

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JUNE 13, 2013

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, Member

Kevin Case McAvey, Associate, Member

Maria Pacheco, Zoning Secretary

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## **P R O C E E D I N G S**

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green,  
Douglas Myers, Kevin Casey McAvey.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to start with continued cases. The first case I'm going to call is case No. 10432, 275 Fresh Pond Parkway.

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

ATTORNEY VINCENT PANICO: Good evening.

ANDREW BELLIZIA: Good evening, everybody.

CONSTANTINE ALEXANDER: For the record, you know.

ATTORNEY VINCENT PANICO:  
Vincent Panico, attorney. 2343 Mass. Ave., Cambridge Mass.

ANDREW BELLIZIA: Andrew

Bellizia, B-e-l-l-i-z-i-a, Cambridge  
Honda, 275 Fresh Pond Parkway, Cambridge,  
Mass.

CONSTANTINE ALEXANDER:

Mr. Panico, before we start on the merits of the case, once again we have issues regarding signage and the posting of signs. Can you -- both I and Mr. O'Grady separately went to the site and could find no signs. So could you tell us what -- give us what's going on.

ATTORNEY VINCENT PANICO: Yes.

First of all, we -- acknowledge -- we are responsible for the signs.

CONSTANTINE ALEXANDER: That's true.

ATTORNEY VINCENT PANICO: But I'd like to suggest some mitigating circumstances. The person who -- our

control had put up the original signs and shortly after the last meeting he left and went and got a new job.

Secondly, the next person that should have been doing that was the owner Mr. Bellizia. He was out with medical issues for the following three weeks. The -- we did put -- well, there are new signs up now, but I know --

CONSTANTINE ALEXANDER: As of when?

ATTORNEY VINCENT PANICO: As of today.

CONSTANTINE ALEXANDER: As of today?

ATTORNEY VINCENT PANICO: As of today.

CONSTANTINE ALEXANDER: So no -- what you're telling me, see if I get

it right.

ATTORNEY VINCENT PANICO: I have one other thing.

CONSTANTINE ALEXANDER: No, I'm sorry, go ahead.

ATTORNEY VINCENT PANICO: And then there was construction work on the all the side streets separating.

CONSTANTINE ALEXANDER: Right.

ATTORNEY VINCENT PANICO: And where our signs were their signs appeared. We can't say they tore them down, but those streets are all blocked off and our signs are nowhere to be found.

CONSTANTINE ALEXANDER: Okay. Maybe you answered the question I was about ask. Did you put the signs up after we continued this case?

ATTORNEY VINCENT PANICO: No,

there were signs already -- yes, there were signs already up.

CONSTANTINE ALEXANDER: Oh, I know you put new signs for the actual case?

ATTORNEY VINCENT PANICO: Yes.

CONSTANTINE ALEXANDER: Okay. Did you change those signs?

ATTORNEY VINCENT PANICO: That would have been the guy that left the company.

CONSTANTINE ALEXANDER: Did you change the signs?

ATTORNEY VINCENT PANICO: Did I?

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY VINCENT PANICO: Did I?

CONSTANTINE ALEXANDER: You or your client.

DOUGLAS MYERS: Did you change the dates?

CONSTANTINE ALEXANDER: Yes, did you change the dates and time?

ATTORNEY VINCENT PANICO: I did not.

CONSTANTINE ALEXANDER: Did you, sir?

ANDREW BELLIZIA: No, I did not personally.

CONSTANTINE ALEXANDER: So these signs that may have been up there for a while, they're not accurate. They don't reflect tonight's hearing and the time.

ATTORNEY VINCENT PANICO: Truly. And I agree with you. And I realize the significance of them. But I would also suggest that at our last hearing there was only one person that expressed any



concern about this case, and his concern -- I'm just saying this by way of circumstances here.

CONSTANTINE ALEXANDER: You're correct.

ATTORNEY VINCENT PANICO: And his concerns have been addressed so there's no longer any light going into his apartment.

CONSTANTINE ALEXANDER: But the purpose of the posting of signs is to put the -- anybody in the City of Cambridge who happens to go by the property on notice that some relief is being sought. I mean this person who you refer to in your statement, he got notice by mail. But the requirement for posting of signs goes for more than that. And there's one thing, as you did the first hearing,

decide we put the signs up and I don't know what happened to them; vandals, weather, they got down. What I'm hearing tonight, to my dismay, the signs -- the correct signage, the ones with the right date and time never found their way on the property until today or yesterday. In other words, not within the ten-day period.

ATTORNEY VINCENT PANICO: Not to my knowledge, that's correct.

CONSTANTINE ALEXANDER: Well, I'll seek the counsel of my fellow board members. I feel we can't hear the case tonight.

I think you have to -- we have to have at least a good faith effort. I don't want to stress good faith too much. I know you're in good faith, but you have to have put up the signs and done

something to try to make sure they stayed up there for the requisite ten-day period.

ATTORNEY VINCENT PANICO: Yeah.

CONSTANTINE ALEXANDER: Do other members of the Board feel this way?

DOUGLAS MYERS: First of all, I accept what you said as true. And I'm sorry you had medical issues. I mean that's unpleasant, and I hope they were satisfactory involved. But sometimes we've make exceptions in cases where the signs, the dates were changed and then for some reason the signage was interrupted for a very short intervals for reasons that clearly were mitigating and understandable. But here where the dates were never changed and it's not a question of a brief interruption but the

whole period, I don't see how we -- it seems to me that we have to continue the case.

CONSTANTINE ALEXANDER: Anybody else wish to express an opinion?

KEVIN CASEY McAVEY: I think that's the reason we have the sign regulations. I mean, I understand and I also understand your argument that this -- the people who might have come off with an opposing viewpoint or opinion might have come to the last meeting, but this is also a new design and we have to follow the proper process and sorry about any inconvenience.

CONSTANTINE ALEXANDER: Okay.

Can you make it two weeks from now?

ATTORNEY VINCENT PANICO: Just one moment, please?

CONSTANTINE ALEXANDER: Sure.

Do we have room on the agenda on the 27th?

MARIA PACHECO: We do, but Brendan's not here.

CONSTANTINE ALEXANDER: What's the one after that?

MARIA PACHECO: We could do July 11th.

CONSTANTINE ALEXANDER: You available July 11th?

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: We're talking about continuing to July 11th Mr. Panico because -- unless you want to go forward with just four members in two weeks because Mr. Sullivan can't make it.

ATTORNEY VINCENT PANICO: Well, we'll --

CONSTANTINE ALEXANDER: You understand if you go forward, you need four votes.

ATTORNEY VINCENT PANICO: Yeah.

CONSTANTINE ALEXANDER: You go forward with four, you have to get a unanimous vote. If you go forward with five, you can get one dissenter.

ATTORNEY VINCENT PANICO: Yeah.

CONSTANTINE ALEXANDER: So the odds are better if you go with five.

ATTORNEY VINCENT PANICO: I agree with you.

CONSTANTINE ALEXANDER: It's your call.

ATTORNEY VINCENT PANICO: I agree with you.

July 11th?

CONSTANTINE ALEXANDER: July

11th.

Before I make the motion to continue until July 11th, just help me with one thing. One thing we talked a lot about at the last hearing was the illumination, how bright it was going to be and stuff like that. And we asked you to give us more information. And I nothing is in the file. Were you planning to bring it tonight?

ATTORNEY VINCENT PANICO: I have it tonight, yes.

CONSTANTINE ALEXANDER: Okay. Why don't you give it -- put it in the file so that we can look at it in advance of the hearing on the 11th. Do you have an extra copy with you? If not, just deliver it to the office tomorrow or the day after.

ANDREW BELLIZIA: No, I'll give you this because I have this copy. It's from Paterson Sign and it shows you the translucency of the material.

CONSTANTINE ALEXANDER: That's what I'm talking about.

ANDREW BELLIZIA: Which the white and the blue are only 37 percent translucent to begin with. And when it's lit, the intensity at 10 feet is 0.095.

CONSTANTINE ALEXANDER: I don't want to get into the merits of it. I just want to get that in advance.

ANDREW BELLIZIA: I'll give you that so you can have it.

CONSTANTINE ALEXANDER: Okay.

ANDREW BELLIZIA: The Board can look over it.

ATTORNEY VINCENT PANICO: You



also asked us for the material of the sign.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY VINCENT PANICO: Should we pass that in also?

CONSTANTINE ALEXANDER: If you don't mind leaving it in the file and you can have it back.

ATTORNEY VINCENT PANICO: No, you can have it.

CONSTANTINE ALEXANDER: Okay. I'll put it my trophy room. Thank you.

Okay, the Chair moves --

BRENDAN SULLIVAN: The thought I have on the signs, too --

CONSTANTINE ALEXANDER: Okay, sorry.

BRENDAN SULLIVAN: -- is that I thought it was a little bit odd having

them on the telephone poles. And I don't know why it's not just mounted on a piece of plywood or, you know, a little frame of strapping and mounted on the fence on the property line.

ANDREW BELLIZIA: Well, if this is all right so the Board --

BRENDAN SULLIVAN: I just throw that out as opposed to being on the telephone poles and have it on the fence and then it's at your property line.

ANDREW BELLIZIA: This is the way they are to address your concern, which is valid, I put them up myself.

CONSTANTINE ALEXANDER: That goes to Mr. Sullivan's point, they're on telephone poles or chain link fences. What about putting them inside the plate glass window of your --

ATTORNEY VINCENT PANICO: It's further back.

ANDREW BELLIZIA: Yeah, it's like --

CONSTANTINE ALEXANDER: Too far back?

ANDREW BELLIZIA: -- four or five feet beyond the distance that it's supposed to be.

CONSTANTINE ALEXANDER: Oh, okay.

ANDREW BELLIZIA: And I didn't want it to be perceived that I was trying to cheat.

CONSTANTINE ALEXANDER: No, no, that's fair enough.

ANDREW BELLIZIA: And we did, by the way, get an approval from another neighbor.

CONSTANTINE ALEXANDER: I saw that. It's in the file which we'll read at the next hearing.

Okay, the Chair moves that this case be continued again as a case heard until seven p.m. on July 11th on the condition, condition. Yeah, I'm sorry --

ATTORNEY VINCENT PANICO: No, no, I'm just agreeing with you.

CONSTANTINE ALEXANDER: On the condition that the signs be posted for the period required by our Ordinance.

ATTORNEY VINCENT PANICO: Ten days?

CONSTANTINE ALEXANDER: It's a ten-day period. I forget when the ten days run from, when it begins and when it ends, it's a ten-day period.

BRENDAN SULLIVAN: 14 days.

KEVIN CASEY McAVEY: 14 days.

CONSTANTINE ALEXANDER: 14 days?  
I learned something tonight. 14 days.  
It's a 14-day period. It's right in our  
Ordinance in any event even though I don't  
know it.

On the condition that the sign  
reflect the date of July 11th and the time  
of seven p.m..

So if you have some old signs, you  
can use them, just change with a magic  
marker, just change the date and time.

ANDREW BELLIZIA: 7/11, 7:00.  
We're all set.

CONSTANTINE ALEXANDER: That's  
right. Talk about odds, right?

ANDREW BELLIZIA: Okay, so it's  
14 consecutive days?

CONSTANTINE ALEXANDER: Yes.

ANDREW BELLIZIA: Okay, so I put them up today and as long as I take --

BRENDAN SULLIVAN: No, it should be -- what you really need to do is go from the hearing date, and including the hearing date, back 14 days. It has to be up at least on that particular day. So you're talking June 20-something or other.

ANDREW BELLIZIA: Okay.

JANET GREEN: So you'll need to change the date --

DOUGLAS MYERS: The next previous 14 days to the hearing.

ANDREW BELLIZIA: Okay. Okay, 14 days from the 11th.

CONSTANTINE ALEXANDER: I'm going to read to you right from the statute if I could find it.

(Reading) The signs shall be installed not less than 14 days before the date of the public hearing. That's July 11th.

ANDREW BELLIZIA: Okay.

CONSTANTINE ALEXANDER: And shall be maintained in legible condition. Blah, blah, blah.

ANDREW BELLIZIA: It won't be screwed up this time.

ATTORNEY VINCENT PANICO: When you said the date should be changed?

CONSTANTINE ALEXANDER: To July 11th.

JANET GREEN: The hearing is going to be July 11th now, so you need to change that date so it says July 11th on the sign.

CONSTANTINE ALEXANDER: If you

have an old sign and you want to use that old sign, you'll have a different date, that's all.

ATTORNEY VINCENT PANICO: Oh, okay.

CONSTANTINE ALEXANDER: If you get a new sign from Maria, you don't need to change anything. It will be July 11th. That's up to you. And remember you have -- because of the size of your lot, you need more than one sign. So make sure you get the requisite number of signs.

ATTORNEY VINCENT PANICO: We had four.

ANDREW BELLIZIA: I'll take care of the date tomorrow.

ATTORNEY VINCENT PANICO: Okay. We'll just patrol every day to make sure



the signs are up.

JANET GREEN: Take a look.

CONSTANTINE ALEXANDER: Keep  
tabs.

ANDREW BELLIZIA: Okay, thank  
you everybody. Have a good one.

CONSTANTINE ALEXANDER: Wait, I  
don't think we took a vote. You can leave  
anyways.

Okay, the Chair moves that -- I  
think I made the full motion, this being  
a case heard and you've signed a waiver  
for a time of decision. So July 11th,  
seven p.m.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor.

(Alexander, Sullivan, Green,

Myers, McAvey.)

\* \* \* \* \*

(7:10 p.m.)

(Sitting Members: Constantine  
Alexander, Timothy Hughes, Brendan  
Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The  
Chair will call case No. 10398, 274-280  
Brookline Street.

Is there anyone here wishing to be

heard on this matter? I trust this is the same piece in the file now?

DAVID FORD: Yes. I thought you guys would want hard copies each.

CONSTANTINE ALEXANDER: For the record, name and address to the stenographer, please.

ATTORNEY SUSAN ROBERTS: My name is Susan Roberts. I'm an attorney at Anderson and Kreiger in Cambridge, and with me is David Ford, Center Line Communications. We both represent AT&T in connection with our filing for an application to site wireless telecommunication facility at 274-280 Brookline Street.

You may recall that we were here on April 25th and we made several presentations at that time, including a

presentation on the design that we had at the time. We also made a presentation about the radio frequency coverage that the improvements and the coverage gaps that we were hoping to address by having the facility at this location. We also presented to you an alternative site study that we did showing what other buildings in the area we had looked at, and that was extensive. There were a number of questions that the Board had, and there were, in the end, two concerns that the Board had and those concerns we wanted to address tonight and that was the reason that the hearing was continued until tonight. So that's what we're prepared to do.

We submitted this past Monday several items, including a letter and

some exhibits, basically addressing your two concerns which were with the design of the facility. You felt that it wasn't realistic because we had originally had two faux chimneys, false chimneys, next to each other, and we had some antennas that were mounted directly to the penthouse which made it seem as if it were the building itself. And you had a concern as well about the exterior cabling along the building.

In addition to the design issues, you also had an issue about the uses in the vicinity of the facility and whether or not non-residential uses predominated in that area.

So I'm happy to say that after the hearing AT&T redesigned the facility, and I'm personally thrilled with the design.

I think it looks gorgeous. You guys did a great job enforcing us to do this I must say even though we thought our design was pretty good the first time, but it is even better now. And what we did is we separated the two faux chimneys so that one is along the interior roof area on one side of the building and the other is along another side of the building. So it looks very realistic as you can see from the photo sims which you have two in your packet if you wanted to take a look. And those are also in the plans at page.

DAVID FORD: Z-2.

ATTORNEY SUSAN ROBERTS: Z-2.

DAVID FORD: So just to clarify, we had two faux chimneys directly next to each other on Putnam Ave, and we moved one further down Brookline Street so now

there's space at the opposite corners of the buildings. That was one of the main concerns.

And the second concern was the design as Susan said, was the facade-mounted panels to the back of the building. I believe some of the board members had concerns about that. So we completely revised that sector. There is an existing penthouse along Putnam Ave. as you can see in Z-2 as well as the photo simulations. And what we did was propose a screen wall. They're going to go behind the fiberglass screen wall, and you can no longer see the sector. As before it was pretty predominantly noticeable walking by. So that's basically what we did regarding the design.

Also, there was a concern -- if you flip to -- let's see here, page 21 which is photo 9A, 9B, 9C, there was concerns about the cable tray running up and above the parapet. We confirmed there is no parapet in the back of the building. And so that's not a concern, no longer as you can see by the photo simulations. We painted to match and it's not going by the parapet, it's going straight up the building and to the roof.

CONSTANTINE ALEXANDER: Just out of curiosity, at least based on the photo sims, the faux chimneys are painted to match the color of the building --

DAVID FORD: Correct.

ATTORNEY SUSAN ROBERTS: And to look at --

CONSTANTINE ALEXANDER: -- the



chimneys. Yes. And they also seem to try to replicate the brick look?

ATTORNEY SUSAN ROBERTS: Yes.

CONSTANTINE ALEXANDER: That is not done on the cabling tray's covering on the side of the building.

ATTORNEY SUSAN ROBERTS: No.

CONSTANTINE ALEXANDER: Why is that?

DAVID FORD: That's because it's kind of like kitty cornered in the back. It's not even visible from the street or from the surrounding area at all. If you look at the Z-2, it's kind of a fence that runs along right here, and then this is the building, and then this is a small alleyway to get down there.

CONSTANTINE ALEXANDER: I hear you, but I mean that still doesn't answer

my question. I mean, you could still do it.

DAVID FORD: Yeah, we could do. I mean if that was a condition for the approval, that would definitely be --

CONSTANTINE ALEXANDER: So if we want to condition it, that's not a problem?

DAVID FORD: That's not a problem, no.

CONSTANTINE ALEXANDER: Okay.

DAVID FORD: Just the scheme of how it's painted.

CONSTANTINE ALEXANDER:  
Understood.

DAVID FORD: And a good view of the new faux -- or the penthouse with the screen wall we have is photo 1B on page 4 the simulations, kind of shows how it's

bumping out the penthouse slightly and the -- basically the four panels good to go straight behind there -- or two panels rather, go straight behind that fiberglass screen wall so they're no longer visible.

CONSTANTINE ALEXANDER: The other question I have is you have now added a safety rail.

DAVID FORD: That's per code, yeah.

CONSTANTINE ALEXANDER: Why? Because you didn't have a safety rail before.

ATTORNEY SUSAN ROBERTS: We didn't need one before.

CONSTANTINE ALEXANDER: Because? Explain to me why you didn't need it before and why you need it now.

