

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 13, 2020

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Janet Green

Andrea A. Hickey

Jim Monteverde

Slater W. Anderson

Sisia Daglian, Assistant Building Commissioner

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3 (7:00 p.m.)

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

7 CONSTANTINE ALEXANDER: The Chair will call this
8 meeting of the Board of Zoning Appeals to order. And, as is
9 our custom, we will start with continued cases. There are
10 two tonight. These are cases that started at an earlier
11 date, but for one reason or another needed to be continued.
12 And then we'll go to our regular agenda.

13 Before I start, I'm going to read a statement.

14 After notifying the Chair, any person may make a
15 video or audio recording of our open sessions, or may
16 transmit the meeting through any media, subject to
17 reasonable requirements that the Chair may impose as to the
18 number, placement and operation of equipment used, so as not
19 to interfere with the conduct of the meeting.

20 At the beginning of the meeting, the Chair will
21 inform other attendees at that meeting that a recording is
22 being made.

1 And I wish to advise that not only one but at two
2 recordings are being made, one by our stenographer to assist
3 her when she prepares the transcript of the meeting, and by
4 second is by a citizen of the city, who's left his tape
5 recorder on the front desk. Do you folks tape record, or?

6 All right, with that I'm going to call the first
7 continued case, Case Number 017221 -- 169 Spring Street.
8 Give your name and address to the stenographer, please?

9 THE REPORTER: Can you spell your name, please?

10 JIM BOWLEY: Jim Bowley, B-o-w-l-e-y, 169 Spring
11 Street.

12 DANA SAJDI: Dana Sajdi, S-a-j-d-i, 169 State
13 Street.

14 BILL BOEHM: Bill Boehm, Architect, 560 Windsor
15 Street, Somerville.

16 THE REPORTER: What's your last name?

17 BILL BOEHM: Boehm, B-o-e-h-m.

18 JIM BOWLEY: We're embarking on ambitiously
19 looking at -- we love where we are, so we're looking at
20 renovating our house on Spring Street.

21 Been to the Historical Commission last week - a
22 week ago to the day. Made it through a great collaboration

1 with them, and are here tonight to take a look at their
2 revised drawings with feedback from the Historical
3 Commission that we had approved through that process, and
4 now things that we've continued from our last visit here.

5 And Bill, do you want to take it from there, and
6 talk about what we've done since the last time we were here?

7 BILL BOEHM: Thank you. I don't believe this
8 group actually reviewed the plans last time we were here.
9 And there were some changes made to the plans we already
10 submitted. I don't know if you've received those changes or
11 not?

12 CONSTANTINE ALEXANDER: Yes, we have.

13 BILL BOEHM: Okay. They involve relocation of
14 some windows and raising the roof a bit, both --

15 CONSTANTINE ALEXANDER: You're seeking tonight two
16 forms of relief. For the windows, those are going to be in
17 the setback, so that's a special permit. But the raising of
18 the roof and the other work is a variance.

19 So I'll just start by talking about the variance -
20 - what you want to do and why you meet the requirements,
21 yeah, the requirements.

22 BILL BOEHM: Okay. So if the variance is about

1 the setbacks and the windows, this house --

2 [simultaneous speech]

3 BILL BOEHM: -- oh, I'm sorry, so raising of the
4 roof and --

5 CONSTANTINE ALEXANDER: Well, usually it's GFA.

6 BILL BOEHM: Okay.

7 CONSTANTINE ALEXANDER: You're nonconforming now
8 --

9 BILL BOEHM: Right.

10 CONSTANTINE ALEXANDER: And you're going to go
11 even more nonconforming, similarly, with floor area ratio.
12 Yes, you're raising the roof, but you're not seeking zoning
13 relief for that, because you're still within the city
14 requirement.

15 BILL BOEHM: So floor area ratio -- this is a
16 small house on a small lot. We are looking to enlarge it
17 slightly, because the stairway that's existing in the house
18 is steep and dangerous.

19 So we found that by moving the stairway into the
20 side porch -- what is now a side porch area and expanding
21 that only slightly, we could get a safe stairway and a
22 reasonable amount of living area in the main volume.

1 We raised the roof for two reasons. We had to
2 raise it partly because -- and this adds to the GFA, that's
3 why we're talking about the roof now -- because right now
4 the roof is extremely low, and Jim is not extremely low, so
5 he needs a taller roof.

6 And then the Historical Commission actually asked
7 us to raise it higher in order to create a distinction
8 between the side volume and the roof. So we raised it
9 another foot, based on that request. So I think that's what
10 contributes to the increase in floor area ratio.

11 CONSTANTINE ALEXANDER: It is relatively
12 significant from a zoning point of view, because you're
13 going to go from 0.93 to 1.0 in a district that has 0.75.
14 You're going to be a third over the zoning requirements.

15 So talk a little bit more about the reasons for --
16 the standards for the variance. There's got to be a
17 substantial hardship. And that hardship is not to these
18 folks, but that runs with the property.

19 And that the hardship is owing to the shape of the
20 topography -- I forget all the rest of it. You've got to
21 speak to those issues?

22 BILL BOEHM: Well, I already mentioned the first

1 hardship was about the house being old, needed renovations -
2 - the stair, the low head room. I'll also say that the
3 small lot size and -- the extremely small lot size does not
4 allow for even a minor addition as-of-right, because it's
5 already kind of maxed out.

6 Desirable relief may be granted with no impact to
7 neighbor's space or privacy. They are -- my clients have
8 reached out to all their neighbors. There is no concern
9 there, and we see no detriment to the public good in doing
10 this addition to make this house -- to bring this house up
11 to date, make it livable, make it comfortable and good for
12 the next 50 years.

13 CONSTANTINE ALEXANDER: You say you've reached out
14 to your neighbors; we don't have any letters in our files
15 for a long time, but the -- they were heard no objection.

16 BILL BOEHM: All right.

17 DANA SAJDI: So one neighbor just asked that we
18 make sure that the gutters don't --

19 CONSTANTINE ALEXANDER: I can understand that.

20 DANA SAJDI: -- their yard. So that's only ones.

21 AUDIENCE: The neighbor on the right?

22 DANA SAJDI: It's the neighbor on the --

1 JIM BOWLEY: Yeah. If you're in front of the
2 house, it's the neighbor to the left, actually.

3 DANA SAJDI: The left.

4 JIM BOWLEY: The green house, with the multiple
5 units.

6 DANA SAJDI: So -- and they sent me -- I have the
7 e-mail -- you know, "Good luck, just make sure that we don't
8 get water in our yard."

9 CONSTANTINE ALEXANDER: Okay. Any questions from
10 members of the Board at this point?

11 JIM MONTEVERDE: I have this one. So it just --
12 help me to understand from reading the plans. But as I'm
13 reviewing your GFA, that you're increasing -- really from
14 taking stair from inside the unit, or inside the profile of
15 the house itself and putting it over where the porch was?

16 BILL BOEHM: Correct. The porch is currently
17 considered gross floor area, but we're raising that porch up
18 to a second level.

19 JIM MONTEVERDE: Correct.

20 JIM BOWLEY: Because right now it's one story, and
21 we're raising it to a second level to allow that stair to go
22 all the way up to the second. That's the main increase in

1 gross floor area.

2 JIM MONTEVERDE: Right. And is that porch in a --
3 is that a nonconforming? Are you too close to the property
4 line and their porch?

5 BILL BOEHM: Yes.

6 JIM BOWLEY: It was and it will be?

7 BILL BOEHM: Yes.

8 JIM MONTEVERDE: You're just increasing that in
9 height?

10 BILL BOEHM: Well, yes. We're just increasing it
11 in height, and we're actually stretching it in the length
12 very slightly, but that extension in the length is an
13 exacerbation of the side yard setback. It doesn't encroach
14 into the front or rear yard setbacks.

15 JIM MONTEVERDE: Right, I assumed it was the side.
16 Okay. And so, there was no -- in terms of hardship and
17 difficulty with the existing structure, et cetera. Was
18 there no way in your opinion to put the stair within the
19 simple profile of the box and make that work?

20 BILL BOEHM: Not and giving my clients the living
21 area they desire in this very small house.

22 JIM MONTEVERDE: You'll be at 1373, right?

1 CONSTANTINE ALEXANDER: Yes, it's a small -- very
2 small house, obviously.

3 JIM MONTEVERDE: The existing is 1278?

4 BILL BOEHM: Yeah.

5 CONSTANTINE ALEXANDER: Anybody else have a
6 question? No? I'll open the matter up to public testimony.
7 Is there anyone here wishing to be heard on this matter?

8 HEATHER HOFFMAN: Heather.

9 CONSTANTINE ALEXANDER: Heather.

10 HEATHER HOFFMAN: Hi, Heather Hoffman, 213 Hurley
11 Street in, former resident of --

12 THE REPORTER: I'm sorry --

13 [Technical difficulties conversation.]

14 HEATHER HOFFMAN: Heather Hoffman, 213 Hurley
15 Street and former resident of 169 Spring Street.

16 CONSTANTINE ALEXANDER: Oh, really?

17 HEATHER HOFFMAN: Yeah. And so, I'm going to tell
18 you what I told the Historical Commission. As we can all
19 see, I am a short person, and I can tell you that in the
20 addition, back where -- at least when I lived there, but
21 they're totally reconfiguring the inside, that was the
22 kitchen downstairs, and a bedroom upstairs.

1 So in the kitchen, I could touch the ceiling by
2 lifting my heels off the ground a little tiny bit. And I
3 didn't even have to do that, nor did I have to stretch to
4 touch the ceiling in the bedroom above.

5 At that time, we had a kindergartener, who thought
6 that that ceiling height was fabulous. I remember
7 explaining that there were people in the NBA who would not
8 be able to stand up in our house.

9 So I thoroughly support making the ceiling heights
10 higher. Because modern people mostly don't come my size.
11 My husband was tremendously claustrophobic, and he's, like,
12 5'8" 5'9."

13 And the -- I don't remember having problems with
14 the stairs, but then again, I came from a house that also
15 had interesting stairs, and I was the tallest person that
16 could walk up them without bending over. Because when I
17 stood on the stair that was closest to the ceiling, my head
18 touched.

19 So I think that what they're proposing is very
20 reasonable, and as long as the neighbors are not feeling
21 upset, I don't think that they're asking for anything that
22 is outlandish or unfair. It is a small house, but it has

1 tremendous karma.

2 When I walked in to look at it, when we were
3 looking for somewhere to live while our house was being
4 rebuilt, I knew that that was the place immediately.

5 And so, I am really happy to see people keeping
6 it, and making it so that people will continue to be able to
7 live there. Thank you.

8 CONSTANTINE ALEXANDER: Thank you for taking the
9 time. You usually do. Anyone else wishes to be heard?
10 Apparently not. Any closing comments, or anything more you
11 want to add? Okay. I'm going to close public testimony,
12 and discussion, or are we ready for a vote?

13 SLATER ANDERSON: Are we doing just the variance,
14 or do we want to -- did we cover the special permit already?

15 CONSTANTINE ALEXANDER: No, we'll do that next.
16 We'll get both in the variance, and we'll talk to special
17 permit case. Okay. The Chair moves that we make the
18 following findings with regard to the variance being sought:

19 That a literal enforcement of the provisions of
20 the ordinance would involve a substantial hardship, such
21 hardship is runs with structure and not just peculiar to the
22 petitioners before us, and the hardship is that this is a

1 very old house, with low ceiling, as Ms. Hoffman has pointed
2 out, and in need of upgrading and expansion to some extent
3 to make it a more livable place -- structure.

4 That the hardship is owing to the shape of the
5 lot. It's very small, and that's it.

6 And lastly, that relief may be granted without
7 substantial detriment to the public good, or nullifying or
8 substantially derogating from the intent or purpose of the
9 ordinance.

10 In this regard, what will be done will be allow a
11 structure that would otherwise fall into disrepair to be
12 continued to be used by these folks and any successors, as a
13 residence in a very vibrant and thriving area of East
14 Cambridge.

15 So on the basis of all of these findings, the
16 Chair moves that we grant the variance requested on the
17 condition that the work proceeds in accordance with plans
18 prepared by Boehm Architecture, dated February 7, 2020, and
19 the first page of which has been initialed by the Chair.

20 Before I take the vote, sir I'll make sure you
21 understand, should there be changes in the plans as you go
22 forward, you're going to have to come back. So you're happy

1 these are the final plans?

2 BILL BOEHM: Yes.

3 CONSTANTINE ALEXANDER: All those in favor of
4 granting the variance on this basis, please say, "Aye."

5 THE BOARD: Aye.

6 [All vote YES]

7 CONSTANTINE ALEXANDER: Five in favor, variance
8 granted.

9 BILL BOEHM: Thank you.

10 CONSTANTINE ALEXANDER: Now, let's go to the
11 special permit. And that relates to the fact that you want
12 to relocate some windows and doors in setbacks. Are you
13 sure -- well, I couldn't find out where those windows are in
14 these plans.

15 BILL BOEHM: Okay. The windows that were
16 relocated?

17 CONSTANTINE ALEXANDER: Yeah, the ones in the
18 setback, right.

19 BILL BOEHM: Oh. So on the front of north
20 elevation, it might be easier just to follow the elevation
21 sheet. Could you tell me what date those plans are, just to
22 make sure we're on the same page here? What's the date?

1 CONSTANTINE ALEXANDER: They're all February 7,
2 2020.

3 BILL BOEHM: Good. Okay. So on sheet 8, 2.0, the
4 north elevation. This elevation is in a setback. It's
5 right on the property line.

6 CONSTANTINE ALEXANDER: Yep.

7 BILL BOEHM: And we are enlarging the four
8 windows, existing windows, and we're adding one more.

9 CONSTANTINE ALEXANDER: And they all face the
10 street?

11 BILL BOEHM: Yes. Those all face the street. On
12 this west elevation, we are locating new windows at the
13 edges, because that's where the house gets light and sun.
14 And we're putting a couple in this new stairwell.

15 CONSTANTINE ALEXANDER: Any impact that you could
16 see on the privacy of your abutters?

17 BILL BOEHM: No, I think we've been pretty
18 attentive to that, because the abutter is right here, but,
19 as you know, can see, we're putting these windows here, and
20 then there are no windows directly across from those
21 windows. The owners have reached out.

22 CONSTANTINE ALEXANDER: Because that owner is not

1 -- well, she has not expressed any opposition? Nothing's in
2 our file. Questions from members of the Board? Are you all
3 set?

4 Again, I'll open the matter up to public
5 testimony. Anyone wishing to be heard on this matter? Okay.
6 I'll close public testimony. Ready for a vote? We're going
7 to make different plans this time. The Chair moves that we
8 make the following findings with regard to the special
9 permit being sought.

10 That the requirements of the ordinance cannot be
11 met unless we grant you the special permit.

12 That traffic generated or patterns in access or
13 egress resulting from the relocations will not cause
14 congestion, hazard, or substantial change in established
15 neighborhood character. The first two items are self-
16 evident, given the location of the windows, and there's no
17 substantial change, if any change, and established
18 neighborhood character.

19 That the continued operation of or development of
20 adjacent uses, as permitted in the ordinance, will not be
21 adversely affected by what is being proposed. In this
22 regard, I would note that the persons who might be affected

1 have not -- are not opposed to what is being proposed, or at
2 least if they are, they are keeping it to themselves.

3 And that no nuisance or hazard will be created to
4 the detriment of the health, safety and/or welfare of the
5 occupant -- that's you folks -- or the citizens of the city.

6 And generally, what you're proposing with regard
7 to the relocation of the windows will not derogate from the
8 intent and purpose of this ordinance.

9 So on the basis of all of these findings, the
10 Chair moves that we grant the special permit requested,
11 again on the condition that the work proceed in accordance
12 with plans that I previously identified with regard to the
13 variance.

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

15 THE BOARD: Aye.

16 [All vote YES]

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

19 COLLECTIVE: Thank you.

20

21

22

1 * * * * *

2 (7:18 p.m.)

3 Sitting Members: Constantine Alexander, Janet Green, Andrea
4 A. Hickey, Jim Monteverde, and Slater W.
5 Anderson

6 CONSTANTINE ALEXANDER: It's you folks again, huh?
7 The Chair will now call Case Number 017235 -- 315 Columbia
8 Street. Anyone here wish to be heard on this matter?

9 LINDSEY LOCKS: The name is LINDSEY LOCKS, L-o-c-
10 k-s on 315 Columbia Street.

11 JAMES STEINHILBER: James Steinhilber, S-t-e-i-n-
12 h-i-l-b-e-r, also at 315 Columbia Ave.

13 CONSTANTINE ALEXANDER: Let me do this, so we all
14 understand, we're all on the same page. Let me describe the
15 history of this case, and why you're here tonight, so we
16 have a clear record.

17 You first came before us seeking two variances,
18 one to modify your structure, or your residence on 315
19 Columbia, and the other -- a second variance to put a
20 parking in the front yard.

21 We granted the variance will regard to the
22 structure. But as we do with all variances -- you probably

1 just heard in the case before it was conditioned on the work
2 proceed in accordance with the plans, which you then submit.
3 And we denied the variance for the front yard parking.

4 But you've now I guess decided that you really
5 want the on-site parking, so you're modifying the structure
6 of the house.

7 And stop me if I'm getting it wrong. You're
8 modifying the structure of the house, and not following the
9 plans that were submitted for the earlier variance, which
10 means you've got to come back and get a new variance.

