

BOARD OF ZONING APPEAL

FOR THE

CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JUNE 28, 2018

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

George S. Best, Associate Member

Laura Wernick, Associate Member

Sean O'Grady, Zoning Specialist

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Board of Zoning Appeals to order. And as is our custom, we're going to start with the continued cases. These are cases that started at an earlier date, but for one reason or another we didn't reach a decision and the petitioner wanted to come back at a later date. This is the later date.

Before I call the first continued case, I'd like to read a statement as follows:

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, or may transmit the meeting through any medium, subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of

equipment used so as to not to interfere with the conduct of the meeting.

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

And I wish to advise both of you in the audience that a recording is being made. Our stenographer tapes the meeting to assist her when she prepares the written transcript of our meeting. So you're being recorded.

I trust no one else in the room has any recording device that's recording the meeting? If so, you've got to let me know.

(No Response.)

CONSTANTINE ALEXANDER: None. Okay.

(7:00 p.m.)

(Sitting Members Case BZA-015890-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey.)

CONSTANTINE ALEXANDER: I'm going to call the first continued case. Case No. 015890, 605 Mount Auburn Street.

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

ATTORNEY FRANZ STRASSMANN: So Franz Strassmann,

37 Quonset Street, Hull, Massachusetts, 02045.

CONSTANTINE ALEXANDER: Okay. Before we get into the merits of the case, let me advise you of something, which you may already know but I want to make sure you do know so it's on the record.

This case started, as you all know, at an earlier date. There were five of us. We got into the merits of the case, which makes it what we call it a case heard. We continued it to tonight, or actually an earlier night, but now it's tonight. The five members who sat on the case when we first heard it must sit on this case. We can't use other members of the board. One of those members is no longer a member -- a former member is no longer a member of the board. You'll see four of us here.

The consequences are as follows: We can go forward tonight here with the four of us, but to get relief by law you need four votes. If we had five of us, you could have one person opposed and still get relief if the other four wanted to grant you relief. With four of us, any one member who chooses not to like what you want to do votes against it, the relief is denied. So it's your choice whether you want to go forward.

The only alternative under the circumstances, because this

member is gone from our Board permanently, is you can file a new application and we'll get five new members and we'll start -- it will be like a fresh case. We don't need to have the four of us. Maybe four of us plus one, it may be others. But that means it will further delay. It means a little bit of expense because you've got to re-advertise. So those are your choices.

I just want you to, you know, understand you. It's your call, not ours. I can only apologize for the Board that we don't have five members, the same five members here that we did the last time. But those are the facts.

ATTORNEY FRANZ STRASSMANN: We appreciate that and we certainly hope that he's okay.

CONSTANTINE ALEXANDER: He's not.

ATTORNEY FRANZ STRASSMANN: Oh, I'm sorry to hear that.

JANET GREEN: He's not.

CONSTANTINE ALEXANDER: He passed away.

ATTORNEY FRANZ STRASSMAN: Oh, I'm so sorry.

JANET GREEN: Would you like to use the microphone, sir,
so that other people in the audience can hear.

ATTORNEY FRANZ STRASSMAN: There's an appeal
process beyond this?

CONSTANTINE ALEXANDER: You always have an appeal
process to the courts, not to us.

ATTORNEY FRANZ STRASSMAN: Sure. So it makes
sense to go forward.

NORMAN KHERLOP: Yeah.

CONSTANTINE ALEXANDER: You want to go forward?
That's your call.

NORMAN KHERLOP: I just want to say one thing. Norman
Kherlop, the architect, 21 Half Road, Belmont, Mass.

Our understanding the last time was there were favorable for
the project, but there was some details that we had to finalize. So we
never got the impression that there was going to be a probable opposition.
So --

CONSTANTINE ALEXANDER: I think your impression is

correct. I mean, I think there was sympathy for the relief.

NORMAN KHERLOP: Sure.

CONSTANTINE ALEXANDER: It was the design of the canopy that caused some members, including the fellow who is not here any longer, problems and that's why we asked you to go back and redesign. It doesn't mean we're going to grant you relief tonight. But your instincts and your memory is very accurate.

ATTORNEY FRANZ STRASSMANN: And I think we've addressed the concerns that were raised. We addressed them and we look forward --

CONSTANTINE ALEXANDER: I just wanted to read you your rights.

ATTORNEY FRANZ STRASSMANN: Certainly appreciate that. Thanks.

Franz Strassmann --

JANET GREEN: When you speak, just why don't you take it out of the sleeve and then you can hold it. You have to really hold it closer than you think. Like about like that. Yeah.

ATTORNEY FRANZ STRASSMANN: I might want to break into song here.

So we have Grigor Mesrobian and his son Sarkis Mesrobian, they're the proprietors of the business. So those are the -- those are us.

CONSTANTINE ALEXANDER: Okay, you want to go over what your new plans are?

ATTORNEY FRANZ STRASSMANN: Sure. So the concerns were the bulkiness. And your associate had mentioned that, you know, why don't you stick with a conventional plan. We were trying to make it look like a -- the continuation of a roof, that sort of thing. And he said it's a little bit bulky. You know, it's a gas station, presented as a gas station and go with something conventional. So that's exactly what we've done. There are a couple of other issues relative to deliveries and the turning radius, and I'm going to have Sarkis address those. I think he can sort of address your concerns on that.

And there was a discussion of some lighting, although I think that we addressed that time, and we can certainly address that again as well. So I think the first thing would be the design. And I think

Mr. Kherlop has some photos of some new plans.

NORMAN KHERLOP: Okay, I'm now the talent show, right?

Shall I sing or shall I do magic?

CONSTANTINE ALEXANDER: You must do a lot of public speaking.

NORMAN KHERLOP: Well, as Franz said, last time there was some concern about the bulkiness and the look of the canopy. First you said you would like to see something more slanted, No. 1.

And then the shingles were making it very oppressive, very visual. Although the attempt was to make it look like residential, but the proportional effect was not very satisfying.

So for that basis -- and that also material, I think there was a preference expressed over this nice, clean steel look, you know. Not complications. No architecture or fantasies. And we tried to stay within those recommendations. And we have 3-D which shows the impression in the last page, a canopy about three foot in height and that's gonna be blue as is most of the canopies there.

CONSTANTINE ALEXANDER: Where is it?

SARKIS MESROBIAN: It's on the plans.

NORMAN KHERLOP: At the very end.

CONSTANTINE ALEXANDER: Are these photos that we have --

NORMAN KHERLOP: This is new. We didn't have it last time.

CONSTANTINE ALEXANDER: I know. This is what it would look like?

SARKIS MESROBIAN: Correct. This is an idea of what we're going for.

CONSTANTINE ALEXANDER: Right.

SARKIS MESROBIAN: This is the industry standard.

CONSTANTINE ALEXANDER: Yeah.

SARKIS MESROBIAN: There are two versions. One of them being 30 inches in height. The other being 36. There's also other ones.

CONSTANTINE ALEXANDER: Which one are you using?

SARKIS MESROBIAN: 30. The most slim design. The

idea being we want it to be sleek, and we want it to be, you know, minimalistic. Using the same concept you see here, it's steel on top with scaffolding inside to support it.

In our situation, as you'll see inside the plans, there are two main posts that hold the canopy, that is the minimum requirement and there's a giant mounting on top that connects everything. And then through that there are catch basin systems for rain and everything which will, you know, accommodate for --

CONSTANTINE ALEXANDER: Is there a fire suppression system in those?

SARKIS MESROBIAN: For full services stations like us, you have the option of getting a fire suppression system or having them on the posts. Currently because we are and will remain full service, we have them on the posts. So we're going to keep it that way.

Should we ever go to self-service, which I don't see, we can add that no matter what. Like, it's very easy to add anything.

For example, in this picture these lights you can see are converted. These are LED lights.

CONSTANTINE ALEXANDER: Yes.

SARKIS MESROBIAN: Before they were the old style, very powerful, and like very consuming of electricity lights. What we have at our station right now as you can see in one of these pictures way back here. So these are the old style --

CONSTANTINE ALEXANDER: Yeah.

SARKIS MESROBIAN: -- with the ballasts and everything that's being phased out. It's not environmentally friendly. It sucks up too much electricity, and it actually is more light pollution than is helping you.

CONSTANTINE ALEXANDER: How much glare? That's what everyone -- that's the issue what I would think people would worry about.

SARKIS MESROBIAN: So the glare from the new LED style is very minimal. It's aimed down projection style, and the light we will put in the garage now, it will only be on, first of all from four to six in the wintertime. We close at six. Today we left at five. We didn't even use the lights and it's cloudy. And there won't be any glare essentially to our neighbors in the back. In front of us there's a cemetery. I'm sure they

won't complain.

CONSTANTINE ALEXANDER: They might.

SARKIS MESROBIAN: You never know. Zombie
Apocalypse, I don't know. To our left --

JANET GREEN: It is Cambridge.

SARKIS MESROBIAN: To our left is our neighbors Nick.
They love us. They'll never complain to anything. And to our right is our
commercial building, which about 80 percent of them come to us.
Charles Analytics. There's a robot company out of there. Even the
employees of that building come to us all the time. And, you know, when
they heard about this, they were like all for it. We rarely have the lights
on that are already there for above the pumps. The only time we'll turn
them on is, again, wintertime. And if we're late snowplowing, making sure
the sidewalks are clear, we have that on as well for our protection for
people seeing us. But otherwise we rarely have it on.

The only other lights that are on are building lights which we
have for our camera systems, which are very low and they've been on for
years.

CONSTANTINE ALEXANDER: The canopy is really just to shield people from the elements?

SARKIS MESROBIAN: Yeah.

CONSTANTINE ALEXANDER: It's a lot of money to spend I would think.

SARKIS MESROBIAN: Believe me it's worth every penny. I was drenched today and I regret it.

So my dad worked here. This is my uncle's gas station. When he was my age, he worked here. And when he moved to our location -- so we didn't own it at that point. And now we do. Seven years now it's ours. So we want to improve. How do you improve? You get this. This is the next step. So we want to do it. And I really think, you know, everyone loves it. Why not?

But, again, going back, we want to be simple, elegant, minimalistic. Like, before I even wanted to come here, I asked all of my neighbors, like, if I were to do this, would you guys be on board? Would you feel that it's okay?

CONSTANTINE ALEXANDER: We did get, and we have a

letter of petition from them, and I'll mention that later.

But when you went to them was it with the old canopy, the one -- are they aware of this design?

SARKIS MESROBIAN: Yes. And since our meeting, I have spoken to a lot of our customers and people who signed and they've -- because they're curious. And I had told them we went with this design and they were afraid of the mass, and so now we're saying okay, let's do something else. And I showed them options. And a few people said do whatever you want. A few people said, I like the sleek design. A few people said well, that was cool but if they don't want it, it's not good, that's okay. And it was basically whatever will work. And for me it's that, too. I just want to be out of the snow and that's it.

CONSTANTINE ALEXANDER: Did anybody ask you, your neighbors, about the glare?

SARKIS MESROBIAN: No. No one asked. The only other, the only other thing was a problem last time was with the columns being in the way of the trucks. And we basically -- in the plan, you'll see that one column is on the existing pump island, and the other one is in front of the

office door. And in the pictures you'll notice that at our gas station, not one truck goes in front of the office from Fed Ex, UPS, our fuel delivery. We even had an 18-wheeler come in, as I'm sure you saw, to maneuver around because people were concerned.

So this is one of our routine suppliers. They remove our waste antifreeze for recycling purposes and they provide us with new antifreeze, and they bring in oil. Basically our supplies. They're here at least once a month. And the way he maneuvers, he comes down Mount Auburn Street because of the truck routes and parks in front of the gas station. And you can see in the next picture where he parks every time. It's the same delivery driver for four years now. He's a great guy, Clint. He's awesome. So there should be no problem with that either. Otherwise, it's -- I don't see any other issues that could come up. No one's mentioned anything to me.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY FRANZ STRASSMANN: And you mentioned the glare. On Aberdeen the houses are all set back. The gas station itself blocks any of the ambient light or any of the direct -- the light that

shines down is all blocked at any rate by the gas station itself.

CONSTANTINE ALEXANDER: All right, okay.

Questions from members of the Board?

JANET GREEN: No.