ATTORNEY SUSAN ROBERTS: It relates to where the -- where we've moved the antennas onto the penthouse. So now as a result, somebody that might be using the penthouse to access the antennas, they might come into the door, and the door actually swings out a little bit so that's why the railing is there.

CONSTANTINE ALEXANDER: You say code, State Building Code?

DAVID FORD: Yes.

ATTORNEY SUSAN ROBERTS: Yes.

DAVID FORD: Two engineers have said this and they have, you know, codes and basically it's for what Susan was saying, it's maintenance to the site because the sector was moved. You know, if someone's down on their knees, you know, redoing the antennas, they want the

railing behind them for protection. The railings will be fiberglass as well so it won't affect any of coverage. It will be able to just shoot right through the railing.

ATTORNEY SUSAN ROBERTS: So in addition to the design, you also as I mentioned before, had issues regarding whether or not there were non-residential --

CONSTANTINE ALEXANDER: The word is in the vicinity.

Before we go into that --

ATTORNEY SUSAN ROBERTS: Yes.

CONSTANTINE ALEXANDER: -- why don't we finish this part of the case.

ATTORNEY SUSAN ROBERTS: Oh, that would be great.

CONSTANTINE ALEXANDER: Anybody

have questions regarding the redesign or comments or whatever or do you want to go into the vicinity?

THOMAS SCOTT: The cable tray in the back of the building --

CONSTANTINE ALEXANDER: Yes.

THOMAS SCOTT: -- personally I don't think you have to paint it to look like brick.

DAVID FORD: Right.

THOMAS SCOTT: So that's my opinion.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: Because it's really fairly well hidden behind the building and in that alleyway.

DAVID FORD: Right.

THOMAS SCOTT: I'm glad you added the safety rail at the roof because that

is a real safety concern for anyone coming out that door. And I think the new placement of the chimneys is great, is a great improvement.

CONSTANTINE ALEXANDER: Tim?

TIMOTHY HUGHES: No, I'm good with the design. Yes. Everything that Tom said I agree with.

CONSTANTINE ALEXANDER: Okay.

Okay. Any other questions at this point on this part of the case, why don't you go ahead.

ATTORNEY SUSAN ROBERTS: Okay.

So with respect to what's going on in the area and whether or not non-residential uses predominate, what we did, and I think we mentioned this, and you, Ms. Green, actually mentioned, you know, how we should look at the vicinity and widening

it to, you know, to more than just the block or it's not clear there's no guidance necessarily in the Ordinance about what you should do in terms of defining the vicinity. For us we thought it made sense to use our search ring which we have explained to you before when we had the radio frequency coverage presentation. That when AT&T decides to site a facility, they establish a search, in other words, an area in which they want their coverage to be improved, and then they go around and look at buildings that would be most appropriate in terms of height and actual location and whether, you know, there is a willing landlord and so forth. So, for us the search ring made sense particularly because it's relevant to, you know, our own utility of the



facility. In other words, we will be using this area for our facility and so it makes sense for us to define vicinity in that way.

CONSTANTINE ALEXANDER: I could understand that. By the way, the idea of using vicinity via the coverage map was Janet's idea which I thought was a very intriguing one. Let me just say, though, as I thought about it, vicinity should be defined in terms of the goals of our Zoning Ordinance not by the -- your coverage. I mean, using your ring of coverage you get a very large vicinity which by definition is going to draw in a lot of non-residential properties. I don't think that's what the Zoning Code intended. I think they're looking at the immediate -- I'm going to try to avoid the

word vicinity -- immediate area of the structure. What kind of uses predominate? I'm a little troubled by that.

ATTORNEY SUSAN ROBERTS: And so I hear you and I understand. And so for us, as a said, we thought that the search ring was useful as a tool because it was a specific measurable area. But in terms of looking at the Ordinance and the intent of the Ordinance as well, if you look at the entire Ordinance, you know, that sentence which I can read to you, it's on page 3, you know, I put it in a footnote there. It says: The Board of Zoning Appeal shall grant a Special Permit to erect such a facility in a residential zoning district only upon a finding that non-residential uses predominate in the

facility of the proposed --

CONSTANTINE ALEXANDER:

Vicinity.

ATTORNEY SUSAN ROBERTS: Sorry.

Predominate in the vicinity of the proposed facility's location. And that the telecommunications facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

And so for me when I was looking at that, what was also important, and to me which is also clear, is that the -- that the Ordinance was concerned with how this is gonna look. To make sure in, you know, the area where people are gonna live, that they're going to not notice it, that it's not gonna affect them, and that it's, you know, that it is going to be sort of sewn into the fabric of the neighborhood. So,

you know, I don't want us, frankly, to get so stuck on, you know, what is the vicinity and are non-residential uses predominating there and so forth.

Because I mean, here is a situation where we have such a good design, no one is gonna notice this facility. It does, you know, very much weave itself into the fabric of the neighborhood. People are not going to know that it's there. And I think that really is to a great degree the intent of the overall Ordinance. Is to not disturb a residential neighborhood. And I think that, you know, together with showing you that there really are a lot of, you know, commercial properties in the area; industrial, retail, office, as well as open space, as well as parking lots, ball fields. There's all sorts of things in

this neighborhood and in this area. And I think that when you look at both the intent of the Ordinance as having our facility fit into the neighborhood so that people don't notice it and it's not going to be disturbing in any way, when you look at that plus a, you know, the fact that it is sort of a mixed area, and we're on the edges of mixed areas. You know, our Zoning District is on the edge of area. We've got, you know, BA1's right near us. We've got, you know, a number of different special districts as well right near us. And CDD is near us. So there really is a mixed area when you look at it. And I do believe that the Board can find that non-residential uses predominate in the area and that this, this facility will blend right in. No

one is going to notice. I really feel that we've done, you know, a good job in making sure that no one will be offended in any way or perhaps even notice that our facility is there on the roof.

DAVID FORD: And just to add to what Susan said. You're asking the immediate vicinity of what is right around. If you look at the list, you know, there's approximately 40 properties on there; 1 through 5, especially 1 through 4 are directly across the street. No. 1 is a mixed use. It's commercial and residential. It's a -- The First United Market literally directly across the street.

No. 2 is Dimitros Cuisine. It's a restaurant that's directly across the street as well.

No. 3 is the Metropolitan Laundromat which is again directly across the street. You can look at the map as well. You can see the vicinity. The green pin is our site. And then 1, 2, 3, and 4 kind of all stuffed together right there next to the green pin. Those are the ones going over, and they correspond to the list that we submitted as well.

No. 4 is Cambridge Pizza. Again, it's directly across the street. It's a commercial restaurant.

And then No. 5 is roughly 900 feet away and is an existing communications facility; T-Mobile and Verizon existing. And you guys received a letter from a gentleman at the last hearing as well. So just to answer your immediate vicinity.

CONSTANTINE ALEXANDER:

Anything more at this point?

ATTORNEY SUSAN ROBERTS: No.

I'm available for any questions.

CONSTANTINE ALEXANDER:

Questions from members of the Board?

TIMOTHY HUGHES: I have one question. Why is the center of your circle defining the vicinity and not the site?

ATTORNEY SUSAN ROBERTS: The center of our circle? The center of circle, the red one?

TIMOTHY HUGHES: Why isn't -- the star's the site. Why isn't that the center of your circle in terms of your signal area.

ATTORNEY SUSAN ROBERTS: Oh, that's not the search ring.



DAVID FORD: Because when the search ring was originally issued, they give a center of a search ring and you kind of branch out from there. So that's where it starts. That's where we started looking two years ago. If you look at the report that we submitted of all the buildings we looked at. So just to go -- when we were trying to show the search ring, that's how AT&T, you know, releases the search ring. We wanted to go back to the original search ring that was issued. It wouldn't be in a specific -- if we were to use the site as the center of the search ring, that would be out of the coverage, you know, gap that we're trying to fill. So we're just trying to show you where, you know, the immediate search ring was from the

start --

THOMAS SCOTT: The site could be anywhere in that circle is what he's saying.

TIMOTHY HUGHES: Yes, I understand that. So this makes this a little disingenuous in terms of defining, you know, the vicinity. I think. Just, you know, for future reference, I wouldn't, I wouldn't do it this way. Because it's just, it doesn't seem -- because we're defining vicinity by proximity to the site that you want to set up on.

DAVID FORD: Right.

TIMOTHY HUGHES: Not the center of your search ring.

DAVID FORD: Okay.

TIMOTHY HUGHES: You understand

that?

DAVID FORD: Yes.

TIMOTHY HUGHES: Because this makes it look more advantageous for your argument than if you use the stars center of the circle. I did a circle around the star and I think you can still make the argument.

DAVID FORD: Right.

TIMOTHY HUGHES: Because it's like half of that stuff is not residential.

DAVID FORD: Right, okay. I understand.

TIMOTHY HUGHES: But I would prefer that you had done something like that to present it to me as evidence rather than me having to figure it out myself.

ATTORNEY SUSAN ROBERTS: Well, that's an interesting point. Honestly that didn't occur to me when we were -- when we were doing this because we sort of wanted to take the search ring that we actually used for purposes of our facility rather than using our site as the center. But....

CONSTANTINE ALEXANDER: That's the problem, though, you see?

ATTORNEY SUSAN ROBERTS: Yeah.

CONSTANTINE ALEXANDER: You're approaching the definition of vicinity from the telecom point of view, and that doing what you've done it makes eminently good sense.

ATTORNEY SUSAN ROBERTS: Right.

CONSTANTINE ALEXANDER: The issue, though, is from a Zoning point of

view and defines vicinity, and Tim's point goes to the fact that vicinity for purposes of Zoning would be better analyzed if you had the star in the center of the circle.

DAVID FORD: That makes sense, yeah.

ATTORNEY SUSAN ROBERTS: Right. And we can definitely do that, I mean, if you would like us to do that. But I feel like I've also addressed your Zoning issue by, you know, by suggesting how well this facility is going to fit into the neighborhood and so that it won't -- it won't offend, or in my view, no one will even notice it. It will fit into the character of the fashion of the area or however you want to define it.

DAVID FORD: And just to go to

Tim's point -- sorry, go ahead. I was just saying going off Tim's point, yeah, if you do, you know, use that -- our search ring as a center and do redraw the circle as he had done, the large majority of these sites do fall into that ring basically.

JANET GREEN: I agree. You know, I was going to say something similar to what Tim said, that there are two parts to the piece of the Ordinance if you will.

One is how it looks, and that's the local area. What do people see when they're going by it? And you've addressed that really carefully and thoughtfully. When we think of the piece about whether the largest part of the area is non-residential, we're thinking of connectivity. So we're thinking of that

circle, not the circle of where you might look at buildings. So that's what we were actually looking for. And I think what Tim said was even if you, if you did it that way, it would still prove the point that you want to make. It's just that this doesn't exact -- what you think you're looking at when you look at it, isn't exactly what you're looking at. I think that's a point. It's a little bit confusing and it could be better served by a different presentation that showed the coverage area.

ATTORNEY SUSAN ROBERTS: Got it. Thank you.

CONSTANTINE ALEXANDER: Any other questions or comments?

BRENDAN SULLIVAN: The exterior cable tray which is page 22 --

DAVID FORD: Yes.

BRENDAN SULLIVAN: -- of 24.

I get that is coming out of the equipment room in the basement.

DAVID FORD: Correct.

BRENDAN SULLIVAN: My question is whether or not that troth can't be interior and come, you know, run along and then only protrude so that we're eliminating all of this? I understand it's ease of installation and what have you. The guys out in the field will say it's a lot easier for us out here. But, I'm just wondering if that in fact couldn't all be interior rather than exterior?

DAVID FORD: Yeah, just to speak on that. I mean, I've personally been in the basement before, and they have



basically equipment storage and boiler rooms and a lot of conduits existing. So the reason why we initially put it outside is because we have to bypass, kind of relocate some of those existing conduits, existing -- I think there's water boilers.

BRENDAN SULLIVAN: There's too much interference on the inside?

DAVID FORD: Yeah, exactly. Exactly. I mean, that's how we usually do it. We try to, you know, the point of, you know, less disturbance, come out as close to the site as possible, but just looking at, you know, we'd have to rearrange almost the entire basement moving existing boilers, conduits, etcetera.

BRENDAN SULLIVAN: I fully

understand and appreciate AT&T or any of the carriers wanting their installations to be as efficient as possible, but, okay.

CONSTANTINE ALEXANDER: Tom?

THOMAS SCOTT: No, good.

CONSTANTINE ALEXANDER: Let me open it up to public testimony at this point.

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

(No Response.)

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

The Chair would note that we are in receipt -- I may have done this before but I think we should do it again -- in receipt of the a memo from the Planning Board dated March 6th. This memo is in

regard to the plans we saw before, and not what you submitted tonight, but I think it's still -- their comments are still relevant and I will read as follows.

(Reading) The Planning Board met with the Applicant's representatives at the general business meeting of March 5, 2013, when they presented photo simulations of the views of the existing rooftop and proposed faux chimney installations for the new antenna installation. The Planning Board found that concealing the antennas within the faux chimneys would be a better option and less visually chaotic than mounting the antennas on ballast sleds. The chimneys are similar to other surround rooftops that also have chimneys. The Planning Board found that the chimneys would not

be prominent from either the Brookline Street or Putnam Avenue public ways.

So it's not a recommendation or a recommendation for or against. Commentary, and I think you've addressed the commentary response to the questions we raised at the last hearing. So I think what you have now with regard to what the Planning Board covers is better than before in my judgment anyway.

We also have a letter, I think I should get into the file. We did touch upon this before the last time, from a Donald Grossman. It's dated February 28th. Again, it's dealing with the original submission, but in this case it's relevant to this as well.

It says -- it's actually addressed to you, Mr. Ford. We have a copy in our

files. This is from David Grossman, as I said, who is from First C-G Limited Partnership at 179 Sidney Street.

(Reading) David, David -- Mr. Ford. I know there was some disappointment that you were on the Cambridge BZA agenda this evening. The reason I say this is that in 2011 your company was out our site, 179 Sidney 80 Erie Street to do some testing. Subsequently I was informed by Rich Detch, D-e-t-c-h of AT&T that you had moved your RF search. Accordingly, I am dismayed that you are looking or order only one six mile (less than 100 feet) from our venue. This is especially surprising given the substantial design work had been done for our site, and since there is precedent with the City of Cambridge Board of Zoning Appeal and with

our neighbors who approved of T-Mobile and Verizon installations at our address. Further, our building is substantially more commercial in character. If perchance the BZA decides that it is better to consolidate these types of facilities which would seem prudent, then we would welcome revisiting this matter with AT&T and you.

And I think the comment you made or one of your experts made is that it may work to have facilities at 179 Sidney for other carriers with different equipment, but for yours it didn't work.

DAVID FORD: Correct. I mean, I can speak to it again. Yeah, we did visit the site in 2011. And actually on June 2, 2011, we did what is known as a drive test. We put our own responders on the

roof, drove around the site to test the coverage capabilities and that test came back negative. And we submitted the last application, the actual proposed coverage of 179 Sidney and what that would be. And our objective is to cover the Cambridgeport area all the way down to the water and along Memorial Drive. And if we did use 179 Sidney, which is also known as 80 Erie Street as the facility, we'd still have a large gap remaining in between that site and Memorial Drive.

CONSTANTINE ALEXANDER: Okay.

I just wanted to get it on the record so we have it. I didn't want to look like we ignored the comment.

With that I'll close public testimony. Do you have anything further that you want to add?

ATTORNEY SUSAN ROBERTS: No.

CONSTANTINE ALEXANDER: All set?

ATTORNEY SUSAN ROBERTS: We've  
said everything.

CONSTANTINE ALEXANDER: Okay.

Questions, comments from members of  
the Board at this point or do you want to  
go to a vote?

TIMOTHY HUGHES: I'm good.

THOMAS SCOTT: I'm good.

BRENDAN SULLIVAN: I'm fine.

CONSTANTINE ALEXANDER: Okay.

My view by the way is that I think this  
site is less than ideal for what you want  
to do, but it's okay. I mean, it's the  
best that you're going to be able to do.

The Chair moves that a Special  
Permit be granted to the Petitioner with  
regard to a telecommunication facility



per its application on the grounds that -- we've got to make various findings. Let me just get there.

First of all, that you are a licensed carrier, FCC carrier in good standing; is that correct?

ATTORNEY SUSAN ROBERTS: Yes. And we submitted that the first time around in January.

CONSTANTINE ALEXANDER: That the visual impact of what you're proposing to do will be minimized. You, in response to prodding from the Board, you've relocated the faux chimneys. First of all, using faux chimneys in the first instance painted to match as closely as is possible the surrounding brickwork.

That you've located them in a way so that the visual impact is minimized to the

greatest extent possible.

The carrier trays are going to be painted to match the color of the building also minimizing the visual impact.

We have to make further findings because you're doing this facility in a residential zoned district.

The Board would find that there's a demonstrated public need for the facility at the proposed location. And you've demonstrated that by your carrier, the submissions with regard to your ring of coverage and the gaps in coverage.

That there are no alternatively functional suitable sites in non-residential locations. The one that might have been the case, 179 Sidney, doesn't work because of the nature of your equipment and the ability to interact

with each other.

We have to make a finding that non-residential uses predominate in the vicinity of the neighborhood. In the vicinity of the proposed facility's locations, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood. In this regard the Petitioner has submitted materials showing the ring of coverage which would demonstrate that non-residential uses -- that the vicinity, if you define it in terms of the ring of coverage, that non-residential uses do predominate, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

In this regard the steps that the Petitioner has taken to minimize the visual impact; the faux chimneys, the painting, causes the facility not to be inconsistent with the character that does prevail in the surrounding neighborhood.

Further -- we have to make further findings because this is a Special Permit. That the work proposed will not -- the traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, the servicing or the use of the facility in terms of getting to it is only occasionally every month for maintenance purposes or for emergencies, but it's not a regular traffic pattern everyday someone goes up to the roof to

do something to the facility.

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

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

On the basis of these findings, the Chair moves that we grant a Special Permit to the Petitioner to proceed in accordance with the relief being sought on the conditions that the work proceed

in accordance with and are consistent with the plans and photo simulations that are attached to a letter from the Petitioner dated June 10, 2013. That letter being initialled by the Chair.

That with respect to the chimneys and the metal trays, that they not only be installed per these plans, but that they be maintained so that they do not deteriorate and increase the adverse visual impact.

And on the condition lastly that to the extent that you abandon the use of this equipment for a period of six months or longer, that the equipment be promptly removed and the building be restored to its prior condition to the extent reasonably possible.

