone here wishing to be heard on this matter? No, you don't have to speak.

STEVE NILL: I'm Steve Nill (phonetic). I live at 26 Clinton which is

the house to the north. That was my wife Marie Wolf. We're probably uniquely situated amongst the neighbors in that every room in our house looks out over Mr. Firouzbakht's property. So we have paid a lot of attention to this project. We, it's interesting you ask about the shadow study. We did spend a lot of time with the Firouzbakht on the original proposal with the shadow studies and got comfortable with the impact of those. And as I -- as we have been processing this new proposal in our heads, we feel like we're -- in the original proposal there were two separate structures. There were space between the buildings. So we had some light coming through the two buildings that would be beneficial to us. That's been, that light has been taken away now that we've rejoined the two structures together. But

with the ridge line coming down as the architect just described, we feel like it's a reasonable trade off for us. So we're, we -- I think all of the letters are speaking -- I would guess that many of the letters that you have are speaking to the same point that it's a remarkable process that's been going on here with neighbors to try to get a project here that we're all very happy with. And actually I don't know whether you as a Board come across many cases like this where Mr. Firouzbakht already had an approval for a non-conforming or an approval for the original project and then decides to come back to the neighborhood and try to appease the neighbors more. So we're, we've been impressed with that whole process and endorse the project.

CONSTANTINE ALEXANDER: Thank you.

And thank you for taking the time in this inclement weather.

Yes, Ma'am.

PAT WHITE: My name is Pat White, 20 Clinton Street. And I will look out right on to this new building. And you just got me out of bed. I've been suffering from the flu, so as long as I'm here, I'm going to speak.

I'm really grateful that Mahmood went through this process. I couldn't be more grateful, because it really would affect me adversely if the original project had gone through. So I'm very hopeful that tonight you'll give him the Variance that he needs.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishing to be heard?

MARGARET MACLELLAN: Margaret MacLellan (phonetic). 31 Bigelow, and we happen to have two abutting properties

actually, also have 29 Bigelow which we don't live in but is a rental property. And so we have -- we're on the back side of Mahmood's proposal. And we're much happier with this proposal that he is putting forward to the Board of Zoning. So simply because it's further from our house enough that I think it has less impact on us and it's a little lower than the original project. So those windows aren't going to be looking directly into our home as significantly as the first project was. So we are really pleased that he came back and revisited our concerns and a number of the neighbors' concerns and is putting this project forward to you. So we endorse it ourselves.

CONSTANTINE ALEXANDER: Thank you, again.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Appears there is no one else.

The Chair will report that we are in receipt of numerous letters and written communications from neighbors and abutters all of which are in support of the project -- of the relief being sought. I don't propose to read them verbatim. I will incorporate them by reference in their entirety as part of our record. But, again, I will say that they are all in support of the relief being sought.

There's also a communication from the Historical Commission which since there's no Certificate of Appropriateness for this project. There was for the one --

MAHMOOD FIROUZBAKHT: No, we have one for this project as well.

CONSTANTINE ALEXANDER: I don't see it in the file.

MAHMOOD FIROUZBAKHT: We went back to the MCDC --

CONSTANTINE ALEXANDER: It's a letter saying that they, not quite -- as I read it anyway, a Certificate of Appropriateness.

We don't have that in our file. Okay, thank you.

So we do have a Certificate of Appropriateness in favor of the project which I'll put it in our file.

MAHMOOD FIROUZBAKHT: Sure.

CONSTANTINE ALEXANDER: And that's all in the public record. I'm going to close public testimony.

Any final comments before we take this under advisement?

MAHMOOD FIROUZBAKHT: That's it.

CONSTANTINE ALEXANDER: Okay.

Time for discussion.

Is there a discussion by board members or do we want to go to a vote? What's the people's pleasure?

TIMOTHY HUGHES: I'm comfortable with this, you know, in spite of the relief being sought. And the FAR relief being sought is maybe a little high in kind of a tight neighborhood. Because of the fact that the as-of-right solution got scrapped in favor of keeping peace in the neighborhood. I mean, really that's the bottom line for me.

JANET GREEN: I agree.

CONSTANTINE ALEXANDER: Janet, same thing?

JANET GREEN: I really agree with that. I particularly appreciate what the

gentleman back here said about just feeling, it seems like it brought the neighborhood together. And so often it could be a different effect and it's really lovely what you said.

CONSTANTINE ALEXANDER: Arch, anything you want to say?

ARCH HORST: I think that we should always be in favor of the projects that are an alternative and a better alternative to what's allowed by right. So, since there's no objection, I'm certainly in favor of it.

CONSTANTINE ALEXANDER: Tom.

THOMAS SCOTT: I'm good.

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

The Chair moves that this Board make the following findings with respect to the relief for the Variances being sought.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that we're talking about an old structure in poor condition. And to maintain it as it is now would be a hardship.

That the hardship is owing to the fact that it's a non-conforming structure. The structure is located oddly on the lot in that it is too close to one lot line in terms of our current Zoning Ordinance.

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

In this regard the Chair would note that this project has unanimous neighborhood support.

That the Petitioner has the ability to

proceed as a matter of right with an alternative project, but he -- to be a good neighbor, if you will, is putting forth a project that meets neighborhood support but does require Zoning relief.

That there is a Certificate of Appropriateness for what is being proposed from the Mid-Cambridge Neighborhood Association. And that the end product of what is being proposed is the creation of two single-family residences in Cambridge. And single-family residences in Cambridge of the size we're talking about, which is not grand like Brattle Street and not tiny as often as the case in East Cambridge, are something very desirable for the City of Cambridge.

