

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 23, 2017  
7:00 p.m.

in

Senior Center  
806 Massachusetts Avenue  
First Floor  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Brendan Sullivan, Vice Chair  
Andrea A. Hickey, Member  
Patrick Tedesco, Member  
Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist  
Sisia Daglian, Assistant Commissioner

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Board of Zoning Appeals to order. And as is our custom, we're going to hear first continued cases. Continued cases are cases that started at some earlier date and for one reason or another we or the petitioners decide to postpone the determination until tonight. But first let me make an announcement as follows:

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

At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is

being made.

And I wish to advise those of you in the audience that a recording is being made. A citizen of the city has left a tape recorder right there. And in addition, our stenographer records the hearing to assist herself in preparation of the minutes of the transcript of the meeting.

So be advised you're being taped.

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case No. BZA-011070-2016: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: With that I'm going to turn to the continued cases. And the first case I'm going to call is case No. 011070, 29 Bellis Circle.

Is there anyone here wishing to be heard on that

matter?

(No Response.)

CONSTANTINE ALEXANDER: No one as I would expect.

The petitioner is withdrawing their petition. The members of the Board may recall they first brought a petition. We told them to go back to the drawing board because the plans were inadequate. After retaining a different architect they changed their plans dramatically and filed a new petition which we heard at the last session, and in fact approved the relief they requested. So this is no longer relevant and that's why they've requested a withdrawal.

All those in favor of accepting the requested withdrawal please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Sullivan, Hickey, Tedesco,

Monteverde.)

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case No. BZA-012107-2016: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The next case I'm going to call case No. 012107, 19 Cornelius Way.

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

(No Response.)

CONSTANTINE ALEXANDER: No one. The Chair would advise that we received an e-mail from the architect for the

project, or Sean did. As per our phone conversation yesterday, we withdraw our application for a Variance at 19 Cornelius Way.

All those in favor of accepting the requested withdrawal, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Sullivan, Hickey, Tedesco, Monteverde.)

\* \* \* \* \*

(7:05 p.m.)

(Sitting Members Case No. BZA-012318-2016: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012318, 109R Tremont Street.

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

SAMMY DEKAIDEK: Yes. My architect --

CONSTANTINE ALEXANDER: I'm sorry?

SAMMY DEKAIDEK: I'm sorry, my architect is parking her car outside.



CONSTANTINE ALEXANDER: Okay, we can wait.

SAMMY DEKAIDEK: She said two minutes.

CONSTANTINE ALEXANDER: We won't throw you out for that, don't worry about it.

SAMMY DEKAIDEK: Thank you, sir.

CONSTANTINE ALEXANDER: I would announce to everyone that we have one case on our continued agenda 20 Traymore Street. However, that case the petitioner did not change the time on the posting sign and the old time of 8:15 remains, so we can't hear that case until no earlier than 8:15 p.m. At some point after 8:15 p.m. we'll hear that case.

We can't start our regular agenda because we have to wait until 7:30 so we'll wait for your architect to come in and then we'll start.

(A short recess was taken.)

CONSTANTINE ALEXANDER: Okay, your name for the record, please give your name and address to the

stenographer.

SILVANA SAWAYA: I am Silvana Sawaya. My normal address is 1839 Washington Street in Auburndale, Massachusetts, 02466. We just had the fire so we live on 54 Gammons Road in Waban, Massachusetts, 02468.

CONSTANTINE ALEXANDER: You have our sympathies.

Sir.

SAMMY DEKAIDEK: Sammy last name Dekaidok, D-E-K-A-I-D-E-K. I live right now on 37 Upland Road in Burlington, Mass. Working to moving into 109R.

CONSTANTINE ALEXANDER: The floor is yours.

SILVANA SAWAYA: Okay, so we are here to inquire about adding a third floor to the rear house, the little building in the back of 109 Tremont Street. Currently there is a little attic space and it's a pitched roof and we want to make it flat, go a little higher, and add a third floor. The footprint of the building is 450 square feet. It's 25 by 17 feet. It's very small house. So I came up with this

design for Sammy where I put one bedroom in the second floor and then the third floor two more small bedrooms. And the first floor is living room, kitchen, bathroom. And I added a little tiny bay for 25 square feet that I repeated on every floor. So in reality it's just 500 --

CONSTANTINE ALEXANDER: You're adding about 500 feet to the building?

SILVANA SAWAYA: Right.

CONSTANTINE ALEXANDER: And your issue is FAR, floor area ratio?

SILVANA SAWAYA: Right, right. So the front building already has six units in it. So this is the seventh unit in the lot.

CONSTANTINE ALEXANDER: Do you own the building?

SAMMY DEKAIDEK: Yeah, the lot.

CONSTANTINE ALEXANDER: So you rent the other six units out?

SAMMY DEKAIDEK: Yeah, they're small.

SILVANA SAWAYA: So here is the plan of the little house. Existing conditions. This is showing just the back. But it has this little gable roof, and we were gonna make it look more like the front which has a flat roof. Here is the plan. So the basement won't change. It's very low ceiling. Nobody could sleep there. There are no windows right now.

Second floor --

CONSTANTINE ALEXANDER: Are you adding a dormer to the building as part of this?

SILVANA SAWAYA: No, we are popping the roof up and making it flat.

SAMMY DEKAIDEK: Rubber roof.

SILVANA SAWAYA: So we would look --

CONSTANTINE ALEXANDER: I misread my notes. I shouldn't have asked the question. I apologize.

SILVANA SAWAYA: So it will look more like this. I have a rendering of it, too. A little bay, flat roof, a little entry door with a canopy over that. And I have some

renderings of it, too. The front of the, the front building has a flat roof, so we felt like he would match nicely.

CONSTANTINE ALEXANDER: Now, from a zoning point of view to get a Variance, you have to -- the standard is that you're suffering a substantial hardship now with your current structure, and that the hardship is owing to soil conditions, shape of lot, etcetera. Could you address those?

SILVANA SAWAYA: Sure. The hardship is that the house altogether is 800 square feet and Sammy has a family with two kids living at home and two kids in college, local college that come home for the summer.

CONSTANTINE ALEXANDER: But more important to the extent -- it's got to be a hardship that's not peculiar to you. And I think the hardship you're suggesting is an 800 square foot house in this day and age is not appropriate size for a residential dwelling.

SILVANA SAWAYA: Exactly. We don't even have room

for a closet in an 800 square foot house.

CONSTANTINE ALEXANDER: The need for relief is owing to the fact that it's already a non-conforming structure --

SILVANA SAWAYA: Exactly.

CONSTANTINE ALEXANDER: -- in a tight neighborhood. So any modification to this structure requires relief from this Board.

SILVANA SAWAYA: Right.

CONSTANTINE ALEXANDER: Have you talked to your neighbors? In particular those, I don't want to call it the alleyway, because I've seen the property.

SAMMY DEKAIDEK: No one -- they told me they received a letter and no one had problem. A couple of my neighbors they said oh, we heard about it, I'm not coming to the hearing. This is what they told me. The others, they just say hi, bye, that's it.

CONSTANTINE ALEXANDER: No one has expressed

disapproval -- no one's said to you, I don't like this?

SAMMY DEKAIDEK: No, no one said it.

SILVANA SAWAYA: It's also good that the house has parking for two spaces already, so we're not increasing any parking. We're not increasing in height. That is not allowed. We are not increasing in any of the non-conformities other than we are increasing the area.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: You said you currently live in Burlington?

SAMMY DEKAIDEK: Yes.

BRENDAN SULLIVAN: So is the house in Burlington bigger than the house in Cambridge?

SAMMY DEKAIDEK: It is, but my wife and I we want to move to the city. We want to sell that house and move over here.

BRENDAN SULLIVAN: And you own the entire block?

SAMMY DEKAIDEK: I own Burlington. I've been

living in Burlington for 20 years.

SILVANA SAWAYA: You're downsizing, too, right?

Two kids in college.

SAMMY DEKAIDEK: Yeah, the two kids moved out and they're in college and they're on their own.

SILVANA SAWAYA: How old are the ones home?

SAMMY DEKAIDEK: The wife wants to work as a baby-sitter close by in Cambridge.

SILVANA SAWAYA: I forget the age of your kids, the two that are home.

SAMMY DEKAIDEK: Seven and 16.

CONSTANTINE ALEXANDER: Further questions?

JIM MONTEVERDE: No.

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

Is there anyone wishing to be heard on this matter?

(No Response.)



CONSTANTINE ALEXANDER: Apparently not. We have no correspondence from anyone on this. I will close public testimony.

By the way, just before I get to the vote, should we grant the vote in favor to allow you to do what you want to do, we will tie it to the plans that you've submitted.

SILVANA SAWAYA: Sure.

CONSTANTINE ALEXANDER: So if you modify these plans or try to modify them, you have to come back to this Board.

SILVANA SAWAYA: I understand.

CONSTANTINE ALEXANDER: Okay. As long as you understand that.

Discussion or --

BRENDAN SULLIVAN: Gus, where are the numbers on this, the existing?

CONSTANTINE ALEXANDER: I can summarize them. Basically their FAR right now is 1.03. They're going to go

to 1.08 in a 0.75 district. They're increasing their FAR by about 10 percent and they're already non-conforming.

BRENDAN SULLIVAN: And the idea as far as the bays that you're adding on are -- I mean, there's a function to them but also to aesthetically, is that what you're --

SILVANA SAWAYA: Yeah, to just create a little bit more of the space inside the living room so you can actually walk around the sofa. The living room is so tiny. But I have a plan -- I have some plans with furniture. But, it's 10 feet wide by 17. So with the little bay, you can, if you put a sofa here and a TV here, there's a little bit of space. And there is more light coming in as well. But the most interesting thing I realize as I was preparing for the meeting today, is the pitched roof that is there now, the gable roof that is there now, is practically a third of what we are proposing is already there. You can stand underneath it. So what we're doing is just pushing it up, but we're making it the whole building look nicer than adding a huge

dormer to a tiny house. There will be new siding, new windows.

SAMMY DEKAIDEK: Oh, yeah, we going to go all the way and make it look very nice.

SILVANA SAWAYA: The foundation is a little bit crooked. We have an engineer that has been working on how to make that --

SAMMY DEKAIDEK: To repair some areas.

SILVANA SAWAYA: -- make it Sturdy.

CONSTANTINE ALEXANDER: Any further comments or questions?

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: Ready for 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. Such hardship being that the residence right now is I would say

willfully undersized in terms of modern times for family residents.

That the fact that the hardship is owing to the fact that this is already a non-conforming structure, so any modification requires zoning relief.

And that relief may be granted without 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 there is no -- apparently no neighborhood opposition to this project.

That the results of the work that supposed to be done will improve the housing stock of the city and on that basis.

Therefore, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Silvana Sawaya, the architect, each of which has been initialled by the Chair and which are a part of our files.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief  
granted. Good luck.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

\* \* \* \* \*

(7:30 p.m.)

(Sitting Members Case No. BZA-012313-2016: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call our regular agenda. I will call Case No. 012313, 414 Walden Street.

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

(No Response.)

CONSTANTINE ALEXANDER: No one.

I would advise the Board that this case has to continue because the petitioner failed to pick up the posting sign. And, therefore, no notice has been given,

public notice has been given by the sign posting route as required by our Ordinance.

When are we going to continue this to, Sean, what date?

SEAN O'GRADY: April 27th.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case until seven p.m. on April 27th subject to the following conditions:

One, that the petitioner sign a waiver of time for decision.

Has the petitioner done that yet?

SEAN O'GRADY: It should say in the upper left-hand corner of the case if there has a letter of waiver.

CONSTANTINE ALEXANDER: Letter of waiver, yes.

SEAN O'GRADY: Okay, they're all set there.

CONSTANTINE ALEXANDER: Yes, so that's been

satisfied.

Two, that the petitioner this time must maintain the posting sign for the 14 days prior to the April 27th hearing. Failure to do so will again cause us to continue the case and perhaps simply dismiss it because the petitioner has -- well, it's not a case of accident. This is a case that the petitioner just ignored our requirements of our Ordinance. So they must do it for the 14 days.

And then lastly, to the extent that the petitioner wishes to change his or her plans that are in the file or the dimensional form or any -- or any of these modifications, these new plans, must be in our files no later than five p.m. on the Monday before April 27th. If that is not done, then we will have to continue the case further.

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

(Aye.)



CONSTANTINE ALEXANDER: Five in favor. Case  
continued.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.).

\* \* \* \* \*

(7:45 p.m.)

(Sitting Members Case No. BZA-012484-2017: Constantine

Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012484, 69-71 Huron Avenue.

ROBERT DOYLE: My lawyer is Bill O'Brien.

CONSTANTINE ALEXANDER: Make sure the stenographer gets your name and address.

ROBERT DOYLE: That's a neighbor that is going to take part of this land.

CONSTANTINE ALEXANDER: Give the information to the stenographer.

ROBERT DOYLE: So my name is Robert Doyle, Robert O. Doyle.

ATTORNEY WILLIAM O'BRIEN: And I'm Bill O'Brien. Maybe I should make a little introduction.

Did you want to speak?

STEPHEN D'AMATO: And I would say I'm Stephen D'Amato, D-'-A-M-A-T-O.

ATTORNEY WILLIAM O'BRIEN: So we've been to the Land Court because you know the Land Court is very precise about registered land and surveying and that kind of thing. So before we started this, I had our surveyor produce a plan that the Land Court would accept, and the Land Court surveying and engineering department has accepted it just for the title and the -- and the dimensions of the lot that we --

CONSTANTINE ALEXANDER: But the plan for tonight is this one?

ATTORNEY WILLIAM O'BRIEN: That's it.

CONSTANTINE ALEXANDER: I just want to make sure.

ATTORNEY WILLIAM O'BRIEN: You'll see a stamp.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY WILLIAM O'BRIEN: You'll see the Land Court stamp?

CONSTANTINE ALEXANDER: Yes, I do.

ATTORNEY WILLIAM O'BRIEN: Yeah. The Land Court

is fine with it. And now we're here to ask for permission to give us the sale, the transfer.

CONSTANTINE ALEXANDER: You're asking for a Variance to allow the lot to be divided into three lots?

ATTORNEY WILLIAM O'BRIEN: That's exactly right, sir.

CONSTANTINE ALEXANDER: And the reason you need relief is that two of the three lots will be non-conforming lots at a minimum.

ATTORNEY WILLIAM O'BRIEN: That's exactly right.

CONSTANTINE ALEXANDER: That is below the requirement for our Ordinance.

ROBERT DOYLE: Very much so. The goal for this preparation is to take four garages out of the 19, which I've rented, some of them for 40 years, and just add them to my lot. I've learned I could have as many as four accessory buildings and be in compliance. So I would have four added. And my neighbor Steve D'Amato on the other side would very

much like to have two garages adjoining his house, and a considerable amount of land that's on his side become part of his yard which is otherwise a rather small yard. So you have a larger yard and two garages.

CONSTANTINE ALEXANDER: What will happen to the third lot?

ROBERT DOYLE: This is a big question which we will have to come back to you for we think.

ATTORNEY WILLIAM O'BRIEN: We've drafted or started to draft condominium documents which again will have to be approved by the Land Court for the 13 garages that will -- the lot.

CONSTANTINE ALEXANDER: Why would you have to come back before us?

ATTORNEY WILLIAM O'BRIEN: Not before you, no.

CONSTANTINE ALEXANDER: Oh, okay.

ATTORNEY WILLIAM O'BRIEN: Only the Land Court. Not before you. It's just a condominium.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY WILLIAM O'BRIEN: Okay.

But the lot will have 5,000 more than -- it has the right lot area.

CONSTANTINE ALEXANDER: It will be 5,013 feet, which is --

ATTORNEY WILLIAM O'BRIEN: That's just under.

CONSTANTINE ALEXANDER: That's just over the minimum.

ATTORNEY WILLIAM O'BRIEN: I'm sorry, under, over.

CONSTANTINE ALEXANDER: You have to have at least a 5,000 square foot lot.

ATTORNEY WILLIAM O'BRIEN: You're absolutely right. But I have presented and produced for you the computations of the dimensions that are all on lots, 1, 2, and 3. And we have a first class surveyor who has done that. So we would, we would like to ask you to approve this transfer to Bob Donahue -- pardon me. Bob Doyle. I won the

Donahue case 45 years ago.

CONSTANTINE ALEXANDER: Oh, my goodness Rodd versus Donahue.

ATTORNEY WILLIAM O'BRIEN: Rodd versus Donahue.

CONSTANTINE ALEXANDER: A famous case in corporate law.

ATTORNEY WILLIAM O'BRIEN: Bob Donahue and I went to the Boston Latin School together, and his father owned 20 percent of the Rodd Star. And every year they would say, I'd like to retire. And they would say well, you know, we can't. But then I -- the Supreme Court saw it properly. Okay.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY WILLIAM O'BRIEN: So anyway. To utilize the property other than the way we're doing it is not the way to do it. Bob has spent -- it's -- the lot has been improved remarkably. I don't know whether you're aware, but he has done a number of things to the property. It had

fallen into bad shape and we could show I suppose, Bob.

CONSTANTINE ALEXANDER: That's -- let's focus on the issues before us. We're not the Land Court. We are a Zoning Board. You need a Variance to do what you want to do and you've got to demonstrate to us that you meet the standards, which are tough for a Variance. Namely, that you're suffering a substantial hardship and the hardship is owing to the shape, soil conditions, etcetera. Why don't you address that.

ATTORNEY WILLIAM O'BRIEN: Well, you can look at what it would cost anybody to develop the land other than the way we're doing it. You would have to develop it by removing and destroying and demolishing all the structures that are there now and come and create a new structure. And, you know, it's extraordinarily expensive to do that.

CONSTANTINE ALEXANDER: Or you can continue to maintain this property as a lot with 18 garages. You can condominiumize the lot today and sell condominium interests



for the 18 garages.

ROBERT DOYLE: That's exactly right. Whereas it would be very expensive to build something that would be normal. While this is way out of compliance, it has been a very good resource for all of our neighbors. And so from the time I bought it, they have been very happy and I have a lot of very happy neighbors whose views have been kept and there's off-street parking.

CONSTANTINE ALEXANDER: You're missing my point. You don't have to tear the buildings down.

ROBERT DOYLE: Oh, I know.

CONSTANTINE ALEXANDER: If we turned you down, you can keep the exact same situation.

ROBERT DOYLE: Oh, I see.