Is that all? Did I miss anything?

Okay, I guess I got it all.

On the basis of this -- I make the motion subject to these conditions that I've just listed.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

\* \* \* \* \*

(7:45 p.m.)

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

CONSTANTINE ALEXANDER: The Chair will call case No. 10385, 16 Francis Avenue.

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

Mr. Hope, before we vote on the motion to continuance, at this point we only have four members of the Board since Ms. Green is recusing herself.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: Do you still want to proceed?

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Okay.



We have a letter from you and we have a letter from neighbors.

ATTORNEY SEAN HOPE: I think it's a direct abutter Mr. William Lahey.

CONSTANTINE ALEXANDER: Well, William Lahey and also from a Brian Burke.

ATTORNEY SEAN HOPE: And they're on either side of the property.

CONSTANTINE ALEXANDER: Anyway, let me read into the record your letter to the Board.

(Reading) Please accept this request on behalf of the Petitioner for one final continuance of BZA case of 10385. Granting the requested continuance will allow additional time to resolve the remaining substantive issues with interested neighbors and abutters. We again apologize for the delay and look

forward to presenting the Special Permit application to the Board at the next convenient time and date.

And let me read the letter from Brian Burke, B-u-r-k-e of 18 Francis Avenue and William Lahey, L-a-h-e-y 14 Francis Avenue.

(Reading) We are direct abutters to 16 Francis Avenue, the property that is subject to a pending Special Permit application request. We are in negotiations for design and usage changes of 16 Francis Avenue with the new owner who is represented by attorney Sean Hope. These negotiations are progressing, though we'll need some additional time to complete the negotiations. We respectfully request that you grant the continuance requested by attorney Hope

for the hearing on the Special Permit application now scheduled for June 13th.

Okay. Now the floor is yours.

ATTORNEY SEAN HOPE: Good evening. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. As the letter states, we are asking for a continuance. And I note to the Board that I asked for one final continuance. We made a lot of progress with the neighbors. This is a very active and close-knit neighborhood. There are now some substantive issues that we are trying to work out in the form of a negotiation. This is really a question of process. There are the direct abutters who have written a letter, but there is also a larger neighborhood. And because this is a use

issue for accessory apartment, I do think what is granted does affect a larger group. I've also encouraged my clients to try to work out as many issues as we can prior to coming before the Board. I do think just because of scheduling -- but this is also from the neighborhood and not from the Petitioner so this is not us trying to buy more time. So I think you can distinguish that from other continuances. So, but I would ask in terms of the date, there is a hearing, the first hearing in August I believe, is that August 8th hearing, that Thursday?

MARIA PACHECO: It's actually the 15th.

ATTORNEY SEAN HOPE: Oh, the 15th? That's the date we would --

CONSTANTINE ALEXANDER: Have you

talked to the neighbors whether the 15th is a good date for them? And I suspect they're going to want to be here.

ATTORNEY SEAN HOPE: Yes. It was more of a time if we did July, that was a time when a lot of people would be away.

CONSTANTINE ALEXANDER: And not August, really?

ATTORNEY SEAN HOPE: Yes, I think that's what -- I don't know about the greater neighborhood, but in terms of the direct abutters, it wasn't quite clear what date we would get, but I think they wanted to make sure it wasn't going to be in two weeks or that close. We really want to have everything resolved, and hopefully when we come forward, we'll have a package for the Board. But either

way, we'd like a time in August to give sufficient time.

CONSTANTINE ALEXANDER: Okay. Again, did you in any way touch upon the August time with some or all of the neighbors?

ATTORNEY SEAN HOPE: No.

CONSTANTINE ALEXANDER: Okay, because we don't know whether if we do it to August 15th, we're going to have a union outcry requesting a further continuance by the neighbors who want to be here and can't be.

ATTORNEY SEAN HOPE: Yes. Just based on my discussions with them, I think that the time won't allow for the discussions to happen and neighbors still have issues. You probably get some letters in the file, but what I have been

instructed is not to have too soon, to let the negotiations happen. And I also asked for one continuance because there may not be unanimity in the neighborhood for what we do. So I think there has to be some type of finality to the negotiations.

CONSTANTINE ALEXANDER: As you know, our Board is taking a harder line on continuances. And we lectured you about this last time you were here.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: On the other hand, this strikes me -- I'm only one of four members now, that this is a situation where there's unusual circumstances. There is a good faith attempt. It's not a stall --

ATTORNEY SEAN HOPE: Right.

CONSTANTINE ALEXANDER: -- as best I can tell. It's a good faith attempt to work out issues between the neighborhood and your client, and I would support one further continuance.

Other members of the Board?

BRENDAN SULLIVAN: That's fine.

CONSTANTINE ALEXANDER: Okay.

And August 15th? It's a case not heard so we don't need to have everybody here that was here tonight.

Okay, the Chair moves that this case be continued until seven p.m. on August 15th on the condition -- this being a case not heard, and a waiver of time for a decision already being on file, this continuance will be on the condition that the sign that should be on the property be on the property as required by our



Ordinance except that the date has got to be August 15th, and the time seven p.m. And if you have the old signs, just scratch out the old date and the old time and put these new times on.

ATTORNEY SEAN HOPE: And I'm actually thinking there's been several scratch outs because of the continuances and I'm thinking --

CONSTANTINE ALEXANDER: Maria has loads of signs.

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

(Aye.)

CONSTANTINE ALEXANDER: All in favor. Motion carried, four in favor.

(Alexander, Hughes, Sullivan, Scott.)

\* \* \* \* \*

(7:50 p.m.)

CONSTANTINE ALEXANDER: That takes care of our continued agenda. Before we get to the regular agenda, this involves a case that we decided sometime ago. It involves the property of 1686 Massachusetts Avenue. It was case No.

10056. For benefit of those members of the Board who didn't sit on this case or have forgotten about it, this is a Use Variance case on Massachusetts Avenue for a pizza operation they wanted to move into an area of Mass. Avenue where they needed a Use Variance to do so. We granted the Use Variance. An abutter has taken an appeal and the case is now pending in the courts. That's where matters stand. We are in receipt of a letter from Mr. Hope, actually just addressed to me with regard to this case. Which says: (Reading) Please accept this request on behalf of the Petitioner to withdraw the Zoning Application BZA case No. 10056. As you may be aware, the case has been appealed and is currently pending at the Massachusetts Superior Court. The

Petitioner has now abandoned plans to utilize the Variance on the aforementioned premises and is looking for swift resolution of the appeal.

And the letter, a copy of this letter to me was sent to Ranjit Singanayagam and a member of the Legal Department of the City of Cambridge who I gather is handling this case on behalf on the City of Cambridge.

The person, Paul Kawai, K-a-w-a-i has asked for reasons a little unclear to me, but anyway has asked that I read this letter into the minutes of this meeting. I guess so that we have a record of it. There is no action to be taken by our Board. And so we are reading -- I have read the case as requested.

Mr. Hope, if you want to add

anything, subtract anything, it's up to you.

ATTORNEY SEAN HOPE: No. I just say showing deference to the Legal Department in terms of the procedural aspect. As you said, there's nothing to vote on here. I'm hoping this letter does lead to a swift resolution to the case in Superior Court. That's all I have to add.

CONSTANTINE ALEXANDER: Thank you. Okay, we're all set. Thanks

\* \* \* \* \*

(7:55 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: We'll now turn to our regular agenda, and the first case I'm going to call is 10443 is 23 White Street.

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

JASON PARILLO: Good evening.

CONSTANTINE ALEXANDER: Good evening.

JASON PARILLO: Good to see everybody.

CONSTANTINE ALEXANDER: We've seen you here before.

JASON PARILLO: I'm Jason Parillo with Back Bay Sign Company.

MICHAEL DOHERTY: Mike Doherty

(inaudible) manager of Porter Square  
(inaudible).

JASON PARILLO: Okay. So we're here tonight to ask permission to add some names to two existing freestanding signs at the Porter Square Shopping Plaza. These two, the existing freestanding signs, were permitted legally about a year ago. And at that time of installation we were allowed to put Tags Hardware and Shaw's Supermarket logos on those signs because those stores hadn't maxed their sign square footage. These four names that we'd like to add to the signs, which is Michael's, Cambridge Naturals, Porter Square Books and Henry Bear Park, those stores have unfortunately maxed out their signage square footage. So we're asking for a

Variance to add those four names to these signs. These panels are small. They're 13 and three-quarter inches high by 36 inches wide. They're about three-and-a-half square feet each. So in order to add the names to each sign, they would be two panels. So each store would basically be asking for an increase of 6.85, 875 square feet to what they're already allowed as far as signage.

The four stores are more interior to the shopping plaza so these -- having the signs on the street frontage give them a little more exposure and I also would add that three out of the four of the signs are local independent stores. So this would help these stores, you know, in this economic area.

CONSTANTINE ALEXANDER: Okay.



And to be clear, the reason you're before us you need a Variance, just a total size of all the freestanding signage is greater than our Zoning allows.

JASON PARILLO: It's actually more specific to each store. Each store has maxed out what they're allowed as far as signage.

CONSTANTINE ALEXANDER: Okay.

We're not talking illumination? No illumination?

JASON PARILLO: No. These would be a vinyl decal applied to the panels.

CONSTANTINE ALEXANDER: And there are no height issues?

JASON PARILLO: No, absolutely not.

CONSTANTINE ALEXANDER: So it's just simply size.

JASON PARILLO: Just size.

CONSTANTINE ALEXANDER:

Questions from members of the Board?

THOMAS SCOTT: And the blank panels exist on the signs?

JASON PARILLO: Yeah, they do. And there are other stores in the plaza that have not maxed out the square footage, but we've chosen these stores to put on there. And like I said, unfortunately they maxed out.

CONSTANTINE ALEXANDER: Any questions?

JANET GREEN: No questions.

CONSTANTINE ALEXANDER: I'll open it to public testimony.

Anyone here wishing to be heard on this matter? This is Porter Square Shopping Center.

(No Response.)

CONSTANTINE ALEXANDER: I see no one wishing to be heard.

We are in receipt of a letter, or an e-mail I should say. It is from a Joel N, as in Nick Weber, W-e-b-e-r, II.

(Reading) I understand there is going to be a hearing on Thursday, June 13, 2013, to discuss a Variance for additional signage at the Porter Square Shopping Center on White Street. That parking lot has some electric vehicle charging stations, and I think this would be a good time to explore whether those electrical vehicle charging stations can be used by an electric vehicle that starts with a nearly empty battery to actually get the battery to be nearly full. In particular, that parking lot has signage

that seems to limit parking to two hours for customers of those stores. My understanding is that a typical charging station similar to the ones in that parking lot provides 30 amp at 208 volts or 240 volts, and at that rate a vehicle such as a 60 kilowatt or an 85 kilowatt Tesla, Model S will take substantially longer than two hours to charge. I'm writing to ask the City of Cambridge to grant -- to only grant the requested Variance with conditions that would allow charging electric vehicles to remain parked at the charging stations for as long as is required for the charging stations to fill the batteries. Plus the reasonable time and reasonable amount of time so that drivers don't have to rush to move their vehicle the minute the

battery is topped off to clearly make it legitimate for people charging electric vehicles there to leave the shopping center while the vehicles charge and to require that clear signage about these more generous time limits to be posted at the electric vehicle charging stations.

Any comments?

MICHAEL DOHERTY: No.

CONSTANTINE ALEXANDER: You're a wise man.

BRENDAN SULLIVAN: It's very simple to make policy not to have those cars towed, that's all.

CONSTANTINE ALEXANDER: In any event, I don't think it's a matter of --

BRENDAN SULLIVAN: Which is sort of a community thing, which is a good neighbor thing, but it has nothing to do

with us.

CONSTANTINE ALEXANDER: It has nothing to do with us. You do what you want to do. And Brendan makes a good suggestion.

TIMOTHY HUGHES: Because we all know how easy it is to get towed out of that lot.

CONSTANTINE ALEXANDER: It is easy to get towed. They tow, I'll tell you that.

I'm going to close public testimony.

Anything further? Questions, comments from members of the Board?

JANET GREEN: No.

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: We're ready for a vote.

These are -- this is it?

JASON PARILLO: Correct, that's it.

CONSTANTINE ALEXANDER: You're not going to change anything?

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that there's inadequate notification of the occupants of the shopping center unless we allow further freestanding sign coverage, particularly given the location of the stores to be identified on these signs.

By the way, you know, if you say -- I'll just pick one. Michael's moves out and someone else moves in, are you going to have to replace Michael's

with -- and they put a smaller sign up, the new occupant, why do you need the freestanding sign? This assumes that Michael's is going to be there forever. They may not.

MICHAEL DOHERTY: Well, I would just say that Mass. Ave. signage is important to, you know, to that spot. So anyone coming in for signage, if they want to be there, they would have to apply for it as part of their permit.

CONSTANTINE ALEXANDER: The point being is that you need to have freestanding signs of the size here for whichever tenant so that they can --

MICHAEL DOHERTY: Absolutely.

CONSTANTINE ALEXANDER: I don't want to tie the relief to -- okay. To this specific signs that are here. It's



the concept of adding two more freestanding signs to each of these signs, large freestanding signs that are on each side of --

BRENDAN SULLIVAN: I think we're approving the amount.

CONSTANTINE ALEXANDER: The amount.

BRENDAN SULLIVAN: -- of signage, the size of the signage, and the type of signage.

CONSTANTINE ALEXANDER: That's exactly it.

So I'm going to tie it to these plans with the caveat that this is exemplar in terms of size, type of sign, it's not required you to have these names, Michael's or Porter Square Books.

JASON PARILLO: That's right.

CONSTANTINE ALEXANDER: The hardship is owing to circumstances relating to the shape of the lot. It's a very large shopping center lot with more than one entrance on more than one street, and there is a need for a sign identification in this busy area of Cambridge and these circumstances don't affect the Zoning District generally. Again, this is the only shopping center that I'm aware of in this area of town.

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. It is a goal of the Sign Ordinances to prohibit visually overbearing signs, and this is not it. It fulfills a legitimate need

for the occupant of the shopping center, occupants of the shopping center and further, the commercial climate of the city, all of which is consistent with the intent of our Zoning Ordinance.

On the basis of these findings the Chair moves that a Variance be granted on the condition that the work proceed in accordance with the plans submitted by the Petitioner. There are three pages, all of which have been initialled by the Chair.

It being understood is that with regard to complying with this you don't have to have -- we're talking about the size of the freestanding signs, the nature of their appearance, and not necessarily the names that appear on the signs.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor. Variance granted.

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

\* \* \* \* \*

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10444, 383-385 Walden Street.

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

CLARENCE CLARK: Me.

CONSTANTINE ALEXANDER: You have to give your name and address to the stenographer.

CLARENCE CLARK: Clarence Clark, 383 Walden Street, Cambridge, Mass..

CONSTANTINE ALEXANDER: And why don't you explain to us what you want to do?

CLARENCE CLARK: In the back bedroom on the second floor would like to -- we've closed off one window on the north window because it doesn't get very good light. We'd like to put in a bay window similar to the one that we installed on the first floor a number of years ago just to get more additional light into the room.

CONSTANTINE ALEXANDER: And your Zoning issue is that creates additional FAR?

CLARENCE CLARK: 8.9 square feet, yes.

CONSTANTINE ALEXANDER: And it puts you over the top --

CLARENCE CLARK: Yes.

CONSTANTINE ALEXANDER: -- and you need a Variance because of that?

CLARENCE CLARK: Right.

CONSTANTINE ALEXANDER: And I think we have plans in here.

This is one page here circled with the proposed one window, that's it?

CLARENCE CLARK: That's correct, yes. It faces into the backyard.

CONSTANTINE ALEXANDER: While Tom's looking at it, I'll open it up to public testimony.

Anyone here wishing to be heard on this matter?

(No Response.)

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

There is a letter in the file which I'll read in a second.

THOMAS SCOTT: I'm fine.

CONSTANTINE ALEXANDER: There's a letter from Ellen and Jonathan Miller at 397 Walden Street. It's signed by Jonathan Seth Miller same address.

(Reading) I am writing to support the request by Clarence Alvin Clark, Jr., case No. 10444 for a Variance to install a second floor bay window to his residence at 383-385 Walden Street, Cambridge. I purchased and have lived at 397-399 Walden Street just across Saville Street from Mr. Clark since 1979. Over the years Al and Jennifer have maintained and improved their property, making careful, intelligent, and appropriate improvements inside and out, enhancing the beauty and utility of their home, generally adding to its value, and the overall value of the neighborhood. I am



confident that this proposed change will also be done with care and taste and be consistent with the existing architecture. I cannot see any detriment to the public good or any real damage to the purpose of the Zoning Ordinance by allowing a second bay window above an existing one on the northwest side of the house. This minor change should have no meaningful affect between the light and air on his home and the next. I wholeheartedly approve of granting Mr. Clark's petition.

And that's it. Nice letter.

CLARENCE CLARK: Yes, I spoke to all the neighbors.

CONSTANTINE ALEXANDER: You spoke to your other neighbors as well?

CLARENCE CLARK: Yes.

CONSTANTINE ALEXANDER: And no one expressed any opposition?

CLARENCE CLARK: No.

CONSTANTINE ALEXANDER: You don't have any other letters with you, though?

CLARENCE CLARK: No, I don't.

CONSTANTINE ALEXANDER: I'll close public testimony. Anyone here comments, questions from the Board?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: All set? You submitted this photograph and there are plans attached to it. Just so you understand, when we grant relief, which we're about to do, it will be subject to what you do is consistent with this.

CLARENCE CLARK: Yes.

CONSTANTINE ALEXANDER: These

got to be the final. If you change them, you're going to have to come back before us.

CLARENCE CLARK: It won't be changed.

CONSTANTINE ALEXANDER: Oh, okay. You're comfortable with that.

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to this Petitioner. Such hardship being is that a need to improve the lighting and the aesthetic impact or the architectural impact of the structure which would be occasioned by adding a second bay window.

That the hardship is owing to circumstances relating to the shape of

the lot. This lot is a I believe a non-conforming lot.

CLARENCE CLARK: Yeah.

CONSTANTINE ALEXANDER:

Non-conforming, and therefore any modification of the structure requires Zoning relief, and that relief may be granted without substantial detriment to the public good or without nullifying or substantially derogating from the intent and purpose of this Ordinance.

In that regard the Chair notes that there is neighborhood support for what is being proposed, and certainly no neighborhood opposition. That the work being sought is modest in nature. It will improve the appearance of the building and the utility in terms of approved lighting within the building.