BRENDAN SULLIVAN: No, I think I had mentioned, too, that having some lights on at that corner in the wintertime is probably not a bad thing because it does sort of give you more visual for people coming and going, cars. Especially the crosswalk there and the bus station. And the building next to you is probably -- have lights on probably 24/7 I would think at -- some parts of it. I haven't gone through there well into the wee hours of the night, and there are lights on in that building. So you're not the sort of beacon on that corner anyhow.

SARKIS MESROBIAN: Yeah.

BRENDAN SULLIVAN: Now sleek is good. And now and blue color is fine.

Signage. Do you anticipate any signage on the canopy?

SARKIS MESROBIAN: No, we're unbranded so we don't --

BRENDAN SULLIVAN: Can we ask, and again, the Board,

whether or not we would request that there not be any signage?

CONSTANTINE ALEXANDER: I think my first instinct, but it's only a first instinct, is let the zoning laws control. If they can put a sign up that complies with the zoning, so be it. If they can't, then they'll have to come back to us for relief for the sign.

ANDREA HICKEY: Yeah, I agree with that as opposed to just a ban, an outright ban.

BRENDAN SULLIVAN: Okay.

ANDREA HICKEY: If they have a proposal that meets the requirements of right to have a sign, I don't see any need to restrict that.

CONSTANTINE ALEXANDER: That's how I feel, too.

ATTORNEY FRANZ STRASSMANN: And the Citgo that's on there is, again, the uncle's gas station in Cushing Square in Belmont.

SARKIS MESROBIAN: Yeah, this is in Cushing Square. They are required --

CONSTANTINE ALEXANDER: Oh, yeah.

SARKIS MESROBIAN: -- by Citgo. They have a contract. They have to have it. Personally if that Citgo wasn't there, I think it would

look much better because it looks more elegant. But we don't anticipate getting --

BRENDAN SULLIVAN: That was my thought, too.

SARKIS MESROBIAN: Yeah. The minimalistic is the idea.

BRENDAN SULLIVAN: I will agree with the Board.

CONSTANTINE ALEXANDER: Any other comments from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: The Chair will open the matter up for public testimony. Is there anyone here wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

I will report that we do have some letters, some written communications, that I'll put into the record.

We have a letter here from Naim Bourji, N-A-I-M, first name, B-O-U-R-J-I. (Reading) We are writing to you today to show our full support of our good friends and neighbors Grigor Mesrobian and his son

Sarkis H. Mesrobian, owners/operators of HAYG, Inc., d/b/a Hayg Auto Repair. Grigor and Sarkis wish to construct a new canopy over their existing fuel pumps. We could not possibly be more thrilled and excited to see their dreams come true, come to fruition. We hope our letter of approval in support of their project helps you in your decision of the petition of their Special Permit.

Very nice letter.

And I believe there's a petition in here from somewhere.

Yeah, there is a petition. More than that, there's also -- no, that's your letter to the neighbors.

SARKIS MESROBIAN: Yes.

CONSTANTINE ALEXANDER: A petition signed by, it says:

I am a neighbor of Hayg Auto at 605 Mount Auburn Street in Cambridge and have no objection to a canopy being over the gas pumps. And it looks like it's been signed by I'd say about 10, 12 -- about 15, no more than that.

ATTORNEY FRANZ STRASSMANN: I think there's close to

40.

CONSTANTINE ALEXANDER: Close to 40?

SARKIS MESROBIAN: Yeah. Including the President and CEO of Mount Auburn Cemetery, which was awesome. The building next-door, the new owner, and all the neighbors.

ATTORNEY FRANZ STRASSMANN: And much further down Aberdeen. And I think that was even sent --

SARKIS MESROBIAN: Yeah, people from Huron Avenue, I went to. Brattle Street.

CONSTANTINE ALEXANDER: Okay. Anyway, you got unanimous citizens support and neighbor support and that's part of our record.

I'll close public testimony. Discussion or we ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay.

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

That the requirements of the Ordinance cannot be met without the Special Permit that you are seeking.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. And, again, what is being proposed here is a canopy over the gas pumps. And, therefore, there will be no, congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted by the Ordinance will not be adversely affected by what you're proposing. And as proof of that we have a letter from your competitor friends next-door and the neighbors who signed the -- they're the abutters, and they have no -- they're not concerned about their use of the property as a result of your canopy.

That no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant of the proposed use or the citizens of the city. In fact, we're going to provide shelter from the rain if we grant you the canopy.

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

In this regard what is being proposed will be to upgrade the service station, make it more compliant with contemporary, best practices.

So on the basis of all of these findings the Chair moves we grant you the Special Permit you're requesting on the condition that the work proceed in accordance with these plans. So if you change the plans as you go through construction, you're going to have to come back.

SARKIS MESROBIAN: Yeah.

CONSTANTINE ALEXANDER: So you've got to be comfortable unless you want to come back, these are the final plans.

SARKIS MESROBIAN: No, we're very happy with it. Thank you guys so much.

CONSTANTINE ALEXANDER: All right. All those in favor -- we have to take a vote.

SARKIS MESROBIAN: Oh, all right. Too soon.

CONSTANTINE ALEXANDER: All those in favor say "Aye."

SARKIS MESROBIAN: Too soon. All right, thank you very much.

(Aye.)

(Alexander, Sullivan, Green, Hickey.)

* * * * *

(7:20 p.m.)

(Sitting Members Case BZA-015973-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will next call case
No. 015973, 134 Vassal Lane.

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

Somehow you found a way to reduce the size of the dormer?

THOMAS DOWNER: We did.

CONSTANTINE ALEXANDER: Is this a new one or in our files?

THOMAS DOWNER: No, that's a copy of what I submitted for the hearing.

CONSTANTINE ALEXANDER: Thank you.

Okay, why don't you just briefly, you know, start from the beginning just briefly.

THOMAS DOWNER: Tom Downer, architect, 13 Regent Street, Cambridge.

CHANDRASEKHAR MIDUTURU: My name is Chandrasekhar Miduturu. I live in 134 Vassal Lane. And that's my wife and my two daughters. I just brought them along because it's early enough today.

THOMAS DOWNER: The clients have a two-story condominium -- two-unit condominium. They have a third floor which is, it's finished but has minimal headroom and they would like to create a bedroom on that floor and improve the bathroom that is existing. We had

made an earlier proposal for a dormer that was 19-foot, six inches long and it was made clear that that was not gonna fly, and it was requested that we see if we couldn't make 15 feet work. So we revised the design. Instead of having two beds in that third floor bedroom, we brought it down to a single bed and kept it to the 15 feet.

It still increases the FAR by I think 86 feet, so we need a Variance for the FAR increase that's over -- it's an already non-conforming structure that is over the FAR, and we would be increasing it by a little under three percent I think is the number.

CONSTANTINE ALEXANDER: In one respect I would characterize it, in my opinion anyway, a minor respect, you don't comply with the dormer guidelines because you're going right to the ridge line.

Is there a reason for that?

THOMAS DOWNER: The reason is that we have such limited headroom right now.

CONSTANTINE ALEXANDER: I see that. I want to get it on the record.

THOMAS DOWNER: Okay, yeah.

We are stepped back from the outside wall a little bit to make that transition different.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of letters in support for the project. The letters go back to the original plan, but I don't think they would change the results of the modified plans.

There's one from Marie Manna, M-A-N-N-A and James McCreight, M-C-C-R-E-I-G-H-T who reside at 136 Vassal Lane. They're at the same property.

And also a letter from Ken Turnvull. T-U-R-N-V-U-L-L at 73-75 Chilton Street. It says: I have no objections to the proposed

construction. It goes on to say: However, I do have concerns about construction noise; i.e. hammering, electric saws, etcetera. And respectfully request that such activities not take place after five p.m. on weekdays and not at all on Saturdays and Sundays.

This is an issue that comes up often on projects like this. We don't have authority over this, but the city does.

What are the rules for time, hours for construction?

SEAN O'GRADY: Seven to -- I think it's seven to six on Mondays.

CONSTANTINE ALEXANDER: That's my recollection.

SEAN O'GRADY: Monday through Friday.

CONSTANTINE ALEXANDER: Monday through Friday.

SEAN O'GRADY: Saturday it may be nine to --

CONSTANTINE ALEXANDER: That's the city rules. You know, out of deference to your neighbors, obviously do the best you can.

CHANDRASEKHAR MIDUTURU: Absolutely. And we come home by 5:30, so we wouldn't want noise at home as well as on weekends.

CONSTANTINE ALEXANDER: Okay.

I'll close public testimony.

Discussion from members of the Board or ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay, the Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the Ordinance would involve a substantial hardship. This hardship being that whoever occupies your unit, be it you or your successors, need additional living space and to utilize the third floor, and that is the reason for the dormer.

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

There is a -- you looked at me in a puzzled way. I just want to say, to grant a Variance we have to make three findings, that's by state law. We can't make those findings, you don't get relief. But as you'll see, we're going to find that you do satisfy these standards.

So anyways, the second one I just identified, that the hardship is the fact that it's already a non-conforming structure.

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

In this regard the relief being sought is minor. It essentially complies with our former guidelines. And it allows a young family to grow and continue in the City of Cambridge -- to live in the City of Cambridge which is a desirable goal from the point of view of our city.

So on the basis of all of these findings, the Chair moves that we grant the Variance you're requesting on the condition that the -- before we take a vote, that the work proceed in accordance with these revised plans that you submitted. I just want to point out that, and you proceed, if you decide to modify these, you're going to have to come back before us. So be comfortable these are the final ones the best you can tell.

You understand that?

THOMAS DOWNER: Yes.

CONSTANTINE ALEXANDER: So on the condition that the work proceed in accordance with the plans prepared by Downer Associates that are now dated June 8, 2018, the first page of which has

been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

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

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

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-012929-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Laura Wernick.)

CONSTANTINE ALEXANDER: The last case of business on our continued agenda is case No. 012929, 45 Richdale Avenue. And this case is a case involving a Variance. We heard this sometime ago and we granted the Variance.

As under state law, if you're granted a Variance you must take action to implement it within a certain period of time or the Variance lapses. And this petitioner is having issues and running against that time limit. So and as state law allows us to give one extension. And this

petitioner has requested such an extension. And I'll read the letter. The letter is from his counsel, James J. Rafferty:

(Reading) Please accept this correspondence as a request to the Board of Zoning Appeal to extend the time for the above-captioned Variance for a period of six months. The petitioner is actively engaged in efforts to obtain a Building Permit for the conversion of this industrial building that abuts railroad property. However, it has become apparent that the Building Permit cannot be issued by July 26th, the one year anniversary of the granting of the Variance.

The Chair moves that we grant the -- unless -- I should ask for a discussion. Does anybody have a problem with granting the extension?

(No Response.)

CONSTANTINE ALEXANDER: The Chair moves that we grant the extension requested to six months.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Extension granted.

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

* * * * *

(7:30 p.m.)

(Sitting Members Case BZA-016631-2018: Constantine Alexander, Janet
Green, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: We're now going to the
regular agenda. Case No. 016631, 100 Trowbridge Street.

Give your name and address to the stenographer, please.

GERALD FLANNELLY: What's that?

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

JANET GREEN: And use the mic.

CONSTANTINE ALEXANDER: Hold it.

JANET GREEN: Hold it right up.

CONSTANTINE ALEXANDER: There you go.

GERALD FLANNELLY: Mr. Alexander and members of the Board, I'm Gerry Flannelly. This is my wife, Dory King. We've lived at 100 Trowbridge Street for 45 years. That's our address, our names. We'd like to keep living there. We like the house. We like the neighborhood. We have a lot of friends among the neighbors.

For the past 45 years Dory and I have lived on the second and third floor of the house, but with all the stairs that involves, it's becoming challenging. We're now in our mid 70s. Dory has knee issues. I have cardiac issues. Results of that all, we are moving concession to aging, we are moving down to the first floor. Our son and his family are gonna move in above us, which will be great.

One of the things that we most enjoy about where we've been living is we have a deck on the second floor off the kitchen. We can go out with a cup of coffee, a cup of tea, be among the trees, listen to the birds, enjoy our yard which isn't big but we like it.

Now, on the first floor there's an old porch, but you can't even access it from the first floor. So we would like to rebuild that porch so that we could access directly from the kitchen area without going up or down steps. So we can still enjoy the yard, the trees the birds.