11 And then with regard to the parking, we will be
12 not in the front yard, but you will be in the side yard. And
13 that raises some issues that require a special permit.

14 Under our statute, if you get denied relief, and
15 of course you were originally denied relief with regard to
16 parking in the front yard, that's being -- and you have to
17 wait two years before you come back, that's called a
18 repetitive petition.

19 And the only way we can consider the repetitive
20 petition is that this Board make a finding that what you
21 want to do now involves specific and material changes in the
22 conditions upon which the previous unfavorable action is

1 based, and that the Planning Board has got to support that.
2 And if they do, then we have a hearing, and we proceed with
3 the special permit. So that's why we're here.

4 So --

5 JANET GREEN: And the planning Board has --

6 CONSTANTINE ALEXANDER: I'll get to that next.
7 You'll be happy to know that on February 12, this Board
8 received a memo from the Planning Board what says, "At its
9 meeting on February 11, 2020, the Planning Board reviewed
10 the modified Board of Zoning Appeal application, dated
11 12/18/19 since the one year, and voted unanimously to
12 consent to the BZA's finding that there are specific and
13 material changes in the conditions upon which the previous
14 unfavorable action was based, as set forth in Section 10-51b
15 of the zoning ordinance."

16 And we did it the last time you were here, made
17 the finding that there were specific and material changes.

18 So, with all this, now ready for a decision, on
19 both. Let's talk about the variance. The variance you're
20 not making any changes. You're not asking additional
21 relief. You're making changes, obviously. But they're
22 definitely requiring a new variance, or other variances.

1 So whatever findings to me, whatever findings we
2 made before with regard to granting you the variance for the
3 structure should equally apply here, that's my opinion. And
4 that's sort of the Board's view. But let's take action on
5 that.

6 ANDREA HICKEY: I think just for the record, a
7 brief description of how the new plan differs from the prior
8 plan with the notching out again, just to get that into the
9 record.

10 LINDSEY LOCKS: Sure. Also, just clarify,
11 historically -- I'm not sure how much this matters legally -
12 - but the first variance that we submitted and got approved,
13 it was a mistake of our architect to not include the parking
14 spaces, because we thought that the preexisting parking spot
15 that has been there since the '60s and has been documented
16 as having historical use, he assumed that he didn't need to
17 include that parking spot.

18 So it's part of our argument that this property
19 has had parking for over half a century, but the issue is
20 that the spot was not conforming with the front yard, and
21 had been too small.

22 So it is our position that the full new plan is

1 actually much better than the status quo, being without the
2 variance -- is that currently this property has parking in
3 the front yard, and it is smaller and nonconforming.

4 The new plan, as we redo the building, will allow
5 the parking spot to move to the side yard, as opposed to the
6 variance currently.

7 In the front yards, we've addressed that issue,
8 and we have the new notch, which is basically moving the
9 foundation and the front left in the house over about a foot
10 and half enables the side yard to be a conforming size for a
11 parking spot.

12 So it becomes -- it's 8.5 feet on the side, so
13 that we can fully pull to the side of the property, without
14 having to park in the front.

15 CONSTANTINE ALEXANDER: And the structure now,
16 with this change in proposal, will be actually smaller, in
17 terms of --

18 LINDSEY LOCKS: Yes, yes.

19 CONSTANTINE ALEXANDER: And that's to their
20 satisfaction? Or, maybe not satisfaction --

21 LINDSEY LOCKS: It's worth it for the parking.

22 CONSTANTINE ALEXANDER: Good luck with it. Okay.

1 ANDREA HICKEY: So in the new location of the
2 parking on the side, how far is the side of the space from
3 the side of the house?

4 JAMES STEINHILBER: Just to clarify, there's the
5 house terminates, and then there's the 8.5 feet and they
6 split the property line. So that's the size, 8.5 by 20
7 feet.

8 JIM MONTEVERDE: So I take it there's no buffer
9 between the house and the parking space and the lot line?

10 ANDREA HICKEY: That's really my question, yeah.

11 JAMES STEINHILBER: Yes, that is why we need a
12 special permit.

13 ANDREA HICKEY: So the size of the space, then,
14 conforms, but the location because it's close to the
15 structure, does not conform, do I understand that correctly?

16 JAMES STEINHILBER: I believe the ISD has told us
17 the only way that that does not conform is the setback, the
18 five-foot setback.

19 ANDREA HICKEY: We're on the same page.

20 CONSTANTINE ALEXANDER: Anybody else have
21 questions? Slater? We'll open the matter up to public
22 testimony. Is there anyone here wishing to be heard on this

1 matter? No one wishes to be heard?

2 We do have a letter from one of your neighbors.

3 JAMES STEINHILBER: I guess while you're looking
4 for it, we'll also say, as I think you said last time, we've
5 tried to stay in contact with the owner of the property, the
6 other side of the setback. He again -- we showed him the
7 new plans, and he again said he had no objections.

8 We thought -- I'm -- maybe I'm misquoting him, but
9 something all the lines that it would be good for the
10 neighborhood, and he's in support of it. We hope to get a
11 letter from him, but --

12 CONSTANTINE ALEXANDER: We do have, we only have
13 one letter, and it's from Abdul Ahad, who lives at 310
14 Columbia Street. It says, "I live across the street, and am
15 neighbors with James and Lindsay. I would like to confirm
16 my support for their proposed house and parking spaces.
17 This will be an improvement to the neighborhood." That's it.

18 LINDSEY LOCKS: And just to clarify, the reason
19 that we got that one letter is he's one of the few people in
20 our immediate area that is an owner-occupant.

21 So the immediate abutter is a landlord, and he's
22 the one we spoke to. And we also spoke with the tenants,

1 and nobody had any issues.

2 JAMES STEINHILBER: And that is documented in the

3 --

4 CONSTANTINE ALEXANDER: Yes.

5 JAMES STEINHILBER: -- previous applications.

6 ANDREA HICKEY: When Jim is done, I'd like to see
7 the plan that shows the relocation of the parking. I can't
8 seem to get it on my screen.

9 CONSTANTINE ALEXANDER: But you're familiar with
10 it?

11 JIM MONTEVERDE: Yeah. So can I ask a quick
12 question?

13 CONSTANTINE ALEXANDER: Of course.

14 JIM MONTEVERDE: So, if -- I don't know if you
15 have plans in front of you, but as we're looking at these,
16 so where your parking space is, I mean one of the issues
17 with the 10-foot dimension away from the structure has to do
18 with -- it does also not allow you not to have any windows
19 in that. So does that --

20 LINDSEY LOCKS: We don't have any windows.

21 JIM MONTEVERDE: -- that parking space in?

22 LINDSEY LOCKS: We don't have any windows adjacent

1 to the parking spot.

2 CONSTANTINE ALEXANDER: It's my --

3 LINDSEY LOCKS: Yes, in the old plan, there is a
4 window there. We moved that window. It's now in the front
5 façade.

6 JIM MONTEVERDE: Yeah.

7 LINDSEY LOCKS: -- around the corner.

8 JIM MONTEVERDE: There are no windows.

9 LINDSEY LOCKS: There is nothing along this, it's
10 a blank wall.

11 JAMES STEINHILBER: Yes. We spoke with ISD, we
12 moved it -- we moved the window for that reason, because
13 otherwise we would need to seek a special permit for that as
14 well.

15 JIM MONTEVERDE: Okay.

16 CONSTANTINE ALEXANDER: Give you more time to read
17 the other plans?

18 ANDREA HICKEY: Yeah, just note --

19 CONSTANTINE ALEXANDER: Take your time.

20 SLATER ANDERSON: If you look at the last page,
21 the last page has a graphic that sort of gives you a sense -

22 -

1 JAMES STEINHILBER: I believe also Site Plan A1.01
2 shows the parking kind of squared off.

3 CONSTANTINE ALEXANDER: That's part of those plans
4 we have right there?

5 JAMES STEINHILBER: Yes.

6 CONSTANTINE ALEXANDER: I'll open the matter up to
7 public -- we have two votes to take. I'm going to --
8 disjointedly, I'm afraid, but I'll open the matter up to
9 public testimony. Anyone here wishing to be heard on this
10 matter? No one does?

11 So I'll close public testimony, and let's start
12 with the variance, which is basically to approve the
13 modification of the structure in accordance with the new
14 plans, which we have right here.

15 Seems to me, we can -- I'm in favor -- we can
16 incorporate the findings in support the last variance. The
17 same thing applies, because there's been no change, just
18 simply just new plans, and generally we don't pass on the
19 aesthetics of the plan, we pass on the impact on the
20 abutting structures.

21 So the Chair moves that we make the same findings
22 that we made in the earlier case, with regard to the

1 variance, and grant the variance on the condition that the
2 work proceed in accordance this time with the plans prepared
3 by I-Kanda Architects dated 11 -- no, no, 12/16 --

4 JIM MONTEVERDE: 12/16/19.

5 CONSTANTINE ALEXANDER: It can't be then.

6 CONSTANTINE ALEXANDER: That's what it says?

7 LINDSEY LOCKS: Yeah, that's right.

8 JIM MONTEVERDE: 12/16/19.

9 CONSTANTINE ALEXANDER: All right.

10 LINDSAY LOCK: I think our last hearing was, like,
11 12/13.

12 CONSTANTINE ALEXANDER: All right.

13 LINDSEY LOCKS: Something like that, yeah.

14 CONSTANTINE ALEXANDER: All those in favor of
15 granting the variance on this basis, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor, the
19 variance has been granted. Let's go to the special permit.

20 The Chair moves that we make the following
21 findings with regard to the special permit you are seeking
22 with regard to the parking setbacks relative to the

1 structure of the lot:

2 That the requirements of the ordinance cannot be
3 met unless we grant the special permit being sought.

4 That traffic generated or patterns in access or
5 egress resulting from the special permit will not cause
6 congestion, hazard, or substantial change in established
7 neighborhood character.

8 And I think in this case the facts speak for
9 themselves. Clearly moving the -- having parking lane so
10 close to the house does not have any impact on its
11 established neighborhood character.

12 The continued operation or development of adjacent
13 uses as permitted in the ordinance will not be adversely
14 affected by what is being proposed.

15 And again, the adverse effect is to you folks,
16 because it's going to go to -- the lot parking is going to
17 be too close, or closer to our ordinance, to your own
18 structure.

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

22 And in this regard, the fact that there are no windows on

1 the side, where your parking will be, avoids any problems or
2 maybe detrimental health effects and exhaust fumes, and the
3 like -- something we are concerned about, and we have
4 windows that open. People can breathe in the wonderful air
5 of motor vehicles.

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

10 So on the basis of all of these findings, the
11 Chair moves that we grant the special permit for parking,
12 again, subject to the condition that the work proceed in
13 accordance with the plans being approved with regard to the
14 variance we just granted. All those in favor, please say,
15 "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor, it's
19 finally done.

20 LINDSEY LOCKS: All right, thank you.

21 JAMES STEINHILBER: Thank you very much. Didn't
22 that feel like two years?

1 LINDSEY LOCKS: Yeah, three months.

2 CONSTANTINE ALEXANDER: 7:30.

3 JIM MONTEVERDE: Right on time.

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2 (7:30 p.m.)

3 Sitting Members: Constantine Alexander, Janet Green, Andrea
4 A. Hickey, Jim Monteverde, and Slater W.
5 Anderson

6 CONSTANTINE ALEXANDER: The Chair now will call
7 Case Number 017224 -- 62 Reed Street. Anyone here wishing
8 to be heard on this matter? Mr. Rafferty.

9 JAMES RAFFERTY: Good evening Mr. Chair, members
10 of the Board. Chair, why don't you sit down. For the
11 record my name is James Rafferty, R-a-f-f-e-r-t-y. I'm an
12 attorney with offices located at 907 Massachusetts Avenue,
13 appearing this evening on behalf of the petitioner, Dr.
14 Joseph Glenmullen, seated to my right -- G-l-e-n-m-u-l-l-e-
15 n. This --

16 CONSTANTINE ALEXANDER: I'm --

17 JAMES RAFFERTY: Thank you. This is an
18 application to allow for some dimensional relief associated
19 with the renovation of an existing three-family house at 62
20 Reed Street.

21 The proposal involves relocating the current
22 house, which has a 0 setback, as noted on the existing site

1 plan, which is in the files -- probably the most significant
2 issue at present in the case.

3 So the approach that Dr. Glenmullen's taking is to
4 convert a three -- his existing three-family into a two-
5 family dwelling by relocating it, creating a setback of
6 three feet, less than the required setback, but certainly an
7 improvement up the existing condition.

8 And then there is the rear of the property, where
9 they're proposing some additions. And if the Board --

10 CONSTANTINE ALEXANDER: Do the additions in the
11 rear require zoning relief?

12 JAMES RAFFERTY: Yes. That's the additional GFA.
13 So if the Board members are able to look at Image 4 in the
14 package we sent out, you'll see the current condition of the
15 rear --

16 CONSTANTINE ALEXANDER: This one, or --

17 JAMES RAFFERTY: No, in the --

18 CONSTANTINE ALEXANDER: No.

19 JAMES RAFFERTY: -- no, in the staple package that
20 was just handed out.

21 CONSTANTINE ALEXANDER: Okay.

22 JAMES RAFFERTY: So that's Image 4, which is a

1 view Board members might not have been able to see if they
2 went by the house. So it shows the rear elevation in all
3 its glory at the moment.

4 And what's proposed here -- and you'll see it in
5 the site plan -- is to enclose the areas here, where you see
6 exterior stairways in the photo, and that forms the GFA.

7 So the rear setback is essentially unchanged. The
8 plan is to take off what's there now and put this back. The
9 property -- we were before the Historical Commission last
10 week, because under the terms of the city's Demolition Delay
11 Ordinance, even relocating structures -- perhaps Board
12 members know -- is considered demolition. So we had to seek
13 approval under the city's Demolition Delay Ordinance.

14 The Historic Commission approved the request of
15 the demolition to allow for the relocation. And I know that
16 an e-mail was sent to Ms. Pacheco today just to verify that
17 that actively took place.

18 So I think for the relief we're seeking, it's
19 associated with dimensional relief involving additional GFA.
20 The increase in GFA amounts to about 170 square feet for
21 each of the units in the two buildings. And if you've had
22 an opportunity to review the floor plan, really the exercise

1 here is to try to create 2 three-bedroom units. Could you
2 just show the picture, Nancy, of the street?

3 Dr. Glenmullen has had some experience on the
4 street. He developed the property immediately next door.
5 You can see the Victorian that's depicted there. And that
6 is a new structure. It has two units, approximately about
7 1,700 square feet, same range as these, and they have the
8 same configuration with three-bedroom. He has families as
9 tenants in both of those units.

10 And then there's an additional house, which is to
11 the left of that -- a single-family Mansard. That was a
12 double lot, so that's a single-family, similar
13 configuration. A family with multiple children --

14 JOSEPH GLENMULLEN: Two children.

15 JAMES RAFFERTY: All three of the units are
16 family-friendly, and this stretch of North Cambridge we
17 think that's a very attractive and appealing product. This
18 will have a yard.

19 This is supposed to have a garage. The garage is
20 not the subject of the variance, it's an as-of-right garage.
21 It meets the setback requirements. In fact, it was pulled
22 back to accommodate an abutter who thought it might be

1 closer than comfortable for her.

2 So but the garage issue isn't frankly before the
3 Board, but the issue before the Board involves setbacks. We
4 will be going from 0 to 3. I think theoretically one could
5 apply for a special permit on Section 6, finding that a move
6 from 0 to 3 probably is less impactful. But at any rate,
7 it's a variance case, so we've applied for a variance on
8 that.

9 We do have a nonconforming front setback, and
10 we're reconstructing the front porch. So there are some
11 setback -- there are some setback issues with the covering
12 over the front porch. And there are some railings that will
13 be associated, maybe. This is -- I should introduce -- this
14 is Nancy Dingman, D-i-n-g --

15 NANCY DINGMAN: M-a-n.

16 JAMES RAFFERTY: -- m-a-n. Ms. Dingman is with
17 Dingman --

18 NANCY DINGMAN: Allison --

19 JAMES RAFFERTY: Allison Architects. So she's the
20 principal designer on the project. Dr. Glenmullen is nearly
21 obsessive with neighborhood outreach. He talks to everyone.
22 He walks the street; he visits with everyone.

1 So you'll see in the file 30 letters. He did
2 something that I said reminded me of when a play opens on
3 Broadway, where the critics are -- he summarizes the
4 comments and puts them in a single sheet. I said, "Well,
5 that's an interesting approach." But it is intended to
6 reflect the extent to which he does outreach, wants to make
7 accommodations from everything from fencing, and
8 landscaping, and coloring.

9 So he's not a developer by nature, so he doesn't
10 have that typical developer aggressiveness. He's a medical
11 doctor. So he has that bedside manner that he uses.

12 CONSTANTINE ALEXANDER: And he nevertheless
13 retained you.

14 JAMES RAFFERTY: Well, that would be a case of
15 opposites attract, really. He's also very helpful, because
16 he gives lots of legal suggestions to people, and I'm so
17 grateful that he chooses to.

18 SLATER ANDERSON: As long as you don't give him
19 medical advice.

20 JAMES RAFFERTY: Well said, well said. So it does
21 -- so I'd say the big number is, obviously the GFA is
22 slightly over now. But it really -- if you've -- the floor

1 plan, as I said, you divide it up, it's about 170 square
2 feet per unit. And it really is the third bedroom. The
3 existing floor plans have two very small bedrooms.