And, therefore, all of which is consistent with the intent of our Zoning Ordinance and our Building Codes generally in the City of Cambridge.

On the basis of these findings, the Chair moves that a Variance be granted to the Petitioner as requested on the condition that the work proceed in accordance with the photo simulation really, and the plans. Actually two pages; the photo simulation and one page of proposed plans, 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. Good luck.

(Alexander, Hughes, Sullivan,

Scott, Green.)

\* \* \* \* \*

(8:10 p.m.)

(Sitting Members: Constantine  
Alexander, Timothy Hughes, Brendan  
Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The  
Chair will call case No. 10445, 1 Orchard  
Street.

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

Name and address for the stenographer.

MARK WAGNER: My name is Mark Wagner. I'm the architect for Stanley Gedaminsky who is right here. I live at 5 Malcolm Road, Cambridge, Mass.

STANLEY GEDAMINSKY: Stan Gedaminsky, G-e-d-a-m-i-n-s-k-y. I'm the owner with my wife of 1 Orchard Street, and I live at 251 North Road in Medford, Mass.

CONSTANTINE ALEXANDER: The floor is yours.

MARK WAGNER: Okay. This house is owned by Stan Gedaminsky and his wife and they've lived in the house for 14 years. And Stan has been a police

officer here in Cambridge for 25 years. This house was built in -- have you seen pictures of it or anything?

CONSTANTINE ALEXANDER: I've seen the house. I've been by the house.

MARK WAGNER: You've been to the house? Well, anyway --

CONSTANTINE ALEXANDER: That's only me. I don't know if anyone else has.

MARK WAGNER: Okay. Is anybody else familiar with it? There are some pictures right there and I can give you more pictures if you'd like.

THOMAS SCOTT: Can we see them?

MARK WAGNER: Sure. It's also opposite the loading docks at Porter Square, at the mall.

So, this house was built in 1895 and it became non-conforming in 1943 when the



Zoning Code came in. And it was because of lot size and dimensional issues, just the way the lot -- it's a small lot than it should be but it was originally built exactly as it is right now.

BRENDAN SULLIVAN: It you can pull the mic towards you.

MARK WAGNER: The form of this house has not changed at all since it was built in 1895. I tried doing some research on it, and there's very little records on it, but --

CONSTANTINE ALEXANDER: Was it built as a three-family house?

MARK WAGNER: It was built as a two-family house but I think it actually was a three-family house.

CONSTANTINE ALEXANDER: Why do you say that?

MARK WAGNER: They didn't -- why do I say that? Because of the way the original stairs on the third floor go originally from all the way down, you can see they're old stairs, all the way down to the first floor without any stops anywhere else. It's a separate stair, and it's a very old stair.

BRENDAN SULLIVAN: That's common to have a second floor unit and stairway up to an attic. Bedrooms.

MARK WAGNER: Yeah.

It also has an entry stair that goes all the way up to the third floor with stairs at each --

BRENDAN SULLIVAN: Again, not uncommon --

MARK WAGNER: -- doors at each level.

BRENDAN SULLIVAN: -- for a two-family to have attic space. But I also went back through the records to see if when it was converted to a three-family. It's in a B Zone, and there is no Building Permits.

MARK WAGNER: There is none, exactly. I talked to Ranjit about that and he said that he thought it was okay and he had Mike Burnes, David Burnes go take a look at this to see --

CONSTANTINE ALEXANDER: But the issue before us tonight is not whether it's okay to have a three-family, but that does -- to the extent it does impact whether we're going to grant the relief tonight.

MARK WAGNER: Okay, sure.

Well, the records seem to be very

spotty, and I couldn't find anything. I went to Historical and I went through the records of -- they have the books that show about all the various years. Every year what they say it is, and there wasn't -- an another address on 37 Davenport Street, and at some point that was taken away in the 50's I think. But -- so I don't really know when -- what and when things happened. But Stan bought this house in '91.

STANLEY GEDAMINSKY: '91.

MARK WAGNER: Yeah. And he bought it as a three-family and he lived there for 14 years and he never knew it wasn't a three-family --

CONSTANTINE ALEXANDER: So 2005 roughly you moved out as a rental?

STANLEY GEDAMINSKY: Yes.

CONSTANTINE ALEXANDER: So the house is being rented out to three, three occupants, three units?

STANLEY GEDAMINSKY: Yes.

CONSTANTINE ALEXANDER: The unit that would be affected by the relief you want, the --

MARK WAGNER: Third floor.

CONSTANTINE ALEXANDER: -- third floor? Is it currently rented?

STANLEY GEDAMINSKY: Yes.

CONSTANTINE ALEXANDER: Has it been rented regularly pretty much --

STANLEY GEDAMINSKY: Since I've owned it, yep.

CONSTANTINE ALEXANDER: I ask this question because I've got to understand the hardship. Let's cut to the chase. First of all, this property

is way over the permitted FAR.

MARK WAGNER: Right, yes.

CONSTANTINE ALEXANDER: It's in a 0.5 district. It's at 0.129, so two and a half times.

MARK WAGNER: Right.

CONSTANTINE ALEXANDER: And you want to increase it more to 1.31.

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: I'm just doing it from the form.

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: When we do allow dormers to be built, we typically -- we need to find a hardship as you know, you may know as well.

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: Typical case is a young couple comes or a young

family comes before us, needs more living space, they have a growing family, and we grant, sometimes, grant relief although in cases with these kinds of numbers maybe not.

MARK WAGNER: Right.

CONSTANTINE ALEXANDER: I don't see your hardship here. I mean, your hardship is you want to increase the value of your property, which is fine and noteworthy, but you've got to do it in accordance with the Zoning Ordinance. To get a Variance you've got to show the hardship. There's no hardship here. You couldn't occupy the property. You said it's been rented since whenever. But you could probably get more rent if you're able to increase the size of the unit, which is what this is all about.

And one last thing. Just I'm sorry to interrupt you, one last thing, and you know this, sir.

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: We have a dormer guideline.

MARK WAGNER: Right.

CONSTANTINE ALEXANDER: Which says your dormers can't be more -- should not be more --

MARK WAGNER: 15 feet.

CONSTANTINE ALEXANDER: -- 15 feet long.

MARK WAGNER: Right.

CONSTANTINE ALEXANDER: The relief you're seeking when you connect the other two dormers, you're going to have a 36-foot dormer.

MARK WAGNER: Right.



CONSTANTINE ALEXANDER: I mean, that's not gonna sell. I don't think any dormer relief here is gonna sell in my judgment, frankly. I'm sorry to be so presumptive or preemptive here. But this is not the kind of situation that a Variance is supposed to deal with.

You don't have special circumstances for the shape of the lot, topography.

MARK WAGNER: The lot's very small. That --

CONSTANTINE ALEXANDER: Okay. Okay, that's fair enough.

MARK WAGNER: I mean the house was built a long time ago, way before the Zoning, and it turned out that lot's very small. The hardship is also that the slope of the roof in the kitchen, it

slopes down. You stand and you have the counters against the wall and there are some skylights, get some ventilation there. The bathroom has no natural ventilation. It has just a fan. It's been there for a long time. I mean, I don't know how long it's been there, but it's been there a long time. And 81 square feet is not much on a house. I mean, it's a three-family house in a neighborhood. There's also huge buildings on that street. This faces the loading docks of the Porter Square Mall. I mean, this is not going to harm anybody. None of the neighbors will be able to see any change on this house. So I mean, I understand what you're saying, but this is -- this is a hardship because --

BRENDAN SULLIVAN: You have to

distinguish between a practical hardship and a legal standard hardship.

MARK WAGNER: Okay.

BRENDAN SULLIVAN: And we're dealing with a legal standard hardship.

MARK WAGNER: All right.

STANLEY GEDAMINSKY: Well, if I could just add in there.

CONSTANTINE ALEXANDER: By all means go ahead.

STANLEY GEDAMINSKY: One of my main things with these properties, I fixed up the first floor where I lived, and the second floor was redone. Third floor has always been a problem because of this issue. There's probably five feet of space that I can't use. I guess what I've always wanted to do was get more natural light in there. I wanted to be

able to get a full bathroom in there. It is a three bedroom. So I mean that, that was my particular problem with wanting to --

CONSTANTINE ALEXANDER: Nobody is suggesting bad faith on your part.

STANLEY GEDAMINSKY: Yeah, right.

CONSTANTINE ALEXANDER: I want to be very clear on that part. But maybe your problems arise from the fact that -- or someone is -- trying to get three units in a building that's really better suited to two units. And that's why you have such a bad situation on the third floor causing you to want to seek Zoning Relief.

STANLEY GEDAMINSKY: Yeah, well, I'm trying to deal with something that I

bought and make it into, you know, something more efficient of that space which, you know, I have been taxed on by the way also, too, for many years which I didn't realize that was it five feet, you know, you're only supposed to be taxed on the five feet that you can stand next -- so I mean, I have suffered some bit of financial setback there, and I don't how much --

BRENDAN SULLIVAN: You're being taxed on the value of the house, not necessarily the square footage. The square footage does relate in some aspect to the value, but it's not the overriding thing. They're looking at it as a three-family, and what are the other three families in the vicinity, the value of it. So you're being tacked on the

value.

STANLEY GEDAMINSKY: Well, I mean I guess that's the point there, too.

BRENDAN SULLIVAN: The square footage.

STANLEY GEDAMINSKY: There's a bunch of square footage that I can't use because of that slope. And I guess -- I want to make it compatible to the other three families --

BRENDAN SULLIVAN: That's the envelope of the house.

STANLEY GEDAMINSKY: Yeah.

CONSTANTINE ALEXANDER: I'm sorry, anything further you want to add?

MARK WAGNER: Well, it sounds like you're pretty negative about the whole thing.

CONSTANTINE ALEXANDER: Yes.

Well, I'm only one person but I am negative about it for the reasons I've expressed. You're ignoring the Zoning dormer guidelines. You can't demonstrate to me a substantial hardship.

MARK WAGNER: Well, I did talk to Ranjit about that. First of all, if you do a 15-foot dormer in the middle of those two, then what you do, you have roofs that -- hip roofs to match the existing one there. You have like a small space between each one of them, like a two-foot space that will -- snow will collect in there. I mean, you have exterior spaces in there. It doesn't make a lot of sense to do it. I mean, it would be possible to do something like that, a 15-foot dormer, but it doesn't make a lot of sense.

THOMAS SCOTT: Could you do two, 15-foot dormers and have them envelop the old dormer?

MARK WAGNER: Well, we didn't really want to remove the existing dormers. I mean, the existing dormers were the original. And what I wanted to do is setback this dormer from the existing two dormers. Did you see the picture there? There's the -- the dormers are on either end. Want to step back the wall a little bit so that you could still see the front of these two existing dormers. And then, you know, basically match the -- match the -- these are shingled, the upper dormers. It seemed like it wasn't that big a deal. And so I, I mean I realized that it doesn't match the Zoning, but that's what



Variances are for and Ranjit said he thought it was worth asking you about it.

CONSTANTINE ALEXANDER: Oh, I think it's always worth asking. It doesn't mean ask and you shall receive, you know.

STANLEY GEDAMINSKY: Well, I guess I the main thing from my point is I thought also, too, where it's facing out towards the mall, it really isn't affecting any natural, anything with the neighbors. And speaking with the roofers over the years, creating those little gullies or those little spaces in between, which is -- frankly, wouldn't be worth. So I'm kind of stuck on that, too. The way that those two existing dormers are, the only feasible way for me to go forward with it is to connect them.

CONSTANTINE ALEXANDER: Yes, but the other issue, too, is just the amount of additional FAR you're creating. You know, you've got a house from our Zoning point of view is well over -- too big for the lot and you want to make it bigger. That's the other issue. You know, you're at 1.29.

MARK WAGNER: We're asking for a very, very small amount, though.

CONSTANTINE ALEXANDER: Anything more -- but if you were at 0.53 in a 0.5 and you're asking for a little bit more, yeah, the argument makes sense. Well, you're at 1.29. Every little foot you add, adds to the -- makes it even farther, more non-compliant.

MARK WAGNER: Part of the hardship is that we don't have any more

land and it's been like that since it was built.

BRENDAN SULLIVAN: That's true with everything in Cambridge.

CONSTANTINE ALEXANDER: Right.

BRENDAN SULLIVAN: You know, so it doesn't make that house unique.

MARK WAGNER: Right, well, okay.

JANET GREEN: So it's a three-family, zoned as a three-family and you have a third floor with three bedrooms; is that correct?

STANLEY GEDAMINSKY: Yes, with a postage stamp of a bathroom. That's part of the big, the issue there to try to get a full bathroom and the stand up kitchen.

CONSTANTINE ALEXANDER: I can open it. Any further questions or I'll open it to public testimony?

TIMOTHY HUGHES: I can wait.

CONSTANTINE ALEXANDER: Okay.

Does anyone -- I'm going to open it to public testimony. Anyone wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one is wishing to be heard. I don't see any letters I don't believe.

So, any final comments?

STANLEY GEDAMINSKY: No, I mean just trying to improve my property the best I can. I'm kind of stuck with what I'm stuck with and just trying to make it work.

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

Comments from members of the Board? You want to go to a vote? What's the

pleasure?

TIMOTHY HUGHES: Well, if we go to a vote, it's not going to pass. Because I've already heard what he said and I know how I feel, you know, you need four votes.

I think you can try and redesign it. I think you're not going to be able to maintain those two small dormers and then add to it. It's just not gonna fly. You might encompass one into a single, you know, 15-foot dormer and wipe one of these out depending on how it would work. You might turn the kitchen interior to the space so that, you know, you can get some head height over the kitchen counter. There's all kinds of things. But the other thing that Gus has already said, that you need to address in your

application, is the hardship. You know, the hardship that it's got sloped ceilings in a third floor kitchen and bath doesn't answer the question of the legal standard of hardship. And you need to address that which is soil conditions, shape or topography, and such land and structures. You need to write that out. It has to be in here, right? Those are the two things; the dormer's too big. It's not going to fly. And you have haven't addressed hardship in your application.

CONSTANTINE ALEXANDER: Do you want to continue the case?

MARK WAGNER: I'd like to request a continuance.

CONSTANTINE ALEXANDER: Okay.

I offer it as a matter of courtesy.

I'm not thrilled with the idea. I'm trying to, as you know, we don't like to -- we're trying to cut down on the number of continuances that people come in with.

MARK WAGNER: Right. I'll speak to my client and maybe we'll just, you know, call it a day.

CONSTANTINE ALEXANDER: Or do you want to --

MARK WAGNER: But I want to be able to talk to him about it.

CONSTANTINE ALEXANDER: No, no, no. I was going to suggest we'll call another case, and you and your client can talk about it in the back and come back and let us know.

STANLEY GEDAMINSKY: Sure.

BRENDAN SULLIVAN: Understand if

you were to get a negative vote --

MARK WAGNER: We couldn't do anything on that.

CONSTANTINE ALEXANDER: Two years.

BRENDAN SULLIVAN: Two years.

CONSTANTINE ALEXANDER: Unless you do something substantially different.

MARK WAGNER: Right.

STANLEY GEDAMINSKY: How about the hardship that it's hard to find short people to rent? No?

MARK WAGNER: Thank you.

CONSTANTINE ALEXANDER: We're going to recess this case and move on.

(Case Recessed.)

\* \* \* \* \*



(8:25 p.m.)

(Sitting Members: Constantine  
Alexander, Timothy Hughes, Brendan  
Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: Case No.  
10446, 48 Mount Pleasant Street.

Is there anyone here wishing to be

heard in this matter? The floor is yours.

MAGGIE BOOZ: Maggie Booz, B-o-o-z. I'm the architect for Steve Dickman and Sharon Bober at 48 Mount Pleasant Street.

SHARON BOBER: I'm Sharon Bober at 48 Mount Pleasant Street.

CONSTANTINE ALEXANDER: This is a Special Permit case, right?

MAGGIE BOOZ: Right.

CONSTANTINE ALEXANDER: Okay.

MAGGIE BOOZ: We're requesting permission to, and actually I think this Board pretty much explains, explains it all, take out two transom windows in a rear yard setback on a wall in a rear yard setback, and replace them with one double hung window. The wall is 12 feet from the

property line and so the required rear yard setback is 20 feet.

CONSTANTINE ALEXANDER: In a word, that's it.

MAGGIE BOOZ: We do have letters.

CONSTANTINE ALEXANDER: Do you? Okay.

MAGGIE BOOZ: Sharon got them from her neighbors.

CONSTANTINE ALEXANDER: Thank you.

SHARON BOBER: The letters are from all three of the houses that directly abut the back of the house. So whoever can see the back of the house.

CONSTANTINE ALEXANDER: Have any neighbors expressed any dissatisfaction?

SHARON BOBER: No. Actually, other neighbors have expressed support

but I said I didn't need to bring ten letters.

CONSTANTINE ALEXANDER: Okay.

Any questions from members of the Board at this point?

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

(No Response.)

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

The Chair is in receipt of letters submitted by the Petitioner. One is from Jessica Lahey at 25-27 Buena Vista Park. (Reading) I am the owner of the house that directly abuts the back of the home of Sharon Bober and Steve Dickman 48 Mount Pleasant Street -- and they're the ones most affected from the back of your

house -- I am writing this letter in support of Sharon Bober and Steve Dickman's petition to convert one of their high transom windows along the back wall of the house into a double hung window. I do not have any objections to this proposed change.

We have a letter from Joanne and Robin Upton, U-p-t-o-n, who reside at 23 Buena Vista Park. (Reading) We are writing this letter in support of Sharon Bober and Steve Dickman's petition to convert a high transom window into a double hung window. We are owners/abutters of the property at 23 Buena Vista Park that is located directly behind their house on Mount Pleasant. We do not have any objections to their proposed change.

And then lastly a letter from Marc M-a-r-c Weiss and Alice Weiss who reside at 17 Buena Vista Park, unit 3.

(Reading) We do not have any objection to Ms. Bober and Mr. Dickman converting their high transom window into a double hung window. We are in favor of the change.

And that's all she wrote.

Anything further you want to add, Ms. Booz at this point?

MAGGIE BOOZ: No, that's it.

CONSTANTINE ALEXANDER:

Comments? Ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay, let me get my papers in order.

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

That the traffic generated or patterns of access or egress will not, as proposed, will not cause congestion, hazard, or substantial change in established neighborhood character.

The continued operation of adjacent uses will not be adversely affected by the nature of what is being proposed, and this connection, the Chair would refer back to the letters of support from those people who would be, could be adversely affected and they have expressed their views that they will not be adversely affected.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupants

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

In this regard the relief being sought is rather modest. It is something that makes architectural sense. And the reason for the relief being sought is a technical rear yard setback requirement.