CONSTANTINE ALEXANDER: You can't have your four garages, you can't have your two garages.

ROBERT DOYLE: I see.

CONSTANTINE ALEXANDER: And you can have the same

situation. And if you wanted to condominiumize the lot so you can -- as you're going to do with the 13 that's left.

ROBERT DOYLE: That's very interesting.

CONSTANTINE ALEXANDER: I'm not trying to be difficult, but you have to understand we have a legal standard that we have to apply.

ATTORNEY WILLIAM O'BRIEN: Sure, right. And it is a unique lot, there's no way getting around it. The lot that now exists is very unique there, and anything to put into compliance with the zoning now would require --

CONSTANTINE ALEXANDER: But you don't have to do anything to be put into compliance. Again, I don't mean to be difficult. You can keep the situation, the status quo exactly as it is. And there's no you can't achieve what you want to achieve, and you, with regard to getting some garages. But that's all you can achieve. But you've got to persuade us or help me and our Board get to the point of view where we can find a substantial hardship. And that the

hardship -- I think you get the shape of the lot.

I think the hardship you're trying to reach toward is that both you, you have a garage now on your property?

ROBERT DOYLE: No, just --

ATTORNEY WILLIAM O'BRIEN: That's the point.

That's the point.

CONSTANTINE ALEXANDER: That's your --

ATTORNEY WILLIAM O'BRIEN: That's the point.

ALISON HAMMER: I think he's helping us here.

CONSTANTINE ALEXANDER: The hardship is that these two abutting property owners need off-street parking --

ALISON HAMMER: That's exactly right.

CONSTANTINE ALEXANDER: -- with a garage ideally.

And that would create that -- and by the same token would still maintain a number of garages for the neighborhood to be rented out.

ATTORNEY WILLIAM O'BRIEN: Thirteen, which would be available to the neighbors. And to my knowledge, the

neighborhood is 195 percent in favor of this. Everybody loves what's being done.

ROBERT DOYLE: But your point is we could stay with the as it is. But I agree, we would now have our own garages and --

CONSTANTINE ALEXANDER: Understand one thing by the way, make sure you understand, should we grant you the relief and the lot, your two corners conveyed to you and to you, under the zoning they're going to merge with your lot.

ROBERT DOYLE: Correct.

CONSTANTINE ALEXANDER: You're not going to be able to separate them out, at least without coming back to our Board. It's a doctrine of merger that's not written down anywhere unfortunately.

ROBERT DOYLE: Right. I've learned the hard way on that when I bought the property, my wife and I, my wife is here, we bought it in our names and the city merged it and I now own one large lot. One thing is I don't want to

own such a large thing. I'd like to get some of our money back because of course it's a considerable amount of our personal wealth in order to stop building, builders next-door. They're about to try to get three townhouses next-door, and we've managed to stop them from doing that and made -- made the neighbors happy.

CONSTANTINE ALEXANDER: Should we grant you the relief, tonight you might want to take, and this is a suggestion, take title to this, the new lots that are being created in a form that's different than the title of the -- your houses right now. Don't merge. And I don't know what you can do with it. If you wanted to convey these lots we might create for you tonight, it will not be a building lot, so I'm not sure what you can do with it.

ATTORNEY WILLIAM O'BRIEN: No, no. You said --

CONSTANTINE ALEXANDER: Just so you know.

ATTORNEY WILLIAM O'BRIEN: These are not building lots.

ROBERT DOYLE: That's an excellent suggestion.

And I will consider that seriously.

CONSTANTINE ALEXANDER: Put it in different names.

STEPHEN D'AMATO: You're raising a good point. I appreciate that because I was going to ask the very same question, does it automatically get merged? And so in my case versus my house is in my name since I bought it. I now have a wife. If we put it in jointly in both of our names in this new lot, then it wouldn't automatically be merged or would it?

CONSTANTINE ALEXANDER: As I understand the merger doctrine --

STEPHEN D'AMATO: I'll have to ask my lawyer.

CONSTANTINE ALEXANDER: The title's in different names.

ROBERT DOYLE: Yes.

ATTORNEY WILLIAM O'BRIEN: Yes, yes.

CONSTANTINE ALEXANDER: One's just in your name

and the rest in your joint names. I think that would prevent a merger. Another approach is to form --

BRENDAN SULLIVAN: It has to be in separate entities.

CONSTANTINE ALEXANDER: Yeah, separate entities.

STEPHEN D'AMATO: But I also wanted to mention that this issue of this strip of land between the garages and my property, this is the only way for me to easily be able to have that strip of land. The way it's set up is a strip, the land -- that's where the land is really useless to Bob and it's worth something to me. And as a condo'd structure, it would be really weird for me to have -- I don't know, there might be some way to do it, but it would be much easier for me to have me to own. So that's part of the hardship.

BRENDAN SULLIVAN: If I could back up a couple three years. These things were for sale, right? And they were remodeled and then they were for sale. Now, did you

own the entire garages?

ROBERT DOYLE: I did buy the entire thing at the time, yes.

BRENDAN SULLIVAN: All right. And then were any of the individual garages sold?

ROBERT DOYLE: No.

BRENDAN SULLIVAN: They were not?

ROBERT DOYLE: It's been mine all along and we worried from the beginning that --

BRENDAN SULLIVAN: And so they've been rented out?

ROBERT DOYLE: Correct.

BRENDAN SULLIVAN: Okay.

So now you basically are only interested in the front two to the left, next to your house?

ROBERT DOYLE: For him.

BRENDAN SULLIVAN: You're interested on those two plus a little strip of land.

ATTORNEY WILLIAM O'BRIEN: That's right.



BRENDAN SULLIVAN: And then who's interested in the lot 2?

ROBERT DOYLE: The lot 2 in the middle is a future --

ATTORNEY WILLIAM O'BRIEN: That's the remaining --

BRENDAN SULLIVAN: One person answer.

ROBERT DOYLE: Condominium. Rented out. They are rented out now. We think we should rent them as a condominium. But I really appreciate any advice you have.

BRENDAN SULLIVAN: Well, I don't and I'm not going to give it to you. I don't have any. And it's worth what you'd pay me for it.

But if lot 2 -- I understand you're 3, you're 1?

STEPHEN D'AMATO: Two. I'm --

BRENDAN SULLIVAN: Whatever. All right, so left and right. The one in the middle is going to be in some Daffy Duck Realty or whatever it may be. But those garages are going to be continue to be rented.

ROBERT DOYLE: Yes.

BRENDAN SULLIVAN: All right.

ROBERT DOYLE: Or buy them if we go to this next step of forming a condominium.

BRENDAN SULLIVAN: Now you open up a condominium association --

ROBERT DOYLE: Correct.

BRENDAN SULLIVAN: -- for those garages? Okay.

CONSTANTINE ALEXANDER: Let me help you folks out and to answer your question: The lot 2, as you identify it, will continue as it is today, except it will be only eight garages to be rented by lot 2 rather than the 13 or so that are --

ROBERT DOYLE: No, it will be 13 in the middle, four here and two here. It's a huge thing.

CONSTANTINE ALEXANDER: Should -- they may want to change the ownership of that from its current personal ownership to a condominium which doesn't require zoning

relief. But that's going to stay exactly the way it is right now. It's going to be a piece of property he's going to own with rental units on it.

ROBERT DOYLE: Same usage otherwise. And no --

CONSTANTINE ALEXANDER: In that sense.

BRENDAN SULLIVAN: So you're basically going to -- facing the property you live on the left?

ATTORNEY WILLIAM O'BRIEN: Yes.

BRENDAN SULLIVAN: The three family.

ROBERT DOYLE: Yeah.

BRENDAN SULLIVAN: And you're going to keep those garages in the front. You're going to keep the ones on the right.

STEPHEN D'AMATO: The two.

BRENDAN SULLIVAN: And the ones in the middle?

ATTORNEY WILLIAM O'BRIEN: In the middle.

BRENDAN SULLIVAN: Who's going to own that?

STEPHEN D'AMATO: Right now he would.

ROBERT DOYLE: Right now I will own them.

BRENDAN SULLIVAN: And then you'll decide what to do with them?

ROBERT DOYLE: And then we have the suggestion.

ANDREA HICKEY: You mean the space in the middle?

ROBERT DOYLE: There's a courtyard and then 12 garages, six on either side of this courtyard. There's a fence in the back with some extra land which was all with No Trespassing signs. That's now has gates in it for neighbors. So my neighbors are encouraged to think of this as community property to a sense. I've opened it because the kids can walk through there to go to school instead of going around the block. We've got a lot of happy neighbors. One is with me tonight.

CONSTANTINE ALEXANDER: Who, your tenants right now for those garages --

ROBERT DOYLE: Yes.

CONSTANTINE ALEXANDER: -- are they people in the

neighborhood?

ROBERT DOYLE: Yes, mostly. Yes, mostly all -- everyone's Cambridge. They may be down the road a ways, but there are some immediate nearby. Yeah.

ANDREA HICKEY: Could I ask a question? Why wouldn't you just create a condominium of this whole thing and deed him the units that he wants? You wouldn't need to subdivide in that scenario.

ATTORNEY WILLIAM O'BRIEN: Yeah, we wanted to do to convey the fee, besides the cleanest and most open way to do it was to do a subdivision of the fee of each lot.

STEPHEN D'AMATO: And the strip of land as well, too.

ATTORNEY WILLIAM O'BRIEN: So.

ANDREA HICKEY: You could have exclusive right to use that strip of land and, you know, in condo'd unit garages. I'm just not understanding the real need for a subdivision. There are other ways to get you where you want

to be.

BRENDAN SULLIVAN: Andrea, if I may answer that. It's probably having to deal with 16 other people.

STEPHEN D'AMATO: Exactly. I have no interest whatsoever in being a part of 16 -- for --

ANDREA HICKEY: It's the hardship that I'm trying to understand. If there's another way to get to where you're going without a subdivision, what is the hardship?

ROBERT DOYLE: I'm not sure I understand the technical one. But one of my neighbors here has asked me an important question. He's not necessarily -- and two others, they're not sure they want to be in a condominium. So they say could the unit just be sold to the person who lives across the street? And just have that one ownership. Did you just raise that possibility?

ANDREA HICKEY: Yes, I did.

ROBERT DOYLE: That's very interesting.

BILL SKOCPOL: My name is Bill Skocpol,

S-K-O-C-P-O-L. And I live at 66 Huron across the street. We rent -- we have been renting for a few years now. One of the front units right next to Steve -- so there's the two with the grass strip and then we're the next one and there's another one next to us. And we, you know, the rental is fine with us. Determining the value of an investment in a bigger thing is a complicated deal, but the way I look at it, I'm in exactly the same situation if absolutely nothing is done as I would be being part of this large No. 2 because it could be rental. It could be condominium.

CONSTANTINE ALEXANDER: The bottom line as Andrea put her finger on it, I've been trying to put a finger on it as well, is that your legal case for Variance is extremely, extremely thin. The reasons you want to do it make good sense from a practical point of view, but that's not our job. We have to look at it from a very tough legal standard. And we're trying -- we're just struggling here to help you create a legal case that will meet the smell test

with regard to granting the relief you want.

STEPHEN D'AMATO: I'll add this, which is there certainly is going to be a financial consequence to Bob if it's done the way you're suggesting because I certainly am not going to be paying as much money for -- I'm not even sure I'm buying it. But to have it as my property, be able to either have it be separate with my wife or merge it, either way, to have it in one --

ANDREA HICKEY: In my opinion maximization of value is not hardship.

ATTORNEY WILLIAM O'BRIEN: That's not what we're talking about. We're not trying -- that's not --

STEPHEN D'AMATO: I apologize.

ATTORNEY WILLIAM O'BRIEN: -- what we are doing.

We recognize the difficulty but certainly relief has been given in situations like this, in different cases. I know that the hardship case has a wrinkle or two in it, but Bob is not in the position to spend a fortune into



developing anything else.

CONSTANTINE ALEXANDER: You're not getting our point. It doesn't -- no one's saying he has to develop something else. He can continue with the status quo which is the 18 rental units. I know it doesn't accomplish what you want to accomplish and that's why you're here.

ROBERT DOYLE: Yes.

CONSTANTINE ALEXANDER: But it's a false comparison to say, to do something -- tear all the buildings down and it will cost a lot of money. There's nothing that says you have to do that.

STEPHEN D'AMATO: Is being part of some other entity and beholdng to 17 people, is that in way considered the hardship?

ANDREA HICKEY: Well, you knew that when you bought it.

STEPHEN D'AMATO: No, I didn't.

ROBERT DOYLE: I did. And I didn't really

know -- I didn't know, my wife did. We do not want to -- I'm right now 80. I'm writing my fourth book in philosophy. I would love to just be sitting and writing my book and not having to manage this whole thing for one. So that's a personal hardship for me. I would appreciate it if it could be turned into something managed by itself and others take it up.

STEPHEN D'AMATO: And I didn't buy this. I'm just living next-door. For me the -- for me to be in a situation where in order to be able to have these garages be used my land and I have to be part of this other condo association, I really -- and am I beholding to them in terms of the voting rights and what? I view that as a hardship to me. I agree in terms of hardship to others.

PATRICK TEDESCO: Let me ask a question, and this is a question for the lawyers at the table, to me this is a legal question more than anything, but wasn't there something that I understood or read that suggested at least

in your case, that if this were approved, it makes his lot more compliant? Or did I just imagine that? In other words, it now has, it now has off-street parking and it takes care of a setback issue? And if you're trying to help them, and I don't know if that helps. But --

CONSTANTINE ALEXANDER: It helps a little bit, but not too much I think.

BRENDAN SULLIVAN: Exactly. It creates three non-conforming lots. I think --

PATRICK TEDESCO: It does?

ANDREA HICKEY: Yes.

STEPHEN D'AMATO: Although if we were to merge them in, then I mean I would have no trouble that being a condition to make it so that there's only one non-conforming lot in the end.

BRENDAN SULLIVAN: The way I look at this, and I live literally a stone's throw, right around the corner. And I remember the DeLeos renting this. It really was a

neighborhood asset to have these garages. Okay. I think in the real world this is probably the cleanest thing to do even though it's got a little messy, because a subdivision, we usually put a line, this goes one way that goes that way. This is sort of extremely unusual. What it does is it allows this gentleman to have off-street parking for his house, dedicated. It allows this gentleman to have off-street parking for his house. The area in the middle can, if it were all condominiumized, you're dealing with 17 separate owners, 15 separate owners, whatever, all of that that it entails. And I think also the cost factor, not that they're trying to maximize the cost, but if you were to condominiumize every single one of these garage spaces for 100,000, 125,000 dollars, who is going to pay that, and then with the transiency going on in the neighborhood, somebody then is stuck with that price tag of \$100,000. If you were to buy it as an investment, the amount that you would have to charge per month to rent these would be exorbitant. And

so then you have an old building that is an asset to the neighborhood but has, but has limits. The limits are that it really can't be used anything other than a garage, but only for a certain amount. So yes, I think there is a financial problem, circumstance, hardship here because it's sort of stuck in limbo. It is cheaper to rent them than it would be to condominiumize it. Hence the asset to the neighborhood would be cheaper to be a rental and allow those people to come and go whatever it may be, than it would be to buy them.

CONSTANTINE ALEXANDER: You touch on what I was waiting to see if you folks could come up with a reason. But that is the case for a legal relief basically. The fact of the matter is you have a lot that's devoted for commercial purposes, rental or garages, in a residential area. This provides a useful service to the neighborhood because it provides off-street parking. For those neighbors who don't have off-street parking, they can rent one of your

garages. If we grant relief, it will allow off-street parking for two owners, you and you. It will take those cars off the street. It will still preserve the off-street parking for those in the neighborhood who want to rent. So there is -- and if we -- that's the basis for the case.

ROBERT DOYLE: Excellent. It sounds excellent.

ATTORNEY WILLIAM O'BRIEN: Yeah, yeah.

CONSTANTINE ALEXANDER: And the fact that we have this case is owing to the fact that this has been a non-conforming use of the land for who knows how long. DeLeo garage is once upon a time.

ROBERT DOYLE: 90 years ago.

CONSTANTINE ALEXANDER: That's the way we can frame relief. I think it's still a thin read. It's not my worry, it's going to be your worry if someone challenges this.

ATTORNEY WILLIAM O'BRIEN: Well, I tried to express that in the supporting statement that I did provide.

But it is really just a question of off street. I agree with you. Off-street parking.

ROBERT DOYLE: When we first spoke to Sean years ago --

CONSTANTINE ALEXANDER: I'm willing to vote in favor of it on that basis. But as I said, it's -- I do it with a great deal of reluctance because it's a very thin case you have here.

ROBERT DOYLE: I understand. When I first met Sean, and I bought these just to stop development, he said this is seriously out of compliance. Something that brings it back closer to compliance would be in the right direction. And I think I hear you saying it is going to be, you know, two smaller lots and one strange one.

STEPHEN D'AMATO: And off-street parking.

ATTORNEY WILLIAM O'BRIEN: And off-street parking which will help.

ROBERT DOYLE: Also if I may call the Board's

attention for the last five years I've had a website, I dedicated the garages to (inaudible).

ANDREA HICKEY: It went out.

CONSTANTINE ALEXANDER: You lost the screen.

ROBERT DOYLE: Joe DeLeo rented the garages to me and I supported him for years with various projects. He had told me I would have first refusal to buy them if I could afford them.

CONSTANTINE ALEXANDER: That's not relevant. Let's not get into that. Let's move on.

ROBERT DOYLE: Okay.

CONSTANTINE ALEXANDER: Any other comments from members of the Board at this time before I open it up to public testimony? We can come back and revisit it among ourselves here, but let's move on.

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. Oh, sir.



BILL SKOCPOL: Well, I would just say that one of my parking problems is that the only parking that I have associated with our house is a very narrow space which is probably infringed on by the brick wall by the neighbor, as you said that. We're not going to tear that down. The only car that fits is a fit. Okay? And you know, I'm happy driving that, but my wife won't get in it when it's in there. And she needs a place to put her car especially -- although we're not a snow emergency street anyway.

STEPHEN D'AMATO: But as to your point --

CONSTANTINE ALEXANDER: Your personal situation is your garage and your driveway is not relevant to the relief.

STEPHEN D'AMATO: But your point is relevant to him which is if I don't buy those garages, I have two cars. He's right across the street from me, and it's going to take away parking from him.

CONSTANTINE ALEXANDER: That's more relevant.