So on the basis of these findings the Chair moves that the Board grant the Variance being sought on the condition that the work

proceed in accordance with plans submitted by the Petitioner. These still them?

They are prepared by Boyes-Watson Architects. They are dated 12/16/13. They're multiple pages. I'm just going to initial the first page.

All those in favor of granting this Variance on the basis of motion I've just made, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Scott, Green, Horst.)

CONSTANTINE ALEXANDER: You're welcome.

* * * * *

(8:45 p.m.)

(Sitting Members Case #BZA-003082-2014:

Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003082, 15-17 Flagg
Street.

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

KAJ VANDKJAER: Yes, thank you.

CONSTANTINE ALEXANDER: As you
know, give your name and address to the
stenographer.

KAJ VANDKJAER: Yes. My name is Kaj
Vandkjaer, K-a-j V-a-n-d-k-j-a-e-r. KV
Design and Building to make it easier. 21
Surrey Street, Cambridge.

And I'm with Amina Derbali.

AMINA DERBALI: I'll spell it.
A-m-i-n-a D-e-r-b-a-l-i. 17 Flagg Street.

KAJ VANDKJAER: And her husband

Ridha Derbali who could not make it tonight.

AMINA DERBALI: R-i-d-h-a.

CONSTANTINE ALEXANDER: The floor is yours.

KAJ VANDKJAER: Before we start I was called by Sean to bring elevations of the existing house.

CONSTANTINE ALEXANDER: That was my request, yes. It makes our life easier.

KAJ VANDKJAER: But I printed the whole thing.

CONSTANTINE ALEXANDER: The whole thing being what?

KAJ VANDKJAER: Meaning all the existing plans.

CONSTANTINE ALEXANDER: These are proposed or just the existing?

KAJ VANDKJAER: Existing.

CONSTANTINE ALEXANDER: Only

existing?

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: I just saw
it was not part of the record.

KAJ VANDKJAER: Right. It was a
mistake.

CONSTANTINE ALEXANDER: It makes
our job -- at least my job a lot easier --

KAJ VANDKJAER: Yeah, absolutely.

CONSTANTINE ALEXANDER: -- to put
one against the other.

JANET GREEN: Here I am.

KAJ VANDKJAER: Are we all set?

JANET GREEN: Thanks.

CONSTANTINE ALEXANDER: Okay,
you're seeking a Variance. Let's try to get
this thing moving along.

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: You need a

Variance because currently you have a non-conforming structure. The FAR for the district is 0.75.

KAJ VANDKJAER: Right.

CONSTANTINE ALEXANDER: You're at 0.84. So you're over right now.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: And you want to go to 0.96 with the addition that's proposed.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: And the addition consists of?

KAJ VANDKJAER: A one-story, two room addition on top of the existing.

CONSTANTINE ALEXANDER: And a new dormer.

KAJ VANDKJAER: And a new dormer to have more access through the roof deck and

also balance the --

CONSTANTINE ALEXANDER: Keep going. I'm listening.

KAJ VANDKJAER: Balance the back of the house. We installed three dormers years ago, and nobody knows why we didn't put four, but now is the opportunity.

CONSTANTINE ALEXANDER: Do you want to address the dormers as to whether they comply with the dormer guidelines?

KAJ VANDKJAER: I've never addressed that. I followed exactly what we had.

CONSTANTINE ALEXANDER: No. So you understand, under the City of Cambridge if you're seeking Zoning relief, the Community Development Department has developed dormer guidelines.

KAJ VANDKJAER: Yes.

CONSTANTINE ALEXANDER: And they're not required as a matter of law. But the City, the Community Development would like to see in terms of the dormers. In other words, how they look, the size, their location. We as a Board, not universally, but typically want the -- if we're going to grant relief, we do it because the dormer guidelines are being complied with or almost complied with.

KAJ VANDKJAER: Right.

CONSTANTINE ALEXANDER: I wanted you to just address do you comply? If you don't, to what extent do you not? How much do you depart from the dormer guidelines? Are you familiar with them, sir?

KAJ VANDKJAER: Yeah.

JANET GREEN: Can I add to that a little bit?

CONSTANTINE ALEXANDER: Yes.

JANET GREEN: You said you added these dormers or was that before you had the house?

AMINA DERBALI: On the third floor we added dormers --

JANET GREEN: Two dormers.

AMINA DERBALI: Two dormers. One on each side of the front facing the street. Facing Flagg Street. And one in the back on the 17 Flagg side. It's a duplex.

JANET GREEN: And what year was that?

AMINA DERBALI: A long time ago.

KAJ VANDKJAER: '86.

JANET GREEN: Mid-eighties?

AMINA DERBALI: No we moved in in '86. It was later.

KAJ VANDKJAER: Oh.

AMINA DERBALI: Sorry, I don't

really remember.

JANET GREEN: So but you've done that since you've owned the property?

AMINA DERBALI: Yes.

KAJ VANDKJAER: Yes.

JANET GREEN: And you had to come down here and get permission to do that?

KAJ VANDKJAER: Yeah, we did.

JANET GREEN: Zoning relief for that?

KAJ VANDKJAER: Yes, we did.

AMINA DERBALI: Yeah, we did. And then there's one in the back on the other side.

JANET GREEN: Yes.

AMINA DERBALI: We didn't do the fourth one in the back.

JANET GREEN: Right, okay.

Thank you.

CONSTANTINE ALEXANDER: I'm looking at the dormer that's proposed on your --

KAJ VANDKJAER: Right.

