

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MAY 8, 2014

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Vice Chair

Brendan Sullivan, Member

Thomas Scott, Member

Janet Green, Member

Douglas Myers, Associate Member

Andrea A. Hickey, Associate Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members Case #BZA-002837-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

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

First continued case is 107 Hampshire
Street, No. 002837-2013.

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

CAROL MARSH: Good evening.

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

CAROL MARSH: Carol Marsh, 29
Lincoln Street, Hyde Park.

ANNE MARGARET FINN: Anne Margaret

Finn, 107 Hampshire Street.

CONSTANTINE ALEXANDER: Before we start this case I'm going to -- I have several comments to make.

First of all, when we continued the case the first time, we said that any new plans had to be in our files by the Monday -- five p.m. on the Monday before. And if you're changing the plans, we need a new dimensional form.

The last time around you forgot -- you didn't file the plans timely and we continued it again. This time there's no dimensional form.

ANNE MARGARET FINN: I didn't know we needed a dimension --

CONSTANTINE ALEXANDER: It's in the transcript. It was part of the record. And you are changing the roof height. That's not too problematic because we can figure that

out. But you're adding a very large dormer, which I'm going to get to in a second, which is going to change the FAR calculation I don't know to what extent it has without the dimensional form. That's problem No. 1.

Problem No. 2, as you know, we have dormer guidelines. You're proposing in your new plan a 22-foot dormer on a side of the building that's only two-and-a-half feet from the lot line. And I'm sure -- and looking at the pictures here, your neighbors are only two-and-a-half feet on the other side. We take these dormer guidelines seriously. We will -- I'm going to tell you, there's not a chance in my judgment and my own vote, not a chance in the world we're going to approve plans with a 22-foot dormer. So I don't know, I don't think it's worth opening this case. If you want to try one more time

to get plans that you can live with, that you think we'd accept, I'd welcome you to do that. Mr. Scott, our architect, suggested an approach. I don't know if it would work, but it doesn't seem to be followed up on.

We can take the case tonight and if you lose, you go down, you can't do anything or anything like this for two years without going through a whole long process. Or you can take another shot at this. So what's your pleasure?

CAROL MARSH: Well, can I ask a couple of questions before?

CONSTANTINE ALEXANDER: Sure.

CAROL MARSH: Since I'm an architect that was engaged after the first hearing so I wasn't here for that. And I had understood, and obviously wrongly, that the Board would be willing to consider

alterations to the house that were not in keeping with -- you know, like we might trade some Zoning and design guidelines off against others. So this has a 22-foot dormer because it's putting all of the new, the added living space on the side opposite the neighbors and their concern.

CONSTANTINE ALEXANDER: Right.

CAROL MARSH: So that's, you know, just to enlighten you. We weren't trying to --

CONSTANTINE ALEXANDER: I'm not suggesting bad faith. I'm just telling you what the odds are in the situation that you're facing tonight.

CAROL MARSH: Right. And could I ask again in, you know, in one sentence or less if you could articulate for me what the -- your suggestion was? If you recall.

CONSTANTINE ALEXANDER: Half a roof I think you were suggesting.

THOMAS SCOTT: Let me refresh my memory for a minute.

CONSTANTINE ALEXANDER: You want the transcript?

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: I'm not sure the solution will solve all the neighbor's problems and it doesn't give all the room, as I recall, you would get from what you're proposing, but again it may be half a load, it may be no load.

TIMOTHY HUGHES: And I will add that for us to deviate from the dormer guidelines, there has to be some good rationale for it. And just trying to get more -- all of your living space or increased space into one half of the building is not exactly the rationale

for relaxing the guidelines.

CONSTANTINE ALEXANDER: And we're not --

TIMOTHY HUGHES: There are rationales like staircase placements that would, you know, be cost prohibitive to change or a plumbing stack that you needed to get a bathroom in a place like that. But just to get all the space you want and to crowd it in on one side of the building is not rationale for relaxing the guidelines.

CONSTANTINE ALEXANDER: We're not rigid on the guidelines. They are guidelines. You know, so if you come in here with a 15-foot, six-inch dormer, you know, I think we'd look at it.

ANNE MARGARET FINN: Well, that's where we came in originally. I think we were trying to work something out to improve the

situation for the neighbors. But when we lowered the roof --

JANET GREEN: You lowered the roof line, right?

ANNE MARGARET FINN: -- we made a bigger dormer, so, yeah.

CONSTANTINE ALEXANDER: But we've got to live with the Zoning Code as it is. The Zoning Code has requirements, and neighbors have interests and, you know, they're protecting their own property.

BRENDAN SULLIVAN: Well, the missing dimensional form is, is quite deficient as far as I'm concerned because it, as well as the drawings, are legal documents, and we have to base our decision based on those documents. And if it's not here, not up to date, then I for one would not want to proceed anyhow.

CONSTANTINE ALEXANDER: That's right. If nothing else, we need the dimensional form.

BRENDAN SULLIVAN: Just on that face alone before we even get to the merits of your new proposal.

CONSTANTINE ALEXANDER: I agree with that. But I didn't want you to just -- to stop because of the dimensional form, file it, and come back and then you're faced with a tirade about the former guidelines. Let's get it all on the table now and you can decide what you want to do and this time get it right or get it in a way for a chance to get it by us. I don't think you have a chance. And we can't -- as Mr. Sullivan's pointed out, we can't consider it anyway because you didn't file the dimensional form.

ANNE MARGARET FINN: Okay.

BRENDAN SULLIVAN: Any changes have to be reflected in the dimensional form and the dimensional form should be reflective of any changes.

CAROL MARSH: Right, okay.

THOMAS SCOTT: I think my comments had to do with the scale of the streetscape and the size of the dormer being so close to the front of the building. Was there any way to push the dormers back so that we left the original scale of the house intact. I think that was my comment rather than bringing that dormer so close to the front of the house and interrupting kind of that flow of the street.

CONSTANTINE ALEXANDER: By the way, we have a transcript, as you know, we take a transcript. It's a public document. You're free at any time to come in and read

the whole transcript and get the full flavor.

CAROL MARSH: Okay.

CONSTANTINE ALEXANDER: It's not like we're keeping it a secret.

CAROL MARSH: Is there a -- is there an opportunity with this Board to do a preliminary review with someone? Is that something that you ever do?

CONSTANTINE ALEXANDER: Not as a Board. Mr. O'Grady sometimes will -- always is very cooperative in sitting down, but he can't speak for the Board.

CAROL MARSH: No, no, I understand that. So nobody can make any promises, but you know, in order to avoid coming in with something that is just completely a no fly, you know, would be great to be able to have a little bit of access.

SEAN O'GRADY: I'll talk to you in a

minute.

CAROL MARSH: Okay, that would be great. Okay.

CONSTANTINE ALEXANDER: So, I think we're going to continue this case one more time.

CAROL MARSH: Thank you very much.

CONSTANTINE ALEXANDER: Sure.

Now, what date would you like? How much time do you need? And then we'll see if it's in our schedule. You have to have the five of us, by the way, so you know, because we started the case the last time, the same five of us have to sit as a case continued. So we have to pick a date so the five of us are all going to be here, and it's a date that works for you in terms it gives you enough time. And remember, to the extent you modify the plans again, which it sounds like you'll have

to, you have to do a new dimensional form. And both of those documents would have to be on file with the Inspectional Services Department office no later than five p.m. on the Monday before the Thursday night we're going to hear the case.

CAROL MARSH: Okay.

JANET GREEN: And two weeks before that, you have to change the date and the time on the sign.

CONSTANTINE ALEXANDER: On the sign, yes. You did that this time.

ANNE MARGARET FINN: Yeah.

JANET GREEN: Yes, just don't make --

ANNE MARGARET FINN: Keep the sign.

JANET GREEN: Yes, keep the sign, change the date.

CONSTANTINE ALEXANDER: Well, you

can get a new sign from Maria.

JANET GREEN: Seven p.m.

CONSTANTINE ALEXANDER: Well, first of all, how much time would you like and then we'll see if it works for us.

CAROL MARSH: I'm thinking if -- we're not going to take more than a month, month and a half to have something.

CONSTANTINE ALEXANDER: So the second hearing we would have in June would work with you?

ANNE MARGARET FINN: We're going to be away right when they graduate for three weeks.

SEAN O'GRADY: We have them every two weeks. Will you be back two weeks later?

ANNE MARGARET FINN: The end of June?

SEAN O'GRADY: That would be July

10th.

ANNE MARGARET FINN: July 10th?

Yes, we can make it.

CAROL MARSH: Yes, July 10th.

CONSTANTINE ALEXANDER: Can everybody on the Board make July 10th?

JANET GREEN: Yes.

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Okay.
We're all good.

The Chair will move that this case -- don't leave, listen to what I'm going to say. No, I'm just saying you don't want to miss anything again.

The Chair will move that this case be continued as a case heard until seven p.m. on July 10th on the conditions that:

One, the sign be modified to reflect the new date, as Janet has pointed out, and the

new time.

And, two, that any new plans, and it would appear there will be new plans, must be in our file together with a corresponding Table of Dimensional Requirements, no later than five p.m. on the Monday before July 10th.

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

(Aye.)

CONSTANTINE ALEXANDER: All in favor. Case continued. See you in July.

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

* * * * *

(7:10 p.m.)

(Sitting Members Case #BZA-003377-2014:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 003377-2014, 18 Beech Street.

Is there anyone here wishing to be heard on this matter? You know all about the dormer guidelines this time?

THOMAS DOWNER: I have become very familiar.

CONSTANTINE ALEXANDER: For the record, your name and address.

THOMAS DOWNER: My name is Thomas Downer. I'm architect, 13 Region Street, Cambridge. And this is --

BAOQING YAN: I'm the owner of the property 18 Beech Street.

THE STENOGRAPHER: And your name?

BAOQING YAN: Baoqing Yan.

THOMAS DOWNER: B-a-o-q-i-n-g.

BAOQING YAN: Yan.

CONSTANTINE ALEXANDER: Okay. The floor is yours.

THOMAS DOWNER: Begin at the beginning I think?

CONSTANTINE ALEXANDER: Yes.

THOMAS DOWNER: The couple own the house at 18 Beech Street. It's an existing two-family residence. They currently live on the first floor and have no tenants on the second floor at the current time. They have two children. The current situation on the first floor is you might call it three bedroom, but one of them is more like a closet. They want to move up to the second floor to have their residence there and keep it as a three-family residence. But the

second floor is smaller as it is existing now and so they need to add some additional space for bedrooms. The current third floor is accessible by a very, very steep stair that has no headroom, and when you get to the top of the stairs, you have to step over the stairway to get from one side to the other. So, the proposal is to add a dormer to the third floor. The dormer, I believe, meets all of the conditions of the dormer guidelines. And then another small addition on the second floor over an existing first floor wing to provide them with essentially three bedrooms that they would like to have.

The only thing that we would be in -- the building is non-conforming as to front yard and side yard, but we're not making any changes to that. They're not affecting that. The only thing that we are doing is

we're increasing a non-conforming FAR by a small amount. I believe it's going from --

CONSTANTINE ALEXANDER: Currently 0.547. You're going to go to 0.578 and the district is 0.5. You're slightly over and you want to go slightly more over.

THOMAS DOWNER: Slightly. But that's the only, only issue that I think we're in non-conformance with.

We have -- the owners have spoken to a number of the neighbors. We have, I think, four letters here from various neighbors and e-mail all in support. And we have heard nobody -- heard from no one who has registered any objection to this at this point.

CONSTANTINE ALEXANDER: I can tell you or you might not even be aware as well, that if the neighbors were opposed, they

would be out here in force because this building before you bought it, the church wanted to buy it and use it as part of the church ministry and a number of the neighbors were very upset about that and they came down in mass. And so, the fact that they didn't do that this time, speaks as a sign that they're in favor.

THOMAS DOWNER: And I, again, many of the changes on the dimensional form and we provided revised drawings.

CONSTANTINE ALEXANDER: You did everything you were supposed to.

Questions from Members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I don't have any.

Let me open the matter up to public testimony.

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

(No Response.)

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

We are in receipt of some letters, which I'm going to read into the record. One letter is from the pastor of the Hope Fellowship Church. Curtis Cook.

(Reading) I am the pastor of Hope Fellowship Church which is located at 16 Beech Street and next to Xin Gao's and Baoqin Yan's home. I am supportive of their plans to renovate and add an addition of their home and have no concerns. I hope that you will look favorably on their proposal.

We have a letter from Eli, E-l-i Tucker-Raymond, 140 Elm Street. (Reading) I, Eli Tucker-Raymond, owner and resident of

the abutting property to the east at 140 Elm Street North am voluntarily writing this letter in support of the renovations to your home at 18 Beech Street. That you require a Zoning Variance. I appreciate the need to make your home more liveable for your family and I hope the Zoning Board sees fit to approve your request. That is certainly a house that could use some help in making it a home for your family. And then there's contact information.

There's a letter from Judy Weiss, W-e-i-s-s, 21 Orchard Street. It's addressed Ms. Gao. (Reading) Thanks so much for dropping off the note about your plans and copies of the drawings. It looks very nice. I support your renovation plans. Please feel free to bring this e-mail with you to the Zoning Board.

And last there is a letter from Francis P. McGrail, M-c-G-r-a-i-l. (Reading)

Please be advised that I am an abutter to the above-captioned property and I support their application for a Variance.

And that's it. There are no letters in opposition.

Do you have any final comments you want to make before we close public testimony and go to deliberations?

THOMAS DOWNER: I'm happy to answer any questions.

CONSTANTINE ALEXANDER: Okay.
Discussion or we go for a vote?

TIMOTHY HUGHES: I'm ready for a vote. But just to clarify, that would be Elm Street in Somerville, wouldn't it, that address, the letter you got?

BAOQING YAN: The letter is in their

backyard. It's connected.

CONSTANTINE ALEXANDER: People in Somerville are free to express their opinions, too.

TIMOTHY HUGHES: Yes, I understand that. But there is an Elm Street in Cambridge and it's nowhere near here.