So on the basis of these findings, the Chair moves that a Special Permit be granted the condition to the Petitioner on the condition that the work proceed in accordance for the plans submitted by the Petitioner. It's one page as prepared by Smart Architecture dated April 30, 2013, and initialled by the Chair.

All those in favor of granting the



Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor. All set.

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

\* \* \* \* \*

(8:30 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case -- are these folks back yet?

MARIA PACHECO: They're still talking.

CONSTANTINE ALEXANDER: The Chair will call, again, case No. 10447, 36-38 Walden Street.

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

Good evening. For the record, state your name and address.

BOB DOHERTY: I'm Bob Doherty, 117 Inman Street, Cambridge.

JUDY HIGLEY: And I'm Judy Higley, 564 Huron Ave.

CONSTANTINE ALEXANDER: And you're here because?

BOB DOHERTY: It's my dad's house. He died. We both were born there, and we both live in Cambridge. And I live on Inman Street and she lives on Huron Avenue. And the third floor, as you know, the second and third floor only has one bathroom. So it has the eaves on the far side of the house that we'd like to open up the dormer and put a bathroom in there.

CONSTANTINE ALEXANDER: This is a two-family house?

BOB DOHERTY: Two-family.

CONSTANTINE ALEXANDER: Okay. And so you're talking -- you reside on the

property?

JUDY HIGLEY: No.

BOB DOHERTY: No, no. I live on Inman Street. She lives on Huron Ave.

CONSTANTINE ALEXANDER: Okay.  
So you rent it out?

BOB DOHERTY: No, it's not rented. My dad lived there.

CONSTANTINE ALEXANDER: But your plans, if we grant you relief --

BOB DOHERTY: Yes.

CONSTANTINE ALEXANDER: -- or we don't grant you relief --

BOB DOHERTY: Yes.

CONSTANTINE  
ALEXANDER: -- you're planning to rent it out?

BOB DOHERTY: Correct.

CONSTANTINE ALEXANDER: Okay.

All right.

BOB DOHERTY: Well, my niece lives downstairs as were my dad's wishes.

CONSTANTINE ALEXANDER: Right.

BOB DOHERTY: And for any other family members to save some money, live there, buy their own places.

CONSTANTINE ALEXANDER: Okay. It would be occupied by other people other than the two of you?

BOB DOHERTY: Yes.

JUDY HIGLEY: We're not in the house.

CONSTANTINE ALEXANDER: Did you get any professional advice with respect to what you want to do?

BOB DOHERTY: Yeah, I had an architect come over and look at the house. And all they said -- I just want to, you

know, the far end of the, the other side -- the street bedrooms on this side. Well, on the other side of the hallway there's a whole eave that runs the whole length of the house. You know, Christmas trees and stuff like that go in there. And he said just open it up and put a bathroom in here and leave the eaves there. And that was what we want to do.

JUDY HIGLEY: Storage.

CONSTANTINE ALEXANDER: So what would be on the top floor would just be a bathroom?

BOB DOHERTY: A bathroom and the same storage area that's there now.

CONSTANTINE ALEXANDER: Yes, I know what you mean, but no living area?

BOB DOHERTY: No, no, no.

JUDY HIGLEY: It's three

bedrooms.

BOB DOHERTY: Three bedrooms on the other side of the hallway.

CONSTANTINE ALEXANDER: Oh, okay. So there are bedroom on the floor, but on the other side of the hallway?

BOB DOHERTY: Yes. You know, how they have two-family houses, and they have the three bedrooms on one side, like the eaves run the whole length of the house.

CONSTANTINE ALEXANDER: And the reason you're here -- you've got -- you've heard the discussion about 1 Orchard Street?

BOB DOHERTY: Yes.

CONSTANTINE ALEXANDER: You've got FAR issues. Again, you've got a house that's under our Zoning Ordinance

as of today is too big for the lot. It's -- you've got FAR of 1.15 in a district that's 0.5 and you're going to go to 1.18. So you are, again, pushing the envelope in terms of the size of the structure by making any addition to the size of the structure. But also to the point, and you may have heard the discussion, we have dormer guidelines. They're guidelines, but we as a Board tend to require them to be complied with. Dormer guidelines have a number of requirements, and your dormer that you're proposing complies with that with one exception. They're not supposed -- the dormers's not supposed to be more than 15 feet long.

BOB DOHERTY: That's fine. We can cut it down, sir.



CONSTANTINE ALEXANDER: Okay.

BOB DOHERTY: It's already there, it's already open.

JUDY HIGLEY: We just want a bathroom basically.

BOB DOHERTY: It's not -- it's already there. It's all wide open.

CONSTANTINE ALEXANDER: You can make a 15-foot dormer?

BOB DOHERTY: Yes. I mean it's already wide open there anyway. So it's not like -- we figured it would be easier because it's wide open there anyway. You know, the parents put Christmas trees back there and camping gear and all that stuff.

CONSTANTINE ALEXANDER: And with regard to this third floor we're talking about --

BOB DOHERTY: Yes.

CONSTANTINE ALEXANDER: -- the three bedrooms on the other side as you point out?

BOB DOHERTY: Yes. On the other side of the hallway, correct.

CONSTANTINE ALEXANDER: And that's a second floor of the --

BOB DOHERTY: No, that's the third floor of the two-family house.

CONSTANTINE ALEXANDER: Yes, no, no, no. But I mean, there's two dwelling units?

JUDY HIGLER: Yes.

BOB DOHERTY: Yes.

CONSTANTINE ALEXANDER: One on the first floor.

BOB DOHERTY: Correct.

CONSTANTINE ALEXANDER: Okay.

What's on the second floor?

BOB DOHERTY: Kitchen, living room, dining room, and a TV room.

CONSTANTINE ALEXANDER: No bathroom?

BOB DOHERTY: A bathroom, too, yes.

CONSTANTINE ALEXANDER: The baths there, and you want to have a second bath --

BOB DOHERTY: Correct.

CONSTANTINE ALEXANDER: -- for the benefit of the three bedrooms on the third floor?

BOB DOHERTY: Correct.

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

I will open this matter up to public

testimony.

Is there anyone wishing to be heard on this matter?

PAUL DOHERTY: I would.

CONSTANTINE ALEXANDER: Please come forward and give your name and address to the stenographer.

PAUL DOHERTY: 37 Regency Drive in Holliston. I'd just like to know what the specs are or the length of the dormer.

CONSTANTINE ALEXANDER: We have plans in the files.

PAUL DOHERTY: All right. So I have access to that?

CONSTANTINE ALEXANDER: Absolutely. You had it before the hearing. We're working them right now.

Can I ask why you want to take --

PAUL DOHERTY: Well, I'm an

interested party. I used to live there, 36-38. That's the reason why. I'm an interested party. I want to know if I can have access to the specs.

CONSTANTINE ALEXANDER: Sure. But do you need to see them now in other words?

PAUL DOHERTY: Well, when would it be convenient.

CONSTANTINE ALEXANDER: Well, let's say we're going take action tonight presumably.

PAUL DOHERTY: Okay.

CONSTANTINE ALEXANDER: Let's assume. I'm not prejudging, assuming we're going to grant the relief. Maybe reducing, not maybe, probably reducing the size of the dormer.

PAUL DOHERTY: Okay.

CONSTANTINE ALEXANDER: Now, if we do that, it will be done. You can come to the office tomorrow, the Zoning or the Inspectional Service Department office and look at the plans.

PAUL DOHERTY: Okay.

CONSTANTINE ALEXANDER: Will that satisfy what you're --

PAUL DOHERTY: Sure.

CONSTANTINE ALEXANDER: Okay. So you don't need to see them now to express an opinion?

PAUL DOHERTY: No, I don't. Thank you.

TIMOTHY HUGHES: I need to see them now.

CONSTANTINE ALEXANDER: You do. Anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Okay.

Final comments?

BOB DOHERTY: No.

CONSTANTINE ALEXANDER: What you've represented to us is that if we grant relief, we could grant it on the condition that the dormer be exact -- be located exactly where it's located now.

BOB DOHERTY: Correct.

CONSTANTINE ALEXANDER: But it would be -- rather than 18 feet long, it would be no greater than 15 feet long?

BOB DOHERTY: Just so you know, it's wide open there now anyway.

CONSTANTINE ALEXANDER: I understand that.

BOB DOHERTY: So I mean it's going to be the length of the third floor

anyway. The storage space it's, you know, it's there anyway, that's why I didn't --

JANET GREEN: I don't know what you mean by wide open.

BOB DOHERTY: Well, when you go in the old two-family houses, you walk in the hallway, all your bedrooms are on the left. And the on the right-hand side are these eaves with doors.

JUDY HIGLEY: The roof slip.

BOB DOHERTY: Yeah, and you put everything in there, storage area.

JANET GREEN: Right, okay.

BOB DOHERTY: There are no, no petitions. It's just wide open space the whole way the right side of the house.

JANET GREEN: But we're talking about the length of the dormer, not the



possibility of putting in a dormer.

BOB DOHERTY: That's what I'm saying. The length of the third floor is wide open, it goes the whole length anyways. There's no walls. It just runs wide from one end of the third floor. Like --

BRENDAN SULLIVAN: He's not being constrained by any --

BOB DOHERTY: Correct.

JANET GREEN: But I assume you could make it smaller so I assume it would fit in.

BRENDAN SULLIVAN: You could put a 15-foot dormer in there.

BOB DOHERTY: Correct, correct.

BRENDAN SULLIVAN: Which would bring it into the compliance with the guidelines.

BOB DOHERTY: Correct. But the other space is still going to be opened anyways.

JANET GREEN: Got it.

CONSTANTINE ALEXANDER: Okay. I'm going to close public testimony at this point. Maybe I've already done it. I'm just repeating myself. I'll wait until Tim has had a chance to go through the file.

TIMOTHY HUGHES: That's okay.

CONSTANTINE ALEXANDER: Take your time. In the meantime while he's doing that, does anybody have any comments?

BRENDAN SULLIVAN: I mean, I think it's a typical, very necessary thing to have bedrooms up there and to have facilities nearby. And it's

something that we have approved in the past anyhow.

THOMAS SCOTT: It's a modest change to the FAR, and if they reduce it to 15 feet, then I would be in favor of it.

BOB DOHERTY: Yes, we can. We're telling you what the architect told us to do. We just want put a bathroom up there.

CONSTANTINE ALEXANDER: When we take a vote, and particularly when we grant relief, just so you know, we tie it to plans that you've submitted.

BOB DOHERTY: Okay.

CONSTANTINE ALEXANDER: And if you -- that means these plans have got to be the final plans.

BOB DOHERTY: Okay.

CONSTANTINE ALEXANDER: If you get to construction or whatever, you decide you want to make changes, you won't be able to do that without coming back before us, you understand.

BOB DOHERTY: That's fine. Yes.

CONSTANTINE ALEXANDER: That's okay with you?

BOB DOHERTY: Uh-huh.

CONSTANTINE ALEXANDER: All right.

Okay. We ready for a vote?

TIMOTHY HUGHES: Yes.

JANET GREEN: And we're voting on a -- this says 18 feet but we're voting on a foot 15 foot?

CONSTANTINE ALEXANDER: I'm going to suggest -- yes, thank you, Janet. What I'm going to do when I make

the motion, is to tie it to plans provided that the dormer be in its current location but no longer than 15 feet.

JANET GREEN: Okay.

CONSTANTINE ALEXANDER: Ready?

Okay, the Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner has a two-family house with no bathroom facilities on the third floor where there are bedrooms.

That the hardship is owing to the shape of the lot. The lot is actually a corner lot --

BOB DOHERTY: Correct.

CONSTANTINE ALEXANDER: -- on a

private way and narrow. And, therefore, any modification to this non-conforming structure would require Zoning relief. And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

The Chair would not in this regard that there is no neighborhood opposition.

That the Petitioner composes to comply with our dormer guidelines, in fact, will be required to comply with our dormer guidelines. And that the work being sought the addition of a bathroom to a second unit of a two-family house where no bathroom now exists, is not at all unusual for the City of Cambridge.

So on the basis of this the Chair

moves that a Variance be granted to the Petitioner in accordance with the findings that I've just made on the condition that the work proceed consistently with a plan dated A-2, initialled by the Chair.

However, a dormer that is shown on this A-2 cannot be as long as the dormer that is shown on A-2. Namely, it must be no longer than 15 feet, but otherwise in the same location; no closer to the ridge line or to one side.

BOB DOHERTY: Right.

THOMAS SCOTT: Can we edit the plan in the file?

CONSTANTINE ALEXANDER: Sure.

THOMAS SCOTT: Because it says 18. Just scratch that out and say 15.

CONSTANTINE ALEXANDER: That's a

good idea. I could do that. Thank you.

All those in favor of granting the variance on the basis with the condition I've stated say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: All in favor.

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

\* \* \* \* \*

(8:40 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will reconvene case No. 10445, 1 Orchard Street.

MARK WAGNER: I think we've



discussed this and what we'd like to do is ask for a continuance so that we can redesign this. We can discuss talking about maybe making a trade, removing the existing dormers and putting one in the middle.

CONSTANTINE ALEXANDER: Okay.

MARK WAGNER: Or which would be no net change in area or something like that.

CONSTANTINE ALEXANDER:  
Whichever you want to do.

MARK WAGNER: So we'd like to have a chance to take a look at that anyway. Before you rule on it.

CONSTANTINE ALEXANDER: I would just counsel you that we're going to pick a date and it's got to be a date where all five of us can make it. Because it's

called a case heard.

MARK WAGNER: Okay.

CONSTANTINE ALEXANDER: So all five of us have to sit the next time around.

MARK WAGNER: Okay.

CONSTANTINE ALEXANDER: We're not thrilled any longer with continuing cases over and over again.

MARK WAGNER: Because of this.

CONSTANTINE ALEXANDER: No, not because of this but other cases. So let's pick a date that you're going to be ready to come back before us.

MARK WAGNER: Right.

CONSTANTINE ALEXANDER: I don't want to come back and oh, no we need more time.

MARK WAGNER: Okay.

CONSTANTINE ALEXANDER: Got it?  
So give me a sense of when you would want  
to have a case heard?

STANLEY GEDAMINSKY: I'll be out  
of state July 12th through the 22nd. So  
any time before or after.

CONSTANTINE ALEXANDER: You  
would be ready by then? Or you want to  
do it afterwards? In other words, wait  
until you come back.

MARK WAGNER: That's a month. I  
mean what are our options?

CONSTANTINE ALEXANDER: What are  
the dates, Maria?

MARK WAGNER: What would be good  
for you?

CONSTANTINE ALEXANDER: We'll  
get to that in a second.

STANLEY GEDAMINSKY: What's the

latest out before the July 12th?

CONSTANTINE ALEXANDER: That's a June date and Brendan can't be here, so that probably doesn't work.

MARIA PACHECO: Yes. You already have three continued cases for the 7/11 and then we have 7/25 opened.

MARK WAGNER: 7/25.

CONSTANTINE ALEXANDER: Or 7/11. Those are the two times in July or go to August.

JANET GREEN: She already has three.

MARIA PACHECO: We have three scheduled for already seven. I don't know if you want to add a fourth one.

CONSTANTINE ALEXANDER: 25th?

MARK WAGNER: The 25th is probably better because then we can go

through more options.

CONSTANTINE ALEXANDER: Before we take a vote let me check with my fellow members.

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: Just for your benefit, you have to have the new plans, which are going to be new plans --

MARK WAGNER: Yes.

CONSTANTINE ALEXANDER: -- in our files by five p.m. on the Monday before. So you've got to be --

MARK WAGNER: It would be way before that.

CONSTANTINE ALEXANDER: Okay. So no surprise there.

Can everybody make July 25th?

TIMOTHY HUGHES: Yes.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: We can.

MARK WAGNER: Great. I  
apologize.

CONSTANTINE ALEXANDER: Don't go  
too far yet.

The Chair moves -- we need you to  
sign a waiver for a time of decision which  
Maria can give you. This is -- otherwise  
we'll be forced to vote you down tonight.  
This is, by law we have to make a decision  
by a certain date, and you've asked us to  
extend that date so I need you to sign  
something that says it's okay.

Okay, so the Chair moves that this  
case be continued until July 25th at seven  
p.m. on the condition that you sign a  
waiver for time of a decision, right  
there.

On the further condition that, as

required by our rules, to the extent that you're going to be submitting revised plans, they must be in our files by five -- no later than five p.m. on the Monday before July 25th.

And lastly on the condition that the sign on the building right now, you have to change the sign, do it with a magic marker, put a new date, July 25th, new time, seven p.m. If you don't do that, we won't hear the case on July 25th. You got it? And you've got to keep it up there for the 14 days required.

STANLEY GEDAMINSKY: Right.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. We'll see you in July.

MARK WAGNER: Thank you very  
much.

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

\* \* \* \* \*



(7:45 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10448, 222 Brattle Street, also known as 220 Rear Brattle Street.

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

For the record.

ATTORNEY ANDREW BRAM: Thank you. Good evening, members of the Board. My name is Andrew Bram, lawyer with the offices formerly in Cambridge now in Belmont. West, West Cambridge. To my left is Willard Sawyer who is the owner of the property and at 222 Brattle Street. And to his left is Sarah Rhatigan who is

another attorney associated with me.

This is a case that was before the Board in August of -- originally before the Board I think in June. Decided by the Board in August of 2010. So it was a single-family house in the back of the lot at 222 Brattle Street.

CONSTANTINE ALEXANDER: I sat on the case so I know it.

ATTORNEY ANDREW BRAM: And the Board at that time granted approval to do some renovations; small addition to the house. And the issue of parking came up. And in the decision the Board agreed that it would be two parking spaces and that we would not otherwise repave the lot or expand the parking area. The construction is now complete, and in the interim since our project was started,

the property next to us at Brattle Circle was sold and a developer built seven townhouses there.

CONSTANTINE ALEXANDER: We approved that.

ATTORNEY ANDREW BRAM: Yes.

Okay, those seven townhouses have a right-of-way off of a shared driveway that comes in from Brattle Street. And what our proposal is to park two cars in tandem on our side of the right-of-way. This is the right-of-way from Brattle Street. You'll see there's a dotted line. This property with these two cars are shown an outline belongs to the Brattle Circle property. This is our land here.