CONSTANTINE ALEXANDER: It looks like it does not, the one on the right as I'm looking at it, is too large, not literally too large, but too large in terms of our dormer guidelines. Am I correct?

KAJ VANDKJAER: That's a good question. You mean the 50 percent of the roof line?

TIMOTHY HUGHES: No, 15 feet.

CONSTANTINE ALEXANDER: 15 feet in width. That's the major issue.

KAJ VANDKJAER: Oh, it shouldn't be more than 15.

CONSTANTINE ALEXANDER: Okay. If not, I want you to address that.

KAJ VANDKJAER: That's a good point.

THOMAS SCOTT: This is -- they're adding one here, right?

JANET GREEN: Yeah, because there's only one here now.

THOMAS SCOTT: Right. There's two in the front and one in the rear. And they're adding -- they're proposing to add. It matches this one. So it's like --

CONSTANTINE ALEXANDER: Not quite in design, but not in area I don't think. It looks much better than that.

JANET GREEN: I thought it was going to be exactly the same.

TIMOTHY HUGHES: Is it the exact same size as the existing one?

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: My mistake. Here's the existing. You're right.

THOMAS SCOTT: That's the front.

CONSTANTINE ALEXANDER: One more page.

THOMAS SCOTT: Two more pages.

JANET GREEN: So the new one will actually have, you will be able to step right out on to the deck?

KAJ VANDKJAER: Yes.

JANET GREEN: It doesn't have any step down or anything like that?

KAJ VANDKJAER: No. It's just six inches.

CONSTANTINE ALEXANDER: Yeah, it's the same dormer. They're taking that one away and they're just keeping the dormer the same size. Okay. All right?

THOMAS SCOTT: No. This is -- they're adding a dormer here.

CONSTANTINE ALEXANDER: I'm sorry, they're adding a dormer here. You're right.

I got it backwards.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: The dormer here does look like it's more than 15 feet wide.

TIMOTHY HUGHES: It depends on what size the first one was.

THOMAS SCOTT: I don't think so.

TIMOTHY HUGHES: It's not marked.

THOMAS SCOTT: Is that to scale?

TIMOTHY HUGHES: It seems to mirror the dormer, the size, if it was granted once why not?

JANET GREEN: Really, we're not going to make a little one.

TIMOTHY HUGHES: I'd like them to be the same size no matter what size that is.

JANET GREEN: The other three, I mean not just the other one.

TIMOTHY HUGHES: I'd like them to match the two in the back.

KAJ VANDKJAER: They do. I mean, they plan to do.

TIMOTHY HUGHES: Unless of course it's 22 feet, which I doubt very much.

AMINA DERBALI: I don't know.

KAJ VANDKJAER: No, the total is 10 feet.

THOMAS SCOTT: 10 feet?

CONSTANTINE ALEXANDER: So what's your reaction to Mr. Hughes' comment by making the dormer, the new dormer matching the one that's existing? So widening it a little bit.

KAJ VANDKJAER: We're not.

TIMOTHY HUGHES: You're making them both the same size.

CONSTANTINE ALEXANDER: Same size?

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: Yeah, right. Now you have a 12-foot wide dormer. The plans that you're showing show a 10-foot wide dormer. The question is: Why not make the new dormer 12-foot wide like the old dormer?

I think that's your question, right?

TIMOTHY HUGHES: Yes, this would be my question.

KAJ VANDKJAER: Well, we certainly could.

CONSTANTINE ALEXANDER: I'm sorry?

KAJ VANDKJAER: We can.

CONSTANTINE ALEXANDER: I didn't know if there was a reason why you didn't do it.

JANET GREEN: You want it to look the same, right?

AMINA DERBALI: Yes. That was the intent. For some reason the plan is off.

KAJ VANDKJAER: That was the intent. And I -- yeah, that's my fault.

AMINA DERBALI: There's no reason.

ARCH HORST: So it adds the floor area ratio.

CONSTANTINE ALEXANDER: It will. But they're up anyway. So it won't be substantially. You're right. It's a good point, Arch.

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: Okay.

I'm sorry we interrupted your presentation -- or I interrupted, I apologize.

KAJ VANDKJAER: That's all right.

CONSTANTINE ALEXANDER: Go ahead.

KAJ VANDKJAER: We basically, the

owners feel that they want to stay in this house. They've lived there since the mid-eighties and they have two --

AMINA DERBALI: The eighties?

KAJ VANDKJAER: Huh? Eighties.

AMINA DERBALI: We're in our eighties?

JANET GREEN: No. You lived in your house since the mid-eighties.

AMINA DERBALI: I'm not particularly 80. Sorry.

TIMOTHY HUGHES: You look great for 80 by the way.

KAJ VANDKJAER: And then they have two children that go to school, and it's a question of finding a space that's reasonable. In addition, they plan to remain in this two-family house. It's on one side has a rental unit. And by doing what

we're doing, we're adding a small bedroom to that two-bedroom apartment which would, in the future, bring in more rent, make it more attractive.

CONSTANTINE ALEXANDER: Okay.

And have you talked to your neighbors?

AMINA DERBALI: Yeah, we did talk to them. Most of them were interested. They didn't give any opinion.

CONSTANTINE ALEXANDER: More importantly from our point of view nobody objected. Nobody said to you over my dead body.

AMINA DERBALI: One of our neighbors is here.

CONSTANTINE ALEXANDER: Oh, okay.

AMINA DERBALI: I don't know if she objects or not.

UNIDENTIFIED FEMALE: We'll address

that at the appropriate time.

CONSTANTINE ALEXANDER: You'll have an opportunity in one second. I'm glad someone's here.