CONSTANTINE ALEXANDER: That's a good point. That's true.

Okay, the Chair would make the following motion with respect to the Variance being sought:

The Chair moves that we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner needs additional living space to satisfy the

requirements of their family.

That the hardship is owing to circumstances relating to the shape and topography of such land and the structure.

The structure being a non-conforming structure, so modifications to the structure requires Zoning relief, and the lot itself is a rather long and narrow lot which makes issues in terms of adding FAR difficult.

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 opposition from any neighbors.

That the Petitioner is seeking modest departure from our Zoning Ordinance and will do so in a way that will improve the housing stock of the City of Cambridge.

On the basis of these findings, the Chair moves that we grant the Petitioner the Variance being sought on the condition that, and I'm going to make clear, we're going to tie it to these plans. So these are the finals. If you modify them, you're going to have to come back before us.

THOMAS DOWNER: They're not construction documents --

CONSTANTINE ALEXANDER: No, no, no. I mean --

THOMAS DOWNER: -- but this is the design that we will be presenting.

CONSTANTINE ALEXANDER: Okay. And the dimensions?

THOMAS DOWNER: And dimensions.

CONSTANTINE ALEXANDER: On the condition that the work proceed in accordance with the plans prepared by Downer Associates.

They're numbered A2, A3, A4, all of which have been initialled by the Chair.

All of those in favor of granting the Variance on the basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER:

Congratulations.

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

BRENDAN SULLIVAN: Gus, does that need to be signed? Do we have a copy that's signed? Is it not signed by the Petitioner? I'm wondering if it should be or if we have one that is in the record.

THOMAS DOWNER: The original -- for the original hearing it was signed and I replicated it so that -- because I couldn't print out anything else, it was the whole.

BRENDAN SULLIVAN: As long as -- if

that's going to be --

CONSTANTINE ALEXANDER: I think it's okay.

BRENDAN SULLIVAN: It's a small point.

CONSTANTINE ALEXANDER: They represented -- they did sign one application and they represented that this is what they're going forward with. I think we're okay.

Okay, variance granted.

THOMAS DOWNER: Thank you very much.

CONSTANTINE ALEXANDER: Good luck.

* * * * *

(7:20 p.m.)

(Sitting Members Case #BZA-003472-2014:

Constantine Alexander, Brendan Sullivan, Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair will call case No. 003472-2014, 32-34 Rockingham Street.

Is there anyone here wishing to be heard on this matter? You know all about the dormer guidelines.

RICHARD BROWN: Yes, I want to say thank you for giving us advice on a previous session.

CONSTANTINE ALEXANDER: You're welcome.

Okay, we have Variance plans before us. I assume you're proposing to us D, folder D which is the dormer or you want to argue for the 19-foot dormer?

RICHARD BROWN: Well, the preference would be for the 19-foot dormer

but we understand that when I submitted those, I just went and submitted them last time, that it does not conform to the setback from the front. So I think we would certainly be willing have the committee consider the 19-foot dormer set back from the front the proper distance, which is three-foot, six from the edge of the rate which would reduce it to a 17 -- basically a 17-and-a-half foot dormer. The reason being that that enables us to include the staircase which is extraordinarily difficult to get up in terms of getting any furniture, anything up. So it would give us, Mr. Halajian a bedroom plus the staircase with enough headroom.

CONSTANTINE ALEXANDER: With the 15-foot dormer what's the situation with the staircase? Does it comply with the Building

Code? Is it Building Code compliant?

RICHARD BROWN: Well, it's existing, so I'm not quite sure whether it's, it's probably not compliant.

CRAIG HALAJIAN: It's access to furniture as you go up to the apartment. It's difficult because the sloping ceiling.

RICHARD BROWN: It comes around the corner and I sort of have to do a duck.

CONSTANTINE ALEXANDER: If you did the -- you call the 17-foot dormer, would you rebuild those stairs?

RICHARD BROWN: Wouldn't rebuild the stairs. The dormer would be above the stairs.

BRENDAN SULLIVAN: Basically what you're doing is creating headroom?

RICHARD BROWN: Yes, that's it.

BRENDAN SULLIVAN: By the

additional --

RICHARD BROWN: Seven feet or so.

BRENDAN SULLIVAN: And at the other end of the dormer you need the amount of real estate down at the other end of it for?

RICHARD BROWN: The bedroom.

BRENDAN SULLIVAN: Otherwise if you were to reduce -- what are we talking? Are we talking a 19 or 17-and-a-half?

RICHARD BROWN: Well, 17-and-a-half because I realized that you probably would not accept this going out to the front. So 17-and-a-half takes us back three-foot, six from the edge of the rake.

BRENDAN SULLIVAN: Okay, and so by knocking off two-and-a-half feet at the far end seriously impacts the viability and liveability of that bedroom?

RICHARD BROWN: Makes it difficult.

BRENDAN SULLIVAN: It makes it almost like not worth it.

RICHARD BROWN: Well, you know, if --

BRENDAN SULLIVAN: From a practical standpoint.

RICHARD BROWN: It's more practical with 19 feet.

CONSTANTINE ALEXANDER: Once you get beyond the stairs, the living space upstairs -- on the third floor would be essentially the same between the two dormers.

RICHARD BROWN: Dimensionally, yes.

CONSTANTINE ALEXANDER:
Dimensionally, yes.

RICHARD BROWN: The problem it's a very narrow building so trying to fit the bathrooms and everything in -- the end of it is a very nice porch with a view out over Morse

playground and things like that. So it would be great to have the living room at that end. The living room, sort of kitchen/dining room so that at that end it pushes the bedrooms towards Rockingham Street which is what we think would be a pleasant design. And my client is now getting married so he wants to improve that space. So our preference would be for the -- first to be the 19 feet, but we realize that you might prefer the setback. So it would be the 19 feet additional setback.

CONSTANTINE ALEXANDER: But the plans we have here doesn't have the setback for the 19-foot dormer.

RICHARD BROWN: The 19-foot one.

CONSTANTINE ALEXANDER: What?

RICHARD BROWN: The 19-foot one does not.

CONSTANTINE ALEXANDER: Does not.

RICHARD BROWN: So it would be that conditional on the setback or if you need me to redraw it --

DOUGLAS MYERS: I have a question, though, if you're talking about respecting that setback in full, which I think I heard you say, three-and-a-half feet, three-and-a-half feet from 19 would leave you 15-and-a-half feet, wouldn't it?

RICHARD BROWN: No, from the edge of the rake. The rake would -- projects out about a foot and a half. The three-and-a-half feet setback is from the edge of the rake. So the dormer would be from the wall, so the one-and-a-half feet of the rake. Then it's one-and-a-half feet --

DOUGLAS MYERS: Two feet?

RICHARD BROWN: Somewhere. Yeah, I mean it's one-foot, seven, something like

that.

DOUGLAS MYERS: And my second question is is I remember the plan we're talking about, plan C now, correct?

RICHARD BROWN: Yes.

CONSTANTINE ALEXANDER: Excuse me, excuse me, sir? Keep your voice down?

UNIDENTIFIED AUDIENCE MEMBER:
Excuse me?

CONSTANTINE ALEXANDER: Can you keep your voice down?

UNIDENTIFIED AUDIENCE MEMBER: I was just asking her what was going on.

CONSTANTINE ALEXANDER: Sir, we do this in an orderly fashion. If you're going to speak, you have to give your name to the stenographer. And if you want to speak on the matter, a time will come for you to speak. Right now we're just talking to the

Petitioner.

UNIDENTIFIED AUDIENCE MEMBER: I was asking her to catch up.

CONSTANTINE ALEXANDER: Can you step outside to catch up? Do you have to do it here?

UNIDENTIFIED AUDIENCE MEMBER: Thank you, I will do it next time. I appreciate you.

BRENDAN SULLIVAN: The problem is if there's background conversation, the microphones pick it up and it's difficult for her then to be able to do the transcripts, that's all.

UNIDENTIFIED AUDIENCE MEMBER: This is my first time here so I'm just asking people, like, what's going on. This is my first time here so I was just asking what was going on. This is my city. For 43 years I

lived in this city.

BRENDAN SULLIVAN: Okay, good.

UNIDENTIFIED AUDIENCE MEMBER: So this is my first time ever being around here. So I don't know what you're talking about. Everything is way advanced than what I know. So I'm just sitting in listening and she was kind of commentating on a lot of things, but not trying to get too in-depth with what's going on. I mean, she was being definitely a gracious person with what she was doing. And like I said, I was trying to get some catch up. But I'll get it for you later, especially if you guys like to stay late and talk about things, I can definitely catch it from every one of you. I have nothing better to do with my life.

CONSTANTINE ALEXANDER: Okay.

Let's continue with the case.

Thank you.

UNIDENTIFIED AUDIENCE MEMBER: I can work on an iPad and iPhone and get on, it's all good.

CONSTANTINE ALEXANDER: Thank you.

DOUGLAS MYERS: So the question was: If this is plan C, I had also -- it seemed to me to be far less than 50 percent of the windows, the windows should be 50 percent of the surface area of the front. And on plan C as opposed to plan D, the amount of windows was much less as I recall the plan.

CONSTANTINE ALEXANDER: I don't recall that. I didn't pick that up. So maybe you're right.

DOUGLAS MYERS: And I just wondered about that, why the windows seem to have so much less surface area on the front wall of the dormer.

RICHARD BROWN: They're just in the bedroom as opposed to the staircase. We didn't put any windows in the staircase. We're just increasing the height there.

CONSTANTINE ALEXANDER: Okay. Anything further you want to add? Your point is, if I get it right, you could go with either one but you prefer the 19-foot dormer rather than the 15-foot dormer.

RICHARD BROWN: We prefer the 19 foot --

CONSTANTINE ALEXANDER: Because of the staircase issue.

CRAIG HALAJIAN: Seven feet of it is in the stair.

CONSTANTINE ALEXANDER: Okay, I just want to make sure I understand your point.

RICHARD BROWN: If it's the

committee's preference, we would go with the 19 foot conditional on setting it back to the 17, 6.

CONSTANTINE ALEXANDER: I would want revised plans. We could recess tonight and you go in the back there and revise your plans, but we're not going to do it verbally like that on condition. We need to have an exact plan that would show it.

RICHARD BROWN: Okay. So then we're looking at the option C or D which is two smaller dormers. Correct?

CONSTANTINE ALEXANDER: So a 19-foot with no change in the setback. You can change your plans. I mean, I'm not saying you can't do it. But we're not going to do it on the basis of just a vague way of, well, we're going to push it back. I want to see -- he needs to see, Mr. O'Grady --

RICHARD BROWN: You want to see actual plans?

CONSTANTINE ALEXANDER: Right on the plans. So, rather than having you take the time to do that and then we say no, no, we don't want that anyway, we want the 15-foot dormer. Why don't we talk a little bit as to what we -- let me open it public testimony first.

BRENDAN SULLIVAN: Let me see the sketch first.

CONSTANTINE ALEXANDER: Which one?

BRENDAN SULLIVAN: The plan that we're talking about here. The 19?

JANET GREEN: The 19.

CONSTANTINE ALEXANDER: What's that C, right?

While you're looking at that, anyone here wishing to be heard on this matter?

Ma'am, give your name to the stenographer.

CINDY LEWIS: Cindy Lewis,
L-e-w-i-s. I live at 28 Rockingham Street in
Cambridge. I live right next-door to Craig
and I just wanted to come in support of him.
That I don't have any issue with him putting
a dormer. And it's on the side of the house
that faces me.

CONSTANTINE ALEXANDER: So you're
happy with -- not happy, but you could live
with any type of dormer?

CINDY LEWIS: Yeah, yeah.

RICHARD BROWN: Do you have the
letter?

CONSTANTINE ALEXANDER: I was
looking for that.

Is there anything else you wanted to
add?

CINDY LEWIS: No, just that he's a

very good neighbor and I want to see him get to fix his house.

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

CINDY LEWIS: You're welcome.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Appears not. We are in receipt from the Petitioner of a petition. It says: We the following neighbors of Craig Halajian have reviewed his plans for a dormer addition to the third floor of his house at 32-34 Rockingham Street, Cambridge, Mass., and found that it is in keeping with the character and scale of the neighborhood. We also realize that he's making an effort to improve the quality of the housing in the neighborhood and that it will

have no negative impacts on the surrounding houses. We, therefore, support his efforts to get a Zoning Variance to build his addition.

And the petition has been signed by 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 individuals, all of whom who seem to reside on Rockingham Street or Granite Street which is the abutting street.

RICHARD BROWN: And this is the numbers it represents.

CONSTANTINE ALEXANDER: Okay, thank you.

Because I gather from the petition they support either dormer. They didn't pick one like we're doing right now.

RICHARD BROWN: They support a dormer addition.

CONSTANTINE ALEXANDER: Well, I'm

going to close -- anything further you want to add at this point? Although as I said, if we are going to go with the dormer proposal that requires you to revise the plans, I don't want to take a vote until you go back and revise the plans. Either it's later this evening or some other time.

RICHARD BROWN: So you're going to discuss is that --

CONSTANTINE ALEXANDER: Right now.

RICHARD BROWN: -- and then we'll continue it if you want me to --

CONSTANTINE ALEXANDER: Or recess it. I mean, can you do it on the spot? I'm ahead of myself. Let's wait.

Any thoughts from members of the Board about the two dormer proposals? I think it's a given, maybe I'm wrong, that we're going to support relief, dormer relief. It's a

question of which relief. Maybe I'm wrong.

DOUGLAS MYERS: I would just, I consulted the plans again with regard to let's say the 19-foot proposal, No. C, and I really think the windows, it's unfortunate that the windows fall way short of the 50 percent of the surface area that the guidelines require. I also compared it to the amount of windows on the opposite side where there's an extremely large dormer there now and that may be the strongest justification for a 19-foot dormer on the other side is a notion of balance and symmetry, but the existing dormer has very adequate window frontage, I would say about 50 percent. And it seems to me that it would be an unfortunate aesthetic effect, a very noticeable and unfortunate aesthetic effect that it would be a big, big 19 feet in length,

it's going to be a very large substantial blank wall and that makes me want to talk about the proposal D rather than C.

