

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE
GENERAL HEARING

THURSDAY, JULY 11, 2019

7:00 p.m.

In

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Slater W. Anderson

Jim Monteverde

Maria Pacheco, Zoning Secretary

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3 (7:17 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,
5 Jim Monteverde, and Slater W. Anderson

6 CONSTANTINE ALEXANDER: The Chair will call this
7 meeting of the Board of Zoning Appeals to order. As is our
8 custom, we'll start with continued cases. These are cases
9 that started at an earlier date, but for one reason or
10 another needed to be continued. And we only have one
11 continued case, and it's going to be continuing this again,
12 as we know.

13 Before I start, let me read the statement. I'll
14 read it again when the regular meeting starts.

15 After notifying the Chair, any person may make a
16 video or audio recording of our open sessions, or may
17 transmit the meeting through any media, subject to recent
18 requirements that the Chair may impose as to the number,
19 placement and operation of equipment used, so as not to
20 interfere with the conduct of the meeting.

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

1 being made.

2 And I wish to advise today the recording is being made
3 by our stenographer who can assist her with the transcript
4 of the meeting.

5 Jim, can you --

6 JIM MONTEVERDE and BRENDAN SULLIVAN: [Crosstalk]

7 CONSTANTINE ALEXANDER: And it looks like we may
8 have a second recording being made. Is anybody else
9 recording this meeting? Okay. With that, I will now call
10 the one and only continued case, case #017117, 117 Walden
11 Street. Sir?

12 MATT HAYES: Yeah.

13 CONSTANTINE ALEXANDER:

14 Give your name and address to the stenographer,
15 please.

16 MATT HAYES: My name is Matt Hayes. I live at 11
17 Ellsworth Ave in Cambridge, and as you mentioned, I'm going
18 to respectfully ask a continuance.

19 CONSTANTINE ALEXANDER: Well, you have a choice.

20 MATT HAYES: I know, right. Right, right.

21 CONSTANTINE ALEXANDER: You didn't modify the
22 sign, even though we directed you to. And this is the

1 second continuance. You requested the first one -- yeah.

2 MATT HAYES: I couldn't make it back to town that
3 evening, I'm sorry, sir.

4 CONSTANTINE ALEXANDER: I just want to advise you we
5 don't as a regular matter continue cases more than twice.

6 MATT HAYES: Okay.

7 CONSTANTINE ALEXANDER: So the next time around if
8 you haven't posted it and maintained the sign --

9 MATT HAYES: It will be up --

10 CONSTANTINE ALEXANDER: -- the case will be over,
11 based on our relief, based on failure to comply with our
12 ordinance.

13 MATT HAYES: Okay.

14 ANDREA HICKEY: Judge, can I also cut in here? I
15 have a conflict in this case.

16 CONSTANTINE ALEXANDER: Okay.

17 ANDREA HICKEY: So I won't be able to sit on the
18 case --

19 MARIA PACHECO: It's not heard.

20 ANDREA HICKEY: Yeah.

21 CONSTANTINE ALEXANDER: Okay.

22 ANDREA HICKEY: But I don't think I can vote on

1 the continuance itself.

2 CONSTANTINE ALEXANDER: That's fine. We don't
3 need to know the full details.

4 ANDREA HICKEY: Thank you.

5 CONSTANTINE ALEXANDER: So, with that by way of
6 background, when do you want to continue the case until?

7 MATT HAYES: Until the next available meeting.

8 CONSTANTINE ALEXANDER: Well, you've got --
9 remember you've got to have to go back and modify your sign
10 as of tomorrow.

11 MATT HAYES: Sure. I'm happy to do that tomorrow.

12 MARIA PACHECO: July 25?

13 CONSTANTINE ALEXANDER: Do we have room on the
14 agenda?

15 MARIA PACHECO: That's the same night as the
16 appeal.

17 CONSTANTINE ALEXANDER: That's right. So we'll
18 hear you twice. Your property or 117 Walden will be two
19 different separate matters. Okay.

20 MATT HAYES: Case not heard?

21 CONSTANTINE ALEXANDER: Yes.

22 BRENDAN SULLIVAN: What time are they on? What

1 time is the appeal on?

