

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE
GENERAL HEARING
THURSDAY, MARCH 14, 2013
7:05 p.m.
in
Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Acting Chair
Brendan Sullivan, Member
Thomas Scott, Member
Andrea A. Hickey, Associate Member
Slater Anderson, Member
Douglas Myers, Associate, Member

Sean O' Grady, Zoning Specialist

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PROCEEDINGS

(7:20 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Andrea A. Hickey, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to start with continued cases.

The first case we're going to call is 10240, 85 Hamilton street. Is there anyone here wishing to be heard on this matter.

(No Response.)

CONSTANTINE ALEXANDER: There is no one here wishing to be heard.

I think we have a letter from the Petitioner.

The Chair will report that the Inspectional Services Department believes that it has received a request from the Petitioner to continue this

matter. In any event, the matter that is to be continued because the Petitioner at this point has not complied with the posting requirements for signs. So for either reason, this case has been continued before. I suggest to this Board that we continue this case once again. I assume we would continue it to March 28th when we're going to hear other cases the same involving this property?

SEAN O'GRADY: Yes. Give me one second. March 28th.

DOUGLAS MYERS: Gus, I think I'm supposed to be on the panel.

SLATER ANDERSON: Is think this one I'm not on.

SEAN O'GRADY: Sitting is --

CONSTANTINE ALEXANDER: Unless someone wants to speak, there's no reason to have the same panel. If you want to speak, I'm going to open this matter for

discussion before we take a motion on the continuance.

Mr. Myers, you have a comment you would like to make?

DOUGLAS MYERS: Well, I spoke extensively on the record last time in opposition for further continuance of this case, and I realize that at this point if there is a new case that's been filed in this matter and it's going to be heard in two weeks, that it may completely be an exercise in futility for me to speak tonight when the continuance before the Board is merely for two weeks. But I have to, I have to say that I feel a continuance is completely unwarranted in this case. I spoke at length last time, and I don't want to speak at greater length this time, but I feel that there is much less justification for a continuance last time. There continues to be absolutely

no change in the file. It's evident that this file of such indifference to the applicant that a letter for continuance may not have been filed in it. And that the record was not reviewed from last time to make any efforts to deal with at least my objections that were raised with the continuance. Although, also for the first time since June there has been some public notice posted, it's completely inadequate. And for three intermediate continuances the applicant ignored the expressed condition of this Board that requires changes in the public notice to be posted, and I just feel that this case is an imposition on the Board and has been treated as such, and I regard it as such. And I just express very strongly my opinion on the record in this case, that this case -- there should be no further continuance, and indeed my feeling a just

result of this case tonight, as soon as possible, is that it should be withdrawn in accordance with the representations that were made to this Board back in May.

CONSTANTINE ALEXANDER: There's one problem, Doug, and that's the reason -- I agree with you. This case is never going to be heard because there's a related petition that's going to be heard on the 28th. If the Petitioner withdrew this case or if we were to turn him down, that would preclude action on the case we're going to hear in two weeks, because then they'd have to go back to whether is a new petition or they have to wait for two years. And so the purpose for continuing this case is simply not to penalize the Petitioner. It's to allow the other case, the case that they're really pursuing to be heard by this Board on the merits. This is just a

placeholder.

DOUGLAS MYERS: I hear you. I really wish that the Petitioner had explained that to us at some point along the way during the last intervening nine months, and I understand what you're saying. Nonetheless, I feel that this continuance has been very poorly handled, and I feel that posting a grossly inadequate public notice after there was a public hearing in this case, which the applicant did not attend, and at which public notice was extensively discussed, and to post a grossly inadequate public notice with the wrong date, the wrong month, is simply a level of conduct which this Board should not allow to pass without sober but direct criticism. And even if I am engaging in the exercise of -- in an exercise of futility, I will stop at this point, but I feel some

remarks on the record along these lines is appropriate.

CONSTANTINE ALEXANDER: Clearly you made your views known on the record, and I commend you for that.

And, Sean, you can bring the attention to Mr. Rafferty the counsel, the transcript comments or at least the gist of Mr. Myers' comments because they're valid comments. I'm just trying to explain why they didn't appear tonight and why they have updated the sign, because they just never, we're never going to hear this case on the merits. We are going to hear the related case on the 28th I assume. We'll find out.

In any event, anyone else wishing to be heard on this matter?

BRENDAN SULLIVAN: No, but I fully understand. I think your frustration, and I think probably it goes

a little deeper that lack of respect to the Board and how we sit here Thursday night after Thursday night. I think the tipping point for me was 175 Huron Avenue, and that there was a series of continuations and that done in somewhat of a cavalier way where -- and I would almost, and I'm not going to do it tonight, but to delve into this process of a case that is a placeholder and then subsequent new cases and new cases and new cases, and I think it's, it needs to have further review I think outside of tonight as to how we deal with it going forward, because I think you're absolutely correct.

DOUGLAS MYERS: I have not mentioned my own convenience because I really think that's relatively unimportant, but it certainly has the effect for any other Board members who

have to come in on a Thursday night to hear one continued case heard. That's inconvenient. But that is less important than the other points I've mentioned in my opinion.

CONSTANTINE ALEXANDER: Tim, do you wish to be heard?

TIMOTHY HUGHES: I think there is another extenuating circumstance here that we had a Board member resign during the process of this case, which severely prejudiced the Petitioner's ability to have it passed because there were only four members that could still sit on the case. And I understand the idea that we necessarily have a placeholder for him until we can get a case up and on the docket where they could get five members that could hear their case. So I mean, as a Board, we're somewhat culpable in this, you know, because of the mid

year -- mid-term resignation of one of our members that heard the case.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to make a motion if it's okay with the Board.

I move that this case be continued, excuse me, until seven p.m. on March 28th on the condition that the Petitioner modify the sign and maintain the sign posting requirements as required by our Ordinance reflecting a time of seven p.m., and again the new date of March 28th.

The Chair would note that this case at least is a case heard, and that they already have on file a waiver of decision. So it's just a matter of changing -- in terms of our vote, changing the signage

and maintaining the signage in accordance with our Zoning By-Law.

And the Chair would note Doug's comments that to date they have not done that. So they've got two weeks to get their act in order with regard to this case, if this case is going to be heard, otherwise we're never going to hear this case but we'll dismiss it for failure to comply with our Zoning Ordinance.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Hughes, Sullivan, Hickey, Myers.)

DOUGLAS MYERS: One opposed.

CONSTANTINE ALEXANDER: One opposed. Case is continued.

* * * * *

(7:30 p.m.)

(Sitting Members: Timothy Hughes,
Brendan Sullivan, Andrea A. Hickey,
Douglas Myers, Slater Anderson.)

TIMOTHY HUGHES: The Board will
hear case No. 10390, 32 Suffolk Street.

Good evening.

YONG-CHENG WANG: Hello.

TIMOTHY HUGHES: Tell me the substance of why we continued this and what changes have been made so that you're coming back?

YONG-CHENG WANG: Yeah. The first meeting on the comment for the previous design. They made a comment about the basement. So now we made a significant changes.

No. 1, we are finish the basement at 6, 11. So just for the family room, you know, the family room.

Secondly, we reduced the deck size. So previous we design 8-by-13, we now reduce to 10-by-7.

No. 3, we label one bedroom. The living room for each unit. That's three major changes. So for this, for this now.

TIMOTHY HUGHES: Questions from the Board members? I remember some talk about there not being an exterior set of stairs on the property at all, but that still exists. It's just that you downsized the exterior the request for an exterior staircase?

YONG-CHENG WANG: Yes. The exterior stairs, you know, we need a second stairs for units for second floor and third floor. So, you know, we also wanted to have some outdoor space for the upstairs so that's why the deck upstairs.

ANDREA HICKEY: So the stairs are the same, it's just the size of the deck that you've changed?

YONG-CHENG WANG: Stairs is the same.

ANDREA HICKEY: The exterior stairs?

YONG-CHENG WANG: Yes, we've

reduced the deck size.

TIMOTHY HUGHES: Any other questions from the Board members?

ANDREA HICKEY: And you talk about a change in use of the area in the basement that you wanted to excavate from what was your original intended use and now what is your proposed changes?

YONG-CHENG WANG: Originally we planned to build a three, a three bedrooms.

ANDREA HICKEY: Okay.

YONG-CHENG WANG: In the basement. So now we just wanted to use it for the family room or entertainment room and finish it at 6, 11. So that's placement for the basement.

ANDREA HICKEY: Will it be just one big open space?

YONG-CHENG WANG: Correct.

DOUGLAS MYERS: I noticed in your

plans on the first page that there's a reference to -- on the first page this is the revised plan of February 27th.

YONG-CHENG WANG: Okay.

DOUGLAS MYERS: And the right elevation on the first page, sheet 1, there's a reference dig basement down to seven-foot, six-inch headroom. I take it that that's a mistake that that remains on the plan?

YONG-CHENG WANG: That's right.

DOUGLAS MYERS: And that should be changed to reflect -- to be consistent with the other plan where it says the finished height is six feet, eleven inches; correct?

YONG-CHENG WANG: Correct. I believe that. Sorry, I made the mistake.

DOUGLAS MYERS: Is there any way you can gain the space you need at the rear of the building without intruding seven

or eight feet into the rear setback the way you are now? You're -- the additional seven or eight feet you're building out is going to go into the 20-foot setback that our Zoning Ordinance requires. Is there any way you can manage to do what you want to do with less space intruding in the rear setback?

YONG-CHENG WANG: Yeah, we tried to, we tried to, but I think it's should be very nice for the neighbors, you know, that's -- and also I want to have some out of door space for the upper units. So I think previously we tried to build a, you know, eight feet. Now it's reduced to seven feet. I think that's, its less than seven feet is too small. We're struggle a lot.

BRENDAN SULLIVAN: I think one of the problems, Doug, is that once they build a new staircase, they're going to

bump up against the Building Code requirements and that is going to eat up a certain amount of real estate just to do a Code compliant second means of egress, so I'm not sure if they can shrink much of that down at all in order to comply with the Building Code.

TIMOTHY HUGHES: Anything bigger than 0.4 of a foot is going to intrude on their rear setback anyway. Right now it's compliant but anything you would do --

DOUGLAS MYERS: Right. So this Board, with respect to the rear setback, we are confined with an all or nothing situation. Either permit the plan as proposed or not.

TIMOTHY HUGHES: That seems accurate, yes.

Just for the record, the amended -- the dimensional form has the

gross floor area going from 1.39 to 1.45, an increase of about 140 square feet in a zone that is zoned for 0.75. Which is significantly reduced from the original plan, but it's still, you know, it is what it is.

Any more questions from the Board?

(No Response.)

TIMOTHY HUGHES: I'm going to open it up to public testimony.

Does anyone want to be heard on this case 10390, 32 Suffolk Street?

(No Response.)

TIMOTHY HUGHES: Seeing none, I'll close public testimony.

Closing comments?

DOUGLAS MYERS: Have you -- I wanted to ask if you've checked with your abutters about the effect of your addition and their response.

YONG-CHENG WANG: My neighbors?

DOUGLAS MYERS: Your neighbors,
yes.

YONG-CHENG WANG: Yeah. I
talked to my -- the next and also behind.
So they said it's fine. You know,
there's a, they say that my right side
would also have the decks. The neighbor,
they have the decks and my back, the
neighbors are my friends and she's very
nice, I talk with them. And they said
that's fine, you know.

DOUGLAS MYERS: Did you talk to
the owners of the three, of the very tall
buildings on Norfolk Street?

YONG-CHENG WANG: Yes, that's
Mary and I talk to her and also I try to
use her backyard to build, to build the
deck there to siding. She's also agree.

TIMOTHY HUGHES: Any other
comments?

BRENDAN SULLIVAN: Well, I'm

just not a big fan of taking an interior staircase and pushing it to the outside because the purpose of it really is to capture some interior space and to make larger rooms on the inside at the cost of pushing an element of the building outside which impacts the surrounding houses. If you stand facing the house, the one to the left has enclosed their back porches, so there's added bulk to that. Facing this house here to the right on Norfolk Street, you've got two fairly large houses with exterior porches, but you could almost stand on one and shake hands with the person on the next one. The house directly behind this is undergoing renovation, and I stood there and I'm trying to picture something coming out seven feet. Though there is absolutely hardly any land at all, open space, not just on the ground but also

just to allow for air and light. And one of the stated purposes of the Zoning Ordinance it shall be the purpose of the Ordinance to lessen congestion, to provide adequate light and air, and to prevent overcrowding of land. And once you take an interior staircase and a porch and you start adding that on to the back of the building, that's all you're doing, it's -- you're crowding. You're eliminating this air, this openness, this light and for the benefit of the interior space. The house has been there since the early 1915/1920 era and it has worked well. And, you know, there was some testimony about the back staircase being, you know, narrow and difficult. I have a house identical to this. Yes, it is a narrow back stairway, but you put on a handrail and you hold it. And I just think that by adding to the back of this

house, all it's going to do is add to the overcrowding and the congestion and is going to impact air and light. So I would not support this.

YONG-CHENG WANG: Can I add something? I, you know, I appreciate your comments. The house more than 100 years, but now the life is changing, right? We want to have a high quality life. So there's one bathroom and it's very, very limited for the, you know, for people to use. We have four people in each unit, it's just one bathroom. So I want to add a second bathroom for all the people. That's why we want to.

BRENDAN SULLIVAN: My wife and I and four children had one bathroom and you adjust.

YONG-CHENG WANG: That's true. That's true. Some people use it, huge house and some people use bathroom and I

just wanted it to be nice to people, you know, to have a second bathroom.

BRENDAN SULLIVAN: Right, and but it impacts the exterior, it impacts the surrounding houses. It impacts the area and the openness, the backyard which is so congested right now. So that's my view.

TIMOTHY HUGHES: There is a second aspect to this petition. There's a Special Permit for the enlargement of the basement windows. And there's also phrasing in this says in the Variance that says to legalize excavation and finished basement as living area. I'm not sure exactly what that means. Can you explain that to me?

SEAN O'GRADY: That's been withdrawn.

TIMOTHY HUGHES: Oh, it has been?

SEAN O'GRADY: Yes.

TIMOTHY HUGHES: So they're going to live with whatever the basement is now. But the Special Permit -- so enlarge the windows is still on there.

SEAN O'GRADY: They will pour the basement up to 6, 11. It's been excavated. But the request tonight is only for the, for the reduced rear deck.

TIMOTHY HUGHES: So we're not doing the Special Permit piece?

SEAN O'GRADY: Well, are you still asking for an enlarged window?

YONG-CHENG WANG: I still want to enlarge the windows because -- three basement windows, because it does, you know, just for the Building Code, you know, we may have some safety issue with kid playing in the basement. So right now the -- on my left side, you know, we have a space to allow to enlarge the basement windows.

SEAN O'GRADY: I don't believe that the basement's going to be habitable space.

YONG-CHENG WANG: Huh?

SEAN O'GRADY: I do not believe the basement is going to be habitable space.

YONG-CHENG WANG: No, I said that my left side, you know, we have a space to do window.

SEAN O'GRADY: What I'm saying here is that the, in a three-family your finished requirement for finished basement is greater than seven feet, is it not?

YONG-CHENG WANG: I don't understand.