Thank you.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I don't think -- the last I looked we had nothing in our files, any writing, letters or the like pro or con. I'm going to close public testimony and we can now turn to deliberation on the merits.

I've said my piece. I think Brendan's said his piece but maybe not. Anyone else wish to comment?

Challenge what I've said or what Brendan said?

Ready for a vote?

JIM MONTEVERDE: Yeah.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such

hardship being is af act that we have a non-conforming use of the property; garage, 18 garage spaces, in a residentially zoned, and in fact, residential area.

That the persons who abut on either side of this lot, don't have off-street parking and are in need of off-street parking with a garage, that the relief being sought would supply.

The hardship is owing to the fact that this is a non-conforming use of the land and that any kind of relief -- any kind of change requires zoning relief.

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

With regard to this, this is a very unusual situation. That is -- however, it's a situation that presents a neighborhood good and provides off-street parking for people in the general area.

That this off-street parking would be maintained.

In fact, the overall use of the property will be the same. You'll still have your garages. You'll have your garages. And the public will have the other garages. So it's just a matter of cleaning up the title or the use of these, of this lot for the abutters.

And so the relief doesn't really have any detriment to the public good or nullifying or substantially derogate the intent and purpose of the Ordinance.

So on the basis of these findings, the Chair moves that we grant the relief on the condition that the work proceed or the subdivision of the lot proceed in accordance with this plan that was approved by the Land Court in which I have initialled.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relieve granted.

(Alexander, Sullivan, Hickey, Tedesco,

Monteverde.)

ATTORNEY WILLIAM O'BRIEN: Thank you.

STEPHEN D'AMATO: Thank you for all your advice,  
suggestions.

\* \* \* \* \*

(8:15 p.m.)

(Sitting Members Case No. BZA-011756-2016: Constantine

Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call, this is a continued case that we can now hear. Call case No. 011756, 20 Traymore Street.

Is there anyone here wishing to be heard on this matter? The floor is yours. Identify yourself for the stenographer, please.

NEIL HAYWARD: Neil Hayward. Resident, owner of 20 Traymore Street.

GERRI HAYWARD: I'm Gerri Hayward, resident at 20 Traymore Street.

MICHAEL KIM: And I'm Michael Kim, registered architect.

NEIL HAYWARD: Okay, thank you for seeing us again. As I mentioned last time, I've lived in Cambridge for 10 years. I have a lived in Traymore Street for six years. We love it. We have lots of friends in the

neighborhood. It's a great place to live. We've just had our first kid, and that presents some problems in terms of the living space.

So we have three bedrooms on the top floor. And we don't have any family nearby. I'm from the U.K. and Gerri is from Ohio. So we have a lot of grandparents visiting. And we have one bathroom on the top floor which is, which is functionally difficult for us as a growing family with visitors. We also want to have a second kid and we'd love to stay in Cambridge. We love our house. We'd love to be able to raise our kids in Cambridge.

So we'd like to propose putting a second bathroom on the main bedroom, and to do that we'd like to put in a dormer to give us some extra head space. The -- I guess the hardship we're asking for is that the current setup doesn't work. We'd like to put in a second bathroom and we need some more head space to be able to do that.

MICHAEL KIM: Plus the issue is really FAR.

CONSTANTINE ALEXANDER: Yes.

MICHAEL KIM: The rather attractive original house exceeds the FAR which came later, and the lot size cannot be changed:

CONSTANTINE ALEXANDER: You're going to be at 55 feet of FAR to the structure.

MICHAEL KIM: Sorry?

CONSTANTINE ALEXANDER: With the dormer you're adding only 55 feet.

MICHAEL KIM: That is correct. Less than two percent.

CONSTANTINE ALEXANDER: You're going from 1.0 to 1.2 in a district that's supposed to be no more than 0.75.

MICHAEL KIM: Correct.

CONSTANTINE ALEXANDER: You're in a non-conforming structure.

MICHAEL KIM: Yes.

CONSTANTINE ALEXANDER: Today you're going to what



I'm going to call slightly increase in the nonconformance.

MICHAEL KIM: That's correct.

To establish, Traymore Street is here. We're proposing an addition to the rear right corner of house. It is outside. It's within all the setbacks. It's within all the dimensional requirements with the exception of FAR.

CONSTANTINE ALEXANDER: And it complies with our dormer guidelines, which is most important. That was a problem last time.

MICHAEL KIM: Yes, that's true. However, we're not -- we're not requesting a dormer guideline be used to justify the FAR because as you know it does not --

CONSTANTINE ALEXANDER: No, no, that's a separate requirement.

MICHAEL KIM: Yeah. So we are in fact asking for relief of FAR for an addition.

CONSTANTINE ALEXANDER: Right. But one of the things that supports your case is the fact that this

additional FAR is going to comply with the dormer guidelines which your initial proposal did not --

MICHAEL KIM: That's right.

CONSTANTINE ALEXANDER: -- which is why we're here tonight.

MICHAEL KIM: And actually we have two variance on the design which we'd like to discuss with you.

CONSTANTINE ALEXANDER: The preferred one is off the table. We told you that last time.

MICHAEL KIM: Yes. And --

CONSTANTINE ALEXANDER: It's still off the table.

MICHAEL KIM: Okay.

Well, what we wanted to show was 3-D views of the house itself and with the proposed additions right here. And small variance on dimensions and so forth. We actually modelled and couldn't tell the difference, so we only are showing one here.

Here we actually were -- I personally walked

several steps into this person's backyard and shot this with the view with the benefit of no tree foliage. So although this view is shown, it's really from a private way and for most of the year it's invisible, so.

We have a design here for a dormer addition that is setback three feet from the edge of the roof. And in this case we took the worst definition with the dormer. The Ordinance is moot on the definition, so we took the roof line. We would ask that we be able to in-fill that portion as that would be a very difficult point to waterproof the roof if we had to.

We actually feel the true width of the dormer is a little over 10 feet wall to wall. And it allows extra headroom in this area of the bedroom. It's in fact not increasing any floor area, simply the headroom above five feet. And in this case it's about 31 square feet of the addition. And so this would comply with the dormer guidelines although I would argue it's not actually what

we're asking for.

We also feel that because of this addition from about 20 years ago, the discrepancy between the two ridge points is more visually obtrusive than a slightly different version where we bring the ridge line up and we in fact take the, take the extent out to the end wall. Although larger and although not in conformance with the dormer guidelines, we do feel it's visually quieter, less obtrusive and more in conformance with the intent. And so we are presenting both schemes for discussion and would accept your decision anyway.

CONSTANTINE ALEXANDER: Okay.

NEIL HAYWARD: One thing I would like to add to that is that that internal space would give us more internal space to use --

CONSTANTINE ALEXANDER: Clearly.

NEIL HAYWARD: And I think we want to keep the setback here because bringing it too far forward would look

top heavy. Bringing this out to the wall here -- this wall here goes out to the side of the house and then we've got this wall coming in if we have to adhere to the guidelines. Inside it would be more visually appealing, it would give us more space, and I think as Michael mentioned, from the outside it would be more symmetrical with the other side.

CONSTANTINE ALEXANDER: If I understand the purpose of this, and I mean the dormer, is to create a master suite for your bedroom and a bathroom.

NEIL HAYWARD: Yeah.

CONSTANTINE ALEXANDER: Okay. And you can do that complying with the dormer guidelines. And you could have a little bigger bathroom or a bigger area if we did require you to comply with the dormer guidelines.

NEIL HAYWARD: That's correct.

CONSTANTINE ALEXANDER: We do -- we, I can speak for myself, we tend to ignore or we waive the dormer guidelines when there's really good cause showing. The fact

that you want a bigger bathroom, to me, is not a sufficient cause. But I also would point out that the dormer on the other side, that you referenced, about 20 years ago where relief was granted, I don't think there were dormer guidelines in effect then.

NEIL HAYWARD: It was '94.

CONSTANTINE ALEXANDER: I wonder if the Board ignored it. I read the decision. There's absolutely no reference to any dormer guidelines.

MICHAEL KIM: Well, in fact I would argue it's too long to be considered a dormer. So, therefore, it was merely an addition.

CONSTANTINE ALEXANDER: Could be. But, anyway, that's my view. Personally I like this new design. It's tucked in nicely and I think it meets all your requirements, maybe not your desires, but I think it meets all your requirements for --

JIM MONTEVERDE: Not this one the opposite side.

That one.

NEIL HAYWARD: Are you sympathetic to taking it up to the ridge line?

CONSTANTINE ALEXANDER: I'm only one of five. I don't get too worked up by taking it to the ridge line myself. I would defer to with others on the Board with this.

ANDREA HICKEY: Yes, I would be okay with that.

PATRICK TEDESCO: Because I deferred to the lawyers on the last one?

JIM MONTEVERDE: It's ours now. We get to play. We come off the bench.

MICHAEL KIM: I mean I do feel that the benefit of the additional space is not only the internal space but that it is actually better architecturally. It is a calmer appearance.

CONSTANTINE ALEXANDER: What you're saying is take the -- on your plans, the proposed dormer but you want to

modify it to raise it to the ridge line. You're not going to go back to the old one which was a larger dormer and --

MICHAEL KIM: No, that's what the, that's what we're showing on this side, that the lines on both sides align for the very few people who can see it, we believe is a calmer response.

PATRICK TEDESCO: Because you're creating symmetrical.

MICHAEL KIM: Exactly.

PATRICK TEDESCO: But that's not what was proposed originally. That one.

NEIL HAYWARD: The one originally we had, this also going out to the front.

PATRICK TEDESCO: And it was more.

MICHAEL KIM: And a lesser number of windows.

NEIL HAYWARD: The original proposal I think met the 50 percent requirement.

CONSTANTINE ALEXANDER: Now the lawyers who have



no problem with what you want to do can defer to the architects. What do you think?

JIM MONTEVERDE: If this one still has some dormer guideline issue, then I wouldn't support this one if you're -- the reverse the other scheme on the opposite side basically does comply more fully, which I think is down from the ridge and from the side, up from the bottom. And your comment previously about that little triangular piece, filling that in to the lower ridge, I get that. I mean that makes perfect sense. It's not bringing up to the main ridge of the house. I don't, I don't think that's part of the dormer guidelines currently. So I could support that proposal. And if you wanted to in-fill that little piece to meet the lower ridge, fine. But I couldn't support the opposite one. The alternate one if in fact we're discussing two options.

MICHAEL KIM: But are we in fact discussing dormer guideline when we're not asking that that provision be

applied?

JIM MONTEVERDE: I can support that one. I can't support the other one.

MICHAEL KIM: Fair enough.

CONSTANTINE ALEXANDER: I want to make sure I'm -- I am on board with you. That one, except you can come down from the ridge line and you can fill in the --

JIM MONTEVERDE: Yeah, this one as I read it, is down from the ridge line. And it just needs an extension to the right there to meet that. No.

ANDREA HICKEY: Other side.

MICHAEL KIM: We had discussed or asked whether you would be okay if we could go up to the ridge line.

JIM MONTEVERDE: No. If I didn't say that clearly before, no.

MICHAEL KIM: I believe.

JIM MONTEVERDE: Personally. That scheme with that little extension to the left to meet the lower ridge,

fine.

NEIL HAYWARD: May I ask what the issue is with going up to the ridge line?

JIM MONTEVERDE: It's just the intent of the dormer guidelines. And, again, we've sat on this Board and they've been rather particular about keeping those unless there's a real hardship, and I don't see the hardship why you should ignore it. And the fact that there's something on the other side that was done 20 years ago and done a different way --

NEIL HAYWARD: Yeah, but I think my argument would be that it's -- not visually from the outside, but also inside we have a cathedral ceiling in here so you can see all the way up to the top. And I think it would make a big difference -- the space.

CONSTANTINE ALEXANDER: Let me, the dormer guidelines are aesthetics. It's not a legal requirement. And everyone has their own view of aesthetics. But the

Community Development which is the -- I think that's the one, who developed the dormer guidelines, felt it was important to the city that the dormers don't go to the ridge line, that they come down, and that's --

PATRICK TEDESCO: And that they don't go to the eave.

CONSTANTINE ALEXANDER: And also they don't go -- right. And no more than 15 feet. People could have a different view of that, but that's just the way it is.

NEIL HAYWARD: I understand.

CONSTANTINE ALEXANDER: That's the way it's been given to us. Just so you understand.

NEIL HAYWARD: We're trying to present a case that would make our life better, the space more usable and --

MICHAEL KIM: And furthermore, it adheres more closely to the intent of the guidelines if not to the like. We've had that discussion in the Board's as well whether the intent is more important than the actual guidelines or

Ordinance. And I would argue --

THE STENOGRAPHER: Could you keep your voice up, please?

MICHAEL KIM: Oh, I'm sorry.

I continue to argue that the intent is better served by the other scheme.

CONSTANTINE ALEXANDER: Patrick, anything you want to add?

PATRICK TEDESCO: I mean I appreciate Jim's point because you're matching a condition that was not built to guidelines that didn't exist. And it was egregious. It does strike a cord with me when I see a dormer, a pre-guideline dormer like that and to see granted a more tastefully designed version on the other side but one that would also kind of push the volume, I think it's, I think I'm with Jim that it's, you can achieve what you want to do with this one. It's not a symmetrical issue anyway. You wouldn't quite be making it symmetrical.

Could you show the other version just quickly?

CONSTANTINE ALEXANDER: Turn it around.

PATRICK TEDESCO: Because I do want to -- yeah, I mean it's the combination of going up above the bay going to the gable and coming further out. I think the gable issue is more an issue with me than going out to the end wall personally, but I think I tend to agree with Jim.

CONSTANTINE ALEXANDER: Any other comments?

PATRICK TEDESCO: But the conforming one is what I prefer.

BRENDAN SULLIVAN: Do you own the entire house?

NEIL HAYWARD: Yes.

BRENDAN SULLIVAN: Do you live on all three floors?

NEIL HAYWARD: Live on the second and third floor.

BRENDAN SULLIVAN: And how many bedrooms on the second floor?

NEIL HAYWARD: None.

BRENDAN SULLIVAN: There are no bedrooms?

NEIL HAYWARD: It's three bedrooms on the top floor. There's a bathroom on the second floor. Our main bathroom is on the third floor which is where the three bedrooms are.

MICHAEL KIM: Living, dining, kitchen are on the second floor.

BRENDAN SULLIVAN: Did I read that right that there's one that is going to be a guest room, then there's a library and then there's going to be the master?

NEIL HAYWARD: Well, actually this is actually his bedroom now. It has some books in it.

MICHAEL KIM: Pre kids it was a library.

NEIL HAYWARD: So that -- this is our bedroom. This is Henry's bedroom. And then this is the guest bedroom.

BRENDAN SULLIVAN: My feeling is on the exterior design is where -- I mean, I stood on the sidewalk and I'm

looking at all of those houses are just so close together. And I think any additional massing on the outside has a visual impact. I would go for I think the option that you prefer.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: Pull it in from the sides.

Yeah.

CONSTANTINE ALEXANDER: Andrea, you have anything you want to say?

ANDREA HICKEY: No.

NEIL HAYWARD: If we don't ask for the preferred option, is there some compromise in terms of taking it to the ridge line?

CONSTANTINE ALEXANDER: No, we just said. That's what Jim was saying. We don't want to go to the ridge line. And I agree and I Brendan and I think everybody else agrees, too.

NEIL HAYWARD: All right. So no Variance from the



guidelines?

CONSTANTINE ALEXANDER: Well, you're going to -- we're going to give you a Variance from the Zoning Ordinance. Let's be clear, the dormer guidelines are not a legal requirement. It is a design that's been given to us by another city agency that we like to implement and we try to implement except where there is really a situation where it can't work because you need additional headroom for a stairway and the like. But if it's just a matter of you prefer this one because it will give you a bigger bathroom, you don't persuade me.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. And if my memory is correct, there are no letters in the file.

Have you heard from your neighbors about this project at all?

NEIL HAYWARD: No.

CONSTANTINE ALEXANDER: Neither pro or con?

NEIL HAYWARD: We have positive feedback from neighbors.

CONSTANTINE ALEXANDER: Okay, good.

NEIL HAYWARD: They want us to stay in the neighborhood. They like us.

CONSTANTINE ALEXANDER: I'm going to close public testimony.

Brendan, whenever you're ready we can discuss it more.

BRENDAN SULLIVAN: No, just a comment. When I first review cases, the first thing I do is the supporting statements for a Variance. Why do the people want to do what they want to do? And when I read this, I said it really doesn't answer anything. Literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner for the

following reasons: The existing building exceeds the allowable FAR. Well, we know that. That's why you're here.

The hardship is owing to the following circumstances: The size and shape of the site limits the building size. And then basically you're saying that, you know, you have a certain size. Well, the Ordinance limits the building size. I mean, that's why they have the Zoning Ordinance, so that people can stay within that except under extraordinary circumstances. So, you know, you're pushing and pushing and pushing for a little bit more, and yet you're asking us to disregard this, don't let it apply to us. You know? Because we want what we want. And that's not good enough for me when I start reading supporting statements as to how you meet the legal standard because you really don't.

MICHAEL KIM: With all due respect, that is the preferred language in at least a dozen municipalities adjacent to this one. That you simply aren't -- God isn't

making any more land is the No. 1 hardship I believe for --

BRENDAN SULLIVAN: But then every house in the city practically would have a hardship. It may be incumbered, but we live within our hardships.

MICHAEL KIM: True. I'm simply pointing out in many other communities that is the preferred language.

CONSTANTINE ALEXANDER: We're living here in Cambridge.

MICHAEL KIM: I'm just pointing that out.

CONSTANTINE ALEXANDER: The point is that I think the point Brendan is making is that supporting statement could be better articulated. The fact of the matter is what you want to claim is the fact that given the nature -- it's an old structure and given its internal configuration, you need additional bathroom -- you need a bathroom on the third floor. And that's the reason you need, you want relief from the FAR requirements. Then you get into the question okay, if we want to grant you relief, do you comply with the

dormer guidelines? Which are not a technical legal requirement. And the answer is no, unless you -- the first time around, no. This time, yes, if you drop from the ridge line with the exception if you want to fill in a little piece that we've, I think we're all amenable to approving. That's where I think we are.

JIM MONTEVERDE: Correct.

ANDREA HICKEY: Yeah.

CONSTANTINE ALEXANDER: Okay.

All right, ready for a motion then?

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being, as I said before, this is a very old structure -- older structure that is, given its internal configuration, has insufficient bathrooms particularly on the top floor which is a living floor.