4 The house itself is about 100 years old, it seems
5 to me. So it has the layout and cramped style of a 100-
6 year-old house. So more light, more air, better
7 circulation, better code-compliant egress. It's -- it'll be
8 a handsome project, fitting in nicely in its environment,
9 enjoyed by its neighbors, improving several nonconformities,
10 not the least of which is a three-family dwelling in a two-
11 family district. That will go away.

12 Zero setbacks, got increased to three feet. And
13 there's also increase in the front setback, because that
14 house is being moved a little bit further away from the
15 street. But once again not completely compliant, but
16 creating better separation on the streetscape.

17 There's a new driveway that will -- there's an
18 extended driveway, there's an existing driveway. The
19 driveway will take you to the garage. Open space --

20 NANCY DINGMAN: It's being slightly increased --

21 JAMES RAFFERTY: Right.

22 NANCY DINGMAN: -- from what it is now.

1 JAMES RAFFERTY: Right. Because right now there's
2 parking in the area where the grass is. It really hasn't
3 been used as a green space.

4 But for families that would live here, the
5 combination of a place to store bicycles and cars in the
6 garage and a generous open space for recreation and the
7 like, it's a project that we think will fit in nicely in the
8 neighbor.

9 CONSTANTINE ALEXANDER: The only that gave me
10 pause, and not a lot of pause is right now the structure
11 complies at 0.47. And you're going to go over, you're going
12 to become noncompliant, which is never a good sign, but only
13 to 0.53.

14 JAMES RAFFERTY: Right.

15 CONSTANTINE ALEXANDER: So it's just over, and
16 you've identified a number of good things about the project,
17 that to me at least overcome any short -- any feelings of
18 doubt, you know, from the FAR. And I would just -- for the
19 record I would point out that that consequence of relief
20 should be --

21 JAMES RAFFERTY: Right. And that's principally
22 the reason we're here, I would suggest. I mean, there is

1 the --

2 CONSTANTINE ALEXANDER: Right.

3 JAMES RAFFERTY: -- the new setback. But the
4 setback is more compliant than existing conditions, but
5 there is -- that is correct, so.

6 CONSTANTINE ALEXANDER: And the relocation of the
7 structure seems to me from a safety point of view, is good.
8 You've got a little more space between --

9 JAMES RAFFERTY: Without questions.

10 CONSTANTINE ALEXANDER: -- this one and the one
11 next to it.

12 JAMES RAFFERTY: It's the reason -- I mean, the
13 building code, you couldn't site a property at this location
14 today, for good reasons. So that type of separation would
15 be beneficial to both structures, provide air and light to
16 the abutting structure as well as the structure.

17 CONSTANTINE ALEXANDER: Okay. And are you also
18 seeking a special permit, with regard to the windows?

19 JAMES RAFFERTY: Yeah, I'll just go through this,
20 right? So once we've relocated the house, I think the
21 setbacks are subject to the variance. But there are windows
22 in some locations here, particularly in the newer portion of

1 the rear, that would occur in the setback. Maybe Nancy, you
2 can just identify. The windows opposite --

3 NANCY DINGMAN: In this section.

4 JAMES RAFFERTY: Right. The wall -- the new wall
5 with the three-foot setback is currently a blank wall, for
6 obvious reasons. So those -- that's probably the biggest
7 fenestration change in the project, is those windows in the
8 bottom left, right Nancy?

9 NANCY DINGMAN: No, here.

10 JAMES RAFFERTY: No, the top left.

11 NANCY DINGMAN: Top this.

12 JAMES RAFFERTY: Right side of elevation. Those
13 represent all new windows on a wall that does not meet these
14 7.5-foot minimum requirements.

15 NANCY DINGMAN: Okay.

16 CONSTANTINE ALEXANDER: Questions from members of
17 the Board?

18 ANDREA HICKEY: So no comments from the neighbors
19 on the side of the house where there are no windows?

20 JOSEPH GLENMULLEN: We have supportive letters.
21 The neighbors --

22 NANCY DINGMAN: Right.

1 JOSEPH GLENMULLEN: And the neighbors in the house
2 behind said that those neighbors had won the lottery,
3 because I'm going to move the building away from them.

4 ANDREA HICKEY: Okay.

5 JAMES RAFFERTY: But I think we have two letters
6 from -- that's a condominium building.

7 ANDREA HICKEY: Right.

8 JAMES RAFFERTY: I think you have two letters?

9 JOSEPH GLENMULLEN: I have two letters from that
10 building.

11 ANDREA HICKEY: Okay, great.

12 JAMES RAFFERTY: In the packet. I don't know if
13 you've seen the package as well?

14 ANDREA HICKEY: I haven't seen it.

15 CONSTANTINE ALEXANDER: Any other questions from
16 members of the Board? I'll open the matter up to public
17 testimony. Is there anyone here wishing to be heard on this
18 matter? Sir? Give your name and address to the -- use the
19 mic.

20 CHARLES TEAGUE: Hi, I'm Charles Teague, 23 Edmund
21 Street. Charles Teague, T-e-a-g-u-e, 23 Edmund Street,
22 which is across the bike path and a block away. And I'm in

1 their neighborhood all the time. I just want to say I just
2 made a special point of coming down here to say what a great
3 project this is, and what a vast improvement over what it
4 is.

5 And I would actually usually be the first person
6 to object to increasing GFA, but part of the GFA, as I
7 believe is covering the front porch, which will look great.

8 JOSEPH GLENMULLEN: That's true.

9 CHARLES TEAGUE: And the -- as everybody's
10 commented, on the safety improvement is that actually it now
11 becomes building code compliant with three-foot fire
12 separation. Because it's going to be sprinklered.

13 So, you know, I don't know how we make any money
14 on this, but this is a great project, and I urge you that
15 you, you know, give it a hearty approval. Okay, thank you.

16 CONSTANTINE ALEXANDER: Thank you for taking the
17 time to come down. Anyone else wishes to be heard on this
18 matter? No one does? We -- besides the abundant letters of
19 support Mr. Rafferty's alluded to, we also have a letter
20 from Michael Brandon. I mean, I guess I should read it.

21 Dr. Joseph Glenmullen, the new owner of 60-62 Reed
22 Street, and Architect Blake Allison, presented the

1 redevelopment proposal for this property at the January 29
2 neighborhood forum of the North Cambridge Stabilization
3 Committee.

4 Based on the general concept and preliminary plans
5 that were discussed, attendees voted unanimously to support
6 the proposed efforts to relocate, preserve and restore the
7 existing structure.

8 And the drawings and details about the proposed
9 freestanding garage, and existing and planned landscaping,
10 were not available at that time.

11 The North Cambridge Stabilization Committee has no
12 objections to the BZA granting the requested zoning relief,
13 provided that -- and we have six items:

14 One, the Board reviews and considers whether to
15 incorporate any recommendations submitted by the Cambridge
16 Planning Board or staff before the 35-day deadline set
17 forth. And it cites the Section CZO, whatever that is --

18 JAMES RAFFERTY: Cambridge Zoning Ordinance.

19 CONSTANTINE ALEXANDER: -- Cambridge Zoning
20 Ordinance, thank you. And there were no recommendations or
21 comments from the Planning Board. That's for purpose of the
22 record.

1 Two, no unresolved objections are raised by
2 abutters or other parties interested, and we have heard
3 none.

4 Three, the decision requires preservation of the
5 mature tree in the rear yard, and ensures that a qualified
6 arborist certifies that demolition, construction and
7 installation of the driveway and garage where planned will
8 not threaten the root systems, or other impair the tree's
9 health. I don't think we need a certified -- qualified
10 arborist, I can just comment a little bit up on the

11 JOSEPH GLENMULLEN: So there is a very large tree
12 --

13 CONSTANTINE ALEXANDER: Yes.

14 JOSEPH GLENMULLEN: -- in the back yard. If you
15 put the landscape plan up again?

16 JAMES RAFFERTY: This was the principal focus of
17 Dr. Glen Mullen, the preservation of this tree.

18 CONSTANTINE ALEXANDER: Yeah, right.

19 JAMES RAFFERTY: Depicted right there on the plan.
20 There's no --

21 JOSEPH GLENMULLEN: So this was a big -- probably
22 the most important, preserving the building and preserving

1 the tree are the most important pieces to the neighborhood.
2 And, you know, I've had an arborist in. We have a plan
3 that's going to be very protected. Just like we protected
4 two trees next door that the neighborhood decided on.

5 CONSTANTINE ALEXANDER: Four, the Board determines
6 that adding fenestration where proposed on the building's
7 northern façade will not violate the fire separation codes
8 or unreasonably degrade privacy for existing and future
9 residents of 62 Reed Street or the south-facing dwelling
10 units at 64 Reed Street.

11 We're not expert enough to comment about whether
12 it's going to violate the fire separation codes. And so,
13 we'll defer to the Fire Department, if they have any
14 concerns about that. And whether it's going to unreasonably
15 degrade privacy for existing and future residents.

16 I see no reason to believe that. I don't know if
17 other members do, but I didn't see anything in the letters
18 of support, and generally in the neighbor that no one seems
19 to be concerned about degrading privacy.

20 And lastly, that the Board makes all of the
21 required findings and incorporates them in its written
22 decision. And of course, that's what we do all the time.

1 So with that, discussion? Or are we ready for a
2 vote?

3 COLLECTIVE: Ready.

4 CONSTANTINE ALEXANDER: This is only on the
5 variance. You want to -- well, let's talk about the special
6 permit too?

7 JAMES RAFFERTY: Sure.

8 CONSTANTINE ALEXANDER: And then we'll take the
9 two votes.

10 JAMES RAFFERTY: Right. So the special permit, as
11 noted, involves creating windows on a blank wall. And it
12 will allow for air and light into the building unit.

13 Two of -- two property owners, common owners of
14 the building next door, have sent letters of support.
15 Issues around privacy are always relevant, but in this case,
16 that building also looks at an unappealing blank wall, and
17 the letters of support indicate that they viewed this as an
18 improvement.

19 So I think the privacy impacts are limited and
20 outweighed by the benefits of creating the separation
21 between the structures.

22 CONSTANTINE ALEXANDER: Well said. Okay, well now

1 ready for a vote or a discussion?

2 COLLECTIVE: Ready.

3 CONSTANTINE ALEXANDER: The Chair moves -- we're
4 talking about the variance first.

5 JAMES RAFFERTY: Yeah.

6 CONSTANTINE ALEXANDER: The Chair moves that we
7 make the following findings with regard to the variance
8 being sought: That a literal enforcement of the provisions
9 of the ordinance would involve a substantial hardship, such
10 hardship being is that the structure is oddly located on the
11 lot, being too close to one side of the lot and causing some
12 -- in my opinion at least -- safety issues, because of the
13 narrow space between the structures at 62 Reed Street and
14 then in the neighboring structure.

15 That the hardship is owing to the shape of the
16 lot, where the lot has been utilized, has created this
17 situation where the building is ill-located, vis-à-vis it's
18 neighbor.

19 And relief may be granted without substantial
20 detriment to the public good, or nullifying or substantially
21 derogating from the intent or purpose of the ordinance. In
22 this case, the Chair would note that there is significant

1 neighborhood support by letter or in person in favor of what
2 is being proposed, and no opposition.

3 And I would also note that the Cambridge
4 Stabilization -- North Cambridge Stabilization Commission
5 even supports -- because they're not always very cooperative
6 -- even supports the relief being sought.

7 So on the basis of all these findings, the Chair
8 moves that we grant the --

9 ANDREA HICKEY: Excuse me --

10 JAMES RAFFERTY: Just want to add one thing, bring
11 to the Board's attention, because in recent cases this has
12 come up -- the application includes setback relief --

13 CONSTANTINE ALEXANDER: Yeah.

14 JAMES RAFFERTY: And we've come to realize that
15 that setback relief will also include the railings depicted
16 in on Image 11. Some of these windows -- there are certain
17 window wells and in cases that have come up at the Building
18 Department, there's now -- the Building Department is
19 concluding the Building Code requires a railing around that
20 to prevent someone from falling in.

21 CONSTANTINE ALEXANDER: Okay.

22 JAMES RAFFERTY: And in this case, these railings

1 will be within the setback. So the application seeks
2 setback relief. Just want to identify that that includes
3 for the --

4 CONSTANTINE ALEXANDER: But the railings are
5 because of state law. I mean, you're --

6 JAMES RAFFERTY: Correct.

7 CONSTANTINE ALEXANDER: -- responding to a legal
8 requirement.

9 JAMES RAFFERTY: Right. And they're depicted on
10 the plan at A22, but I just wanted to point out --

11 CONSTANTINE ALEXANDER: Thank you.

12 JAMES RAFFERTY: -- and I apologize for
13 interrupting.

14 CONSTANTINE ALEXANDER: I'm just meandering
15 anyway, so --

16 JAMES RAFFERTY: You did a very coherent one. But
17 I got a helpful comment from my client, who suggested that
18 we should point out the railings. And I think that was a
19 very wise suggestion.

20 CONSTANTINE ALEXANDER: So on the basis -- not
21 that --

22 JAMES RAFFERTY: There's a whole world after one

1 leaves here and gets a building permit, and that's a whole
2 other exercise.

3 CONSTANTINE ALEXANDER: The Chair moves that we
4 grant the variance being sought on the condition that the
5 work proceed in accordance with plans prepared by Dingman
6 Allison Architects, the first page of which is dated -- I
7 think I can read that. Can you? You have better eyes.

8 JIM MONTEVERDE: 11/04/19.

9 CONSTANTINE ALEXANDER: -- and initialed by the
10 Chair.

11 JIM MONTEVERDE: Yes.

12 CONSTANTINE ALEXANDER: All those in favor, please
13 say, "Aye."

14 THE BOARD: Aye.

15 [All vote YES]

16 JAMES RAFFERTY: That's a different day. This is
17 02/07/20.

18 CONSTANTINE ALEXANDER: This is a different page.
19 This is -- it's not the actual --

20 THE REPORTER: I didn't catch that vote.

21 CONSTANTINE ALEXANDER: No, what I was referring
22 to, my initial, was the cover page, so a bunch of plans.

1 The plans up there have a different date.

2 ANDREA HICKEY: Those are two separate.

3 JAMES RAFFERTY: But that's the date on the
4 existing elevations I'm told, but on the proposed plans and
5 the elevations' date is 02/07/20. So I think the --

6 CONSTANTINE ALEXANDER: No, it's open space. Keep
7 going.

8 JAMES RAFFERTY: There was a landscape and
9 existing elevation that was done before, and then there was
10 some modest renovations of it, so the most current plan that
11 was put in the file last week is 02/07/20.

12 JIM MONTEVERDE: Yeah, 02/07/20.

13 JAMES RAFFERTY: Yes.

14 JIM MONTEVERDE: That's the plan. A1-1?

15 ANDREA HICKEY: Yes.

16 JAMES RAFFERTY: Yes. There's a series of plans
17 with that day.

18 JIM MONTEVERDE: Yep. They're all dated 02/07/19,
19 yep.

20 CONSTANTINE ALEXANDER: Okay, so the plans dated
21 02 --

22 JIM MONTEVERDE: Plans dated 02/07/20.

1 CONSTANTINE ALEXANDER: -- 07/20.

2 JAMES RAFFERTY: Okay.

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

5 THE BOARD: Aye.

6 [All vote YES]

7 CONSTANTINE ALEXANDER: Five in favor, variance
8 granted. Now for the special permit. We've got to make a
9 whole different set of findings.

10 The Chair moves that we make the following
11 findings with regard to the special permit being sought.
12 That the provisions of the ordinance cannot be satisfied
13 unless we grant the special permit being sought.

14 That traffic generated or patterns of access or
15 egress will not cause congestion, hazard, or substantial
16 change in established neighborhood character. In this
17 regard, I think the plans speak for themselves in terms of
18 the impact on congestion, hazard, or substantial change in
19 established neighborhood character.

20 In any event, the neighborhood is in full support
21 of what is being proposed, which -- again -- suggests that
22 patterns of access or egress will not be impacted by what

1 the is proposed.

2 The continued operation of or development of
3 adjacent uses, as permitted in the ordinance, will not be
4 adversely affected by what is proposed.

5 Again, I will refer to the neighborhood support,
6 and the object impact or lack of adverse impact, from the
7 plans that we have.

8 And that generally what is being proposed will not
9 impair the integrity of the district or adjoining district,
10 or otherwise derogate the intent and purpose of the
11 ordinance.

12 So on the basis of all of these findings, the
13 Chair moves that we grant the special permit being sought --
14 again on the condition that the work proceed in accordance
15 with the plans identified with regard to the variance.

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

17 THE BOARD: Aye.

18 [All vote YES]

19 CONSTANTINE ALEXANDER: Five in favor, good luck.

20 COLLECTIVE: Thank you very much.

21 JAMES RAFFERTY: Yep. They're all adapted

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(7:56 p.m.)

Sitting Members: Constantine Alexander, Janet Green, Andrea
A. Hickey, Jim Monteverde, and Slater
Anderson

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017236 - 97 Sixth Street. Anyone here wishing
to be heard on this matter?

KARLA TINKIJIAN: My name is Karla Tinkijian. I'm
an architectural designer.

THE REPORTER: Could you spell your name, please?

KARLA TINKIJIAN: K-a-r-l-a last name T-i-n-k-j-i-
-a-n.