You can report to us that you experienced no neighborhood opposition. No neighborhood opposition.

KAJ VANDKJAER: Right.

AMINA DERBALI: I don't know what she thinks.

CONSTANTINE ALEXANDER: She'll speak for herself, but other than that.

AMINA DERBALI: Not that we are aware of, no.

KAJ VANDKJAER: Right.

AMINA DERBALI: This is built on the back.

CONSTANTINE ALEXANDER: Yes.

AMINA DERBALI: Laura is the

closest. There's another house on one side, and then it's fairly open in the back. So the -- in the back there's a parking lot and then a building on the other side and then off to the left is the building that owns the parking lot. An apartment building.

CONSTANTINE ALEXANDER:

Interestingly, though, in different cases, at the end of the day your FAR will be -- roughly the FAR of the case we just approved.

KAJ VANDKJAER: Yes. I was paying attention.

THOMAS SCOTT: It's interesting.

CONSTANTINE ALEXANDER: It's substantially more than what's required by our Ordinance. We have, to wit, the prior case, we have allowed this departure in FAR before, assuming all other things are in your

favor.

KAJ VANDKJAER: Right.

CONSTANTINE ALEXANDER: I would just say that for the record. There is precedent for allowing FAR to go up to roughly 9.6 in a 0.75 district. But there's some setback, too. No, I guess there's no setback.

KAJ VANDKJAER: No, no, no setback issues.

CONSTANTINE ALEXANDER: No, you're right.

AMINA DERBALI: Setback issues? No issues, no.

KAJ VANDKJAER: And no height issues with 32 feet either.

CONSTANTINE ALEXANDER: No.

Questions from members of the board?

THOMAS SCOTT: So the space gained

at the third floor level is for one unit?
Like, because it's a duplex.

AMINA DERBALI: Yes, it's a duplex.

THOMAS SCOTT: Split down the
middle. But at the third floor level one of
the units is going to have impact?

KAJ VANDKJAER: Already has.

AMINA DERBALI: Yes.

CONSTANTINE ALEXANDER: Any other
questions?

(No Response.)

CONSTANTINE ALEXANDER: I'll open
it up to public testimony. Ma'am, do you
want to speak? You don't have to.

LAURA DONAHUE: Thank you. My name
is Laura Donahue from 11 Flagg Street. I've
lived next-door to the Derbalis for 17 years.
We've been, I think, good neighbors to each
other. They're very quiet people. They

have had very quiet tenants. That said, I'm very nervous about this addition because it is very substantial and it is very close to my property. I guess what I want to say right now is I don't feel like I've had enough time to really make a decision. I heard about this maybe two weeks ago. I've been away for about two weeks on a business trip. My dad's in the hospital. I'm running down the Cape.

We're about 15 feet from each other. I respectfully request maybe a shadow study because they are to my west. And I feel as though this addition on the back part of the house does impact my property a great deal, in particular the tenant's units. It's a four family. I've lived in it and owned it for 17 years. I just would love more time to really consider what this means to me. I have to be honest about roof decks, I'm very,

I am very, very against roof decks because I have three roof decks within two houses of me and they are screaming MBAs. And again I go back to these are very nice, respectful people. I know they say they want to stay in the house. What if they sell? That roof deck is going to be right next to my bedroom. I call the police constantly for Five Flagg Street, 57 Putnam, 81-83 Putnam after midnight screaming drunk MBAs.

Again, I'm not expecting that from this guys. What if they leave?

And, again, that very big addition, where our houses are very contiguous right now, is my hallway and my bathroom. So the fact that we're very close really doesn't mean very much. The back, suddenly you're on a second floor, and that's where more the residential part of my house is. So, again,

I've just had two weeks to process this during which I've had this much attention span for it.

So I would really appreciate a little more time to consider it myself. I would also like to discuss a construction plan because we are also very construction weary on this street. The large construction project at the Dubua house that continues well passed its plan is really causing a lot of aggravation. The dust has sent me to the hospital with asthma attacks. The construction on the Martin Luther King School rattles my house every morning. I wake up to the house rattling on its foundation. I'm -- I just want to see a plan. Our houses, again, very close. Where are the materials going to be? I really would not want any materials or waste on my line. And, again,

I know they're very respectful people, but contractors are different people. So, anyway, I don't want to talk too long. I would love to see a shadow study on my house and I don't know if there's a way to request a little more time for me to think about what this means.

And thank you very much for allowing me to speak.

CONSTANTINE ALEXANDER: Thank you.

LAURA DONAHUE: Again, we've been very good neighbors and I am only reacting to the suddenness of this rather substantial project.

CONSTANTINE ALEXANDER: Do you have a reaction to that? She's requesting in effect a continuance, to adjourn this case to another specific date so you could have this conversation that she was requesting,

perhaps supply her with the information like a shadow study she's requested. It's up to you. And in any event, to give her more time to study what you're seeking.

AMINA DERBALI: I don't know what --

CONSTANTINE ALEXANDER: I mean it delays the project.

AMINI DERBALI: I never heard of a shadow study. I mean....

CONSTANTINE ALEXANDER: Well, a shadow study will cost money. That's for you to decide. But the basic thing is if we continue the case tonight, we're just pushing back the time for a decision which could delay -- if we approve what you want to do, delay the time for construction to begin. That's the basic consequence to you.

AMINA DERBALI: Yeah. I mean, I understand Laura's concern. We hear the

parties as well. You know, I -- the way the house is built is kind of weird where the construction is gonna be on a narrower part of the house. So where we're the closest as Laura pointed out, is the front part, the front of the house. We're building over what are the kitchens and that's actually set back some. I don't know if I'm using the right terminology.