And that the hardship is owing to the fact that it is a non-conforming structure already. And so any modification to the structure requires zoning relief.

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

In this regard the relief, with compliance with the dormer guidelines, is generally modest. It does comply with the dormer guidelines in all material respects, and that it would allow a better utilization of the structure and allow younger families to live in this structure with either you or your successors.

So on the basis of these findings, the Chair moves that we grant the relief being sought on the condition that the work proceed in accordance with the plans prepared by Michael Kim Associates. The first page of which has been initialled except that with respect to the dormer elevation, the elevation that applies is the one that's marked

"proposed dormer." It's page A2.1. And that however that elevation or that construction can be modified to fill in the what is called the gap and the area's been marked with an X on the plans.

Conforming. Yeah, the other one says conforming, too.

PATRICK TEDESCO: It does, okay.

CONSTANTINE ALEXANDER: It doesn't, okay.

Okay, the page -- the plan is the one that's marked conforming that I've initialled or circled and I filled in the area where they can deviate from what the elevations show.

SEAN O'GRADY: We just strike the page that you don't want so it's clear.

CONSTANTINE ALEXANDER: Say again?

SEAN O'GRADY: Can you just strike the page that you don't want.

CONSTANTINE ALEXANDER: Yeah, the one before is

the one I don't want. After?

ANDREA HICKEY: I have a red pen if you want.

CONSTANTINE ALEXANDER: I did it in red.

SEAN O'GRADY: Thank you.

CONSTANTINE ALEXANDER: All those in favor  
granting the relief -- well, I'm sorry, yeah, we got to the  
vote. Conditions.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor? You in  
favor?

BRENDAN SULLIVAN: Well, reluctantly, yes.

CONSTANTINE ALEXANDER: Four enthusiastic and one  
reluctant. Motion carries.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

\* \* \* \* \*



(8:40 p.m.)

(Sitting Members Case No. BZA-012463-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012463, 3 St. Gerard Terrace.

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

please.

SARAH ROSZLER: Sarah Roszler.

JUSTIN CRANE: And I'm Justin Crane.

SARAH ROSZLER: And we live at 220 Harvard Street, No. 1 currently, but this is regarding 3 St. Gerard Terrace.

So Justin and I are both architects. We work separately for Cambridge Design Offices, but this is our first project together. Justin's been in Cambridge since he came here for college in 1996. I came here for grad school in 2001. We've lived within a three block radius of Central Square ever since. We're both active in community groups here. We started a family here. Our five-year-old goes to the Cambridge Public Schools. Hoping to send the second one there, too, shortly.

Three of us now live in a one-bedroom condo in Central Square which Justin and I bought ten years ago. So we purchased 3 St. Gerard this summer. It's on a private way which is just off Hollis Street. So it's basically just

right around the corner from the Peabody School. It's the first private, private way off Hollis.

The home had been lived in by the same family since 1950s and very few updates have been made in the intervening decades. The previous owners did receive a Variance to do an addition to the building in 2010. It was for an ADA bath. The house needs many updates, both inside and outside, including an overhaul of all the building systems and an overhaul of the envelope.

We received a permit for the interior work and that's underway. It has been gutted and is being reframed.

Our goal with this major renovation is to make the home so we can live there for many years. We want to invest in it and want to do everything the right way as much as we can, including exceeding energy code requirements and creating the best possible exterior envelope we can afford. We've been laboring over what -- how to do the envelopes for months.

So the Variance moves we are seeking largely a consequence of two things:

First our effort to give this house a durable envelope.

And second of all, our effort to make this a long-term home for our growing family.

We have -- the house is in the middle of the block, so we have a lot of abutters. We've been in touch with all of them. They've all been supportive. We've seen that several letters had been already sent to the Board. We brought additional letters that we would like to enter into the public record.

CONSTANTINE ALEXANDER: Give me those letters and I'll put them in the file. You can keep going.

SARAH ROSZLER: Before getting into the specifics of our Variance request and the details of the project, we wanted to -- we thought it was appropriate to address what we think may have been a critical misstep. We now

understand in filling out one of the application questions, which you may have already noticed. But the Variance application requires identification of a specific hardship to support the request.

CONSTANTINE ALEXANDER: Yes.

SARAH ROSZLER: And because it's our first time going through the process, we naively answered that the property poses no hardships. And that was a misstep. Stems from our earnestness --

CONSTANTINE ALEXANDER: You can correct it tonight, that's all right.

SARAH ROSZLER: But there was nothing egregiously wrong with the property, which of course (inaudible). But of course the house presents some hardships, both in terms of the lot size and shape and the location of the house on the lot and that's why.

CONSTANTINE ALEXANDER: Am I correct that the issue -- the reason you need a Variance is for setbacks.

Your FAR is going to be in compliance.

SARAH ROSZLER: It's slightly out of compliance, but we're actually reducing the FAR.

CONSTANTINE ALEXANDER: Yeah.

JUSTIN CRANE: But the FAR would still be above that that's allowable.

CONSTANTINE ALEXANDER: I want to look at the dimensional form.

SARAH ROSZLER: So we're hoping that even though we flubbed the written portion --

CONSTANTINE ALEXANDER: Right. My notes are wrong. It's 0.5 for the district. You're at 0.54 now and you're going to roughly stay at 0.54.

SARAH ROSZLER: Yeah, we're going to reduce the existing FAR.

CONSTANTINE ALEXANDER: It doesn't show that in the dimensional form.

SARAH ROSZLER: It's by 100 feet so it doesn't

change the percentage.

JUSTIN CRANE: If you round to the nearest --

SARAH ROSZLER: Tenth.

JUSTIN CRANE: -- it's a percentage point. It's basically the same.

CONSTANTINE ALEXANDER: Okay. I should rephrase that. You're not increasing the FAR nonconformance, that's the important thing.

SARAH ROSZLER: So we, we didn't know whether we should amend our statement and read it to the record --

CONSTANTINE ALEXANDER: Sure.

SARAH ROSZLER: -- regarding hardship.

CONSTANTINE ALEXANDER: Or you can read it or you can just tell us. However you want to do it, go ahead.

JUSTIN CRANE: Should we -- so just for the record, we'll get into the hardships relating to the particular items for which we're seeking a Variance, but we do want to clarify that the hardship is owing to the

existing shape of the lot and the location of the structure. As the lot is plotted in the middle of a block prior to the establishment of this or any prior ordinance, it's relatively small size in an unusual relationship to the street prevent making any of the changes that we want to make without violating a dimensional requirements.

CONSTANTINE ALEXANDER: It's non-conforming now, the structure?

JUSTIN CRANE: That's correct.

SARAH ROSZLER: Yeah, that ADA addition brought it out of conformance.

JUSTIN CRANE: So, there are three elements of the renovation for which we're seeking a Variance from two aspects of the Zoning Ordinance:

The first element is the re-siding of the house, redoing of the exterior envelope, and we, as part of the renovation, would like to add continuous exterior insulation and an air space on the outside of the sheathing which



increases the width of the exterior envelope by three inches. And we studied a lot of exterior envelope systems and believe that this system is necessary to prevent the accumulation of moisture within the wall to allow the assembly to dry both to the inside and to the outside and to reduce the risk of combustion. We want to use mineral wool insulation which is non-combustible. This would be allowable -- this would be allowable on three sides of the lot per Article 22 of the Ordinance which allows for an increase of four inches into non-conforming yard setbacks. However, on the west side of the lot the existing setback is five-foot, six inches. So we're seeking relief from Article 22 in that regard. We would like to note that this side of the house faces the larger setback of the abutting structure, and in using mineral wool insulation, we're actually reducing the fire risk. And finally, there is a letter of support from the neighbors who own that property.

The second element for which we're seeking relief

is the dormers. We want to add dormers on the east side of the roof. The dormer to the south is over an existing stairway, an existing stairway which has a six-foot head height which is okay for us, we're below six feet.

SARAH ROSZLER: We may grow.

JUSTIN CRANE: Yeah, exactly. If our son drinks his milk and gets over six feet, it would then be a potential hazard. And by adding the dormer, we want to raise the ceiling to an acceptable six-foot, eight inches.

I would like to note that because the stairway is already counted as part of the gross square footage of the house, we're not adding square footage to the house by adding this dormer. However, we, if we had just one dormer, it would look odd. And so we're seeking relief to add a second dormer symmetrical on the roof in the adjacent bedroom. This dormer would add 50 square feet, and the dormers follow all of the dormer guidelines.

CONSTANTINE ALEXANDER: Thank you, that's

important.

JUSTIN CRANE: The third element for which we're seeking relief is rebuilding of a 196 square foot addition that was designed and I believe built in 2010. And while it probably served its purpose at the time as an accessible bathroom for the previous owner, we're concerned that it doesn't have the, the construction quality or the durability that we would see from a house that we want to live in as long as possible. The foundation is wood posts on Sonotubes, and without a rat slab, so it's just open to dirt below, leaving it exposed to possible infestation. The, it was minimally insulated when it was built, and since we've begun interior renovation, the structure is actually react to the point where it's very difficult to open up the exterior door in the structure. We want to rebuild it in the basic footprint while also allowing for the thickened envelope. We want to build it in a style more in keeping with the Queen Anne style of the original, and we want to go

the flat roof deck on the top.

We've talked with all of the abutters who face this part of the property. I assumed you had all had a chance to look at it before.

The -- we have letters of support from the abutters. Some of them didn't arrive until today or yesterday so we added those to the record today.

CONSTANTINE ALEXANDER: You gave them to me.

JUSTIN CRANE: Yes, that's correct.

And we'd also like to note that it faces the longest setback on the property in the rear of all abutting structures.

CONSTANTINE ALEXANDER: How big is that roof deck going to be? Dimensions.

JUSTIN CRANE: The roof deck would be approximately 196 square feet. It would be uncovered.

CONSTANTINE ALEXANDER: And it comes -- the purpose of it is? What room of the house does it come off

of?

SARAH ROSZLER: It's going to come off of a small sitting area off the, a work -- a small office off of the corridor. So it will bring light into the corridor.

CONSTANTINE ALEXANDER: The issue we sometimes -- we often worry about but sometimes come out differently is a concern, even though you have neighbors now or abutters who are in support, is that this could be invasion -- it could be used in a way to create noise or disturbance for your abutters to have parties on there, for example, or family gatherings or that it -- either that or just intrudes on their privacy. But your neighbors have not a problem with that.

JUSTIN CRANE: Well, they -- we've talked with them about that. They've asked that question. One thing I would like to note about where it's located is that it's off of the second floor. The only other rooms on the second floor are bedrooms and a bathroom. So it's away from the

kitchen, the dining room, the living room. It's not a place that we could easily hold dinner parties or where we would want to.

I do want to clarify that the reason that we're actually reducing the square footage of the house is because as part of the renovation we want to remove an existing three season porch that was added at some point after the original construction and put in a new more welcoming entrance to the house using traditional detailing. So this would be the new entrance.

SARAH ROSZLER: So the front of the house now has a smoker's porch on the front, and we want to make it a more hospitable entryway. And that is the side that you see from the street you see from Hollis.

JUSTIN CRANE: This is the -- you can see the existing conditions now.

CONSTANTINE ALEXANDER: Yeah.

JUSTIN CRANE: I think that's our case.

CONSTANTINE ALEXANDER: Any questions or comments at this point from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. But we are in receipt of a number of letters which I will read into the record in no particular order.

There's a letter from Elizabeth, Nancy, and Robert Bolton, B-O-L-T-O-N who reside at 19 Rindgefield Street in Cambridge. (Reading) We are writing to express our support for our new neighbors Justin Crane and Sarah Roszler in their efforts to obtain a Variance as part of their renovation at Three St. Gerard Terrace. Justin and Sarah have described their project and shared the drawings with

us. We understand that the parts of the their project requiring zoning relief including thickened exterior walls, new dormers, and the reconstruction of an existing addition which will be modified with a flat roof and roof deck. Our house at 19 Rindgefield and Three St. Gerard Terrace back up to each other with abutting yards. We welcome the prospect of a thoughtfully restored and enhanced house as our backyard neighbor. We wholeheartedly believe that their planned restoration and renovation will be a wonderful improvement and have a positive impact on the neighborhood. We look forward to welcoming Justin and Sarah to the neighborhood.

We have a letter from C. George Elanjian, E-L-A-N-J-I-A-N, who apparently is an architect. (Reading)

Dear Members, I am an abutter of Three St. Gerard Terrace and the owner of 13-15 Rindgefield Street, Cambridge. I reviewed the drawings and have no objection of the changes requiring three zoning variances. They appear to be in



keeping with the design and architectural style of the neighborhood, including the use and materials and textures. Board approval is recommended.

We have a letter from Peter Kim addressed to Mr. Singanayagam. (Reading) I am writing in support of the Variance that Justin Cane and Sarah Roszler are requesting for their renovations at Three St. Gerard Terrace. My name is Peter Kim, the owner at Nine Rindgefield Street, the property behind the property in question. We have toured the house and grounds understanding that Variance -- understanding what variances they are seeking. First, their plans for renovation will radically improve the property and the neighborhood and retain an historically appropriate style fitting seamlessly with the surrounding housing stock. Second, we should support any and all efforts to improve the efficiency of our housing stock and the need for thickened exterior walls should be supported unreservedly. Lastly, we are in dire need of

family-appropriate housing in Cambridge. The new dormers and reconstruction support exactly this need. If we are to support variances in Cambridge, the kinds of modifications this family is proposing are exactly the type that should sail through the appeals process. We're happy to invite Sarah and Justin into the community.

We have an e-mail, this is shorter. Bear with me, board members, from Phyllis Pownall, P-O-W-N-A-L-L who resides at 17 Rindgefield Street. (Reading) I am writing to support Justin Crane and Sarah Roszler in seeking a Variance as part of their renovation at Three St. Gerard Terrace. I understand that the parts of their project requiring zoning relief include thickened exterior walls to accommodate new insulation, new dormers, and the reconstruction of an existing condition which will be modified with a flat roof and roof deck. I have discussed the proposal with Justin and reviewed the drawings. I believe that this work will not be a detriment to my

property and that the rebuilding of the addition may improve the neighborhood through its use of quality materials and historically appropriate detailing. I look forward to welcoming Justin and Sarah and their family.

We also have a letter from Councillor Craig Kelley which I'll read into the record. He resides at Six St. Gerard Terrace. (Reading) I write in support of this case with its dormers, roof deck, and basement extension, the newly renovated house will be a wonderful place for Justin and his family to call home and we are excited to welcome them to our neighborhood. As designed, the project should have negligible, if any, impact on local privacy, open space, or any other issues generally associated with a healthy neighborhood.

In fact, I think the design will be a nice improvement in many ways. I understand that there are a larger issues about when a Variance is appropriate and when one isn't, and that those lines are getting increasingly

blurred as property values, construction techniques, building codes, and societal expectations all change faster than our Zoning Code can accommodate. Ideally Envision Cambridge will provide solid guidance on how to handle future building alterations.

I'm not going to get into this.

SARAH ROSZLER: Justin is actually on the committee.

CONSTANTINE ALEXANDER: I don't think that's relevant to your petition.

(Reading) I am excited by this project. I think it will make the Crane's new house an even better home and it will make them especially happy to have chosen to live there. I hope you approve the application.

So that's it. There are numerous letters of approval -- of support. None in opposition that I can see.

With that I'll close public testimony. Discussion by members of the Board or are we ready for a motion?

BRENDAN SULLIVAN: I think it's a very well thought out plan and a very good presentation.

SARAH ROSZLER: Thank you.

CONSTANTINE ALEXANDER: Here, here.

JIM MONTEVERDE: Good job with the dormers, too.

PATRICK TEDESCO: You know how we feel about dormers.

CONSTANTINE ALEXANDER: Okay. All ready to go.

The Chair moves that with respect to the Variances being sought we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that this is a structure in need of much tender TLC and architectural improvement.

That the hardship is owing to the fact that it's already a non-conforming structure and it's an older structure. And that is its location is odd and effectively it's almost in the center of the street of this private way.

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

In this in regard the Chair would note that the project has -- seems to have unanimous neighborhood support.

That it is, the design is quite thoughtful and in compliance with the dormer guidelines.

And that results will be -- the housing stock of the city will be improved.

So on the basis of these findings the Chair moves that we grant the Variance being sought on the condition that, and let me stop right there. These are your final plans? Because you've got to comply with these. If you change them as you go forward, you're going to have to come back.

JUSTIN CRANE: I understand.

CONSTANTINE ALEXANDER: You understand that?

JUSTIN CRANE: Yes.

CONSTANTINE ALEXANDER: On the basis of the plans submitted by the petitioner. The first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Motion approved. Variance granted. Good luck.

(Alexander, Sullivan, Hickey, Tedesco, Monteverde.)

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(9:00 p.m.)

(Sitting Members Case No. BZA-012507-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012507, 284 Broadway.

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

ATTORNEY SEAN HOPE: Yes, good evening Mr. Chairman, members of the Board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here on behalf of the petitioner. We have Mr. Andrew Jones and Kayla Marvil, M-A-R-V-I-L.



Yes, this is an application requesting Special Permit relief to reduce the parking requirement for an additional 35 seats. Just to refresh the Board, back in September 2015 we were before the Board at that time to convert an existing auto body shop into a brewery. The brewery use was not clearly defined in the Use Table, so we were requiring a Variance for the entire space. In addition to the brewery use, we also had a food use that was at the front of the commercial space. It was designed to activate the streetscape and to also invite the community in. The manufacturing use in and of itself had a use that wasn't necessarily open to the community, although there was an idea to have public tours in that.

The zone is a Zone Business A, and about 95 percent of the building is in the Business A Zoning District. There's a small portion at the rear that was in the Residence C-1 District. The food use that we're proposing to expand today and to -- and in the form of an

additional taproom with additional seats is fully within the Business A Zoning District, so this is an allowed use, but the seats themselves do require additional zoning relief.

I think I would make a point to the Board that the area now that we're proposing to use as an additional taproom is existing storage space. And so in terms of the occupancy we can actually, the petitioners could use that space and have an additional standing or function space, but it's the seating and number of seats that actually triggers the additional zoning relief. The seating, and I think it's important to look at the floor plan, this is not like an additional sports bar area. These are two, six, and seven top tables along with a series of four tops. Part of the rationale for the increase in seating, the food and beverage portion has become particularly popular, and so there is -- which is a good thing, but there is some lines that are forming outside during some of their popular times. And so this additional taproom space would allow to take people

that would be in front of the premises and bring them into the space. So the idea is that these patrons are already coming to the space. This is an area that would not be able to be viewed from the public but it would be able to occupy and also to be able to offer more of beer and the food and the environment in this additional space.