CONSTANTINE ALEXANDER: You can't access the porch from the house?

GERALD FLANNELLY: No. You have to go down some steps all around up some more steps. There's no direct.

DOROTHY KING: There's two doors.

CONSTANTINE ALEXANDER: Got it.

DOROTHY KING: From the first floor. One for each unit.

GERALD FLANNELLY: There's a door from the second floor that accesses that deck, but not from the first floor.

So anyways, our hardship with respect to this is that the post

porch is cutting off a non-conforming wall.

CONSTANTINE ALEXANDER: Right.

GERALD FLANNELLY: So we can't meet the side yard setback requirements.

CONSTANTINE ALEXANDER: You have a very irregularly shaped lot to start with anyway.

GERALD FLANNELLY: Oh, yes. The house is 100 years or more old and it's on a small, regular lot.

Mid Cambridge has concluded that it's not visible from the public way, and they don't need to review it.

We've met with the abutters to the south, to the rear, they've all been in support.

Accordingly, you know, we respectfully ask that the Board grant the relief we need to proceed with construction.

Thank you.

CONSTANTINE ALEXANDER: Thank you for a cogent presentation.

Questions from members of the Board?

JANET GREEN: I just have one comment, and that is I think you made the nicest outreach to neighbors and their response. I mean, it was just lovely to see that really concern that the neighbors be brought along with your project and know what you were planning to do. And I think you did a really great job on that.

GERALD FLANNELLY: Thank you.

CONSTANTINE ALEXANDER: And that's important in zoning cases. We take -- we pay attention to neighbors' comments pro or con. And it's nice to see unanimous neighborhood support. It makes us feel better if we grant relief. We don't have to worry about --

GERALD FLANNELLY: Us, too.

DOROTHY KING: Since we're very close.

CONSTANTINE ALEXANDER: Any comments at this point or should I open the matter up to public testimony?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in -- as Janet has mentioned, we are in receipt of written communications from your neighbors.

One is from Tony and Tamara Rogers who reside at 96 Trowbridge Street. (Reading) Thanks for keeping Tamara and me informed of your plans for modification of your porch. Tamara and I fully support your plans. As your next-door neighbors, we think your plans will enhance not only your yard and house, but will improve the attractiveness of the neighborhood.

And there was a question about screening, but you've answered that. That's not relevant to us, but -- not necessarily, you've answered that.

And there are other letters. I'm not going to read them. They're all to the same effect, that they are in support for what you want to do.

With that, I'm going to close public testimony.

Discussion or ready for a vote?

ANDREA HICKEY: Ready.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we make the following findings with regard to the Variance you're seeking. And as I indicated with the prior petitioner, by law we have to make three findings. If you can't -- we can't make those three, then you don't get -- you're not entitled to a Variance.

The first is that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Well, it's actually, the hardship is one that has to run with the land. So it's not just for you, it's for anybody who occupies the structure. And in this case the hardship is that you are sort of effectively denied, or whoever occupies the structure, is effectively denied easy access to the outdoors because there's no direct -- going to the porch or the deck whatever, from the house itself, you've got to go around. That's the reason why you're modifying your deck.

That the hardship is owing to the fact that this is a non-conforming lot with very irregular lot, and therefore any kind of

modification or structure in the rear requires zoning relief. You'll have a setback of one or more being violated without relief.

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

In this regard the relief being sought is modest. It allows longtime residents of Cambridge and of this address to continue to reside in this structure that you've been residing in for 45 years. And that has unanimous neighborhood support.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with these plans that you've submitted and which I've initialled.

So if you modify those, you're going to have to come back.

Okay?

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance

granted. Good luck.

(Alexander, Green, Hickey, Best, Wernick.)

(7:45 p.m.)

(Sitting Members Case BZA-016359-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 016359, 22, 24-26 Berkshire Street.

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

ATTORNEY JASON PANOS: Good evening. My name is Jason Panos. I'm an attorney at law practicing at 246 Andover Street, Peabody, Massachusetts. I'm accompanied by Joao. De Andrade Bairos, the property owner of 59 Plymouth Street, Cambridge. Emanuel Coelho who is the general contractor for the project, of 52 Hawthorne Street, Malden, Massachusetts, and Scott Cameron, civil engineer of the Morin-Cameron Group at 66 Elm Street in Danvers. And also Eric Gjerde, the project architect at Sea Glass Architects, 246 Andover Street, Peabody.

Just a couple of administrative matters. When I downloaded the plans offline, they were labelled draft. There is no difference from the plans --

CONSTANTINE ALEXANDER: This is the one I have in our files, this is the one we're going to work with.

ATTORNEY JASON PANOS: How about the application plans that show the existing condition?

CONSTANTINE ALEXANDER: We have in the file I think.

ATTORNEY JASON PANOS: Okay. Because I have the stamped signed plans. The ones online are labelled draft. There is no difference between them.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JASON PANOS: But if you want the copies of the plans for your file that are stamped and signed --

CONSTANTINE ALEXANDER: I think this is the only plan that I'm interested in. Unless, Sean, do you --

SEAN O'GRADY: That's fine.

ATTORNEY JASON PANOS: Is that fine?

SEAN O'GRADY: Yeah, the document -- he's going to be the certifier of the document.

ATTORNEY JASON PANOS: Okay, so do you want these?

CONSTANTINE ALEXANDER: No.

ATTORNEY JASON PANOS: No. All right.

And also I'm sure you have this, but there was a late receipt of communication by Cambridge City Councillor Tim Toomey.

CONSTANTINE ALEXANDER: We have that.

ATTORNEY JASON PANOS: Terrific. That puts that to rest.

So the locus that we're dealing with is 22, 24-26 Berkshire Street located in the Wellington-Harrington neighborhood at the corner of Berkshire Street and Plymouth Street in the Residence C-1 District. I have behind me, Scott, if you don't mind flipping, pictures that show the existing condition. As you know, this property was destroyed by the fire of December 3, 2016. The property is located in the neighborhood with many existing structures, similarly destroyed or severely damaged by the fire and are populated with primarily residential uses with a mix of

architectural styles.

The petitioner proposes replacing the two principal structures currently on-site located at the property, which were totally destroyed as I indicated, and condemned by the City of Cambridge Building Commissioner with one structure. Two structures, one housing; two units; the other four units; two, one-structure housing, six units. So there is no change in the proposed use at all.

Mr. Bairos along with his tenants were displaced from their homes as a result of the fire.

There are soil conditions on the -- upon which the existing principal structures sit of a soft and sandy composition, and the foundations were greatly compromised as a result of the fire when thousands of gallons of water flooded into the basements disturbing the soils and causing resettling of the foundations in the existing buildings. And you can see from the pictures the foundations are currently collapsing into themselves.

As I indicated, there is no change in use proposed. And the proposed structure more particularly depicted in the plans which you have,

which were submitted with the application, will accommodate six residential dwelling units and three parking spaces where one currently exists.

Parking for bicycles, one charging station for an electric car, and other accommodations.

The BZA application is for relief from the dimensional requirements of the Zoning Ordinance as more particularly set forth in the application form Dimensional Information Table completed and submitted with the application.

A Special Permit is also sought for parking to allow for three parking spaces, including one accessible space where a minimum of six spaces are required and replacing the existing condition as I mentioned of one space provided.

The proposed building on the property will comply with the provisions of the Zoning Ordinance in all other respects.

The application was submitted for review by the Historical Commission at its hearing on June 7, 2018, and the Historical Commission Executive Director Sullivan has indicated he will sign off on

the demolition permit application as a result.

The Planning Board also reviewed the application and plans at its hearing on June 26, 2018, when I made a very brief presentation to it and answered their questions. The Planning Board, as a result, decided to leave the matter to you without any comment.

CONSTANTINE ALEXANDER: They don't have any approval anyway for the project I don't think.

ATTORNEY JASON PANOS: No.

CONSTANTINE ALEXANDER: They could obviously offer their opinion, pro or con.

ATTORNEY JASON PANOS: Right.

CONSTANTINE ALEXANDER: But it's not a matter -- you didn't need their approval. You just wanted to bring --

ATTORNEY JASON PANOS: Right. I wanted to be there and wanted to gauge what their thoughts were. Oftentimes I go to those meetings to kind of see what's coming at me, but more importantly if they have constructive comments with regard to plans and we can incorporate them and make a better plan, you know, we're very much sensitive to the

needs of the community and the surrounding neighborhood. And to that point, we actually did reach out to members of the neighborhood, those who are existing and there, and under the tragic circumstances people are rebuilding their lives and their homes. But generally everyone we were able to speak with is in support of and they're in the same shoes we are.

I want to talk a little bit about the mitigation and benefits of this new proposal. And they're basically set forth in that Dimensional Information Table I referred to earlier. But we made great efforts to go through the Zoning Ordinance, particularly the dimensional requirements, and pull back every single dimensional nonconformity currently existing and we were able to do that. And during the technical part of the presentation we'll explain that a little more detail, but every dimensional nonconformity that currently exists is reduced or eliminated.

Particularly the elimination of the nonconformity from the requirement of the distance to the nearest building on the same lot requiring ten feet where currently there is about 2.3 feet is going to be totally eliminated because we're taking two buildings and constructing one.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JASON PANOS: And also to the rear that there's an accessory garage which is encroaching on the rear setback and is also eight-and-a-half feet from the four-family structure right here. And that will also be eliminated because this garage is coming down. All of the parking will be put beneath the building.

CONSTANTINE ALEXANDER: So where will the access to the underground garage be, what street?

ATTORNEY JASON PANOS: Through the existing curb cut on Plymouth Street, right here.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JASON PANOS: The existing curb cut is right by the garage, pardon me. So the access will be from Plymouth Street as it currently exists. Plymouth Street being the less traveled street as well. It just, you know, we had to --

CONSTANTINE ALEXANDER: You already have a curb cut?

ATTORNEY JASON PANOS: We do, yes.

Also there will be reduction in parking non-conformities with

the addition of -- with the addition of onsite two parking spaces including the accessible parking space where one currently exists, and a more than three-fold increase in open space provided on the lot.

The proposed structure will be in compliant in all respects with the applicable provisions of the current version of the Building Code where it is currently, probably noncompliant with all aspects of the Building Code, with the building built 100 years ago or more.

The -- and importantly proposed building will be compliant with the architectural access board rules and regulations prescribing rules and regulations to make public buildings and facilities accessible to, functional for, and safe for use by persons with disabilities.

The proposed building will also include green amenities such as roof mounted solar panels, commuter-friendly bicycle storage, and an electric car charging station which are also not included in the existing condition.

The proposed development will also comply with Cambridge storm water management regulations.

And the proposal generally preserves and makes more

efficient use of open space and of the property generally.

Going through the hardship and --

CONSTANTINE ALEXANDER: One thing you didn't mention is right now the structures are very much noncompliant with regard to FAR.

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: And you are, you're still going to be noncompliant significantly.

ATTORNEY JASON PANOS: But we're pulling it back.

CONSTANTINE ALEXANDER: From 1.79 to 1.64.

ATTORNEY JASON PANOS: That's correct.

CONSTANTINE ALEXANDER: Which is another benefit to the city. You're creating more parking than now exists with three spaces rather than one.

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: You're reducing the intensive use of the property in question, and all to the good.

ATTORNEY JASON PANOS: Absolutely.

CONSTANTINE ALEXANDER: But I still have one question,
and it may --

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: -- just me being persnickety.
I look at your plans I see a roof deck.

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: Is that going to be for the
tenants of the building?

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: Roof decks are not looked
upon with favor by this Board. It doesn't mean we don't grant them --

ATTORNEY JASON PANOS: Okay.

CONSTANTINE ALEXANDER: -- as a member of the Board.
And particularly in dense neighborhoods, which this certainly is in terms of
impact on privacy, in terms of noise.

Also I see balconies I think on some of the units.

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: And although that's similar

issue, and there are no -- are there any buildings in the neighborhood that have balconies? Or roof decks?

JOAO DeANDRADE BAIROS: They have roof decks in the back of the three families. The elements on the back that go up across the street --

CONSTANTINE ALEXANDER: Where?

JOAO DeANDRADE BAIROS: On the three-family that's on the corner of Plymouth -- on the opposite corner. But they're more like you would see in traditional Boston where you have the exits out the back.