CONSTANTINE ALEXANDER: No, no, that's fine. I'm going to suggest we do continue this case.

AMINA DERBALI: But that's fine.

KAJ VANDKJAER: That's fine.

CONSTANTINE ALEXANDER: Just as a matter of good relations with your neighbors.

AMINA DERBALI: We weren't rushing to start construction.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: It's amazing to me how very similar this case is to the other case we just heard. You were here. You heard all of the cooperation that occurred.

KAJ VANDKJAER: Yeah, yeah.

THOMAS SCOTT: I think it's just only fair to your neighbor and spend a little bit of time and go through that process with her, do the shadow study.

AMINA DERBALI: I agree with the construction weariness.

CONSTANTINE ALEXANDER: How much time would you like just to study the plans? How much time, how much time do you think you need?

LAURA DONAHUE: Well, I have unfortunately another week's business trip coming up so I would respectfully request a month. I run a business. I work seven days

a week. I apologize, it's just that's where we are.

KAJ VANDKJAER: And you meet once a month?

THOMAS SCOTT: Twice a month.

LAURA DONAHUE: I could go --

CONSTANTINE ALEXANDER: We have to -- only one thing, whatever date we're going to pick and can -- is a month from now, the second one in February available?

SEAN O'GRADY: No, you won't be able to go until April 10th.

CONSTANTINE ALEXANDER: To what?

SEAN O'GRADY: April 10th. And Arch has to be here for that. Are you available April 10th?

ARCH HORST: I think so.

TIMOTHY HUGHES: I'm looking.

CONSTANTINE ALEXANDER: Okay, let

me explain while you're looking. Because we started this case, and we continue the case, the same five members here have to be present. Well, don't have to be, but you want them to be present. And the earliest all five of us it appears can be here is April 10th.

I assume, Ms. Donahue, that's all right with you? Let me confirm that the members, that April 10th is okay with you. Okay?

THOMAS SCOTT: 10th is good.

KAJ VANDKJAER: Okay.

CONSTANTINE ALEXANDER: And you might want to consider between now and April 10th doing that shadow study. You're not legally required to do that. We'll explain that in a second.

LAURA DONAHUE: Could I get a letter with a time?

TIMOTHY HUGHES: No, you won't get

another letter.

THOMAS SCOTT: There's a posting at the house.

CONSTANTINE ALEXANDER: There will be a posting.

LAURA DONAHUE: Just so I know what time.

CONSTANTINE ALEXANDER: It will be seven p.m.

LAURA DONAHUE: Thank you. I don't know how this works.

CONSTANTINE ALEXANDER: No, no. It's all right. It may not be exactly seven p.m., but it will be scheduled at seven p.m.

LAURA DONAHUE: I'll show up on the 10th.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this case be continued as a case heard until seven p.m. on April 10th

subject to the following conditions:

That the Petitioner sign a waiver for a time of decision. That's the piece of paper that we put before you.

AMINA DERBALI: Oh.

CONSTANTINE ALEXANDER: As a matter of law we have to get that waiver if we're going to continue the case. And I would suggest you sign. Otherwise we'll turn you down.

AMINA DERBALI: Signing. Do you need my name?

SEAN O'GRADY: Just sign the bottom.

CONSTANTINE ALEXANDER: On the further condition that the posting sign that you have put up be changed to reflect the new date. You can do it with a magic marker.

AMINA DERBALI: We can do that?

CONSTANTINE ALEXANDER: April 10th.

You can do it yourself. New time, seven p.m. Make sure and the date. And that you maintain that sign for the two weeks before April 10th. You can take it down now if you want, but it's got to be there for the same period of time that you had to do it this time.

AMINA DERBALI: Two weeks before?

CONSTANTINE ALEXANDER: And on the final condition that to the extent as a result of your discussions or otherwise, you want to revise your plans that you submitted. That you must have those revised plans in our files no later than five p.m. on the Monday before April 10th.

KAJ VANDKJAER: Okay.

CONSTANTINE ALEXANDER: Otherwise we won't -- the case will be continued again.

KAJ VANDKJAER: Right, right.

AMINA DERBALI: Okay.

CONSTANTINE ALEXANDER: So and that -- the purpose of that is to allow us to study the new plans --

KAJ VANDKJAER: Sure.

CONSTANTINE ALEXANDER: -- if there are any. And to allow the abutters like the person who appeared tonight to do it as well.

AMINA DERBALI: Okay.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case is continued until April 10th.

(Alexander, Hughes, Scott, Green, Horst.)

CONSTANTINE ALEXANDER: I just want to make sure you understand, when you come before us the next time, whatever plans you

have are going to be the final plans. If we approve the plans and you decide to change them thereafter, you're going to have to come back before us.

KAJ VANDKJAER: Yeah.

CONSTANTINE ALEXANDER: I just want to make sure you understand you got to give us the final plans if you don't want to see us again. Got it?

KAJ VANDKJAER: Right, right. You want to keep these now?

CONSTANTINE ALEXANDER: I only need one. I think we have those.

* * * * *

(9:05 p.m.)

(Sitting Members Case #BZA-003083-2014:
Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003083, 24 Locke Street.

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

ATTORNEY DONNA TURLEY: Good
evening. I'm Donna Turley from Glickman
Turley, the Petitioner here. And with me is
the homeowner Andrea Carlson.

CONSTANTINE ALEXANDER: And you
want two forms of relief tonight, both a
Variance and a Special Permit?