BRENDAN SULLIVAN: 6, 11 is for one and two family.

SEAN O'GRADY: 6, 11 is for one and two family, right.

TIMOTHY HUGHES: So are we acting on the Special Permit or are we not acting on the Special Permit?

SEAN O'GRADY: He's requesting it and you have the --

YONG-CHENG WANG: I would like the Special Permit.

TIMOTHY HUGHES: Are there any questions about the Special Permit?

DOUGLAS MYERS: No. You've explained why you believe you need the Special Permit. You just explained.

YONG-CHENG WANG: I said, you know, that we finish that basement for family room, you know, the entertainment room. Kid will play in the basement just in case for the safety concern if we have some type of emergency and the window will be -- people can get out from the window. So it's another start, but we still want to use the basement and that's my concern.

TIMOTHY HUGHES: Any other questions?

DOUGLAS MYERS: I have a comment.

TIMOTHY HUGHES: Okay.
Comment?

DOUGLAS MYERS: As far as the Special Permit is concerned, as long as it's clear that it's not living space down there, I think, I could see reasons to have the windows and have more light and attractive and pleasant space. It doesn't seem that there would be any privacy objections from your neighbors about your adding basement windows. As far as your -- the basic project for the rear addition, the additional floor area that you're adding, it's being added to a property that's already non-conforming, but it's not a huge amount, and I think this Board in similar cases has been willing to approve

applications with regard to the increase in floor area and so on that you're adding. The problem that I have here is that you, right now the rear setback is complying. It complies with our Zoning Code, and what the addition is going to do is used up 40 percent of that space. It's a 20-foot setback, and according to your dimensional form the new setback will be 12 feet, four inches I guess. And that's a -- that's approximately a reduction of 80 percent. It's a little less, maybe 38 or 39 percent. But it's a significant invasion of the rear setback. Of a setback that's now okay under our Ordinance, and you're asking this Board to really create a violation. In addition as you know, because I met you this afternoon. I did go out and take a look and like Mr. Sullivan, I was struck by the noticeable congestion of the area

as I approached it from neighboring streets. When I got onto Suffolk Street, I was aware that although this is an attractive area, it is congested. It is just immediately apparent to me that buildings -- it's old. The buildings were built before the Zoning Code, and they're -- the buildings are close to the lot line and there's just a feeling of congestion that's everywhere. And when I went on to your property, I saw that the rear building, the -- directly behind you is very close to its property line. The two buildings, very high buildings, maybe they're four-story buildings on Norfolk Street are also very close to their rear line. And it just seems to me that the request here is going to add to the congestion. Now some people may say it's a very congested area and a little more congestion won't hurt, but I don't -- I

don't accept that line of reasoning because exactly for the reasons that Mr. Sullivan said. I mean, we would be creating a violation of the Code. In a situation where there is no violation, we would be creating it if we approved the rear addition. And the Zoning Code is very clear that it is to promote the safety, health, welfare, lack of congestion, and I -- those are important goals. And those are historically why Zoning Ordinances were passed, to prevent extreme congestion. And it would just -- I have a difficult time really approving a petition that's going to add to the congestion by -- and create a new violation to the Code. So for that reason, I can't support your petition, your application for the rear addition, although I would support the Special Permit for the windows.

TIMOTHY HUGHES: Anything else before we go to a motion?

(No Response.)

TIMOTHY HUGHES: All right, the Chair would move that a Variance be granted at 32 Suffolk Street for the addition of rear stairs and decks for the following reasons:

A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the Petitioner because the existing conditions prevent the Petitioner from reasonably using the property with regard to outdoor space and the means of egress.

The hardship is owing to the following circumstances related to soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures, but

not affecting generally the Zoning District. And that the size and shape of the land and the placement of the building on this long, narrow lot creates a situation where almost any alterations to the building would require relief because of setbacks and FAR considerations.

Substantial -- the desired relief may be granted without substantial detriment to the public good for the following reasons:

It wouldn't be any more dense than the neighboring buildings, and it would enhance the means of egress at the back of the building.

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

The requested relief would be consistent with the intent and proposed

multi-family dwelling. Intent of the use of the bulk of the multi-family dwelling at 32 Suffolk Street.

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

(No Response.)

TIMOTHY HUGHES: It's none in favor. All those opposed?

(Hughes, Sullivan, Myers, Hickey, Anderson.)

TIMOTHY HUGHES: That's five opposed. The Variance is denied.

Special Permit. The Chair would move that a Special Permit be granted for the enlargement of three basement windows. Granting the Special Permit requested would not be a detriment to the public interest because the requirements of the Ordinance can and will be met for the following reasons:

The existing basement windows are

3-by-3. The proposed enlargement of the basement window is 3-by-4 with a window well, and a large part of the proposed window will be barely visible from the outside and so it will not be a detriment to the public interest.

Traffic generated and patterns of access and egress would not cause congestion because it would be basically no use change in the windows just because they're enlarged by three square feet.

A continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected, because as one of the Board members has stated that the increase in size of the windows will not create any difference in the matters of privacy or use. And the nuisance or hazard would not be created to the detriment of the health, safety, and

welfare of the occupant of the proposed use or the citizens of the City for the following reasons:

The proposed basement windows would satisfy the current construction codes so it will reduce nuisance and hazard. It will actually make it benefit the health and safety and make it easier as an emergency means of egress.

All those in favor of granting the Special Permit on those grounds?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor for the Special Permit for the --

CONSTANTINE ALEXANDER: With regard to the Variance vote you need to make an affirmative finding as to why the Variance was not granted.

TIMOTHY HUGHES: I'll get to that. The Special Permit passed.

(Hughes, Sullivan, Hickey,

Myers, Anderson.)

TIMOTHY HUGHES: I'm not sure what you mean by affirmative findings.

CONSTANTINE ALEXANDER: As a matter of law, if we didn't grant the Variance, we had a reason, the Board had a reason. Those reasons need to get on the record besides as a vote, through a vote. So I think you should state why a Variance was not granted and that all the Board can vote if they believe in that to support that.

TIMOTHY HUGHES: I'm not sure that's necessary since, you know --

CONSTANTINE ALEXANDER: The courts have said that it is. We've gotten in trouble as a Board.

TIMOTHY HUGHES: All right. The reason that the Variance was not passed it in part goes back to the comments of both Mr. Sullivan and Mr. Myers in terms

as to why they voted against it. That it really is an impingement on what the Zoning Ordinance is trying to establish in the city. It exacerbates a pre-existing non-conformity in the FAR and it actually creates a new non-conformity in a rear yard setback and as far as the Board is concerned, it's not in the spirit of the Zoning Ordinance to allow that kind of change.

BRENDAN SULLIVAN: That sufficient hardship has not been established.

TIMOTHY HUGHES: Okay. And sufficient hardship has not been established.

All right, we done?

DOUGLAS MYERS: We probably should vote to affirm those grounds?

TIMOTHY HUGHES: Okay, do you want to vote to affirm what I said?

BRENDAN SULLIVAN: Yes.

(Show of hands.)

TIMOTHY HUGHES: That's fine.

(Hughes, Sullivan, Hickey,
Myers, Anderson.)

TIMOTHY HUGHES: I like what I
said, too. Thanks, Gus.

* * * * *

(7:55 p.m.)

(Sitting Members: Constantine
Alexander, Timothy Hughes, Brendan
Sullivan, Thomas Scott, Andrea A.
Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10399, 40 Granite Street.

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

ELAINE THORNE: Elaine Thorne, T-h-o-r-n-e, Community Development. I'm here representing the City for the farmer's markets for Granite Street. I understand the case has to be continued because they did not find the signs posted.

CONSTANTINE ALEXANDER: That's right.

ELAINE THORNE: They have been posted. We went down with DPW. They've found them on the ground and we reposted them and we're looking for the continuation date for the new meeting.

CONSTANTINE ALEXANDER: Thank you. What date can we hear this case? I

assume we should do this as quickly as possible.

ELAINE THORNE: Yes.

SEAN O'GRADY: We can do it as early as April 14th. Sorry, April 11th.

CONSTANTINE ALEXANDER: I don't think this is going to be a controversial case. Are we really backed up on the March 28th continued cases?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay. It will have to be April 11th.

ELAINE THORNE: 14th or 11th?

SEAN O'GRADY: 11th.

ELAINE THORNE: Great, thank you.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on April 11th on the condition that the signs need to be posted and they have to reflect the new date, and

that will be April 11th. And if you have the old signs, just scratch out the old date and put the April 11th, and you have to change the date, if you're using the old sign, to seven p.m.

ELAINE THORNE: Yes. DPW will do that tomorrow morning.

CONSTANTINE ALEXANDER: That's fine.

And on the further condition that you sign a waiver on behalf of the City, a waiver of time for the decision. Maybe that's already been done.

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: No? You have to sign a waiver because by law we're required to decide cases very quickly. And this will allow you to post your sign as necessary and us not to be faced with the state law forcing, forcing us to act. So if you sign that waiver,

which Mr. O'Grady's going to give you,
and I think we're all set. And if new
plans -- there are no plans so we don't
have to worry about that.

All those in favor of continuing the
case until April 11th on the conditions
I specified say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case
continued.

(Alexander, Hughes, Sullivan,
Scott, Hickey.)

* * * * *

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10400, 300 Mount Auburn Street. Is there anyone here wishing to be heard on this matter?

Mr. Sousa.

ATTORNEY RICARDO SOUSA: Thank you, Mr. Chairman. Ricardo Sousa on behalf of the applicant, T-Mobile.

TIMOTHY HUGHES: What happened to Jackie Slaga?

ATTORNEY RICARDO SOUSA: Jackie's in the back of the room. She's here with us.

CONSTANTINE ALEXANDER: You're

not giving us anything new. This is already in the file?

ATTORNEY RICARDO SOUSA: That's correct. These are already in the file. These are just copies for your convenience, Mr. Chairman.

CONSTANTINE ALEXANDER: Plus these are the plans?

ATTORNEY RICARDO SOUSA: Yes.

CONSTANTINE ALEXANDER: Okay. The floor is yours.

ATTORNEY RICARDO SOUSA: Very good. Mr. Chairman, members of the Board, this continues to be a process by T-Mobile to upgrade all of its existing wireless antenna installations here in Cambridge so that it can provide 4G standard services to its customers. This particular installation is in existence. We currently have three panel antennas that are on this building,

which is a section of Mount Auburn Hospital. And when we first filed this application with the BZA, we were proposing to upgrade the site to add an additional three antennas, however, we went back to the Planning Board on two occasions, the first of which was -- was met with some resistance. They don't really love the existing design and they also didn't love the fact that we were going to upgrade it with even more antennas. And so they've asked us to sort of go back to the drawing board, try to find ways to improve the design. And in that process we actually met with our radio frequency engineers and found that we have a propagation problem. Between the time in which this site was put on air, 2007 and today, the hospital actually built a building that blocks much of our signal. And so this process of upgrading

this site to the level that we need it to upgrade will entail really moving the installation to another part of the hospital most likely. And so we felt at this stage that we would simply just keep three antennas there, swap the existing three antennas with three modern antennas so that we can provide at least 4G level services. We also propose that we would paint them to match, because we think that together with the Planning Board, we feel that's also going to help with the design elements. And in addition to that we went also to the hospital and confirmed that the existing light stanchions that are there are in use, so we can't remove those because there was some suggestion of trying to clean-up the site by removing the light stanchions. And they are in use. And so we're going to paint those as well to try to better blend in with the

building.

And so between the time we filed the application and going to the Planning Board and today, we have since modified the application to reduce it so that we're not asking for permission to increase the number of antennas, we're simply asking for permission to swap out the existing antennas for the modern antennas, not increase the number in any way but simply paint them to match to better blend in with the building, but also to be consistent with the Planning Board recommendation that was provided to us.

CONSTANTINE ALEXANDER:

Non-recommendation but we will --

ATTORNEY RICARDO SOUSA: Fair enough.

CONSTANTINE ALEXANDER: I'll read that into the file when we get there.

ATTORNEY RICARDO SOUSA: Very

good, Mr. Chairman.

And as you can see from the photo simulations that I've presented to you, the nature of the installation is that in fact there are three panel antennas. They were originally designed to try to take -- utilize the design of a light stanchions themselves, the vertical elements. Our antennas were originally white. We're going to paint them a darker brown to match the brick, and we're not going to increase the number in any way. Pursuant to Section 4.32.g of the Table of Uses, footnote 49 in particular, that deals directly with whether or not there is a predominance of residential uses, there was a determination made by this Board back in 2007 that in fact residential uses did not predominate in this neighborhood. If you can see by the fact that the hospital itself is -- fairly

takes up a big part of this neighborhood, Cambridge Rindge and Latin is directly across the street, and --

CONSTANTINE ALEXANDER: No, no. Not Cambridge Rindge and Latin.

ATTORNEY RICARDO SOUSA: Buckingham, Brown and Nichols.

CONSTANTINE ALEXANDER: Yes, Brown and Nichols.

ATTORNEY RICARDO SOUSA: Is directly across the street. I apologize. Off of Fresh Pond Parkway. And as a result, we feel that residential uses do not predominate. In addition to that, this is an existing use, existing wireless use, and we're not increasing its -- the extent of that use in any way. But we're simply improving the technology.

CONSTANTINE ALEXANDER: Are these new antennas going to have these low

profile mounts?

ATTORNEY RICARDO SOUSA: They will use the same mounts simply because of the way they're mounted on to the building. Very often if we can utilize a penthouse that's in the middle of the roof, we can utilize a low profile mounts. In this case we have to utilize some vertical elements that are on the parapet and that's where the antennas are located.

CONSTANTINE ALEXANDER: And Mr. Scott has pointed this out to me, what is this really -- is there any significant difference between low profile mounts and these pipe mounts that you have for example here? I mean, the drawings they look to be almost the same.

ATTORNEY RICARDO SOUSA: They're very similar. There is a benefit in the sense that you remove a vertical element,

right? If the goal is to remove clutter, if you look from a side profile perspective and you're looking at the antennas, you see the antennas here, and then you see a pipe, and then you see the building. If you can remove that one vertical element, that's the one benefit that you get. In addition to that, you get closer to the facade of the building.

CONSTANTINE ALEXANDER: You don't get much closer?

ATTORNEY RICARDO SOUSA: Not much closer. We're talking inches.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY RICARDO SOUSA: We're talking maybe four to five inches. But it's something that we do, you know, when we can.

CONSTANTINE ALEXANDER: We applaud it. I was just wondering how significant it is that you're not going

to be able to do it this time.

ATTORNEY RICARDO SOUSA: Right, exactly. I wouldn't say that it's significant.

CONSTANTINE ALEXANDER:

Questions from members of the Board?

BRENDAN SULLIVAN: As I sat in traffic waiting for the light to change on Greenough Boulevard, and I'm looking at this building even before I reviewed the case, and the thought occurred to me that if you look at the existing conditions, that it looked to me like something had been abandoned because there was a pipe there with nothing on it. And so now I see the existing conditions and I look at the proposed and it really doesn't look much different. The thought that I have is can that -- because it's sticking up above the parapet and that no matter what color you paint it,

it's going to be noticeable.

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: Because it's against the sky. Can that be mounted on the penthouse wall, No. 1? And can it be mounted on the, which I guess is probably a condenser, No. 2?