CONSTANTINE ALEXANDER: The 15-foot dormer?

BRENDAN SULLIVAN: Why not just pop a window there?

RICHARD BROWN: That would be no problem. We could put a window in the staircase.

BRENDAN SULLIVAN: Yes, and then I think, Mr. Myers' point was well taken. When I looked at it, I said it's missing something.

DOUGLAS MYERS: If the window frontage were brought in the area of 50 percent, that would -- in the setback from this, from the front side wall is taking care of as you've indicated, then that would

remove my objection to plan C.

CONSTANTINE ALEXANDER: Janet, do you have anything?

JANET GREEN: I'm okay.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: I would be okay with that.

CONSTANTINE ALEXANDER: I think that what you're hearing is that we would go with the 19-foot dormer.

RICHARD BROWN: The 19 foot or the 17-and-a-half foot.

DOUGLAS MYERS: I said 19, but I meant with the front side wall revision.

ANDREA HICKEY: And would that match the dormer existing?

JANET GREEN: No.

CONSTANTINE ALEXANDER: The other one is 40 feet.

RICHARD BROWN: The other one's --

CRAIG HALAJIAN: That's why we were hoping to match the side walls.

ANDREA HICKEY: Got it.

CRAIG HALAJIAN: With the addition of having the space in the room.

CONSTANTINE ALEXANDER: You would get more space obviously. But, I don't think that dormer on the other side needs to be replicated.

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: I'm sorry.

So my point is that we can continue the case or if you can -- want to -- we can recess, you can go in the next room, and you wanted to modify your plans and draw in the window to draw it back to see if you have, if you have a ruler with you and revise the plan. I don't know what's your pleasure? Or you

can come back in two weeks.

RICHARD BROWN: I'm fine with drawing the lines in and the dimensions in and putting a window in sort of free hand. I don't have a hard line with me, but I can be as close and give you the dimensions on the plans and I can correct the plans to reflect what would be the setback and add a window in the dormer.

DOUGLAS MYERS: Of sufficient size, in my view, to make -- something in the area 40 to 50 percent.

RICHARD BROWN: You would want something similar to this window in the staircase?

DOUGLAS MYERS: Area. Balanced. With some sense of balance and proportion. Space. That's up to you.

CRAIG HALAJIAN: We do intend to

modify the windows in the front to make them less, a lot less large. Right now they're out of balance with the rest of the home. So we'd like to try to balance things out.

DOUGLAS MYERS: I hear you. My concern is just that it would be this large, blank wall that the dormer would itself be above our recommended guideline limits and very substantially blank wall.

CONSTANTINE ALEXANDER: Excuse me, you just said something. My ears went up. You said you're planning to modify the windows in the front?

RICHARD BROWN: We're replacing them with double hung. We're trying to be more --

CONSTANTINE ALEXANDER: Exact same dimensions or you're moving --

RICHARD BROWN: Slight alterations.

CONSTANTINE ALEXANDER: The reason, are you non-conforming in the front yard?

RICHARD BROWN: No.

CONSTANTINE ALEXANDER: You are conforming?

RICHARD BROWN: I believe we are conforming.

CONSTANTINE ALEXANDER: If you were non-conforming, that would require a Special Permit, a separate relief. The modifications of the windows. We don't have to do it tonight, if we had to do it. I just want to alert you that you might have to see us again.

RICHARD BROWN: We're non-conforming in the FAR.

CONSTANTINE ALEXANDER: Yes. No, no, we're talking about the --

RICHARD BROWN: Setback.

CONSTANTINE ALEXANDER: -- setback.

RICHARD BROWN: I don't believe we're non-conforming in the setback.

CONSTANTINE ALEXANDER: Well, you'll find out. If you are, you'll have to come back for the Special Permit. Sorry, that's what the Code Ordinance says.

RICHARD BROWN: So, you would accept me free handing?

BRENDAN SULLIVAN: Just something so that the building inspector, when he looks at it, Mr. O'Grady --

CONSTANTINE ALEXANDER: If that gentleman is satisfied that he could interpret it and knows what he would be doing when the time comes to issue the Building Permits and the Certificate of Occupancy.

RICHARD BROWN: So you want me to do it to the two plans you have?

CONSTANTINE ALEXANDER: Just one plan is enough. You can take that one if you want to leave it with us.

RICHARD BROWN: This isn't the full plan.

BRENDAN SULLIVAN: Maybe mark up a copy for yourself, because when you do go to apply for the permit, you may want to take a free hand and go --

RICHARD BROWN: Yeah.

DOUGLAS MYERS: I understand you're going to do it free hand, but approximately to scale.

RICHARD BROWN: Yeah.

DOUGLAS MYERS: Approximately to scale.

RICHARD BROWN: Yeah, I'm going to try as hard as I can.

Can I just talk to Sean before I

complete this?

CONSTANTINE ALEXANDER: Yes. What I suggest you do, and Sean can accompany you if you need to, there's another room right back there. Go ahead, sit down, and mark up the plans, and then come back in and then we'll take the case when we have a moment and then we'll act on the case.

RICHARD BROWN: Okay. That seems fine.

CONSTANTINE ALEXANDER: I think these --

RICHARD BROWN: It's way in the back.

CONSTANTINE ALEXANDER: Okay. I wanted to make sure I'm giving you the right set of plans. If it's not, you give it back to me.

Is that it?

RICHARD BROWN: Yes.

CONSTANTINE ALEXANDER: Okay. The Chair will recess this case and we'll move on to other cases and we'll revisit with you folks later this evening.

RICHARD BROWN: Yes. Thank you very much for your advice.

(Case recessed.)

* * * * *

(7:40 p.m.)

(Sitting Members Case #BZA-003383-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 03383-2014, 3 William
Street.

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

UNIDENTIFIED AUDIENCE MEMBER: Yes.

CONSTANTINE ALEXANDER: Are you the
Petitioner?

UNIDENTIFIED AUDIENCE MEMBER: No.

CONSTANTINE ALEXANDER: We have a
letter from the Petitioner saying we would
request a continuance on this application
until the next available meeting.

UNIDENTIFIED AUDIENCE MEMBER:
What's the date of that letter?

CONSTANTINE ALEXANDER: Say it again, please?

UNIDENTIFIED AUDIENCE MEMBER:
What's the date of that?

CONSTANTINE ALEXANDER: No date. Oh, here it is, I'm sorry, up in the corner. May 8th.

UNIDENTIFIED AUDIENCE MEMBER:
Today?

CONSTANTINE ALEXANDER: That's today.

By way of explanation, the Petitioner is made aware of opposition from a number of neighbors, possibly you folks. And decided for whatever reason, I don't know what he wants to do, whether he wants to talk to you, whether he wants to revise his plans or rethink it all, I don't know. That's the reason because of the opposition he has

decided he doesn't want to go forward tonight.

Now if we continue it, what's the next available meeting?

SEAN O'GRADY: Williams wasn't continued, right? I'm sorry, the Beech? I was out of the room.

CONSTANTINE ALEXANDER: No, we granted relief.

SEAN O'GRADY: So we're really wide open.

CONSTANTINE ALEXANDER: So he said next available which would be two weeks. I want to see if it works for you, which would be May 22nd.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Could you be here on the 22nd if we continue the case until then?

Okay. The Chair moves that this case --

DOUGLAS MYERS: Gus, before you speak. I'd just like to note -- not that I'm not going to vote against the continuance, I'd just like to note on the record that it's unfortunate, I think, that in a contested case when a Petitioner moves on the last day for a continuance without stating any grounds at all that would provide us with any understanding of the reason for the continuance, so it's basically without cause, I just think it's very unfortunate that it has the effect of inconveniencing the people who have come here for to oppose or to speak on the motion. And I will not vote against a continuance because I think it would be in the nature of a very even worse misunderstanding if we were to deny the

continuance on grounds like this. But I would ask the Chair to consider whether the Chair might want to note that there be no further continuance granted without a good cause being shown.

CONSTANTINE ALEXANDER: I'm not going to accept that suggestion.

DOUGLAS MYERS: That's fine.

SEAN O'GRADY: I should probably break in here. I generally tell people --

UNIDENTIFIED AUDIENCE MEMBER: I can't hear you.

SEAN O'GRADY: I'm sorry, the fans are going.

CONSTANTINE ALEXANDER: We can't turn these off. I know it's a pain.

SEAN O'GRADY: I generally don't encourage a lot of explanation on first continuances. Maybe I need to be a little

more vigilant there.

CONSTANTINE ALEXANDER: I think also --

SEAN O'GRADY: I have to say that in good conscious.

CONSTANTINE ALEXANDER: The fact of the matter is, I think there's been -- I don't see any communication back between you and -- I think this fellow, whoever he is, maybe it's a woman, filed an application, got some letters of support, and then in our files came letters of opposition. I think some of you people wrote them. I don't think the fellow was in -- the Petitioner was aware that there was opposition at least on the record. And I had Mr. O'Grady, when I came in to read the file two days ago, I said listen, there's opposition, you better let the Petitioner know that there's going to be

opposition at the hearing. And when he was told that, he asked for the continuance.

Now, Doug's point is well taken about the inconvenience to you folks, and I apologize, but I do think it's -- it doesn't make sense to draw hard lines in the sand right now and say no further continuances. I don't know what's going to transpire in two weeks. We may make that decision two weeks from now when we hear more facts, but right now I think all we should do, sorry --

DOUGLAS MYERS: No, no.

CONSTANTINE ALEXANDER: -- that we continue the case until may 22nd.

UNIDENTIFIED AUDIENCE MEMBER: Will it be at 7:30?

CONSTANTINE ALEXANDER: Seven p.m., or thereabouts. We have other cases, it won't be the first case taken at seven p.m.

It will be between 7:00 and 7:30. But be here at 7:00 if it's the first case.

SEAN O'GRADY: Gus, I'm sorry. I'm just wondering if it would be more prudent to put it out to the next one, because I'm not in contact with them and they have to be in tomorrow and get that information -- I'm not going to be in the office tomorrow.

CONSTANTINE ALEXANDER: Okay. So in other words, do it for the first one in June?

SEAN O'GRADY: That's probably better.

UNIDENTIFIED AUDIENCE MEMBER: I'd rather the May 22nd. Much better.

CONSTANTINE ALEXANDER: It may be much better, but --

UNIDENTIFIED AUDIENCE MEMBER: It doesn't work. I mean, he doesn't work so he

has the time.

JANET GREEN: Who has the time?

UNIDENTIFIED AUDIENCE MEMBER: The neighbor who wants the Variance. He doesn't have a job.

SEAN O'GRADY: Is that date bad or anything too far?

UNIDENTIFIED AUDIENCE MEMBER: That date is bad.

SEAN O'GRADY: How about the end of June?

CONSTANTINE ALEXANDER: Yes, how about the second?

SEAN O'GRADY: June 26th.

UNIDENTIFIED AUDIENCE MEMBER: I'll be away.

SEAN O'GRADY: They're into July.

UNIDENTIFIED AUDIENCE MEMBER:
What's wrong with May 22nd?

SEAN O'GRADY: The problem is there has to be notice and it's a two-week notice, and it has to start tomorrow. I'm not going to be in the office tomorrow and there's just -- they would have to have it posted first thing in the morning. And so we're going to have a default right off the bat.

CONSTANTINE ALEXANDER: Well, from your perspective we can push it out. I mean, from your perspective nothing happens, it's good for you if you're opposed.

UNIDENTIFIED AUDIENCE MEMBER:
September.

CONSTANTINE ALEXANDER: This gentlemen is going to be -- not too far. Don't take my literally, please.

When?

BRENDAN SULLIVAN: What year
September?

UNIDENTIFIED AUDIENCE MEMBER: I suspect he may drop it but we don't know that for sure.

UNIDENTIFIED AUDIENCE MEMBER: June 11th doesn't work for me either.

CONSTANTINE ALEXANDER: June 11th?

SEAN O'GRADY: It's June 12th, June 26th, and then we're into July.

CONSTANTINE ALEXANDER: And then we're into July, July 10th.

UNIDENTIFIED AUDIENCE MEMBER: I personally can't do it on the 12th.

CONSTANTINE ALEXANDER: I'm sorry, I have the same problem as you.

UNIDENTIFIED AUDIENCE MEMBER: I don't have it on the 12th, I'm his neighbor, immediate neighbor. I'm the one most affected.

CONSTANTINE ALEXANDER: How about

the 26th?

UNIDENTIFIED AUDIENCE MEMBER: The 26th I can do.

UNIDENTIFIED AUDIENCE MEMBER: And you're on the corner and we're totally blocked.

UNIDENTIFIED AUDIENCE MEMBER: What's three weeks today? Can you not do that? Was that not good for you?

SEAN O'GRADY: It's two weeks from today is our next hearing. But you have to be advertised two weeks.

(Pause.)

CONSTANTINE ALEXANDER: I don't want to discourage participation, but does every one of you have to be here for the next date or some are more interested than others? Could you have a spokesperson be here so we can pick a date that's not too, too far in the

future?

UNIDENTIFIED AUDIENCE MEMBER: I'd like to be here.

UNIDENTIFIED AUDIENCE MEMBER: I'd like to be here.

CONSTANTINE ALEXANDER: Okay, we've got to move this along. What's your pleasure?

UNIDENTIFIED AUDIENCE MEMBER:
26th.

CONSTANTINE ALEXANDER: 26th of June?

UNIDENTIFIED AUDIENCE MEMBER:
Please.

CONSTANTINE ALEXANDER: Okay.
It's a case of heard.

The Chair moves that this case be continued until seven p.m. on June 26th, this being a case not heard, subject to the

following conditions:

That the Petitioner must sign a waiver of time for decision.

That the sign, the posting sign that's there now has to be modified to reflect the new date and the new time, seven p.m., on June 26th.