We contend that at the time that we bought the property that this entire area

was used as parking. Although the woman that we -- my clients bought the house from only had one car.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ANDREW BRAM: This is the problem. And so the Board granted us two parking spaces and the Building Department, because of the objections of one neighbor who abuts the rear of our property, whose property fronts actually on Mount Auburn Street behind us, because of the objection of that neighbor the Building Department was reluctant to allow us to complete the paving.

CONSTANTINE ALEXANDER: Can I address for second, pursue that a little bit because that's a thing that concerns me. Your petition, your advertisement and your application says that you want

to -- you're seeking a Variance to clarify our prior decision.

ATTORNEY ANDREW BRAM: That's right.

CONSTANTINE ALEXANDER: There's no such thing as a Variance to clarify. We grant Variances. We can grant a Variance to modify a prior Variance. We don't grant Variance to modify. And it strikes me that -- have you sought a formal opinion from the Building Department? A formal one. Not a hallway conversation with Ranjit.

ATTORNEY ANDREW BRAM: Well, it was more than a hallway conversation. I've had a number of conversations to try to convince him that it would be unnecessary for us to come here. That based on the decision of the Board with

a similar plan that showed parking in this area before the Board and with the Board's decision specifically granting two parking spaces, that this wasn't necessary. This whole driveway has now been in driveway pavers except for one small area about what would be the front of a car in this area here. The driveway has otherwise been totally paved.

CONSTANTINE ALEXANDER: Why didn't you seek an appeal from the decision of Ranjit that it's incorrect, and then in the alternative if we don't -- if we uphold Ranjit's decision, you seek the Variance? I mean, it's an easier standard.

ATTORNEY ANDREW BRAM: That may be. We came here pretty much at the direction of Ranjit who was unwilling to

make the call that it was over the objections made of the neighbor that it was okay to complete this paving. And, again, it was Mr. Singanayagam's suggestion that we ask for a clarification in the Variance. Because he admits that it says two parking spaces, and there's a number of letters supporting it here. There's one letter of support, and one of the letters we have submitted copies. But there is a picture that accompanies the letter of support from the project architect. This is a picture that was taken more than three years ago before the project was started, when the project was still for sale, that shows a vehicle parked at the front of this area. And notwithstanding the fact that there's clear evidence that there

was parking at the front, that in fact this area, while there were some shrubs in here which were, you know, not worth keeping, there's evidence from supporters of this project, including the developer over here, who did the paving that there was all evidence of old paving right up to the fence in this area.

CONSTANTINE ALEXANDER: Let me just -- okay, all this is a good argument as to why there's Ranjit's decision is, was incorrect and take an appeal. I mean, the reason I'm pushing you a little bit on this is there may be litigation. I'm going to be very frank. There may be litigation arising out of this given your problems with your neighbor. The hardest case to defend for you is a decision -- if we grant a Variance.



Because you know the legal standard for a Variance is very high. On the other hand, if you got, if you appealed Ranjit's decision, it's a far easier standard to defend, and that's why I'm a little puzzled why you're pursuing the case the way you are. I think you're -- not the fact, it's the riskiest way to pursuing the case.

ATTORNEY ANDREW BRAM: Based upon, again, I know you used the word modified decision. And I have been before this Board, you know, in past years.

CONSTANTINE ALEXANDER: You have.

ATTORNEY ANDREW BRAM: When there were questions about what the Board had decided and whether plans should be

modified in early Variance cases and we've come here to ask for modification. I guess that's what we're asking for tonight.

BRENDAN SULLIVAN: But you're not. That's the thing. You know, and I think what Gus is trying to say is that the problem that I have with it, I think there's a procedural defect in this because it is a -- very much of a legal matter and there are differing opinions so that if we were to give you an opinion on what the Board meant or whatever, I really feel as if, you know, usurping the legal right of a -- an opposite opinion to appeal that and how do you appeal procedurally an opinion, a clarification of the Board? And I think it's a tough hurdle as opposed to a formal letter to

the Commissioner saying our interpretation is such, and then getting a formal letter back. You're disagreeing with that letter and then you appeal that to us. There's a procedure in place. And then we actually can rule. Somebody can then have -- exercise their legal rights if they wish, if they have standing, to appeal our decision regarding your appeal.

CONSTANTINE ALEXANDER: And you can always preserve your right for a Variance. And the Variance then becomes a second step. If we -- if you get a wrong opinion from, from your perspective from Ranjit and we uphold Ranjit, we deny your appeal in his decision, then you fall back on the Variance. But at least you --

BRENDAN SULLIVAN: I mean, Andy, I think you and I have both grown up on Thursday nights going back many, many years. This is the first time I have ever seen this type of procedure going before the Board. There have been amendments to Variances requested, but not this, not in this format. And I have reservations as to the legal grounds that were treading on.

CONSTANTINE ALEXANDER: And I'm worried, not worried, it's none of my business, but I want to point out to you in a contentious situation, I think you're going the riskiest route possible. There's a safer route to proceed. It's free, one person's opinion or free advice. Right? I think Brendan's saying we'd rather not hear the case

tonight, go through the procedure of getting a formal decision from Ranjit one way or another, and if you get the wrong decision from your point of view, take an appeal. And then we'll still have the Variance case if you lose the appeal.

ATTORNEY ANDREW BRAM: Again, can this case that we filed be preserved in terms of timing?

CONSTANTINE ALEXANDER: Yes, we'll continue this case. We'll continue this case.

ATTORNEY ANDREW BRAM: Okay.

TIMOTHY HUGHES: I have a question about continuing this case. If in fact it's not properly advertised anyway it's because we don't get a Variance on a clarification. You know. Wouldn't the Variance have to be

restructured to allow for two parking spaces outright rather than just clarifying the earlier decision?

CONSTANTINE ALEXANDER: My view on that, Tim, is first of all, I think the words are unfortunate in the advertisement, but I think the general scope of it is sufficient. But it would be better, I absolutely agree with you, if you also re-advertise the Variance to better state -- you're not looking for a clarification. You're looking to modify.

TIMOTHY HUGHES: Is there a difference here, the difference between tandem parking and just two spaces? Or is that even the issue?

CONSTANTINE ALEXANDER: No. The issue is that -- the decision we made

in the first case said you've got to be in this current area of parking. That's paved and sort of goes this way. They want to broaden that a little bit, because it's an area that's not paved now. They want to pave it. Otherwise in full compliance with our Ordinance, but it's just not consistent with the wording of our prior decision. And there's --

BRENDAN SULLIVAN: We approved a plan which makes it difficult to allow for what was granted. It was a bad plan. Or maybe it was a good plan but not allowing for the practicality of parking cars. So consequentially there's a space there that's a no man's land in a sense, but anyhow.

THOMAS SCOTT: The two spaces that were approved were they tandem

spaces?

CONSTANTINE ALEXANDER: I don't recall.

BRENDAN SULLIVAN: I think it was the ability to park two cars was granted.

CONSTANTINE ALEXANDER: The relief we granted the last time met a condition that no additional portion of a lot be paved, covered with pavers, or otherwise turned into a parking area at any time, now in the future, so that repaving only the current two-space parking area will be allowed, and the parking be limited to those two spaces. They want to broaden it a little bit. They want to cover some area that once was a apparently used for parking as he's shown, but has not been paved, and they want to pave it. And that



somehow -- they've run into the problem of the language of our decision. Now I think personally think that you could -- Ranjit could, if he wishes, or the Building Department say that what they want to do is consistent with this decision given all the facts and circumstances and there's no need for a Variance. He could reach that conclusion. He may not. And if he does, then they have to come back before -- first of all, you can appeal that decision. And we may conclude that even though Ranjit didn't or alternatively we can grant the Variance or not.

BRENDAN SULLIVAN: There is a process which I think has to be followed.

TIMOTHY HUGHES: I just have one

other question, I don't know if you can clear this up. Is paving this additional area, does it do anything to the open space calculation on this lot?

CONSTANTINE ALEXANDER: Not to put you in non-compliance.

ATTORNEY ANDREW BRAM: Yes.

TIMOTHY HUGHES: So it's really just a part.

CONSTANTINE ALEXANDER: It's a small area.

TIMOTHY HUGHES: I agree with my fellow Board Members that you need to get a letter from Ranjit that says you can't do it and then come back to see us.

CONSTANTINE ALEXANDER: He's just making the same point. Seeing --

BRENDAN SULLIVAN: Or a letter saying that you can do it and if there's

an opposing view, then someone else can appeal his decision. There is a process that I think has to be followed so that we're not usurping anybody's legal rights.

ATTORNEY ANDREW BRAM: Okay. So are we continuing this case generally or what are we doing with this particular case that's filed?

CONSTANTINE ALEXANDER: We have to pick a date to continue it to. How quickly would you get a letter in to Ranjit requesting a formal decision?

ATTORNEY ANDREW BRAM: I'm sure within --

CONSTANTINE ALEXANDER: Couple of days?

ATTORNEY ANDREW BRAM: Yeah, a matter of days.

CONSTANTINE ALEXANDER: I can't speak for Ranjit when he would respond, but I would assume it would be pretty quickly.

BRENDAN SULLIVAN: He has 30 days to respond to wit we're into July.

CONSTANTINE ALEXANDER: So I think we can hear the case subject to availability on our docket, pretty soon. Maria.

MARIA PACHECO: Well, since we're not scheduling until the beginning of August with the new cases, the appeal will have to be heard first.

CONSTANTINE ALEXANDER: Yes.

MARIA PACHECO: Or do you want the appeal heard the same night as the Variance?

CONSTANTINE ALEXANDER: Well, we

don't know with the appeal, they may not get an answer from Ranjit, the case is over unless someone else brings the case before us challenging the decision. I would suggest we continue this case until the first hearing in August. And you can, as I said, we may never have to do anything in August depending upon what happens with Ranjit.

MARIA PACHECO: Well, the appeal probably wouldn't be heard until the first meeting in August because that's how far we're scheduling cases now.

CONSTANTINE ALEXANDER: Okay. So we would have the appeal, would be heard?

MARIA PACHECO: I would do the first meeting in September for the Variance.

CONSTANTINE ALEXANDER: We continue the Variance -- okay. We continue the Variance until the first meeting in September. We will hear the -- if we have to, appeal of Ranjit's decision the first week, the first hearing in August. If we grant the relief, we i.e. if at the end of the day, if Ranjit turns you down, we reverse him, the case is over. The Variance case. We would keep it alive until all the appeal periods run. But you really wouldn't have to come back until September.

ATTORNEY ANDREW BRAM: Right.

CONSTANTINE ALEXANDER: If you lose, if Ranjit turns you down, we oppose Ranjit in August, then you would come back to us in September with a case you have tonight.

Is that all right with everybody?

DAVID TELLER: Excuse me, can I ask a question?

CONSTANTINE ALEXANDER: By all means.

DAVID TELLER: My name is David Teller, 457 Mount Auburn, No. 5. I'm the abutter that they're referring to, and my wife and I. Can we object to continuing this?

CONSTANTINE ALEXANDER: To continuing it?

DAVID TELLER: Right. We'd like to have it decided because we have a very strong case against --

CONSTANTINE ALEXANDER: You can object. I mean, we're going to make a decision. You certainly have your right to express your views.

Why would you not like us to continue the case?

DAVID TELLER: Because I would like you to vote it down now.

CONSTANTINE ALEXANDER: You're assuming our conclusion; right?

DAVID TELLER: No. I'm saying that our attorney has prepared a very strong case. He couldn't be here, but he sent us a letter with some exhibits and I think that, you know, what they're telling you is somewhat misleading.

CONSTANTINE ALEXANDER: Well, wait a minute. We're doing all the talking tonight.

DAVID TELLER: What Mr. Bram has told you --

CONSTANTINE ALEXANDER: Wait, wait. Just so you understand. I'm not



trying to be difficult. This case has got to be brought before us in the proper way. We're not sure -- forget about the merits. We've got to start with the proper procedures. We don't think the case came before us in the proper way. We want it to be brought the proper way. All of your objections that your attorney has put -- you can raise them at the appropriate time. But there's no reason, there's no rush to judge. We don't need to rush to judgment tonight if they don't need a rush to judgment.

DAVID TELLER: Well, I mean it's not convenient for us to come to another hearing and have to, you know, have to deal with them.

CONSTANTINE ALEXANDER: They're going have to come, too.

TIMOTHY HUGHES: Right. And we're going to have to come, too. I don't want to open this case tonight. I don't want this to be a case heard tonight. I don't want to get into the merits.

DAVID TELLER: Okay.

CONSTANTINE ALEXANDER: Yes, that's right. By doing that we can have a case -- we don't have to worry about the same five people getting together. This is a case not heard in my judgment because we never got to the merits of the case.

So, the motion tonight would be, and we may vote it down. We've heard your objection, sir -- is to continue this case until -- what's the hearing in September?

MARIA PACHECO: August 12th is the -- I mean, September 12th is the first

one.

CONSTANTINE ALEXANDER:

September 12th. But in the meantime you have other things to do and we very well may be seeing you and I assume your neighbors in August on the decision for Mr. Singanayagam.

ATTORNEY ANDREW BRAM: Okay.

CONSTANTINE ALEXANDER: Don't go yet. We've got to take a vote and you've got to sign some papers.

ATTORNEY ANDREW BRAM: Okay.

CONSTANTINE ALEXANDER: The Chair moves -- and we heard you, sir. And we're just not blowing you off. We think this is the appropriate way to go.

MRS. TELLER: Jive thank you.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued

as a case not heard until September 12th at seven p.m. This is a Variance case. On the condition that the Petitioner sign a waiver of time for decision.

Before I make my motion, do you have anything you want to say?

ATTORNEY ANDREW BRAM: My client is saying he won't be in town in the second meeting in September as he'll be here. So instead of the -- I'm sorry, what was the date, Maria?

MARIA PACHECO: The last meeting is August the 29th.

ATTORNEY ANDREW BRAM: He's away. We'd rather go the second meeting in September if that's agreeable.

CONSTANTINE ALEXANDER: I will not be here on that one so it's a case not heard.

MARIA PACHECO: For September 26th?

CONSTANTINE ALEXANDER: It's a personal request. Can you do it the first one in October?

ATTORNEY ANDREW BRAM: Yeah.

CONSTANTINE ALEXANDER: Okay. I think I'd like to sit on this case.

WILLITS SAWYER: We have a wedding on the 12th.

CONSTANTINE ALEXANDER: What's the date?

MARIA PACHECO: October 10th I think it's going to be.

CONSTANTINE ALEXANDER: It's October 10th. Let me go back to the motion.

ATTORNEY ANDREW BRAM: Sorry for the scheduling problems that far out.

When can you be here?

WILLITS SAWYER: My daughter's getting married the 12th of October. So later than -- I'm leaving on the 10th to go to Charleston to my daughter's wedding.

CONSTANTINE ALEXANDER: We can have it in September. I just won't sit on the case.

WILLITS SAWYER: We're here from the 17th to the 10th of October. 17th and 26th of September is fine. Is that a date?

CONSTANTINE ALEXANDER: I'll withdraw my personal request.

BRENDAN SULLIVAN: What about August? Can we do it last one in August?

WILLITS SAWYER: I'm not here in August. But my wife's here.

CONSTANTINE ALEXANDER: It's up to you.

ATTORNEY ANDREW BRAM: You want to do this with Rosalie? Let's do it in August.

CONSTANTINE ALEXANDER: These dates convenient for you?

DAVID TELLER: I suppose.

JILL ANNE BAILEY: Yes.

WILLITS SAWYER: My wife is here from the 24th of August on.

ATTORNEY ANDREW BRAM: What's the second meeting in August?

MARIA PACHECO: 29th.

CONSTANTINE ALEXANDER: August 29th.

ATTORNEY ANDREW BRAM: Does that work for you?

CONSTANTINE ALEXANDER: It's a

case not heard. It works for me anyway.

ATTORNEY ANDREW BRAM: August  
29th.

CONSTANTINE ALEXANDER: Thank  
you for your personal indulgence. We're  
not finished yet.

We're back to our motion.

The Chair moves that this case be  
continued until seven p.m. on  
August -- what was the date again?  
August 29?

MARIA PACHECO: 29th.

CONSTANTINE ALEXANDER: August  
29th at seven p.m. on the condition that  
the Petitioner sign a waiver for a time  
of decision.

And on the further condition that to  
the extent that you modify any plans that  
you have submitted, you plan to modify,



those modified plans must be in our files by no later than five p.m. on the Monday before August 29th.

And on the last and most important condition, I want to get to this actually, that the sign be maintained for the 14 days. Take the current sign if it's still around, I want to get to that, and you change the date to the new date, August 29th, and the time to seven p.m.

And on that, I went by the property and the sign was down laying in the bushes.

WILLITS SAWYER: It rained. It came loose.

CONSTANTINE ALEXANDER: Do a better job, please, of maintaining the sign because it's very important.

WILLITS SAWYER: I saw, yeah.

CONSTANTINE ALEXANDER: I could see a good faith attempt to comply, so I'm not -- that's why we proceeded with the case tonight. I think you could do a better job in terms of making that sign stay for the 14 days.

ATTORNEY ANDREW BRAM: Could I ask the Chair a point of question about that? If you've been by the property, you see there's a fence which would be a perfect place to put the sign.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ANDREW BRAM: That fence is 220 Brattle Street. That's a very cooperative neighbor who shared a lot with. Can we put it -- does it qualify to put the sign on his fence?

CONSTANTINE ALEXANDER: Yes, because you can't tell the difference

between 220 and 220R.

ATTORNEY ANDREW BRAM: We put it on the telephone pole because that's the boundary line for 222. It was difficult to put the sign up.

CONSTANTINE ALEXANDER: Put it on the fence. That would be sufficient.

ATTORNEY ANDREW BRAM: Okay.

CONSTANTINE ALEXANDER: Okay.  
All those in favor of approving the condition for a continuance say "Aye."

(Aye.)

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

CONSTANTINE ALEXANDER: And well, you're going to proceed presumably with the decision with ISD which may moot.

MARIA PACHECO: ASAP.

\* \* \* \* \*

(9:10 p.m.)

(Sitting Members: Constantine  
Alexander, Timothy Hughes, Brendan  
Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The

Chair will call case No. 10449, 5 Washburn Avenue, Apartment 2.

ATTORNEY SARAH RHATIGAN: Yes.

CONSTANTINE ALEXANDER: Someone is here wanting to be heard for the record.

ATTORNEY SARAH RHATIGAN: Yes, Sarah Rhatigan from Trilogy Law and I'm here with the owner, Antje Danielson the Petitioner.

Okay? So this is a Variance seeking an on-site parking space on a property that currently has no parking at all. And if you've been by the property, you'll note that the lot is actually or I should say the property, which has a number of lots in the back conjoined, it's actually a relatively large lot for a neighborhood.