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: What I'm trying to do is get it out of that location and get it as stealth as possible and do away with the current installation the way it is because I don't think there's anything you can do to it that's going to make it look right.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: And I'm not even sure how we approve that to begin with other than -- because it doesn't look right and I'm just thinking that there has got to be something better,

something -- an alternative. And I'm also thinking -- I'm wondering what that service is because there's very little of Cambridge left in the direction that this antenna is facing.

ATTORNEY RICARDO SOUSA: A lot of questions, Mr. Sullivan. I'll take the last one first, you know, we do service a lot of traffic count here. As you can well imagine, there's a lot of traffic coming in and out. So we're not only servicing residences but we're also servicing traffic, people who are travelling in and around that area. And you would be surprised at how much the signal bleeds into the surrounding area. Just on the other side there's a neighborhood right next to Buckingham, Brown, and Nichols, we service that area. We service the school. And we service the hospital itself. So there is a big

service area.

BRENDAN SULLIVAN: Okay.

ATTORNEY RICARDO SOUSA: So this is a very important site for T-Mobile. And for all the other carriers that are up there as well. Sprint and Clearwire and MetroPCS I believe are up on the higher part of the roof. And once again, I think that's the long-term plan for T-Mobile is to move this installation to another location. And so --

BRENDAN SULLIVAN: And so why not now?

ATTORNEY RICARDO SOUSA: Honestly our experience with the hospital is that this is not the highest priority for them. And so we anticipate about a year process in modifying our lease and finding it -- a location that's acceptable to the hospital and that's also not going to interfere with the other

carriers that's up there. And so that's why we felt why not move everything all at once? The same considerations or questions that you have, Mr. Sullivan, were also brought up by the Board, by the Planning Board. And I think T-Mobile started to look at that process, but then determined that in fact there's a significant blockage with this new building that's right behind this site. And so we need to find a better solution that's most likely not on this building itself, but is instead on some of the taller buildings of the hospital.

CONSTANTINE ALEXANDER:

Mr. Sousa, take Mr. Sullivan's, I think well thought-out comments, and what if we limited the Special Permit for two years? And that will give you two years to get your act -- not your act, the hospital get its act together and get a whole new

comprehensive plan and we'll know in two years what's being approved today won't continue.

ATTORNEY RICARDO SOUSA: Won't continue, right. I think that would be a reasonable plan.

CONSTANTINE ALEXANDER:
Brendan?

BRENDAN SULLIVAN: Well, and then the other question is sort of existing conditions, photo 3.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: And proposed conditions, photo 3. And now I'm playing the role of architect here.

ATTORNEY RICARDO SOUSA: Yes.

BRENDAN SULLIVAN: Can that antenna not be pushed between, in other words, underneath the light and in between those two vertical pipes rather than sticking off to the side?

ATTORNEY RICARDO SOUSA: Once again I'm not an engineer. It would have to be looked at by both a structural engineer and it would have to be looked at by a structural engineer and a radio frequency engineer with that --

BRENDAN SULLIVAN: Tom, do you see where I'm going with that?

ATTORNEY RICARDO SOUSA: I do see where you're going.

THOMAS SCOTT: Try to reduce the clutter to one specific area.

BRENDAN SULLIVAN: Right, to one box.

ATTORNEY RICARDO SOUSA: My sense is you would get radio frequency interference. When you're that much closer to a metal object, you start to cause interference in the antenna itself. So if we're off to the side and we're propagating away from the metal, then

there's less interference. If we put ourselves in the middle and just below a metal object, that will cause too much interference and it will affect the signal propagation fairly considerably. We can't transmit through -- we can transmit through fiberglass. We can't transmit through metal, brick, stone. So I think that would be potentially problematic.

You know, I think the two year --

BRENDAN SULLIVAN: What is the normal shelf life of these antenna anyhow? Or is that hard to project because the technology is constantly changing.

ATTORNEY RICARDO SOUSA: Yes, it's very hard to predict. We started this in 2007 and now we're here in 2013. All the carriers have made this upgrade to 4G. You know, I hear rumblings of 5G

but I have not heard anything definitive of that. And so I don't anticipate within the next, you know, five years that we do an upgrade, but I can't promise that. Simply --

BRENDAN SULLIVAN: If we gave this a shelf life of 24 months, a solution might be coming before that then in order to -- because you've got a clock ticking.

ATTORNEY RICARDO SOUSA: Right. We would have a clock ticking. My only caveat would be that this is highly dependent on whether or not the hospital allows us to move.

BRENDAN SULLIVAN: Well, the hospital is benefitting obviously on a monthly basis when they get the check from T-Mobile.

ATTORNEY RICARDO SOUSA: It is.

BRENDAN SULLIVAN: It's a win/win for everybody. But

aesthetically not pleasing to me.

CONSTANTINE ALEXANDER: Why wouldn't the hospital not go along with it? It's an aesthetic, and they could always use more revenue. Talk to me -- I could see a difference, but I can't see active opposition from the hospital.

ATTORNEY RICARDO SOUSA: Honestly I would be surprised if they opposed it as well, Mr. Alexander. I really think they're going to allow it, but we have to find a location that is acceptable to them --

CONSTANTINE ALEXANDER: Yes, right.

ATTORNEY RICARDO SOUSA: -- up on the higher roof and does not interfere with the other antennas that are there as well and their other operations.

Remember we not only have to move our antennas, but we have to move our

equipment as well. So we have to find a location for that equipment. And, you know, as much as this revenue source is great for most landlords, this is not the highest revenue source that a hospital would receive, you know. And then so it's clearly beneficial to them. I would think they're going to work with us. Our understanding is that they will work with us to redesign this. I just can't promise it -- and so I may be coming back to you within two years and say we can't find an acceptable location, let's redesign it where we are. And then that would, I would have to address the comments that you made, Mr. Sullivan, which is can we go in the penthouse? Can we go on the air handler? We typically can't go install on the air handler, but we can sometimes put up vent pipes. You know, that's something we talked about

with the Planning Board. Is put up a faux vent pipe in front of the air handler and put the antenna inside that.

BRENDAN SULLIVAN: I think the hospital has a sort of focus on there. Again, you're not the only carrier, there are three carriers before this and they will be coming down before us. And now all the hospital is under our microscope if you will.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: And we may be looking at the package in toto rather than individually here, because I think that's probably what we've done in the past is looking at it individually and now we stand back or sit in a car waiting for the light to change and look and say why did I ever approve that?

ATTORNEY RICARDO SOUSA: Right.

BRENDAN SULLIVAN: I think to get

your attention, to get their attention to take it a little bit more seriously.

ATTORNEY RICARDO SOUSA:

Understood, Mr. Sullivan, and just to your point, I have already upgraded or requested permission, and this Board has approved the upgrades for the other carriers that are on the top part of the hospital.

BRENDAN SULLIVAN: Yes, I just think that these things are not to be granted before the Board, and I think you can take back the message that, you know, guys, they're looking a lot closer at this because they're looking at the total package.

ATTORNEY RICARDO SOUSA:

Understood.

BRENDAN SULLIVAN: So, you know, it can't be done in a cavalier manner.

ATTORNEY RICARDO SOUSA:

Understood, Mr. Sullivan.

CONSTANTINE ALEXANDER: The take away for me is we're going to be tough two years from now. You know, we've raised -- and Mr. Sullivan in particular has raised a couple of very strong comments, and I -- you understand the situation. Give you two years to solve it. And but don't come back and say now, assuming that I'm sitting here, don't come back and say well, same old same old. Can't do anything better. You've got to be able to do something better.

ATTORNEY RICARDO SOUSA:

Understood, Mr. Alexander. And I don't believe we ever done that. I think we've always made a really good effort to come back with a design. We need a little time and we appreciate the time you're suggesting.

CONSTANTINE ALEXANDER:

Brendan, do you think that's a solution, giving two years?

BRENDAN SULLIVAN: Again, I don't want to beat up on the messenger, but I think your task is somewhat difficult at times because you have to deal with a few other people involved, but I think the message has to be gotten back to the hospital that we are going to look at this thing a lot closer going forward. You know, I have no problem with this. I have no problem with the 24 months, but that there will be a clock ticking on all of them basically. So anyhow.

CONSTANTINE ALEXANDER: Other comments from members of the Board?

ANDREA HICKEY: I just wanted to ask, if we allow this 24-month period, when -- what is their abandoned -- can we enforce sort of the removal of

abandoned --

CONSTANTINE ALEXANDER: Yes, usually when we do grant relief, one of the conditions is that if it's abandoned, they have to remove --

ANDREA HICKEY: Yes, I would support it with that condition.

CONSTANTINE ALEXANDER: We always do that. Just for your benefit, we always have that kind of condition for these kind of cases and Mr. Sousa well knows.

ATTORNEY RICARDO SOUSA: Right.

And what I would say is there's not much that's abandoned. So I think your consideration is perhaps this pole here that looks abandoned. And that is the only light stanchion of the three that doesn't have a light on it. So, we would go back to the hospital and ask to remove that second frame because there's no

light on it. The other two that are located here. We can't remove these frames simply because they hold up lights that the hospital operates. So I just wanted to make that clear.

ANDREA HICKEY: Right. Clear.

THOMAS SCOTT: When these basically violate one of our fundamental rules which is not to exceeding the height of the parapet. There's nothing that we can do to change that? Like, has these ever -- can they be mounted horizontally or is that out of the question?

ATTORNEY RICARDO SOUSA: It's out of the question unfortunately. They have to be vertical. I wish they could be mounted horizontal.

BRENDAN SULLIVAN: They need the ability to rotate left and right; is that correct?

ATTORNEY RICARDO SOUSA: That's

right.

CONSTANTINE ALEXANDER: Tim, do you have any questions you want to ask at this point?

TIMOTHY HUGHES: Well, you just raised that issue. Can they be mounted so they don't exceed the height of the light stand?

ATTORNEY RICARDO SOUSA: You know I don't believe so. I believe we've gotten as close to that bottom lip as we possible can because remember these are typically -- and they are bottom fed. So you have a radio self-coaction that's coming to the bottom of the antenna so you just need to give yourself a little bit of play.

TIMOTHY HUGHES: Can't you turn it upside down? I'm teasing.

ATTORNEY RICARDO SOUSA: You can't do that either. Yeah. So there's

some --

CONSTANTINE ALEXANDER: The photo simulations that we have assume six antennas. Am I right?

ATTORNEY RICARDO SOUSA: I had quite a few with me. The ones that are in the file show only these three. And so we supplemented the file as of last week.

CONSTANTINE ALEXANDER: Okay. And what you gave me now dated February 27th are the right photo simulations?

ATTORNEY RICARDO SOUSA: Yes, February 27th. They only show three.

CONSTANTINE ALEXANDER: Okay. And the same with the plans?

ATTORNEY RICARDO SOUSA: Those plans are corrected as well as of the Planning Board meeting. Those were filed March 7th.

CONSTANTINE ALEXANDER: I will

open this matter up for public testimony unless there are other questions from members of the Board at this point.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

The Board is in receipt of a memo from the Planning Board to the following -- states as follows:

(Reading) The Planning Board reviewed the Special Permit application for the replacement of antennas at the existing location at the Mount Auburn Hospital and supported this proposal dated 2/27/13. While there are aspects of this installation that are chaotic and visual clutter, the Planning Board understood the difficulties about this site and

appreciated the efforts to furnish the support of other mechanical elements in such a way as to minimize the visual impacts.

I will now close public testimony. Any final comments, Mr. Sousa?

ATTORNEY RICARDO SOUSA: I do not, Mr. Chairman. Thank you.

CONSTANTINE ALEXANDER: I think we're ready to take this case into consideration. Anybody have further comments they want to make or observations or do you want to go to a vote?

BRENDAN SULLIVAN: All set.

ANDREA HICKEY: Vote.

TIMOTHY HUGHES: Vote.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings with regard to the Special Permit that is being requested:

That this site is in a residential district. The Board finds that non-residential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood. This finding would be based on the fact that we made this very same finding in 2007, and that the neighborhood has not changed in any material respect. And that in fact although there are residences in one area, one part of the neighborhood, the other part of the neighborhood consists of the hospital and allied structures or highways so they're not other residential structures.

What is being proposed will not cause congestion, hazard, or substantial change in established neighborhood

character. We're talking about just replacing antenna mounts on the roof of the hospital.

That the continued operation or development of adjacent uses will not be adversely affected by the nature of the proposed use.

That no nuisance or hazard would be created to the detriment of the health, safety, and welfare of the occupant of the proposed, and that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance. Again, it would be noted that there are currently antennas mounted on the roof of this structure. They serve a social purpose in terms of facilitating telecommunications ability, and they are a fact of life in any community in this country, in this

country at this time.

So on the basis of these findings the Chair moves that I Special Permit be granted to the Petitioner on the conditions that:

One, the Special Permit will extend for only 24 months from the date it becomes effective. And that upon the 24 months expiration that if the Special Permit is not renewed or granted in a different form, that the work that's being done be promptly removed and that the facility, the structure be restored to its current state minus the antennas to the maximum extent possible. That the -- that's condition No. 1.

Condition No. 2 is the work proceed in accordance with photo simulations submitted by the Petitioner dated February 27, 2013, the first page of which is initialed by the Chair. And in

accordance with plans submitted by the
Petitioner -- let me see if I see a date.
I don't see a date.

ATTORNEY RICARDO SOUSA: Same
page. Top date there. It's very small.

CONSTANTINE ALEXANDER: In any
event -- right there, you're right.
2/27. They are entitled -- sheets are
entitled T1, C1, A2 and S1. The first
page of which has been initialed by the
Chair.

On the further conditions that the
new work be maintained to minimize the
visual impact to the extent that the wear
and tear or weather conditions cause some
deterioration in the appearance of these
items.

And lastly in the event that these
antennas be abandoned or not used for a
period of six months prior to the
expiration of the two-year duration of

the Special Permit, that they be promptly removed and again the structure be removed to its original state to the maximum extent possible.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Hickey.)

* * * * *

(8:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10401, 2-4 Sedgewick Road. Is there anyone here wishing to be heard on this matter?

Please come forward.

HANK REISEN: Yes. I'm Hank Reisen. I'm the architect for the Petitioner who is the owner of the building, John Wells. And this is Laura Brago (phonetic) and Ahmed Nur our tenants in the other half. And John and Laura and Ahmed and their families have been living in these buildings for a while. We have some boards that might make what we're doing a little more clear. And also present is James van Sickle who is the architect for the abutters who we spoke with.

We spoke with all of the abutters. So we have -- should I jump right in?

CONSTANTINE ALEXANDER: Go ahead. You're going to jump right into the plans. Let's just put a context on this. You're seeking a Variance to build various additions to the structure.

HANK REISEN: Correct.

CONSTANTINE ALEXANDER: A Variance that will double the size of the structure. It will take the structure from a conforming FAR of 0.47. It will go to 0.94, doubling the size, in a district that is supposed to have not more than 0.75. The table dimensional you filed said 0.81. But that's not what the Zoning requires. No more than 0.75.

HANK REISEN: That was a typo.