And finally, on the condition that to the extent that the Petitioner modifies the plans that he's already filed or I should say wishes to modify, those modified plans and an accompanying dimensional form must be in our files by five p.m. on the Monday before June 26th. Failure to do that means we won't hear the case on June 26th. And from your point of view, these files will be publicly available whenever they're filed, but they'll be filed no later than five p.m. on that Monday.

UNIDENTIFIED AUDIENCE MEMBER: Will other neighbors be re-informed of the new date of the hearing?

CONSTANTINE ALEXANDER: There's no -- the only re-informing will be through the modified sign. There's no new mailings.

UNIDENTIFIED AUDIENCE MEMBER: There's no, so it will be our job to tell people?

CONSTANTINE ALEXANDER: That's how our law reads.

That, or if they walk by the premises, they'll see the sign's been changed. That's the only way.

UNIDENTIFIED AUDIENCE MEMBER: Is it supposed to be on the fence? It's on his door which is inside his private space so nobody goes up there unless it's the mailman. It's not on the fence.

CONSTANTINE ALEXANDER: The risk of putting it on the fence is vandalism. That's the reason. That's why people often do that. Is it not readable if you were on the street?

UNIDENTIFIED AUDIENCE MEMBER: No way.

CONSTANTINE ALEXANDER: I went by. I don't remember how far back it was.

Any thoughts, Sean, on the fence as opposed to the door? We can tell him to put it on the fence. Let's put it on the fence. That would be part of the Ordinance, right?

SEAN O'GRADY: I don't remember there being a problem.

JANET GREEN: I don't remember there being a problem.

CONSTANTINE ALEXANDER: With what?

JANET GREEN: With seeing the sign. I could see it from the --

UNIDENTIFIED AUDIENCE MEMBER: You can't read it.

UNIDENTIFIED AUDIENCE MEMBER: One can see it's a sign, but it's kind of intimidating to go on their land.

UNIDENTIFIED AUDIENCE MEMBER: To go through the gate.

BRENDAN SULLIVAN: It's supposed to be clearly visible and readable from the public way and not have to transport on public property.

CONSTANTINE ALEXANDER: I'm going to -- I'll try to direct exactly where the sign's going to be put. If he wants to leave it where he has it, he has it. You'll get the word out to the neighborhood. I think the people who are most interested are here tonight and you know what's going to happen. If for some reason you puts it farther back

or it's not visible, then you have a means, if you will, of attacking our ability of hearing the case come June 26th. But for now I'm going to just leave the Ordinance as it is. He has to interpret it. And then we'll, with your benefit, if you challenge it, we'll see whether we agree with the interpretation.

So, I think I made the motion to continue. All those in favor of say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

CONSTANTINE ALEXANDER: See you on June 26th.

* * * * *

(7:55 p.m.)

(Sitting Members Case #BZA-003500-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003500-2014, 196 Franklin
Street.

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

Let's try again. Is there anyone here
wishing to be heard on 196 Franklin Street?

JOHN ROBACK: Yeah, my name is John
Roback. I'm one of the property owners with
my wife. Mark Boyes-Watson is our architect
and he was supposed to be here to help present
and we haven't seen him yet.

CONSTANTINE ALEXANDER: Have a seat

and we'll wait until he comes. We won't call the case. If worse comes to worse, if he doesn't show up, we'll continue the case. But you're not going to be forced to go ahead without him.

JOHN ROBACK: Okay, thanks.

CONSTANTINE ALEXANDER: We can't take the next case until eight o'clock.

(A short recess was taken.)

* * * * *

(8:00 p.m.)

(Sitting Members Case #BZA-003472-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will reopen case No. 003472, 32-34 Rockingham
Street.

And you have presented us with modified
plans which you're asking us to approve and
therefore grant the relief that you're
seeking?

Brendan, have you looked at it?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: You're all
set?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Any

discussion or ready for a vote?

The Chair moves that this Board 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 to the Petitioner. Such hardship that the Petitioner needs additional living space and is faced with a stair that may or may not be code compliant. It's non-conforming if it's legally non-conforming if it's non-code compliant, but needs additional space to make the stair more amendable to use by the occupants of the premises.

That the hardship is owing to the fact that the shape of the structure, it's a very long narrow structure, and it is a non-conforming structure, which would

require -- any modification requires relief. And I should interject here that the relief is being sought because of an FAR issue. And they're right now at 0.7. If we grant relief, it will go to 0.71. A very slight increase in a 0.6 district. And the relief is on the modest side.

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.

In this regard, as I mentioned, the relief being sought is modest in nature in terms of its departure from our Code, from our Ordinance.

That this matter has apparently unanimous support of the neighborhood. That it will make the structure a more liveable structure and approve the housing stock of

the City of Cambridge.

On the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans modified by Mr. Brown the architect. Those plans are, which include a plot plan, are the first page which has been initialled by the Chair. And they are numbered A1, A2, A3, A4, A5, CP No. 3, option No. 3, and these plans were prepared what appear to be November 13, 2013. That's the date on them.

DOUGLAS MYERS: May I ask that you check the next to last page just to be absolutely sure we have the right set of plans, that they reflect the modifications that were discussed? Yes, I see that.

CONSTANTINE ALEXANDER: Thank you.

All those in favor of granting the

Variance on this condition, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

RICHARD BROWN: Thank you for all
your advice. Appreciate that greatly.

* * * * *

(8:05 p.m.)

(Sitting Members Case #BZA-003533-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003533, 21 Cornelius Way.

Is there anyone wishing to be heard on
this matter?

Mr. Bram.

ATTORNEY ANDREW BRAM: Good
evening, Members of the Board. My name is
Andrew Bram. I'm an attorney representing
Richard Fanning who is seated to my left.
The Board probably will remember this case.
It's been -- it's been before the Board.

CONSTANTINE ALEXANDER: The
property has been before the Board, not this

case.

ATTORNEY ANDREW BRAM: The property, right. The property's been before the Board a couple of times in the past. 2011 the Board granted Mr. Fanning the right to expand his dwelling, put in a workshop, and additional living space. And at the time the additional living space he was hoping -- his sister was ill, he thought might come live with him. That didn't work out. He has built a workshop and built other living space. And --

JANET GREEN: Can you hear?

THE STENOGRAPHER: Not that well.

ATTORNEY ANDREW BRAM: Mr. Fanning is an individual. He's 80-years-old. He's on a fixed income and has a need for additional income in order to remain in this house and to remain here in Cambridge. The

living space is legal that he has. He came before this Board last year seeking an additional parking space in order to have a --

CONSTANTINE ALEXANDER: In the front yard.

ATTORNEY ANDREW BRAM: Yes, a second parking space in the front yard, right. There is no other place. The Board's familiar with this development.

This is a brand new development where everything is very close to the street. All the driveways, in fact, large measure are already in the front yard.

So he was seeking that. The Board objected to that. The Board didn't think that was meritorious but did suggest that if he could meet the stature or criteria or the Ordinance criteria, he could come back and

seek a Special Permit for a reduction of parking. And that is principally why we're here this evening, is to ask that one parking space, otherwise be required for the second unit, be waived.

The Board is familiar with the property. This is an end unit that abuts the railroad tracks. This is a planned unit development where everyone has at least one and some dwelling units have two parking spaces. There is resident parking on the street, which is not fully utilized because this is a pretty insular neighborhood, and where he is at the end of this, the likelihood is even if you rent it to someone who had a car, that there be ample on street resident parking for that individual. But there's also likely possibility that whoever rents this apartment won't have a car. This is a

small, 600 foot, you know, one bedroom small apartment that likely would be rented to a single individual.

There is public transportation nearby at the end of Portland Street that abuts Cornelius Way. If the individual who rented this had a vehicle and wanted to have off street parking, there is public parking for rent on a monthly basis at the One Kendall garage which also abuts the property. And in addition there are ZipCars available in that garage. And it's our belief that the Special Permit criteria, which I can go through one by one, if the Board thinks that's worth doing, would be met. There would be no nuisance created by having this additional car in this additional area. And that's principally why we're here.

CONSTANTINE ALEXANDER: Let me stop

you right there. With regard to, you're right, there are all those general findings we have to make for any Special Permit. But for Special Permit to reduce parking, Section 6.35, that's an additional layer of requirements. And why don't you just address them so we can as part of the record. Do you have it in front of you?

UNIDENTIFIED AUDIENCE MEMBER: This is supposed to be a public hearing. We can't hear and we're sitting eight feet away.

CONSTANTINE ALEXANDER: I know.

JANET GREEN: Move your chairs up.

UNIDENTIFIED AUDIENCE MEMBER: He needs to speak up or turn to face us.

CONSTANTINE ALEXANDER: You can come around the side, too, by the way, or you can sit behind us if you like as long as you don't hit us over the head. I'm sorry, I have

to apologize, we just can't change the fans.

UNIDENTIFIED AUDIENCE MEMBER: It's all right, we just need to hear.

ATTORNEY ANDREW BRAM: In 6.351 reduction of required parking, first criteria for the availability of surplus off street parking, vicinity of use, being served and/or the proximity for MBTA transit station --

JANET GREEN: I think it does make sense for you to try to speak a little bit louder. There are quite a few people behind you in case you didn't notice, who are trying to hear.

CONSTANTINE ALEXANDER: And a little slower too, perhaps, Mr. Bram.

ATTORNEY ANDREW BRAM: Okay, sure.

DOUGLAS MYERS: Why don't you go back and start with the first criteria while

we're at it.

JANET GREEN: While we're at it.

ATTORNEY ANDREW BRAM: First criteria is the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of an MBTA transit station.

Both of these criteria, I think, are met. We've already discussed the fact that there is -- there's One Kendall Square garage is right behind this property where there is monthly parking available if someone desires it. And at the end of Cornelius Way where it abuts Portland Street, there are bus stops and the property is probably no more than a 10, 15-minute walk from the Red Line T station at Kendall. Main Street.

CONSTANTINE ALEXANDER: Really?

ATTORNEY ANDREW BRAM: Really.

CONSTANTINE ALEXANDER: You must walk faster than I would walk.

ATTORNEY ANDREW BRAM: It says the availability of public -- this is criteria 2. The availability of public or commercial parking facilities. Parking facilities in the vicinity. Again, One Kendall garage literally abuts this property on the other side of it. On the other side of the property.

JANET GREEN: And can I just ask, can you walk through that property or do you have to walk around to get into the Kendall Square garage?

ATTORNEY ANDREW BRAM: You have to walk around. There's no -- even our property abuts it, it is a fair amount of open space that is a part of our property or behind our property, but I don't think you can walk

through it safely to get to the garage.

JANET GREEN: Okay.

ATTORNEY ANDREW BRAM: And
that's --

CONSTANTINE ALEXANDER: There's a
bunch of others.

ATTORNEY ANDREW BRAM: So mine stops
at 6.7. Is there a 6.8? I don't have it if
there is.

CONSTANTINE ALEXANDER: No, it's
above, Mr. Bram. It says a Special Permit
shall be granted only if the Board determines
and cites evidence in its decision 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.

ATTORNEY ANDREW BRAM: And I think

the Board is warranted in making all of those findings. This is an area where there is ample on street parking that an underutilized now and --

BRENDAN SULLIVAN: How many units are in the development?

RICHARD FANNING: 54.

BRENDAN SULLIVAN: So if everybody added a unit and then we waived the parking requirement, and what would that do to the ample available?

ATTORNEY ANDREW BRAM: It would be -- first of all, the reason that this unit, that the Board was able to allow a sufficient additional floor area is that this being an end unit is one -- one if not the biggest lot on there. It would be very difficult for anyone else to qualify to have an additional unit, because most of the other units already

max the floor area ratio for their particular sites. This is a much bigger unit so the chances of the Board approving a Variance and adding theoretically --

BRENDAN SULLIVAN: Is this exclusive to this unit or --

ATTORNEY ANDREW BRAM: I'm sorry?

BRENDAN SULLIVAN: Is that condition exclusive to this unit?

ATTORNEY ANDREW BRAM: I can't say without looking at every single one of them, of the other -- but I would say generally yes. I mean, if you look at the site plan, you would see how much bigger this lot is than all of the other lots in that development. So the likelihood if this Board is asked to grant another 54 parking spaces, I'd say is extremely remote. This is one, one spot on a street at the end of the street where the

street turns and runs parallel to the railroad tracks. It's part of the most isolated part of the development where it's less likely that other houses along Cornelius Way or the parallel street along Michael Way would have guests or visitors who would, you know, be looking for on street parking. You know? This is at a corner where there's parking on both streets. Connecting street and Cornelius Way.

So I don't think adding one car is going to significantly impact this neighborhood in any way. And as I've said, you know, there's, you know, given the size of the apartment and the types of tenants that are out there today, young working people who work in the Kendall Square area who are looking for housing, it's very possible an individual wouldn't have a car. So for those

reasons we feel that the Board is warranted in making the findings, as the Chairman has said, that this would not have a detrimental impact on the neighborhood.

This is, that's the particular parking, parking concern.

The second reason we're here is that in order for -- while this legal living space that was added with the Board's approval, inside, in order to have this as a separate unit, there needs to be a second egress. The second egress that Mr. Fanning wants to have is on the side of the house on -- it would not be visible from the street. It's a small, you know, minimum, I think it's 36 inches. It's the width of the stairway to be added to make it comply with the Building Code. It's an open stairway that goes up to the second floor. That's --

CONSTANTINE ALEXANDER: And is that stairway that would protrude in the setbacks?

ATTORNEY ANDREW BRAM: It would protrude into the setback by its width. The house is built now meets the setback requirements. The size and plain of the house meets the setback requirement.

CONSTANTINE ALEXANDER: The dimensional form doesn't show that that's the reason why I ask. It shows no setback in relief.

ATTORNEY ANDREW BRAM: No, the stairway -- because the question is whether -- it's one question whether the stairway can invade the setback anyway, because it is essentially a second egress. It's essentially a fire escape. The way this unit is constructed, there's a front door at the corner of the property in the front that

provides the main access. Anyone living in this house is gonna go in and out that door.

CONSTANTINE ALEXANDER: You miss my point, Mr. Bram. My point is simply that in the view -- the opinion of the Inspectional Services Department, this stairway, if it goes into a setback, violates the setback requirements of the Ordinance and that's why you're here for the Variance.