2 CONSTANTINE ALEXANDER: It's as the case.

3 BRENDAN SULLIVAN: At 7:00?

4 CONSTANTINE ALEXANDER: Thirty.

5 MARIA PACHECO: The appeal is at 7:30.

6 BRENDAN SULLIVAN: Okay. I'm just wondering does
7 it make sense to schedule this after the appeal or if it
8 makes no difference?

9 CONSTANTINE ALEXANDER: As I understand it, I have
10 to check the appeal case. If the relief he's seeking in
11 this case --

12 BRENDAN SULLIVAN: It's for the front building,
13 and the appeal is for the --

14 MATT HAYES: Rear building, right?

15 BRENDAN SULLIVAN: Okay, so.

16 MATT HAYES: I was going to ask the same question,
17 actually. Does it make more sense to do the appeal first
18 and then the windows, or --?

19 CONSTANTINE ALEXANDER: Well, we'll continue it,
20 and then we'll get to the regular agenda, we'll just --
21 we'll hear the appeal first, and then take this case up.

22 BRENDAN SULLIVAN: Okay.

1 MATT HAYES: Okay.

2 CONSTANTINE ALEXANDER: Until then.

3 MATT HAYES: Thanks.

4 CONSTANTINE ALEXANDER: Okay. The Chair moves
5 that we continue this case as a case not heard subject to
6 the following conditions: that the petitioner sign a waiver
7 of time for decision, and you did that, which we require
8 one.

9 The key one -- and maybe not the key one -- that
10 the hosting sign be maintained for the 14 days required by
11 our ordinance. You can take the sign that's up there now --

12 BRENDAN SULLIVAN: And modify it?

13 MATT HAYES: Sure.

14 CONSTANTINE ALEXANDER: Yeah, modify it with magic
15 marker.

16 MATT HAYES: Yep.

17 CONSTANTINE ALEXANDER: New date, July 25, new
18 time. Both are important, 7:00 p.m. As I said, the sign
19 needs to be maintained for the 14 days as required by our
20 ordinance.

21 MATT HAYES: Understood.

22 CONSTANTINE ALEXANDER: And the last thing, to the

1 extent that any plans that you have in our files, you wish
2 to modify them or change them, you may -- if you do --

3 MATT HAYES: Right.

4 CONSTANTINE ALEXANDER: Those modified plans must
5 be in our files, in ISD's files, no later than 5:00 p.m. on
6 the Monday before the Thursday here on the twenty-fifth of
7 July.

8 MATT HAYES: Understood.

9 CONSTANTINE ALEXANDER: All those in favor of
10 continuing the cases, please just please say, "Aye." Four
11 in favor, Andrea not participating.

12 (Alexander, Sullivan, Monteverde, Anderson)

13 MATT HAYES: Okay, great.

14 CONSTANTINE ALEXANDER: All set.

15 MATT HAYES: Thanks.

16 CONSTANTINE ALEXANDER: We have to wait until 7:30
17 until we go to our regular agenda.

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1 Number 017129, 1221 Cambridge Street. Anyone here wishing
2 to be heard on this matter? You're in luck tonight. You're
3 the first person. Usually you're --

4 ADAM BRAILLARD: Yeah. Thank you, Mr. Chairman,
5 members of the board. My name is Adam Brailard. I'm with
6 Prince Lobel Tye law firm in Boston, Massachusetts at One
7 International Place.

8 And I am here in connection with the application
9 to modify an existing facility located at 1221 Cambridge
10 Street. It's located in the Business A Zoning District.
11 The applicant, T-Mobile, is proposing to modify its existing
12 facility by replacing three panel antennas with three like-
13 kind panel antennas, and also, replacing three remote radio
14 heads, which are small 1 x 1 antennas, with three like-kind
15 remote radio heads.

16 So no additional antennas, and the antennas are
17 like in kind, or a little bit wider.

18 CONSTANTINE ALEXANDER: So essentially the visual
19 impact is unaffected; whatever is there now is going to look
20 the same should we grant you relief in the future quickly?