ATTORNEY DONNA TURLEY: That is
correct. We're looking for a Variance from
the dimensional requirements. The
homeowner seeks to construct a wooden canopy

over what is now an existing deck which will eventually be an expanded deck. And the approximate dimensions of that are five by eight. And it's in the back of the house. And it --

CONSTANTINE ALEXANDER: And it doesn't change the FAR issues?

ATTORNEY DONNA TURLEY: Yeah, little bit.

CONSTANTINE ALEXANDER: Very little bit. In round numbers no, no change.

ATTORNEY DONNA TURLEY: Right.

CONSTANTINE ALEXANDER: You're currently at a 0.6 -- they actually do change. You're at 0.68 in a 0.5 district and you're going to 0.69.

ATTORNEY DONNA TURLEY: That's correct.

CONSTANTINE ALEXANDER: So that's

slightly.

ATTORNEY DONNA TURLEY: That's correct.

And then the Special Permit we're seeking is to relocate a window on the side. We have a letter from the abutter that the abutter kindly gave to us to submit.

CONSTANTINE ALEXANDER: Thank you.

ATTORNEY DONNA TURLEY: She has no objection to the relocation of the window. The new window will in fact be smaller.

CONSTANTINE ALEXANDER: So this is the neighbor that is affected by the addition?

ATTORNEY DONNA TURLEY: That's correct. And there's a driveway between the two buildings.

CONSTANTINE ALEXANDER: Okay.

ARCH HORST: Did you have to get any

relief from Somerville?

ATTORNEY DONNA TURLEY: No. The garage is in Somerville, but not for the building. Luckily.

CONSTANTINE ALEXANDER: Questions from members of the board?

TIMOTHY HUGHES: No.

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

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We are in receipt of a letter submitted by the Petitioner from Doris -- well, Doris Thibodeau, T-h-i-b-o-d-e-a-u. It's also signed by two others. Ann M. Corea (phonetic).

ATTORNEY DONNA TURLEY: Those are her daughters. They live with her.

CONSTANTINE ALEXANDER: Oh, her daughters. I will just read the letter. (Reading) I am owner of 26 Locke Street, Cambridge, Mass., the home to the left of Mr. and Mrs. Carlson's home at 24 Locke Street. I understand that the above-referenced case concerns their petition for a Variance to construct a canopy structure over the rear entrance and a Special Permit to relocate the kitchen window on the left side of the house. This letter is to inform you that I have no objection to either request. And that's all she wrote.

Any final comments further comments?

ATTORNEY DONNA TURLEY: No, sir.

CONSTANTINE ALEXANDER: Okay.

I'll close public testimony.

Comments from members of the board or ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

JANET GREEN: Ready for a vote.

THOMAS SCOTT: Ready.

CONSTANTINE ALEXANDER: I'll take the Variance first.

Okay. With regard to the Variance being sought for the canopy, the Chair moves that we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship that the rear area of the property requires a canopy to protect against the elements of the weather.

That the hardship is owing to the shape or the structure and its location on the lot. I believe it is a non-conforming structure.

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

In this regard the Chair would note that the relief being sought is rather modest in nature. That it has no -- there is no neighborhood opposition.

So on the basis of these findings, the Chair moves that the Variance being sought be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner. They're 1, 2, 3, 4, 5, 6 -- 6 pages of plans prepared apparently by MGZ Design and Construction. The first page of which has been initialed by the Chair. I'll initial all six. All six have been initialled by the Chair.

All those in favor of granting the

Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Scott, Green, Horst.)

CONSTANTINE ALEXANDER: Let's move to the Special Permit.

With regard to the Special Permit being sought the Chair moves that this Board make the following findings:

That with regard to the relocation of this kitchen window, no -- the traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be

adversely affected by the nature of what is being proposed. And in this regard we note that the party most -- the neighbor most directly affected by what is proposed has submitted a letter of support for the project.

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

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

Again, as I indicated with regard to the Variance motion, the relief being sought is modest in nature. Has actually no impact on the city in terms of abutting property

owners.

So on the basis of these findings the Chair moves that a Special Permit be granted to the Petitioner on the condition that the work, again, proceed in accordance with the plans, six pages in length, that I identified in connection with the Variance. So these are the location of the new windows not going to change.

All those in favor of granting the Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Scott, Green, Horst.)

* * * * *

(9:15 p.m.)

(Sitting Members Case #BZA-003084-2014:
Constantine Alexander, Timothy Hughes,
Thomas Scott, Janet Green, Arch Horst.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003084, 23-25 Longfellow
Road.

For the record, give your name and
address to the stenographer.

DONGJAE CHO: My name is Dongjae
Cho. My current address is 25 Longfellow
Road. D-o-n-g-j-a-e last name C-h-o.

CONSTANTINE ALEXANDER: Before we
get into the case or the merits of the case,
I've got some questions. I mean, it's
probably just me, but I'm puzzled by a number
of things. You're saying with regard
to -- the work you want to do is to, in general

terms, construct a shed dormer and roof deck on the north side of the building.

DONGJAE CHO: Yes.

CONSTANTINE ALEXANDER: Yet on your dimensional form you show no change in FAR. And then in your supporting statement you make what to me is a puzzling statement, maybe I'm just dumb, it's true, but you say that gross floor area is to be approximately same or less comparing to existing condition due to loss of area in the outdoor roof deck and improvement of access to the attic area from ladder to stair conforming Building Code. I don't know why that impacts -- why that has any bearing with regard to the floor area.

And also further before you address that. And also your plans with regard to the dormer, we want to, you may have heard, comply with the dormer guidelines. I am completely

puzzled because it looks like -- you see how the dormer is marked off here? I can't see any dimensions.