CONSTANTINE ALEXANDER: And further that the structure now is in violation as far as setbacks, and

although you're not going to extend the structure further in the setback, you are going to increase the massing on the non-conforming setback which we treat as a Board in all cases as basically further exacerbating the non-conformance of the setbacks. So you have a significant amount of relief you're seeking. And I now with that way of background, now please tell us what you want to do and why you want to do it. Remember, you've got to demonstrate substantial hardship and that there are special conditions; soil, shape of lot, topography and the like, that necessitate our granting -- not necessitate, would justify our granting the Variance.

HANK REISEN: Right.

CONSTANTINE ALEXANDER: Okay.

HANK REISEN: As I mentioned, John and Ahmed and Laura and their

families have been living there for quite a while, and all the design proposals are based on the experience of living in this space. The current building has a very small dimensions, both the room size and the ceiling heights and there's no downstairs bathroom. Ahmed and Laura's three children are here tonight and they're teenagers and tall, and everybody's crowded into very small bedrooms and sharing bathrooms that are not very easy to share. So, none of these changes are being asked for that are extravagant. Also, that the two front porches with steep roofs, lots of snow dumps right at the entrances to both.

CONSTANTINE ALEXANDER: You are going to increase the top level, create a very large master bedroom which is not there right now. So I mean --

HANK REISEN: Yeah, well part of

the --

CONSTANTINE ALEXANDER: And this is not -- I'm not going to make a social commentary whether you're entitled to large master bedrooms or not, but that doesn't necessarily rise to the level of substantial hardship for Zoning purposes. You would like to have and have a very large master bedroom.

HANK REISEN: Well, part of it is with three children, and John also has three sons, there aren't enough bedrooms to go around. So it's adding a bedroom. And part of the FAR increase is currently -- there is a roof, that's an attic space. So we're not raising a floor, we're raising five feet which allows the roof zone to be occupied. So that's where a lot of that FAR increase comes from. It's basically making the attic zone habitable for needed extra

bedrooms. And the push out to the back is the -- as I mentioned, the room dimensions are quite small, and there is no downstairs half bath. So in order to even fit a half bath with these tiny kitchens, we need a little breathing room that way, too. So that's -- the FAR comes from, that extension, the roofs, and then again --

CONSTANTINE ALEXANDER: Let me probe, and we do this to everybody. I'm not trying to pick on you.

Is there, as I started to say, and I think it's quite clear. You're looking for substantial relief doubling the size of the structure. Are there solutions to this, for example, the downstairs bath that don't require such a substantial increase in the density of the use of this lot, i.e. doubling the FAR? Have you explored whether there is an intermediate

solution to your problem? Maybe not everything you would like to have, but something that our Board might find, might find more compatible with our Zoning Ordinance.

HANK REISEN: Well, the reason we're pushing back is not just the half bath. It's the very tight dimensions of all of the rooms. The kitchens are very small. So, we, we did explore this. We explored several options and this is -- and we understand that we are asking for quite a large increase in FAR and it's why we discussed it with all of the abutters and have gotten letters of support from them.

CONSTANTINE ALEXANDER: Yes, and I will read them at an appropriate time. I acknowledge the fact and the file will, and our records will reflect the fact that there is neighborhood support.

I'm sorry, we fired away at you.
You want to keep going?

HANK REISEN: Should we present?

CONSTANTINE ALEXANDER: By all means, yes.

HANK REISEN: This is the existing condition. Maybe we should look at them at the same time so you can see this outline is still here, and then the increase. We're not going out beyond these extensions. We're basically filling it in. We're adding the entry porches which protect from the snow and also provide some thermal separation, basically weather locks.

CONSTANTINE ALEXANDER: I take it the one on the right is existing and the one to the left are proposed?

AHMED NUR: Correct, proposed.

HANK REISEN: You can see these are additional entries. This is the

inhabited roof, some with dormers.

CONSTANTINE ALEXANDER: I would observe by the way, from the -- based on the plans, it would appear that your dormers, four new dormers you're adding will collectively comply with our dormer guidelines which you should be congratulated.

HANK REISEN: Thank you.

And the current garage, which is really too small for current cars, and is concrete block and falling apart, is in the same footprint is going to be rebuilt so we could get a standard garage door in and another, with getting another needed bedroom over it.

This is the side facing Kirkland. As you could see from this site plan, Kirkland Street's here. Sedgewick Road is a private road, dead end, and this is adjacent property.

CONSTANTINE ALEXANDER: So this is the side that faces out on to Kirkland?

HANK REISEN: Yes.

AHMED NUR: Kirkland. The south elevation on Kirkland.

CONSTANTINE ALEXANDER: What's that?

AHMED NUR: The south elevation on Kirkland.

CONSTANTINE ALEXANDER: Right.

HANK REISEN: And this is the rear. So this is a current garage. Again, a concrete block garage that's in poor condition. And this was the other garage. So we maintained the form of the two gables and this is the in-fill piece that goes forward. And, again, this is the habitable bedroom zone.

AHMED NUR: So the five feet increase would be over the garage. That garage would be deleted, it becomes the

living room, and then that wall, which is this wall here, goes back five feet deep. So it becomes flush.

HANK REISEN: So that hopefully --

AHMED NUR: And this is an overall Google picture of Sedgewick Road. This is Kirkland. This is Sedgewick. And this is the proposed site where this is 5 Sedgewick, and this is 1 and 3. And 1 and 3 has been before you here for renovations and condominiumized now. Two different families that we have a letter of support for this site here. And we also have a letter of support presented by the architect at this house. And this is the one that's most affected by us because we're moving it five feet back that way. What this house did is move towards Sedgewick and change the facade and we didn't want to do that.

These are architecturally almost historical site and we really appreciate its architectural intent so we didn't want to mess anything with the front. Instead we took it to the back. And for those of you who have been on the site where we look out back here, it's a big yard. And so Len who is our abutter was kind enough to support us and she understands our situation, two teen-age daughters, one in high school and the other one going to high school next year, sharing a bedroom, small bedrooms. And we've all had -- those of you who have kids, you know what it's like to share one bathroom and two girls and all the ones come up because we're the nearest house to the high school. And so I just wanted to pretty much mention that to the Board.

HANK REISEN: Another abutter in No. 5, John Wells who's lives in No. 4,

owns No. 5 and rents it. It's a -- he rents that property. So he's an abutter. So he obviously supports. And I happen to live behind here and I support it, but I don't think that can be part of the petition.

CONSTANTINE ALEXANDER: Keep going.

HANK REISEN: Well, are there questions?

BRENDAN SULLIVAN: Well, the thought that I have is perhaps it's obvious that the house is inadequate, but perhaps you've just outgrown it. And so not unsympathetic to the need for more room or bigger rooms.

LAURA BRAGO: May I speak to that?

BRENDAN SULLIVAN: We go back to the purpose of what is the Zoning Ordinance and I think I read that in the

previous, the first case of the night. And then what is the relevance to our Ordinance in relationship to this property and what you're asking us to do is to set the Zoning Ordinance aside because you have a need. Well, I mean, we sit here every Thursday night and, you know, there's an awful lot of needs and wishes, but either they make sense or they don't make sense. And this, you know, the amount of relief that you're asking is overwhelming and the impact of it I think is tremendous. And, again, it just goes back to perhaps you have just outgrown the house. It is totally inadequate. People -- my contemporaries are downsizing, you know, maybe other people need to upsize. But so I -- it's a high hurdle for me to consider this in a favorable way.

CONSTANTINE ALEXANDER: Any

other questions from members of the Board at this point?

HANK REISEN: Laura, did you want to mention something?

AHMED NUR: It's not public. They'll announce.

CONSTANTINE ALEXANDER: You'll have a chance to continue. I'm going to open it to public testimony and read the letters of support. Is there anyone wishing to be heard on this matter?

LAURA BRAGO: I do. Thanks. I'm --

CONSTANTINE ALEXANDER: Give your name and address to the stenographer, please.

LAURA BRAGO: Yes, Laura Brago, 2 Sedgewick Road, and I just wanted to speak to the issue you raised and to I guess address the hardship issue as well.

We've lived in this house since 2005

at which point I've had two daughters that could sit on my lap. We've lived there. At this point they're six feet tall and we have another child. And I understand that some of our contemporaries take this opportunity to move to a suburb to a bigger house because there's very little available in Cambridge for a family our size. We're committed to the city. Our kids go to public school here. We volunteer here on committees. We would like to stay in Cambridge. We're two blocks from the high school. It's a place we would like to be. And with -- we thought, you know, it's a difference of opinion, modest changes to the house, we could stay and be happy there and have enough space. You know, currently as we said, the children can't even raise their hands above their heads in their bedroom and there's no -- and none of the

bathrooms can more than one person stand. And the kitchen really only one person can live there. Having lived there for a long time really, our desire overwhelming thing that could make it easier to live there is space. That's the one thing. And I realize that people live in all kinds of ways. I grew up as one of five, my husband grew up as one of 13, but in this current space with our current family where we would like to stay, we think modest improvements can make our life easier and we'd like to stay that's where we're coming from. And so we did consult with all the nearest neighbors in person and ask their feedback on the plans to see if there was anything that they felt strongly about. And Mr. Van Sickle is here to represent one of the neighbors, and we made accommodations in those plans for some of the concerns that they -- and

you see that the result is that we have support from them.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard?

AHMED NUR: I would. Ahmed Nur also 2 Sedgewick, husband of Laura and father of the children. I wanted to take it from where Laura left it, which is our, again, most affected abutter was in the rear of the house or the west of the house represented by the architect. And originally we had -- just so you know, we worked out a deal with our abutters to make sure that our most duties as a neighbors is to our abutters, and what they wanted we do. And so there was a balcony here coming out and this window was a lot bigger and she expressed to us, showed us, she walked us through her yard which we never been before, and looked at

it and understood and basically said what could we do to help? And she said I would appreciate if that balcony was deleted and that window was made small. And also in compliance with the recommendation of the gable roofs, because between six, between seven and you can correct me if I'm wrong, between seven o'clock some shadow is casted over by the peaks of these into her yard and so we've lowered down also with the recommendation. I understand, and we're here to actually take your advice and input as to how it's going to work. We're here to make it work. We'll let you know what our findings are for -- and the reason and for this FAR doubling. I want the Board to keep in mind that the doubling comes from -- right now we go up to the attic and it's about five feet, you know, tall people, we kind of do this. And by

increasing that that becomes now counted towards that. And so it's a big fireplace going through it and so on and so forth, the chimney.

Another was to bring out this floor out the five feet so that we could have kitchen that my wife and I could pass each other. And so on and so forth. And the most effective, these are narrow backyards. They're really hard to utilize or do anything with. And, therefore, the forgiveness on the Zoning, with all due respect, is to -- it's because of this long narrow area that we, that has a bulkhead now and extremely close to the abutter. If we could bring our house in its existing garage already, seeing it on Sedgewick, then we could have that area inside the house rather and that is also why we're validating or need the forgiveness on that setback, side yard

setback rather than we're violating and the reason for that. Thus having said that, I wanted to hear -- or we wanted to hear what the Board -- what do you think that amongst you that you could recommend that we can do so that we come to a happy conclusion that everyone is pretty much -- yeah, everyone's pretty much satisfied.

BRENDAN SULLIVAN: It's a two-family now?

AHMED NUR: It's a two-family. So John and his family, five, live on this side. And we live on this side.

BRENDAN SULLIVAN: It probably works as a one family.

HANK REISEN: It what?

BRENDAN SULLIVAN: Probably works as a single. As a one family.

HANK REISEN: So that means long-term tenants get put out on the

street? I'm --

BRENDAN SULLIVAN: Well, I mean that's a harsh way of characterizing it.

HANK REISEN: Then it's a hardship because also, the two families know each --

BRENDAN SULLIVAN: Now you're into economics and that's something we can't really consider is economics.

HANK REISEN: Right.

BRENDAN SULLIVAN: So dollars and cents doesn't enter into it.

HANK REISEN: Well, there is an economic --

BRENDAN SULLIVAN: It's a very real aspect of it, but you're obviously going to spend a tremendous amount of money to double the size of the house. And what you're saying now is it really doesn't work as two, two units. You need to get more space. You need to get bigger

space. What I'm saying is that it probably works as a single.

HANK REISEN: Well, it was constructed as a two-family with a party wall between it.

CONSTANTINE ALEXANDER: You can change that.

BRENDAN SULLIVAN: I don't doubt that.

AHMED NUR: That's one recommendation, one family.

CONSTANTINE ALEXANDER: You ask and very rightfully so, you know, you're looking for feedback from this Board on what you can do.

AHMED NUR: We do.

CONSTANTINE ALEXANDER: And we haven't taken a vote by any means yet.

AHMED NUR: Right.

CONSTANTINE ALEXANDER: But the feedback that you're getting is yes,

sympathy for the fact that you need more space, but is there a less onerous alternative? Onerous in the sense of the increased density of the lot, the use of the property, than what you're proposing? And two things sort of thrown out. One certainly been thrown out, maybe the building should be converted from a two-family to a one-family. Yes, there is impact to that, but that's somehow the tradeoff you might have to make. Maybe. No conclusions yet. And another is is there another way of designing the property in a way that it gives you more space but not as much space as you will get with this because of the fact that it will be a smaller project? Those are just two things that we've thrown out.

AHMED NUR: Certainly.

CONSTANTINE ALEXANDER: But we haven't taken a vote yet.

AHMED NUR: Right.

CONSTANTINE ALEXANDER: And before we take a vote I think you'll get a better read of where we're coming from but not yet. We're still listening and we're still churning the thoughts in our heads.

AHMED NUR: Certainly.

HANK REISEN: I think the conversion from a two-family to a single has other implications because these two families have known each other for quite a while and get along very well and enjoy living in community in a sense. They're not in one house, but --

CONSTANTINE ALEXANDER: We understand that. I guess, I don't mean to be flip, and the Board has heard me say this before. But I'm going to quote the Rolling Stones: You can't always get what you want. You know? Understood.

And there may have to be some dislocation, because what you're proposing in a sense is a dislocation to the community of Cambridge in terms of what you're going to do in terms of density of the occupation of this lot. So, you know, there's tradeoffs here that's not going to be a perfect solution. I mean, I hear you and I'm speaking only for myself, I absolutely accept what you're saying about the fact of the two families and they get along with each other, but sometimes people have to make that sacrifice to get what they want. Enough speech from me.

THOMAS SCOTT: I mean my biggest problem is the FAR. You know, the FAR, you're doubling it which I mean it's low to begin with in terms of what's allowed. So you can make a fairly substantial increase and still stay within the, you

know, what's allowed. And you'd probably get most of what you show in your plan, but you're not going to get it all. So I think there's just -- it's hard for -- we've rejected cases with much less, you know, FAR exceedance, you know? That's my biggest problem. I think everything else I buy into, but the FAR is a real problem for me.

CONSTANTINE ALEXANDER: Other questions?

TIMOTHY HUGHES: Did you entertain or draw a plan that would take you just to the 0.75? Which would be an increase of 1500 square feet.

HANK REISEN: We drew. We didn't take a plan to that point, but we did some more modest plans that were under the FAR, and it was very difficult for the petitioners to imagine it would work for them.