NATERECIA AMAYA: Naterecia Amaya, from 97 Sixth
Street. I am the homeowner.

THE REPORTER: Could you spell your name, please?

NATERECIA AMAYA: Yes. Okay. First name is N-a-
t-e-r-c-i-a. Last name is A-m-a-y-a.

THE REPORTER: And your address.

NATERECIA AMAYA: 97 Sixth Street, Cambridge,
02141. And I'm the owner.

CONSTANTINE ALEXANDER: Thank you.

1 ANDREA HICKEY: Sixth Street.

2 CONSTANTINE ALEXANDER: Mr. Rafferty, are you here
3 on Sixth Street?

4 JAMES RAFFERTY: I guess I could be. Okay, I
5 apologize. I didn't realize you wanted me to do this.
6 Okay, James Rafferty.

7 ANDREA HICKEY: Do you need a minute to -- okay.

8 JAMES RAFFERTY: No, no, I'm familiar. I've
9 spoken with -- she's a friend of a good friend of mine, and
10 we've had some consultation, and I did say I would be here
11 tonight, and I would be happy to provide some direction. So
12 James Rafferty, R-a-f-f-e-r-t-y, with the applicant this
13 evening.

14 And -- have you identified yourself?

15 KARLA TINKIJIAN: Yes.

16 CONSTANTINE ALEXANDER: Yes, she did.

17 JAMES RAFFERTY: Wonderful.

18 KARLA TINKIJIAN: Karla.

19 CONSTANTINE ALEXANDER: At the outset. I mean,
20 you're well aware in person what the requirements for a
21 variance are. And you know full well that the relief being
22 sought departs significantly -- in my opinion -- quite

1 significantly from the requirements needed for the variance.

2 So I think you should address your comments as to
3 why -- focus at least on why the petitioner meets the legal
4 standards for a variance, with regard to getting a third
5 floor, a third-story on the structure.

6 JAMES RAFFERTY: Well it's an issue involving an
7 increase, and that comes about as a result of the full third
8 floor. We looked -- when they came and we discussed this, I
9 made mention of the fact that the more popular third-floor
10 addition are dormers, and could they explore doing a dormer?
11 They might fare better.

12 And then you reached some conclusion about dormers
13 that made it impractical, and maybe you could just explain
14 why the dormer approach didn't work, briefly?

15 KARLA TINKIJIAN: Because of the head height on
16 the side.

17 CONSTANTINE ALEXANDER: What?

18 KARLA TINKIJIAN: The head height for the dormer -

19 -

20 CONSTANTINE ALEXANDER: Oh.

21 KARLA TINKIJIAN: -- it wasn't enough to reach up.

22 CONSTANTINE ALEXANDER: Because the dormer doesn't

1 work doesn't mean that you're therefore entitled to add a
2 whole new story. I mean, the fact of the matter is right
3 now, the requirements for the ordinance are -- FAR is 0.75.

4 KARLA TINKIJIAN: Mm-hm.

5 CONSTANTINE ALEXANDER: You're at 2.5, you're at
6 1.88 now. You'd go to 2.5, should we grant your relief.
7 That's more than three times that the permissible FAR. And,
8 as you know, the hardship is not -- has got to run with the
9 land.

10 It's got to be whoever owns, occupies the
11 structure. You want to do it, and that's totally
12 understandable, to add more living space. That's just for
13 you. Doesn't mean that the structure couldn't adequately be
14 -- it could be adequate for someone else who doesn't have a
15 family, or whatever.

16 And, you know, we have to apply, as Mr. Rafferty
17 knows, a legal standard. And the standard also requires
18 that your hardship is -- what's the words -- is due to --

19 KARLA TINKIJIAN: From starting low?

20 CONSTANTINE ALEXANDER: -- it's due to -- wherever
21 I can find it -- soil conditions, shape or topography of
22 such land or structures.

1 I don't know why if you have a hardship, and I
2 don't think you do, in my opinion, I don't know why it's
3 relating to the soil conditions shape, the topography of
4 such structure, and especially affecting such structure, but
5 not affecting generally the zoning district in which it's
6 located.

7 This is a very small home, and so, it's just not
8 any new thing -- to my mind at least -- unique situation.
9 It's only unique for you.

10 And I don't -- can't speak, only for myself, and I
11 may very well be outvoted by my Board members, I have no
12 objection -- you know, I sympathize with what you want to
13 do. But our ordinance, and our law in Massachusetts and
14 such, we have to apply that. And I -- I don't see how you
15 stand here.

16 JAMES RAFFERTY: Right. So I recognize the legal
17 issues presented in the application, and it does represent
18 an increase in the allowable FAR. It is somewhat of a
19 unique circumstance involving the size of the lot and the
20 location of the structure on the lot.

21 What the applicant and her family have been trying
22 to do is to allow the next generation of her family to live

1 in the building.

2 So the hardship is admittedly personal on one
3 level, but it also has to do with the way the house is
4 currently constructed, they're just not able to access the
5 third floor to take advantage of the attic floor.

6 So it would fall into the category of the unique
7 circumstances affecting the structure, and the fact that
8 what's being proposed enjoys the support of the abutters,
9 and the fact that this is not a developer seeking to
10 building a house to sell condos, this is a family that has
11 lived here for 30 years.

12 They have an enviable reputation in the
13 neighborhood and for philanthropic work in their community -
14 - the El Salvadoran community in particular, and they're
15 raising their family with a set of values that they would
16 like them to remain in the home.

17 So that's the reason for the application.
18 Frankly, that's why it's enjoyed the support it has from
19 abutters.

20 CONSTANTINE ALEXANDER: As I said, I'd be -- on a
21 personal level, I'm highly sympathetic. But I also have an
22 obligation to apply the law.

1 JAMES RAFFERTY: I understand. And I -- if there
2 was consensus around that way of thinking, I don't know if
3 the Board would entertain a continuance if there's a way to
4 scale this back?

5 CONSTANTINE ALEXANDER: Well, I know how --

6 ANDREA HICKEY: I can say we meet a consensus. I
7 share the same reservations that you do about the ask being
8 a really big ask.

9 CONSTANTINE ALEXANDER: Then why don't we vote?
10 You want to --

11 JAMES RAFFERTY: Might I advise --

12 CONSTANTINE ALEXANDER: Yep.

13 JAMES RAFFERTY: -- what that means? So --

14 CONSTANTINE ALEXANDER: Adding a second floor,
15 it's not the first time she's been before us, this Board.

16 JAMES RAFFERTY: Okay. If the Board were willing,
17 the applicant would request a continuance to allow a time to
18 work with the architect to see if there could be a --

19 CONSTANTINE ALEXANDER: As you know, and I'm not
20 sure it's required, I learned recently -- but we'd like to
21 have the same five members present and we'll reconvene the
22 case.

1 JAMES RAFFERTY: Yeah.

2 CONSTANTINE ALEXANDER: So I'll --

3 JAMES RAFFERTY: Would you consider this a case
4 heard, though?

5 ANDREA HICKEY: Is this a case heard?

6 JAMES RAFFERTY: We really haven't discussed the
7 case.

8 CONSTANTINE ALEXANDER: Well, I think we've got --

9 ANDREA HICKEY: I think it's heard.

10 JAMES RAFFERTY: Okay, fine.

11 CONSTANTINE ALEXANDER: Okay. Well, first of all
12 how much time would you like to continue the case? Then
13 we'll see if we can accommodate which one?

14 JAMES RAFFERTY: Me?

15 CONSTANTINE ALEXANDER: No, the team.

16 ANDREA HICKEY: Realizing that we'll need new
17 plans if you're proposing something new.

18 JAMES RAFFERTY: Right. We'll get there.

19 KARLA TINKIJIAN: I need some time to work on
20 that.

21 JAMES RAFFERTY: Six to eight weeks, is that
22 right?

1 KARLA TINKIJIAN: That's -- eight weeks.

2 JAMES RAFFERTY: Eight weeks?

3 CONSTANTINE ALEXANDER: What are we looking at,
4 Sisia?

5 SISIA DAGLIAN: Well, we can't reconvene the same
6 Board until April anyway.

7 KARLA TINKIJIAN: Okay.

8 SISIA DAGLIAN: So April 16 would be the first --

9 CONSTANTINE ALEXANDER: April 16? I'm in. Work
10 for everybody?

11 JAMES RAFFERTY: Yep.

12 KARLA TINKIJIAN: Yes.

13 JAMES RAFFERTY: Please hold.

14 KARLA TINKIJIAN: We'll revise the plans.

15 JAMES RAFFERTY: Is that -- that's -- is that the
16 Patriot's Day weekend? I don't know --

17 KARLA TINKIJIAN: I don't know if I'm away.

18 CONSTANTINE ALEXANDER: It can't be Thursday --
19 it's got to be Thursday night.

20 SISIA DAGLIAN: It's the Thursday before.

21 JAMES RAFFERTY: But is it the week of Patriot's
22 Day?

1 JANET GREEN: Easter Monday is the Monday before.

2 JAMES RAFFERTY: Okay, then I'm -- good, I'm away
3 that week.

4 CONSTANTINE ALEXANDER: We can push it up to two
5 weeks back.

6 JAMES RAFFERTY: No, no, I'm away the week of the
7 twentieth, and I know I'm away the Patriot's week. So yes.

8 SLATER ANDERSON: As am I.

9 CONSTANTINE ALEXANDER: Really, where are you
10 going?

11 SLATER ANDERSON: I'm going to Ireland.

12 JAMES RAFFERTY: Ireland? Nice.

13 CONSTANTINE ALEXANDER: You! Okay.

14 SLATER ANDERSON: Sixteenth.

15 CONSTANTINE ALEXANDER: Sixteenth. The Chair
16 moves that we continue this case as a case heard until 7:00
17 p.m. on April 16, subject to the following conditions -- Mr.
18 Rafferty knows these by heart:

19 That the applicant signs a waiver of time for
20 decision, and we have it right there. That just is to go
21 around legal issues waiting too long.

22 Two, that the posting sign that you have up right

1 now should be either get a new one, or modify what you have,
2 to reflect the new date and the new time, 7:00 p.m. April
3 16, and that new or modified sign must be maintained for the
4 fourteen days before April 16, as you did for this --
5 tonight's hearing.

6 And lastly, to the extent there are new plans, and
7 I suspect there will be, those new plans and a new or
8 modified dimensional form must be in our files no later than
9 5:00 p.m. on Monday before April 16. That's to allow us
10 time to review the plans and have a learned discussion, and
11 when we meet again.

12 KARLA TINKIJIAN: Okay.

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

15 THE BOARD: Aye.

16 [All vote YES]

17 CONSTANTINE ALEXANDER: Five in favor, we'll see
18 you on April 16.

19 COLLECTIVE: Thank you.

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2 (8:11 p.m.)

3 Sitting Members: Constantine Alexander, Janet Green, Andrea
4 A. Hickey, Jim Monteverde, and Slater W.
5 Anderson

6 CONSTANTINE ALEXANDER: The Chair will call Case
7 Number 017234 -- 100 Cambridge Park Drive. Anyone here
8 wishing to be heard on this matter? We've seen you before.

9 JAMES RAFFERTY: Mr. Dinneen? James Rafferty, on
10 behalf of the applicant. Just give the name and spelling.

11 TOM CONGORAN: Tom Congoran, C-o-n-g-o-r-a-n.

12 JAMES RAFFERTY: Thank you, sir.

13 ROBERT JOHNSTON: Robert Johnston, Dineen
14 Architects and Planners.

15 JAMES RAFFERTY: So Board members, this is an
16 application to allow for the construction of a freight
17 elevator on the exterior of a building on Cambridge Park
18 Drive, correct.

19 On the site plan, you'll see the colored area,
20 where the freight elevator needs to go which is in the area
21 adjacent to the loading dock. The building was built in the
22 '80s. It's actually an as-of-right building when the

1 densities were much higher there. As a result of rezoning,
2 the building is actually no longer compliant with the
3 Alewife Overlay requirements.

4 This, however, is not the type of GFA that is
5 going to generate additional traffic or population into the
6 building. It's a necessity to allow for better circulation
7 and movement of materials into the building.

8 Like most buildings of this type, it was -- that
9 stretch of Cambridge Park Drive was originally more of a
10 generic, general office type location. These are now for
11 the most part tech companies, and they have more intense
12 loading requirements, I should say. And so, given the
13 nature of that, having a freight elevator that will allow
14 access directly from the loading dock into the floors.

15 CONSTANTINE ALEXANDER: How high is the building?

16 JAMES RAFFERTY: Eight stories?

17 TOM CONGORAN: Five.

18 CONSTANTINE ALEXANDER: Five stories?

19 JAMES RAFFERTY: Five. I've got the dimensions on
20 the next.

21 CONSTANTINE ALEXANDER: So for the upper stories,
22 I would think then a third elevator would be especially

1 necessary?

2 JAMES RAFFERTY: Yeah, and --

3 CONSTANTINE ALEXANDER: For the trudging of
4 potentials.

5 JAMES RAFFERTY: Right. There are elevators in
6 the building now, but they're not designated for freight.

7 CONSTANTINE ALEXANDER: They're not for freight.

8 JAMES RAFFERTY: Yeah, exactly. So they're
9 passenger elevators. So this will allow for an
10 accommodation. And its adjacency right next to the loading
11 dock also means first-floor circulation doesn't get
12 disrupted by the loading of the building.

13 There's a second component to the proposed work.
14 But that doesn't appear to have a zoning implication. The
15 building hangs over, and if you see the floor plan, the
16 applicant is looking to impose areas of the first floor
17 where the building is recessed. Since it's already --

18 CONSTANTINE ALEXANDER: There's nothing --

19 JAMES RAFFERTY: -- covered area --

20 CONSTANTINE ALEXANDER: -- there's nothing --

21 JAMES RAFFERTY: -- it's considered GFA. So we've
22 reviewed that with the building Department. But it is part

1 of the work being proposed here, and it's depicted on the
2 plans. I wanted to bring that to the Board's attention.

3 CONSTANTINE ALEXANDER: Thank you. Questions from
4 members of the Board?

5 JIM MONTEVERDE: Is there some condition where
6 that elevator couldn't be accommodated within the building
7 itself that requires the addition for it?

8 JAMES RAFFERTY: I think the short answer, it's
9 pretty disruptive to the organization of the building. Now
10 putting it on the outside allows for -- obviously it would
11 have to come up through the building, and disrupt the floor
12 plans.

13 TOM CONGORAN: Four of the five floors are
14 currently occupied by tenants, and so, it would be really
15 disruptive. There was no place to put it on the interior of
16 the building without going through a current occupied four
17 floors, out of five floors.

18 CONSTANTINE ALEXANDER: All set?

19 JAMES RAFFERTY: Yep.

20 CONSTANTINE ALEXANDER: Questions from members of
21 the Board? I'll open the matter up to public testimony. Is
22 there anyone here wishing to be heard on this matter? No

1 one wishes to be heard? Unless you have some final
2 comments?

3 JAMES RAFFERTY: No, thank you.

4 CONSTANTINE ALEXANDER: Discussion, or are we
5 ready for a vote?

6 COLLECTIVE: Ready.

7 CONSTANTINE ALEXANDER: Ready for a vote. The
8 Chair moves that we make the following findings with regard
9 to the variance being sought:

10 That a literal enforcement of the provisions of
11 the ordinance would involve a substantial hardship, such
12 hardship is that this is a commercial building, five stories
13 in size, that is in need of some means of an elevator to get
14 building items of the like, as opposed to passengers from
15 the ground floor to the top floor.

16 The hardship is owing to the -- basically the
17 shape of the structure itself, which was built without, at a
18 time the area was different. There was no place to put this
19 elevator shaft, other than where it is proposed.

20 And in fact, where it is proposed is obscured from
21 the public way. It's in the -- really not very visible to
22 persons other than those who are on the lot itself.

1 And a literal -- it says relief may be granted
2 without substantial detriment to the public good, or
3 nullifying or substantially derogating from the intent and
4 purpose of the ordinance.

5 In this regard, what we're looking at here is a
6 modest change to a commercial building that's consistent
7 with commercial buildings, at least that are built these
8 days, where freight elevators are on the exterior of the
9 building, if there is no elevator shaft in the building
10 itself.

11 So on the basis of all of these findings, the
12 Chair moves that we grant the variance sought on the
13 condition that the work proceeds in accordance with two
14 pages of plans prepared by Dinneen Architects -- I don't see
15 a date on this, but I don't think it should matter --
16 anyway, initialed by the Chair.

17 JIM MONTEVERDE: There is a date, but it's -- I
18 see 20, but I don't see the rest of the date, sorry.

19 CONSTANTINE ALEXANDER: Okay. Here it is. It's
20 only two pages. That's all right, we don't need it.

21 JIM MONTEVERDE: January 20. Okay.

22 CONSTANTINE ALEXANDER: All those in favor of

1 granting the variance on this basis, please say, "Aye."

2 THE BOARD: Aye.

3 [All vote YES]

4 JAMES RAFFERTY: Thank you very much.

5 COLLECTIVE: Thank you very much.

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(8:17 p.m.)

Sitting Members: Constantine Alexander, Janet Green, Andrea
A. Hickey, Jim Monteverde, and Slater W.
Anderson

CONSTANTINE ALEXANDER: The Chair will now call
017229 -- 93 Windsor Street. Anyone here wishing to be
heard on this matter? Name and address for the
stenographer, please.