CONSTANTINE ALEXANDER: At least give it to some thought to maybe you don't need these -- and my board members would probably shoot me. You don't need the roof deck. I mean, you're doing -- you're building a nice project. You're going to have modern accommodations. You're doing, as I said, in my opinion a very, very good job with the site. Is roof deck a little bit overkill for this neighborhood in the City of Cambridge is my question?

I don't know if other members feel the same way.

ATTORNEY JASON PANOS: And in answer to the question, and I'm certainly willing to entertain more questions from members of the Board on that point as well or more comments or concerns. We did talk about it extensively, and part of even though it's not included in the definition of open space, part of the thought in putting the roof deck up there was to create -- and the balconies, every unit has outdoor amenity, either by balcony or on grade --

CONSTANTINE ALEXANDER: Oh, I understand, but when you're doing it in a dense neighborhood. This is not South End of Boston where everybody has them, you know.

ATTORNEY JASON PANOS: Right.

CONSTANTINE ALEXANDER: And I just wonder whether you may be doing a disservice to the neighborhood, because you get some tenants, I don't know if they're going to be condos -- I think you said it's going to be rentals.

ATTORNEY JASON PANOS: It's going to be rentals.

CONSTANTINE ALEXANDER: They'll have some parties up there, and the people living in abutting properties won't be too happy

about it.

ATTORNEY JASON PANOS: Well, I think and I'll talk with my client about this, but I think they'd be willing to entertain rules and regulations that would prohibit parties from happening.

CONSTANTINE ALEXANDER: Well, why not just eliminate it? I mean, the easiest way --

ATTORNEY JASON PANOS: Eliminate the roof deck?

CONSTANTINE ALEXANDER: The roof decks.

JANET GREEN: Can we discuss it?

CONSTANTINE ALEXANDER: Yeah, I was going to say before you go there. I'm just doing all the talking. If other members of the Board don't have a problem with it, don't go there.

ATTORNEY JASON PANOS: Okay.

EMANUEL COELHO: If I may just say something. I'm Emanuel Coelho. I'm the general contractor --

ATTORNEY JASON PANOS: Your address, please?

EMANUEL COELHO: I'm sorry?

ATTORNEY JASON PANOS: Your address.

EMANUEL COELHO: Oh, I'm sorry. Emanuel Coelho.

That was at 51 Hawthorne Street.

ATTORNEY JASON PANOS: Oh, it was 51.

EMANUEL COELHO: Malden, Mass.

CONSTANTINE ALEXANDER: You gave it to us. You're good.

EMANUEL COELHO: Joao, the owner of the property is my step-dad, and I'm also a general contractor licensed and do a lot of work here in Cambridge as well. In regards to the roof deck, I see your point what you're saying about how parties and other things may occur. Thirty years ago Cambridge was a very different place, and I grew up here as well, as well as many of you have I'm sure. It's an ever changing location where many of the structures unfortunately were burned down because of the fire. So we have a total revitalization of that area. We're building a beautiful 16-unit building across the street. A lot of the adjacent properties are getting variances as well. Creating outdoor space. Our thoughts behind that, in addition to the solar panels, was to have some rooftop -- right, rooftop units to conceal that. But also go green and

continue down that road, because the tenants of yesterday are not the tenants of today. People like bike storage, they have the electrical solar panels, and they also grow rooftop gardens. And that was one of the biggest add-ons to this was we're not creating a party space per se. Twenty-five years ago it would have been a hell of a party in Cambridge, but right now, no. Right now we're dealing with a whole different area. It's completely changing. And this is what the new tenants and the new faces of Cambridge, for better for worse, this is what they're looking for. Joao has grown his garden, and he lost everything. He lost his grapevine and, you know, it was 50-years-old, 60-years-old. And now we're in Cambridge we're basically lifting that and putting maybe not a grapevine but maybe some tomatoes and other greens up on the rooftop. And I think that was the idea of creating that space, outdoor space for the tenants, not so much of a party or a, you know.

CONSTANTINE ALEXANDER: Roughly how big will that roof deck be? How many square feet? Just roughly.

ERIC GJERDE: 1200 square feet. But not usable -- most of it's not usable. I'd say the usable --

CONSTANTINE ALEXANDER: I'm interested in the roof deck.

ATTORNEY JASON PANOS: The roof deck.

ERIC GJERDE: Oh, the -- I labeled the roof deck. That's 500 square feet.

SEAN O'GRADY: May I just ask, did you include that in your FAR?

ATTORNEY JASON PANOS: I don't believe we did.

SEAN O'GRADY: The deck above the third story is FAR.

CONSTANTINE ALEXANDER: Which means they probably are increasing the FAR rather than decreasing it.

ATTORNEY JASON PANOS: Then we did. We followed the Zoning Ordinance requirements.

SEAN O'GRADY: You did?

ATTORNEY JASON PANOS: We did.

JANET GREEN: What's the railing like that's around the deck part of it? Not the mechanicals or whatever else is up there, but the deck? I'm sorry, the rail.

ERIC GJERDE: So this is a plan of the roof and this would be Berkshire and this would be Plymouth and these are the two gables that you would see on Plymouth. And so what happens is the ridge comes down and creates a cheat wall down to the roof surface. So all this element is obscured from view and it's -- and you come up from this stair, continue up, and then the solar panels happen on the roof slopes that you see from the rear and from this phase. And then this becomes a parapet from here to here, that's approximately three-foot, six from the roof deck. So it goes from being a roof structure, and the parapet comes up over the roof and contains that. We'll have scuffers.

JANET GREEN: What are the little round things?

ERIC GJERDE: Those are condensing units.

JANET GREEN: Those are the condensing units.

ERIC GJERDE: Yes.

JANET GREEN: Okay.

ERIC GJERDE: They tend to be noisy so we don't like to keep them on grade because they disturb the neighbors. So we feel that this is a good place for them.

CONSTANTINE ALEXANDER: And the slanted -- where it's shaded or slanted, that's where the tenants --

ERIC GJERDE: That's a walkable surface that I would say that would be innate, the ability to walk walk. To limit the access to this particular --

CONSTANTINE ALEXANDER: That's the recreational space for the tenants?

ERIC GJERDE: Or the garden area.

CONSTANTINE ALEXANDER: Or the garden area.

ERIC GJERDE: That's right.

CONSTANTINE ALEXANDER: That's recreation. Okay.

SEAN O'GRADY: And, I'm sorry, the landscaping, are you counting that?

ERIC GJERDE: Yes.

ATTORNEY JASON PANOS: Yes.

It's in the notes?

SCOTT CAMERON: Yes.

ATTORNEY JASON PANOS: Which note is it?

SCOTT CAMERON: Note 2. It's in note 2 on the site plan.

ATTORNEY JASON PANOS: It's on note 2 that we did.

CONSTANTINE ALEXANDER: Before we go further with regard to what we're talking about right now. Other members of the Board have any feelings about this? If I'm just a lone wolf, I'm willing to shut my mouth.

ATTORNEY JASON PANOS: About the roof deck you're talking about?

CONSTANTINE ALEXANDER: About the roof deck issue.

JANET GREEN: I'm actually okay with it. It seems like -- it seems very consistent with trying to find outdoor space for people. And I know they're going to have a balcony and that's one thing. But this is a different kind of outdoor space and it seems to me that that's fine to have that in the city.

BRENDAN SULLIVAN: Let me see the drawings there, Jason?

ATTORNEY JASON PANOS: Yes. This plan?

GEORGE BEST: And for me I think if they're doing more

green than good, because that's also an insulation for the -- not only for the sound but for the tenants below.

CONSTANTINE ALEXANDER: Okay.

ANDREA HICKEY: I agree with you. In sort of tight neighborhoods I am not a real fan of roof decks, and I think it's really hard to kind of have rules that are enforceable.

CONSTANTINE ALEXANDER: Yeah, because who is going to enforce the rules? Either you have a roof deck or you don't, it seems to me.

ANDREA HICKEY: Yeah.

CONSTANTINE ALEXANDER: We shouldn't try to solve it by rules.

ANDREA HICKEY: A roof deck is a nice amenity, but I'm not sure that it's sort of a requirement for urban living. So I sort of skew a little toward your position, but....

CONSTANTINE ALEXANDER: Okay.

Brendan, do you have any thoughts yet?

BRENDAN SULLIVAN: Well, that's, that's the one aspect of

the whole project that stuck out to me, that gave me a bit of pause. And it's really the fear of the unknown, the fear of, you know, what could. And that it would be very disruptive if it spun out of control I guess.

CONSTANTINE ALEXANDER: Would you entertain in terms of the plans you're proposing tonight to eliminate the roof deck?

ATTORNEY JASON PANOS: I have to talk to my client about that.

CONSTANTINE ALEXANDER: Well, you can do it now and we can recess and we can hear another case.

ATTORNEY JASON PANOS: Well, do you want me to finish the rest of the presentation?

EMANUEL COELHO: We can do it now, Jason.

ATTORNEY JASON PANOS: Do it now?

CONSTANTINE ALEXANDER: I mean, I think your presentation is a very comprehensive presentation and your materials. The case otherwise to mind at least is open and shut.

ATTORNEY JASON PANOS: Okay.

CONSTANTINE ALEXANDER: I mean, you're going to

improve the neighborhood.

ATTORNEY JASON PANOS: Okay, excellent.

CONSTANTINE ALEXANDER: I don't want you to now take some of that back, in my view, the improvement by the roof deck. As I said before, you're not increasing the density of use; six units, six units. You're improving the parking situation. And it's going to be a new building, and I'm sure it's going to be well constructed. So I don't see any negatives. But the roof deck is the one that gives me pause.

ATTORNEY JASON PANOS: Is one negative.

EMANUEL COELHO: I think if we find a middle ground -- we keep calling it a deck. And myself and Eric had this conversation initially about it, and working in Cambridge and working in the area I know red flag when you hear something like that. But I think the idea behind this, and I'm open to suggestions, if we do something up there and scale it back, but just create more of that green space, because that green space I think will enhance creating that green roof, they call it nowadays. And a lot of these larger buildings I'm sure you've seen, have, you know, plants and vegetables and everything growing up there which I think would be a nice

feature to the building.

CONSTANTINE ALEXANDER: Well, if you want to do that, then we have a little problem -- some sort of compromise. You're going to have to go out, you're going to have to modify your plans either tonight or some other night. The simpler approach, frankly, is either yes or no, I think. No deck or, yes, you have a deck. I don't know what you have in mind by scaling it back. So if you don't know what you have in mind.

EMANUEL COELHO: Well, instead of using that --

CONSTANTINE ALEXANDER: Right.

EMANUEL COELHO: We're all concerned about noise, right? Of this something getting out of hand. If you reduce the size and say that 500 square feet, right, approximately, of open deck, let's say we take only -- use half of that amount and the other half actually create planters. So --

CONSTANTINE ALEXANDER: So it can't be used for people congregating is what you're saying?

EMANUEL COELHO: So 500 square feet, you can fill a lot. That's a good amount of space. And I understand the concern with

volume and noise and parties. But if you're restricting that to only 200 square feet, 250 square feet, and I can construct planters and low level planting area, part of that 500 square feet, and scale it back to maybe only 250 square feet of --

CONSTANTINE ALEXANDER: So there would be no area on the roof that would be for congregation purposes?

EMANUEL COELHO: Right.

ATTORNEY JASON PANOS: And without modifying the plan, we would agree to that condition. I mean, just because we don't depict that use on the plan doesn't mean we can't condition it.

CONSTANTINE ALEXANDER: I understand what you're saying.

EMANUEL COELHO: I think that's middle ground for --

CONSTANTINE ALEXANDER: What do other members of the Board think about that? I mean, if there's planters and no ability to have parties up there, I'm all for it. I don't see the problems.

ANDREA HICKEY: Right, but I think the compromise proposal is sort of half deck, half garden.

CONSTANTINE ALEXANDER: No, no. All garden but the garden is half the size of the deck.

ANDREA HICKEY: Is that correct?

CONSTANTINE ALEXANDER: That's what I heard. Maybe I missed something.

ANDREA HICKEY: That's not what I heard.

EMANUEL COELHO: Right. So if we're talking about a square foot area, 500 square feet, scaling that back to 250 square feet of open area and 250 square feet --

CONSTANTINE ALEXANDER: Oh, I misunderstood. Thank you.