DONGJAE CHO: Dimensions on the plan.

CONSTANTINE ALEXANDER: Maybe. It says new dormer and it just has a big dotted area. And here it looks like this dormer is added to the old dormer, is not going to be in compliance with our dormer guidelines by a long shot. So, I just want to be -- I want to get that out of the way at the outset, because if we've got a problem and you have to go back and do new plans and a new dimensional form, you may.

THOMAS SCOTT: Is this plan in the set?

CONSTANTINE ALEXANDER: Yeah.

JANET GREEN: Which page are you

one?

THOMAS SCOTT: So the dormer is -- I'm sorry, is a combination of this dimension and also this dimension?

DONGJAE CHO: Yes.

THOMAS SCOTT: Whatever this is. But we don't know what that is. There's a dimension missing here.

DONGJAE CHO: The dimension is approximately 20 feet including roof deck area.

THOMAS SCOTT: Yes. So this is about 20 feet?

DONGJAE CHO: Uh-huh.

And it's from here to here is approximately 16 feet.

THOMAS SCOTT: Okay.

You know our dormer guidelines kind of restricts the dormer to 15 feet.

DONGJAE CHO: Okay.

THOMAS SCOTT: And you're kind of well over that.

CONSTANTINE ALEXANDER: Do you understand how our dormer guidelines work?

DONGJAE CHO: Yes.

CONSTANTINE ALEXANDER:
Technically it's not a legal requirement. But we as a Board generally make it a legal requirement because that's what the Community Development Department wants us to do. And you, as Tom has pointed out, the key dormer guideline, at least from our perspective, is the size. And you're talking about a dormer guideline that's 33 percent greater in length than what is permitted or recommended by our dormer guidelines.

DONGJAE CHO: I mean, actual dormer

size will be maybe this much which will be approximately 15 feet and this is only the roof deck area.

CONSTANTINE ALEXANDER: Oh, I see what you're saying.

DONGJAE CHO: I hope you consider this as a dormer. And I have to follow the structure underneath of this floor, that's how I drew these borderlines. So I think that's the part of the dormer guidelines.

TIMOTHY HUGHES: This is set back.

THOMAS SCOTT: I know, but this is a new roof section as well so this is considered a dormer as well.

TIMOTHY HUGHES: It is.

THOMAS SCOTT: It's a dormer from, you know, from here to here. That's a dormer.

TIMOTHY HUGHES: From the center

line out.

THOMAS SCOTT: And then this is a dormer. It's almost like you have two dormers, you know? This is a dormer, too.

DONGJAE CHO: Okay. I mean I can't keep up that area. I just included area to access to the roof deck, but if it's against the guideline, I rather just give up that -- the roof deck area and the addition dormer here. But I'm not sure, like, what's really affecting the -- it's not really changing anything in terms of the numbers.

CONSTANTINE ALEXANDER: Did you talk to Mr. O'Grady or anyone at the Inspectional Services Department before you submitted your application?

DONGJAE CHO: Yes. I mean I didn't talk to him personally but my contractor showed him the entire drawing and I guess it

was reviewed by him at some point.

CONSTANTINE ALEXANDER: You don't think -- you have no recollection of that happening?

SEAN O'GRADY: No, I've never reviewed this file.

TIMOTHY HUGHES: Because it's a low slope, this has already been counted in the FAR. So it is only this. But there should be some change, shouldn't there?

ARCH HORST: Yes, absolutely.

THOMAS SCOTT: This must be the change. This has to add to the FAR.

CONSTANTINE ALEXANDER: It's got to.

TIMOTHY HUGHES: It's a very low pitch in the roof, you know, so maybe it's already all counted. I don't know.

DONGJAE CHO: There is original a

plan. It was already counted as a loft, this much, and like this is maybe the roof line. So this is the corner of the property and --

TIMOTHY HUGHES: It's not that low, though.

THOMAS SCOTT: I'm not -- I don't follow this diagram.

DONGJAE CHO: That's not diagram. That's floor plan that I received from previous owner of the property for the attic area. And then I'm just -- I'm saying these gross area can be smaller than these because I am making full dimension stair going up to this loft. That's one of the reasons the entire changes. But we want to make it more like efficient.

CONSTANTINE ALEXANDER: Our discussion so far, I've deliberately tried to stay away from the merits, just trying to make

sure we understand the plans and the dimensional form.

TIMOTHY HUGHES: Right, yeah.

CONSTANTINE ALEXANDER: And I think -- I don't think we should decide the case tonight.

THOMAS SCOTT: Can I just make a point?

CONSTANTINE ALEXANDER: Yes.

DONGJAE CHO: Yes.

THOMAS SCOTT: Your usable FAR area is not all the way out to this edge. If you can't stand up right here, like if this -- if the slope of the roof goes down to a point where it goes to zero --

DONGJAE CHO: I understand the pitch lower than five feet.

THOMAS SCOTT: -- right, you're at five feet.

DONGJAE CHO: But what I'm saying I'm giving up this much of the area for the roof deck, and also I'm cutting off some of the area for the full dimension stairs. So I'm -- as far as I know, that stair is not counted as gross area.

CONSTANTINE ALEXANDER: That plan doesn't give us -- I know what you're saying, but we don't have any dimensions to allow us identify that.

DONGJAE CHO: Oh, yes.

CONSTANTINE ALEXANDER: I want to suggest again, maybe that we don't hear -- we don't go any further tonight. We continue the case as a case not heard, which means we don't have to get the same five people here. I'm sorry, let me finish. I'll give you an opportunity.