CONSTANTINE ALEXANDER: It's a natural forest back there.

ATTORNEY SARAH RHATIGAN: It's a natural forest back there.

ANTJE DANIELSON: It is.

STANLEY GEDAMINSKY: I'm really lucky.

ATTORNEY SARAH RHATIGAN: It's a unique area. But the existing narrow nature of the lot at the front, we sort of call it a pork chop lot or a lamp chop lot, makes it impossible to create a driveway through to the back which is the ideal would be to put the parking in the back. That can't be done and Doctor Danielson has also made some effort, although it hasn't been accepted on the part of one of the neighbors to try to reach some agreement about an easement to

the back, but they haven't been willing to discuss that which is their right.

The nature of the hardship -- I apologize, I don't remember when you bought the property, but Doctor Danielson has lived there for quite sometime. Up until a few years ago she had sort of a friendly arrangement with the neighbor that allowed her to use their curb cut and sort of find creative ways to park extremely close to her house on the right side using part of the neighbor's parking area for the parking of her vehicle. But when that neighbor passed away, that sort of friendly arrangement ended. She's also been divorced from her husband who's moved away and has a young child who's about 10 but not sort of not in a great position

to be parking blocks away and schlepping groceries into her house.

The other -- I mean, it's not uncommon in Cambridge not to have parking so I understand that, you know, you have to have a unique set of circumstance. If you visit the street, there's sort of a confluence of difficulties with parking. So, Washburn comes off of Mass. Ave. at a pretty busy area with some overflow traffic from the commercial area. And then there's only parking allowed on one side of the road. And it's also a dense neighborhood so with many curb cuts, so there's a number of places along the right side of the road where there's no ability to park on the street. And then immediately across from Doctor Danielson's house there's a



building that -- I think it's office building, but it doesn't allow parking in front of it. It has a lot --

CONSTANTINE ALEXANDER: Is that the one-story building? We were debating whether that's a home or an air conditioning unit -- I'm sorry, this is not relevant to the case, but I was fascinated by that structure.

ATTORNEY SARAH RHATIGAN: The one-story structure?

CONSTANTINE ALEXANDER: Yes, the one-story, it looks like a dwarf house.

JANET GREEN: That's the garage next to the big white house?

CONSTANTINE ALEXANDER: It's not used as a garage any longer.

ANTJE DANIELSON: It's a really interesting situation. I really don't

know what's going on there. But there was a family living there and they moved away, but their son, their adult son lived in the garage and was running a band out of this. So every Thursday and Saturday night we had music because his band was practicing. So it actually looks like this because he was really living there.

CONSTANTINE ALEXANDER: Okay.

Not relevant, I'm sorry.

ATTORNEY SARAH RHATIGAN: Right, not exactly relevant but interesting. But then that sort of commercial building there's no, there's a no parking zone. So that's, that would be the ideal place for her to park. And the other thing is that it is a two-family. You live on the second and third floor, and there's a first floor apartment. So there are

currently no parking spaces for a two-unit where the requirement would be two if there were a place for it.

So the effort has been to try to minimize the need for a Variance by setting the parking as far back from the street line as possible. And the house, this is sort of a nice rendering, but her students were so kind to provide us with. And you can see there's sort of a bay window that is right in the way of parking further back.

CONSTANTINE ALEXANDER: So were it not for that, you could do front yard setback.

ANTJE DANIELSON: Exactly.

CONSTANTINE ALEXANDER: But now the problem is that you're one foot short.

ANTJE DANIELSON: Exactly.

CONSTANTINE ALEXANDER: You need to have one foot into the front yard setback.

ATTORNEY SARAH RHATIGAN: Right. And in terms of the aesthetic -- I mean we do need a Variance, but aesthetically sort of the upside is that the car would be back behind the front line of the porch on the front of the house, which I guess you can't really see from this quite well, but the -- I think the front yard setback is six point-something.

CONSTANTINE ALEXANDER: We have it on the plans.

ATTORNEY SARAH RHATIGAN: It's certainly the house -- the car will be behind the house I should say.

And the other thing, you know, to the

extent that we don't want to be changing the view scape along the street, we tried to take photos and include in the application the petition, examples of where people are parking in their front yards all the way up and down the street. It's sort of a fact of life.

The other thing that's odd but interesting is that the house that's to the right, the abutter to the right, the surveyor determined that sort of the paper street is actually quite far back. So if you were to look at this survey -- so the house that's to the right, it looks like it's set quite far back from the street and their parking area would seem to be, but it actually legally is not. So if you see -- sorry for this, but if you see where this says street line, this is

actually legally where the street comes through. This is where the city sidewalk exists. We think this is an artifact of Somerville's streets. This borders Somerville. So just passed this house is the Somerville city line. We think that back in time there were sort of two sets of streets that were meeting up and not quite meeting up.

ANTJE DANIELSON: It's actually quite funny. We looked at maps going very far back and it looks like there was two cow paths coming down and they weren't quite meeting, you know, and so I think we're right at the intersection.

CONSTANTINE ALEXANDER: I looked at the area. I figured it was just Somerville versus Cambridge. Somerville wanted to have one way one way

and Cambridge the other way and nobody was going to back down.

ATTORNEY SARAH RHATIGAN: Right.

CONSTANTINE ALEXANDER: It's a crazy area. Crazy street pattern.

ATTORNEY SARAH RHATIGAN: Yeah. And the other thing just mentioning, you know, the difficulty of on-street parking, if she's unsuccessful on the route up this becomes one way coming towards her from Somerville. So an instances where she's unlucky parking she turns around and comes back up to Mass. Ave. to drive up to whatever the next street is, circle around. So I'm not sure that we have a lot more to add. You know, the plan for the paving I think looks very nice. The curb cut complies in all other respects in terms of not

being near an intersection. They'll make sure, you know, the grading is done properly. There will be a definition between the front of the lot and the sidewalk and the city sidewalk so that it's clear. And then we -- the supporting neighbor -- the letters that we have already with the petition are for the woman who lives in this home who's the most affected by the parking and she's in support.

CONSTANTINE ALEXANDER: Do we have that letter already?

ATTORNEY SARAH RHATIGAN: You do have that letter.

ANTJE DANIELSON: Bill and Barbara (inaudible).

THOMAS SCOTT: Is that fence existing?



ANTJE DANIELSON: No, this fence doesn't exist yet. I'm planning --

THOMAS SCOTT: Are you proposing that? You're going to put that up as part of this improvement?

ANTJE DANIELSON: Yes.

THOMAS SCOTT: Okay.

ANTJE DANIELSON: And the only other -- when my student did the rendering, I told him do granite, but I'm actually thinking of maybe doing it in brick but I don't think that would make a huge difference.

ATTORNEY SARAH RHATIGAN: And the, we have in the file already there's one supporting letter from the neighbor on this side.

CONSTANTINE ALEXANDER: I can't find it that's why I'm -- keep going.

ATTORNEY SARAH RHATIGAN: I'm happy to give you copies.

CONSTANTINE ALEXANDER: I'm sorry, I did find it. I did find it.

ATTORNEY SARAH RHATIGAN: Oh, you did? Okay, great.

And then today we have a new letter which we hadn't previously submitted which is for the other owner of this property. I think there are two brothers who co-own it.

ANTJE DANIELSON: Two brothers, yep.

ATTORNEY SARAH RHATIGAN: And then I think this is in your file, but if it's not, I'm happy to submit it.

CONSTANTINE ALEXANDER: I think it is but this would be easier.

ATTORNEY SARAH RHATIGAN: Yes.

And just, you know, I know we create these parking areas and we don't know that Doctor Danielson will stay here forever, but she has a small compact car and she's an environmentalist. So when she buys something new, if anything, it will be smaller.

BRENDAN SULLIVAN: Electric. Because we know where you can charge it.

ANTJE DANIELSON: That's actually -- that actually is one important part because I want to buy -- my next car will probably be a Prius what is it called a plug-in hybrid?

BRENDAN SULLIVAN: Porter Square.

CONSTANTINE ALEXANDER: That's right.

ANTJE DANIELSON: And you can't

charge those in the street.

THOMAS SCOTT: Two hours only.

CONSTANTINE ALEXANDER: Two hours only in Porter Square and then you're going to get towed.

ATTORNEY SARAH RHATIGAN: You'll get towed.

CONSTANTINE ALEXANDER: Let me, some observations. As you may or may not be aware, we tend as a Board we tend, we do not look favor on parking in front yards in the front yard setback. And also the Planning Board doesn't. I find it interesting in this case that the Planning Board will comment on front yard parking and chose not to. I think if I saw a case, speaking only for myself, that warrants granting a Variance for front yard parking, your case is it. You're

talking about a very modest intrusion, one foot into the front yard. You're talking about a real circumstance of the street pattern and parking. You're not taking away -- the usual problem in the front yard parking is your new curb cut takes away a space. That's not going to happen because parking is not allowed on your side of the street.

ATTORNEY SARAH RHATIGAN: Right.

CONSTANTINE ALEXANDER: And given the fact that there are a lot of other front yard parking which by the way is not a justification for us granting relief, but it does reduce the amount of on-street parking because of all the curb cuts. So it seems to me this is a case where -- speaking for myself, this is -- relief is warranted. And by the way

apropos of nothing, I want to commend you on your -- I don't know who prepared it, either you or both of you, your supporting statement is just excellent. Excellent.

ATTORNEY SARAH RHATIGAN: Thank you.

CONSTANTINE ALEXANDER: It really lays out a good case as to why we should grant you relief. Very persuasive I think.

Anyway, that's just me talking. Shooting my mouth off.

Comments from members of the Board at this point?

TIMOTHY HUGHES: I think you add to that draconian ticketing practices of Somerville when you park in their permit only parking spaces.

CONSTANTINE ALEXANDER: That is

true. I can't tell you how many parking tickets I've gotten from Somerville.

TIMOTHY HUGHES: And, you know, it's like 50 bucks a whack.

CONSTANTINE ALEXANDER: 50 bucks a whack. I think they have surveillance cameras. You could be there five minutes and you get ticketed. I would certainly endorse that.

Anyway, anybody here wishing to be heard on this matter?

(No Response.)

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

I will read into the record two -- we have two letters of support, one is from Leon Brathwaite, B-r-a-t-h-w-a-i-t-e who resides at -- well the letter says:

(Reading) I am the owner of 61 Washburn

Avenue which is to the right of Antje Danielson's house at 55 Washburn Avenue. I am aware of the application for a Variance for a parking space and curb cut on the left side of 55 Washburn Avenue and have no objections to such a parking space.

The other letter is from same address actually, Aaron Brathwaite. And it's the same letter just signed by Aaron Brathwaite as opposed to Leon.

And then --

ANTJE DANIELSON: It's a family. I'm surrounded by family.

CONSTANTINE ALEXANDER: Yes, I was going to say. And then I have a letter from Barbara and William Brathwaite. (Reading) We are the owners of 51 Washburn Avenue and next-door



neighbors of Antje Danielson at 55 Washburn Avenue. Our property directly abuts the proposed parking space, and we are aware of the application for a Variance. We have no objections to the potential parking space and curb cut.

That's all he wrote. I'm going to close public testimony. Any other comments or ready for a vote?

JANET GREEN: Ready.

BRENDAN SULLIVAN: I tend not to let parking in the front yard setback, but I've come to the same conclusion that you have.

CONSTANTINE ALEXANDER: Yes, I think this is a very unusual case.

BRENDAN SULLIVAN: And I think the tipping point is that there is no parking on that side. And after this is

done, it will be unnoticed and it's sort of lands in anyhow in Cambridge. It will be noticed as being very nicely done as opposed to the eclectic hooping of other parking spaces. But, anyhow it's well done and I think it warrants it.

CONSTANTINE ALEXANDER: Thank you.

Okay, the Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the Petitioner. Such hardship is being that given the street pattern, the parking restrictions, the number of curb cuts for front yard parking on the street, that there is a need for the ability for this Petitioner to be able to park on-site.

That the hardship is owing to circumstances relating to the shape of the lot. There is just -- and the structure on the lot. Particularly the structure because of the bay window-like protrusion, it prohibits -- it requires I should say, parking in the front yard. Although the parking in the front yard only intrudes by one foot.

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

In this regard the Chair would note again that we're talking about only a one yard intrusion into the front yard, and that there -- because of the City of Cambridge parking requirements, there is

not a loss, which is usually the problem with front yard parking, a loss of an on-street parking site due to a curb cut since parking is not permitted on the side of the street where the structure is located.

On the basis of these findings the Chair moves that a Variance be granted the Petitioner to proceed with the work requested on the condition that the work proceed in accordance with this plan that you submitted.

It's a plot for modified plot plan dated April 12, 2013, and initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Good luck.

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

\* \* \* \* \*

(9:30 p.m.)

(Sitting Members: Constantine  
Alexander, Timothy Hughes, Brendan  
Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The  
Chair will call case No. 10450, 14-16  
Myrtle Avenue.

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

UNIDENTIFIED MALE: Good

evening.

CONSTANTINE ALEXANDER: Good evening.

ATTORNEY ANDREW BRAM: Good evening again, Mr. Chairman. My name is Andrew Bram. Law offices in Belmont. I represent the owners of this property Frank Marsh Lee (phonetic) and Lily Lee. They're here this evening asking the Board's approval to restore this house which was a two-family from the time it was built probably sometime in the early 1900s until 1978 when a family that lived there decided to remove the kitchen and to change the house, ask the city to change the occupancy to a single-family. Mr. Benesh Lee and his wife have a three-year-old child. They live in the house now. Mrs. Lee's mother is coming

to live with them. She's elderly. She's a Buddhist. She has particular dietary restrictions and she would like to have her own apartment and her own kitchen within this dwelling. And so we're asking simply to be able to restore this to the two-family use that it was historically. There were no physical changes planned in terms of the exterior other than the addition of the kitchen to one of the interior apartments. It meets the -- otherwise meets the requirements. It has separate egresses. It would meet all the code requirements for a two-family house and so we're asking --

CONSTANTINE ALEXANDER: The problem is it doesn't meet our Zoning requirements.

ATTORNEY ANDREW BRAM: It

doesn't because the lot area per dwelling unit.

CONSTANTINE ALEXANDER: Well, more than that. We're talking about Section 5.26 which to me is one of the most important sections in the whole Ordinance. It talks about creating additional dwelling units in the structure. And in a city like Cambridge, particularly a single-family home like you have right now, there is a temptation to create two families or the like because of the value of the properties and the nature of the population in Cambridge. This in turn results in the diminishment of the supply or stock of single-family homes in Cambridge particularly in moderately priced level.

So we have 5.26 which says -- and



just for -- it says that you can't convert from a one-family to a two-family unless you meet four requirements. And as I see it, you meet none of those requirements that's why you're seeking a Variance. That's a big step you're asking us to take. It's not just a small problem, it's a big problem. You don't have sufficient parking. You're asking for relief for that. You're -- you don't have the -- you're going to be below the minimum lot area for each dwelling unit. You're going to be above the FAR and you're going to be, you're going to intrude into the private open space requirements.

All of this -- you want this dramatic relief all so you could have a kitchen in the structure -- separate kitchen,

separate dwelling unit for a -- how do I put this? I mean, for a situation that's likely to not carry on for 10 or 20 years. You're talking about an elderly parent who for dietary reasons wants a separate kitchen. And you want to do all this in a densely populated neighborhood to go and add another unit, dwelling unit from one unit to two. That's a lot. I mean, the fact of the matter is in 1978 this was converted. That's what, about 30 years ago, 35 years ago. You've converted this. It's now a single-family dwelling. Whatever it may have been originally, it's a single-family dwelling and I for one have no -- I mean, I'm sympathetic for what you want to do, but I don't know how you get there from a legal point of view.

What's your special circumstances in terms of topography, soil conditions?

ATTORNEY ANDREW BRAM: Again, although the Variance statute talks about conditions that are hardship that can be personal or otherwise to the Petitioner and so we think that the circumstance of Mrs. Lee's mother coming to live with them is a personal circumstance.

CONSTANTINE ALEXANDER: Yes, but --

ATTORNEY ANDREW BRAM: They change from -- I'm sorry.

CONSTANTINE ALEXANDER: I'm sorry to interrupt you. I apologize. It's got to be a hardship owing to circumstances leading to the soil conditions, shape or topography of such land or structures. And especially

affecting such land or structure, but not affecting generally the Zoning District in which it's located.

ATTORNEY ANDREW BRAM: That's exactly I guess the position that we're taking. This house looks like every other house on Myrtle Street. All of these houses that abut us up and down Myrtle Street are two families. All built roughly in the same time, all look exactly the same. Changing this house back to a two-family isn't going to change anything in this neighborhood in the sense --

CONSTANTINE ALEXANDER: What are the soil conditions?

ATTORNEY ANDREW BRAM: It isn't soil conditions. The only thing you could point to is the size and shape on

the lot. It's like every other house, it's a big house. It was built at the time on a small lot. These are all undersized lots. Most of the cases I've seen the Board deal with on 5.26 when there are conversion additional dwelling units involve some increase in construction, some addition to the property, some change. It is not -- this is strictly a change of use case. There is no dimensional change being requested and we understand that it doesn't conform, but that's true yesterday and it will be true tomorrow no matter what this Board votes tonight. And so, we're asking the Board to exercise its discretion, and I think the Board can. We canvassed all the neighbors both before we filed this application, and

since the application was filed we sent out letters to all the abutters. Not one person has objected to this change. You, Mr. Chairman, raised the issue about parking. But in fact the parking in this driveway is tandem now. There's room for two cars to park now in the driveway. Because it's a one family, we're asking that there be two tandem spaces, you know, to support the two-family use. But again, that isn't even physical change. The landscaping actually will be enhanced, you know, after the fact assuming that this is allowed. The driveway right now is kind of a mess and they intend to fix that. But I understand what you're saying and I agree with you that it is a closed case and it's discretionary on the Board's part. I've

been before the Board before when in fact particularly when there are no objections from any neighbors or any abutters that the Board has seen fit to exercise its discretion to allow this to help out a family.

BRENDAN SULLIVAN: Let me ask this question: What's your -- you obviously had non-conforming pre-existing protection dimensional. The use is always allowed before. You abandoned that when it was converted into a single-family. And what you're asking is to alleviate to accommodate a special circumstance where an elderly parent is moving in and I'm very sympathetic and sensitive to the requirements. Now if that use is no longer necessary and some could be 50 years from now, what about

abandoning that kitchen and reverting it back to a single? In other words, you're asking us to waive the requirements now to accommodate a specific family need. If that need is no longer there, should the elderly parent move back to wherever or something, would you abandon that kitchen and revert it back to its present status?