EMANUEL COELHO: -- made up of the planters.

CONSTANTINE ALEXANDER: Why not just have planters? Why don't you have --

EMANUEL COELHO: Or we can just do planters.

CONSTANTINE ALEXANDER: 250 of planters or 500 feet of planters, I don't care.

EMANUEL COELHO: Let's do 500.

JANET GREEN: Well, you have to get in between the planters.

EMANUEL COELHO: You have to access them.

JANET GREEN: You need some space for consideration.

CONSTANTINE ALEXANDER: Just don't grow marijuana on the roof.

EMANUEL COELHO: That's all have tomatoes. I think legally we could now, right?

ATTORNEY JASON PANOS: And from a practical standpoint, we would have to keep something open in the event of a fire in the building and penetration by the fire department, so forth, from the top from the roof.

CONSTANTINE ALEXANDER: What do other members of the Board think about if it's only planters, it's not going to be more than 500 feet of planters? I mean, there's always an enforcement issue and those planters could disappear six months after the building's open and then you also have people up there congregating.

EMANUEL COELHO: I would actually construct them as part

of the deck. So it would be actually low level, wood frame, lined with rubber planters, irrigation system. And, again, you're correct, you do need to access them so you need to create --

JANET GREEN: You're gonna get weeds there even though you're that high.

EMANUEL COELHO: Right. You have to access them.

CONSTANTINE ALEXANDER: You don't want a drone going over and watering the plants.

SCOTT CAMERON: That's a good idea.

CONSTANTINE ALEXANDER: Sean, you have any thoughts?

SEAN O'GRADY: Either plans or there are rules that are developed for green roofs that allow limited decks. Either maybe buy into the rules or get new plans so I don't have arguments later about "What's a planter?" "What's not a planter?" "How close to the wall can I get?" And "Is that standing area?" "Can people congregate there?" I don't want to get into that.

CONSTANTINE ALEXANDER: That means we continue the

case tonight as a case heard, we have to get the same five members back.

SEAN O'GRADY: Yeah.

CONSTANTINE ALEXANDER: I mean, that's just a statement of fact.

JANET GREEN: And they're existing, existing regulations for having a green roof?

SEAN O'GRADY: Yes.

JANET GREEN: Is what you're saying? And so you would have to meet that and it would have to be in your plans.

CONSTANTINE ALEXANDER: Other members feel -- have any thoughts about this?

BRENDAN SULLIVAN: Well, we're heading in the right direction anyhow on this.

CONSTANTINE ALEXANDER: Yeah.

So you hear where we're going with this?

ATTORNEY JASON PANOS: I do. And I think the preference is to hopefully conclude tonight because the reason for that is

because we have a time constraint to rebuild.

CONSTANTINE ALEXANDER: Well, you can get back before us in, if you -- well.

ANDREA HICKEY: Or give up the deck altogether.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: Do you want to huddle?

ATTORNEY JASON PANOS: Yeah.

BRENDAN SULLIVAN: And we can go to the next case.

ATTORNEY JASON PANOS: Do you mind if we --

CONSTANTINE ALEXANDER: No, no. We'll take the next case. There's a room back there you can use --

ATTORNEY JASON PANOS: Okay.

BRENDAN SULLIVAN: Why don't you use that.

CONSTANTINE ALEXANDER: Talk privately among yourselves, come back when you're ready and we'll move on with our agenda.

(Case recessed.)

* * * * *

(8:10 p.m.)

(Sitting Members Case BZA-016450-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will now call case

No. 016450, 58 Clay Street.

Is there anyone here wishing to be heard in this matter? As you know now by watching what's going on, name and address to the stenographer, please.

PAMELA WINE: I'm Pamela Wine. My current address is 20 Soden Street.

JANET GREEN: You have to put it close to your mouth.

PAMELA WINE: How's that?

JANET GREEN: Good.

ANDREA HICKEY: Perfect.

PAMELA WINE: I'm Pamela Wine. My current address is 20 Soden Street, No. 3 in Cambridge. And this is Scott Vaughn who is the architect and that's Charles Murphy.

So I'm appealing for a Variance. I bought this house on 58 Clay Street, which is functioning as a two-family house effectively as a boarding house, and it's about 1700 square foot house. And I'm hoping to put two dormers on the top floor that would allow me to make that a habitable space for my 11-year-old daughter as she grows up, and also be

able to put a bathroom up there, and have a bathroom on the second floor as well so that potentially my aging parents can come and move in and also be a part of my daughter's life. I've lived in Cambridge for 30 years. I live in a condo. It's really too small. I'm hope to make this a space for my growing family. I've talked to five of the neighbors who all have approved, one of whom sent a letter in. It's not gonna change the footprint of the house. And in fact, it's going to make it a more appealing space for the other families of the kids in the neighborhood.

We do have a hardship. Maybe you should talk about the hardship part. I don't know if you have any other questions for me.

SCOTT VAUGHN: Good evening, Mr. Chairman, members of the Board. My name is Scott Vaughn. I'm an architect. My office is at One Midland Place here in Cambridge, and I'm representing Doctor Wine and her daughter this evening. And as she's already described, this is an application for two dormers on the roof of the existing structure. And I have an aerial photograph which was included in the package. And 58 Clay is this building which tends to be a little bit smaller than its neighbors'. Other of the adjacent neighbors have in this case a

double dormer, and many of them have single dormers on the third floors.

So it's something which is relatively typical for the neighborhood.

The specific element of hardship is like many of these two-and-a-half story buildings in Cambridge, they have a very low roof area up in the attic space. They'd like to use it for a bedroom, but it's difficult to access because currently the stairway is not at the edge, it's more sort of halfway through the roof. It comes in right underneath the eave and there's no headroom. It's only five and a half feet at the top of the stair. So on the one side they need to add that dormer. The complication is, and it's shown by this line, that the building is non-conforming. It's into the seven-and-a-half foot setback on that side. So in this side where the stair is, we're actually conforming for setback. So that dormer was held back to comply with the side yard setback requirement. Whereas, the other dormer which is on the driveway side is a full, full depth dormer so that they could get a bathroom upstairs.

The other element of the design that Doctor Wine mentioned is on the second floor. At the rear of the building there is currently a series of past additions. So it's sort of like a little set of building blocks in

the back. So the rear of the structure coming off of the top floor, the third floor attic space, does not extend to the back. The second floor comes up, but only half of that floor is currently extended back, and the request is to add a bathroom on that little piece of flat roof area. And once again, that is conforming to the side yard setback. So we're asking to add a very modest amount of additional habitable space to reorganize the building to make it a better environment.

CONSTANTINE ALEXANDER: I agree with everything you've said, but the one thing you haven't dealt with are the dormer guidelines. This is a 16-foot dormer and the guidelines say no more than 15 feet.

SCOTT VAUGHN: Actually, I've sent in a correction.

CONSTANTINE ALEXANDER: Oh, you did?

SCOTT VAUGHN: Yes.

CONSTANTINE ALEXANDER: I don't have it.

SCOTT VAUGHN: And these are shown at 15 feet.

JANET GREEN: Both of them are 15 feet?

SCOTT VAUGHN: They're both 15.

JANET GREEN: Not one 15 and one 16?

SCOTT VAUGHN: Correct. They're both 15. There was an error in the original -- in one of the drawings that showed a 15 and a 16. That was a Scribner's error. They're 15's.

CONSTANTINE ALEXANDER: When we -- if we approve, and I think we will, we tie it to plans. I want to make sure I got the right plans. Is this the corrected one?

SCOTT VAUGHN: 15 and -- my eyes are not all that great.

CONSTANTINE ALEXANDER: That's all right. Take it.

SCOTT VAUGHN: That is the older plan.

CONSTANTINE ALEXANDER: Where is the new plan?

SCOTT VAUGHN: I can give you this one.

CONSTANTINE ALEXANDER: Is it the same as this plan except for the double --

SCOTT VAUGHN: It's the same except I corrected the dimensional....

JANET GREEN: It was funny because I saw on one part of the application it did say 15 and 15.

SCOTT VAUGHN: Right.

JANET GREEN: And then when I got to the drawing, it said
15 and 16.

SCOTT VAUGHN: Right. The reason for that is I had
originally had them as 16's, and I reviewed these plans with staff at the
Building Department. And they basically said if you ask for a Variance for
a foot, they're going to send you home. Change it. So we reduced it
down to 15.

CONSTANTINE ALEXANDER: So this is it, right?

SCOTT VAUGHN: This is it.

CONSTANTINE ALEXANDER: This is mine to keep?

SCOTT VAUGHN: That is yours to keep.

I don't, I'm happy to take questions. I don't have much to add
to that.

CONSTANTINE ALEXANDER: Any questions from
members of the Board?

BRENDAN SULLIVAN: Do you have the dimensional form?
FAR ratios were missing on the --

CONSTANTINE ALEXANDER: I'll give you the file.

SCOTT VAUGHN: And the FAR ratios were another question raised by staff, and I sent in a supplemental --

CONSTANTINE ALEXANDER: My notes show that the FAR now is 0.5 in a 0.5 district and they're going to go to 0.56. So they are going to go out of compliance with FAR to a minor, in my opinion, to a minor extent.

BRENDAN SULLIVAN: Okay. So it's a 0.5 for the first five.

SEAN O'GRADY: B Zone is 0.5 for the first 5,000.

BRENDAN SULLIVAN: 5,000.

SEAN O'GRADY: 0.35 after.

BRENDAN SULLIVAN: And the lot area is only 3300 anyway. So 0.5 of that. Yeah, okay.

Okay, good.

CONSTANTINE ALEXANDER: Okay?

Any questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to

public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

I think we are in receipt of some correspondence. Let's see, one letter here. I'll see if there's anymore. Only one? Yeah.

We have a letter from Clarissa Foy, F-O-Y and Stephen, S-T-E-P-H-E-N Lory, L-O-R-Y. (Reading) I support Pamela Wine's appeal for a Variance at 58 Clay Street to build two dormers on the third floor and add on to the back of the second floor. My husband and I live next-door to 58 Clay Street and we are in support of Pamela Wine's appeal for Variance. We have met Pam and her daughter Xela, X-E-L-A, and are delighted to have them as neighbors. Our reasons for support are the following:

One, the improvement she is seeking to do will not increase the footprint of the home on the ground and the green space of the neighborhood and it will not be touched, changed in any way.

Two, there are several neighboring homes which have built

the floor dormers, and Pamela's improvements are consistent with the aesthetics and style of Clay Street. We think it will add to the architectural design of the home. She's making many improvements to this home. This house has much potential and we think her eye for design is very aesthetically pleasing.

Three, we think Pamela's house will be a lovely place for her and her daughter. We look forward to another family coming into the neighborhood.

And, four, Pamela is a longtime Cambridge resident, since 1978, with a history being a good neighbor, a tree adopter in her current neighborhood, and a reliable tax paying citizen.

Five, we have spent time with Pam and her daughter and they are a great family, interactive and supportive of the community. We look forward to seeing more of them over the years. We support Pamela's appeal for a Variance.

A very nice and supportive letter. And that's all we seem to have in the file.

Any final comments you want to make before we consider

this?

SCOTT VAUGHN: The last comment I would make is that this is conversion of the two-family to a single-family so it's a less intensive use.

CONSTANTINE ALEXANDER: Good point.

Discussion or ready for a vote?

ANDREA HICKEY: I'm ready.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay, the Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being this is an older and modestly sized structure, and that whoever occupies it with a family, needs additional living space.

That the hardship is owing to the fact that this is a -- it's a lot that's non-conforming and that -- and any relief, any modification of the structure requires zoning relief.

And that relief may be granted without substantial detriment to

the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

And that's been testified by the modest relief being sought the neighbor -- the support of the abutter and the absence of any opposition to the petition.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with a sheet of plans initialled by the Chair. Oh, prepared by Vaughn Associates, the architect. And I've initialled.

Just so you understand, I'm not sure you've been here before us, if you decide to modify the plans going forward, you have to come back. These are the final plans? You're happy with them.

SCOTT VAUGHN: Correct, these are the final plans.

CONSTANTINE ALEXANDER: All those in favor of the granting the Variance, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

* * * * *

(8:25 p.m.)

(Sitting Members Case BZA-016359-2018: Constantine Alexander,

Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: Don't keep us in suspense.