CONSTANTINE ALEXANDER: But you potentially will increase the intensity of the use. You'll have more people coming -- people who come into the what I'm going to call the restaurant area and people who are using the premises as they are right now.

ATTORNEY SEAN HOPE: I think there is a hope that we would be able to get more people. But I think the impetus now is that there's already a demand. There's already the people there. I would just say it's very different than if they were going to take the space that's facing the street and opened up more seating. That in itself might attract more people. This is a space that you

cannot see from the outside. So only when you're in the space would you even know that that was existing. And I think that is important.

One of the elements that we presented to the Board was we thought this would be a neighborhood bar -- excuse me, bar. Brewery that had food. And at that time it wasn't quite clear where the patrons would come from. And so in preparation of this hearing we had a petitioners do a survey and to survey -- and we did, and I think it's in the record there. Tried to do a pretty comprehensive survey to figure out where their patrons are coming from during the week including some of their busiest times. As you'll see with the data that shows, the majority of patrons who are coming to the site are not driving their own automobiles. There is a -- there is a high number, but not the highest number, of people coming from the neighborhood. There are people who are riding bikes. But mostly, and I really think this is a change in, of how people are traveling, with Uber. And so

when you're going to a place where it has beer and food, driving is not always the best way to get there. But frankly Uber has really changed how people are going to restaurants, especially in areas that don't have a lot of parking. We did this to really, to really document what they have been experiencing, but I think as well as the data that we supplied for the Board, there is also ample letters in the file as well as you will hear some testimony from some neighbors.

Part of the criteria for the reduction of parking in addition to the Special Permit criteria talks about the availability of on-street parking or the impact on the availability of off-street parking. As I mentioned, Broadway is in a commercial business district, so all their commercial uses that are allowed as of right. There is metered parking in front of the space. There's only a couple of meters. This is in the block between Columbia Street and Elm Street. So it's not a large block, but there

is metered spaces there. But also along Broadway there's a series of two hour parking locations. I would say even thirdly a lot of the bus, bus services that run along Broadway after a certain time of night, those -- some of those locations actually turn into additional parking. So between the metered parking, the two hour parking, as well as some of this additional parking in the evening, I think that the additional seating will not have a negative impact on the availability of off-street parking.

I also think that part of their criteria was the availability of commercial parking facilities. There is not a commercial parking facility that's in walking distance, but I also think as I mentioned Uber, between Uber and ZipCar and the data will support, that I think these additional 35 seats -- as the Chair mentioned before, I do think that we are -- the additional seats will be able to accommodate more people, but I think this is different than creating a new space that wasn't there necessarily that

would be attracting new people. We really do feel that this is going to accommodate what has been some of the initial successes.

To the general Special Permit criteria, the general Special Permit criteria talks about hazard or nuisance. Again, I think that these, from the data that's applied, but also partly the criteria's about substantial change to the neighborhood character. And I think that if you are a resident that's, you know, close to 100 feet behind you, that the neighborhood character is residential. But this thoroughfare on Broadway is a commercial district with a myriad of retail uses. And so I would feel that this use is an allowed use. I think that the size of the initial taproom that has 35 seats. I think it's -- to highlight for the Board, the second, the additional new taproom is approximately the same size as the first room. So how do we come up with 35 seats?

Well, we actually looked at the spacing of the

initial room and we said this is overcrowded. And so we picked 35 seats not out of thin air, but we actually looked at the programming and the function of the front space and wanted to replicate that. Although the front space, part of the attraction is that you have these great windows and you would see the streetscape and it really has become a destination place, but the rear is going to be a place with only one window so it's not facing the street. One of the ideas for that would also, there was request from the neighborhood to do function hall space, meeting space, and gathering space. And so this additional, this would maybe be akin to when a restaurant may have a private dining area. So we'll have the public area, but they may have a second area.

This is not gonna be limited to just special events, but I think that the idea is that this would be able to accommodate a much more private and cordoned off space.

And just lastly I'd like to say that although we



don't believe there's been an issue with lines being outside, we haven't been into the warmer weather yet where there's going to be more people. Again, I think this additional space would help accommodate of the what may be new lines of people waiting to go into the taproom, because it's really becoming an attraction in the neighborhood, and be able to bring those off the street.

Noise and nuisance isn't part of the seating in the production requirement, but it is part of the general Special Permit criteria and I would say that they have been good neighbors. I think that you'll see letters in the file from both residents and the business community speaking to the types of neighbors that they have been in terms of the stewardship going through a construction process and then now having being open since November 2016.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I have some comments, but I'm going to save them until after the public after we finish our public testimony.

Is there anyone here wishing to be heard on this matter? One at a time. If you've written a letter or -- let me actually say this. If someone makes a point, please the next person don't repeat the point. We get it the first time. I'm just moving the hearing along tonight. So please don't be repetitious. Offer new views or you can assume the person who gave the views that you wanted to express has been heard either in writing or orally or both perhaps, and we can just move along more expeditiously.

Sir, you were the first I think.

IAN MACLLCHLINN: Thank you my name is Ian Macllchlinn. Macllachlinn is spelled M-A-C-L-L-A-C-H-L-I-N-N.

I'm a resident of 219 Harvard Street which is just one block over from Lamplight Gallery or Brewery. And with

respect to the arguments that have been made, I do have serious concerns about the parking. And at this junction already we are parking back-to-back in terms of parking. And the structures along where we are are mostly residential. They're mostly three-floor buildings whether rightly or wrongly, and they're mostly two car families and it's creating a lot of stress around where we, where I live. I should actually tell you I've lived in that building about ten years and I've seen it's actually got progressively worse. I am concerned, and I am concerned -- I would argue, the Uber argument, I'm not necessarily sure that's a fair argument, but I would be concerned even a portion of the cars moving into our district would cause serious hardship to the neighborhood.

The other thing I would personally say as well and is with regard to nuisance and the noise, I think the brewery hasn't been open one year. So we haven't hit the good weather, and when we did hit the good weather, around

temperatures were a light winter in February and windows were open, there was a lot of noise around the neighborhood and coming out of the brewery. I do think that with the addition of these additional seats it would add additional people coming into that, into the facility and create that noise. So I think overall for those two arguments, I think this would be a hardship for certainly for me and my family around that particular area.

CONSTANTINE ALEXANDER: Thank you for coming down and expressing your views.

Sir.

JEFF PURCELL: My wife wanted me to come down here. I'm Jeff Purcell (phonetic). I live at 20 Tremont Street. I've been there for over 20 years with my son Connor Purcell and my wife Karen. And we see our street, Tremont Street parked up every night. We're part of the Tremont Street Neighborhood Association. Nobody from these folks ever came to any of us and said we're gonna have more

seats here, do you have a concern?

I hate to say this, but what this gentleman said is having more people in here is not gonna cause a problem for the neighbors? That's simply not credible. Okay. If you have more people in there at night, you're gonna have more cars there, there's gonna be more hardship on the neighbors, and to pretend that's not true, is simply not credible. Okay? And there's an architect who lives across the street from me who made me promise to come down here, too. So it wasn't even my own idea to come here. But when I hear we're gonna have more seats but it's not gonna be a problem with any more cars in the neighborhood, you know, you just can't sit down and let that kind of misrepresentation take place. This could be a huge difference in the neighborhood where you can't even get a place to park now. Fortunately I have a house with a driveway, but a lot of my friends don't.

CONSTANTINE ALEXANDER: Thank you. Thank you for

coming down.

Sir.

ROBERT DRINKWATER: My name is Doctor Robert Drinkwater. I live on 22 Elm Street which is literally beside and behind the brewery. I've lived there since the brewery's been open. I have not had any problems with noise whatsoever. Even when there's a line out the door. When I'm walking home from work from the hospital, never once had any issues with noise with windows open, with windows closed. Hasn't been an issue. I have guests come over and park. Tonight when I left, there were three parking spaces that were available coming to this meeting right on Elm Street. Elm Street is directly beside the brewery. Never had any issues with parking. I think when the weather gets warmer and people are outside, it may account for some noise, but I don't think it's coming from the brewery.

CONSTANTINE ALEXANDER: Okay, thank you. I'll get to you, don't worry. Next.

CHAD MIRMEELLI: My name Chad Mirmelli,  
M-I-R-M-E-L-L-I. I also live at 22 Elm Street. I've lived  
there for the past three and a half years. And to be  
honest, what the change of community has been like has been  
amazing. When I moved in there at first, there was a  
sketchy vibe to the area at nighttime. I love that there's  
affordable housing nearby, but sometimes that brings some  
characters that kind of makes some of the areas unsafe, and  
I've seen a huge change of the vibe of the neighborhood just  
within the past several months. My window actually, leave  
it open quite often, I like when it's freezing cold at  
night, so I'm directly next to the brewery. I've not had  
any issue with noise and just second the aspect of parking.  
Actually on our way over here leaving our house, there were  
three open spots on Elm Street, so the direct street that's  
next to the neighborhood. So I have no concerns about  
parking whatsoever. And I'm just excited to see the change  
that it's had on our local community. And I think that any

of the local businesses and the property value to houses nearby is only going to get a positive aspect. I have deep respect for those people who have been there 10 and 15 plus years and have families. But to be honest I've seen such a positive change in the neighborhood that I hope only more good things will come from what this community has been doing for us. So I just wanted to put that out there.

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

Now, sir.

FUAT ERCAN KORKMAZ: My name is Fuat Ercan Korkmaz.

CONSTANTINE ALEXANDER: Come closer, we can't hear you.

THE STENOGRAPHER: And spell.

FUAT ERCAN KORKMAZ: F-U-A-T E-R-C-A-N  
K-O-R-K-M-A-Z.

I'm very nervous.



CONSTANTINE ALEXANDER: That's okay. Take your time.

FUAT ERCAN KORKMAZ: I live right on the conner of Broadway and Elm and I have my own bedroom. It actually faces what is on Broadway and Elm Street and directly sees the brewery. And initially we have given, you know, support for the brewery. And, you know, I can hear, you know, noise. You know, you were talking about, you know, Uber. I can see four different group of people in the four corner of, you know, Elm and Broadway and yelling and screaming at night. You know, the calling Uber where they want to go next and where they want to end up. So it is quite noisy. And parking is especially difficult. I been in the neighborhood for almost 30 years, 28 years. And, you know, the parking is getting more and more difficult. In the morning, you know, the kids, you know, the parents drop their kids off at schools in the area. In the afternoon they pick them up. You know, we always in and out of the

place. You know, the parking is not always, you know, possible and it's becoming more and more difficult. And also, you know, already, you know, 70 plus people going in and out of the brewery, and I think it would be difficult for the neighborhood parking. And especially noise at night, it will be -- I think it will impact, you know, negatively on the neighborhood.

CONSTANTINE ALEXANDER: Thank you.

Sir.

JOHN DELANCEY: My name is John Delancey. I live at -- we've lived at 16 Elm Street for a little over 20 years, and we've parked on the street for 20 years. A little under two years ago I came before you to enthusiastically support the brewery. I still support it. But at that time somebody on the panel said be careful what you wish for, and we're kind of in that zone right now. We abut them and they built this secondary egress which they had a right to do. But I have to say that it was kind of

nightmarish, because every time I talked to them and asked what are you doing? They said something and did something else. And we had -- and anyway, you don't need to know about that.

What's frustrating is that we supported a brewery with a modest tasting room with 35 people. But we found out that 35 people means 100 people or so packed in on a Friday, Saturday night. About a month ago, Lamplighter applied for live music license and we showed up and that was stopped or postponed. And now from what I gather, this is going to be for 170 people. That's what I've heard. I don't know if that's true. So I think the trajectory is 35 to 170 people with potentially live music. And to me that's no longer a tasting room, that's a club. And perhaps, I don't know, I'm guessing, one of the bigger clubs in Cambridge. And we are a densely-packed residential neighborhood.

As to parking, I've been here as long as John but 20 years, I think we're at the tipping point yes, there were

a few spots, but I'll tell you anything happens, like the church has a wedding? Nothing. Even soccer in Center Park, you could still park but you can feel it. And I just -- and at times at night, especially in the winter if it's late, we debate whether we should go out, you know. And my daughter, teenage daughter calls up at eleven and says dad, can you come pick me up? I say sure, but I hope I can get parking when I get home.

And frankly I think especially since they're going to have events there, wedding receptions or fundraisers, those folks are going to be driving in. Those are not the Uber people. They are coming from the suburbs or across Cambridge.

So in closing I this brewery with 35 is now getting a lot bigger and keep going. I don't know, I'm guessing they'll be back. I support the brewery. I think it's terrific. I think it's -- the cafe is terrific. We supported them when they wanted to add hours. So we're not

crazy Cambridge people saying no to everything. But I think -- but I do want to oppose something that I assume will affect the neighborhood, and I think this -- to think of 170 people drinking beer, that is not going to have any impact on the neighborhood, I think is, in my opinion, a little unlikely. We'll just use that word. And I think there's a few sparking paces in the neighborhood and I really want to hold on to them. I support what they're doing. I don't support this endless expansion.

Thank you.

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

HELENA CHANG: Hi. Helena Chang, 16 Elm Street. I have been living there for 20-something years. It's a beautiful brewery. I just wanted to address some of the points that were made earlier. We were talking about a lot of the people arriving at the brewery by Uber. Uber's being regulated right now. We don't know what Uber's like -- you

know, we don't know if Uber's going to exist in the future. I don't know how these people are going to get here without Uber if it goes away. That's one.

There are probably 30 or 40 visitor parking spots between Prospect and Columbus. I don't know, I'm not really sure. I was just guesstimating in my head. And there are a number of businesses on that strip, and it just seems like, I don't know, I mean like with 170 people, to have the majority of those spots taken up by one business seems kind of unfair. I mean it seems like they should maybe -- (inaudible).

THE STENOGRAPHER: I'm sorry, what?

HELENA CHANG: I believe that part of this was to override the parking regulation, right? For -- am I wrong about the business?

THE STENOGRAPHER: I just asked what you said because I didn't hear you.

HELENA CHANG: Oh, I'm sorry. Okay.

So I mean it just seems like, you know, just because of the volume of people that are potentially gonna be at the brewery, they could like completely take out the majority of the parking spots that are available for other businesses on Broadway and that seems rather unfair. Is that clear?

Okay. In terms of the open spots. Today it's a Thursday night. Okay. So on the weekends those three spots probably not gonna be there. And even on the weekend afternoons, probably not gonna be there.

And furthermore, there are three spots right now but, you know, add 70 more people into that brewery and likely not.

CONSTANTINE ALEXANDER: Thank you.

HELENA CHANG: I know that there are other people here to support the anti side of this who aren't speaking.

CONSTANTINE ALEXANDER: Sir, you've had an opportunity to speak already.

HELENA CHANG: I just wanted to make a point.

There are other people.

IAN MACLLCHLINN: Maybe just to make one additional point about parking spots. It is an important point. I mean, we'll actually see evidence of it next weekend. That we do live opposite a church and we do live opposite a school, and very often we're subject to parking restrictions where when there's a funeral. Like, for example, next week, literally the whole row, both sides, is taken, is taken away for the day and the entirety of the evening and that's, that's just another reality that I think probably happens once a month as well.

CONSTANTINE ALEXANDER: Thank you.

Is there anyone else wishes to be heard? James.

JAMES WILLIAMSON: Yeah, my name is James Williamson, 1000 Jackson Place. I just want to say a word in defense of people who live in affordable housing. I live in affordable housing. I consider myself fortunate to live



in affordable housing. I've lived in the city for over 40 years and I've seen a lot of my friends and neighbors be displaced by people with higher incomes and they can no longer afford to live in the city. We don't do enough for affordable housing, and I just want to make that observation. We're not all bad people.

CONSTANTINE ALEXANDER: Thank you. Thank you.

And I'm going to stop you right there.

JAMES WILLIAMSON: I will close with one little quotation from a song by Woody Guthrie, about Pretty Boy Floyd, the outlaw. Some rob you with a six gun, some with a pen.

CONSTANTINE ALEXANDER: Some with a pen. With a fountain pen, exactly.

Let me just say, I know, to your point. I don't mean to make light of it. I think the comment about the people from affordable housing was unfortunate. And at least it doesn't resonate with me one bit.

JAMES WILLIAMSON: Thanks.

CONSTANTINE ALEXANDER: Sir.

JESSE JENKINS: Jesse Jenkins. I live at 282 Windsor Street, just around the corner in the neighborhood. I just wanted to note that the realities of living in one of the densest neighborhoods in the world, in the country at least, is that we have to rely on multimodal transportation. And that the city as a whole needs to embrace that as a way to develop into Uber neighborhoods. We own a car. We also walk. We also take the T which is about a half mile from Lamplighter in Central Square. It's a short walk. And whenever we go out and into the city, we, you know, choose the modes that make the most sense. And I think that's indicative of the type of patrons at Lamplighter as well, who will find convenient ways to get there. And if parking is the constraint for business development, I think the City of Cambridge is going to have a really hard time growing the kinds of community and the kinds of sustainability that we

want to see, you know, in our city. So I think it's important to make sure that we can expand community spaces without assuming that everybody relies on a car to get there. I don't think that's the case.

CONSTANTINE ALEXANDER: Thank you. Anyone else?

Ma'am, you had your hand up first. Go ahead.

MICHELLE RHODES: Michelle Rhodes, R-H-O-D-E-S, 57 Howard Street, right behind the senior center here, and I've been in Boston since 2009 -- Cambridge since 2009. Grew up in suburban Philadelphia relying on a car and parking and driving all the time and I hated it. Moved to Cambridge because it was a city that really stood out as something where you could live there, you could walk to work, you could walk to great restaurants and great, great spaces to meet up with people and really just enjoy living a lifestyle of spontaneity and not having to worry about driving and not having a car. And I think a lot of my peers, a lot of my colleagues, a lot of my friends who also moved to Boston,

that was the main purpose, was they moved to Boston so they could really have spontaneity lifestyle and step out their front door and everything could be accessible via public transportation or walking and really not have to rely on a car and not have to rely on finding parking. That being said, I've been to Lamplighter multiple times both walking, friends of mine who have used ride share, has never once have we noticed any problems making our way there. And going there is a great, it's a great space that they've set up for the community. I think it's really brought life to the community. Really created a great vibe, and I think all the patrons there, they're not patrons who are going to some sporting event or sporting bar and getting rowdy at night. I think they're really there to have a sense of community, play games, read books, discuss all different type of topics of their job scene. So I think the entire patron group itself is one that just really wants to be part of the community and partake in what the community has to offer.