RICHARD LYNDS: Good evening, Mr. Chairman, three
of the members. For the record, Attorney Richard Lynds, L-
y-n-d-s, 245 Sumner Street, East Boston, on behalf of the
petitioner.

ALI YAGCIOULU: Ali Yagcioglu.

COLLECTIVE: You'll need to spell it

ALI YAGCIOGLU: A-l-i Y-a-g-c-i-o-g-l-u, last
name.

CONSTANTINE ALEXANDER: Did you get that?

THE REPORTER: Could you repeat that, please,
closer to the mic?

ALI YAGCIOGLU: A-l-i and last name is Y-a-g-c-i-
o-g-l-u.

1 CONSTANTINE ALEXANDER: You don't have to give
2 your name and address, unless you think you might speak,
3 that's all. It's up to you.

4 DANIEL SURIAN: Sure, okay, sure. My name is
5 Daniel Surian S-u-r-i-a-n, 128 Cambridge Street,
6 Charlestown, Massachusetts.

7 RICHARD LYNDS: Mr. Chairman, just by way of a
8 brief housekeeping matter -- and we may be here for a very
9 short period -- when we filed our petition for this matter,
10 we identified this -- we were before this Board back in
11 2016, with respect to this property.

12 CONSTANTINE ALEXANDER: Remember the case.

13 RICHARD LYNDS: We identified this as the
14 Residence B Zoning District. We did submit that as part of
15 our application. I did notice in the public notice for this
16 that it identified as Residence C1. With that said, that --

17 CONSTANTINE ALEXANDER: I don't think that makes a
18 difference for the purpose of -- we can go forward tonight,
19 because basically you're seeking a use variance.

20 RICHARD LYNDS: Correct.

21 CONSTANTINE ALEXANDER: Which residence or
22 district it's in doesn't make much of a difference.

1 RICHARD LYNDS: Okay.

2 CONSTANTINE ALEXANDER: It's the physical
3 location.

4 RICHARD LYNDS: So with -- our concern was with
5 respect to parking. I know there's a distinction in the
6 parking table that does indicate that NA in the residence B
7 versus --

8 CONSTANTINE ALEXANDER: But you've only sought --
9 you didn't seek parking relief. So --

10 RICHARD LYNDS: That's correct.

11 CONSTANTINE ALEXANDER: -- if you need parking, if
12 you have to come back, we can go forward tonight and --

13 RICHARD LYNDS: Okay.

14 CONSTANTINE ALEXANDER: -- let's assume we grant
15 you the variance, you'll have the use variance.

16 RICHARD LYNDS: Okay.

17 CONSTANTINE ALEXANDER: Then you'll have to come
18 back another night, some other night with us on parking.

19 RICHARD LYNDS: I wasn't sure if the Board
20 preferred to do a bifurcated hearing or do it all once, but
21 --

22 ANDREA HICKEY: Unless you have a preference to do

1 it all at once.

2 RICHARD LYNDS: If the Board is okay, we don't
3 have a problem moving forward this evening, and we'll come
4 back for the parking variance separately, unless the Board
5 prefers to have it all heard together. It's really --

6 CONSTANTINE ALEXANDER: I don't care. Andrea, if
7 you do --

8 ANDREA HICKEY: No, I'm just thinking if we
9 approve --

10 RICHARD LYNDS: Yep.

11 JANET GREEN: -- and then it doesn't approve.

12 ANDREA HICKEY: -- then they don't get it.

13 CONSTANTINE ALEXANDER: We approve it, they can do
14 a restaurant, but they're going to have to solve the parking
15 problem.

16 JANET GREEN: Right.

17 CONSTANTINE ALEXANDER: They can't solve it; they
18 can't operate the restaurant.

19 RICHARD LYNDS: So I think it's probably
20 appropriate to have the hearing done together with --

21 CONSTANTINE ALEXANDER: That's fine.

22 ANDREA HICKEY: Yeah. To me that makes sense.

1 CONSTANTINE ALEXANDER: I have no objection to
2 that.

3 RICHARD LYNDS: Okay. So what -- we would just
4 need to do a new public notice that include the request for
5 relief on the parking?

6 CONSTANTINE ALEXANDER: You have to re-advertise
7 and file an application for the parking relief.

8 RICHARD LYNDS: Sure.

9 CONSTANTINE ALEXANDER: And this is not a case
10 heard. So we can do it --

11 RICHARD LYNDS: Understood.

12 CONSTANTINE ALEXANDER: -- as soon as you can do
13 it.

14 RICHARD LYNDS: Okay.

15 CONSTANTINE ALEXANDER: And you don't have to have
16 the five of us present, it's much easier.

17 RICHARD LYNDS: Understood. Yep. So before we
18 formally open the public hearing, yep, that's fine. So what
19 was the -- what was the earliest time we could do that if we
20 get our updated petition before the --

21 SISIA DAGLIAN: The twenty-seventh of this month.

22 RICHARD LYNDS: Would that give us sufficient time

1 for a public notice?

2 CONSTANTINE ALEXANDER: I don't know. I don't
3 feel they give time to advertise and the like.

4 RICHARD LYNDS: Yeah. We need two weeks.

5 CONSTANTINE ALEXANDER: I would suggest -- just a
6 suggestion -- the next one after that.

7 SISIA DAGLIAN: March 12 already has three
8 continued hearing.

9 ANDREA HICKEY: This is a case not heard. Oh, it
10 is, I guess.

11 CONSTANTINE ALEXANDER: It's a case unheard.

12 JANET GREEN: It's continued.

13 ANDREA HICKEY: My apologies.

14 SISIA DAGLIAN: March 26?

15 CONSTANTINE ALEXANDER: Is that a problem for you?

16 RICHARD LYNDS: I mean, the sooner the better, if
17 that's the earliest we could possibly do. Otherwise --

18 CONSTANTINE ALEXANDER: It is the earliest, yes.

19 RICHARD LYNDS: Okay. Then March 26 it is.

20 CONSTANTINE ALEXANDER: Okay. By the way, I'll
21 make the motion. Are you aware that there's a letter of
22 opposition to the relief you seek?

1 RICHARD LYNDS: I believe so, yes.

2 CONSTANTINE ALEXANDER: Okay, just want to make
3 sure so you can be prepared --

4 RICHARD LYNDS: Yep.

5 CONSTANTINE ALEXANDER: -- to deal with that, when
6 we --

7 RICHARD LYNDS: Understood.

8 RICHARD LYNDS: -- have it on the twenty-sixth.

9 RICHARD LYNDS: Yep, we will.

10 CONSTANTINE ALEXANDER: Okay. The Chair moves
11 that we continue this case as a case not heard, until 7:00
12 p.m. on March 26, subject to the following conditions:

13 One, that you sign a waiver of time for decision.

14 And Sisia there will have that for you, that just --

15 RICHARD LYNDS: Yep, understood.

16 CONSTANTINE ALEXANDER: -- avoids legal problems.

17 Two, that the posting sign that's there now either
18 be modified or get a new one, and it reflects the new date,
19 March 26, and the new time, 7:00 p.m. And that sign must be
20 maintained for the 14 days before the hearing, just as you
21 did for tonight.

22 ALI YAGCIOGLU: The door, okay.

1 CONSTANTINE ALEXANDER: On the door, that's fine.

2 ALI YAGCIOGLU: Okay.

3 CONSTANTINE ALEXANDER: And lastly, to the extent
4 -- I don't think this may be -- well, it may be relevant --
5 to the extent that you have new plans or revised drawings or
6 the like, or dimensional changes, those all must be in our
7 files no later than 5:00 p.m. on the Monday -- no later than
8 5:00 p.m. on the Monday before --

9 RICHARD LYNDS: 48 hours.

10 CONSTANTINE ALEXANDER: Yeah. So it's 3.5, that's
11 to allow us and the public time to review --

12 RICHARD LYNDS: Sure.

13 CONSTANTINE ALEXANDER: -- what's going to be
14 considered at the hearing on March 26. All those in favor
15 of continuing the case on this basis, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: Five in favor, we'll see
19 you in March.

20 RICHARD LYNDS: Thank you very much, thank you for
21 your time. Thank you.

22 JANET GREEN: It's not quite 8:30.

1 [Simultaneous speech]

2 CONSTANTINE ALEXANDER: We cannot hear the next
3 case until 8:30, because that's when it's advertised for.
4 We'll have a five-minute break. Sorry. We're too efficient
5 tonight.

6 [BREAK]

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(8:30 p.m.)

Sitting Members: Constantine Alexander, Janet Green, Andrea
A. Hickey, Jim Monteverde, and Slater W.
Anderson

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017237 -- 70 Park Avenue. Anyone here wishing
to be heard on this matter?

COLLECTIVE: Yes.

CONSTANTINE ALEXANDER: You waited long enough,
right? You're seeking both a variance and a special permit?

CINDY CARPENTER: That's correct. So I'm Cindy
Carpenter, and my address is 70 Park Avenue, Cambridge,
Massachusetts. I'm one of the homeowners.

JESSE WINCH: J-e-s-s-e W-i-n-c-h, 70 Park Ave.

CONSTANTINE ALEXANDER: Okay.

MARK STEVENS: Mark Stevens, Architect, 19 Beryl
Street - B-e-r-y-l, Roslindale, Massachusetts.

THE REPORTER: Mark with a k?

MARK STEVENS: Yes.

CINDY CARPENTER: So I just wanted to say we're
long-term residents. We moved from Porter Square to this

1 house a little more than a year ago, and it's a two-family,
2 and our plan is to keep it as a two-family. We're not going
3 condo; we're not going single-family. We wanted a two-
4 family, and that's what we have.

5 We lived in apartment 2, while we were renovating
6 apartment 1. We've moved to apartment 1, while we're
7 renovating apartment 2, and then we'll move back up and rent
8 the first floor. And we like it a lot.

9 We're making significant improvements to the
10 comfort and the safety and the energy efficiency of the
11 home. But wherever possible, we're trying to, you know,
12 keep or restore the traditional design elements.

13 The house was built in 1900. A lot of funky
14 things have been done to it over the years, so a lot of it
15 isn't really restorable, but we're just trying to maintain
16 that look and feel to the extent possible.

17 JESSE WINCH: The house is really special to us.
18 We've been living in Cambridge for a long time. We've
19 birthed and raised three kids here, and now we see this
20 overlooking the bike path that's being built going to Fresh
21 Pond as our retirement spot up on the second floor.

22 So we're here today to get a chance to make it

1 work.

2 CONSTANTINE ALEXANDER: Why don't you turn now to
3 the specifics?

4 CINDY CARPENTER: We got it.

5 MARK STEVENS: Right. And that's where I would
6 come in somewhat more handily. So basically, the project
7 consists of -- well, two to three major components. The one
8 that I'll talk about first is the redesign of the rear
9 staircase, which is currently very narrow, has lots of
10 winders -- really not safe at all.

11 And so, what we're trying to do is redesign it in
12 a way that gives them a proper building exit, and a wider
13 stair going up, connecting all three levels. The basement
14 doesn't currently have any bulkhead or legal exit. So we're
15 trying to get the staircase to sort of that level as well.

16 And --

17 CONSTANTINE ALEXANDER: That's why you have the
18 entry canopy?

19 MARK STEVENS: That is the reason for the variance
20 request for the entry canopy. Because we're also trying to
21 relocate a door, which is part of the special permit.

22 But I'll start with the site plan, which as you

1 can see is a triangular shaped lot. And what's highlighted
2 in red is the proposed canopy, which is the variance, and
3 for the special permit -- also for the door and windows in
4 the back.

5 And then the roof plan is showing the two proposed
6 dormers, and an inset balcony. So the second part -- the
7 second big project is making the third floor into a master
8 suite.

9 There are currently two bedrooms up there that are
10 going to be merged, and they're going to have a master
11 suite, including the bathroom, closet at the rear end, and
12 then at the front end a home office.

13 CONSTANTINE ALEXANDER: With regard to that third
14 floor, the special permit and the master bedroom suite, are
15 you aware of our dormer guidelines?

16 MARK STEVENS: I am.

17 CONSTANTINE ALEXANDER: Okay. Well, you know,
18 you're not complying with the dormer guidelines? You're
19 proposing a 16-foot dormer, when the guidelines said no more
20 than 15 feet. Is there any reason why you can't shrink that
21 building by a foot?

22 MARK STEVENS: Well, I wasn't aware that I had --

1 I thought that we got around that guideline. But I'd have
2 to go back and check my logic on that. But basically, I
3 thought that had come in, because we are reusing existing
4 floor area. And --

5 CONSTANTINE ALEXANDER: But you're adding a new
6 dormer, and a dormer where there was no dormer before,
7 you're now going to have a 16-foot dormer. That's how we
8 would -- the other requirements were dormer guidelines, but
9 one that we pay most attention to, at least I do, is the
10 length of the dormer.

11 MARK STEVENS: I see.

12 CONSTANTINE ALEXANDER: And so, I may -- unless
13 you give me a -- give us a persuasive reason why you have to
14 have 16 feet -- is there any structure of the building as
15 such that you would need to have? If not, why don't you
16 just take six inches off each side, which shouldn't affect
17 anything, other than -- it actually might help us.

18 CONSTANTINE ALEXANDER: Might help you?

19 MARK STEVENS: Because we're struggling with the
20 size of the master bathroom.

21 CONSTANTINE ALEXANDER: Well, take feet.

22 COLLECTIVE: [Laughter]

1 MARK STEVENS: We need a little bit more space.

2 CINDY CARPENTER: Let's look at the model design
3 and see where the lines are.

4 MARK STEVENS: But yeah. I can tell you that, you
5 know, visually outside I'm not sure it will be that
6 different, because it's such a long structure.

7 As you can see, the house is going from the front
8 of Hallworthy place -- even though it's 70 Park, the house
9 is actually located on Hallworthy Place. And it runs from
10 front to back. It's a very long structure.

11 And I'll show you now the existing photographs in
12 sort of mid-construction here. We've already done the
13 renovations to the first floor, so this is the north side,
14 the south side, the rear, which is facing the bike path, and
15 this is the west side.

16 So we're reworking some of the masonry openings.
17 The existing permit we've already got is, you know, going to
18 make the second floor look very much like the first floor in
19 terms of color openings.

20 Over on the south side, the special permit that
21 we're trying to do is remove the door, which is on the site
22 of the back-yard setback, and these two windows, which are

1 former pantry windows. Those are coming out so that we can
2 enlarge the staircase on the inside --

3 CONSTANTINE ALEXANDER: Right.

4 MARK STEVENS: -- and create the split-level
5 landings coming down, with the entrance here sort of
6 straddling the water table. So let's jump --

7 CONSTANTINE ALEXANDER: Make sure you've answered
8 my question.

9 MARK STEVENS: Yeah, we'll get there.

10 CINDY CARPENTER: Yeah, we're going to get there.
11 Can we look at the green picture?

12 MARK STEVENS: So this isn't quite the same view
13 that we were just looking at from the south, but it's more
14 taken from Hallworthy Place, and you're looking now at the
15 dormer in the middle.

16 The third part of this project is the solar
17 panels, which is, you know, one of the things that we've
18 been designing the roof a lot around as well.

19 So the dormer here in the middle, it's really
20 conforming basically to the setbacks. We don't have any
21 issue meeting the setbacks at that part of the site. I
22 guess the site plan is still here. I just want to point out

1 that we do have the surveys -- the setbacks indicated here.
2 We've got 15 at the front of the balcony, 15.1 at the dormer
3 on the south side, and 15.7 on the north side.

4 CONSTANTINE ALEXANDER: Does your dormer go --
5 closed dormer -- go to the ridge line?

6 MARK STEVENS: It does not.

7 CONSTANTINE ALEXANDER: Good.

8 MARK STEVENS: And the reason for that --
9 originally, I wanted it to. The reason -- I originally had
10 wanted it to. But the reason is that the building is also
11 nonconforming in that it is over 35 feet.

12 CONSTANTINE ALEXANDER: And our dormer guideline
13 got approval, according to --

14 MARK STEVENS: And there's that. So my thought
15 was that we would take the dormers into the roof about --
16 well, to get it down to the no higher than the maximum
17 height -- and it still gives us enough of a pitch out to the
18 outside wall. And the outside walls come up at the five-
19 foot line. So we're not adding any floor area to the house.

20 CONSTANTINE ALEXANDER: Well, that's -- return to
21 my question, can you make that building 16 feet long? I
22 mean, 15 feet?

1 MARK STEVENS: 15 feet.

2 CONSTANTINE ALEXANDER: Not 16 feet.

3 MARK STEVENS: I would want to check the framing,
4 to make sure that we haven't --

5 CONSTANTINE ALEXANDER: Do we want to continue the
6 case? It's your call, but I can only speak for myself.

7 MARK STEVENS: So we won't --

8 CONSTANTINE ALEXANDER: You won't get my vote.

9 MARK STEVENS: We won't get your vote if we don't?

10 CONSTANTINE ALEXANDER: On the special permit.

11 ANDREA HICKEY: And I agree with you. Really,
12 unless there's a compelling --

13 CONSTANTINE ALEXANDER: Yeah.

14 ANDREA HICKEY: -- reason --

15 MARK STEVENS: Right.

16 ANDREA HICKEY: -- otherwise, the guidelines are
17 there because we try to follow them.

18 MARK STEVENS: Okay.

19 CONSTANTINE ALEXANDER: At least that's the
20 length. We tend to be a little bit more lenient with regard
21 to a bridge line --

22 MARK STEVENS: Yeah.

1 CONSTANTINE ALEXANDER: And setback from the face
2 of the length.

3 MARK STEVENS: I guess I thought that it was only
4 for going, asking for extra floor area.

5 CONSTANTINE ALEXANDER: No -- floor area.

6 JANET GREEN: It's a very long -- how long is the
7 house? I mean, what's the length of it with the dormer in
8 the middle? I mean, it looks -- I mean, what's in -- it
9 sits in the middle of the roof in the lines of the house.