TIMOTHY HUGHES: Yes. Again, it's the FAR that really stands out. I mean, the footprint basically doesn't change. You're not exacerbating the setbacks. Anything you do, and keep from exacerbating the setback problems, you would have to go up. And I -- so I don't have a problem with the setback stuff. And I think you can make a hardship case for the setback problems because it's a long, narrow shape of the lot and the way the building sits on it. It's a little more difficult to make a hardship case for, you know, going up and doubling the size.

CONSTANTINE ALEXANDER: I think the problem you started with the best solution, and anything short of that is not going to be the first push what you want to do. Your clients would want to do. On the other hand, that might be what

you might have to do to get to zoning relief.

HANK REISEN: Sure.

CONSTANTINE ALEXANDER: It's unfortunate that you started maybe from the reverse side. It would have been nicer perhaps to start with a more modest solution, and then if that didn't work and you had persuasive reasons why that didn't work and then you go to a solution that you have here.

HANK REISEN: We started with more modest solutions and it seemed to work, but obviously if we don't get approval, it has to be recessed.

CONSTANTINE ALEXANDER: We're jumping ahead of ourselves and I know Andrea hasn't had an opportunity to comment or ask questions. But one solution we don't like to do it, but we do before when we have this kind of a

situation, is we suggest that if you put it to a vote and it looks like you're not going to get the vote, you can't do anything obviously. Continue the case for a period of time to allow you to go back and rethink the plans and come up with a new set of plans that are, I guess I'd put it less ambitious of this, more conformance to our Zoning By-Law, and see if that would work for this Board. I think that's you're hearing where you need to go. Let me stop right there.

Andrea, do you have any questions you want to ask?

ANDREA HICKEY: Yes, I had a couple of questions in terms of the differential between the 0.47 now and the proposed 0.94, if you were to say delete the bump out, delete the space over the garage, and just keep the third floor, what would the numbers look like there?

You've represented that the third floor is sort of substantially what makes this number what it is.

AHMED NUR: That's the square footage. She's asking you what's the square footage of this bedroom over the garage if you were to delete that.

HANK REISEN: I don't have that with me.

ANDREA HICKEY: How might that change the number? How might it bring it closer to the 0.75? If you know.

HANK REISEN: Let's see what the plans are.

LAURA BRAGO: I think our garage is 260, I'm not sure.

AHMED NUR: What's the scale here? I'm sorry, do you have the half size?

CONSTANTINE ALEXANDER: Yes.

ANDREA HICKEY: The reason I ask

is maybe if you're able to delete one thing, there's sort of a middle ground here.

AHMED NUR: Right.

BRENDAN SULLIVAN: Maybe if we take a minute and let them do this. Just a thought. Maybe if we recess this for a minute, let them -- for a few minutes, let them --

CONSTANTINE ALEXANDER: Sure. They're going to have to redo plans. They might want to collect their thoughts. I don't think we can act on a revised --

BRENDAN SULLIVAN: No, no, but I think to answer Andrea's question, which is a very good question, a little bit more intelligently. Give, and then we go on to another couple of cases and then have you come back and maybe with --

AHMED NUR: That makes sense,

yes. Both makes sense.

BRENDAN SULLIVAN: Just a thought.

AHMED NUR: Thank you.

CONSTANTINE ALEXANDER: Further questions?

AHMED NUR: 320 square feet.

HANK REISEN: I mean, basically what we would do is we have to discuss with the client what's more important, this or that.

ANDREA HICKEY: Yes. And I'd encourage that. Yeah, I would. Because my problem, too, really is just strictly the numbers. You know, strictly the numbers. I understand the needs, and I like the whole community argument, I really do, but the numbers are the numbers.

CONSTANTINE ALEXANDER: So we can recess this case and allow you to talk

to your clients and to come back, but we're not going to be able to act on the case tonight simply because you need new plans. So is there something we gain to give you some chance to come back and tonight? It's up to you. It's entirely up to you. Or you wait and come back when you've had more time to think about it and come up with new plans.

AHMED NUR: Let me ask you this question: Let's say that I make a suggestion of leaving the bedroom over the garage, is 300 and something and if we decide to do that, would we be able to continue the case working with Sean?

CONSTANTINE ALEXANDER: No.

AHMED NUR: We have to bring back the new plans.

TIMOTHY HUGHES: We need no plans.

CONSTANTINE ALEXANDER: We need

new plans. That's why I questioned the usefulness of a recess because, you know, it's not going to get you anywhere.

AHMED NUR: I think we probably then to --

CONSTANTINE ALEXANDER: I'll do whatever you wish.

JOHN ROLAND WELLS: What sort of level are we going to try to get down to?

CONSTANTINE ALEXANDER: Say it again, please.

JOHN ROLAND WELLS: What level do we have to try to get closer down to?

ANDREA HICKEY: Closer to 0.75.

CONSTANTINE ALEXANDER: Yes. She got it. She said it all right there.

JOHN ROLAND WELLS: And if we can't do that, then we do nothing.

CONSTANTINE ALEXANDER: It doesn't mean you have to get to 0.75.

JOHN ROLAND WELLS: We have to

get in the ballpark.

ANDREA HICKEY: It makes it easier.

JOHN ROLAND WELLS: Yeah, I understand. That's help for us basically because we can't get anywhere closer at all. If we think we can, we can come back and present to you. But I agree with you, it would be better to continue this and give you a decent set of plans based upon the revised modification that meets closer to your Ordinance.

ANDREA HICKEY: Or maybe there's something you've not thought of, another idea.

CONSTANTINE ALEXANDER: Right, a whole new idea.

TIMOTHY HUGHES: But I will say maybe this is helpful, too, Tom and I both think that the bump out on the first floor makes the first floor work. And I mean

I would be reluctant if you try and save that space in favor of that master bedroom. I think what you really need to work on is the third floor. And maybe that other bedroom on the garage.

JOHN ROLAND WELLS: We'll give it a go again. Thanks very much. It's very helpful.

THOMAS SCOTT: I will say architecturally I think the design is very nicely done.

CONSTANTINE ALEXANDER: I would say that as well. No, I think if this were -- we didn't have numbers --

THOMAS SCOTT: If the site was big enough to accommodate this, it would be a no brainer.

CONSTANTINE ALEXANDER: It is a nice design.

HANK REISEN: Okay, well, we appreciate your time tonight.

AHMED NUR: Do we have a date, Sean, for coming?

CONSTANTINE ALEXANDER: First you better think about how much time you're going to need to rethink and --

AHMED NUR: I don't think we're going to need a lot of time. We need to get construction going. We'll come back the earliest date.

CONSTANTINE ALEXANDER: The other thing you have to keep in mind, as we'll find out in a second, is that this is what we call a case heard and we've gone into the merits of the case. That means when we rehear the case, it's got to be the same five of us. Okay? So we've got to make sure all five of us can get whatever date Sean's going to suggest to us.

SEAN O'GRADY: April 25th.

CONSTANTINE ALEXANDER: April

25th. Will that work for you?

AHMED NUR: That will work for us.

CONSTANTINE ALEXANDER: Does that give you enough time? You have to get new plans in our files by five p.m. the Monday before April 25th. So you have to be sort of done, if you will, by then. Can everybody here on the Board make it April 25th?

ANDREA HICKEY: I just need a minute to bring my calendar up. I apologize.

CONSTANTINE ALEXANDER: While Andrea's checking that out, if we do continue -- we are going to continue the case, it's a question as to when. But the conditions are going to be the sign that's posted, don't miss this, because other people do, you're going to have to change the date to whatever date we're going to

say, and you've got to change the time to seven p.m. If you don't do that, we're not going to be able to hear the case on April 25th. Or if we do, it will be at the time that's on this petition now.

AHMED NUR: Now, we pick up a new sign I believe?

SEAN O'GRADY: No.

AHMED NUR: Same sign?

CONSTANTINE ALEXANDER: You don't have to. Just get a marker and change the date and the time.

ANDREA HICKEY: I'm okay with that date.

CONSTANTINE ALEXANDER: Okay, April 25th works. Good.

Okay. The Chair moves that this case be continued as a case heard until seven p.m. on April 25th on the condition that the Petitioner change the posting sign to change the new date, April 25th,

the new time, seven p.m., and to maintain that sign in accordance with the posting requirements of our Ordinance.

The Chair would note that the Petitioner has signed a time for waiver of decision. So I think that's the only -- and also to further set of conditions, a requirement, that to the extent that you submit revised plans, you have to put those revised plans, file them, by no later than five p.m. on the Monday before April 25th. And at the same time just submit a new dimensional form since the dimensions will change with the new plans. If you don't do that, again, we're not going to be able to hear it on the 25th. So make sure you get that right.

All those in favor of continuing the case on this basis?

(Aye.)

CONSTANTINE ALEXANDER: All in
favor.

(Alexander, Hughes, Sullivan,
Scott, Hickey.)

CONSTANTINE ALEXANDER: Case
continued.

* * * * *

(9:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes Brendan Sullivan, Thomas Scott, Andrea M. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10402, 53 Dana Street. Is there anyone here wishing to be heard on this matter?

CAMPBELL ELLSWORTH: Yes, good evening. My client will be here in just a minute.

CONSTANTINE ALEXANDER: Name and address for the record to the stenographer.

JULIA AUSTIN: Julia Austin, 53 Dana Street.

CAMPBELL ELLSWORTH: My name is Campbell Ellsworth. I'm the architect. I live at 267 Norfolk Street, Cambridge. May I begin?

CONSTANTINE ALEXANDER: Yes.

CAMPBELL ELLSWORTH: Thank you.

So the case before you is a Variance application. Julia has purchased a new townhouse at 53 Dana Street.

CONSTANTINE ALEXANDER: A new old townhouse.

JULIA AUSTIN: Yes, new old town house.

CAMPBELL ELLSWORTH: Yes. New for her. Still old for Cambridge. At 53 Dana Street, it is a -- it's a very handsome set of four row houses, townhouses on Dana combined together. It's one of the internal units. It -- we -- she is seeking to add an a modest addition on the second floor over

an existing footprint. I can show you these are -- these are the existing plans of the townhouse in terms of the basement, first floor, second floor, and third.

The first floor, this is Dana Street on the bottom. There is an existing bump out that's been there for quite sometime. If you look at the brick, I have a couple of photos here.

CONSTANTINE ALEXANDER: And there is a bump out, identical bump out on the house to the left.

CAMPBELL ELLSWORTH: Yes, there is. So this is -- right. So, Julia, if you would hold that.

JULIA AUSTIN: Sure.

CAMPBELL ELLSWORTH: So this is Julia's first floor bump out. The gentleman to our right, Mr. Gilmore actually owns this structure here at 51 Dana. What Julia is seeking to do is to

add a volume of space of right above this. So not increasing the footprint but just going up that one story that will in fact match.

CONSTANTINE ALEXANDER: I was going to say it will match. It won't be higher than the other one, it will be the same?

CAMPBELL ELLSWORTH: It won't be higher, no sir. And obviously it's over that second floor. And so this is what is planned for it. So these were the existing, and then obviously we would be adding above that kitchen, that would -- and she's doing some work on the inside of the house now so the reconfiguring these rooms. Not much has been done to this house in quite a long time. And this addition would house a studio and office. Julia works from home. This would be her bedroom, and a

modest bathroom for her.

CONSTANTINE ALEXANDER: And the amount of the square feet you're adding is 186 from my calculations?

CAMPBELL ELLSWORTH: I believe 168.

JULIA AUSTIN: 186.

CAMPBELL ELLSWORTH: Yes, excuse me. 186. Just a little bit of history. Ten days ago we were in front of the Mid-Cambridge Neighborhood Conservation District Commission. They have submitted a letter for your file. Actually, we -- I apologize, we don't have a copy of that. One was mailed to Julia, but -- and I put one in my hand at some point. But I know that they were supportive.

CONSTANTINE ALEXANDER: We'll read this into the public record at the appropriate time.

CAMPBELL ELLSWORTH: Terrific.

We were there for two reasons. One was that Julia will be replacing windows on the front of Dana Street. And that being in the public way, they have jurisdiction over that. Although it was small. I believe it was non-binding, but they were very happy with the suggestions that we made.

Also, the addition that we're proposing since it is between 150, since it's over 150 square feet, they get to hear it, but it's between 150 and 750 so it was also a non-binding review on the addition we're proposing. They were also supportive of that, and supportive of both the sort of the scale of it, the matching with Mr. Gilmore's property as well as the change in material that we're proposing.

This, you know, we're here before

you because we're in a C-1 Zone. This is a 20-foot wide lot. So basically -- and it's a -- I think the lot size is only 1580, which is the way these houses were carved up or these pieces of land were carved up. So we are, you know, we're seeking side yard setbacks. We're seeking FAR relief.

CONSTANTINE ALEXANDER: Mainly FAR because you're not really recruiting any further into the side yard, you're just increasing the massing by going to the second floor.

CAMPBELL ELLSWORTH: True. Right, well that second floor would be --

CONSTANTINE ALEXANDER: You're no closer to the side yard than you are right now?

CAMPBELL ELLSWORTH: True, exactly. Right.

CONSTANTINE ALEXANDER: It's

just massing. On its face, your FAR is the issue and the numbers are frightening on the face because you're going to go from 1.897 to 2.015 in a 0.75 district. So when all is said and done if we grant you relief, you will be almost three times the permitted FAR.

On the other hand, you're doing in the backyard, not visible to the street. You're also making this structure conforming to a structure that abuts it, so it's not like something that's going to stick out like a sore thumb.

CAMPBELL ELLSWORTH: Right.

CONSTANTINE ALEXANDER: You're in an area that's already -- that is dense by nature, it's row house. And as we will get to in a second, the Historical Commission is in support of what you want to do. So those are the factors that are in your favor.

CAMPBELL ELLSWORTH: Yes.

CONSTANTINE ALEXANDER: In contrast to the numbers on their face a little bit daunting.

CAMPBELL ELLSWORTH: Right. And I apologize, I should have done an FAR calculation at least by city records of some of these others, but I would assume that at least this house on that street --

CONSTANTINE ALEXANDER: Must be the same.

CAMPBELL ELLSWORTH: -- would be essentially the same.

CONSTANTINE ALEXANDER:
Questions from members of the Board?

BRENDAN SULLIVAN: No, not a question. Maybe an observation afterwards.

CONSTANTINE ALEXANDER: Okay.
Any questions?

TIMOTHY HUGHES: There's a

bathroom on the second floor currently?

JULIA AUSTIN: Yes.

CAMPBELL ELLSWORTH: There is, yes. I believe, you have existing conditions in the packet.

THOMAS SCOTT: Is there a reason why you're not using brick on the addition?

CAMPBELL ELLSWORTH: Basically cost.

CONSTANTINE ALEXANDER: I didn't catch that. I missed that. It's not going to being brick, it's going to be wood?

CAMPBELL ELLSWORTH: That's correct.

CONSTANTINE ALEXANDER: That's unfortunate.

Unless you want to -- I'll go to public testimony.

TIMOTHY HUGHES: Yes.

CAMPBELL ELLSWORTH: Which I believe -- I'm sorry to interrupt.

CONSTANTINE ALEXANDER: Sure.

CAMPBELL ELLSWORTH: The conversation at the Historical Commission, they were in fact supportive of the fact that we would change the material.

CONSTANTINE ALEXANDER: I'm going to get to that when we read their letter.

ANDREA HICKEY: Do you mean they were supportive or they didn't object?