ATTORNEY JASON PANOS: We're going to eliminate the
roof deck.

CONSTANTINE ALEXANDER: Just eliminate it entirely?

ATTORNEY JASON PANOS: Yes.

CONSTANTINE ALEXANDER: No planters, no nothing.

ATTORNEY JASON PANOS: No planters, no nothing.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JASON PANOS: And just to keep things moving and get some forward momentum to the project. So we would certainly entertain that condition and accept it to the roof deck only.

CONSTANTINE ALEXANDER: Okay. Do you have anything more in your presentation?

ATTORNEY JASON PANOS: One thing I'd like to add that wasn't necessarily made clear in the record is we cannot rebuild the existing structures as is. The Building Code and the Accessibility Code and laws and rules and regulations --

CONSTANTINE ALEXANDER: No need to say that. Because what you're going to do is much better than what was there before anyway, so why would you --

ATTORNEY JASON PANOS: Exactly, exactly.

With that, unless you have any questions of me, I think we hit

all of the hardship criteria and the Special Permit criteria, that's very expressly stated in the application.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JASON PANOS: And if you have any questions of me and the architect and the project engineer and the proponent, otherwise we're --

CONSTANTINE ALEXANDER: We'll take you on your invitation. Do you have any questions you want to ask?

ANDREA HICKEY: So the roof deck aspect of your application is withdrawn?

CONSTANTINE ALEXANDER: The plan -- I'm going to indicate that the plans, if we approve, subject to the plans you submitted except that there will be no roof deck and that will be eliminated.

ATTORNEY JASON PANOS: Correct.

CONSTANTINE ALEXANDER: That's how we'll handle it.

ANDREA HICKEY: Thank you.

ATTORNEY JASON PANOS: Correct.

CONSTANTINE ALEXANDER: Okay?

ATTORNEY JASON PANOS: Otherwise the plans are as submitted.

ANDREA HICKEY: Thank you.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of a letter as you indicated from Councillor Timothy J. Toomey, Jr. (Reading) I am writing in support of this case to replace two fire destroyed buildings containing six apartment dwelling units with one structure comprising of six units which requires a Variance for zoning relief as well as a Special Permit for parking relief. The devastating fire of December 3, 2016, in the densely developed Wellington-Harrington neighborhood caused a massive amount of damage and the displacement of 150 residents. The original structure at this location has been condemned by Inspectional Services as unfit for human occupancy and has been approved by the Historical Commission for demolition. I believe that

zoning relief asked for in this case is more than reasonable, and it is important to note that they are replacing a structure. Replacement of a structure would not add any more congestion to the area, and there is a wide range of support from neighbors. I believe they're providing the property owners the opportunity to rebuild and remain in the community should be the top priority. I hope the Board moves forward with the case and allows the Special Permit and Variance.

And that's all she wrote. Close public testimony.

Do you have any final comments you want to make or ready --

ATTORNEY JASON PANOS: None.

CONSTANTINE ALEXANDER: Okay. Discussion or ready for a vote?

JANET GREEN: Ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: Okay. We have two votes: The first is a Variance to build, what you want to build, except for a roof deck.

The Chair moves we make the following findings with regard

to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. And such hardship being is that the structures that are there now are going to be virtually -- well, they have been devastated by fire and not in a condition to be rebuilt given the soil conditions. And, therefore, the only alternative to granting relief here is no residential use.

That the hardship is owing to the soil conditions, as I've indicated.

That they can't rebuild what was there before because of the sandy nature of the soil.

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

In this regard what is -- this is one more example of how we're rebuilding this section of the city that was severely fire damaged.

That the housing stock of the city will be improved by what you want to do, far superior to what was there before.

And so in all respects the property, the relief actually being sought is actually minor in nature which is surprising giving the density of this area.

So, on the basis of all of these findings, the Chair moves we grant the relief being sought, the Variance being sought on the condition that the work proceed in accordance with plans prepared by Sea Glass Architects, the first page of which has been initialled by the Chair. I don't see a date. Except that the roof deck that is shown on these plans will not -- will be eliminated from the project and that there will be no roof deck on the structure.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Turning to the Special Permit. Under our Ordinance you're required to have six parking -- on-site parking spaces, and you're only proposing three.

Although there was only one before. So we have to make various findings with regard to the Special Permit.

The Chair moves that we find that first the requirements of the Ordinance cannot be met by the project as proposed.

That traffic generated or patterns of access or egress resulting will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, it's going to reduce the congestion by getting more cars off the street than is the case now.

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

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

And that generally what is being proposed with regard to parking will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In this regard there is a recent and consistent policy of the city

to minimize on-site parking with a view toward discouraging people from having automobiles in the city. And so that you're not going to have six is consistent with the city policy and in fact is superior to what was the prior case which was only one on-site.

So on the basis of all these findings, the Board moves that we grant the Special Permit being sought subject to the same condition with regard to the plans we've approved.

All those in favor say "Aye."

(Aye.)

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

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

(8:35 p.m.)

(Sitting Members Case BZA-016468-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 016468, 19 Fayette Street.

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

Good evening.

MARTIN CAFASSO: Good evening, Mr. Chairman, members of the Board. My name is Martin Cafasso, and I'm the owner of 19 Fayette Street. I'm here tonight with my architect on this project, Mariana Ibanez.

CONSTANTINE ALEXANDER: I'm sorry, you're the architect?

THE STENOGRAPHER: Can you spell your name for me, please?

MARIANA IBANEZ: Yes. I-B-A-N-E-Z. And the office is Ibanez Kim, and the signing architect is Simon Kim, K-I-M.

MARTIN CAFASSO: So, before passing the microphone over to Mariana to explain how we got to where we are, to give you a brief overview. When Mariana and I were first conceiving this site, we were envisioning the very modern home both inside and out, two modern homes but now it's a beginning. After consultation with both Historical Commission and the neighborhood on two different occasions, and seeing

some of their concerns, we greatly modified our plans. And she'll tell you about them.

CONSTANTINE ALEXANDER: I need to interject for a second here. I'm going to vent a little bit.

What you're doing is you're taking a parking space that belongs to the neighborhood, if we grant you the curb cut, and appropriating it for the benefit of the people who are going to be where the curb cut is. That's generally not something that we look upon favor upon. The City has been discouraging parking -- on-site parking to encourage people not to have cars. Why can't you just have this side, leave the building the way it is, don't modify the architecture of the building. The person who buys that unit gets it without a parking -- on-site parking space. I mean, this is all about increasing the value of your -- of the property you're going to be selling.

MARTIN CAFASSO: No. It's actually also trying to maintain the symmetry of the building as it is now.

CONSTANTINE ALEXANDER: You don't have to change the building at all.

MARTIN CAFASSO: The alternative would be to go to the more modern design which would get us a by-right parking spot in front of the yard.

CONSTANTINE ALEXANDER: Well, I know that. That's what you held over the head of the Mid Cambridge and are holding over our head. And it's true. I don't like that. I think what you want, giving you the parking space. What I'm trying to suggest to you is why do you have to provide on-site parking?

MARTIN CAFASSO: Well, I don't think I'm holding anything over anybody's head.

CONSTANTINE ALEXANDER: I'm sorry?

MARTIN CAFASSO: I don't think I'm holding anything over anybody's head. I think I listened to people's concerns and adjusted my plans accordingly, and took what was important to the neighborhood and some important things to me and we came to a compromise.

CONSTANTINE ALEXANDER: But what was proposed to the neighborhood is, if you don't like the curb cut, this is what we're going to do, we're going to have basically parking in the front yard. I saw your

submission to Mid Cambridge.

MARTIN CAFASSO: I don't believe I held anything over anybody's head.

CONSTANTINE ALEXANDER: Those are my words, not your words. I'm sorry.

MARTIN CAFASSO: Where in the application does it imply that?

CONSTANTINE ALEXANDER: But you've presented this is we're going to have off-street parking. Give us a curb cut, because if you don't give us a curb cut, we're going to put parking on --

MARTIN CAFASSO: The Ordinance requires one spot for each unit. These are going to be 3600-foot units --

CONSTANTINE ALEXANDER: I understand that.

MARTIN CAFASSO: -- with families. They're going to need a place to put their car.

CONSTANTINE ALEXANDER: And the City has got a policy, which we just heard in the last case, of encouraging or discouraging on-site parking.

MARTIN CAFASSO: But you also just used the argument that by increasing it from one to three, and getting those cars off the street was a good thing.

CONSTANTINE ALEXANDER: That was different circumstances. Before you had five cars -- they had five dwelling units that park on the street. And these folks -- they didn't come -- they're not complying with our Ordinance. They're going to add a couple of off-site parking with no impact, no curb cut -- new curb cuts, no impact at all. Okay. No harm, no foul. You'll have a chance, Miss.

Anyway, I'm just venting. That's my trouble with what's being proposed, is I don't like the idea of taking a parking space away from the neighborhood and giving it exclusively to whoever owns this unit.

MARTIN CAFASSO: The people are going to park one place or the other, it's a zero sum game, isn't it?

CONSTANTINE ALEXANDER: I'm sorry, say it again, please?

MARTIN CAFASSO: Isn't a zero sum game, wouldn't the car be parked on the street or in the yard?

CONSTANTINE ALEXANDER: No, no. The zero sum game is that if I'm living across the street, I have the ability to park if I'm there first where your curb cut --

MARTIN CAFASSO: Almost every house on that street has off-street parking. It's very much in keeping with the neighborhood.

CONSTANTINE ALEXANDER: I'll keep my mouth shut.

MARIANA IBANEZ: Would you like me to go over the plans so everybody can see?

JANET GREEN: Just hold it close.

CONSTANTINE ALEXANDER: Sure.

MARIANA IBANEZ: I'll show the set of drawing first which is the existing condition which now has a very long concrete paved area. And these kind of, kind of shares with the property next-door the space for the, for the parking. And so this is what we originally presented to the neighbors and the Commission. We also met with the Commissioner to make sure this was in line with the Ordinance. And based on the feedback we got from the Commission and the desire to maintain certain historical features of the facade, we tried to work with the elements as

they were primarily the central entrance that maintains like side flanking green areas and the overall symmetry of the facade. This came also in line with some changes to the facade where we're preserving the entry porch. And, again, the features that the Historical Commission very much shared with us was important to maintain. Another thing that we thought was very important for the project, was to maintain the ratios between open and green space. And we're not changing the footprint of the building at all.

And on top of that we work hard to maintain the ratios of green space versus paved areas. So we're marginally improving on it, like by a one percent or two percent ratio. So by this proposal, we are not increasing paved areas. We're actually adding just a tiny bit more of green space between the two. So basically these are -- that's the evolution of that aspect.

CONSTANTINE ALEXANDER: Leave that up there for a second.

MARIANA IBANEZ: Yes, of course.

CONSTANTINE ALEXANDER: One more thing and I'm

going to shut up. This is a -- on the left, the one there, that's the way the parking is right now?

MARIANA IBANEZ: This is where it is right now, yes.

CONSTANTINE ALEXANDER: Okay. If we didn't grant you the curb cut --

MARIANA IBANEZ: Yeah.

CONSTANTINE ALEXANDER: -- and we granted a Special Permit to not have a second parking place, you could continue that. I agree, this -- this is what I meant tonight, and my words were poorly chosen, holding over our head, I agree that the middle one is not desirable. So I don't like that. But you do have the alternative of the one on the left.

MARTIN CAFASSO: That's not wide enough up there for parking.

CONSTANTINE ALEXANDER: No, you're not asking for a curb cut. We get Special Permit relief on that.

MARTIN CAFASSO: It's not wide enough to get a car there on my property. That's a shared driveway with the house next-door.

CONSTANTINE ALEXANDER: Wait a minute. I don't understand. If we grant you the relief tonight, you're going to be able to have that one?

MARTIN CAFASSO: This is what I'm trying to explain. We're okay -- we're okay to here.

CONSTANTINE ALEXANDER: I didn't see anything requesting relief on that one.

MARTIN CAFASSO: I'm not asking any relief, sir. What I'm trying to explain is the parking on this side will stop here at the bay.

CONSTANTINE ALEXANDER: Yeah.

MARTIN CAFASSO: Further up it's not wide enough for any one parking.

CONSTANTINE ALEXANDER: I understand that. But you have in your mind, and I said I was going so shut up and I will. You need to have another parking space on the lot.