10 MARK STEVENS: Yeah. Let me show you an aerial
11 view. So that's basically -- I mean it -- the only -- to
12 answer your question, Jesse, the only panels that would be
13 affected would be these four on the roof here, and it looks
14 like we might go to that.

15 But we are trying to get a certain number of
16 panels up there. The north dormer also gets panels. And
17 those panels are on a shallow enough slope so they'll be
18 facing enough of the sun during the daytime that they'll
19 still be functioning, even though it's the north side.

20 But I hear what you're saying. I think
21 structurally, I can't think of any reason why that's not
22 going to work to go down in size.

1 CONSTANTINE ALEXANDER: Well, again, I'm going to
2 make a motion. When we get to the vote, I'm going to make a
3 motion that the dormer can't be any longer than 15 feet. If
4 the other Board members feel the same way, and we otherwise
5 want to give you relief, if you find out you can't do it,
6 you're going to have to come back.

7 Do you want to do whatever additional work you've
8 got to do now, continue the case, and then you can come back
9 and give us a yay or a nay? What do you want to do?

10 CINDY CARPENTER: You're the architect. You know
11 when you're trying to go through your brain what happens.

12 MARK STEVENS: Yeah. I'm just trying to look at
13 all the ramifications. But I don't want to take the Board
14 members' time either, so --

15 SLATER ANDERSON: We can pause, give the -- you
16 guys want to have some time to chat?

17 CONSTANTINE ALEXANDER: Yeah, do you want to --

18 SLATER ANDERSON: Do you want to come back?

19 CONSTANTINE ALEXANDER: We can go to another case.

20 SLATER ANDERSON: Go to another case.

21 CONSTANTINE ALEXANDER: And you can go back in
22 that room over there.

1 MARK STEVENS: Thank you. You know, that might be
2 a nice option for us, just because this is coming out of the
3 blue. I thought that we would --

4 CONSTANTINE ALEXANDER: Why don't we --

5 CINDY CARPENTER: If we can make it --

6 CONSTANTINE ALEXANDER: -- recess this case --

7 CINDY CARPENTER: -- talk about it -- it's a good
8 idea.

9 JESSE WINCH: Did we get an answer to your
10 question about how long the --

11 CINDY CARPENTER: No, not yet.

12 JESSE WINCH: So she was asking how long --

13 MARK STEVENS: Oh, overall?

14 CINDY CARPENTER: Overall. I was just -- you
15 know, the relationship of the dormer. I was just curious
16 about --

17 MARK STEVENS: Right.

18 CINDY CARPENTER: -- what that was.

19 MARK STEVENS: You know, I should have that number
20 in my head, but I don't. I do have the ability to scale
21 drawing.

22 JESSE WINCH: We should maybe take a break.

1 MARK STEVENS: So why don't I give them that
2 answer -- give you that answer afterwards.

3 CINDY CARPENTER: Okay. I just want to point out
4 one thing for you all, that we assumed when we moved in that
5 we would be able to get natural gas, our own natural gas
6 pipes in the roof and third floor.

7 We could see the connection, but it turns out
8 there is no longer a main. There's a main to our neighbors
9 on the other side. And Eversource quoted us \$30,000.

10 So we've gone all electric. So these solar panels
11 are actually completely essential to the economics of this
12 house. So that may be a factor. We'll go back and we'll
13 take a look. Thank you for offering us the recess, that'll
14 help.

15 CONSTANTINE ALEXANDER: So, I'm sorry. You want
16 to just recess your case? Go in the back room, and we'll
17 hear the next two cases, then you can come back?

18 CINDY CARPENTER: Sounds like a great plan.

19 CONSTANTINE ALEXANDER: Okay.

20 CINDY CARPENTER: Thank you.

21 CONSTANTINE ALEXANDER: The Chair will recess this
22 case, and the next case starts at 8:25 (sic). We've got a

1 minute or two before we actually call.

2 [BREAK]

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2 (8:43 p.m.)

3 Sitting Members: Constantine Alexander, Janet Green, Jim
4 Monteverde, and Slater W. Anderson

5 CONSTANTINE ALEXANDER: The Chair will now call
6 Case Number 017238 -- 273 Upland Road. Anyone here wishing
7 to be heard on this matter?

8 SARAH RHATIGAN: Good evening.

9 CONSTANTINE ALEXANDER: Good evening.

10 SARAH RHATIGAN: It's nice to see you're running
11 on time today. Good evening. Sarah Rhatigan, Trilogy Law.
12 I am here representing the petitioner, who is here with me,
13 Ms. Bowen.

14 AMANDA BOWEN: I'm Amanda Bowen, B-o-w-e-n. So
15 we're here for a variance petition relating to parking
16 conditions on the property of 273 Upland Road.

17 And this is a property that has a main house of
18 the front, an older house with a house at the back, a
19 structure at the back that was -- actually before this Board
20 this summer.

21 CONSTANTINE ALEXANDER: We granted a --

22 SARAH RHATIGAN: Yes, you did actually. And that

1 work actually is complete, I'm told, which is exciting for
2 the folks there.

3 This is a property that Ms. Bowen's mother owned
4 for many years -- yeah, about 50 years. And the structure
5 at the back was converted from a garage to a living -- a
6 dwelling unit back in 1980.

7 And as you saw from our petition to the Board,
8 back in 1980 at the time that that was created as a separate
9 housing unit, the Board at that time granted a special
10 permit to allow for --quote, unquote-- "compact car parking"
11 two cars at the front of the driveway. And it was reported
12 at the Registry of Deeds.

13 And as best we can figure out from kind of the
14 checking for old photos and talking to old neighbors, it
15 seems like there was maybe partial work done to clear the
16 space, to make way for two cars to park side by side in that
17 location. But it's not clear that there ever were two cars
18 that parked in that location.

19 Because Ms. Bowen's mother didn't need a car, and
20 often there was a tenant who lived in the back building, who
21 did use a car, but over time sort of the greenery grew, and
22 there may have been some bushes that were kind of

1 encroaching in the space. So just in terms -- I want to
2 explain to you the context of how we come to you today to
3 request this refill.

4 So actually just arriving, I want to introduce
5 also --

6 AMANDA BOWEN: A familiar face.

7 SARAH RHATIGAN: -- a familiar face, exactly. So
8 with us at the table is Lee Steffy Jenkins, who is the owner
9 of the unit at the back, who was here before you over the
10 summer.

11 LEE STEFFY JENKINS: Lee Steffy Jenkins 273R
12 Upland Road, Cambridge, Massachusetts.

13 THE REPORTER: Could you spell your name for me,
14 please?

15 LEE STEFFY JENKINS: L-e-e S like in Sam -- t like
16 in Tom - e like in egg - f like in Frank - f like in Frank -
17 y like in yes, Jenkins.

18 SARAH RHATIGAN: And so, after Ms. Bowen's mother
19 passed away somewhat recently, there was a decision made to
20 convert the property to condos, so that Ms. Jenkins could
21 actually buy her unit, she had been living there as a
22 tenant, and allowed the family of Ms. Bowen to -- I'm sorry,

1 her mother's last name is Hall --

2 AMANDA BOWEN: Hall.

3 SARAH RHATIGAN: -- yeah, Ms. Hall -- to go about
4 selling the main house as a separate condo unit.
5 Condominium documents were created.

6 At the time, the folks handling that assumed that
7 there were two cars, two parking spaces in the front area,
8 because of the reported special permit.

9 And when owners came to inquire about that, they
10 met Inspectional Services, they said, "Well, we can't
11 promise you that you have two parking spaces" and really in
12 order to legalize that, know for sure, you know, without
13 question, the only way the city would really recognize two
14 cars would be to come back to the Board to ask for relief.

15 Essentially, again -- but with a -- in argument of
16 the lapsed use.

17 CONSTANTINE ALEXANDER: My concerns are as
18 follows: It's quite clear, as you well know, that our city
19 has -- our zoning ordinance has a strong policy against
20 front yard parking.

21 The Planning Board doesn't like it. The Community
22 Development doesn't like it, and we don't like it. And the

1 ordinance prohibits that. We have a situation in which it
2 appears that if ever granted to the two parking spaces, then
3 abandoned in some fashion, that's why ISD --

4 SARAH RHATIGAN: Just one parking space would have
5 been abandoned.

6 CONSTANTINE ALEXANDER: One?

7 SARAH RHATIGAN: Yeah.

8 CONSTANTINE ALEXANDER: But if we were to grant
9 relief tonight, you're going to have -- I'm familiar with
10 these three -- there is front yard parking right next door.
11 We'd have three cars lined up parking on the front yard.

12 And on a street where there's ample on-street
13 parking, it's not like it's other parts of Cambridge where
14 you have to scramble around to find a parking space. And
15 it's -- that's not the case on Upland Road.

16 I have trouble granting the relief you're seeking
17 for that reason, given the policy against front yard
18 parking, the availability of on-street parking.

19 SARAH RHATIGAN: So the -- just a couple more
20 words to try to persuade you against that feeling. The
21 first -- I mean, the first thing that doesn't drive this,
22 but I do point out, that there's -- we do have an e-mail

1 letter from the neighbor to the left, the structure has two
2 occupants.

3 And one of those folks has a letter. The other
4 one verbally told us, yeah, we're fine, but we just weren't
5 able to actually get anything in writing. But there's
6 support from those folks. There's support from the people
7 on the right.

8 I don't know -- I'm sure you guys could speak to
9 the question of whether parking will be as ample along
10 there. I know that there's not actually a lot of street to
11 park along, because of the way the roads come in.

12 CONSTANTINE ALEXANDER: That's not true.

13 SARAH RHATIGAN: Was that not true? I'm sorry, I
14 don't know --

15 CONSTANTINE ALEXANDER: I live on one end of
16 Upland far, far away so I'm not an abutter, and I walk by
17 this all the time. And there's plenty of places to park on
18 the street at all times.

19 LEE STEFFY JENKINS: Hi, with all due respect, I
20 disagree. A couple things, first of all, there are multiple
21 units in several of the houses, and several of the houses
22 have no parking. So there's multiple units with no parking.

1 Our neighbors to the left have two parking spaces.
2 Our neighbors to the right have three parking spaces. And
3 then also on Huron Ave, you can only park on one side of the
4 street. There's the Neville Terrace that runs right into
5 our house, where they can't always park.

6 So we get a lot of parkers from Huron Avenue, that
7 other little street, which name I can't remember, that goes
8 off of Huron right by that little cul-de-sac.

9 And then we have several houses on our street that
10 have a little parking. I mean, there are times when I have
11 to park many blocks away, if I'm not parked in my driveway.
12 Particularly in the winter, when there's snow and there's,
13 you know, big hunks of snow in different places. And it
14 really -- I mean, the neighborhood, well the people that do
15 have parking spaces, they're all up the road.

16 So that's why when we went around and talked to
17 our neighbors, they were all scratching their head at why
18 this would be an issue, since everyone's parking on that
19 street is at the road.

20 CONSTANTINE ALEXANDER: Well, probably because --
21 I can speak to that -- probably because they're legal,
22 nonconforming. They make -- I mean, they were --

1 LEE STEFFY JENKINS: Grandfathered.

2 CONSTANTINE ALEXANDER: -- they're grandfathered,
3 yes, thank you.

4 SARAH RHATIGAN: The other thing I would just
5 point out, an alternative would be to have a deeper
6 driveway.

7 CONSTANTINE ALEXANDER: You mean out in the front
8 yard?

9 BOARD MEMBER: Mm-hm.

10 CONSTANTINE ALEXANDER: Yeah.

11 SARAH RHATIGAN: So the one space would continue
12 to be in the front yard, but the other space would be in
13 tandem in front of it. And the very kind of dramatic
14 downside for that is that you lose essentially one of the
15 open spaces. That's the only yard area, particularly for
16 Ms. Jenkins' unit.

17 The other thing that I would just point out to you
18 is I think that the kind of the equities here really do
19 speak to a different situation.

20 This isn't a property that never had parking.
21 This isn't a property where the owners only had one parking
22 space legally, and then are asking for two parking spaces

1 legally.

2 It was where someone was granted relief for two
3 parking spaces, so that they could have legal compliance in
4 terms of the number of parking space per unit, which is why
5 that relief was granted in the first place, I assume. I
6 haven't read the full record, but if you look at the
7 decision up here, it appears that there wasn't much
8 discussion of that.

9 And then by a lapse of use, or maybe, you know,
10 maybe just not clear understanding of what her
11 responsibility was as an owner, losing that parking space
12 means also losing zoning compliance in terms of parking --
13 minimum parking requirements. So I think it -- I personally
14 feel like it makes it a much more compelling case.

15 And then just -- I'll briefly just talk about the
16 physical conditions. So the request is for compact spaces.
17 You may see that there was an amendment to my original
18 filing to include the provision of the zoning ordinance, I
19 think at 6.34, that deals with parking space size.

20 I admit I wasn't quite cognizant of how this
21 worked, until it was brought to my attention by the zoning
22 administrator that that reference should also reference

1 6.34, because we are requesting compact car spaces. Ms.
2 Jenkins' car is small. The new owner will be sold a spot
3 that expressly is compact, which I think does make a
4 difference in terms of, you know, the visual effect on the
5 street. You're not going to have an SUV parking there.

6 And I realize that there's sort of a balancing of
7 equities. You want to have properties that have as much
8 open space as they can. I think that it is a benefit to the
9 people in the neighborhood to have a car off the street,
10 which is why I think that the neighbors are quite supportive
11 of doing that.

12 Just in terms of, like, in practicality, the
13 people who have been looking at buying the main house as a
14 condominium unit are folks who have cars. This is not a
15 small unit that's on the market. And Ms. Jenkins has a car
16 and she's got rights to a parking space.

17 So, you know, the result of not granting the
18 variance is there will be another car parking on the street.
19 Neighbors won't love it. You know, we definitely are
20 respectful of the sort of the policy -- I mean, obviously
21 the zoning ordinance and the policy against front yard
22 parking, but, you know, this is the reason it is a variance.

1 We understand it's discretionary, but hope that the Board
2 would consider it.

3 ANDREA HICKEY: Unfortunately, I just realized I
4 have a conflict in this case. I'm not going to be able to
5 participate in the vote.

6 CONSTANTINE ALEXANDER: Okay.

7 ANDREA HICKEY: I just realized it.

8 CONSTANTINE ALEXANDER: Okay. No problem. Okay,
9 fine.

10 ANDREA HICKEY: So.

11 CONSTANTINE ALEXANDER: You know the consequences
12 going forward, now you can either all four and none of them
13 vote. What we could do is we could continue this case,
14 until we find a place as soon as we can for our departing
15 member.

16 ANDREA HICKEY: Well, it's a case heard. I'm not
17 --

18 SARAH RHATIGAN: Can you continue?

19 ANDREA HICKEY: I was going to say, can you do
20 that?

21 CONSTANTINE ALEXANDER: The Legal Department has
22 now, to my amazement said they don't -- on cases heard, you

1 don't have to have the same five people come back. That's
2 news to me, but that's --

3 ANDREA HICKEY: Hm.

4 CONSTANTINE ALEXANDER: -- that's what we were
5 told. So we can get another -- we don't -- we can get
6 another member to replace Andrea, and we don't have to start
7 the case all over again.

8 ANDREA HICKEY: Or you can elect to proceed with
9 four.

10 CONSTANTINE ALEXANDER: Or you can proceed,
11 absolutely. It's your call. Again, I remind you, you need
12 the four votes.

13 SARAH RHATIGAN: Would the Chair be willing to tip
14 his hat as to whether he continues to object it?

15 CONSTANTINE ALEXANDER: I tipped my hat. I'm not
16 in favor of granting relief. I just think the policy of the
17 city against front yard -- expanding front yard parking is
18 too strong.

19 And I respectfully disagree with the notion that
20 there's no on-street parking. I walk on that street all the
21 time, and there's always plenty of parking on the street,
22 I'm sorry. I hear you, but that's not true, in my opinion.

1 SARAH RHATIGAN: Do you find that the case is
2 different from others, where there's a discretionary vote to
3 allow front yard parking?

4 CONSTANTINE ALEXANDER: What?

5 SARAH RHATIGAN: Is there a lack of --

6 CONSTANTINE ALEXANDER: We'd be -- we had a case
7 earlier this evening -- actually it was a continuation. We
8 denied front-yard parking in a very densely populated area;
9 Columbia Street over basically East Cambridge.

10 This Board unanimously denied it at an earlier
11 case. They've redesigned their modifications to the
12 structure to allow side -- to get -- in the side yard, and
13 we granted a special permit because it was side yard.