ATTORNEY ANDREW BRAM: That's why they asked us to apply for the Variance.

CONSTANTINE ALEXANDER: I can't figure out from your dimensional form exactly the extent of the intrusion. And it just exactly what relief we would be granting or the impact we would be granting should we grant the Variance being sought. So I just want to know what it is we're voting on when we get to the vote, that's all.

ATTORNEY ANDREW BRAM: That's fine.

This plan was filed as part of the -- that was submitted with the application. It was a plan that shows the stairway. It shows the what the dimension is --

CONSTANTINE ALEXANDER: Got it. So you'll be six feet, nine inches from the lot line. And the setback requirement is, what, probably ten feet?

ATTORNEY ANDREW BRAM: Ten.

CONSTANTINE ALEXANDER: Ten.

Okay, that's what I wanted to know.

ATTORNEY ANDREW BRAM: So it's an open stairway, and as I said, it -- one of the questions was whether or not this -- under Section 5.24.2, talks about projections, part of a building that are not more than 35 feet in height and unenclosed steps, which is

what this is, do not project more than ten feet beyond the line of the foundation. It says and which are not above four feet above the average level to the ground may extend among the minimum yard requirements.

So this is more than four feet above the ground, but it otherwise meets that criteria.

In addition there's --

CONSTANTINE ALEXANDER: You still need a Variance.

ATTORNEY ANDREW BRAM: Yes, that's why we're -- what we've asked for. But I want to show that that is --

CONSTANTINE ALEXANDER: Your point is it's very modest violation of our Ordinance.

ATTORNEY ANDREW BRAM: Very modest.

CONSTANTINE ALEXANDER: Why you want us to grant the Variance.

ATTORNEY ANDREW BRAM: It is only the extension into the side yard that is an issue because the gross floor area does not include open lattice work and fire escapes.

BRENDAN SULLIVAN: Can you not put that staircase out in the back?

ATTORNEY ANDREW BRAM: No, there's not enough space in the back to -- I mean, in order to put it in the back, you would interfere with the opening into the workshop. There's a double door opening that Mr. Fanning uses for bringing in stock and things -- the workshop is still at the first floor.

BRENDAN SULLIVAN: I thought he doesn't use the workshop?

ATTORNEY ANDREW BRAM: No, he uses the workshop. This living space is on the second floor. He still uses the workshop.

The Variance that was granted before allowed him living space and a workshop on the first floor. Workshop still exists and he still uses it.

CONSTANTINE ALEXANDER: And will exist if we grant the apartment?

ATTORNEY ANDREW BRAM: And will exist. To put the stairway down the back would interfere with the access into the workshop.

CONSTANTINE ALEXANDER: While we're looking at that, you also cite, this is more technical, but I want to deal with it, Section 5.26 conversion, up conversion, which says in our Ordinance in so many words that you can convert from a one-family to a two-family, which is what you want to do, provide provided all the requirements are met. And I think according to the dimensional form you meet

all the requirements except for parking. And so I take it your position is if we grant you the Special Permit, then you don't need a Variance in the 5.26 because you'll have -- you'll meet all the requirements of 5.26 either by right of fact or by virtue of the Special Permit; is that right?

ATTORNEY ANDREW BRAM: Yes.

DOUGLAS MYERS: While Board members are conferring, a very basic question. You said earlier that the Linden Park subdivision has 54 lots?

RICHARD FANNING: Yeah, it's 54 townhouses and 54 individual lots.

DOUGLAS MYERS: Are you aware of any other parking waivers that have been granted with respect to any of those other 53 lots?

RICHARD FANNING: I'm not aware of it. I'm not aware. And I believe it's Zoned

C-1 now with a minimum of 5,000 square feet required. So there are other lots that do have two --

CONSTANTINE ALEXANDER: To your knowledge, are there any other two-family which yours is going to be --

RICHARD FANNING: No, sir.

CONSTANTINE ALEXANDER: Everything else is a single-family townhouse?

RICHARD FANNING: Yes.

CONSTANTINE ALEXANDER: And you'll be the first to have two units?

RICHARD FANNING: Yes, sir.

ANDREA HICKEY: And can I ask is there a homeowner's association formally that has rules about how many units that each dwelling can have?

RICHARD FANNING: Yes. There are restricted covenants covering them. They

were for 30 years and they expired last September.

ANDREA HICKEY: All right. So --

RICHARD FANNING: And so the homeowners' association was disbanded. And so, there's no limit -- there is -- that restriction of one unit to one lot is no longer enforced.

ANDREA HICKEY: Is that your understanding, too?

ATTORNEY ANDREW BRAM: That's right, yes.

ANDREA HICKEY: All right.

CONSTANTINE ALEXANDER: Other questions from Members of the Board? Or I'll open it up to public testimony.

Brendan, do you want more time?

BRENDAN SULLIVAN: No, that's okay. Go ahead.

CONSTANTINE ALEXANDER: Okay. I'm going to open it up to public testimony.

Is there anyone wishing to be heard on this matter?

PETER FISHER: There are several of us.

Well, so I live at No. 13.

THE STENOGRAPHER: Name and address?

PETER FISHER: Oh, Peter Fisher, No. 13 Cornelius Way. I've lived there for 16 years. I'll just respond to some of the comments.

Parking's full.

CONSTANTINE ALEXANDER: Parking's full?

PETER FISHER: On street parking is full. So there's not room for another car.

No. 2, at the end, I think it's called,

Harrington Way, that runs --

UNIDENTIFIED AUDIENCE MEMBER:

Wellington-Harrington Way.

PETER FISHER:

Wellington-Harrington Way that connects the tree lot. There's a sharp turn, a car parked down at that end, a fire truck can't make it around. Fire truck has trouble anyway, I've seen it.

There are at least seven other units that could put on an addition and asked for a parking lot exactly like this. An additional parking space, including mine. Okay? We could do a Variance.

Fourth, this is the at least third addition to this house. One is a third story, one is this additional place where the living is going to be that's a workshop, which we didn't oppose. And now there's going to

be an apartment on it. And now there's going to be stairs on the outside. I would like the Board to dig into the documents and ensure that all of this is actually on the property because I don't believe it is.

I would like to see the original property lines. But the larger picture is this house, in comparison with most of the other houses, has already had two additions and this is just really too much. And the parking is a serious problem from my point of view. People are always parking on lawns, and we leave notes to tell them not to. And that's how tight the parking is. Kendall Square lot is not an option. I walk everyday from my house down to Kendall Square by the T station, it's a 15 minute walk.

CONSTANTINE ALEXANDER: Okay.

PETER FISHER: And I'm in good

health.

CONSTANTINE ALEXANDER: Just out of curiosity. You didn't appear, no one appeared when this gentleman wanted to get a parking in his front yard. It wasn't additional parking.

PETER FISHER: I was away for the summer. If I had been here --

CONSTANTINE ALEXANDER: Oh, okay. Thank you. I was just curious why all of a sudden.

Is there anyone else wishing to be heard? Sir.

BRUCE BARTH: In terms of the parking --

CONSTANTINE ALEXANDER: Your name?

BRUCE BARTH: Bruce Barth, B-a-r-t-h, No. 8 Cornelius.

54 houses, we are No. 9 in what was

built. So we've been there since the beginning. Parenthetically I'll say this is difficult because I've known Dick for a long time.

For those who might be less familiar with the area, this is subject that we're talking about. Fundamentally --

CONSTANTINE ALEXANDER: On the left?

BRUCE BARTH: Sorry?

JANET GREEN: This house?

CONSTANTINE ALEXANDER: Yes, which house is it?

BRUCE BARTH: We'll get to it.

JANET GREEN: This is not the house?

BRUCE BARTH: No, this is what the development looks like.

JANET GREEN: Oh, okay.

BRUCE BARTH: We'll get to it.

I added on to my house. This development is an architectural design by the applicant, single-family, colonial townhouse neighborhood. I applied for a Variance. It was granted. This is my house with the addition; roof pitch, aesthetics balance out with the neighborhood.

Now, one question came up in terms of the parking. I approved Dick's application for parking because I thought that the workshop was going to be a garage which was denied. Had I known that, I would not have been in favor necessarily of the addition.

This is the subject property, the applicant's property, which has a clear story already. A large addition. And now there was a comment made about access from a back stair and bringing in raw stock from the front. Well, those double doors are on the

front. Any stock could be brought in through those.

I understand that the staircase in question is -- he's applying to be able to build a staircase? Am I correct?

CONSTANTINE ALEXANDER: That's what the relief being sought is.

RICHARD FANNING: Outside the house between the fence at the rear.

BRUCE BARTH: Right, you want to build the staircase?

RICHARD FANNING: Yes.

BRUCE BARTH: This existing staircase?

RICHARD FANNING: I applied to build --

BRUCE BARTH: But is it this existing staircase? That you're applying for -- you're seeking forgiveness now

instead of permission; is that correct?

RICHARD FANNING: No. I'd like to be able to respond when you get through.

BRUCE BARTH: All right.

This is a someone who could not attend, Grace Foti who signed and says she's against the conversion of a two-family.

This is from Tom Volkert at No. 10 Cornelius who is also against the Variance hearing -- against the applicant.

We're concerned not only about parking. I mean the idea about that there can be a restriction put onto a rental agreement that stipulates if someone parks around the corner, I think is on the face of it, not really valid. The idea that -- now, in fairness, daytime hours is usually plenty of parking there. In the evening we have a lot of conversions, the triple deckers that used to

be owner-occupied when many of us moved there, have now been converted to a \$500 square foot, \$5,000 condos. Those people are now parking on the street in the evening. Parking does become an issue. The idea that tenants will never have any friends and they will never come by car is also kind of specious on its face. And almost more importantly is the idea that if we allow a conversion from a two-family, if the Board allows a conversion to a two-family, that it potentially sets a precedence for further conversions, however many there are, within the neighborhood. The question that was asked -- that were asked at my hearing, does it impact the neighborhood? Mine didn't. We didn't change anything. This does.

Did we change any of the parking?

Nope, we didn't bring any more cars in. So

this impacts the neighborhood as well.

Is it, to me, aesthetically and architecturally complimentary to the neighborhood? No, it's not.

I just think this thing should be denied for all of those reasons.

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

Anyone else wishes to be heard? Sir. You'll have your opportunity. Okay.

RALPH CHADIS: I'm Ralph Chadis at 12 Cornelius Way. C-h-a-d-i-s.

I just wanted to make -- I missed my point.

Oh, parking. If you were to allow him to make this into a two-family, which I oppose, I see no reason why that should come with parking. I have friends of mine all from Brookline, all over -- and some of them

have to walk blocks to find to get to their parking space and pay a lot of money for that. So there's no reason for, you know --

CONSTANTINE ALEXANDER: So you understand, if he wants to make a second unit in the property, which he does, he has to, under our Ordinance provide on the property two parking places. He only has one. Two. One per dwelling unit. Two units on the property.

RALPH CHADIS: So he has to have it by Ordinance.

CONSTANTINE ALEXANDER: He has to have it, unless we give him relief which he's seeking tonight.

RALPH CHADIS: To not have a parking space.

CONSTANTINE ALEXANDER: If we don't give him relief, he can't have more than one

unit on the property.

RALPH CHADIS: I'm afraid of the precedent of setting up two-family units in this area. And I understand that we have a remarkable amount of land around that area, but it still would change the character --

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

RALPH CHADIS: -- tremendously.

CONSTANTINE ALEXANDER: Is there anyone else wishes to be heard?

BRUCE BARTH: Tony?

UNIDENTIFIED AUDIENCE MEMBER: No, I don't want to say anything. Thank you.

CONSTANTINE ALEXANDER: Okay.

Before I give you, the Petitioner, a chance to respond, I will read into the record the letters that this gentleman gave to us. There's one from Tom Volkert, V-o-l-k-e-r-t,

who has -- identifies himself as a former Chairman of the Linden Park Homeowners' Association Trust. (Reading) I would like to join you -- the letter is addressed to Mr. Barth, Bruce Barth -- I would like to join you in opposition to the Variance application from 21 Cornelius Way by Richard Fanning to make a single-family townhouse into a two-family dwelling. Residents of Linden Park choose to live there due to it's appealing single-family feel and we are very concerned about the precedent set by allowing owners to convert their homes into multi-family houses.

And we also have, it's in the form of a petition, but it's just signed by Grace Foti, F-o-t-i who resides at 17 Cornelius Way.

And it says: We the undersigned

abutters, members of Linden Park Homeowners and Neighbors, are against the granting of a Variance and Special Permit to create an additional dwelling unit with exterior staircase at 21 Cornelius Way, Cambridge.

And that's it.

I'm going to close -- I'm going to close public testimony and I'll give you an opportunity to speak and then we'll close all testimony and we'll consider the case. So the floor is yours however you want to deal with it.

RICHARD FANNING: Yes.

Mr. Volkert lives elsewhere and rents out his mouse.

JANET GREEN: We can't hear you.

I'm sorry.

CONSTANTINE ALEXANDER: Speak up a little bit.

RICHARD FANNING: I'm sorry.

Mr. Volkert lives elsewhere and rents out his house. With respect to people in Brookline that have the problems renting, they have no on street parking at night.

This is only my opinion, but I believe the addition is complimentary to the houses that I designed 28 years ago for the Wellington-Harrington Development Corporation which is the area.

Each and every person that would like to duplicate what I'm trying to do would have to come before this Board. I do fulfill one of the requirements which is that my lot is over 5,000 square feet which is in compliance with C-1 Zoning which it is now. It was originally a planned unit development.

The people that were notified as determined by the Building Department and/or

you for planning, there's only one that lives close by to me, the rest all live up the street.

I guess that's about it.

CONSTANTINE ALEXANDER: I have a -- you've had your opportunity unless --

BRUCE BARTH: I had one comment if I could. The fact that Mr. Volkert lives elsewhere --

CONSTANTINE ALEXANDER: Don't, don't. You don't need to address that. We can -- we have our views on that.