CAMPBELL ELLSWORTH: No, in fact, there was one woman on that Board who was --

CONSTANTINE ALEXANDER: I'll let the letter speak for itself. Let me read the letter right now.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: No, no,

it's fine. It's a good question.

We are in receipt of a memo from the Cambridge Historic Commission addressed to this Board with respect to this property and it reads as follows:

(Reading) The property is located in the Mid-Cambridge Neighborhood Conservation District where exterior alterations visible from a public way are subject to review and approval. The requested rear addition, which would be minimally visible from Ellery Street was granted a Certificate of Appropriateness on March 4, 2013.

I think to answer your question, I don't think they really addressed the issue of the wood versus the brick. They just said basically because it's not visible, we're okay in so many words.

CAMPBELL ELLSWORTH: What they said at that -- I did read that before I

misplaced it on my desk, but what I recall is that there was one board member who thought that that was quite appropriate and supportive of the fact.

JULIA AUSTIN: Yeah. She's, she said it was charming and she just asked me what color we would paint it. And I said anything that we wanted to make it look nice.

CAMPBELL ELLSWORTH: And they suggested make brick, brickish.

CONSTANTINE ALEXANDER: Not surprised.

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

MARVIN GILMORE: I grew up on Dana Street --

CONSTANTINE ALEXANDER: Give us your name.

MARVIN GILMORE: I'm Marvin Gilmore. I'm 88-years-old, and I did own

pretty much all of that property Dana and Broadway and all original owners, some are still living today. I'm still alive. I still own 51. It's 407, 413 Broadway, 411 Broadway, 423 Broadway. And even (inaudible) rest her soul, she passed away.

My problem is not the building, it's the facade. And in the back of all those houses we have a tremendous amount land in the back is their front. And I don't mind what they're doing, but wood I object to. They should keep brick on a brick facade. That's my only problem. The nature of it putting wood against -- especially when my building's right next to hers, makes a big difference. It will make a major change. And I spoke to them afterwards. And that's the only objection. Brick, why not brick? There's not that much brick

that they're going to be using. The windows and the glass. The brick. They're keeping with the neighborhood. I fought for years to maintain that whole corner in the back, and everybody has done just that. For someone just moved in suddenly going to change the nature, it's not good. It's not good. It's not going to look right. It's going to stick out like a sore thumb. And she used brick, it's not much to use. It's not expensive at all. Then I would have no objection. I have no objection to building just the facade.

CONSTANTINE ALEXANDER: When you said that you're not using brick for cost reasons, have you really pushed that, pushed the envelope on the calculations? Is it really impossible?

CAMPBELL ELLSWORTH: I'm not the builder. The builder was not able to be

here. We've gotten some quotes of about \$20,000 increase to do the brick from this building.

CONSTANTINE ALEXANDER: Okay.

TIMOTHY HUGHES: That seems like a lot.

CONSTANTINE ALEXANDER: That seems high to me, but what do I know.

TIMOTHY HUGHES: Does that seem like a lot?

THOMAS SCOTT: It's two walls basically.

BRENDAN SULLIVAN: It would appear to be a little bit high.

No. 1, I think that it is a big difference in appearance. And I think that Mr. Gilmore's point is well taken because, you know, the effect of -- I think we're focusing on what is the effect on his property? And it may have an adverse affect as far as the value is

concerned, wood as opposed to brick. And so we're saying even though it may not be a daily affect, it will have I think a material -- when I say material, brick as opposed to wood, affect which may have a -- lessen the value or not enhance.

CONSTANTINE ALEXANDER: Is there a safety aspect to it as well if it's wood as opposed to brick? Is it less safe in terms of fire spreading to the neighbors?

BRENDAN SULLIVAN: Well, sure.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Well, I mean wood burns and bricks don't.

CONSTANTINE ALEXANDER: Don't burn as easy.

TIMOTHY HUGHES: No, they don't. In fact, you've got to burn them to make them brick.

BRENDAN SULLIVAN: But at any rate that's -- I mean, I think your point

is well taken for that.

CONSTANTINE ALEXANDER: I'm going to close public testimony. You'll also have an opportunity to give final comments.

Is there anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: I note no one else wishes to be heard. There is nothing in our files other than the certificate from the Historical Commission. I'm going to close public testimony.

Sir, unless you have anything more to add.

MARVIN GILMORE: I've already said what I'm going to say.

CONSTANTINE ALEXANDER: You said what you're going to say?

MARVIN GILMORE: Well, since

1930 I lived there and owned most of the property. We kept it the way it is. It has historical value, but you're absolutely right. It will kill the value. And this wood will stick out like a sore thumb. It will totally change that whole neighborhood. Dana Street and Broadway we kept it all these years there from when I was child. We have maintained that area and now new people come in and want to put wood against brick. And this is -- ties into my property. That makes a big difference. Now if I want to sell it, I really don't, because I just love that neighborhood and I grew up in that neighborhood. I would love to see that this not change it. If they do brick, it's not much brick to have there. It's just glass. It's a small piece. And why you want to put wood against all that brick -- and by the way,

411 Broadway and 415 were two together. I own that. So it's all brick facing this. This way he's done it will just totally throw everything out of context really. And that's my only objection. If they do brick, fine. I support that. But not wood. Glass and brick look beautiful. You know, you could really do it nice. And I explained that to him and he's an architect. But not, across the street when the Swiss did the glass, it blended well. And I'd like to see this happen, and I'd like to see Cambridge be Cambridge.

BRENDAN SULLIVAN: It could be a wood frame and brick veneer.

CONSTANTINE ALEXANDER: I'm going to close public testimony. We're going to open the matter up to comment, but I'm going to suggest to the Board, unless the Board feels otherwise, when

the time comes for a motion, I'm going to make a condition that -- if we approve it, on the condition that it be done in brick to match the neighboring property. It strikes me from what I'm hearing that's how we should start the procedure, but other members of the Board may feel otherwise and we can change the motion.

CAMPBELL ELLSWORTH: I'm sorry, may I jump in?

CONSTANTINE ALEXANDER: Oh, yes.

CAMPBELL ELLSWORTH: I forgot. I wanted to submit two things. This is just an e-mail string between Julia and Mr. Gilmore just articulating the same things.

CONSTANTINE ALEXANDER: If it just repeats what we've heard, we don't need to have it.

CAMPBELL ELLSWORTH: Okay.

This is one from the neighbor on the

other side.

CONSTANTINE ALEXANDER: I'll read that into the public record.

It is an e-mail from Debra Avant, A-v-a-n-t. It's actually addressed to the Petitioner, and it says (reading) The Avant family from 55 Dana Street, Cambridge, does not have any concerns with the modification what you would like to do on your home. Good luck.

So it's a letter in support. Thank you for this. I'll put it in the file.

Okay, back to commentary. Anybody wish -- Brendan, I'll give you the first shot.

BRENDAN SULLIVAN: Can I see the drawings, the photos?

CAMPBELL ELLSWORTH: Photos, sure.

BRENDAN SULLIVAN: I was there on Tuesday and probably at about 3:20 in the

afternoon as the sun is coming here. And I could see that the sun obviously is coming here and from here casting from here. It's casting a shadow along here. Then I'm trying to picture if this goes up, that the shadow is going to cast sun -- this structure is going to cast a shadow on the adjoining unit. And I know they've expressed no objection to it. I'm not sure if they realize.

MARVIN GILMORE: They're young people, young kids there.

BRENDAN SULLIVAN: The impact that putting a structure here is going to have and it is going to cast a shadow on that.

CAMPBELL ELLSWORTH: Can I just address something?

CONSTANTINE ALEXANDER: Well, we did end public testimony. If you want to answer Mr. Sullivan's question, fine.

Otherwise no.

CAMPBELL ELLSWORTH: Yes, it addresses that specifically. So, I would just point out I think -- well, this is, this is the entire building.

CONSTANTINE ALEXANDER: Right.

CAMPBELL ELLSWORTH: It's essentially created in two pairs. Sort of -- there's a pair. Mr. Gilmore's door and Julia's door. So there's Mr. Gilmore's door, and there's Julia's door. So these are kind of mirrored. And then these two also mirror. So it's -- this block is conceived in two pairs. And I would just point out just to address your observation that that will cast shadow. That I would say especially since this addition or this tail of Mr. Gilmore's structure has been here for a very long time. I think you said it was there since maybe the 30's or 40's or something or

even before.

MARVIN GILMORE: 84 years.

CAMPBELL ELLSWORTH: Long time.

I would just propose that these two pairs are intended, sort of typology tends to have those additions there. So that this -- Julia's addition here is not out of keeping with what the original architects may have intended for these. That each of these two pairs would have these back-to-back, mirrored two-story additions.

BRENDAN SULLIVAN: But how does that address the shadowing? The forecast.

CAMPBELL ELLSWORTH: Well, of course there will be shadow, but I don't, I don't -- that's just sort of the nature of how they sit on the street. It --

BRENDAN SULLIVAN: Well, but now you're going to impact it. Right now

there is -- it's not going to cast a shadow and you're going to put a structure there which will cast a shadow on the adjoining property.

CAMPBELL ELLSWORTH: Right.

And I can only -- I know that Julia has made the acquaintance of the neighbors and explained it. I believe they've seen plans and know the intent. I can only turn back to their --

JULIA AUSTIN: And the experience of living in the property that I don't experience -- I have sun coming, streaming through. There is no shadow coming from his property into my house. I still have sun coming in. So I mean in terms of shadow, I don't know how that ripples on to the next property. But from a where the sun comes, I have lovely sun that comes in all day long.

BRENDAN SULLIVAN: Right. And

if Mr. Gilmore's second level -- third level I guess it is, were not there, you would have more streaming light. So that if you take that logic and put a building above yours, it's going to diminish.

JULIA AUSTIN: Fair enough.

MARVIN GILMORE: To answer your question, at 413 Broadway, 415 we did low storage so there wouldn't be no story. Not two stories. Just one story. The real picture so that we wouldn't have shadow. And all the neighbors back and the flowers and planting the trees. No shadow at all. One story, not two stories. But you're absolutely right.

CONSTANTINE ALEXANDER: Andrea, comments or questions? Or comments.

ANDREA HICKEY: The neighbor that wrote the letter I guess in support, it was a very short letter, did they understand it was to be a wood structure?

MARVIN GILMORE: No, they
didn't.

CONSTANTINE ALEXANDER: Let her
answer.

JULIA AUSTIN: Can I --

CONSTANTINE ALEXANDER: Let her.

MARVIN GILMORE: Sorry.

JULIA AUSTIN: I sat with her and
I showed her the drawings and I also
e-mailed the drawings to her so she could
see.

ANDREA HICKEY: Right, but she
may be a layperson.

JULIA AUSTIN: I talked to her.

ANDREA HICKEY: That wood is what
you had proposed?

JULIA AUSTIN: I can't tell you
what's in her mind in terms of this. I
discussed it with her and I showed her the
materials and said this is what we're
doing. Her response to me

person-to-person before she wrote the letter was, it's your home, enjoy it. You just should enjoy your house. That was her response to me. She didn't really -- she was very apathetic about the things, because she loves her home, she loves it that we're coming to the neighborhood. She was happy to hear a mom with daughters is going to be living next-door to her. She has kids living in her house, too. She was just lovely about the whole thing. And she said what do you want me to do? And I said, if you could write a letter of support, that would be great. I don't want to put words in your mouth and I sent her the plans. She did see it. She did see what it was going to look like. She saw the back and the drawings that Campbell put together.

ANDREA HICKEY: So we don't really know if she knew that it was going

to be wood?

JULIA AUSTIN: I said it was wood. I mean, I did say that to her and she acknowledged that.

ANDREA HICKEY: Thank you.

CONSTANTINE ALEXANDER: Tom, any comments?

THOMAS SCOTT: One thing to just keep in mind if it's brick, you don't have to paint it every five to seven years.

JULIA AUSTIN: If I could --

THOMAS SCOTT: That's a cost.

JULIA AUSTIN: And I can tell you if you're supportive of the addition, I will do brick if I have to. I'm trying to make my family work in Cambridge.

THOMAS SCOTT: I think that \$20,000 number, and I'm an architect, is way out of whack.

JULIA AUSTIN: And again I'm so happy to be in in the City of Cambridge

and living in a place where I belong, that I will make you guys happy. I just want to be here. My family wants to be here. My girls want to be here.

MARVIN GILMORE: How long have you lived there?

JULIA AUSTIN: I bought the property in May, last year.

MARVIN GILMORE: She wants to change the neighborhood.

CONSTANTINE ALEXANDER: Tim, any comments?

TIMOTHY HUGHES: No. I'm going along with the whole tenure of the conversation. I think the brick works for me.

CONSTANTINE ALEXANDER: Okay.

I think we're ready for a vote.

The Chair moves that this Board make the following findings:

That with respect to the relief

being sought, that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being is that the structure requires additional living space and the lack of the inability to obtain that would create a substantial hardship.

The hardship is owing to circumstances relating to the shape of the lot. The lot is a long and narrow lot, which almost precludes any modification of the structure without causing some problems with Zoning. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

The work being sought is modest in

terms of the amount of additional square feet.

That with the condition that I will mention in a second, that the addition, if approved, will be aesthetically consistent with adjoining properties, in that it will be brick next to a brick structure. And that what is being proposed will improve the housing stock of the City of Cambridge, which is one of the intents and the purpose of our Zoning Ordinance.

On the basis of these findings, the Chair moves that a Variance be granted subject to the following conditions:

That the work proceed in accordance with the plans submitted by the Petitioner, the first page of which has been initialed by the Chair. And the sheets are numbered T1.1, A0.1, Z1.1, EX1.1, and EX1.2, and A1.1.

And on the further condition that the addition that's being proposed will be brick and not of wood, with the brick intended to match as nearly as possible the brick of the adjoining structure.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Hughes, Scott, Hickey.)

CONSTANTINE ALEXANDER:
Opposed?

(Show of hand.)

CONSTANTINE ALEXANDER: One opposed.

(Sullivan.)

BRENDAN SULLIVAN: Require a marked up drawing prior to your signing the decision.

CONSTANTINE ALEXANDER: Just for the brick? All right.

Campbell, we're going to require a new drawing before -- that I have to initial that show the brick before we will grant the -- actual issue the Variance. So give it to Mr. O'Grady and he'll give it to me for initialing.

CAMPBELL ELLSWORTH: Agreed.

JULIA AUSTIN: Thank you.

SEAN O'GRADY: A note would do fine for our purposes.

THOMAS SCOTT: On note on the plan in the record?

SEAN O'GRADY: Yes. Just to be brick. I mean, that's what you would give me, right?

CAMPBELL ELLSWORTH: Well, right. Well, I mean, no, I'll redo the drawings to eventually -- when we apply for the permit.

BRENDAN SULLIVAN: It makes it easier for the Building Inspector too.

CAMPBELL ELLSWORTH: Oh, yeah, yeah, yeah. I'm not going to -- okay. However you want to do it. I'll give you new drawings.

SEAN O'GRADY: I didn't know if you were doing it for me.

CAMPBELL ELLSWORTH: Thank you very much.

* * * * *

(9:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea M. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10403, 5-7 Traymore Street.