BENESH LEE: We'd like to make as little changes to the property as much as possible. We've been living in Cambridge for ten years and we plan on living there for a while. It's only one family member that we want to basically bring her closer to us. She's our mother-in-law. I want to give her her space so we're not on top of each other.

BRENDAN SULLIVAN: Very valid.



BENESH LEE: I don't know, to be honest with you. From my perspective right now we don't really want to change it as soon as we, you know, do something. We just want to keep it and we don't want to, you know, redo the property all the time. So --

ATTORNEY ANDREW BRAM: They're not talking about renewing it every time the mother-in-law comes and lives here for many years than it's one change now and one change later.

BENESH LEE: Right.

BRENDAN SULLIVAN: It's basically removing the kitchen. You're adding a kitchen.

BENESH LEE: Right.

BRENDAN SULLIVAN: So that when that need is no longer there, if you were

to remove the kitchen, that restores it back to a single-family. I guess and I'm just saying if you would entertain that, if you would be amenable to considering that?

BENESH LEE: I suppose possible, yes.

BRENDAN SULLIVAN: And, again, I don't want to put a light bulb over your head and make you answer right away.

CONSTANTINE ALEXANDER: Before you answer that or how would we -- how would Sean O'Grady ever enforce that? How would we know? We have to check the obituaries to see if someone passed away and then a couple months later to see if the kitchen's removed?

BRENDAN SULLIVAN: Again, I just raise the issue and walking through it is

another issue.

THOMAS SCOTT: I have a question. In order to do what you're suggesting, turning it into two units, there would have to be more work than adding a kitchen. You'd have to add doors or create some separation from that apartment to your apartment; right? Wouldn't that also have to be done? Or are you not thinking about that? Are you thinking of it more as kind of an open plan but yet there's just a separate kitchen on another level?

BENESH LEE: Pretty much the only thing that would have to be done is one additional door in the rear staircase. They haven't done anything to the house.

ATTORNEY ANDREW BRAM: They didn't change the inside of it.

CONSTANTINE ALEXANDER: On the street level there are two doors, two front doors side by side which are there for the two-family house.

THOMAS SCOTT: But it's a single now. And it must be connected.

ATTORNEY ANDREW BRAM: Only because the family moved -- connected a stairway so you can go from interior from one apartment. The entrance, as the Chairman said, the separate entrances are there you can go into the two apartments, they're connected an interior staircase through a door so there's a circulation.

THOMAS SCOTT: Would that circulation remain or would you say that would get closed up?

ATTORNEY ANDREW BRAM: I think that would get closed up to make it a

separate apartment.

THOMAS SCOTT: It would be completely separated?

ATTORNEY ANDREW BRAM: Yes.

BRENDAN SULLIVAN: Because you're going to occupy traditionally a two-family is first floor, second floor. The second floor will have attic space. You are now occupying the first floor and second floor for your living space and then there was this attic space which is available to move your elderly parent in and then for her concerns and be respectful of her needs to put in a separate cooking facility for her, kitchen. And that's what triggers that -- all of a sudden we now have a back two family.

BENESH LEE: The way the houses

look they are right now all the five houses side by side have been built by (inaudible) floor plans and one unit is the first floor and the second and third floor is one separate unit.

BRENDAN SULLIVAN: Correct.

BENESH LEE: We would like to have her naturally on the first floor. So we just need then another space for ourselves.

BRENDAN SULLIVAN: So you're moving up?

THOMAS SCOTT: She would live on the first floor?

BRENDAN SULLIVAN: Oh, okay.

BENESH LEE: She's going to stay on the first floor.

BRENDAN SULLIVAN: Why put an elderly parent on the third floor? It is

a mother-in-law, I guess.

ATTORNEY ANDREW BRAM: Can I interject something? To answer the question that you raised about how the Board enforces this. In the past when the Board has granted conditional Variances they've put them in for a number of years where the owners have to come back before the Board, there's a trigger at the Building Department so that after say five years it comes back up and you either come in and ask for the Variance to be extended or it terminates by passage of time. I don't know if that's something that the Board wants to consider, but that's a mechanism for patrolling the Variance.

CONSTANTINE ALEXANDER: I hear you.

Janet, did you want to say something?

JANET GREEN: I was going to ask about the interior configuration of the house to understand a little better. I mean, what are you just planning to put a kitchen in a room that was there or where a kitchen had been originally?

BENESH LEE: So originally the way we lived next-door up to not too long ago, and the way that we build it, the kitchen on the first floor, and entire apartment on the first floor. And then he have an apartment on the second and third floor where the kitchen is on the second floor. When the previous owners removed the kitchen on the second floor, they made this entirely living space. So, you know, one big family room,



bedrooms. But what they actually had on the third floor was kind of like a -- they have a sink area and stuff like that in there. I guess they used it for recreational purposes. We would reuse that space that they already had on the third floor to basically add range and refrigerator to make it a kitchen.

ATTORNEY ANDREW BRAM: There's already plumbing up on the third floor.

BENESH LEE: Yes.

ATTORNEY ANDREW BRAM: Plumbing and gas up there.

BENESH LEE: That's the reason we wanted to put it on the third floor which is unusual, but it would require these changes. Plus I need to stay in shape so it's probably a sign that I put it on the third floor.

CONSTANTINE ALEXANDER: But you understand what's being proposed -- I'm not thrilled with it, but it would require you at some point, hopefully longer rather than shorter, to do more -- it's going to cost you money now to do it to get it where you want.

BENESH LEE: Right.

CONSTANTINE ALEXANDER: And it's going to cost you money to take it out.

BENESH LEE: Right.

CONSTANTINE ALEXANDER: You understand that's the suggestion that's being made.

BENESH LEE: Right. Now the most important part is just to get her mother close to us. But she, you know, she's still fit enough right now. So she wants her own space -- area space,

otherwise she wouldn't agree to live with us. We're just a little worried about the health condition, plus she's down in Philadelphia so it takes a while to get there all the time. So we tried to make it most amenable to her and whatever is in four or five, six years down the road, we just have to deal with it at that point.

BRENDAN SULLIVAN: I mean, I'm really less troubled by it. I mean, if it was 14 Riddle Street and we were creating 16, carving out a space I would, I think, you know, that would be -- but it's always been a two-family. The last people turned it into a single. I mean, to be honest with you, I don't think anybody would notice. You know, you could have a single-family home with, you know, the two parents and five or six,

seven kids. You could have a two-family with a lady on the first floor and then a family on the second floor and the intensity would be less. I mean, I really don't have any problem with it.

THOMAS SCOTT: I mean if that's how the house was designed then I guess I feel the same way. I wouldn't condition the approval. I'd be in favor of it.

CONSTANTINE ALEXANDER: I would only be in favor of it if we conditioned the approval with the time frames because otherwise it's just, it would just -- there's no way of enforcing it. There's no way that we would ever know who is living in that unit. And if we're going to grant the relief tonight on the basis of the mother-in-law situation, I'm

not sure Brendan's doing it on that basis, but if that is motivation, then we have to police it to be sure that the mother-in-law is not there, you unit's not there.

THOMAS SCOTT: What's wrong with having adding to the housing stock in the city by having a house that was designed as a two-unit building along with all the others on the same street just reverted back to what it once was?

CONSTANTINE ALEXANDER: The issue is only -- that's fair.

THOMAS SCOTT: I know the legal issues.

CONSTANTINE ALEXANDER: The legal issue is that we're not even close to satisfying the legal requirements, that's all. It's a practical decision

that's being suggested, but it's way, way off from legal mark. It's not even close.

BRENDAN SULLIVAN: But I think that Ordinance, that section there and the four or five tests are really for a typical single-family that we're now adding another unit to. And I sort of -- this is a little bit different where we're doing this in reverse. So I don't know, that's --

CONSTANTINE ALEXANDER: That's true. On the other hand, as you know, it's -- when you change the structure, you make it a one family. It's like tearing down a non-conforming structure. You're back to square one. You've got a blank slate. And if this were being built as of today, it's not, being built

you want to build a building there and you want to put a two-family, you wouldn't even get close to meeting the requirements. Anyway, I've said enough.

JANET GREEN: I am just thinking about the conditioning. If there had been objections from the neighbors, if there had been a lot of opposition to it or something, then I would be more likely to think about a conditioning than I am where the neighbors have been in approval. So I don't feel that the necessity for it in this case.

TIMOTHY HUGHES: I'm still looking for, you know, phraseology on the hardship issue.

CONSTANTINE ALEXANDER: I haven't heard any.

TIMOTHY HUGHES: I'm trying to

hang -- I can sort of -- I mean, you can almost always make a case for the size of the lot being, you know, a problem, and the effect of it being a single-family house in a neighborhood of two-family houses can give you the -- it's, you know, not effecting the rest of the area generally speaking. So I can, you know, I can -- I'm just, I'm on the fence, you know, about the hardship issue. But I think you can figure out phraseology probably -- I wish, you know, since you're the lawyers, why didn't you do it before you got here, you know? You know what the legal standard is for hardship. You know, write out a nice compact, you know, reason for hardship that addresses the issue. And the issue is not getting your mother-in-law in the house. You



know? It's topography, soil conditions, shape and size of the lot.

ATTORNEY ANDREW BRAM: Shape and size of the lot is clearly what it is. This is a house that was built before Zoning, before modern Zoning was in effect when this type of density was typical. And it is, you know, throughout this neighborhood. And so to, you know, we can't make the lot any bigger, and we really don't want to make the house any smaller. So, you know, we don't want to make any physical changes and we think that probably would be more of a concern of the neighbors than anything else if there were going to be changes to the house. So it is -- it is a big --

TIMOTHY HUGHES: I understand all that stuff and I understand it makes

a certain amount of sense to do it this way. What it -- you know, all of that makes sense. There's some common sense approach to this, but it doesn't give me something to hang the legal standard of hardship on. That's what I need to hear, you know?

ATTORNEY ANDREW BRAM: A large building on a small lot meets the size and shape of the lot test. If, you know, you're going to look at, you know, the literal words in Section 17 of Chapter 40-A that is something that the Board can consider. And this is an undersized -- a big house that was built before Zoning on an undersized lot.

TIMOTHY HUGHES: Yes. Convince him, he's got to phrase it in the form of a question.

CONSTANTINE ALEXANDER: I'll try to.

THOMAS SCOTT: On the parking, I know that's the next issue, but are the adjacent homes that are on this street, do they also have tandem parking as you're proposing?

ATTORNEY ANDREW BRAM: This is the -- you see the paved areas next to the --

THOMAS SCOTT: Yes.

ATTORNEY ANDREW BRAM: -- next to each house? Everybody parks cars one behind the other.

BENESH LEE: At least two or three.

THOMAS SCOTT: And they're all two-family homes?

BENESH LEE: Yes. Some of them

have three parking. So they park parallel and tandem.

CONSTANTINE ALEXANDER: Tim, do you have any reaction to the suggestion which I guess is not met with great enthusiasm to put a time limit on it?

TIMOTHY HUGHES: No, I think that's kind of tough, a tough one --

CONSTANTINE ALEXANDER: Okay.

TIMOTHY HUGHES: -- for us to put that condition in there. Basically we're either turning this back into a two-family or we're not.

CONSTANTINE ALEXANDER: Well, okay. Fine.

All right, when I frame the motion, I won't put any time condition. That's what I wanted to get your views on it.

You've heard my views, so I don't

want to go on. I think we're ready for a motion?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: I'll try my best in terms of -- I wish I got the help from Mr. Bram. I don't think there's help to be given. It is what it is.

Okay, well, first we're going to take a vote on the Variance.

The Chair moves that we make the following findings with regard to the request to restore the single-family dwelling to a two-family dwelling by adding a kitchen on the third floor.

That a literal enforcement of the provisions of the hardship would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner

wishes to have a relative live in the building, in the unit, and there is a need for a separate dwelling unit for this relative.

Such need being a dietary restrictions that the relative follows.

That the hardship is owing to the shape of the land and structures. And that the structure was built as a two-family and is externally, at least it appears to be a two-family because it's got two front doors, and that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard what we would be doing is restore to a two-family status a structure that was once built as a

two-family and but had been abandoned from 45 years ago and that we would be adding another dwelling unit to the housing stock of the city.

Based on these findings the Chair moves that a Variance be granted to the Petitioner to do what is being requested; namely, to restore a single-family dwelling to its prior use as a two-family dwelling.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: One opposed.

(Alexander.)

CONSTANTINE ALEXANDER: The motion carries. The record shows my reasons for objecting.

Namely, I don't think you meet the requirements for a hardship at all. Or frankly, the hardship or the special conditions circumstances.

In any event, the second part is a Special Permit to re-establish lawful parking of two cars in tandem in the driveway.

You want to speak to that, Mr. Bram?

ATTORNEY ANDREW BRAM:

(Discussion held off the record with Petitioner.)

CONSTANTINE ALEXANDER: This is a Special Permit to be very clear about -- which is a different set of



circumstances for a Variance.

ATTORNEY ANDREW BRAM: The Petitioner's simply -- you have two cars, right?

The Petitioner's simply seeking to the have the two car parking in the driveway as is common with all the other driveways.

CONSTANTINE ALEXANDER: Yes, but to get the Special Permit, you've got to meet the -- and the you cite 3.33.2.

ATTORNEY ANDREW BRAM: Which allows tandem parking and provides for tandem parking on this site in multi-families.

CONSTANTINE ALEXANDER: Yes. But will the parking otherwise comply with all the requirements of our Ordinance?

ATTORNEY ANDREW BRAM: Yes. You mean in terms of being back ten feet from the street?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ANDREW BRAM: Yes. No parking in the front yard setback.

CONSTANTINE ALEXANDER: And the space of the building and the space to the lot line?

ATTORNEY SARAH RHATIGAN: Yes, yeah, it does. We provided sort of a sketch on the plot plan that should show the dimensions of the tandem spaces. So I think that the parking area is 36 feet deep. I don't remember the exact foot -- width on either side of the parking area, but I believe that that does comply with the dimensions.

CONSTANTINE ALEXANDER: Okay.

No need for public testimony.  
There's no letters in the file on this  
issue at all.

ATTORNEY ANDREW BRAM: No.

CONSTANTINE ALEXANDER:

Comments or are we ready for a vote?

Ready for a vote.

The Chair moves that this Board  
grant a Special Permit to  
permit -- sorry, give me a  
second -- tandem parking for two cars in  
the driveway on the property in question  
on the basis of the following findings:

That what will be done will not cause  
congestion, hazard, or substantial  
change in established neighborhood  
character.

That the continued operation of  
adjacent uses will not be adversely

affected.

There is evidence to the fact that tandem parking exists throughout the immediate area. There's curb cuts now. So you're not creating any new curb cuts.

BENESH LEE: No.

CONSTANTINE ALEXANDER: Or would have to create curb cuts. So they're not a matter of diminishment of public 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 adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the Chair moves that a Special Permit be granted to the Petitioner to allow tandem parking as requested.

On the condition that the tandem parking be laid out in accordance with the plans submitted by the Petitioner, initialled by the Chair. So this is it. This is the parking plan.

THOMAS SCOTT: May I request, Mr. Chair, that they add a dimension on the front indicating that there's ten feet to the parking.

CONSTANTINE ALEXANDER: Let me -- okay, that's a good point.

The motion would be on the condition that the Special Permit would be granted on the condition that the front yard setback will not be violated. That you

will have at least ten feet of front yard setback before the parking begins.

ATTORNEY ANDREW BRAM: It's shown on this plan. It's 15 feet.

THOMAS SCOTT: Can it be marked on this plan for the record?

CONSTANTINE ALEXANDER: It's 15 feet for the record you said? I'll just write it on the plan.

THOMAS SCOTT: The math says it's only 10. The lot is 56. This is 36. And it says 10 back here. That means this has to be 10; right?

ATTORNEY SARAH RHATIGAN: You're correct.

THOMAS SCOTT: It's 10, but it's no more than 10.

ATTORNEY SARAH RHATIGAN: When we did the math right, in order to be back

from the rear setback; right?

TIMOTHY HUGHES: Setback might be 10 feet. They might be parking -- it might be 15 feet back where the second car is parked.

ATTORNEY SARAH RHATIGAN: I think the existing paving begins 15 feet back. I think that's why the Assessor map information and this don't correspond; right?

THOMAS SCOTT: I see.

CONSTANTINE ALEXANDER: On the condition that the parking layout be in accordance with this plan that's been initialled by the Chair which indicates -- as the Chair indicated there's at least 10 feet of front yard before you get to the parking area.

All those in favor of granting the

Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: One opposed.

(Alexander.)

CONSTANTINE ALEXANDER: Good luck.

\* \* \* \* \*

(10:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: We have



a request for an extension before people leave. It's in regard to the property, the famous 85 Hamilton Street property.

The letter in the file --

TIMOTHY HUGHES: Let the record show that I'm laughing.

CONSTANTINE ALEXANDER: There is a letter in the file from James J. Rafferty, Esq. with respect to the property at 85 Hamilton Street.

(Reading) In accordance with General Laws Chapter 40-A, Section 10, please accept this correspondence as a request by the Petitioner in the above-captioned matter, that's the case No. 10273, to extend the Variance issued on August 1, 2012, by the Board of Zoning Appeal for six months.

So it's a request to extend it for

six months.

(Reading) The Petitioner's architect is still working on the construction drawings necessary to obtain a Building Permit to construct the basement space authorized by the Variance. That process has taken slightly longer than anticipated due to the expiration of mechanical issues associated with the design of the heating, cooling, and ventilation system. The extension is being requested in order to allow adequate time to conclude the design work.

THOMAS SCOTT: How long does it take?

ATTORNEY ANDREW BRAM: Would you like me to speak in favor of it?

CONSTANTINE ALEXANDER: I'll

tell Mr. Rafferty you spoke against it so you'll be in trouble.

ATTORNEY ANDREW BRAM: Thank you.

(Discussion held off the record.)

CONSTANTINE ALEXANDER: All those in favor of granting the extension say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

(Whereupon, at 10:00 p.m., the Board of Zoning Appeals Adjourned.)

**ERRATA SHEET AND SIGNATURE INSTRUCTIONS**

The original of the Errata Sheet has been delivered to Inspectional Services.

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**DATE:** 06/13/13

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I have read the foregoing transcript of the Zoning Board of Appeal, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made.

**C E R T I F I C A T E**

**COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.**

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

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

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

**IN WITNESS WHEREOF**, I have hereunto set my hand this 25th day of June, 2013.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
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