BRUCE BARTH: Okay.

CONSTANTINE ALEXANDER: I want to talk about the staircase.

RICHARD FANNING: Yeah.

CONSTANTINE ALEXANDER: Is it in existence now the one you're seeking relief for?

RICHARD FANNING: May I see that?

CONSTANTINE ALEXANDER: I don't know what you need to see, but I'm sure.

RICHARD FANNING: Well, I mean I would like to....

This -- I applied in December to build this staircase.

CONSTANTINE ALEXANDER: Yes.

RICHARD FANNING: And I thought I could do it without any permission given that I had the lot, the side lot, and I only encroached I think two feet within it or beyond, whatever.

CONSTANTINE ALEXANDER: Right.

RICHARD FANNING: So I hadn't heard and I hadn't heard, so I went ahead and I built it.

CONSTANTINE ALEXANDER: So you did build it? Okay. It's in existence?

RICHARD FANNING: But I want to say the bottom of the stairs are not complete. And the door that would lead on to the porch providing -- it was never installed. I stopped when I found out it was not --

CONSTANTINE ALEXANDER: Okay.

RICHARD FANNING: Thank you.

CONSTANTINE ALEXANDER: Sure, thank you.

Mr. Bram, any further comments?

ATTORNEY ANDREW BRAM: No, the only comment I have is that I also have been in this area at night. I don't believe that the parking is as tight as some of these people speak and would have the Board believe, and I think there is on street parking there's plenty during the day.

RALPH CHADIS: Could you speak up?

ATTORNEY ANDREW BRAM: And I think

there is parking at night. I understand the comment about the fire truck coming around the corner, but that's a fairly long connecting street between Michael Way and Cornelius Way and it's all residents parking on it.

And in addition, the -- what I think some of the people are speaking don't understand is that the unit is already built. The unit was permitted. This living space exists. Nothing is more common -- for the people in the audience is not going to -- nothing is going to change. This living space is already there. It's already permitted.

CONSTANTINE ALEXANDER: What's going to change is that there are going to be two families, two dwelling units, when right now there is only one. That's the change.

ATTORNEY ANDREW BRAM: That is the change. But in terms of the practical result of that, if Mr. Fanning's sister had been able to come and live with him, you would have another individual in this house anyway.

CONSTANTINE ALEXANDER: That's not the issue, Mr. Bram. The issue is because you want to have a second dwelling unit, or your client does, there is parking consequences to that.

ATTORNEY ANDREW BRAM: Yes.

CONSTANTINE ALEXANDER: And I would suggest that we have in a sense, if you will, a he said/she said kind of debate. You say there's no problem with parking and the neighbors have said there's plenty of problems with parking. It would have been incumbent -- it is incumbent on you since you have the burden of proof, to come in with a

parking study -- it costs money, I understand, a parking study or some external evidence that would support your point of view and not the point of view of the neighbors. But as it is now, I can't say how you're right and they're wrong. That's me speaking.

ATTORNEY ANDREW BRAM: I

understand. I understand. As you pointed out before, when this was before the Board for additional space in the front yard, there was no opposition. We sent out letters to all of the immediate abutters, all the people who got notice of the Board's hearing, and again no one had asked them to contact us and there was no objection. No one who lives within our area at that end of Cornelius Way objects to this. The people have come and spoken tonight are people who live further away from

this development. So we didn't reach out to them because we didn't expect that there would be any opposition, which is the other reason why we went on to the trouble of a parking study for one car in this neighborhood. You know.

PETER FISHER: I did not receive notification about this. So I received notification --

CONSTANTINE ALEXANDER: We had public testimony. You're not -- we get it. I mean, okay?

PETER FISHER: Okay.

CONSTANTINE ALEXANDER: Sir?

RICHARD FANNING: The Dante Alghieri Society has parking. I don't believe you have to be a member and people park there during the day. There are spaces available that I didn't, you know, check it

out, but there are spaces vacant at night. The same is true at the church at the other end. Saint, Saint -- on the corner of Portland Street and Cambridge Street.

CONSTANTINE ALEXANDER: I know what you mean. I don't know the name of the church.

RICHARD FANNING: Yeah, well, okay. It has a huge parking lot.

CONSTANTINE ALEXANDER: You don't have any letter from them saying you have our permission for your people -- for your tenant to park in our lot in the evenings?

RICHARD FANNING: I don't at this time and I will be happy to get one if that --

CONSTANTINE ALEXANDER: This is the time, sir.

I'm going to close public testimony at this point. I think we should begin our

deliberations.

Any members want to express any views on this? I mean, I would be happy to express mine. I'll give the floor to other people.

BRENDAN SULLIVAN: No. I would oppose the waiver of the parking plan. I disagree with counsel's characterization that there is no problem, and that there would not be in the future exacerbating a problem and to not only grant this but to grant future, even though we do this in a singular fashion. So I would feel as if we should not waive the parking requirement.

I also disagree with counsel's characterization that the staircase is not viewed from the public way. I saw it from the public way. I think it's an intrusion into the side yard setback. I think there is another solution to it, it may not be

desirable, but I don't think we should waive that requirement because quite simply I think it was bad behavior to go ahead and just build it without a Building Permit. And also I think I hold those side yard setbacks somewhat sacred, and that this -- there's no hardship that it could not have been done another way.

CONSTANTINE ALEXANDER: Thank you.

I'll weigh in, too. I cannot grant relief. Mostly on the Special Permit for the parking which is the lynchpin of the whole case. You haven't made your case. I mean we've got a lot of testimony here tonight saying parking is a problem and this will just exacerbate the parking problem. You haven't demonstrated to us that that won't be the case to my satisfaction.

On the staircase, I'm less concerned

about the intrusion into the setback because that setback adjoins railroad tracks. It's not going to impede on the privacy or the liveability of the neighboring -- of another resident. I am, however, very upset about the fact that you went ahead and built it without getting a Building Permit. And I'm sorry, you can talk to me all you want about you didn't finish the stair on the bottom or this or that. The fact the matter is that you went and built and you shouldn't build without a permit. That's not the issue before us tonight. And a Special Permit and this and the Variance, too, but I think technically speaking, the fact that you went ahead and built this intruding staircase doesn't necessarily impact on the Variance request, but it certainly shades my view of whether I should grant the Variance or vote

in favor. It's not my decision. It's the Board's decision. I'm not going to vote in favor.

Anyone else want to speak?

JANET GREEN: I can't. I can't vote in favor of it because they're not specifics about the parking alternatives. I find it really vague that maybe they could go to this lot that's down at the corner. If somebody wanted a car or maybe they wouldn't want a car because of the size of the apartment. I mean, it's all really vague. And there are a lot of people here who say there is a problem with the parking and it's hard. I feel I need to take that into consideration without your supplying any solid data about that they could -- people could park in the parking lot and at one place or the other. So it just didn't have enough to convince me that they

would be able to park somewhere else besides the street.

DOUGLAS MYERS: I'm opposed, also, and I really see no reason to add anything to the comments of the other members.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: I'm opposed as well.

CONSTANTINE ALEXANDER: Let's take the vote. As we have to, I'll make the motion in the affirmative. I'm going to make the vote on the Special Permit because the Special Permit which involves the parking is not granted, there's no -- the Variance issue of the staircase is academic.

So, the Chair moves that this Petitioner be granted a Special Permit to allow only one -- to have only one parking space in, and it will be a two-family dwelling, on the grounds that pursuant to

Section 6.35 reducing the parking will not cause excessive congestion, engage in public safety, substantially reduce parking availability for other uses, or otherwise adversely impact the neighborhood.

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

(No Response.)

CONSTANTINE ALEXANDER: There's none in favor. The motion does not carry.

The Chair moves that we make a further finding that the basis for denying the Special Permit is that the Petitioner has not demonstrated that reducing the parking space, the number of parking spaces will not substantially reduce parking availability for other uses.

In this regard we have had extensive comments from people in the general

neighborhood who have testified to the contrary that there will be parking issues.

That the availability of off street parking -- there's been no -- it's just been, as Ms. Green said, very vague. We haven't seen any agreement with other organizations which would give your tenant the right to park on their property. And my judgment and my observation that generally organizations do not allow people to park on their property, at least unless they get rental income, because of among other things, liability risks.

And that, therefore, that -- I move that we adopt what I've just described as our findings which would justify denying the request for the Special Permit.

All those in favor -- anybody want to add to what I just said?

(No Response.)

CONSTANTINE ALEXANDER: All those in favor of adopting the vote I've said, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

BRENDAN SULLIVAN: On the Variance I think that we should have language in there denying it anyhow. I would not want to be silent on it in that there could possibly be a de facto.

CONSTANTINE ALEXANDER: Okay. That's a fair point.

With regard to the Variance being sought the Chair moves that we make the following findings:

That denial of the Variance -- finding that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that he would not be able to have a second dwelling unit in the structure assuming that he could otherwise do it with regard to Section 5.26.

That the hardship is owing to the fact of the shape of the location of the structure on the land and the nature of the lot.

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.

On the basis of these findings the Chair moves that we grant the Variance with regard to the staircase as being sought by the Petitioner.

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

(No Response.)

CONSTANTINE ALEXANDER: None in favor. The Variance is denied.

The Chair moves that we make the following findings with respect to the denial:

That relief will not cause substantial -- I mean, denial of the Variance will not involve a substantial hardship to the Petitioner. Such hardship being that the fact that the Petitioner will not be able to have a second dwelling unit in the structure anyway inasmuch he cannot provide the requisite parking.

That there are no special circumstances that would justify the granting of the hardship.

And that relief may be -- if we granted relief, it would be substantial detrimental to the public good and that it would intrude on a setback in a rather tight neighborhood.

All those in favor of adopting that motion, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Motion adopted.

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

* * * * *

(8:50 p.m.)

(Sitting Members Case #BZA-003574-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003574 -- we're going to
continue the case.

UNIDENTIFIED AUDIENCE MEMBER:
You're not going to hear it tonight?

CONSTANTINE ALEXANDER: You came
late, we didn't know.

UNIDENTIFIED AUDIENCE MEMBER: It
said 8:15.

UNIDENTIFIED AUDIENCE MEMBER: Is
it going to be rescheduled?

CONSTANTINE ALEXANDER: Yes. And assuming the Petitioner doesn't withdraw his petition.

UNIDENTIFIED AUDIENCE MEMBER:
Okay.

CONSTANTINE ALEXANDER: Nothing is -- he's not getting any relief tonight.

UNIDENTIFIED AUDIENCE MEMBER:
Okay.

CONSTANTINE ALEXANDER: We're going to kick the can down the road a little bit.

UNIDENTIFIED AUDIENCE MEMBER: Was it discussed?

DOUGLAS MYERS: Have we determined a date?

CONSTANTINE ALEXANDER: No, no. We haven't determined a date. We're going to do that right now.

UNIDENTIFIED AUDIENCE MEMBER: Is

there anything we can enter since we're here?

CONSTANTINE ALEXANDER: We're going to change the date now.

UNIDENTIFIED AUDIENCE MEMBER: Is there anything we can enter into the record since we're here?

JANET GREEN: You can write a letter.

CONSTANTINE ALEXANDER: You can write a letter. Or when is the case continued to?

SEAN O'GRADY: 6/12.

CONSTANTINE ALEXANDER: June 12th work for you?

UNIDENTIFIED AUDIENCE MEMBER: It does I think.

UNIDENTIFIED AUDIENCE MEMBER: We can write a letter.

CONSTANTINE ALEXANDER: Okay, while

you're looking at that, the Chair moves that -- we must have a letter -- it will be at seven p.m.

There's a letter in our files from a Sean D. Hope, Esq. with regard to this property at Western Avenue.

(Reading) Please accept this request on behalf of the Petitioner to continue the hearing to the next available hearing date. It is also -- it has only recently come to our attention that there are outstanding issues that need to be resolved with the Department of Inspectional Services prior to being heard by the Board. Additionally, granting the continuance will allow us additional time for dialogue with our direct abutters who have voiced their opposition to this application. Given the late timing in this request, we will make every effort to reach out to the

interested parties and notify them of our continuance request. We apologize for the delay and look forward to presenting the application to the Board of Zoning Appeal at the appropriate time.

The Chair moves that this case be continued until seven p.m. on June 12th subject to the following conditions:

That the Petitioner sign a waiver of time for decision.

That the posting sign be modified to reflect the new date, June 12th, the new time, seven p.m., and that the sign be maintained in accordance for the two weeks as required by our Ordinance.

And lastly, well, if there are any plans -- this doesn't seem to have plans. But if the Petitioner wishes to submit new plans or a new dimensional form, that they

must be in our file no later than five p.m.
on the Monday before June 12th.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case
continued.

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

* * * * *

(8:55 p.m.)

(Sitting Members Case #BZA-003581-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: I'm going
to call case No. 003581, 3 Clement Circle.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair
would note that there is no one wishing to be
heard.

The Chair would report that we have an

e-mail from the architect for the project Monika, M-o-n-i-k-a, Zofia, Z-o-f-i-a Pauli, P-a-u-l-i. It says: Please postpone our hearing tonight. See waiver form attached. And that's the form waiver time for decision. We greatly appreciate your advice and the owners of 3 Clement Circle will talk to the objecting neighbor again and see her concerns.

And the advice, she refers to the fact that she was advised per my request and Mr. O'Grady to let the Petitioner know that there was opposition from abutters to the relief being sought and didn't want them to be surprised when she came into the hearing. And that's what she's referring to.

So what date is that, same June 12th?

SEAN O'GRADY: We should be able to do them June 12th, also.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on June 12th.

The Chair notes that we have a waiver of time for decision in our files. So the only condition we impose is that the posting sign be modified to reflect the new date and the new time, seven p.m. on June 12th.

That this sign be maintained for the 14 days required by our Ordinance.

And lastly, that to the extent that there's going to be any modification to the plans that are in our files, those new modified plans, together with the dimensional form, new dimensional form must be in our files no later than five p.m. on the Monday before June 12th.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case
continued.

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

* * * * *

(8:55 p.m.)