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

The Chair would also note that we are in receipt of a letter from the Petitioner Maggie Booz. (Reading) Dear Committee Members: On behalf of the Petitioner, Anita Wagner and Norbert Hofmann of 5 Traymore Street in Cambridge, I am requesting a continuation of their Zoning

review of March 14th until your hearing of April 11th. We are filing a new case on their behalf. So it's a new case.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay, April 11th works?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on April 11th on the condition that the Petitioner change the sign to reflect the new date and the new time.

And that the Chair would note that there is a waiver of time for a decision in the file already. And that to the extent that the Chair would remind the Petitioner in extenso that to the extent that they're going to do, for this petition, revised plans, that those revised plans must be in our files by five

p.m. on the Monday prior. And also to the extent that there are new plans, a new dimensional form that corresponds to the new plans.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Sullivan, Scott, Hickey.)

* * * * *

(9:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea M. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call the next continued case, Case No. 10404, 1663 Massachusetts Avenue.

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

(No Response).

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

The Chair also notes -- okay, we have a letter from the Petitioner, Lesley University. It says I am requesting a

continuance to the next available hearing.

With regard to this request the Chair would note that the Petitioner failed to comply with the notice requirements with regard to posting of signs, and therefore under all circumstances we cannot hear the case tonight.

What's the time to continue this to?

SEAN O'GRADY: April 11th?

CONSTANTINE ALEXANDER: April 11th?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case as a case not heard until seven p.m. on April 11th on the condition that the Petitioner sign -- has signed a waiver for a time of decision.

On the further condition that the

sign that has never been posted, now be posted to reflect the new time and the new date.

And lastly, that to the extent that the plans for the sign, which is a subject of this Petition, change. That those signs, that revised plans or drawings for signs be in our files no later than five p.m. on the Monday prior.

All those in favor of granting the continuance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Hickey.)

CONSTANTINE ALEXANDER: Case continued.

* * * * *

(9:30 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea M. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10405, 108 Holworthy Street.

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

PERRY NEUBAUER: Yes. Okay, I'm

Perry Neubauer and this is my wife Suzie Neubauer. We're about to celebrate our 50th wedding anniversary.

CONSTANTINE ALEXANDER: We're not going to cut you any slack for that. You understand that.

THOMAS SCOTT: I might.

PERRY NEUBAUER: The implication is we're getting old.

CONSTANTINE ALEXANDER: Only old as much as you feel, Mr. Neubauer.

PERRY NEUBAUER: After two hips and one knee operation and also -- well, you don't want to hear about that. Anyway, our intent -- our request --

BRENDAN SULLIVAN: A football injury?

PERRY NEUBAUER: Lacrosse. A little poke check?

CONSTANTINE ALEXANDER: Don't try to intimidate us with that pointer.

PERRY NEUBAUER: It's got a red point. It's a very long pole.

Anyway, we have a house built in 1872. In the nineties it was added -- 1890's, added a back room, which is right here. And also the bay window was added at that time. And nothing happened to the house until we bought it in 1996. At which point we added an addition which took about 10 or 12 percent of the --

CONSTANTINE ALEXANDER: Did you need Zoning relief for that addition?

PERRY NEUBAUER: Hmm?

CONSTANTINE ALEXANDER: Did you need Zoning Relief?

PERRY NEUBAUER: We got a -- I think we -- well, we did get -- what do you call that? Not the variance but the --

SEAN O'GRADY: Special Permit?

CONSTANTINE ALEXANDER: Special Permit?

PERRY NEUBAUER: Special Permit. I think we got a Special Permit on that. But anyway, people were quite agreeable.

But this time now that we want to add a bedroom so that we don't have to climb the stairs, in the backyard, one-story bedroom, 256 square feet, we do need a Variance because we've then exceeded the area that you can add to as well as the volume. Because since 1945, you know, whenever the Zoning went into effect, there's a ruling that says you can't make an addition -- more than one addition or add addition that exceeds 25 percent of the original area without a Variance.

CONSTANTINE ALEXANDER: Well, your issue is remarkable frankly, and for the benefit of the record, you have no FAR issues with your addition.

PERRY NEUBAUER: No, we don't.

CONSTANTINE ALEXANDER: You're going to go from 0.23 to 0.26 in a 0.5 district. So you're well, well under the --

PERRY NEUBAUER: Shocking, yes.

CONSTANTINE ALEXANDER: Your issue basically is you're non-conforming in a setback.

PERRY NEUBAUER: Yeah.

CONSTANTINE ALEXANDER: You're not going to further go into the setback. You're going to increase the massing in the setback.

PERRY NEUBAUER: The setback, actually you're right. The setback, the house was built before you had Zoning. And our setback over here, the tightest one was six-foot point 31 inches, 6.31 feet. We are increasing the addition so that it does conform. Obviously we can't

make the existing conditions conform.
But this -- the new addition.

CONSTANTINE ALEXANDER: The point is the relief you're seeking is very, very modest in nature.

PERRY NEUBAUER: We are very modest people.

CONSTANTINE ALEXANDER: We'll put that in the decision.

PERRY NEUBAUER: Put that in the record.

Anyway, so that's the idea. If -- I did see there's a photograph of our modest little house. And you can see -- you can't see much. There's the addition, right back there. You won't -- and this is in the wintertime. In the summer, no way are you going to see that.

In the back, however, this photograph was taken from the backyard, which is a fairly deep backyard. This is

the addition right here. And it, it's glommed on to the rear face of the house. You know. There it is.

The plan of the -- here's the plan. This was the addition back in the nineties, 1890's. And this is our new bedroom here. And not a lot that you can say about it. We are increasing the size of the bathroom, not to be using it simultaneously, but it's nice to have a little more elbow room.

Elevations here. This is the side facing the north. This is the side facing the south. We do have some sliders. And this is the side facing the garden.

Oh, I have some letters. We have --

CONSTANTINE ALEXANDER: We have some letters in the file. I don't know if you have the same letters.

PERRY NEUBAUER: Well, I hope

not. We have a letter from our next-door neighbor who is really the one who is going to see more of that than anybody. Amy. And then we've got -- I wrote that one, and then they just signed it.

CONSTANTINE ALEXANDER: I would have guessed. Okay.

PERRY NEUBAUER: But everyone seems to have -- we haven't talked to anybody who has any objections unless it's you all.

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

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: I see no one has any questions at this point. I'm going to open this matter to public testimony.

Is there anyone wishing to be heard in this matter?

(No Response.)

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

The Chair will also note that we are in receipt of various letters which I will read into the record.

We have a letter that's been signed by the residents at 103 Holworthy Street and 106 Holworthy Street. And the letter states, we the undersigned approve of the proposed 19 feet by 13.5 feet one-story addition to 108 Holworthy Street.

We have a letter from Amy Bethke, B-e-t-h-k-e who apparently resides at 104 Holworthy Street. It's addressed actually to the Cambridge City Council, but it references this matter.

(Reading) To Whom It May Concern: My property's adjacent to the Neubauer's property and my home directly overlooks

the back of their house and yard. I have seen the plans for the proposed extension to their home and have neither objections nor reservations.

There is a letter from the residents at 112 Holworthy Street. Kenneth Neal, N-e-a-l and Susan Neal, N-e-a-l. And it simply says: We are in support of Petitioners Perry and Susan Neubauer and their plans for a first floor addition.

And lastly we have a letter from Carolyn F-a-n-t-a-s-i-a, Fantasia who resides at 102 Holworthy Street.

(Reading) I am Perry and Suzie's next-door neighbor. I've seen Perry's plans to the addition to the first floor. With Perry's design skills and knowledge of construction, it will be a lovely addition. I support their desire and need to have a single floor living situation. It will enhance their lives,

their house, and also give them additional space for family visits.

So all letters in support.

With that I'm going to close public testimony.

Any final further comments? None.

Open it up to discussion by members of the Board. Any discussion or ready for a vote?

BRENDAN SULLIVAN: Very modest, very fair and reasonable.

CONSTANTINE ALEXANDER: What's that?

BRENDAN SULLIVAN: Very modest and very fair and reasonable.

CONSTANTINE ALEXANDER: Keeping with the individuals, very modest.

PERRY NEUBAUER: Retiring.

CONSTANTINE ALEXANDER: Tim, any comments?

TIMOTHY HUGHES: No, I'm good

with it.

CONSTANTINE ALEXANDER: Okay.

Andrea?

ANDREA HICKEY: No, none thank you.

CONSTANTINE ALEXANDER: The Chair moves -- I think we'll take it to a vote.

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that modest though they may be, they're getting on in years and need additional living space on the first floor. And without that, it would cause substantial problems as they age.

That the hardship is owing to the circumstances relating to the shape of the lot and the location of the structure.

This is a very old structure that is non-conforming and that relief -- any addition requires relief -- absent relief you cannot put on the addition.

And that the relief may be granted with a substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note that the Zoning Variance being sought is rather modest in nature and that it is consistent with allowing elderly citizens, my apologies -- elderly citizens to remain in the City of Cambridge in their current homes, and that the petition has the support of all of the --

PERRY NEUBAUER: Neighbors.

CONSTANTINE ALEXANDER: Period.
From neighbors all around. There is no

neighborhood opposition that is apparent to us.

So on the basis of these findings, the Chair moves that a Variance be granted to the Petitioners on the condition that the work proceed in accordance with the plans prepared by Mr. Neubauer. They are 1, 2, 3, 4, 5 pages. The first page of which has been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Sullivan, Scott, Hickey.)

PERRY NEUBAUER: That's wonderful. Thank you.

* * * * *

(9:40 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Andrea M. Hickey.)

CONSTANTINE ALEXANDER: The Chair will call last but not least case No. 10406, 46-48 Hayes Street.

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

PAUL FIORE: My name is Paul Fiore and my colleague Brian Bordonaro.

UNIDENTIFIED FEMALE: Can you speak to the mic?

CONSTANTINE ALEXANDER: If anybody has trouble hearing, come to the front of the room if you can't hear.

PAUL FIORE: So we're here on behalf of -- our client purchased the property at 46 to 48 Hayes Street in a gutted condition and hired us to come up with floor plan layouts for a two-family residence. So we did that and they received permits to build, to build with condition of receiving a special -- or applying for a Special Permit for moving some windows that are within the setback limits.

I should note -- so the two sides, the east and west side, and the back are within the setback limits. The -- I think -- let me get this right.

So we're here now to seek relief from the west side and the rear. The east side, the owner decided to just leave the

windows where they were and didn't change those. And both on the rear and the east side.

CONSTANTINE ALEXANDER: Is the rear the south elevation?

PAUL FIORE: It's the -- correct, yeah.

CONSTANTINE ALEXANDER: So it's the east and the south where you're making your changes?

PAUL FIORE: The east and the south, yes.

CONSTANTINE ALEXANDER: And not only windows, but also a door, too.

PAUL FIORE: Yeah, it's doors. There's one door on each side.

CONSTANTINE ALEXANDER: And the door being on the south elevation, the rear?

PAUL FIORE: Yes.

CONSTANTINE ALEXANDER: The east

elevation is just relocation of windows?

PAUL FIORE: Yes.

And both are just six inches inside the setback. The setback for the side is seven feet and we're at seven, six.

BRIAN BORDONARO: Six.

PAUL FIORE: Seven, six and we're at seven. And the rear is 10 --

BRIAN BORDONARO: Minimum 20-foot setback.

PAUL FIORE: And we're at 19.

And so the other thing to note on the west side we're actually reducing the amount of square footage of windows by 78 square feet. It's from 224.

CONSTANTINE ALEXANDER: That's irrelevant. That's not part of the petition. The west is not being affected. So you don't get any credit for that. We're talking about the east and the south.

PAUL FIORE: I'm sorry, that is the side I'm talking about. I might have misspoken. The east not west.

CONSTANTINE ALEXANDER: Okay, all right.

PAUL FIORE: So forget about the west.

THOMAS SCOTT: So you're reducing --

PAUL FIORE: We're reducing the amount of windows.

THOMAS SCOTT: -- the amount of windows?

PAUL FIORE: Yeah. You can see on this -- this is what --

CONSTANTINE ALEXANDER: You're eliminating two windows.

PAUL FIORE: And this is what we're going to --

THOMAS SCOTT: Oh, okay.

CONSTANTINE ALEXANDER: By the

way, maybe you've seen these, but if you want to see the plans we're seeing, again, feel free to come up. I don't want people to not know what's going on.

Why don't you -- since they're -- very carefully let's go through what's going on here for the benefit of the people behind me. You're talking about two different sides of the house.

PAUL FIORE: We'll start with this side. This is what's existing. When they purchased it, these were -- it was gutted so these are just window openings.

CONSTANTINE ALEXANDER: Right.

PAUL FIORE: The windows were already gone. So, what we're seeking to do is you can see if we start with the bottom, we removed this door. This window stays. These windows get

enlarged, these two. And then this one gets added.

And then, without going through each window on the main floor and the second floor, they're just -- the amount is reduced and they're --

CONSTANTINE ALEXANDER: So you have less window openings under which you're proposing to do then what exists right now?

PAUL FIORE: Correct.

CONSTANTINE ALEXANDER: Which in turn has less of an impact on the privacy of your neighbors --

PAUL FIORE: That's right.

CONSTANTINE
ALEXANDER: -- because it has less ability, if you will, to look at your neighbor's properties or houses.

PAUL FIORE: Right.
Especially -- and I should note as well

that my client has said he's putting a seven foot or six -- what's allowed?

ANDREA HICKEY: The maximum allowed.

PAUL FIORE: He's putting a six foot fence on the property line on this property line with the top foot of it being sort of a trellis. So that will further reduce visibility into especially the lowest part of the building.

And then if you go to the out elevation, we are removing one door and adding two windows. So that's -- I think we're adding 1.2 square feet of --

CONSTANTINE ALEXANDER: You're adding a window on the third floor certainly.

THOMAS SCOTT: And you're changing the configuration of the decks it looks like?

PAUL FIORE: Well, this was a covered deck on the second floor and we're taking off the roof of the second floor deck. So --

CONSTANTINE ALEXANDER: And you're going to put a railing in it looks like.

PAUL FIORE: There is a railing.

CONSTANTINE ALEXANDER: Over the --

PAUL FIORE: There were railings, I assume, because these were two decks with a roof on it.

CONSTANTINE ALEXANDER: Is there going to be a deck -- I see the railing on the second floor. Is that a walk out deck?

PAUL FIORE: It is.

CONSTANTINE ALEXANDER: What are the dimensions of that deck?

PAUL FIORE: It's, I don't know

exactly. It's --

CONSTANTINE ALEXANDER: Give me an approximate.

PAUL FIORE: It's about ten feet by six feet.

ANDREA HICKEY: Is that further than the porch below?

PAUL FIORE: No. It lines up with it.

CONSTANTINE ALEXANDER: Decks like that can -- do have impacts on the -- it can have impacts on the privacy of neighbors. What's the need for that deck?

PAUL FIORE: It's an existing -- I mean, we're actually reducing the size of it. Because it exists all the way across and we're just making it smaller. So....

CONSTANTINE ALEXANDER: Is it an open deck now?

PAUL FIORE: Well, it's open because -- again, I'll show you the pictures. It had already been partially demolished.

CONSTANTINE ALEXANDER: Okay, there it is.