And I think the Lamplighter created an amazing space for that to happen. And I think it would be a great disservice to prohibit them from growing to accommodate the growing city that we live in. And I think the city has so much opportunity ahead of us and so much is going in all around us. I think growth and change is inevitable. We're going to have traffic.

Mass. and Main is opening up almost 300 apartment buildings just a couple blocks away. That's going to bring in a lot more traffic.

The Volpe Center is turning into a massive development. That's going to create a lot more traffic up and down Broadway and all around the city. So I think we're just in a day and age where change is inevitable. And I think we have to support the businesses to allow them the opportunity to grow to support the growing community as well.

Thank you.

CONSTANTINE ALEXANDER: Thank you for coming down.

Sir.

DAVID PINKUS: Thank you.

I'm David Pinkus (phonetic). I live at 32 Elm Street. I've lived here for -- I came up for grad school at MIT in '93. I moved 259 Broadway right across from squirrel brand in '95, and I'm at my building for 21 years. I'd like to thank you guys by the way for your service to the City of Cambridge. And thank very much for developing the -- managing the building right across the street from Mulano gas station right down Clarks and Broadway. Very difficult parcel to develop. You guys did a great job. I followed it very closely. It's a thankless job you guys are doing. Thank you. Okay, now the Lamplighter. So my backyard is their taproom. I live right next-door. I spend time out on my back deck or in the backyard all the time. This winter was fantastic. Had most of my lunches in February out back. If there is any noise whatsoever from

them, I'm gonna hear it first because their existing taproom, the big window in their existing taproom is my backyard. So I'm not worried whatsoever about an expansion into the back of their building, a conversion of their kind of like warehouse space to more taproom space, because I know it's going to be the same experience for my next-door neighbors Chad and Rob here and Bruce who is in between us, they're going to have the same experience I've already had. I get more noise from their rooftop mechanicals, but, you know, people are allowed to have rooftop mechanicals as long as they're, you know, within the Cambridge sound ordinance and all that. That's where most of the noises come from, from the air conditioning on the roof. But, you know, people can have air conditioning. I would like to point out that our little micro neighborhood has really changed. All my friends and neighbors are here.

JEFF PURCELL: (Inaudible).

DAVID PINKUS: And Tremont Street is packed, no

question.

CONSTANTINE ALEXANDER: No private dialogues, also. And also stay on the subject, please.

DAVID PINKUS: Certainly. Their use -- our little neighborhood used to have four little garages and a gas station. We forget how noisy it was all day long, clang, clang, clang. Whiz, whiz with the air tools. This was loud. That's all gone. It is so much quieter. All the cars that used to double park constantly all along Broadway, because people would come up to the garage, double park, run in. That's all gone. Since the garages all gone, new residential mixed, mixed income housing has come in, the nature of the neighborhood, our little micro neighborhood has significantly changed. Since Lamplighter has come in, there's so much more foot traffic. It's fantastic. You don't feel like this little industrial, you know, wasteland strip anymore that we -- that's what it used to feel like in the evenings because, you know, garages would shut down.



CONSTANTINE ALEXANDER: The night is getting a little late. The issue of whether Lamplighter can continue is not before us.

DAVID PINKUS: Got it.

CONSTANTINE ALEXANDER: Okay? The question is whether he should have increased seating capacity, which under our Zoning By-law requires off-street parking which they don't have.

DAVID PINKUS: Correct. So --

CONSTANTINE ALEXANDER: That's what -- address that.

DAVID PINKUS: So I wanted to address that exactly myself. So I took it upon myself over the last month or so and I did a survey of all of the parking along Broadway in the Business A District from two blocks to one side, two blocks to the other, from Windsor Street to the end of Sennott Park. There are 98 spots between Windsor and the end of Sennott Park. And I'm not including the even more

spots which would be on the other side of Prospect, because there's an additional business district. That's already two and a half blocks away. We'll leave those out. 98 spots. And they break down as follows:

There are 36 of those spots along Broadway are residential permit spots. There are three handicap spots. There are 12, two-hour spots. Four meter spots. And there are 31 what I call Business A spots that are -- there's no signage on them. So anybody can park there, but you're still restricted to 24 hours because there's a Cambridge rule of 24 hours unless you're a resident permit in a resident spot. And there are 13 spots that get added at the bus stops overnight because between six p.m. -- between seven p.m. and six a.m. you can park overnight in the bus stops. So that leaves a total of 39 spots that are residential permit or handicap, but those are for the residents. So ignored those and I focussed just on the 59 other spots. And so every night anywhere between 7:30 and

11:00 o'clock, I went out and counted. There were a minimum of 12 empty spots. And I counted over 25 nights over -- a hair over a month. I didn't go out every night. And there were a maximum of 31 spots available. Tremont Street, always packed. Harvard Street, always packed. But Broadway there's a different story. I agree, Harvard Street's always packed. Tremont's always packed. But along Broadway they're always spots. We're all entitled to our own opinions, but we're not entitled to our own facts. So I took the data and I'm happy to submit them.

CONSTANTINE ALEXANDER: Sure. Give it to me and I'll put it in the file.

DAVID PINKUS: And the one real benefit that I never expected from Lamplighter is, it's a taproom. This is a family-friendly joint. You come by in the mornings, and thank you for expansion of their Sunday coffee hours, the stroller set in in there. It's incredible. People are sitting there bouncing their babies and their toddlers on

the floor playing board games.

CONSTANTINE ALEXANDER: Thank you.

DAVID PINKUS: Thank you.

CONSTANTINE ALEXANDER: Thank you.

CHRIS WALTER: Chris Walter. I own the business at 283 Broadway and it's a little bit across the street at 296 Broadway. You may be familiar with it. Yayla Tribal Rugs. Owned and run that business for 25 years at that location and then ten years prior to that at 308 Broadway. I would like to -- I beg to differ with the previous speaker. We run a business there. People have to drive to get there. Rug customers generally have to drive. But we don't have a lot of traffic. For us having two people, two cars having to park at one time is unusual. Maybe maximum three. But Saturday afternoons are an important time for our business. And for -- we've noticed a big transition within the last couple of months. Saturday afternoons it's become very, very difficult to find a space. In fact,

contrary to what the previous speaker just said, it's always hard for customers to find parking on Broadway. That includes our block which is diagonally across from the brewery. And I would say, I did not oppose the brewery. I still don't oppose the brewery. If we took that, took an indifferent -- not an indifferent. We took a wait-and-see stance toward it. And I'm not opposed to it now. But parking is an essential issue for our business. And the transition in the neighborhood over the last three months is very indicative of what's coming. It's not --

PATRICK TEDESCO: Can I ask you just to elaborate what are your hours of operation?

CHRIS WALTER: Our hours of operation are ten to six seven days a week. So we -- obviously there are, there are hours when there's no conflict. There's no conflict weekdays -- basically weekdays there's not much of an issue. I don't think there's much -- I don't think this new business has much clientele before six p.m. on weekdays.

PATRICK TEDESCO: But you're on saying Saturdays?

CHRIS WALTER: Saturdays and Sundays and Sunday afternoons. We had an issue of tour busses that were parking right on our block. I did speak to the owner of the business. He's tried to cooperate with us in that regard. And since we spoke -- since we spoke about three weeks ago, those tour busses have not been there. But I think this is something that should be on everyone's radar. If those tour busses park on our block, they block the whole block. And the tour buses parking there, I'm not, I'm not suggesting that they were invited by them, but they were -- the brewery was the landmark, the destination for their parking. If the tour busses don't come, well and good. But aside from the tour busses, they're a tremendous increase in parking from three p.m. on Saturdays. Three p.m. to six p.m. is a very crucial time for us. And if people, our customers generally from -- they come from the suburbs. They come from other parts of Boston, from Brookline, and they drive. Rug

customers have to drive. Parking has always been an issue. I'm not saying that -- I'm not saying that this is a new issue, but the issue has become much more intense.

I also live across the street at 296 Broadway with my family. I have the same concerns that other people have mentioned here, that if you go out in the evening, and everybody wants to go out in the evening, occasionally you have to think twice, three times should I go out? When I come back, will we find a space? If it's an evening before street cleaning, then you go out and you don't want to come back after midnight when they close, where do you find a space? These issues are there for everyone who lives in the neighborhood.

CONSTANTINE ALEXANDER: Thank you.

CHRIS WALTER: But for our business it's a big concern on weekend afternoons. And my, my point of view is fine, it's a new business. We support new businesses. But parking, parking spaces should be required in relation to

the number of, in relation to the number of -- the number of clientele which patronize the business. And I have to say I dropped by there on a Saturday afternoon three weeks ago and I was amazed at how many patrons there are there on a Saturday afternoon. This was not late. It was around three o'clock. And just from a visual on my side, I would say there was probably easily close to 100 or over 100 patrons there on a Saturday afternoon. That's a big impact for us.

CONSTANTINE ALEXANDER: Sure. Okay.

Anyone else wishes to be heard?

Ma'am.

LILY BAPTISTA: Hi, my name is Lily Baptista. I live on Broadway. I've lived there 40 years and I've definitely seen a huge difference in the last several months with parking. Like the gentleman said, it's always been an issue but it's gotten much worse. I look out my window every night, out on Broadway, and I cross my fingers because my mother's 90-years-old, has a home health aide and I'm



praying that she's going to have a parking spot outside my house. And if she goes around the neighborhood a few times, and doesn't find one, she leaves and then I'm stuck. I'm stuck there. And my mother's stuck without a home health aide. So I definitely seen a dramatic, dramatic increase in parking outside on Broadway.

So that's it.

CONSTANTINE ALEXANDER: Thank you.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: Okay, thank you all for coming and expressing your views pro and con. I will close public -- I won't -- I have to do one other thing. We have many, many letters in our files and petitions, almost all of which are in support of the relief being sought. But there are some that are opposed and they were well expressed and they've been expressed -- the reasons that are expressed in the letters have been expressed by those who have spoken

against the relief tonight. So I don't propose to read any of the letters because we'll be here until two in the morning, and I don't think there's any point that's made in these letters that hasn't already been made by one or more of the people who spoke tonight.

So I'm going to close public testimony. Mr. Hope, do you have any final comments, but make them brief, please.

ATTORNEY SEAN HOPE: Okay. Just a couple of points. I think what we've heard tonight is that parking in Cambridge is challenging. Parking in Cambridge close to a Business A District like a Broadway is challenging. What we haven't heard, maybe except for the last speaker, was that parking wasn't challenging before and then since Lamplighter came parking has been exacerbated. The last speaker did say that. But the numerous speakers and the letters in the file we've heard parking is challenging. When we came before the Board the very first time and had to get a Variance and Special Permit, these were the same concerns that we were

dealing with. Those concerns that we were dealing with then in terms of then of traffic and parking haven't necessarily gotten any worse or there's no evidence that they've gotten any worse.

I've heard funeral. I've heard soccer. I've heard there's now a new Montessori school that opened the block right next to that. So there is more activity coming to Broadway. But what we haven't heard is that this use and the parking associated with this use has gotten any worse. So I think that's one point.

The second point is I think there's a difference between cars and people. The idea that you see lots of people outside, right, means the business is booming, is attractive. The use is already established. We already have the use is allowed. So the real question is are these people related to cars? We did our survey. And I think the veracity of the survey, we asked them to do as detailed as possible, to really figure out, our patrons, how are they

getting there? I think the data is clear that the majority of patrons aren't driving cars. So you're right, if this was an issue about nuisance and noise, I think that would be a different question before Board. If the idea is that more seats inside was going to make the nuisance -- exacerbate the nuisance, I think we're making the argument, we're actually trying to bring people inside not outside. I think it's also important to know that the area inside is not going to have any operable windows. It has a window but not operable. So, again, I think if we look to the idea is the parking reasonable? And part of the additional Special Permit criteria says in light of some certain factors, is less parking reasonable? And I would say it is reasonable. Why? Because the majority of our patrons are not driving cars. So they're not going to make a challenging situation specifically worse.

Also the fact is that if the Board decided to reject this Special Permit request, we could have the same

amount of people in that back area possibly standing up. We're not looking to do a rowdy bar type scene where people are standing up. We're actually looking to have patrons. And with seats your capacity in terms of functionally is capped. We have a big space in the back with a bar. You could have that. So I think the idea that rejecting this Special Permit would somehow reduce the amount of people is actually not accurate.

I would just like to clarify that there was an assertion made that they were looking to do a club. They were looking to do -- at the License Commission, they were looking to do a trivia night, and part of that application requested non-amplified acoustical music. They -- there was some opposition. They dropped that because that wasn't the focus. This is not a club. We're talking about trivia and board games and strollers and families. There is the pub component, but it is not a sports bar. It is not Tavern in the Square.

I would just like to say oftentimes the Board is hearing about an existing commercial use in a residential neighborhood. Where this place has been there but you're in a residential neighborhood. And somehow increasing that somehow is changing the character of the neighborhood. I can't stress this enough, this is a Business A District. You can see that you have more and more and more businesses coming to the area. This is what the city is promoting. Part of the idea of active retail use, we were encouraged to not wall off the brewery that you couldn't walk by. We were encouraged to have accordion and glass, to be able to have an active streetscape. So part of the issues with the neighbors that they may have issues with is really running up against the Business A use.

The last point I'd like to make, the rug store owner. I'm sympathetic. I hear what he's saying. But I am somewhat troubled because this is about competition. The idea that you have two businesses that are both allowed to

be there but one business may draw in more patrons and so somehow it's tougher for another business. I don't think the Board is in -- is not inclined to pick one business versus the other, not that I'm saying it would do that. I would just say if you have two businesses and there is parking along the thoroughfare, the fact that one business draws more patrons than the other, that's commerce. That's nothing to do with causing a nuisance. I think the standards that the Board would normally look at how is it impacting the neighborhood? I have to say that the neighborhood has to include the commercial uses, which is allowed and permitted on the Business A, and then also the adjacent streets. And you've heard from the Tremont Street, both -- there are two neighbors. There are sets of neighbors that said there's not an impact, we said that this is not noisy. And you have other group of neighbors saying that there was. And I -- so I say, you know what, there's someplace in the middle. But I would just want the Board to

focus on the Special Permit criteria as well as the additional Special Permit criteria. And I do believe that the additional seating where, it's located and how it's going to be used, would be reasonable in light of what we presented.

CONSTANTINE ALEXANDER: Thank you.

I'm going to close public testimony now, and I think it's time for our Board to deliberate I have some observations, but I would be happy to let other people go first.

BRENDAN SULLIVAN: Well, breaking it down to the simplest terms which I can only do for me is that what you're attempting to do is you have people on the outside waiting to get in. And you have this area which is now storage. So logic would be why not use that space, have the people come in off the street and use the space? What's triggering this is the seating. So that people -- you could abandon the warehouse function and you could just have it as



a standing room only area. Where if people wanted to have an iced tea or a brew or whatever, they could still have it. It's really the seating.

ATTORNEY SEAN HOPE: That's right.

BRENDAN SULLIVAN: And your argument would be that it would not attract any more people because there's only so many people that this building can hold.

ATTORNEY SEAN HOPE: That's right.

BRENDAN SULLIVAN: Except as we pull more people in, absorb them, maybe there may be a few people on the outside but it's probably constrained by the size of the building I guess.

ATTORNEY SEAN HOPE: That's right, that's right.

BRENDAN SULLIVAN: So it's really whether or not they sit or stand, I guess, is really what it comes down to.

ANDREA HICKEY: Right. And to add to that I almost think having seating reduces the number of people. You could pack more people in there standing up as of right.

JIM MONTEVERDE: Yeah. The typical load calculation for occupancy, it's half for seating versus standing. So that's the point you made and that's -- and that case academically it's absolutely correct.

ATTORNEY SEAN HOPE: It's more articulate than I put, but that's right.

PATRICK TEDESCO: Do you know offhand what your capacity is, what your allowable capacity is?

ANDREW JONES: Yes, our capacity right now is 106. It was originally 70 and that was the capacity of the space. Yeah, the capacity of the space if everyone was sitting down. So we went back to ISD and said well, that's not realistic. There's no accommodation here for standing room, and designated the three areas where people were standing and did the standing calculation there instead. And now the calculation is at 106.

PATRICK TEDESCO: And with the 35 seats, and the additional space, the additional square footage, because the

square footage allows more capacity.

ANDREW JONES: Yeah.

PATRICK TEDESCO: Your capacity would be?

ANDREW JONES: It would be an additional 70 people. 74 people? An additional 74 people.

ATTORNEY SEAN HOPE: Maximum.

PATRICK TEDESCO: And you're proposing in that same space you would at the most have 35 people sitting as opposed to --

CONSTANTINE ALEXANDER: Tables.

PATRICK TEDESCO: 35 seats.

ANDREW JONES: That's correct. That's how it works currently. And our proposal -- in the beginning we could have built the taproom at really at any size. The size that it came out with 70 people originally and now 106 was kind of an arbitrary number. The only designation that we have is 35 seats.

ANDREA HICKEY: I'm sorry. Would there been

standing room in where the 35 seats are as well?

ANDREW JONES: Yes.

ANDREA HICKEY: All right. So then the seats do not limit the number of people?

ANDREW JONES: They do as the seated area that's delineated is calculated at whatever the calculation that is lower. So, you know, we would designate the seating area as seating capacity and then the standing area would be at standing capacity. The limitation with those numbers and how we came to that calculation is that's what our bathrooms will allow us to accommodate. Our fire safety, our exits, our door sizes, and all of those things -- because capacity is ultimately a Building Code thing is my understanding.

JIM MONTEVERDE: Correct.

ANDREW JONES: Is that our bathrooms can accommodate up to this many people.

PATRICK TEDESCO: And when people are waiting on the sidewalk, they're waiting for a table?

ANDREW JONES: No. Sorry, no, they aren't.

They're just waiting to get in.

PATRICK TEDESCO: And so you -- okay. So you do meet capacity on occasion?