MARTIN CAFASSO: I do.

CONSTANTINE ALEXANDER: And I'm saying you don't. We could grant a Special Permit to waive the requirements for the extra

parking space. Your problem is that apartment won't be sold for much money if you can't offer off-street parking. That's what this is all about. That's really what it's all about.

MARTIN CAFASSO: I believe it's about more than that.

CONSTANTINE ALEXANDER: I'm sorry?

MARTIN CAFASSO: It's about providing a home for new families to come into Cambridge and be able to safely get their kids into their house and get their groceries in.

CONSTANTINE ALEXANDER: I talked too much already. I'm not being -- dissing you. I'm just saying I don't want to beat the dead horse.

MARTIN CAFASSO: Thank you.

CONSTANTINE ALEXANDER: I understand what you're saying.

Okay, anything further in your presentation?

MARIANA IBANEZ: I'll show the other two boards just for clarification and how the plans relate to the facade. So the plans you're going to see are the same as in those two boards, but now they include

the plans and the greenery.

JANET GREEN: And then you can use the microphone.

MARIANA IBANEZ: Yes. So, again, in this case this is the existing condition with all the paved area going all the way to the back of the house. This is the one where we park the car on the front of the property. And this is the one that actually mimics this image, which is something going around the neighborhood, we can actually see in most of the properties that we can find there. And here what we added was the facades for comparison. Where here, again, we're maintaining the historical features of the property with the central entrance, with the shared porch on the hibiscus in the middle, so on and so forth. And so it was very minimal changes. So we presented this to the Commission. We got a lot of the neighbors' support. Basically this was us going back to the drawing board and working with their feedback, and yeah, this is where we're at now.

MARTIN CAFASSO: I believe we have several letters of recommendation that were in the file.

CONSTANTINE ALEXANDER: Yeah.

What you presented to the neighborhood and Mid Cambridge was two alternatives:

That one there, parking what I call the front yard. Which I agree, is a terrible idea.

Or what you want, which is below that. I'm suggesting that there's a third alternative that was never presented to anybody and that is we'll get a Special Permit from the Zoning Board not to have off-street parking for what I'm going to call the unit on the left.

MARTIN CAFASSO: We didn't find that to be a viable possibility.

CONSTANTINE ALEXANDER: Why?

MARTIN CAFASSO: That's really not --

CONSTANTINE ALEXANDER: It makes it harder to sell the property because you can't offer off-street parking. Anyway, I'm keeping my mouth shut. Okay? Thank you. I know your point of view.

MARIANA IBANEZ: I'm sorry. I'll just add this. I've been living in Cambridge for 11 years. I have very young children. My house doesn't have on-site parking. And I have to say the winter is very difficult.

I have two toddlers. And I -- the rationale since this is a family house, two-family homes, is thinking how people live these days and how we move around the city. So I think that the idea that we pursued from the beginning is, you know, how to support contemporary living and the house is trying to reflect that.

MARTIN CAFASSO: And that particular street almost every home has off-street parking.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: That's true.

CONSTANTINE ALEXANDER: Okay.

MARTIN CAFASSO: So it's not like I'm not keeping with the neighborhood.

CONSTANTINE ALEXANDER: Any comments from members of the Board?

JANET GREEN: I had a question actually. Because it has asphalt that goes all the way down one side. So basically you'll take that asphalt away and just put it on the other side. So it's not an increase in that.

MARTIN CAFASSO: It's actually a slight decrease.

MARIANA IBANEZ: It's a slight decrease. We take that area and we turn it into greenery, and then we take that paved area and put it on the --

JANET GREEN: And is that permeable space where the driveways are now? Where it's going to be?

MARTIN CAFASSO: That's something that if it was important to people, we could certainly discuss.

JANET GREEN: Yeah. I think it is important.

MARTIN CAFASSO: If permeable pavers made it more palatable to the Chair and to the Board in general, I'd be happy to explore that.

ANDREA HICKEY: What was your planned surface area to be composed of?

MARTIN CAFASSO: I didn't have one exactly. I was thinking pavers, but I wasn't necessarily thinking permeable pavers but I'm open to that.

CONSTANTINE ALEXANDER: Other comments or

questions?

ANDREA HICKEY: I don't hate the idea of a second parking space. I actually think it gets a car off the street leaving a space available for someone that might not have on-site parking. I hate the plan that you do, that has the parking across the front. I get sort of the symmetry of one car on either side, and I sort of see a benefit to the community of getting a car off the street. I don't like asphalt. Something permeable would help sway me personally. That's where I am at the moment.

CONSTANTINE ALEXANDER: George.

GEORGE BEST: Yeah, is -- as a normal rule, is it densely populated with cars? How does that look?

MARTIN CAFASSO: So I've only owned it for a little bit over a year now. I've never had a particularly difficult time parking on that street. But there are neighbors here that can speak to that better than I can.

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

Ma'am, you said you wanted to speak. Give your name and

address to the stenographer, please.

SARA MAE BERMAN: My name is Sara Mae Berman.

That's S-A-R-A M-A-E, two words. That's my first name. Berman is B-E-R-M-A-N. I live at 23 Fayette Street. It's the next building 21-23 to the 19 Fayette Street that they are talking about. I was one of a bunch of neighbors who signed a letter in support of their additional curb cut so they could have parking on the other side of the building. I would like to point out that the previous owner of the building had a handicapped space in front for himself. Now that he is no longer with us, that space is now available. So you're picking up a space on the street.

At 18 Fayette, which is across the street from this, they did take part of their front yard for two parking spaces for the two units in that house.

At 31-33, which is down the street from us, they also took part of their front yard for two parking spaces for each side of the house.

We are lucky enough to have a driveway on one side of our property. The other side of our house also has a driveway which is adjacent to their driveway.

Their first plan which had the cars parking in front of the house we thought was terrible frankly. And we are very happy to support their present plan which has a parking space, parking driveway on either side of the building.

Fayette Street was only very -- I've lived here for 60 years. Fayette Street was only really parked up with the Longfellow School was the site of the vote count when we had manual vote counts before they, you know, managed to do it by computer -- by machine. So sometimes the street gets parked up, sometimes it doesn't. It depends on what else is going on. But I did want to point out that they no longer have a handicapped space in front of the building.

CONSTANTINE ALEXANDER: Okay.

SARA MAE BERMAN: And we like the new modification they did.

Thank you very much.

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

Anyone else here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. The letters of support are in connection with the presentation to the Mid Cambridge Historical, which you've gotten that approval so I don't see any need to read those.

So I'm going to close public testimony unless you have anything further you want to add.

Ready for a vote you want a discussion?

JANET GREEN: I'm ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: Ready for a vote. Okay.

We're talking about a Special Permit here for the curb cut.

The Chair moves that we make the following findings with regard to the Special Permit for the curb cut being sought:

That the requirements of the Ordinance cannot be met without relief from this Board, a Special Permit from this Board.

The traffic generated or patterns of access or egress resulting from the curb cut will not cause congestion, hazard, or substantial change

in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of what is proposed; namely, the creation of the curb cut.

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

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

In this regard the Chair would note that this proposal has the support of the Mid Cambridge Historical Commission. It's got neighborhood support. And that what is being proposed is superior in terms of off-street parking then would be that the petitioner could do as a matter of right, in which Mid Cambridge Historical rejected and neighbors rejected. I think it's the sense of this Board that we don't like it either.

So on the basis of all of these findings, the Chair moves we grant the Special Permit for the curb cut so long as it complies with the

plans that you've submitted to Mid Cambridge, which I've initialled.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

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

* * * * *

(8:55 p.m.)

(Sitting Members Case BZA-016402-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016402, 59 Ellery Street.

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

JOAN PICKETT: Good evening. My name is Joan Pickett and I'm the owner of 59 Ellery Street. And I'm here with my architect Nancy Allison. And she'll walk us through the plans for the house.

NANCY ALLISON: Hi. My name is Nancy Allison, A-L-L-I-S-O-N. And I brought handouts of the boards if that's easier for you.

CONSTANTINE ALEXANDER: That's the same as this?

NANCY ALLISON: It's sort of a visual synopsis.

CONSTANTINE ALEXANDER: Okay.

NANCY ALLISON: But nothing is different in terms of the --

JANET GREEN: Can I have a copy?

NANCY ALLISON: Sure.

We're here for two reasons:

One is a Variance for egress stairs that exist within the setback. And I'll show you that. Joan Pickett's residence is a two level, two-family residence and she is modifying it to -- so that she can -- she lives on the first floor, and she will now live and use also a portion of the second floor, converting a portion of the second floor to a one-story -- a one-bedroom unit for rental property. And as a one bedroom, it needs a second means of egress as you know, and that is a new stair from the unit down. And that stair shown in this sketch sits within the setback.

So we are requesting a Variance for the placement of that stair. It's not on a prominent facade on the site. We've clad it similar to the cladding of the house so that it reads as part of the house and is unobtrusive as possible.

Second, item we're here for is a --

JANET GREEN: As you're talking, can you take the microphone and put it right up to your mouth?

NANCY ALLISON: Yes, absolutely.

JANET GREEN: Just because other people may want to hear.

NANCY ALLISON: Absolutley. How's that?

The second issue that I want to share with you tonight is a request for a Special Permit because of a change of windows also within the setback. So on the west side of the property we are modifying a study and a small bedroom to become a master bedroom and bathroom. That side currently has three windows on it. We are slightly modifying the three windows because of the different layout. The actual glazed area is reducing and the placement of the windows is slightly different and slightly further away from the window on the abutter's property. So we feel that it's actually an improvement.

CONSTANTINE ALEXANDER: Have you talked to the abutters who are most directly affected by the location?

JOAN PICKETT: I sent letters to all of my neighbors explaining what was happening with the property, and I had an opportunity to sit and meet with four who took me up on the offer to go over the plans in particular. The most --

CONSTANTINE ALEXANDER: I take it no one objected?

JOAN PICKETT: No one objected, and I think actually two

people --

CONSTANTINE ALEXANDER: We have some letters that I'm going to read.

JOAN PICKETT: Yes.

CONSTANTINE ALEXANDER: That's it?

NANCY ALLISON: That's the sum of it unless you have questions.

CONSTANTINE ALEXANDER: Questions from members of the Board?

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: No.

The Chair will open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of letters which I'll read into the file.

One from Arks, A-R-K-S Smith who resides at 55 Ellery Street, anyway. (Reading) I am familiar with the details of the project

planned for 59 Ellery Street, and I have no objection to the project moving forward.

Also a letter from John M. Huyburs -- no, Peter John. And Huyburs, H-U-Y-B-U-R-S. (Reading) I live at 63 Ellery Street and my residence is next to Joan Pickett's property. I am aware of her construction plans and have no objection whatsoever. The plans have my approval.

And that's it.

Any final words you want to say?

NANCY ALLISON: No.

CONSTANTINE ALEXANDER: Smart person.

Ready for a vote?

The Chair moves that -- we have two votes, one for the Variance and one for the Special Permit for the windows.

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

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

being is that there's a need for a second means of egress from the second floor given the proposed construction modification of the structure. This need would, not just for you or for anybody who occupies the property, since our state Building Code requires two means of egress.

That the hardship is owing to the nature of the lot. The size of the lot, it's an older building, and therefore adding a second means of egress by means of the external stair creates zoning -- it creates a need for zoning relief.

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

What is proposed here is modest in nature. It's not at all unusual for the City of Cambridge. And it is natural progression of the evolution of the residence. I mean, you need an external stair so you can have living accommodations on the second floor.

So on the basis of all of these findings the Chair moves we grant the Variance requested on the condition that the work proceed in accordance with these plans. And these plans being plans prepared by

New Bridge Architecture, first page of which has been initialled by the Chair. They're dated March 1, 2018.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Turning now to the Special Permit for the windows.

The Chair moves that we make the following findings:

That the requirements of the Ordinance cannot be met unless we grant the Special Permit.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, the modifications to the windows is modest in nature.

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is proposed. In this regard the Chair would note that you have spoken with

the abutters most directly affected by these new windows, and they have no objection. They don't feel their property is being in any way diminished or the enjoyment of it is being diminished by a lack of privacy from these new windows or new window locations.