21 ADAM BRAILLARD: That's correct. The photos show
22 that the new antenna will -- which is the middle antenna --

1 will be a little bit wider than the existing one.

2 CONSTANTINE ALEXANDER: Yep.

3 ADAM BRAILLARD: That's it. We think that the
4 application complies with the special permit requirements
5 set forth in Section 10.43 as well as in the
6 telecommunications section, which is Section 4.32, and
7 Section 4.40, footnote 49.

8 We also feel that -- and believe that the
9 application satisfies requirements as eligible facilities'
10 application set forth in Section 6409 of the Middle Class
11 Tax Relief.

12 CONSTANTINE ALEXANDER: Okay. Questions from
13 members of the board? I'll open the matter up to public
14 testimony. Is there anyone here wishing to be heard on this
15 matter? Apparently not, and we have not received any written
16 communications. Did you go to the Planning Board, or try to
17 go to the Planning Board?

18 ADAM BRAILLARD: Well, we do have a Planning Board
19 memo.

20 CONSTANTINE ALEXANDER: Okay, because it wasn't --
21 I didn't realize it had come.

22 ADAM BRAILLARD: It came this morning.

1 CONSTANTINE ALEXANDER: Okay. I know they always
2 come at the last minute. Okay. It is from the Planning
3 Board Community Development staff.

4 Staff reviewed the application to modify the
5 existing installation by replacing existing
6 equipment, replacing antennas or similar to what
7 exists on the penthouse and north elevation, and will be
8 painted to match the existing building.

9 While there are no substantial changes proposed, there
10 is an acquired lot of existing rooftop equipment in place,
11 particularly associated with the penthouse.

12 Staff therefore offer the following suggestions to
13 improve the overall appearance of the
14 installation: 1) For the west elevation of the
15 penthouse, the proponent should be encouraged to
16 investigate opportunities to conceal the existing
17 and proposed antennas, and assigned equipment
18 within an enclosure or screen.

19 Next, the smallest mounting brackets available
20 should be utilized so that the antennas can be
21 mounted as close to the surface of the structure
22 as possible.

1 Next, the exposed cables, particularly running
2 over the parapet add visual clutter and shadow
3 lines, and therefore should be better organized
4 and concealed.

5 Next, where possible, all antennas should be the
6 same length, including existing antennas.

7 Next, roof-mounted RRUs should be set back as far
8 as possible from the principal façade.

9 And last, all exposed materials, including cable -
10 - again façade brackets, should be painted to
11 match the brick building façade, with a consistent
12 matte finish.

13

14 CONSTANTINE ALEXANDER: Your reactions to these
15 suggest amenable to the mandatory, it sounds like?

16 ADAM BRAILLARD: Sure. The only reaction I have
17 is that with respect to the consideration or encouragement
18 of concealing MED, I think what they're referring to is
19 where the equipment area is.

20 The prior decisions, the original decisions didn't
21 require concealment to that extent under the eligible
22 facilities application, and we don't feel that it's required

1 here as well.

2 None of the other antennas would be concealed, and
3 what we're trying to do is avoid a box coming out of a side
4 of a penthouse, because I don't -- just by doing these in
5 jurisdictions where that has been required, it looks like a
6 box coming out on the side of the penthouse with antennas
7 coming out of it. So that would be my --

8 CONSTANTINE ALEXANDER: So you would propose, or
9 your client would propose not to deal with that suggestion
10 or comply with that suggestion?

11 ADAM BRAILLARD: That's correct.

12 CONSTANTINE ALEXANDER: The others you would?

13 ADAM BRAILLARD: They're very --

14 CONSTANTINE ALEXANDER: It's not mandatory. It's
15 all very, "please do this," and --

16 ADAM BRAILLARD: Sure. The mounting brackets
17 certainly will do that, and we want to keep a low profile
18 anyway. The exposed cabling, the concern with concealing
19 the exposed cable for the visual and the cables that are
20 visible is that you again create a cable-tray look going up
21 and over the penthouse, or the parapet.

22 What we can do in that instance is paint. The top

1 of the parapet is a different color, white or silver. We
2 could paint that portion of the cables. That's in -- it
3 wouldn't be visible. I think that would be a good solution.