ANDREW JONES: We meet capacity. And actually why we think that this is not going to be a thing where it particularly attracts more people, is that on Tuesday through Thursday we don't hit capacity in the front taproom. And I can't imagine that just building additional space when the current space is not as capacity is really going to attract anybody additionally. And then on weekends and Friday nights we do hit capacity in the front space. And so the idea is just to be able to get these people in and off the sidewalk and back into the space. And then additionally since we probably don't expect to be using the new space for overflow seating on Tuesday, Wednesday, and Thursday, it would be a great place to do things like guided tastings and just give us an opportunity to have -- let office people

rent it. There's all sorts of additional uses we think that we can use that space for that don't involve maxing out or adding more people necessarily in that space.

CONSTANTINE ALEXANDER: My observations are as follows:

This Board created -- from a legal point of view, the Lamplighter. We had to grant zoning relief, which we did a few years ago. I think on balance the decision we made was correct. I think you brought something to this community. You helped liven up a neighborhood that is somewhat mixed in terms of resi -- it may be zoned business, but it's resident -- largely -- not largely, but a significant residential component. And I think we made the right decision. But the question is whether it's too much of a good thing. And that's what the neighbors are objecting to right now. Is that you're going to increase the capacity. I don't care how you're going to do it. You're going to have more people coming, and maybe it's

going to tip the balance for the neighborhood. Maybe we didn't appreciate the problems your business now creates in the neighborhood, but you're hearing from the neighborhood that we're afraid it's going to get even worse. You know, maybe they're right, maybe they're wrong. I don't know. But we have -- we've dealt with this kind of a problem before. Maybe it's not a good idea here, but I'll throw it out to the board members to consider. And let's just -- let's run a test case. Grant the Special Permit for two years only and you have to come back to us to get it renewed. And in those two years you'll see how well -- whether the comments you've made about null impact of the neighborhood are true. And also incentivize you to manage the business and the people on the sidewalk and the noise and the open windows in a way that would allow you to get your Special Permit renewed. So I think that's how I would go, is I would grant the Special Permit, because I think on balance what you're doing is right. It's good for

the city -- not right. It's good for the city. But I also want to see how it works for the neighborhood. Because it is at the end of the day more people using your premises. More people coming to the premises. Maybe they come by Uber. Maybe they're going to ride their bikes again, but maybe not. We've heard a lot of comments from people who live there who are saying the current use of the property creates parking problems. How much more will be created by the Special Permit you're seeking tonight? I don't know, but I'd like to find out. So that's the thought I would throw out to board members to think about. Is to grant the Special Permit, but with a, a couple of years' time frame and come back and revisit this with the neighborhood.

ATTORNEY SEAN HOPE: Could I just quickly just address that?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: So what I would just like to point out that the neighborhood on balance was not united in



saying that Lamplighter had made it worse. There were direct abutters that actually said that Lamplighter's use did not make the parking worse. I want to point that out.

The second point is I think it would be very challenging to know even in two years whether the parking is totally associated to Lamplighter. We've just introduced several new uses right in this area, and there's more coming. So the idea that in two years that the people who think there's a parking issue now, would say well, it's because of Lamplighter and their growth that's leading to -- is just very challenging to do. And so that's the only reason. I respect the idea on balance to see the test case. But I just think even today, even our own parking study wasn't -- it's hard to be scientific about it. And that's just the point -- that's the challenge I think that we have. That it could be the case that the people who also have the issues, but have the issues anyway regardless.

And the last piece is it does take time and

resources to build out this room. This is not just putting up a party wall. And I think the idea of having this for two years and then having it pulled away because the same people are anecdotally saying things are worse and it's your fault, is a little bit of a setup I think.

CONSTANTINE ALEXANDER: You're assuming that this will be anecdotal and the like, we don't know. I mean the two years will give you -- you have the opportunity to create factual basis for your case. And it will also allow the neighbors to do the same thing. And in terms of the other -- and uses in the area are going to increase the demands on parking, I assume that's right. But, you know, at the end of the day from the city's point of view, maybe these new uses have a better call on parking in the area than your expanded use of the premises.

ATTORNEY SEAN HOPE: I guess the challenge is how would we --

CONSTANTINE ALEXANDER: I don't know that. But

that's the thing you'll have to prove to us and the neighbors would have to prove to us should we do what I'm suggesting.

PATRICK TEDESCO: If I could, there was a case very similar to this two weeks ago on Cambridge Street for the sushi restaurant that was looking for 24 seats.

CONSTANTINE ALEXANDER: Right.

PATRICK TEDESCO: Four spaces.

CONSTANTINE ALEXANDER: Sean represented the petitioner.

PATRICK TEDESCO: I don't think so.

CONSTANTINE ALEXANDER: You didn't?

ATTORNEY SEAN HOPE: No.

PATRICK TEDESCO: And what I recall -- that was the first case like this that I had heard. But I think, Gus, you made a point, and this is how I see this Ordinance, if this was enforced across the city, there would be far fewer restaurants, there would be far more surface parking,

far less open space, far less housing. We cannot imagine -- and this was East Cambridge, Cambridge Street, which is even more dense than Broadway. And I lived on the corner of Norfolk and Broadway for -- 20 years ago for many years. So I've seen the neighborhood change. This is to encourage urban uses. This is to encourage urban neighborhood uses that people would be deterred from driving because they can't find parking. And I realize that this part of the city is at a tipping point where 20 years ago it was very easy to park and you didn't have to circle the block several times to find a space. And now it's changing. It's becoming more dense. There probably are more -- fewer houses maybe, but perhaps more cars, more commercial uses. So it's at a point where if you enforce this parking requirement for businesses, that's not the kind of city that we want to have. We don't want surface parking. We want to discourage people from driving. And, yes, I realize that in a residential district that applies to commercial district,

that it can impact residential parking, especially for someone lives in North Cambridge can simply drive here and use a resident spot if they choose to go to Lamplighter. And that's, you know, true for every neighborhood in the city, right?

And so I just remember, Gus, you had made a point and there was little to no opposition to that restaurant. Maybe it has to do with the fact that this is new and it's part of the changing neighborhood, but I think there was one letter of opposition to the Cambridge Street.

CONSTANTINE ALEXANDER: Right. That was irrelevant to the --

PATRICK TEDESCO: Right. And it seemed to me a reasonable thing to grant simply because the ordinance itself is not what the city, from a planning standpoint, wants to encourage. Recognizing that there is clearly opposition in this case.

CONSTANTINE ALEXANDER: With regard to that prior

case, and I'm well aware of that and I mentioned and I forgot, that was a completely different situation. It was a neighborhood restaurant. People were going to walk there. You don't drive from North Cambridge. There are plenty of sushi place toss go to. So the additional strain on parking that would result in the relief we granted I thought was negligible. It's clearly not going to be the case here, it seems to me. I think you create more seats, 35 seats, in an already popular operation, more people are going to come. Where they're going to come from? I don't know. I mean, are they going to park, are they going to take a bike? I don't know. But I'd like to find out. But I don't have a way of finding out -- we can guess tonight or we can find out. That's my view. Very simple.

ANDREA HICKEY: But I'm not sure in two years we're going to know if there is an increase in parking issues that it's due to the applicant.

CONSTANTINE ALEXANDER: We may not. But we can

find -- we'll know in two years what the parking situation. The neighbors would have to come in and convince us that the parking's gotten worse and it's gotten worse because of the increased capacity of the Lamplighter. That's how I see it. They may not be able --

ANDREA HICKEY: It's the second part of that that I think is just unworkable.

CONSTANTINE ALEXANDER: Just as well.

JIM MONTEVERDE: Can I ask a different question?

CONSTANTINE ALEXANDER: Go ahead.

JIM MONTEVERDE: If we were to deny the request, can you as of right take down your storeroom and just increase the standing capacity?

ANDREW JONES: That's our understanding. We would apply to the --

JIM MONTEVERDE: It's not a zoning issue?

ANDREW JONES: No.

ATTORNEY SEAN HOPE: That's the point. It's not a

zoning issue. There are other administrative agencies that would -- because we have -- we have alcohol there. So there's a change of premises. But from a zoning perspective, there would not be any relief required.

JIM MONTEVERDE: And you have the total capacity, and you have egress capacity, and you have all the other capacities in your infrastructure, you could accommodate those people inside standing, correct? And all that brings you here is you could --

ANDREA HICKEY: They're going to sit down.

ATTORNEY SEAN HOPE: It's tables and chairs.

JIM MONTEVERDE: In that case in my mind, unless you move those chairs out, they're all collapsable and you're going to clear it out and standing room actually, with the seats you're going to have less people. So we can deny you. You can go ahead take down the storage room, stand everybody, increase the standing traffic. Whether people drive, fly, come in by helicopter, it could just



happen. We wouldn't have done anything to help it.

PATRICK TEDESCO: And I would suggest create more of a bar type atmosphere where you can get more people in to drink as opposed to more of potentially pub restaurant type atmosphere.

And you're not increasing your toilet room capacity as part of this improvement?

ANDREW JONES: Looking at it, we might have to add a women's room toilet in order to -- we're a little unclear in order to add about ten people I think. We can do it this way, it just might not be 70 people, it might be 50 people I think.

JIM MONTEVERDE: So is there some cap then in terms of capacity that you're projecting or that you're thinking about?

ANDREW JONES: Say that again?

JIM MONTEVERDE: Is there a cap? In other words, we're all uncomfortable about the number of people. If

you're increasing the people, you're increasing the traffic.  
If you do this and this one you do 35 seats, you have a certain head count, is that what you're willing to cap it at?

ATTORNEY SEAN HOPE: So he's saying --

ANDREW JONES: Is 35 people -- with the 35 seats?

JIM MONTEVERDE: No, whatever your -- what's your allowable capacity?

ANDREW JONES: Right now it's 105.

KAYLA MARVIL: 106.

ANDREW JONES: 106. So if we added the back space, it just wouldn't do anything to alleviate the line issues.

JIM MONTEVERDE: No, no, I get it. But would you accept kind of a capacity?

ATTORNEY SEAN HOPE: So if we picked a number and we said 140 or 150 that was below what we could do the maximum, but is that the question?

JIM MONTEVERDE: Something. To the point of don't come back. That's your max.

BRENDAN SULLIVAN: Certain capacity triggers Building Code issues.

ATTORNEY SEAN HOPE: I would also say that I think that capacity issue may be a challenge about enforcement. Not that the petitioner wouldn't comply. I'm just thinking about coming out there, the state building code has a capacity limit based on fixtures, and that's what we're relying on. But to answer your question, I think there probably is a number that's less than we can do that would be --

ANDREW JONES: We picked that number as we thought -- I mean, it's roughly the same size as the front space. But we actually picked a lower number instead of doing the 106, the 70 number is smaller. And part of that was based on we found that the busiest times when we were at capacity, we had about 45 to 50 people out front. So to be

able to accommodate pretty much everyone that was out there with, you know, a little bit of extra leeway for anyone else that was coming. So the idea wasn't to be able to pack in as many people as we possibly can. But just literally to accommodate what the demand says is there already. And again to reiterate a point I made earlier, looking at the crowds that we have on Tuesdays, Wednesdays, Thursdays, and Friday up until very late evening, it's just not full even in the front space. So I just don't think that building this back space is necessarily going to add additional people above and beyond what we are seeing already. Because right now there's -- I mean, it's busy, it's full, but we're probably at 45 or 50 people because most of the people that can't sit aren't going to hang around on a Wednesday evening. Our crowd on Wednesdays and Thursdays are there because it's a calm place where they can play board games and where they can, you know, to have a latte while they're doing their work during the afternoon and transition to a

beer in the evening. If they can't sit, it becomes a much more difficult environment for them. So that's why we're applying for this many seats. It kind of seems to be a nice balance with the size with what we're seeing as far as crowds go. Again, we're not trying to add 200 additional people in here and then jam everybody in.

JIM MONTEVERDE: Okay.

CONSTANTINE ALEXANDER: Other comments? Ready for a vote?

JIM MONTEVERDE: Yes.

PATRICK TEDESCO: I think so.

CONSTANTINE ALEXANDER: Okay, we have to make a number of findings.

The Chair moves that we grant the relief requested regarding the -- not being required to have 35 parking spaces for the additional 35 seats that the petitioner desires to do.

First finding is that by reducing the parking

requirement for our Ordinance we believe that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses, or otherwise adversely impact the neighborhood. In making this determination we have taken into account the availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of an MBTA transit station. And that there is other -- the availability of public or commercial parking facilities in the vicinity of the use. And that -- the rest is not relevant.

Furthermore, there are -- that's the first finding. The second finding is regarding the Special Permit itself. The general requirement for all Special Permits in our Ordinance. In that you have to get a Special Permit from us to meet the requirements of the Ordinance because the Ordinance does require a parking space for each additional seat.

That traffic generated or patterns of access or egress resulting from the elimination of the parking -- or not the elimination, by not requiring additional 35 spaces, will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected if we don't require the 35 seats.

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

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

So on the basis of all these findings, the Chair moves that we grant the Special Permit requested to not require the 35 additional parking spaces that would

otherwise be required under our Ordinance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special  
Permit granted.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

\* \* \* \* \*

(10:10 p.m.)

(Sitting Members Case No. BZA-012356-2017: Constantine



Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012536, 229 Lakeview Avenue.

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

CAMPBELL ELLSWORTH: Yes, good evening. My name is Campbell Ellsworth. I'm an architect for the client.

WOJCIECH SZCZERBA: Wojciech Szczerba,  
W-O-J-C-I-E-C-H S-Z-C-Z-E-R-B-A.

CAMPBELL ELLSWORTH: We are here tonight requesting two variances for the addition of a -- to cover an existing, a portion of an existing second floor porch on the back of the house at 229 Lakeview. To mention, we were here two years ago for the Variance. The Variance was granted for reasons that Wojciech will articulate. He missed the opportunity to act on that Variance. That Variance expired and -- but he would like to still perform

the work. So we're back requesting again.

Just the project, Wojciech and his wife bought the house in 2012, undertook a significant renovation. It was a two-family house, turned in into a single. We did an as-of-right renovation to that. I was his architect at the time. At that time it was Wojciech's decision to take down that back small roof that covered that back porch. In hindsight, just to be clear, that was, you know, a mistake that sort of put us here. Meaning that that came down, we put the drawings together for the as-of-right condition, we were right up against the FAR, the allowable GFA. Wojciech came back sort of two years later to request, the Variance was granted. Based on his then experience of having lived in the house for those two years, we've now been there five years, the need is still and the desire is still the same. I want to just indicate briefly there's been some significant outreach to the community again based on the neighbor lists and the abutters' lists that Maria Pacheco

puts together. Wojciech has provided an extensive letter and has gotten, we've gotten six responses, six positive responses, including the direct abutters on either side and across the street. No evident letters of opposition.

I think I'll let Wojciech address sort of the need and specifically sort of how the -- how acting on the Variance was missed.

CONSTANTINE ALEXANDER: Well, let me -- if you want to speak, fine. It's not relevant to us tonight. I mean, for whatever reason you missed it, you missed it and now you need to get a new Variance. You don't need to apologize or explain. We can just move on to the merits.

CAMPBELL ELLSWORTH: Okay.

CONSTANTINE ALEXANDER: I mean, it's up to you. I'll give you leeway. The hour is getting late.

WOJCIECH SZCZERBA: I'll do it very quickly. In 2014 we had a little bit of turbulence in our family life, and so it was difficult for first of 18 months of life from

the Variance to focus on it. And actually I went back -- went to the Building Department to request -- to apply for a Building Permit in June 2016. And absolute certain on my part that the Variance was valid for two years. Just my mistake. And that there was no more, there was no more to it. These are six letters of support. This one is written on the letter I distributed among the neighbors. It was all together about 20 letters that I dropped off or put in the door as indicated by the department. I'm not aware of any opposition, but I know that I would be or not.

CONSTANTINE ALEXANDER: Okay.

WOJCIECH SZCZERBA: Well, the reason we took this roof down, it was in bad repair. And indeed it -- and also in order to comply with FAR requirements and do it as of right, we took it, we took it down. I never had intention of putting it back. It's a -- we are a family of three plus a dog. And we have 27 or 2800 square feet. So we have

certainly enough of living space. And the reason we added the dormer was that the stairs to the attic were not sufficient for -- didn't have sufficient height so we needed to do that. Adding dormer for the stairs. The logic followed that if we extend this dormer, then we could have a bathroom to the attic. And having lived there for now five years, our master bedroom, our bedroom is the back room which now has no roof and it often impacts quality of night. When it's raining, it's strangely noisy to the point that if we sometimes know that there is going to be very heavy rain, we actually on occasion go to sleep in guest room because it's quieter. There's elements, that's an issue. The door from our bedroom to the deck outwards. So the -- this year I found -- for the first time, I found myself climbing the ladder to get to the deck to clear the snow. Normally I was able to just push the snow out. There's one occasion when heavy snow fell and then we get the froze and I just couldn't put -- move the door. And that would be another

reason for it. There is also sometimes in winter when there are no leaves, the issue with blinding light and sunshine. But -- and for these reason we would like to reinstate the, it would be identical to --

CONSTANTINE ALEXANDER: That's one of the my first questions. I have two questions. You just answered the first one. This is -- the plans to this are identical to the ones we approved the last time?

WOJCIECH SZCZERBA: Yes.

CAMPBELL ELLSWORTH: Yes.

WOJCIECH SZCZERBA: And we also last time raised the possibility of me wanting to enclose the porch. And as I stated then, I can state now, that we have absolutely no intention of doing so.

CONSTANTINE ALEXANDER: Okay. That's the second question I was going to ask. We had a condition the last time you cannot enclose the roofed over deck.

WOJCIECH SZCZERBA: Yes.

CONSTANTINE ALEXANDER: Is there any reason why we couldn't impose it from your point of view, the same condition?

CAMPBELL ELLSWORTH: No, no. They can impose the same thing, that's correct.

WOJCIECH SZCZERBA: And, again, AND as I said, we are family of three plus a dog. So we do need the space. In terms of everyday life, if the life happens on the porch and deck, it happens downstairs where we have our living room and the kitchen. It never happens on the second, second floor in the back, back bedroom.

CONSTANTINE ALEXANDER: Okay.

CAMPBELL ELLSWORTH: And just the point about the possible enclosure. The -- that you can see in the photos, and by the way, that's a photo of the adjacent neighbor, meaning this is stylistically in the spirit, actual spirit of many of the other houses. Meaning the top deck was only partially covered for some design reason. If that were

ever -- anyone ever wanted to enclose it under that, it would leave this odd portion of deck which is really not even habitable, it would be less than three feet out there. So, again, unlikely but --

WOJCIECH SZCZERBA: That, absolutely no intention.