And you take the time to come down with

your contractor to meet with Mr. O'Grady and give prepared plans and dimensional form which I think a little more accuracy or we have more -- I'll have more comfort that they're accurate so that we can make an informed decision.

DONGJAE CHO: Yeah.

CONSTANTINE ALEXANDER: Now, that's me speaking. I don't know if other members of the Board agree. But in the meantime, sir, you wanted to speak so I'll give you an opportunity to speak.

TONY MARTIN: Thank you, Mr. Chairman. My name is Tony Martin. I'm here with my wife. We are the neighbors immediately abutting to the rear of this property. We're at 3 Channing Circle in Cambridge. And in stark contrast to the other cases that we've heard come before you

tonight, we were not approached by anybody with respect to this property.

CONSTANTINE ALEXANDER: Excuse me, I don't want to -- I don't want to get into the merits because then you will a screw things up for us.

TONY MARTIN: And the only reason I'm saying that, sir, is that I think it would benefit these new neighbors because we are a very, very close community. We're very close to each other, to hear us out on our objections. We have very strong objections to what they're proposing. I know you don't want to hear the merits, but I would like them to speak with us.

CONSTANTINE ALEXANDER: Perfect. I was going to make that same suggestion.

Take the time not only to meet with Mr. O'Grady and get better prepared plans but

to show them to folks like these and get their views. You don't have to -- it's advisable to make sure the neighbors are on your side, but you don't have to have them. You make your own decision as to what you want to come before us. And you will have the benefit of seeing more detailed plans and have an opportunity to express your views hopefully to the Petitioner directly and see what comes from that.

DONGJAE CHO: If you see the end of my presentation papers, I had a chance to meet with my neighborhood right next to --

CONSTANTINE ALEXANDER: Right. Don't get into the -- save that.

DONGJAE CHO: And then there was no objection. And I was -- I am the new neighborhood to this community so I didn't know how to approach to everyone. And

Mrs. Flint was the point of contact for me and then she announced to everyone by e-mailing and contacting by phone. So we met last night and I explained my design and intentions to everyone. And I apologize I didn't have chance to talk to you and explain my design.

CONSTANTINE ALEXANDER: Well, you'll have an opportunity now.

DONGJAE CHO: Yes, yes, I will. Yes.

CONSTANTINE ALEXANDER: We're not going to hear the case tonight.

When can we hear the case again, Sean? What's the earliest date?

SEAN O'GRADY: 3/13.

CONSTANTINE ALEXANDER: March 13th.

JANET GREEN: It's not heard.

CONSTANTINE ALEXANDER: It's not

heard. So March 13th. And between now and March 13th -- by the way, is that a date that works for you?

MRS. MARTIN: I'm going to check that.

THOMAS SCOTT: Do I have to be here? I'm out of town.

CONSTANTINE ALEXANDER: It's a case not heard. I structured it so you don't have to do that.

TONY MARTIN: Yeah, thank you.

CONSTANTINE ALEXANDER: Okay. The Chair -- you understand what we want to do now before I make my motion?

DONGJAE CHO: Yes.

CONSTANTINE ALEXANDER: Sit down with your contractor and Mr. O'Grady, get better plans, better dimensional form. And also at the same time or with your better

plans, speak to these -- all of your neighbors, but particularly these folks who seem to have a problem with what you're proposing to do and we'll see you on the 13th of March.

TIMOTHY HUGHES: And the other thing is that if you are going to deviate from the former guidelines, you have to have some really good reasons. Okay?

CONSTANTINE ALEXANDER: Yes.

JANET GREEN: And there's a paper that describes those.

CONSTANTINE ALEXANDER: The former guidelines, yes, I have a copy. You can get a copy from Mr. O'Grady. It's written down so you'll know exactly what they are. As I said before, I'll repeat, we don't -- and you've heard us say before, we don't rigidly want you to comply with the former

guidelines, but we strongly urge you to do that.

DONGJAE CHO: Yes.

CONSTANTINE ALEXANDER: And to the extent that we allow people to depart from them, it's usually minor departures and not substantial departures. Possibly what you're looking here, what you're proposing now is a substantial departure which doesn't speak well for you getting relief. Okay?

DONGJAE CHO: Okay.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on March 13th on the condition that the Petitioner sign a waiver for a time for decision. That's the an piece of paper you've been given.

On the further condition that the sign that you have maintained, you have to modify

the sign to reflect a new date, March 13th. You can do it by magic marker. A new time, seven p.m. Make sure you change the time as well as the date.

DONGJAE CHO: Okay.

CONSTANTINE ALEXANDER: You keep that sign up for the two weeks before the March 13th date, otherwise we won't hear the case again.

And finally on the final conditions to the extent that you have to submit, and I think you will, new or modified plans or dimensional form. They must be in our files no later than five p.m. on the Monday before March 13th. Okay? That's to allow us time to review them in advance of the hearing on March 13th.

And it will allow you to the extent you don't have the cooperation you like, to come

down to the Zoning office and look at the plans. They're open to the public. So you would be prepared for the hearing. Okay?

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case will be continued.

(Alexander, Hughes, Scott, Green, Horst.)

DONGJAE CHO: Thank you.

CONSTANTINE ALEXANDER: I don't mean to difficult. But you have to understand that we have a process we need to follow.

DONGJAE CHO: Yes, yes.

CONSTANTINE ALEXANDER: And I think if you do what we suggested, you'll be okay in terms of the process anyway.

TIMOTHY HUGHES: Yes, process.

(Whereupon, at 9:30 p.m., the

Board of Zoning Appeal

Adjourned.)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of February, 2014.

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