4 The antennas, with respect to their length, are
5 driven by the type of antenna and the technology, so I think
6 that where possible, that's what we're doing; we're trying
7 to keep these antennas similar in size.

8 So the other -- and, you know, the rest of the
9 suggestions are reasonable.

10 BRENDAN SULLIVAN: That's just sort of a covering
11 on the antenna, is it not? Just a covering that goes over
12 the equipment.

13 ADAM BRAILLARD: The middle one is longer, and
14 that sort of stands out. You've got the twentieth side, and
15 you've got the one on the bedroom.

16 BRENDAN SULLIVAN: Right. I guess the suggestion
17 would be that they be of similar length, some uniformity,
18 and if those are just covers, if we couldn't just take two
19 of the covers and put those on the other two. I guess
20 that's --

21 ADAM BRAILLARD: Yeah, they're not -- they're
22 manufactured to --

1 BRENDAN SULLIVAN: And I've got 150 million of
2 these things in the warehouse someplace.

3 ADAM BRAILLARD: Right. And each antenna requires
4 --

5 BRENDAN SULLIVAN: Does it have any function other
6 than just covering?

7 ADAM BRAILLARD: The actual cover is the face of
8 the antenna, not face the antenna as -- it's just
9 impervious. You know -- sorry, it's our impervious material
10 that covers the inside of the antenna.

11 But it's not any greater or any smaller than
12 what's inside it. Each manufacturer creates that as part of
13 its -- but you -- like a cover for a car.

14 BRENDAN SULLIVAN: So the cover really fits the
15 base that's mounted to the building, and you just can't take
16 one off and snap one easily?

17 ADAM BRAILLARD: Right, right.

18 ANDREA HICKEY: Is there any reason why another
19 cover couldn't go over the cover, three uniform covers over
20 the three nonuniform covers?

21 ADAM BRAILLARD: Yeah, it's a good question. The
22 reason is each -- there's different types of antennas. So

1 it would be like trying to put a Honda hatchback, you know,
2 cover a car on a Nissan hatchback car, just to be fair.

3 ANDREA HICKEY: I'm just talking about putting it
4 over, kind of like a veneer, you know?

5 ADAM BRAILLARD: Yeah. I mean, the concern is
6 that the antennas are not retro-fittable, if that's a term.
7 I mean, at least the covers. The applicant purchases them
8 from different vendors like Ericson, and the antennas come
9 as they are.

10 The only thing that the applicant has done with
11 the antennas -- with those -- you know, with these antennas,
12 is paint them to match. And even that is tricky, because
13 you have to use certain paint that is --.

14 CONSTANTINE ALEXANDER: I'm speaking for myself.
15 I think we're -- again, the dangers of micromanagement here.
16 You've had these antennas up there for years. I don't think
17 -- to me, anyway, they're not offensive. They're just going
18 to be more of the same.

19 To try to require you to do more of them, I don't
20 think it's worth the effort and the expense, to your point.
21 But that's my views.

22 I'll open the matter up to public testimony.

1 Anybody here wishing to be heard on this matter? Apparently
2 not. The only communication we've received is the one I've
3 already read, from the Community Development staff. Ready
4 for a vote?

5 ANDREA HICKEY: Ready.

6 CONSTANTINE ALEXANDER: Okay. Going to make a lot
7 -- we have to make a lot of findings, because it's a special
8 permit for the Telecom case. Let me start.

9 The Chair moves that we make the following
10 findings with regard to the relief being sought: that the
11 requirements of the ordinance cannot be met unless we grant
12 the special permit; that traffic generated or patterns in
13 access or egress resulting from what is proposed will not
14 cause congestion, hazard, or substantial change in
15 established neighborhood character.

16 And as we've heard, and as demonstrated by the
17 photo simulations, it's going to be more of the same in
18 terms of visual and external appearance. So we've lived
19 with this before, there were no complaints, no concerns by
20 the citizenry.

21 I think we can determine that this condition, or
22 this requirement is satisfied, or will be satisfied, should

1 we grant relief.