PAUL FIORE: But they took the railings off of it. So we're actually making it -- we're taking the roof off and we're making it smaller than what it is. We're reducing.

ANDREA HICKEY: But there's no floor to it right now. So it's not really a deck there. There's sort of a frame.

PAUL FIORE: Right.

CONSTANTINE ALEXANDER: There was though apparently.

PAUL FIORE: Again, that's part of the prior demolition I suppose.

CONSTANTINE ALEXANDER: And just again for the record, just for the benefit

of those standing behind me. You're seeking a Special Permit --

PAUL FIORE: Right.

CONSTANTINE ALEXANDER: -- to do this? And under our Zoning Ordinance a Special Permit is quite different than a Variance. And the standard for obtaining it is much lower in a sense that essentially what a Zoning Ordinance specifically says is that things that are subject to a Special Permit are to be granted subject to certain checks by our Board. And that's the need for this Special Permit is to check. It's not -- they don't have to show a substantial hardship or a special conditions. They have to show an absence of adverse -- basically adverse impact on neighboring properties. That's the essence of a Special Permit and the Special Permit they're seeking.

Anything further?

BRIAN BORDONARO: No.

CONSTANTINE ALEXANDER:

Questions from members of the Board?

TIMOTHY HUGHES: The deck doesn't really enter into what we're dealing with.

CONSTANTINE ALEXANDER: Say it again?

TIMOTHY HUGHES: The deck -- we're taking no action about the deck.

ANDREA HICKEY: We're just looking at windows?

CONSTANTINE ALEXANDER: Windows and doors.

TIMOTHY HUGHES: Windows and doors, right.

CONSTANTINE ALEXANDER: And the reason we're doing that is because they're in the setbacks. Non-conforming

structure.

TIMOTHY HUGHES: Windows and doors on two sides of the building.

CONSTANTINE ALEXANDER: Two sides of the building, correct.

Okay, with that I'm going to open the matter up to public testimony. And if anyone wishes to be make comments or be heard.

UNIDENTIFIED MALE: Yes.

ELAINE THORNE: I would have just one.

CONSTANTINE ALEXANDER: Just give your name to the stenographer.

ELAINE THORNE: Yes, I'm Elaine Thorne. I'm an immediate abutter to the property at 40 Hayes Street. I just wanted a couple of clarifications.

CONSTANTINE ALEXANDER: Go ahead.

ELAINE THORNE: In terms of if

there were things about this development that are not in front of you tonight that we have questions about, that have seemed to be changed and altered, is there an opportunity to add that into this discussion? Or how -- I need clarification.

CONSTANTINE ALEXANDER: Not really. We're here only to talk about Zoning issues.

ELAINE THORNE: Those windows?

CONSTANTINE ALEXANDER: The other issues obviously don't -- at least as far as we know, arise to the need of Zoning relief and therefore it's not before us.

ELAINE THORNE: And so if we felt like there were Zoning issues in terms of increasing the density, how do we -- we don't address that through you?

CONSTANTINE ALEXANDER: You go

see Mr. O'Grady who is standing right behind you and you explain your problems and your concerns or questions --

ELAINE THORNE: Okay.

CONSTANTINE ALEXANDER: And if he decides that you are correct, that there are Zoning issues, he will advise the Petitioner. Work will stop until they get whatever Zoning relief they need to get.

ELAINE THORNE: Will it impact the decision this evening?

CONSTANTINE ALEXANDER: No. It would be a completely separate matter.

Any other questions or comments?

TIMOTHY HUGHES: Elaine, excuse me.

ELAINE THORNE: I'm sorry.

TIMOTHY HUGHES: Can you tell me where your property is in relation to the drawings?

ELAINE THORNE: I can actually show you. This is the property as existed prior to the demolition. This is my property.

TIMOTHY HUGHES: Oh.

ELAINE THORNE: So this is my property.

CONSTANTINE ALEXANDER: So you're abutter?

ELAINE THORNE: I'm an immediate abutter on the side that you are affecting the window changes that are already in. Right?

TIMOTHY HUGHES: That's the side that had the porch that going to --

ELAINE THORNE: The porch is in the back.

CONSTANTINE ALEXANDER: That's the side where they're reducing the number of windows.

ELAINE THORNE: I believe the

windows that he's talking about are along this wall; is that correct? I couldn't figure it out.

PAUL FIORE: I'm sorry. Could I see it?

No, they're actually on the other side. Those stay exactly the same. When we first submitted the permit, we had moved one of them and then they took it back.

ELAINE THORNE: Okay.

PAUL FIORE: They actually left it where it was and just installed the new window. The reason they were already installed on that side is because they were exactly where they previously were.

ELAINE THORNE: Okay. That's a question for Tom.

PAUL FIORE: Okay.

LAWRENCE ADKINS: My name is Lawrence Adkins, A-d-k-i-n-s. And I

want to thank all my neighbors for coming out.

I got involved in this since August really of 2012 and I've been trying to obtain information about the project itself, the changes that were made. I mean, we've been on the street over 50 years, and we knew the family that was in there. We saw his predecessor, Mr. David Aposian, who for whatever reason we thought we hated him. I mean we have sat through almost five, six excavation trucks, and have been asking the city from Day 1 on the height and nobody's ever got back to us. So what brought me here tonight, and maybe even for my neighbors, is that when I see the structure and it's got three bedrooms almost on every floor, granted his partner's come by my house to speak to me, but the message throughout the

neighborhood -- now we have not had this type of conversation with anybody from there. So I want to correct that. That that was put out there and that's not true. Because the neighbors are here tonight. And I know they can -- they stated they have not had a conversation with anybody from that project.

Anybody. Except me. And that's only because I pursued it. So I was shocked to find out that the basement had turned into an occupancy. Which Ranjit himself had told me in 2012 it was not gonna be.

When the owner came -- when his partner came by, there was only gonna be two bedrooms down the basement. There are now three. This thing continues to grow. As a neighborhood of dead end, single size parking, and limited, there's already -- we, we are massed each other trying to park. We are the utmost of

gentle with each other. We have been trying to do the same with Mr. Aposian who we've already called the police on, and the same with his crew, who is parked on the wrong side of street. And ask me not how they never get a ticket. As when Mr. Rossi tells me we have an excellent ticketing fine department, but the rest of us get tickets. But, again, we can only be but so kind to let whatever go by.

We're here because the concern of our neighborhood now has taken a drastic change. We were not informed. I pursued it. I don't know how else to go other than to his department. I know that Ranjit seems to run it. Ranjit's been respondent, but somehow whatever the information provided to me is not the same. When his partner came by my house -- he's not here tonight -- he had different, in the course of conversations

on how to pursue, so we're not trying to stop any development that's not right. But we have not been informed. We are now in a dilemma. Once you say all hey yea -- and I didn't hear anything about the big window they cut out that's right in front of my house, it seemed to surrender that, but again all this work is done. All they got to do is put the windows in. And I mean again that's opposed to us. Yet still they're coming here tonight, but everything is done and then we're being told that he's going to put it back if he doesn't win.

It seems this whole entire project has beat the head of letting anybody know even though the impact and we're stuck with a situation that it's over, go back here, and nothing against the department -- it doesn't seem that the information flowing back and forth is

united between three components: The abutters. What's being said here amongst all their so-called representatives, some good, when I put tape words on, and development team. We all got different messages. And that's the main part why we're here, no message, and different. And it hasn't been -- and it's not like it hasn't been tried to be sorted out, it has. And I hate, you know, and the work you all do I know is tedious and late again, but somehow we're, you know, we're stuck.

CONSTANTINE ALEXANDER: Let me -- a couple things.

One is I'm sorry that you feel that you were not informed about the project as it went forward. And that's a fault obviously of the developer, the person who is renovating this property. No. 1.

No. 2, the relief that they're

seeking tonight as you now know, you can see that it is rather modest. They're changing some windows and a door on two sides of the house. In fact, brought to one side it reduces the amount of window space. So now you're not stuck as to anything else. To the extent that any other work that they're doing or have done, is not complying with our Zoning Ordinance or our Building Codes or whatever, you and any neighbor has a right to go down to ISD and file a complaint. And if you're correct -- and the department will rule. If they say no, they are complying with all of the laws, you have a right to take an appeal, you or any neighbor, to this Board and challenge that. If on the other hand, Ranjit or Sean says, you know, you're right, they should have done this, they should have done that, the project will

stop and they'll have to come back before us to get the relief that they didn't get before. And you'll be notified just like this petition tonight, and you'll be able to obtain information. So don't ever feel like you're stuck. You're not. You have the ability to find out. But I think up until now, trusting the Building Department, ISD, I think the belief is everything is compliant with our Zoning Code and our Building Code. You may not believe it, but they -- I think that's a determination they made. And if you're still not convinced, I suggest tomorrow or the day after, whenever, take a few hours or an hour and go see Sean and he can walk you through. You can express your concerns to him and he can walk you through what the legal requirements are. But tonight we're just talking about these windows and doors on two parts of

the structure in accordance with these plans that you've see tonight. Okay?

LAWRENCE ADKINS: Yes. Well, thank you for your time. You know, I'm sorry I made this any more flip flop than -- I know you all are usually accustomed to this. And I really try to stay out of this to any extent.

CONSTANTINE ALEXANDER: We welcome neighborhood involvement in every one of our cases.

LAWRENCE ADKINS: Thank you.

CONSTANTINE ALEXANDER: Thank you for coming in.

BRENDAN SULLIVAN: Does this woman have a question?

CONSTANTINE ALEXANDER: Anything you want to address for the record?

FLORENCE LEWIS: Well, my question is just --

CONSTANTINE ALEXANDER: You have to give your -- I'm sorry, you have to give your name to the stenographer.

FLORENCE LEWIS: Florence Lewis and I'm at 50 and 52 -- well, actually 52, 54, 56 Hayes Street next to this project. So far the one thing that is stuck in my mind, I have never seen anybody from this project other than a note in my door asking to use my driveway for construction. Also putting ladders during the destruction of the property in my yard without my permission. I have dated pictures of it.

Also, you mentioned a fence. I'm concerned about that because there's a fence there. So we will be talking about this fence.

CONSTANTINE ALEXANDER: Again, I'll say it one more time, I think it's unfortunate that you weren't, the

neighborhood wasn't kept better informed as to what was going on and with regard to plans. That's a mistake on the part of these folks. Nothing that we can do as a Zoning matter.

FLORENCE LEWIS: I understand. Thank you.

PAUL FIORE: May I just insert something short?

CONSTANTINE ALEXANDER: Sure.

PAUL FIORE: I think this project had -- has a longer history. My client who isn't here tonight, purchased it after it had sort of a contentious history in the neighborhood. He -- according to him he did try to make the rounds in the neighborhood and talk to people about it. I don't know how well --

CONSTANTINE ALEXANDER: Okay, well, I don't want to get into a he said or she said here.

PAUL FIORE: No, I don't either.

CONSTANTINE ALEXANDER: Okay,
that's fair enough.

PAUL FIORE: And, you know, and
the fences and all that stuff, he said he
will --

CONSTANTINE ALEXANDER: I don't
want to debate about that. I'm sorry,
sir, but I don't want to debate about
whether they did or didn't do it. That's
not relevant to what we're doing tonight.
I just wanted to get on the record, if you
think you complied, fine. Obviously the
neighbors have a different view of what
happened or didn't happen.

Okay, I think we're ready for a vote?
Ready.

The Chair moves that -- we have to
make several findings.

First of all, that the work being
proposed is a Special Permit to relocate

windows and doors will not be substantially more detrimental to the neighborhood than the existing windows and doors on this structure.

And further, that we make the further following findings:

That the relief being sought will not cause congestion, hazard, or substantial change in established neighborhood character.

That the operation of adjacent uses will not be adversely affected by the nature of what is being proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city, and that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

These findings are made on the basis of that what is being proposed, are just changes to windows and a doorway on two sides of the structure.

And in fact, it would appear that the privacy of the abutters will be increased because of the amount of window space will be decreased, and the doorway will have really no impact -- any different impact than the doors that exist right now. It just makes the structure more functional and upgrade the neighborhood.

UNIDENTIFIED MALE: May I ask a question?

CONSTANTINE ALEXANDER: No, no. Go ahead, sure.

UNIDENTIFIED MALE: The windows in the basement got considerably larger. Is that so they can be occupied? Is that a code that they have to be a certain size?

CONSTANTINE ALEXANDER: I don't

think it's, correct me if I'm wrong, whether they can be occupied is first of all, is the basement at least seven feet high, floor to ceiling? If it is, then it is occupiable.

Do you need windows from a Building Code? You're nodding yes.

BRENDAN SULLIVAN: There has to be certain amount of fenestration and light coming into it. Also, if it's a bedroom, you're going to need an exit out of it so that one of those windows would be required to be an exit which is then going to create a well in order to exit into that. So there are -- it does trigger certain amount of things.

CONSTANTINE ALEXANDER: But to your basic point -- so, yes, it will allow occupancy in the basement. But beyond that, they have to comply with Zoning requirements. If the structure

currently has got basement height of seven feet, and you're not adding to the FAR of the floor area ratio of the structure, so it's not a change that requires Zoning relief, it would appear, from what I'm hearing tonight. If it does, Mr. O'Grady will advise these folks and they'll have to come back for a Variance this time.

SEAN O'GRADY: Gus, if I may, the Building Code is -- this is a single-family?

PAUL FIORE: Two family.

SEAN O'GRADY: Two family. The Building Code has recently changed on one and two families and they don't even have to hit seven feet to be occupiable. So even if the basement were under height, it could be excavated out to 6, 11 of the Zoning Ordinance and leave enough to make the basement occupiable under the

Building Code. It's a little bit of a disconnect, but that's the fact where we are now.

THOMAS SCOTT: You mean with no increase in FAR?

SEAN O'GRADY: That's correct.

THOMAS SCOTT: With no increase in FAR?

SEAN O'GRADY: I'll explain that to you.

CONSTANTINE ALEXANDER: I'm sorry, we want to bring this to a conclusion but, sir, you have a question.

UNIDENTIFIED MALE: They already have the cellar dug out.

CONSTANTINE ALEXANDER: They already have the what?

UNIDENTIFIED MALE: The cellar. It's already dug out already. And they cemented it last week.

CONSTANTINE ALEXANDER: Well,

again, they may be able to do that as a matter of right under the law. If they're not able to do that, you can -- Mr. O'Grady will take action against them and force them to get relief. That's not our issue tonight. Either they can do it, and they've done it, or they can't do it, and in which case they're going to have a problem and that problem is going to come back to us. And you'll be notified and you'll have an opportunity to speak at that time.

UNIDENTIFIED MALE: And I'll be here. Thank you.

CONSTANTINE ALEXANDER: Okay, I think I made a motion. I don't know if I got to the point where maybe -- that the Special Permit be granted on the condition that the work proceed in accordance with the elevations submitted by the Petitioner which disclose where

the new -- how the windows and structure and doorway will be relocated. There are four pages. Four pages. In fact, all four pages have been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit has been granted.

(Alexander, Hughes, Sullivan, Scott, Hickey.)

CONSTANTINE ALEXANDER: Good luck with the neighbors. I think you need to mend some fences.

(Whereupon, at 10:05 p.m., the Board of Zoning Appeal Adjourned.)

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BRISTOL, SS.**

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of March 2013.

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