(Sitting Members Case #BZA-003500-2014:
Constantine Alexander, Brendan Sullivan,
Janet Green, Douglas Myers, Andrea Hickey.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 03500, 196 Franklin
Street.

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

MARK BOYES-WATSON: Mark
Boyes-Watson, Boyes-Watson Architect, 30
Bowes Street in Somerville.

GAIL LANGELOH: Gail Langeloh,

L-a-n-g-e-l-o-h.

JOHN ROBACK: John Roback,
R-o-b-a-c-k.

MARK BOYES-WATSON: Thank you for waiting for us. I don't have my usual boards because actually Eliot thought that the hearing was next week. If -- and if I could, if I could maybe beg the site plan from you that we submitted, it could help me just explain what the proposal is.

CONSTANTINE ALEXANDER: Sure.

MARK BOYES-WATSON: That's great.
Yes.

So, what happens at 196-198 Franklin is that the -- Gail used to live here and owns the property and has owned the property since 1998. They're actually currently in Vermont for a job and are coming back. So they had renovated the front house and they used to

live in the front house. When they come back, their children will be in college already and they will live in the back house, which is a small cottage on the back corner of the lot and that -- they are currently managing the property from Vermont. But the back house has never been renovated and it's in a little trouble in the sense that it constantly -- it doesn't have a good foundation. It's constantly infested with animals.

CONSTANTINE ALEXANDER: It's also on the neighbor's property, too.

MARK BOYES-WATSON: It's also on the neighbor's property.

So the idea is to reconstruct the -- what we're calling the rear house as is, but getting it on to the actual property. So removing all of the deed kind of things

where it's over the property line, staying underneath the -- making an increase to the amount of square footage on the second floor so that it's a little bit more liveable, but staying right on the same footprint. Not trying to expand the footprint, which is an important aspect.

CONSTANTINE ALEXANDER: Other than to move the house.

MARK BOYES-WATSON: Other than to move it onto its lot.

And actually that kind of extension is the one that's permitted any way in the Zoning Code, and so building a second floor over an existing, non-conforming structure.

So the first relief is to be allowed to remedy those poor situations and do that. And this, and of course that, that because it's close to the property line, requires

that the setback relief, etcetera.

The other thing that happens is that on the reconstruction, the parking, there's still only one parking space. And actually, this lot has a very nice open space. So one of the -- in order to actually remedy that situation, you literally gobble up all of the open space on the lot. And the house is right next to Central Square, and so the Petitioner is asking to be able to leave the existing situation for the parking exactly as is, which is that there is -- there's off street parking for the -- for one -- it's really tandem but it's one car.

JANET GREEN: And where is that?
I'm sorry.

MARK BOYES-WATSON: So that's right here. The driveway is on the left-hand side of the house. Right now there's a kind of

shed on the driveway. In order to construct this house, we have to remove the shed and come passed it.

Is the intention to replace the shed on the end or not replace the shed in the end?

FAIL LANGELOH: Replace it. Well, just put it back.

CONSTANTINE ALEXANDER: If they took it down and --

MARK BOYES-WATSON: I guess you were -- yeah. I don't think we asked for it actually.

CONSTANTINE ALEXANDER: No, you haven't asked for it.

MARK BOYES-WATSON: Okay. Maybe then we'll leave that. It's not -- well, it's not seminal. It's just physically in order to build that back house, we have to take it down.

CONSTANTINE ALEXANDER: I understand. A couple of questions.

The back house, when was the last time it was inhabited?

GAIL LANGELOH: We rent it now.

CONSTANTINE ALEXANDER: You rent it now?

GAIL LANGELOH: Yes.

CONSTANTINE ALEXANDER: So it is habitable?

GAIL LANGELOH: It is habitable. It's just difficult with the rodent problem right now and freezing of the pipes and things like that. So it's, it's just becoming more and more difficult. And also there's some settling that I've noticed in the living room.

CONSTANTINE ALEXANDER: And one of the issues I think, Zoning issues is that

you're going to be moving slightly the structure, the second structure, going to be too close to the front house?

MARK BOYES-WATSON: Yes. Ten foot required setback. We have --

CONSTANTINE ALEXANDER: How much do you have?

MARK BOYES-WATSON: The new design will call for -- just give me a moment. I would say it's -- it's exactly the same distance as it was, and without being to the nearest inch, it's about five feet away from the existing house.

CONSTANTINE ALEXANDER: Should we be -- I mean, the reason why the Ordinance says a minimum amount of space between structures is safety.

MARK BOYES-WATSON: We could, we could make it a condition that we put, we fire

rate that wall, which is what we do when we're too close to a property line to meet the Building Code anyway.

CONSTANTINE ALEXANDER: You're doing fire --

MARK BOYES-WATSON: Yes. We do it all the way down the edge of the wall. When we construct the wood wall, we put the wood studs up and we put the sheathing up and then we put a layer of fire rated material so that the fire can't actually spread to the interior of the secondary structure. So we could do that. We had already understood that we would be doing it on these two elevations anyway because of the proximity to the property line. And we could just run that around the third side and it would have that same thing and mitigate that risk.

CONSTANTINE ALEXANDER: Don't you

have the same risk going the other way?
Suppose there's a fire in the front house?

MARK BOYES-WATSON: You do. It's
all fully renovated in there.

CONSTANTINE ALEXANDER: Oh --

MARK BOYES-WATSON: But I think
actually -- I mean, I don't know exactly how
that would work, but, but the fact that we're
gonna put that on our house, if the thread is
from the back house to the front house --

CONSTANTINE ALEXANDER: I
understand.

MARK BOYES-WATSON: -- it helps.

CONSTANTINE ALEXANDER: It helps.

MARK BOYES-WATSON: Both ways. And
I don't know, what's the extent of
renovation? This was recently done, the
kitchen?

GAIL LANGELOH: Yes.

MARK BOYES-WATSON: It's relatively new. A more onerous requirement you could put on the project would be that we remove the siding from that back elevation and put that same treatment on that facade as well, and that's doable.

CONSTANTINE ALEXANDER: I like that.

MARK BOYES-WATSON: Yeah, that's doable.

CONSTANTINE ALEXANDER: Okay. Let's talk about parking. You were before us or your office was before us for the next -- the neighboring property, almost the same kind of -- if my memory serves me.

MARK BOYES-WATSON: Correct.

CONSTANTINE ALEXANDER: And you asked for a parking relief then?

MARK BOYES-WATSON: Yes, we did.

CONSTANTINE ALEXANDER: Two structures. Should we start to be concerned about parking on the street level? It's a narrow street. It's a busy street. And if all of a sudden we're reducing the number of parking spaces on-site relative to number of structures, we're starting to have issues and we just went through this with Cornelius Way.

MARK BOYES-WATSON: Yes. The one we -- the next-door neighbor was actually three units on the site with one parking space. And we're not -- we're not -- we're not increasing the severity. We're still leaving it exactly the way it is. There's no increase in unit counts and it wasn't here and it wasn't there. It's precisely the same condition.

CONSTANTINE ALEXANDER: I thought this building when I looked at it, I thought

the building was vacant back there. So effectively you were going from one dwelling unit to two?

MARK BOYES-WATSON: Yeah. But actually it has been occupied.

CONSTANTINE ALEXANDER: There's been general use of that structure?

GAIL LANGELOH: Yes.

BRENDAN SULLIVAN: There is one parking space there now. Who uses that?

GAIL LANGELOH: The tenants in the front house.

BRENDAN SULLIVAN: And when you move to the back house, who is going to use the parking space? You are. How many cars do you have?

GAIL LANGELOH: Well, we have two now because we live in Vermont. When we lived in Cambridge, we had one vehicle.

BRENDAN SULLIVAN: That answers my question.

JANET GREEN: So can you tell me something about the length of this space here and why, if you're moving the shed, you couldn't park two cars there?

GAIL LANGELOH: Oh, you can park two cars there now. It's tandem. It's big enough to do that now. It's just with two -- it's just hard to have a tandem relationship with two people that are not like families I would say.

JANET GREEN: So you apparently have parking but you don't --

GAIL LANGELOH: We have two.

JANET GREEN: -- you'd rather not use it.

MARK BOYES-WATSON: I think that it's more that the -- and I think you're happy

to maintain the two spaces, off street parking spaces.

JANET GREEN: Right.

MARK BOYES-WATSON: To meet the requirements of the Zoning Code, they would need to be side by side.

JANET GREEN: They need to be side by side.

MARK BOYES-WATSON: I think it's fine that it's not, it would be quite doable to make sure that there's at least two tenant spaces, at least two spaces, one tandem in the final proposal.

ANDREA HICKEY: With one space for each unit? Because it does no good if the --

MARK BOYES-WATSON: It's interesting. I -- I hear what you're saying. It's hard to manage --

BRENDAN SULLIVAN: The answer to my

question is right now we are, we have one car parked there and yet we're going to wind up with two more additional cars on the site. So one car either gets on the street, two cars get on the street, or we would require tandem parking so that you could put two cars on the site and only displace one. Down there we're going to exacerbate the parking because we're going to be adding the possibility of two cars.

GAIL LANGELOH: Well, we really would only have one car in Cambridge. I mean, it's hard to park here. I mean, we would not come here with two cars.

CONSTANTINE ALEXANDER: But the person who rents your front house if you move to the back house could have two -- or family could have two cars.

GAIL LANGELOH: They could.

MARK BOYES-WATSON: I would say I, I appreciate that. I just -- just to give some context to some of the work that we've been doing in Central Square and with the Planning Board, and it's not, I know you're not the Planning Board, you're the Board of Zoning Appeal. But we are doing a project on Essex Street which is 500 yards from this site where -- and city is currently reviewing reduction of parking requirements.

CONSTANTINE ALEXANDER: I'm aware of all that.

MARK BOYES-WATSON: The idea of sustainability. The idea that you don't encourage cars. But I know that it doesn't per se make that easier to understand, but I think that it's not inconsistent with some of the goals of the city to not encourage more cars anywhere.

So the other thing that we could do here is I believe without -- because we do have an -- we can even actually lengthen that driveway and have the possibility for more. I don't know if this is necessarily a terribly good idea, but it's not impossible.

CONSTANTINE ALEXANDER: Triple tandem spaces?

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: It would almost never be used.

MARK BOYES-WATSON: That's right. I don't think it's helpful. I think you lose open space which is a greater amenity and more consistent with the goals of the city.

ANDREA HICKEY: And if you go in head first, backing out sort of three cars to shuffle cars could be dangerous, too.

MARK BOYES-WATSON: It gets to be a

performance, yes.

CONSTANTINE ALEXANDER: Do you need a demolition permit?

MARK BOYES-WATSON: We will need -- we will need Charlie to sign off on that.

CONSTANTINE ALEXANDER: Signing off in the sense that you don't need a demolition permit or you do need one?

MARK BOYES-WATSON: We need a demolition permit, yeah.

CONSTANTINE ALEXANDER: You haven't applied for it yet?

MARK BOYES-WATSON: We haven't. You talked to Charles and he hasn't considered this.

JANET GREEN: You know, I appreciate the city's effort to reduce the automobile traffic, and I understand it. But there are

a lot of people in Cambridge who don't ride bicycles, you know? And we have a lot of people of an age in Cambridge who are going to be riding bicycles, who don't live near the T, who don't live -- I mean, and so each time when we cut off a parking space, I wonder about people who have grown up and lived in Cambridge with the idea that they drove a car to get to the grocery store or to go here or to go there and they can't, they can't just say oh, I've decided that for the clean air of all of us that I'm going to ride a bicycle.

MARK BOYES-WATSON: In the planning -- I think it's interesting. It is the existing condition. Were we not taking down this house, this, this relief comes because we're reconstructing it because the foundation.

JANET GREEN: That's right.

MARK BOYES-WATSON: But just on an intellectual level to tease that out, this lot -- the next-door lot was a three-family. Actually this lot between the off street parking space and the frontage of the house is actually two spaces, the -- I believe that the statistics in the City of Cambridge are that the parking permit, the people who apply for a city parking permits is declining in the city. The number of car ownerships is actually declining in the city. That's why I think the Planning Board starts to get comfortable with these kinds of concepts. And here we're simply maintaining an existing non-conforming situation. It's coming before you because of the reconstruction, otherwise it would be mute. You would be allowed to continue the existing non-conforming use.

JANET GREEN: Right.

MARK BOYES-WATSON: But in terms of the comfort on this particular lot it's frontage, plus its off street parking, in fact were you to -- let's do it a different way. Were you to increase the curb cut to put two tandem, two side-by-side spaces, you would lose the on street parking space. You'd, you know --

CONSTANTINE ALEXANDER: You couldn't do -- the lot's not big enough.

MARK BOYES-WATSON: It doesn't make any sense, right.

CONSTANTINE ALEXANDER: Not make any sense. You just can't do it unless you get a different type of relief.

MARK BOYES-WATSON: Right. So the nature of the lot and its current dimensions suggest. The alternative is and we do where

you drive on to the lot and you try to maneuver two cars on the lot and you gobble up everything is asphalt, you know, and you meet the minimum requirements for the open space, but it's --

JANET GREEN: So I have another question because in the case that maybe you missed, however, you might have heard, we talked about asking people, they didn't sort of prove their case. So in this case you're saying well, the Planning Board -- well, the city is using, getting fewer parking requests, parking -- resident parking permit requests. Yes?

MARK BOYES-WATSON: And that's the problem.

CONSTANTINE ALEXANDER: How many?

JANET GREEN: The point is there's no data.

CONSTANTINE ALEXANDER: It may be true citywide, but it may not be true to the neighborhood either.

MARK BOYES-WATSON: I know that, right. Exactly. Although I would submit that it's more likely, and I think I know from having done projects in different parts of the city, that North Cambridge or places that are further from the T are more likely to have more parking permits.

DOUGLAS MYERS: If this Board declines to continue this existing single parking space from the two units, in other words, just declines to grant the Special Permit, then what would be your practical approach to parking two vehicles on the property?

MARK BOYES-WATSON: I think --

DOUGLAS MYERS: In the context of

your proposal?