CAMPBELL ELLSWORTH: Yeah, not --

WOJCIECH SZCZERBA: No intention, no need.

CONSTANTINE ALEXANDER: You don't want to put anything, I'm going to call it a guard railing around the exterior for safety purposes?

CAMPBELL ELLSWORTH: Oh, well there is --

WOJCIECH SZCZERBA: There is a guardrail.

CAMPBELL ELLSWORTH: There is a guardrail.

WOJCIECH SZCZERBA: There is a guardrail.

CAMPBELL ELLSWORTH: It's there. There's a full deck.

CONSTANTINE ALEXANDER: Oh, I'm sorry. You're right.



CAMPBELL ELLSWORTH: But the framework for the old roof is actually still in place.

CONSTANTINE ALEXANDER: Okay.

CAMPBELL ELLSWORTH: So we see exactly how this was built in 1925.

CONSTANTINE ALEXANDER: Okay. That's it?

WOJCIECH SZCZERBA: That's it.

CAMPBELL ELLSWORTH: That's it.

CONSTANTINE ALEXANDER: Questions from members of the Board?

ANDREA HICKEY: No.

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We do have letters of support. I don't propose to read them into

the file. But all the abutters seem to be, have expressed their view that they are in support of the petition of the relief being sought. I'll close public testimony.

Any discussion or we ready for a vote?

JIM MONTEVERDE: Ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Variances being sought. And I think the simplest way of doing this is to incorporate the findings we made with the prior application since the project has not changed. So I don't purport to repeat them. So whatever findings we made before will apply to this one as well.

And then on the basis of these findings the Chair moves that we grant the Variance requested on subject to the following two conditions:

That the work proceed in accordance with plans that are attached to a site plan initialled by the Chair,

prepared -- well, the plans themselves are prepared by Ellsworth Associates, Inc.

And the second condition being that the area to be covered by the roof cannot be enclosed which is a condition we imposed the last time.

So on the basis of these findings, the Chair moves that we grant the Variance being requested.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted.

(Alexander, Sullivan, Hickey, Tedesco, Monteverde.)

\* \* \* \* \*

(10:20 p.m.)

(Sitting Members Case No. BZA-012549-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012549, 51 Trowbridge Street, No. 3.

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

BHUPESH PATEL: Hi, Bhupesh Patel from Design tank, Inc. representing the owner.

MICHEL DAHAN: Michel Dahan. Michel spelled M-I-C-H-E-L. Dahan D-A-H-A-N.

BHUPESH PATEL: We actually came before the Board a few months back and proposed taking what is basically a three family -- this unit is on the third floor, the three family, and the plan view of the roof we had proposed putting a storage loft above the kitchen here to basically accommodate storage and along one third a large air

conditioning unit to allow central air into these two rooms and the front space because it's a loft space. We're coming back basically proposing two skylights. The roof structure itself exceeds the height. So basically about two-thirds of the skylight is in the height that exceeds what's allowed. So it's actually a Special Permit because the alteration in the non-conforming structure is the skylight in the portion of the roof that's not conforming by height.

Basically because there is not gonna be central AC, we've just proposed doing a large wall unit on the front of the loft space and just pushing that directly across the whole space to get air across the entire space and putting two smaller ones in the rooms. The skylights will provide light that will just come through down to the kitchen as well as basically drag that AC unit on one end and keep the circulation going basically ventilating all the heat that's in that attic space.

Entire project was triggered by the fact that

there are a couple that are having a child and they needed to take the second bedroom which is too small to accommodate an actual queen size bed, and it's used for mostly storage but has a standing desk, and use it as a child's bedroom. And then we eliminated a closet inside to take what is basically a large living space or living room and kitchen and reduce the closet considerably and slide the sofa and the couch into a smaller area to accommodate a tiny dining room table that can now service as the working desk for Michel. So it's just sort of contorting what is basically open loft space to reconfigure where the storage is and where a working -- standing working desk is to allow that tiny room to be used as a second bedroom.

And the skylights will provide two things: Daylight down into the kitchen and very effective removal of the heat from the attic space. So that wall unit will actually do its job. So really That's about it.

CONSTANTINE ALEXANDER: Questions from members of

the board?

JIM MONTEVERDE: No.

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

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We are in receipt of one letter which I'll read into the file. (Reading) Michel Dahan, owner of third floor unit, is hoping to add two skylights on the roof for ventilation purposes. These two skylights will be on -- looks like a type here. I think it meant to be the rear of the building, 3.5 feet from rear roof edge and 1.5 feet below the roof ridge. Michel Dahan has shared the detailed plans from his architect with the two other condo owners, Laurie Leeden, L-E-E-D-E-N, for the first floor unit and Daniel Chung, C-H-U-N-G and Joe Chart, C-H-A-R-T, for

the second floor unit. Laurie Leeden, Daniel Chung, Joe Chart all approve the project.

And that's all we have. I will close public testimony.

Ready for a vote?

JIM MONTEVERDE: Yes.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Special Permit being sought:

That the requirements of the Ordinance are such that you do need the Special Permit to proceed with the work that you want to proceed with.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. As pointed out, what is being sought here are two skylights that face the sky.

That the continued operation or development of



adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of the proposed use.

Again, in reference to the fact that these are just skylights facing the sky.

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

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

So on the basis of these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with plans submitted by the petitioner, petitioner's architect, and initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief

granted.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

\* \* \* \* \*

(10:30 p.m.)

(Sitting Members Case No. BZA-012500-2017: Constantine

Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012500, 29 Church Street.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chair members of the board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here tonight on behalf of the petitioner. This is Mr. Phil Rizzuto. Phil Rizzuto, LLC. This is a Special Permit to change ownership of an existing fast food restaurant, fast food ice cream shop. Lizzy's has been in Harvard Square and has become a staple of Harvard Square for ice cream. And Phil had been working at the ice cream shop for about eight years, and the existing owner is retiring, and he is taking over the ice cream shop, him and his dad. This is gonna be -- there's no changes to the premises. So if you would walk in, you would

not know any change, but the Ordinance does require for a Special Permits that if there's change of ownership, you have to come and get a Special Permit.

CONSTANTINE ALEXANDER: I have a burning question for you. The last time we granted relief was for 31 Church Street. Tonight you're here for 29 Church Street. What happened, did you move?

PHILIP RIZZUTO: I wish.

CONSTANTINE ALEXANDER: Is there an explanation why? The address was wrong the last time? Why 31 before and now it's 29?

ATTORNEY SEAN HOPE: What do you mean 31 before?

CONSTANTINE ALEXANDER: Right now it says -- your application says 29 Church Street.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: If you look back at the original Special Permit we granted, it was for the premises the 31 Church Street. Did they change -- just probably an

error in the --

PHILIP RIZZUTO: There was some confusion about the address. 31 is the neighbor, that's Starbucks.

CONSTANTINE ALEXANDER: Right.

PHILIP RIZZUTO: I guess that spot was an alleyway before some years ago and so --

ATTORNEY SEAN HOPE: And I actually didn't represent him on the first case. I think that was Jim.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: Just cleaning up the mess.

CONSTANTINE ALEXANDER: I know it's late. I was just asking the question. And that's it?

ATTORNEY SEAN HOPE: That's it.

CONSTANTINE ALEXANDER: Any questions from members of the board?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: None.

I'll close public testimony. I don't think there

is -- oh, yeah, we have something in our file from the Harvard Square Advisory Committee. And their comment is: Members of the Advisory Committee express no objections to the proposed continuation of the ice cream shop. That's all we have.

We have to make all kinds of findings with regard to a fast food, fast order food establishment. We made those the last time when we granted the Special Permit. I think all of those findings can be incorporated by reference to this one so we don't have to go through the whole drill.

ATTORNEY SEAN HOPE: Thank you.

CONSTANTINE ALEXANDER: So I think that's all we needed, I don't think we have to go through all the special findings with regard to the Special Permit. I think a motion to just adopt those as from the prior case and just vote to approve this change of ownership to the new petitioner.

All those in favor please say "Aye."

BRENDAN SULLIVAN: You will affirm the need?

CONSTANTINE ALEXANDER: Well, the last time I voted against it.

BRENDAN SULLIVAN: So you will affirm the need?

CONSTANTINE ALEXANDER: No.

ATTORNEY SEAN HOPE: Two times in ten years?

CONSTANTINE ALEXANDER: No, no, it's different this time.

PATRICK TEDESCO: It's ice cream.

CONSTANTINE ALEXANDER: I said it didn't fulfill the need the last time --

BRENDAN SULLIVAN: On the motion.

CONSTANTINE ALEXANDER: But all I'm voting on this time is to approve transfer of the ownership. The drawbacks are still there as before. I haven't withdrawn my -- but I don't have my problems with transfer of ownership.

Anyway, five in favor. Transfer of ownership.

Good luck.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

\* \* \* \* \*

(10:35 p.m.)



(Sitting Members Case No. BZA-012575-2017: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Patrick Tedesco, Jim Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 012575, 25 Eighth Street.

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

ATTORNEY DANIEL GLISSMAN: Yes. Good evening. Good evening. Members of the Board, my name is Daniel Glissman. I'm an attorney with Prince, Lobel, Tye. I'm here on behalf of our client T-Mobile Northeast this evening. We're here at -- for our application to modify our existing wireless telecommunications facility located at 25 Eighth Street.

This site currently consists of six antennas. We're proposing to replace three antennas and add three new antennas. This is part of T-Mobile's systemwide upgrade now for their L1900 antenna all in effort to increase --

THE STENOGRAPHER: I'm sorry, what?

ATTORNEY DANIEL GLISSMAN: L1900. It previously was L700 which you may have heard a number times.

Again, as part of an effort to increase capacity. We are seeking relief under Section 6409 of The Middle Class Tax Relief Act.

This site is also located in a residential district. It's actually located on a Cambridge Housing Authority building. And I'm happy to walk through some of the --

CONSTANTINE ALEXANDER: Well, you can. You walked through -- your predecessor walked through the same criteria the last time. And I think we can make a finding that the nature of the district hasn't changed. So to the extent that we found that despite the fact that it's in a residential district, non-residential uses predominate in the area. And those findings I think can be incorporated just so we can move things along.

ATTORNEY DANIEL GLISSMAN: Excellent.

CONSTANTINE ALEXANDER: No need to go through it.

ATTORNEY DANIEL GLISSMAN: Thank you.

So we did also hold a community meeting at 25 Eighth Street for the residents of the building. There were a number of residents that came down. Many spoke in favor of it. There was one resident that had a number of questions about EME reports and radio frequency issues. So we had, we have brought this evening our radiation safety specialist Don Haes who would be happy to answer any questions for the Board.

T-Mobile has also agreed to conduct pre and post-installation RF readings so that they can get a good baseline for the residents. It was something that one of the residents requested. So we're happy to oblige.

CONSTANTINE ALEXANDER: Last time, I remember the case before, and I remember there were neighbors -- or residents who actually showed up and were concerned about

that. And that led to some of the motions, the language we put now in our decision. I didn't get any letters this time or any -- there's obviously no one here from the structure so I guess you must have convinced them.

ATTORNEY DANIEL GLISSMAN: I think, yeah, I think we did a -- you know, we had a lot of good substantial information for them. And Don this evening would be happy to walk through for the Board if you would be so inclined of his testing --

CONSTANTINE ALEXANDER: You mean at 10:30 at night we're going to hear about this. No way.

ATTORNEY DANIEL GLISSMAN: All right. So, yeah I think we did do a nice job in answering a lot of the questions that were presented.

JIM MONTEVERDE: Don't take it personally.

DON HAES: I got my plans right here.

JIM MONTEVERDE: Keep it but don't take it personally.

BRENDAN SULLIVAN: Dan, the only question that I have and is why that the antenna can't be the same length?

CONSTANTINE ALEXANDER: I had the same question.

BRENDAN SULLIVAN: And I know you're going to say well, this one is of a certain size and this one, it's a certain size and that one. I almost like to take that housing and put it over the two shorter ones or something aesthetically.

ATTORNEY DANIEL GLISSMAN: Make longer antennas for --

BRENDAN SULLIVAN: Well, it looks disjointed.

CONSTANTINE ALEXANDER: Uniform.

BRENDAN SULLIVAN: It looks disjointed.

CONSTANTINE ALEXANDER: It does.

BRENDAN SULLIVAN: Two different, three different sizes, I guess. Now I don't know if three longer ones are going to look any better, but it's just -- it draws your eye to it somehow.

ATTORNEY DANIEL GLISSMAN: I know in the past we've offered to try and look for caps to make all of the antennas longer.

BRENDAN SULLIVAN: Oh, I'm sure they're there, yeah.

ATTORNEY DANIEL GLISSMAN: But the Planning Board and I believe this Board had decided against generally looking for longer antennas. We have, you know, this is the equipment that's available for this new upgraded network so the antennas are a certain length to be able to broadcast at a certain capacity and reach a certain user base. A lot of the power comes from the equipment centers, the actual equipment cabinets that are located within the building but they have to have a certain size antenna, if you will, to be able to broadcast that.

CONSTANTINE ALEXANDER: I think that -- I had the same reaction when I looked at the photo simulations, but at the end of the day it really doesn't make that much of a

difference. But it would be nice if they were all uniform in length, but I don't think it's something that forces us to turn it down or to require you to redesign the project, at least I don't think so. If other members feel otherwise, feel free to comment.

ATTORNEY DANIEL GLISSMAN: Don, do you have a -- something to add?

DON HAES: Yeah, certainly. If I could come up here. My name is Don Haes, H-A-E-S.

I was listening to the discussion about the lengths of antennas. The lengths of antennas are -- well, a choice of antennas are based upon efficiency. You want to have the highest efficiency antenna that you can get. And the efficiency of an antenna is based upon a correlation between the wavelength of the transmitting frequency and the overall physical length of the antenna. And then lastly the number of dipole units, the number of transmitting and receiving units, you want to get in that antenna.

So when you have a 700 megahertz antenna that has a much longer wavelength than a 1900 megahertz, then you're going to have different length antennas. Now, you can fake the length by covering them and that's the only way to do it.

JIM MONTEVERDE: A shroud or some other cover?

DON HAES: Yeah, if you put them all --

JIM MONTEVERDE: And doesn't interfere with --

DON HAES: And sometimes they try that by putting them behind faux chimney panels for example.

CONSTANTINE ALEXANDER: Right.

The only question is whether we require you to do that, the carrier. To me I don't think it's necessary. We can live with different lengths in appearance.

BRENDAN SULLIVAN: It's probably going to change another two or three years anyhow.

DON HAES: I think you've noticed that a lot of antennas are changing to be pretty much the same size now.



BRENDAN SULLIVAN: Right.

DON HAES: Because they're all trying to do the dual, triple, and quadruple pole intakes.

CONSTANTINE ALEXANDER: The only thing is my eyes glaze over when I look at these applications. Why? Why, God? Why we have these?

BRENDAN SULLIVAN: They're a necessary evil.

CONSTANTINE ALEXANDER: Yes.

The reason why we have to hear these cases, but that's the policy of the City of Cambridge.

Anyway, you've shown -- you submitted the photo simulations. They show the visual impact or the nonvisual impact of what is being proposed other than the different length of the new antenna which we've already discussed.

Any other comments or questions from members of the board?

ANDREA HICKEY: No.

JIM MONTEVERDE: No.

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

Is there anyone wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: I will close public testimony. We are not in receipt of anything. The last I looked, anyway, including any communication from the Planning Board.

BRENDAN SULLIVAN: Yes, there is. That they left it up to us.

JOHN HAWKINSON: Not that even.

CONSTANTINE ALEXANDER: I had the file right in front of me. I don't see anything from the Planning Board other than they didn't review anything.

BRENDAN SULLIVAN: It said that they reviewed all the cases and they leave them up to us. It is non-existent.

CONSTANTINE ALEXANDER: Yeah. Well, yeah, I meant they had no affirmative comments or no negative comments.

They just passed. Actually what they say: The Planning Board did not review any of the above Zoning Appeal cases scheduled for tonight. So they didn't even bother to look at them according to the letter.

Okay. I think we're ready for a vote.

JIM MONTEVERDE: Ready.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Special Permit being requested:

That the requirements of the Ordinance cannot be met without the Special Permit, at least according to our City's Legal Department.

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

That the continued operation of or development of adjacent uses as permitted in the Zoning Ordinance will not

be adversely affected by the nature of the propose -- 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 of the structure, the apartment house, or the citizens of the city.

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

Further that with regard to the fact that this is in a residential district, the findings that we made in the prior case where we granted relief, continue to hold and we reaffirm those and are part of the findings we make.

And then next we find that the modification of your existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base

station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as The Spectrum Act.

Based on these findings, the Chair moves that we grant the Special Permit subject to the following conditions:

One, that the work proceed in accordance with the plans submitted by petitioner and initialled by the Chair.

Two, that upon the completion of the work the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled the Chair.

Three, that the petitioner shall at all times maintain the proposed work so that its physical appearance and visual impact will remain consistent with the photo simulations previously referred to.

Four, that should petitioner cease to utilize the equipment approved tonight for a continuous period of six

months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent is reasonably practicable.

Five, that the petitioner is in compliance with, and will continue to comply with, in all respects the conditions imposed by this Board with regard to the previous Special Permit we granted for the petitioner with regard to the site in question.

And then next we have this long stuff about the health effects of electromagnetic transmissions. Our plan in the past is you agree, I could put them in as I've done in the past.

ATTORNEY DANIEL GLISSMAN: We did.

CONSTANTINE ALEXANDER: And you can preserve your objections.

ATTORNEY DANIEL GLISSMAN: Yes, thank you.

(Inasmuch as the health effects of the

transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with

regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit pursuant to paragraphs 1 and 2 above.)

CONSTANTINE ALEXANDER: Okay. On the basis of all this, the Chair moves we grant the Special Permit.



All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Special Permit granted.

(Alexander, Sullivan, Hickey, Tedesco,  
Monteverde.)

ATTORNEY DANIEL GLISSMAN: Thank you.

(Whereupon, at 10:45 p.m., the

Zoning Board of Appeals Adjourned.)

\* \* \* \* \*

**ERRATA SHEET AND SIGNATURE INSTRUCTIONS**

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

**INSTRUCTIONS**

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

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

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of April, 2017.

---

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

My Commission Expires:  
April 29, 2022

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME IN ANY RESPECT UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.

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