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

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

So on the basis of these findings, the Chair moves that we grant the Special Permit that you're requesting on the condition, again, that the work proceed in accordance with the plans referred to with regard to the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

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(9:00 p.m.)

(Sitting Members Case BZA-016474-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016474, 2 Newell Street.

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

CHRISTOPHER OSBORNE: I'm Christopher Osborne. This is my wife Tania Maxwell. We own 2 and 3 Newell Street. This is a two family. This relates to -- I guess you've got the plans. Just building --

JANET GREEN: Just bring it closer the microphone.

CONSTANTINE ALEXANDER: We have those photos in our file, don't we?

CHRISTOPHER OSBORNE: I think so. The photo is almost -- almost feels clearer to me than the plan does. But I'm not an architect.

But at any rate, that is, that's the existing.

Okay, so this is the existing and you're going to see it right here. And we're just proposing a little additional deck which would run between the end of the existing egress.

CONSTANTINE ALEXANDER: The issue says you're going to be ten feet separation between buildings?

CHRISTOPHER OSBORNE: Exactly.

CONSTANTINE ALEXANDER: And the reason for that is I believe in our Ordinance safety. That the buildings are too close to one another. Fire, you can't get fire equipment back or the fire can spread from one structure to the other. There is all going to be on your own property in your backyard. And not really -- you're already too close, i.e., you're already within ten feet the garage.

CHRISTOPHER OSBORNE: Yeah.

CONSTANTINE ALEXANDER: So --

TANIA MAXWELL: These are a couple of letters from our two immediate abutters.

CONSTANTINE ALEXANDER: Okay.

CHRISTOPHER OSBORNE: Yeah. All the abutters, the two abutting houses have similar decks. Obviously they don't have garages.

CONSTANTINE ALEXANDER: That's right.

CHRISTOPHER OSBORNE: This was -- when we purchased this house, basically this was the arrangement we had. And this is -- I don't think substantially changes that arrangement.

CONSTANTINE ALEXANDER: I agree with you. You understand the risk.

CHRISTOPHER OSBORNE: I understand.

CONSTANTINE ALEXANDER: There is a risk about being too close to the garage. Or the garage being too close to the house.

CHRISTOPHER OSBORNE: Right.

CONSTANTINE ALEXANDER: I just wanted to make sure that was on the record.

CHRISTOPHER OSBORNE: Yeah, no, I understand that.

And our desire to have the deck is we're doing a major renovation of the interior. We have a nice yard and a garden. We're

going to be living in this unit ourselves, and we just wanted to be able to have a little platform here where we can sit, have a table, and enjoy, enjoy the deck without having to go through this whole rigamarole of going down out here and down the other way.

CONSTANTINE ALEXANDER: Okay.

CHRISTOPHER OSBORNE: I don't know how to state it any more than that.

CONSTANTINE ALEXANDER: I think it's pretty clear.

Any questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: We'll open the matter up to public testimony. Not many left. Is there anyone here wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of two letters, which you've delivered to us tonight which I'll read into the record.

One is from Peter M. Steven, S-T-E-V-E-N and Elizabeth

Segal, S-E-G-A-L. They reside in 257 Upland Road.

CHRISTOPHER OSBORNE: It's next-door because --

TANIA MAXWELL: The road splits.

CHRISTOPHER OSBORNE: Yeah, the road splits.

CONSTANTINE ALEXANDER: I live in the general area so I know exactly where you're talking about.

CHRISTOPHER OSBORNE: Oh, okay.

CONSTANTINE ALEXANDER: I'm not abutters or anywhere that close to where you are. But I know Upland Road and I certainly know Newell.

Anyway, the letter says: We are writing as abutters in support of a petition of Chris Osborne and Tania Maxwell of 4 Newell Street to extend their deck in their backyard. The usual setback requirements assume abutting backyards, but it's important to understand that there are no abutters to the rear of the property. Instead the rear of the property abuts Esten Street, E-S-T-E-N. By this logic we were granted our petition for a larger deck in 2001, and we feel that it would only be consistent for the Board to grant permission for Chris and Tania to

do the same. Our house is immediately next-door to Chris and Tania to the south. Note that Newell Street intersects Upland Road at our home making us abutters. Trees and shrubbery maintain sufficient privacy between the two properties and we have no concerns about the deck extension. I hope the Board will consider the petition favorably.

The other letter is from Katherine with a K, Canfield, C-A-N-F-I-E-L-D, who resides at 6 Newell Street. (Reading) I am writing as an abutter in support of the petition filed by Christopher Osborne and Tania Maxwell to extend their first floor deck eight feet from the back of their house at 4 Newell. Their plans are consistent with the other backyard decks and porches in this area. Our house at 6 Newell has decks off the first and second floors. A larger deck off the back of 4 Newell would not be a detriment in any way to the neighborhood or immediate neighbors like myself. I completely support Chris and Tania's plans to build a larger deck.

And that's all we have.

Anything else you want to say at this point?

CHRISTOPHER OSBORNE: No.

CONSTANTINE ALEXANDER: Forever hold your peace. I'll close public testimony.

Any discussion or ready for a vote?

JANET GREEN: Good. Ready.

CONSTANTINE ALEXANDER: Okay. The Chair proposes we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance will involve a substantial hardship. Such hardship being is that the ability to erect a sufficient deck on this property such is consistent with the abutters whether it be for you or for your successors, cannot happen unless we grant you the Variance you're seeking.

That the hardship is owing to the fact that this is an irregularly shaped lot and any modification of the decks requires zoning relief.

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

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in

accordance with two pages of plans submitted by the petitioner, both of which have been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

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(9:10 p.m.)

(Sitting Members Case BZA-016573-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, George S. Best.)

CONSTANTINE ALEXANDER: Last but not least the Chair will call case No. 016573, 116 Henry Street.

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

GEOFF PINGREE: Hi.

CONSTANTINE ALEXANDER: Hello.

GEOFF PINGREE: My name is Geoff Pingree. I'm the architect. This is my client Barbara Bryant.

BARBARA BRYANT: Hello.

GEOFF PINGREE: We're doing some work on her house. We're looking for a Special Permit and a Variance, I believe. I'm pretty sure that's right. I may have a few subtleties not quite right.

The plot line -- the plot plan shows two houses. There is a right-of-way between the two houses that's shared by the two houses. You need to know that condition.

The property line for this house lot B, which is probably what we're working on, is very close to that property line. So we want to replace and add some windows and we need a Special Permit for that. Let me just show you the scope. This is a demolition plan.

CONSTANTINE ALEXANDER: Stick with the Variance first and then get to the Special Permit.

GEOFF PINGREE: Okay.

CONSTANTINE ALEXANDER: It's more orderly that way.

GEOFF PINGREE: The Variance is for the rear of the building which we have a setback, but we are in an existing non-conforming condition for the FAR.

CONSTANTINE ALEXANDER: So any modification requires zoning relief.

GEOFF PINGREE: Exactly.

CONSTANTINE ALEXANDER: And a garden window --

GEOFF PINGREE: It's a garden window.

JANET GREEN: Can you show us -- yeah.

GEOFF PINGREE: So there it is. And you can see it in the section here. It comes out about 16, 18 inches out from the front of the house.

JANET GREEN: Oh, I see. So the garden windows means you can actually plants things in that window?

GEOFF PINGREE: Yeah, yeah. They're in containers.

BARBARA BRYANT: With pots on it.

GEOFF PINGREE: She's got an extensive garden, and she does it all from seeds which she does in her basement. So she'd like to

do some of it up on the floor where she lives.

CONSTANTINE ALEXANDER: It's not unusual to have a garden window.

GEOFF PINGREE: Yeah.

CONSTANTINE ALEXANDER: I've seen them before. Your problem is your setback issue.

GEOFF PINGREE: Well, no, the setback is an issue for that because that's on the rear elevation and we do have the right setback. The issue is the FAR.

CONSTANTINE ALEXANDER: FAR. Sorry, you're right.

GEOFF PINGREE: So, and that adds about seven square feet.

CONSTANTINE ALEXANDER: Seven square feet.

GEOFF PINGREE: But it's at a windowsill height, not a floor. We're just bursting at the seams with that seven feet.

CONSTANTINE ALEXANDER: Okay.

BARBARA BRYANT: And then there's one more window for the Variance.

GEOFF PINGREE: Yes. I'm not sure if this is for a Variance or not. All the windows here, the ones that are marked, are replacing existing windows. The old windows don't have any insulation value. We're replacing them with a similar window. We're adding one window here.

CONSTANTINE ALEXANDER: That requires a Special Permit, not a Variance.

GEOFF PINGREE: That's a Special Permit. So this is the Special Permit portion of the demonstration here.

CONSTANTINE ALEXANDER: Right. Adding windows in a setback where you're not complying with the setback requirements under our Ordinance says you need a Special Permit, not a Variance. A Special Permit is much easier standard to satisfy.

BARBARA BRYANT: I see.

CONSTANTINE ALEXANDER: And we granted it already a couple of Special Permits tonight for windows in a setback.

BARBARA BRYANT: Okay.

GEOFF PINGREE: That's the extent of the work. So they're

doing some more work on the house and they wanted to get this thing resolved so they could move forward with their plans which are on the interior for zoning.

CONSTANTINE ALEXANDER: Members of the Board have any questions?

JANET GREEN: No questions.

CONSTANTINE ALEXANDER: Okay, I'll open the matter for public testimony.

Is there anyone should be heard?

BRAD HARKAVY: I happen to live on the other side --

CONSTANTINE ALEXANDER: You've got to come up here and give your name and address to the stenographer, please.

BRAD HARKAVY: I'm Brad Harkavy. I live on the other side of the right-of-way. So we're in 120 and 122 Henry Street. And we're totally in support of anything that Barb does, particularly these windows. That's great for the neighborhood and she's an awesome neighbor.

THE STENOGRAPHER: Spell your last name, please.

BRAD HARKAVY: H-A-R-K-A-V-Y.

CONSTANTINE ALEXANDER: Thank you for coming down.

Very supportive neighbor.

Anyone else?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: No. I'm
a member of the household. I'm in support.

GEOFF PINGREE: We're all in support.

CONSTANTINE ALEXANDER: I don't think we have
anything in our files in writing from anybody.

GEOFF PINGREE: I don't think you do. We were going
to -- my clients are very --

CONSTANTINE ALEXANDER: Did you talk to your
neighbors? Particularly the ones that will be affected?

BARBARA BRYANT: Yeah, we had the sign posted and
we've been outside a lot, and people came by and asked about the sign.
And said that if they wanted us to have them write a letter they would.
But then I didn't ask for their name and contact info.

CONSTANTINE ALEXANDER: I'm glad you told us that.
Because the sign posting, people don't seem to realize, it's an important

thing.

BARBARA BRYANT: Yeah.

CONSTANTINE ALEXANDER: And we're very strict about it.

If you don't post the sign for the 14 days, we don't hear the case. We want to make sure the citizens of the city have an opportunity to learn about relief being sought. So I'm glad you told me that.

Ready for a vote?

JANET GREEN: I think so.

CONSTANTINE ALEXANDER: Okay. We have two votes.

One, again, for the Variance and one for the Special Permit.

JANET GREEN: I've never voted for seven square feet before.

CONSTANTINE ALEXANDER: The Chair moves we make the following findings with regard to the Variance being sought for the garden window:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that given the location of the structure and that the FAR of the structure, that any

modification, increased space, in this case, seven feet, requires zoning relief. This would apply not only for you or anybody else that occupies the property. I say that because if it's only for you, we're not supposed to grant the Variance. It's got to run with the property.

The hardship is owing to the fact that this is already a non-conforming structure, and therefore an addition of FAR requires zoning relief.

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

So the Board moves -- the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans that are two pages, prepared by Geoff Pingree, and also which have been initialled by the Chair. I guess there are three pages.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted.

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

CONSTANTINE ALEXANDER: Turning to the Special

Permit, the location of the new window.

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

That the requirements of the Ordinance cannot be met without the Special Permit being sought.

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

But the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of the proposed use, which to the extent we have testimony from a neighbor to that effect.

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

The relief being sought in short is very modest in nature with regard to the window.

So the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the same plans referred to with regard to the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

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

(Whereupon, at 9:20 p.m., the

Board of Zoning Appeals Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to
Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals
transcript, note any change or correction and the reason therefor on this
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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of July, 2018.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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