MARK BOYES-WATSON: I think that the -- we looked at that and there is -- following the -- if you take -- I'll just give a little illustration and I'm not going to go to the drawings. But in order to comply -- I would have complied if I could have, but this is what it looks like. You have to come passed the house, you have to have 22-foot -- to meet code -- 22-foot backup space plus the 18-foot parking space, right? And so from here to here would be asphalt. This whole thing would be asphalt through here. And I'm not sure we would meet the open space requirement there. So instead of coming for relief on the parking, we would be coming for relief on the open space. If you were to find that this was inappropriate, what's proposed here, if they

were to cobble together a renovation of that existing structure without, without rebuilding the foundation and rebuilding the structure, we wouldn't need this relief. I think that it's not a logical approach to the situation that they're in right now with the sort of semi-basement crawl space that they have. But that's where we probably would go.

In other words, the two spaces is really infeasible on the lot. And even if you would grant us relief from open space, I think that my clients wouldn't seek it because it's so destructive to the character of the neighborhood. If that makes sense. So in other words, they would be -- they would be forced into a situation of looking -- they would probably come -- I'm not sure what relief they would need. We probably would be forced to come back to you just asking you

about the second floor and maybe the correction of the footprint. The result being the same.

BRENDAN SULLIVAN: So the cure is worst than the disease?

MARK BOYES-WATSON: I would submit.

CONSTANTINE ALEXANDER: Any other questions at this point from the Members of the Board?

(No Response.)

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

Are you here for this? Do you wish to be heard.

JILL SHULMAN: Sure. Jill Shulman. I was a tenant of theirs which is why I'm here and how I know them. I lived in this cottage for six years. And actually left because I was living with some skunks and so which

was --

CONSTANTINE ALEXANDER: Not human skunks.

JILL SHULMAN: Right, not human skunks. But, so I can only -- I could speak to how cute the cottage is and what a great spot it is and the wildlife that lives there right now in the basement, in the foundation, but I can also say as far as public transportation goes, it's about like a three-minute walk to the T would you say?

GAIL LANGELOH: Yes.

JILL SHULMAN: There's probably nowhere in the city that's easier to access that is less than five minutes. It's Hubway bicycles. There's a taxicab stand. There are busses in every direction. And the T. And so I was working in Boston at the time and I would just take either the bus or the T.

And if you -- if there was anywhere that you didn't have a -- need a car, it would be in this location.

ANDREA HICKEY: Did you have a car when you lived there?

JILL SHULMAN: I did have a car but I didn't use it.

ANDREA HICKEY: Thank you.

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

Do you have anything you want to add? You don't have to.

UNIDENTIFIED AUDIENCE MEMBER: We are together. I mean, I just can add that, you know, that cottage was a good time. We met there, my wife and I, when she was living there. And they, you know, they got to rebuild it the same way, you know, close to the same way that it was and that's, you know,

most -- they're keeping the same design.

CONSTANTINE ALEXANDER: And your name, sir?

MERHI SATER: My name is Merhi Sater, M-e-r-h-i S-a-t-e-r.

CONSTANTINE ALEXANDER: Thank you, sir.

The Chair will read into the record, we have some correspondence. We have an e-mail from a Ron Phelan, P-h-e-l-a-n. (Reading) I am writing in support of the demolition of rebuilding petition filed by Gail Langeloh -- did I get it right?

GAIL LANGELOH: Yes.

CONSTANTINE ALEXANDER: -- and John Roback. Case number such and such. The hearing is scheduled to be heard on May 8, 2014. Should have sent this to you. My property is at 119 Auburn Street behind and

diagonally adjacent to their property. I've had several interactions with Gail and John and I understand and support their path to improve their property and the neighborhood by demolishing and rebuilding their existing back structure. I think they would be cognizant of and respectful to the city and to their immediate neighbors during their rebuilding process.

And a letter from Maureen and William Hammond, H-a-m-m-o-n-d, 191 Franklin Street, (Reading) John Roback and Gail have applied to rebuild their cottage in the rear of the above address. As an abutter, we think that would be an excellent idea and it will enhance our neighborhood. Please allow them to proceed with this project.

And I think that's all there is.

I will -- unless you have any final

comments, Mr. Boyes-Watson?

MARK BOYES-WATSON: No.

CONSTANTINE ALEXANDER: Okay, then I'll close public testimony and open the matter up for discussion by the Board.

Anybody wish to speak on this?

BRENDAN SULLIVAN: Well, I think the main crux of what's before us is that if they were to renovate and remodel the existing structure, which they could do as of right, they could continue doing what -- in the way that it is and the modus operandi and the comings and the going of the parking and not parking, that does not, however, alleviate the cloud over the title and its legal standing as being on the other property line.

So, the solution to it is to take down the existing structure, which is probably more than the tipping point of is it worth it

to remodel it and then you get, and then it winds up just as a remodel, and a whole lot of money and not a really nice space. And so --

MARK BOYES-WATSON: And further actually, and there was -- and I should have said, you know, the ceiling height. We could push it just up above the legal minimum ceiling heights which isn't really there now.

BRENDAN SULLIVAN: So that you can No. 1 bring it, bring it on to its off the legal lot, which I think is what we should do, that we then wind up with a much more liveable, viable structure, safer structure for the occupants. A much nicer looking structure for the neighborhood. Then the parking can continue the way it is. If we were to require the parking, I think then we wind up denigrating the whole project by

asphalting it or hardscaping it or whatever and it really serves no purpose. I think that the plan that's before us is probably the right solution to somewhat of a difficult situation.

CONSTANTINE ALEXANDER: Anyone else wish to speak?

DOUGLAS MYERS: I would like to ask one simple question at this point. If the Board were to grant the Special Permit so that you don't -- only one legal parking space for this two units, how would you intend to frame the rental to a prospective tenant of the front unit? That is, would you be renting it without parking?

GAIL LANGELOH: Most likely. I mean, that's how we rented it.

DOUGLAS MYERS: I understand this isn't written in blood. How would you

intend, as you sit here tonight, how would you intend to frame the rental of the front unit with respect to parking?

GAIL LANGELOH: We haven't talked about it. We probably -- would we keep it? Keep the parking?

JOHN ROBACK: We would probably take the space. Because generally the front lot is the people there are -- tend to be younger and I think more flexible in terms of how they're getting to work we find in people.

DOUGLAS MYERS: So you would probably rent it without parking?

JOHN ROBACK: Yeah.

DOUGLAS MYERS: Without a parking space?

JOHN ROBACK: Yeah. Like Jill was saying, there are so many options. And I'm thinking back to all of the people that have

lived there over the years.

JANET GREEN: They're not families with children? No families with children?

JOHN ROBACK: Usually they have a baby and then they leave. And so if they're pregnant.

JANET GREEN: There's no parking.

BRENDAN SULLIVAN: There's something in the house.

MARK BOYES-WATSON: Animals next-door.

ANDREA HICKEY: Could I ask a question? In the front house now how many cars do the tenants have?

GAIL LANGELOH: They have one Mini Copper.

JOHN ROBACK: One.

ANDREA HICKEY: Okay.

CONSTANTINE ALEXANDER: I just

would endorse what Brendan's well spoken comments.

JANET GREEN: I agree. I thought the woman who spoke before just really delineated, laid out what all the options are for somebody who lives in the neighborhood and being able to get around. I think it really makes it different than some other areas of Cambridge as far as how I think of it. And I thought that your comment that the cure is better than the -- the cure would be worst than the disease. That's really apropos in this case. And so I would be inclined to support it.

DOUGLAS MYERS: I'm, I'm troubled. I think this is a close case, and I'm unhappy with the unfortunate result of displacing a car onto the street in an area that where undoubtedly parking, I'm familiar with

Franklin Street, I live nearby, where undoubtedly the parking is already congested. On the other hand, it's highly desirable that the property be improved. And I am comforted by the thought that whatever the parking is, we are continuing the status quo. Unlike the case we just decided where there would be a somewhat dramatic change and somewhat inequitable change in the status quo. We are continuing the status quo. I additionally fully support Brendan's very well recent comments. So, not without misgivings, I recognize that this is not an easy case. I would vote in favor of the application.

CONSTANTINE ALEXANDER: Andrea, you don't have to speak if you don't want to.

ANDREA HICKEY: Could I ask where the parking is now, could you tandem park two

cars there without adding more asphalt?
Without eating up any of the green space?

MARK BOYES-WATSON: You can do that
now.

ANDREA HICKEY: You can?

MARK BOYES-WATSON: Yes.

GAIL LANGELOH: We've done that.

CONSTANTINE ALEXANDER: We have to
give relief -- you can't park tandem now.
Let me put that as part of the Variance.

MARK BOYES-WATSON: I think that
driveway -- well, I don't think that the -- I
don't think that the Zoning Code speaks to the
status of that second space. The Zoning Code
will recognize one space. The ability to put
two cars there is -- well, actually, no, that
would be a front yard Variance. But it's a
grandfather. But I think it's --

CONSTANTINE ALEXANDER: Well, is

it, but the demolition of the back structure --

MARK BOYES-WATSON: I don't think it -- what I'm hearing of late is that that grandfather status of that driveway stands regardless of what's happening in the back.

SEAN O'GRADY: No.

ANDREA HICKEY: On what basis?

CONSTANTINE ALEXANDER: Yes.

MARK BOYES-WATSON: Do you agree, Sean?

SEAN O'GRADY: No, I disagree.

MARK BOYES-WATSON: Oh, okay. What would you say?

ANDREA HICKEY: I disagree, too.

SEAN O'GRADY: You could have tandem parking for one unit but not tandem parking for two units. So you don't have that. The tandem could stay, but it officially it could

only be used for one.

MARK BOYES-WATSON: Oh, yes. I'm saying the same thing with you. I totally agree with that. I totally agree with that. But the provision of two off street parking spaces can continue using the driveway that is there?

SEAN O'GRADY: Yes.

MARK BOYES-WATSON: Yes.

ANDREA HICKEY: That's it. I'm fine.

CONSTANTINE ALEXANDER: Okay.

Okay, I think we're ready for a vote. We have two votes to take: One regarding the Variance, and one regarding the Special Permit. I'll take the Variance first.

The Chair moves that the Variance relates to the seeking to demolish and rebuild an existing non-conforming

single-family residence.

The Chair moves that we make the following findings:

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

Such hardship being, among other things, it would be required to maintain a structure that encroaches on the neighbor's property.

And that the structure is in dire need of upgrading and renovation. And that only can be achieved by demolition of the building in a rebuilding.

That the hardship is owing to the -- well, the shape of the lot and the fact that it's a non-conforming structure. It's a small lot with two dwelling units on it, permitted by the Ordinance.

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

In this regard we would improve the public health and safety of the area by getting rid of this apparently vermin infested structure.

That we would improve the legalities of the structure with regard to the property and approve it, correct it.

And that there appears to be no -- there's some neighborhood support and certainly no opposition.

And that the end result, if we grant relief, would be certainly an upgrading of the housing stock of the City of Cambridge. And that would replace what I'll call delapidated structure with a modern

structure.

So on the basis of these, the Chair moves that we grant the Variance being sought subject to the following conditions:

That the structure that's going to be rebuilt be fire rated to -- the walls fire rated to the extent that you face the other structure on the lot for safety reasons.

And further, that the main structure of the lot, the one in front of the house to be built, the kitchen or the area that faces the structure to be rebuilt also be fire rated. So that safety of the occupants of both structures will be enhanced.

And on the further condition that the work proceed in accordance with plans submitted by the Petitioner and prepared by Boyes-Watson Architects. They're dated 3/24/14. They're numbered A101 and A201,

both of which have been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: Next, we turn to the Special Permit to maintain the existing single parking spaces for the two units. And the Special Permit is being sought pursuant to Section 6.35.

With regard to the Special Permit I move that the Board make the following findings:

That the Petitioner has demonstrated that the parking situation they wish to achieve or maintain will not cause excessive

congestion, endanger public safety, substantially leave parking and availability for other uses or otherwise adversely impact the neighborhood.

In this regard the Chair would note that all that is being sought is to maintain an existing situation with respect to the parking on the premises and on the streetscape. That there is very ample public parking, public transportation opportunities for occupants of this structure, and so the -- there is the incentive to have motor vehicles with much lesser here -- much less here than it is in other parts of the city.

And that further, we have to make further findings, that pursuant to Section 10.43 the general criteria of Special Permits, that what is being proposed maintain

existing parking arrangements will not cause congestion, hazard, and substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by the continuous parking.

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

And that the proposed use will not impair the integrity of the district or other adjoining districts or otherwise derogate from the intent and purpose of this Ordinance. In fact, again, we're talking about the maintaining the status quo with respect to parking to support the rebuild, demolition and rebuilding of the structure

that's very desirable in the rear of the property.

So, on the basis of all of these findings the Chair moves that we grant the Special Permit to the Petitioner to reduce the amount of parking -- no, I'm sorry. To maintain the existing single parking space for two units.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

DOUGLAS MYERS: One question, Gus, about the decision. With regard to the Variance is there any need, and if the answer is no, just say no, is there any need to note on the plan the condition -- that you signed, the condition regarding the alteration of the front structure? I don't --

CONSTANTINE ALEXANDER: That's a separate condition.

DOUGLAS MYERS: I understand, but I'm just concerned -- and I don't doubt anyone's integrity.

MARK BOYES-WATSON: I'm happy to note it and sign it if that's preferable to the Board.

DOUGLAS MYERS: It's just -- things get forgotten and if it's not brought to anyone's attention --

CONSTANTINE ALEXANDER: Good point. With respect to the motion on the Variance, please put that the plans are initialled and as modified by the architect as shown on the plans.

DOUGLAS MYERS: Thank you.

CONSTANTINE ALEXANDER: Let me just take a look at it.

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

CONSTANTINE ALEXANDER: Okay, I
think we passed the motion. Relief granted.

MARK BOYES-WATSON: Thank you very
much and I apologize for any inconvenience.

(Whereupon, at 9:30 p.m., the
Zoning Board of Appeals
Adjourned.)

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