14 So we do take -- and I can remember a number of
15 other cases where we've denied front yard parking.

16 SARAH RHATIGAN: Mm-hm.

17 CONSTANTINE ALEXANDER: Just because that is the
18 policy of the city.

19 SLATER ANDERSON: They managed to remove part of
20 the house for that.

21 JANET GREEN: Yeah, they did.

22 CONSTANTINE ALEXANDER: Yeah, they did.

1 JANET GREEN: They did. They removed part of the
2 house.

3 CONSTANTINE ALEXANDER: Part of the house.

4 JANET GREEN: But can I ask a question about
5 something I didn't understand that you said. It was -- so
6 is there -- there was a permit that's lapsed for two cars?
7 When was that, and when did it lapse, and why did it lapse?

8 SARAH RHATIGAN: So let me give you the history.
9 So in the filing, there's a Board -- BZA decision from 1980.

10 JAMES RAFFERTY: 1980.

11 SARAH RHATIGAN: So in 1980, at the time that Ms.
12 Hall applied to the Board to convert the garage to a
13 dwelling unit, in that same decision, so it's about the
14 variance to allow the dwelling unit, and then a special
15 permit -- no, it was a special permit at that time, and my
16 understanding is that the zoning ordinance didn't call this
17 parking configuration a variance, for whatever reason.

18 But again, there was a variance granted for the
19 dwelling unit and a special permit granted for the parking
20 area. That was described -- the decision, if you note -- I
21 found this interesting -- the decision noted two compact
22 cars, but it also noted the dimensions of the space. I

1 can't remember what they were, 14 by --

2 BOARD MEMBER: By 16.

3 SARAH RHATIGAN: 16, thank you. So the -- and the
4 curb cut is the width, is more than a single curb cut. So
5 when we were trying to piece together the evidence of
6 essentially, well were there two cars, you know, were there
7 two parking spaces created?

8 What we found, I've got an old picture from pre-
9 1980 changes, so this is an old file photo, and you can see
10 kind of the old car there, there used to be a fence. Do you
11 see the fence around there?

12 CONSTANTINE ALEXANDER: Yep.

13 JANET GREEN: Mm-hm.

14 SARAH RHATIGAN: And then there was one sort of
15 small car parked in that location. So that sometime after
16 this, and after the 1980 decision, the fence came down, and
17 in order for them to convert the garage in the back to a
18 dwelling unit, they had to have gotten some significant
19 sized equipment back there. So we know that at least the
20 path was created for a wider driveway.

21 When the construction folks were there to work on
22 Ms. Jenkins' unit in the back, we were asking them to take a

1 look to see where the paving was, to see what the dimensions
2 of the space were.

3 As best we could tell, it looked like it was about
4 14 feet to 15 feet wide. So it was just -- we couldn't
5 quite determine if literally a 14 foot by 16-foot area was
6 created.

7 And then just anecdotally, there were folks who
8 had walked by who -- I think this spoke to Ms. Jenkins --
9 who said, "Oh, we used to live here, we were tenants."

10 And at that time, they said that they did park two
11 cars side by side, but we don't know who they are, we
12 couldn't find them. Ms. Hall's passed away. Ms. Bowen
13 actually was in college and moved away by the time a lot of
14 this had happened. So we can't prove that there were ever
15 two cars parked there.

16 LEE STEFFY JENKINS: There was one other little
17 piece of -- sorry, there is one other piece of evidence,
18 which is I think the brickwork was done more recently, like,
19 in the last 10 or 15, and the brickwork clearly went 14 feet
20 before the driveway.

21 Because we had some of that repaired, and it was
22 clearly 14 feet for the driveway. And that would have just

1 been when you started bricking the cement. It's not -- the
2 whole street isn't bricked, it was from the very beginning,
3 and the homeowner can pay extra.

4 JANET GREEN: So the curb cut should tell whether
5 there was permission for two cars or not.

6 COLLECTIVE: It does.

7 SARAH RHATIGAN: It suggests there two cars
8 permitted.

9 JANET GREEN: The curb cut says there are two cars
10 permitted. That means the city, which determines the size
11 of those curb cuts, was agreeing that it was a two-car
12 space.

13 CONSTANTINE ALEXANDER: Well, except that my
14 concern is that the Inspectional Services Department was not
15 persuaded by all of this. They would have --

16 JANET GREEN: I think they were.

17 CONSTANTINE ALEXANDER: If they were, you would
18 not be here tonight. You would --

19 SARAH RHATIGAN: So, I mean, I respect the
20 commissioner's decision to say, "If you can't give me an
21 affidavit that's super, super clear, you know, that's really
22 for the Board to be able to make this decision at this

1 point."

2 CONSTANTINE ALEXANDER: Well, you might go back to
3 the Commissioner and say, "The Board is skeptical about
4 legally -- " do you meet the legal standard? "Could we go
5 back and talk some more about why you can't say, because
6 based on the history you cited, and the curb cut, that this
7 is okay legally and you don't need a zoning permit?"

8 You can go back to the Commissioner and try again,
9 particularly with the -- with the evidence that the Board is
10 skeptical whether you meet the legal standard, not so much
11 the --

12 SARAH RHATIGAN: Could this Board not determine
13 based on the factual information we're providing you that --

14 CONSTANTINE ALEXANDER: We could, but you're
15 didn't persuade the Commissioner, I'm not sure, I respect
16 Ranjit --

17 SARAH RHATIGAN: Well, we didn't try. I mean --

18 CONSTANTINE ALEXANDER: So, you know, I'm very
19 reluctant to say, "Ranjit, you were wrong. Historically, we
20 think you're okay. You are okay."

21 SARAH RHATIGAN: So I understand what your
22 position is. I feel a little bit like Mr. Singanayagam

1 said, "Could you have the Board make this determination?"

2 And now the Board is telling me --

3 CONSTANTINE ALEXANDER: [Laughter]

4 SARAH RHATIGAN: "Can Mr. Singanayagam make this
5 determination?"

6 CONSTANTINE ALEXANDER: There's a difference,
7 though. We have to apply a legal standard, and what I'm
8 suggesting -- I'm only me -- is there's doubt whether you
9 meet the legal standard, maybe more than doubt.

10 His issue is not the legal standard, it's the
11 historical record, the proof that you cited tonight about
12 the construction of the 1980 variance that was granted.

13 So he can make a determination independent of what
14 we might make, we might decide. Because it's a different
15 consideration. It's different. This is the historical
16 record and the history of the city. Ours is the legal
17 standard for a variance.

18 LEE STEFFY JENKINS: So I think that I -- because
19 we spoke to Ranjit, and I spoke to Ranjit about this, I used
20 to be on the Zoning Board for a year, so I know a little bit
21 more about how these things govern.

22 What his position was that a special permit does

1 not expire, it's not like a grandfathered use --

2 CONSTANTINE ALEXANDER: Right.

3 LEE STEFFY JENKINS: -- so if you have a special
4 permit, as long as you implemented the special permit, even
5 if you stop using it, it doesn't expire. And what I
6 suggested is that it would have been a physical
7 impossibility not to create that driveway, because I know
8 from the work that I'm doing, which was far less extensive
9 than the work that they did, that we had to take down part
10 of the fence to get the equipment into the back.

11 So there's no way they did not create this
12 driveway from the beginning. And then there's the evidence
13 that the city agreed that we created the driveway, because
14 they did the curb cut that's 14 inches, and they did the
15 brickwork.

16 Because on the city streets, the brickwork goes a
17 different way when it's a driveway versus a sidewalk.

18 Now, when we talked to Ranjit, part of the problem
19 was he asked Amanda off the cuff, well did she ever do --
20 have two cars parked there?

21 And Amanda said, "No." And I remember that Amanda
22 wasn't even around then, she was living in Berkeley, and the

1 other child, the other son, was in Australia. None of them
2 were around.

3 But by then, she had already said, "Well, I don't
4 remember two cars parked there" and he kind of ran with that
5 and said, "Well, you never actually implemented the special
6 permit."

7 But in fact, there's evidence that it was, because
8 of the curb cut. The city wouldn't have done a 14-foot curb
9 cut if there was a 70-foot parking spot there.

10 SARAH RHATIGAN: So we won't bother you much
11 longer, but I just want to get my head around one aspect of
12 this. So I understand that you're saying that you don't
13 feel, and presumably -- I mean, honestly, I would not get a
14 unanimous vote of the Board that we've met a variance
15 standard, for the reasons that you described.

16 Does this Board have the authority to hear our
17 testimony about the creation of the spaces back in 1980 and
18 make a determination based on the record that the --

19 One, there was a creation of the parking area, and
20 that there was not a -- you know, there's no loss of the
21 special permit use?

22 CONSTANTINE ALEXANDER: I think -- I think --

1 SARAH RHATIGAN: Do you see what my question was?

2 CONSTANTINE ALEXANDER: -- the way you get there,
3 though, is you go back to Ranjit and he says, "No, I
4 continue to believe the special permit has lapsed." You can
5 take an appeal of that decision, and that's not a variance
6 standard, then.

7 BOARD MEMBER: I don't think --

8 SARAH RHATIGAN: I understand.

9 CONSTANTINE ALEXANDER: That's what I think you
10 can do.

11 SARAH RHATIGAN: Okay. So we would ask for a
12 continuance so that we can try to work this out.

13 CONSTANTINE ALEXANDER: Okay.

14 SARAH RHATIGAN: Yeah?

15 CONSTANTINE ALEXANDER: How much time would you
16 like?

17 SARAH RHATIGAN: I think the question is when you
18 could --

19 CONSTANTINE ALEXANDER: When's the earliest --

20 SARAH RHATIGAN: Yeah, when do you think the next
21 meeting --

22 SISIA DAGLIAN: Well, we said we can't do the

1 twenty-seventh of this month, right? It's too soon?

2 CONSTANTINE ALEXANDER: Right. I think it's too
3 soon.

4 SARAH RHATIGAN: Well, that was for advertising --

5 CONSTANTINE ALEXANDER: Advertising, yeah.

6 SARAH RHATIGAN: That's true, yeah. And we won't
7 need -- we just need to do a little homework; we don't need
8 to revise plans. So we can -- it -- I assume Mr.
9 Singanayagam's around for meetings?

10 SISIA DAGLIAN: Yes.

11 SARAH RHATIGAN: He's in town?

12 SISIA DAGLIAN: Yes.

13 SARAH RHATIGAN: Yeah. So I think we can do the
14 twenty-seventh.

15 CONSTANTINE ALEXANDER: When's the earliest we can
16 hear a case?

17 SISIA DAGLIAN: The twenty-seventh.

18 JANET GREEN: Here?

19 CONSTANTINE ALEXANDER: Oh, we haven't -- I don't
20 think they have enough time.

21 SARAH RHATIGAN: I think we would have enough
22 time.

1 BOARD MEMBER: Janet's not --

2 JIM MONTEVERDE: I'm flying back that day. I'm
3 not sure --

4 BOARD MEMBER: And Janet's not here --

5 SARAH RHATIGAN: So I want to know when the Chair
6 -- no -- [laughter] are you going on vacation soon? That
7 was a very bad joke.

8 JANET GREEN: I won't be there on the twenty-
9 seventh.

10 CONSTANTINE ALEXANDER: Okay.

11 SLATER ANDERSON: You will or won't?

12 JIM MONTEVERDE: Will not.

13 SLATER ANDERSON: Okay.

14 SARAH RHATIGAN: Will not? Okay.

15 JANET GREEN: No.

16 SISIA DAGLIAN: So after that, we have three
17 cases, and I -- for the next three sessions. So we don't --
18 we're not free until April 30.

19 SARAH RHATIGAN: To state the obvious --

20 SISIA DAGLIAN: Unless we want to do more than
21 three cases on one of those nights?

22 CONSTANTINE ALEXANDER: I'm sorry?

1 SISIA DAGLIAN: Unless you want to do more than
2 three cases.

3 CONSTANTINE ALEXANDER: The trouble is we never
4 know what --

5 SISIA DAGLIAN: What else is --

6 CONSTANTINE ALEXANDER: What are the three cases
7 we have, are they controversial? Maybe someone's going to
8 withdraw, but then we may not have three come that night. I
9 would go before, and given the circumstances, I would not
10 let the fact that we already have three on a night, deter us
11 deter us from hearing a fourth. So what's, if we did that,
12 what's the earliest?

13 SISIA DAGLIAN: So Janet, do you need to be there?

14 CONSTANTINE ALEXANDER: Janet, do you have to be
15 there?

16 JANET GREEN: Yeah, because we have to have five.

17 SISIA DAGLIAN: You're right.

18 CONSTANTINE ALEXANDER: But I think we decided
19 that we're not going to -- we don't need the same people.
20 We can start with a complete -- almost a completely new
21 slate, according to the Legal Department.

22 SISIA DAGLIAN: Then why don't you do February 27?

1 JANET GREEN: Because just you'd need three
2 alternates, then.

3 SISIA DAGLIAN: Three alternates, okay.

4 JANET GREEN: Which may be possible, I don't know.

5 SISIA DAGLIAN: It's hard to get it. How about
6 March 12?

7 CONSTANTINE ALEXANDER: Can we do it -- how about
8 the first, not the -- what's -- the twenty-fifth?

9 SISIA DAGLIAN: March 12.

10 CONSTANTINE ALEXANDER: March 12?

11 SISIA DAGLIAN: Yeah.

12 CONSTANTINE ALEXANDER: We have three now, right?

13 SISIA DAGLIAN: Yeah.

14 CONSTANTINE ALEXANDER: Now, three --

15 SISIA DAGLIAN: It will be two extra.

16 SLATER ANDERSON: We could.

17 CONSTANTINE ALEXANDER: Three continued cases.

18 JANET GREEN: Remember, I'm not here at all in
19 March.

20 CONSTANTINE ALEXANDER: No, we don't think we need
21 you.

22 JANET GREEN: Maybe.

1 BOARD MEMBER: Yeah, we do.

2 CONSTANTINE ALEXANDER: I would suggest we
3 continue this case until March 12. Gives you a month to do
4 your work. We'll -- whoever the five will be here will be
5 here. Okay?

6 SLATER ANDERSON: Why, what's the --

7 SARAH RHATIGAN: I think that works.

8 SLATER ANDERSON: Could I have an interpretation
9 on why we don't need all the same people?

10 CONSTANTINE ALEXANDER: The Legal Department told
11 me there's nothing in the statute or anywhere that says you
12 need to have the same people.

13 SLATER ANDERSON: Any case? Any --

14 CONSTANTINE ALEXANDER: Yeah.

15 SLATER ANDERSON: -- continued case?

16 CONSTANTINE ALEXANDER: Any continued case is a
17 case heard.

18 SLATER ANDERSON: Makes it easier.

19 CONSTANTINE ALEXANDER: As I said, all the time
20 I've been on the Board, that's always been the practice.
21 But I'm told that it's only a practice, there is nothing as
22 a requirement.

1 SLATER ANDERSON: Okay.

2 CONSTANTINE ALEXANDER: Okay. We'll try March 12;
3 did I get it right?

4 SISIA DAGLIAN: Yep.

5 CONSTANTINE ALEXANDER: We'll continue -- the
6 Chair moves that we continue this case until March 12,
7 subject to the following conditions: That's a time for a
8 decision be -- we agree to postpone the time for a decision
9 until March 12.

10 That to the extent that you have to put a new
11 posting sign up -- either the one you have now modify it to
12 reflect the new date, March 12, and the new time, 7:00 p.m.
13 -- or you can get a new sign. But it has to be in front of
14 the Board just like you did this time for the 14 days before
15 that March date.

16 And lastly, I don't think this would be
17 applicable, to the extent you've got to give us new plans,
18 the dimensional forms are different than we would have now.
19 They have to be in our files no later than 5:00 p.m. on the
20 Monday before the March date.

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

22 THE BOARD: Aye.

1 [Four vote YES - Constantine Alexander, Janet
2 Green, Jim Monteverde, Slater Anderson -- Andrea Hickey
3 abstained]

4 CONSTANTINE ALEXANDER: Five in favor.

5 COLLECTIVE: Four.

6 CONSTANTINE ALEXANDER: Four in favor, got it.
7 Four in favor. See you in March.

8 SARAH RHATIGAN: Thank you.

9 SLATER ANDERSON: Find that photo of the two cars.

10 SARAH RHATIGAN: Yeah, right. Find those people.

11 CONSTANTINE ALEXANDER: That's right. I see the
12 folks in Park Avenue back, but I think the ones who were --
13 no, no, no, no. You're going to have to wait. We're going
14 to hear the 9:00 case next.

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2 (9:11 p.m.)

3 Sitting Members: Constantine Alexander, Janet Green, Jim
4 Monteverde, Andrea Hickey and Slater
5 W. Anderson

6 CONSTANTINE ALEXANDER: Name and address for the
7 stenographer, please.

8 MARK PHILBEN: Mark Philben, with Charlie Allen
9 Renovations, 91 River Street in Cambridge. We're the
10 contractor doing the work.

11 SATU MEHTA: And my name is Satu, S-a-t-u Mehta,
12 M-e-h-t-a. I'm the homeowner with my husband, who is just
13 coming back home from a business trip. So it's me and Mark.

14 CONSTANTINE ALEXANDER: Okay. And you're seeking
15 to increase the size of a window in a setback?

16 MARK PHILBEN: On a nonconforming side, yeah.
17 Satu and her husband have decided to retire in Cambridge,
18 and they're trying to make the house safer. Among that is
19 adding a window onto a nonconforming side.

20 CONSTANTINE ALEXANDER: And this is all described
21 in this plan right here?

22 MARK PHILBEN: Exactly.

1 CONSTANTINE ALEXANDER: Am I on the right page?

2 MARK PHILBEN: Yep, it's the -- the second-floor

3 --

4 CONSTANTINE ALEXANDER: Yeah.

5 MARK PHILBEN: -- window. It's currently a single
6 window, and we're going to basically make it a double window
7 and increase the window size.

8 CONSTANTINE ALEXANDER: Questions for members of
9 the Board? I'll open the matter up to public testimony.
10 Anybody here wishing to be heard on this matter. No one
11 wishes to be heard? Do we have -- I don't think we have any
12 letters in the file. Not that we need them?

13 MARK PHILBEN: I have one letter in support.

14 CONSTANTINE ALEXANDER: In support. Do you want
15 to --

16 MARK PHILBEN: If you'd like to add that, would
17 you like that better?

18 CONSTANTINE ALEXANDER: I'm sorry.

19 MARK PHILBEN: It's one of the neighbors.

20 CONSTANTINE ALEXANDER: I'll just read it into the
21 record.

22 "I am writing in support of the project of 137

1 Erie Street, to increase the size of the window in the
2 setback. I live in the same building as Satu and Cyrus at
3 141 Erie Street, and this project will not impact the
4 neighbors or the neighborhood. I give my full support to
5 the zoning permit. "

6 That's all she wrote. This is a special permit
7 case. Ready for a vote?

8 MARK PHILBEN: Yes.

9 COLLECTIVE: Ready.

10 CONSTANTINE ALEXANDER: Just let me get my act
11 together. The Chair moves that we make the following
12 findings with regard to the special permit being sought:

13 That the requirements of the ordinance cannot be
14 met unless we grant the special permit.

15 That traffic generated or patterns in access or
16 egress which will resulting from the relocation of the
17 window will not cause congestion, hazard or a substantial
18 change in established neighborhood character.

19 Again, the modification is very modest. Clearly,
20 I think it speaks for itself that it will not have the
21 congestion, hazard or substantial change effect.

22 That the continued operation of or development of

1 adjacent uses will not be adversely affected by the nature
2 of the proposed use, the window modification will not affect
3 privacy of abutters or -- well, I'll leave it at that.

4 That no nuisance or hazard will be created to the
5 detriment of the health, safety and/or welfare of the
6 occupant or the citizens of the city, and generally, what is
7 being proposed with regard to the window will not impair the
8 integrity of the district or adjoining district, or
9 otherwise derogate from the intent and purpose of the
10 ordinance.

11 So on the basis of all of these findings, the
12 Chair moves that we grant the special permit on the
13 condition that the work proceed in accordance with the plans
14 on the page, page A04, that I have initialed. All those in
15 favor, please say, "Aye."

16 THE BOARD: Aye.

17 [All vote YES]

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

20 MARK PHILBEN: Thank you.

21 SATU METHA: Thank you.

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(9:15 p.m.)

Sitting Members: Constantine Alexander, Janet Green, Jim
Monteverde, Andrea Hickey and Slater W.
Anderson

CONSTANTINE ALEXANDER: Okay, what's your --

MARK STEVENS: So --

CONSTANTINE ALEXANDER: What do you want to do?

MARK STEVENS: Could we ask for a clarification?

CONSTANTINE ALEXANDER: You can ask, you may not
get it.

COLLECTIVE: [Laughter]

MARK STEVENS: I -- you know, in the application
for the petition that you were asked to cite all the
relevant chapters of the code for a petition, I skipped over
8.22.1H, because --

THE REPORTER: I'm sorry, could you just state
your name again, for the record.

MARK STEVENS: Mark Stevens. I skipped over
8.22.1H, which is the paragraph that you mentioned the 15-
foot rule, because it begins with the construction of a
dormer on an addition to a nonconforming, one or two-family

1 dwelling, which will further violate the yard and height
2 requirements of Article 5. These dormers do not do that.

3 CONSTANTINE ALEXANDER: I know that, but this, you
4 misunderstand how our statute works.

5 MARK STEVENS: Okay.

6 CONSTANTINE ALEXANDER: Dormer guidelines are not
7 part of the statute. They are guidelines. They're not --
8 it's not law, like this is. But we pay serious attention to
9 those dormer guidelines. They were prepared and implemented
10 by a Community Development Department. The Planning Board
11 supports the -- that we --

12 MARK STEVENS: Okay.

13 CONSTANTINE ALEXANDER: -- enforce them. And so,
14 it's our policy, unless we have significant legal reason not
15 to --

16 MARK STEVENS: Okay.

17 CONSTANTINE ALEXANDER: -- we want them. And
18 that's why I go back to my question I asked, and I still
19 haven't gotten an answer, why can't you just add six inches
20 on each side?

21 ANDREA HICKEY: You mean subtract?

22 COLLECTIVE: Take off.

1 ANDREA HICKEY: Take off six inches.

2 CONSTANTINE ALEXANDER: Oh, take off. I'm sorry,
3 you're right.

4 MARK STEVENS: I will answer the question.
5 Structural, I do not foresee any issue doing that.

6 CONSTANTINE ALEXANDER: So you're going forward on
7 that basis?

8 MARK STEVENS: However, it is a 50-foot long
9 building.

10 CONSTANTINE ALEXANDER: Say what?

11 MARK STEVENS: It is a 50-foot long building. And
12 so, at 16 feet it is a little less than a third of the
13 length of that ridge.

14 JANET GREEN: Okay. It was a question.

15 MARK STEVENS: If that makes any difference.

16 JANET GREEN: Doesn't make any difference.

17 MARK STEVENS: Okay.

18 ANDREA HICKEY: So could you still figure solar
19 panels that you originally planned in those original
20 dimensions if you shortened it on six feet either side? Or
21 would you need to change that whole panel configuration?

22 MARK STEVENS: I believe we will be okay. The

1 panels will go closer to the edge of the roof, so they will
2 be a little harder to put on, but I think it will still
3 work, I believe.

4 CONSTANTINE ALEXANDER: Okay.

5 CINDY CARPENTER: So now can I ask you a
6 clarifying question about process? So if we say we're going
7 to move -- turn them to 15 feet, and then we go back and
8 discover that we do have an issue with the solar panels, do
9 we come back and apply for a variance?

10 CONSTANTINE ALEXANDER: You've got to start all
11 over again, you have a new case.

12 CINDY CARPENTER: A special permit? It's a new
13 case, right?

14 CONSTANTINE ALEXANDER: New case, yeah.

15 CINDY CARPENTER: Whereas if we say we're not 100%
16 sure, we're 98% sure when we go back now, we have to do a
17 continuance?

18 CONSTANTINE ALEXANDER: Yeah.

19 CINDY CARPENTER: So if we're --

20 CONSTANTINE ALEXANDER: You're going to have to
21 advertise though.

22 CINDY CARPENTER: So if we're that close, it's

1 probably better for us to just say, "Okay, we'll go for 15
2 feet, and then we can proceed with our plans?"

3 CONSTANTINE ALEXANDER: Yeah, but if you want --

4 CINDY CARPENTER: But we'll probably come back.

5 CONSTANTINE ALEXANDER: -- if you find that's a
6 problem --

7 CINDY CARPENTER: Yeah.

8 CONSTANTINE ALEXANDER: -- the solar panels,
9 you'll have to file a new application.

10 ANDREA HICKEY: Yeah, it's going to delay you,
11 it's going to cost you money.

12 CONSTANTINE ALEXANDER: New filing fee, new --

13 CINDY CARPENTER: Yeah.

14 CONSTANTINE ALEXANDER: -- whatever.

15 CINDY CARPENTER: Yeah.

16 CONSTANTINE ALEXANDER: Advertising.

17 CINDY CARPENTER: Yeah.

18 CONSTANTINE ALEXANDER: The other alternative is
19 to continue the case, do whatever you've got to do regarding
20 the solar panels, and if it's not a problem, come back and
21 we'll reconvene and take your chances.

22 But if you do find it's a problem, then you're

1 back to where you were before. You've got to start a new
2 case and advertise.

3 CINDY CARPENTER: Yeah.

4 SLATER ANDERSON: Question. How do you want to
5 address the modified plan tonight?

6 CONSTANTINE ALEXANDER: What I would do is I would
7 simply, I would approve if -- or have the Board approve
8 those plans, provided that the dormer be no more 15 feet.

9 SLATER ANDERSON: So the expectation is they would
10 submit a modified? Because I would think that --

11 CONSTANTINE ALEXANDER: Well, and I think what we
12 could do --

13 ANDREA HICKEY: I would think we could mark up the
14 plans and have them initialed, just with some notions.

15 MARK STEVENS: Okay.

16 ANDREA HICKEY: Six inches on either side.

17 CONSTANTINE ALEXANDER: I don't think -- you can
18 do that, but I don't think you even have to do that. I
19 mean, ISD when you look at your building permit, would look
20 at the plans that you submit, and they would measure the
21 dormer and say, "Well, it's 15 feet, we're okay."

22 MARK STEVENS: Mm-hm.

1 CATHERINE PRESTON CONNOLLY: If they say it's not,
2 16 feet or 15 feet and five inches, then that has to come
3 back.

4 MARK STEVENS: Okay.

5 ANDREA HICKEY: So you think it's enough for our
6 file to have a narrative and not plan with some kind of
7 notion?

8 SLATER ANDERSON: That's my point.

9 CONSTANTINE ALEXANDER: What I see is -- maybe I'm
10 wrong, and probably I'm wrong -- all I see is if they
11 haven't got a problem, is they just have to take the same
12 dormer we have here --

13 JANET GREEN: But if you're going to initial that
14 plan then it's not accurate.

15 CONSTANTINE ALEXANDER: No, no. It'll be --
16 according to this plan, except that the dormer cannot be
17 more than 15 feet long. If you don't -- people are not
18 comfortable.

19 MARK STEVENS: Make a note on the plan.

20 ANDREA HICKEY: That's on our plan.

21 JANET GREEN: Make a note on the plan that they
22 take in.

1 CONSTANTINE ALEXANDER: Oh, it's going to be part
2 of it?

3 ANDREA HICKEY: So if we decide, don't do it now.
4 We're still -- right? We're not there yet.

5 MARK STEVENS: But would it make sense for me to
6 do a bubbled out set of plans with an Addendum, and
7 reference the Addendum to the hearing?

8 ANDREA HICKEY: I don't think we need to --

9 SLATER ANDERSON: I don't think you need to --

10 ANDREA HICKEY: -- go through that trouble.

11 MARK STEVENS: We've done this before. We've
12 marked this up, we've -- everybody's initialed it, and we're
13 --

14 SLATER ANDERSON: You may have to do construction
15 drawings.

16 MARK STEVENS: For the building?

17 SLATER ANDERSON: Yes. Correct the construction
18 drawings.

19 MARK STEVENS: Yeah.

20 SLATER ANDERSON: -- for the purposes of the
21 permit, but for our purposes, the notion should be fine.

22 ANDREA HICKEY: Yeah. But I guess we're back to

1 the question, "Do you think you need more time to make sure
2 that your solar panel configuration -- "

3 MARK STEVENS: I'm confident enough that we'll
4 make it work.

5 SLATER ANDERSON: Good.

6 CINDY CARPENTER: We're going to take our chances.

7 CONSTANTINE ALEXANDER: And even if it turns out
8 you're not right, it's no -- it'll come back to us anyway.
9 I don't see it -- it's a detriment to do it. I think you go
10 with your gut feel, if it's going to work, you may get rid
11 of the case tonight.

12 CINDY CARPENTER: Yeah.

13 CONSTANTINE ALEXANDER: And then you go to ISD,
14 they will bless it because it's 15 feet, and if it turns out
15 to be not right, you're no worse off.

16 MARK STEVENS: Mm-hm. Okay.

17 JESSE WINCH: So yes, we agree, just to be clear,
18 and say 15 feet. These are 15 footers.

19 MARK STEVENS: Right. So that's the other thing
20 when I'm doing 2 x 6 construction --

21 JESSE WINCH: Whatever.

22 MARK STEVENS: Exterior phone, and all that --

1 JESSE WINCH: Okay.

2 MARK STEVENS: Which is also eating up that space.

3 So.

4 JESSE WINCH: Okay. It's not inside dimension,

5 it's an outside dimension.

6 CINDY CARPENTER: Yes.

7 MARK STEVENS: Okay. All right.

8 CINDY CARPENTER: We understood that.

9 MARK STEVENS: Yeah. Because the inside actually

10 we do have feet now.

11 JIM MONTEVERDE: So now is there more with the

12 doorway?

13 MARK STEVENS: Do we want to briefly touch on the

14 variance aspect?

15 CONSTANTINE ALEXANDER: Sure. I mean, well you

16 have to make a vote. You're going to have to, but I thought

17 you did. I mean --

18 CINDY CARPENTER: Yeah, we did.

19 JIM MONTEVERDE: We saw the --

20 MARK STEVENS: Oh, okay.

21 JIM MONTEVERDE: You did the rendering --

22 CONSTANTINE ALEXANDER: I think you've covered

1 everything.

2 ANDREA HICKEY: I understood that was covered.

3 CONSTANTINE ALEXANDER: We are ready for a vote,
4 frankly.

5 JIM MONTEVERDE: Yep.

6 MARK STEVENS: Okay. I didn't know if you had any
7 questions about the canopy design.

8 CONSTANTINE ALEXANDER: I don't. Anybody else do?

9 COLLECTIVE: No.

10 CONSTANTINE ALEXANDER: Okay. Let's take the
11 variance case first. The Chair moves that we make the
12 following findings with regard to the variance being sought:

13 That a literal enforcement of the provisions of
14 the ordinance would involve a substantial hardship, such
15 hardship being that this is an older structure that has --
16 needs the canopy because of the way the rear entry is now
17 part of the structure, and the safety issues about the
18 narrow staircase that leads from it.

19 That the hardship is owing to the shape of the
20 structure, and that relief may be granted without
21 substantial detriment to the public good, or nullifying or
22 substantially derogating from the intent and purpose of this

1 ordinance.

2 So on the basis of all of these findings, the
3 Chair moves that we grant the variance requested subject to
4 the condition that with regard to the variance, the work
5 proceed in accordance with this plan prepared by -- I'll
6 note your name, Mr. Allen --

7 MARK STEVENS: Mark Stevens.

8 CONSTANTINE ALEXANDER: -- I'm sorry, Mark Stevens
9 Architecture, one page, and I've initialed that page. All
10 those in favor, please say, "Aye."

11 THE BOARD: Aye.

12 [All vote YES]

13 CONSTANTINE ALEXANDER: Five in favor, so you have
14 your variance.

15 Now, with regard to the special permit, we've got
16 to make different findings. I'll get there. The Chair
17 moves that we make the following findings with regard to the
18 special permit that's being sought:

19 That the requirements of the ordinance cannot be
20 met without the special permit.

21 That traffic generated or patterns of access or
22 egress resulting from what is proposed will not cause

1 congestion, hazard, or substantial change in established
2 neighborhood character. We're talking basically windows and
3 a dormer.

4 That the continued operation of or development of
5 adjacent uses, as permitted in the ordinance, will not be
6 adversely affected by what is proposed. In that regard, we
7 note that there is no neighborhood opposition, particularly
8 by abutters who might be affected by what is proposed, with
9 regard to the special permit.

10 And that no nuisance or hazard will be created to
11 the detriment of the health, safety and/or welfare of the
12 occupant, or the citizens of the city.

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

17 So on the basis of all of these findings, the
18 Chair moves that we grant the special permit requested
19 subject to the condition that the work proceed in accordance
20 with plans referred to with regard to the variance, and
21 accept that the dormer may not be more than 16 feet in
22 length.

1 COLLECTIVE: 15.

2 CONSTANTINE ALEXANDER: 15?

3 COLLECTIVE: 15.

4 CONSTANTINE ALEXANDER: What did I say? 16?

5 COLLECTIVE: 16.

6 CONSTANTINE ALEXANDER: I'm thinking of --

7 COLLECTIVE: [Laughter]

8 CONSTANTINE ALEXANDER: That's why we have these
9 people, really.

10 SLATER ANDERSON: You want to make a note on the
11 plan?

12 CONSTANTINE ALEXANDER: I did, really.

13 CINDY CARPENTER: Did you receive the letters from
14 our neighbors? It's important.

15 CONSTANTINE ALEXANDER: I don't think they're in
16 the file, I don't remember seeing them.

17 CINDY CARPENTER: Yeah, we have five letters, one
18 of which actually refers to a desire to break up the looming
19 eyesore of the roof. I was like, "That's my house. I don't
20 think it's a looming eyesore," but they wanted the dormer.
21 We have them.

22 CONSTANTINE ALEXANDER: We'll take the vote?

1 JANET GREEN: Did we?

2 CONSTANTINE ALEXANDER: No. Okay. All those in
3 favor, please say, "Aye."

4 THE BOARD: Aye.

5 [All vote YES]

6 CONSTANTINE ALEXANDER: Finally, your relief is
7 being granted, and good luck to you.

8 COLLECTIVE: Thank you.

9 JANET GREEN: And there are six letters.

10 CONSTANTINE ALEXANDER: We don't need them now.

11 JANET GREEN: No.

12 COLLECTIVE: [Laughter]

13 CINDY CARPENTER: But hey, just we have
14 neighborhood support.

15 JANET GREEN: Good to know.

16 COLLECTIVE: Thank you.

17 [09:26 p.m. End of Proceedings]

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CERTIFICATE

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Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this _____ day of _____, 2020.

Notary Public

My commission expires:

August 6, 2021