2 That the continued operation or the development of
3 adjacent uses as permitted in the ordinance will not be
4 adversely affected by the nature of what is being proposed -
5 - and again, the history of the site and the
6 telecommunications equipment up there speaks to the broadest
7 condition will be satisfied.

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

11 And generally, what is being proposed will not
12 impair the integrity of the district or adjoining district,
13 or otherwise derogate the intent and purpose of this
14 ordinance.

15 In addition, the board also finds that the
16 modification of this existing telecommunications facility at
17 the site proposed by the petitioner does not substantially
18 change the physical dimensions of the existing wireless
19 tower or base station at such facility, within the meaning
20 of Section 6409 (a) of the Middle Class Tax Relief and Job
21 Creation Act of 2012, also known as the Spectrum Act.

22 So based on these findings, the Chair moves that

1 the petitioner be granted the special permit it is seeking,
2 subject to the following conditions:

3 1) That the work proceed in accordance with the
4 plans submitted by the petitioner and initialed by the
5 Chair. And I have initialed the one piece of it.

6 2) That upon completion of the work, the physical
7 appearance and true impact of the proposed work will be
8 consistent with the photo simulations submitted by the
9 petitioner and initialed by the Chair.

10 And with regard to this, subject to all -- the
11 petitioner making modifications to corresponding to the
12 suggestions of the Community Development staff that I
13 previously read into the record.

14 But again, it's not required that you do this.
15 It's a request that you'd consider, and give good faith
16 consideration to doing that. And if you do that, you don't
17 have to. It changes the photo simulations. It will be --

18 ALAN BRAILLARD: Got it.

19 CONSTANTINE ALEXANDER: -- satisfying the
20 condition.

21 3) That the work shall at all times maintain --
22 that the petitioner shall at all times maintain the proposed

1 work, so that its physical appearance and visual impact will
2 remain consistent with the photo simulations previously
3 referred to. And again, that's subject to compliance with
4 the suggestions of the Community Development staff.

5 4) Should the petitioner cease to utilize the
6 equipment approved tonight for a continuous period of six
7 months or more, it shall promptly thereafter remove such
8 equipment and restore the building on which it is located to
9 its prior condition and appearance, to the extent reasonably
10 practical.

11 5) That the petitioner is in compliance with and
12 will continue to comply with in all respects the conditions
13 imposed by this board with regard to previous special
14 permits granted to the petitioner with regard to the site.

15 And then we have this long thing about
16 transmitting to electromagnetic waves, you're familiar with
17 it?

18 ADAM BRAILLARD: Yes.

19 CONSTANTINE ALEXANDER: And we agree that, as
20 we've done in the past, we incorporate this without taking
21 the time to read it?

22 ADAM BRAILLARD: Yes.

1 CONSTANTINE ALEXANDER: All those in favor of
2 approving say, "Aye." Five in favor, motion approved.

3 (Alexander, Sullivan, Hickey, Monteverde,
4 Anderson)

5 ADAM BRAILLARD: Great, thank you.

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2 (7:45 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Jim Monteverde, and Slater W. Anderson

5 CONSTANTINE ALEXANDER: The Chair will now call
6 Case Number 017095, 351 Pearl Street. Anyone here wishing
7 to be heard on this matter?

8 JOHN LODGE: Hi, my name is John Lodge, and I'm
9 the architect.

10 JAMIE FORDYCE: My name is Jamie Fordyce, I'm the
11 property owner at 351 Pearl.

12 JOHN LODGE: All right, so what we are coming
13 before you tonight to request is to put a roof deck that
14 goes about three and a half feet into the side yard setback.

15 CONSTANTINE ALEXANDER: If you wanted to comply
16 with the side yard setback requirements, you can build a 10
17 x 16 roof deck.

18 JOHN LODGE: Correct. I will let Jamie sort of
19 explain why we're asking for the three and a half feet.

20 CONSTANTINE ALEXANDER: Okay. I'm all ears.

21 JAMIE FORDYCE: Okay. So my family has been
22 working on this renovation project. We are going to be

1 occupying the top two floors of the property.

2 The first floor will remain as a space for a
3 tenant, and all the outdoor space associated with the
4 property will be available primarily to the tenant and not
5 my family. We have two kids, one-and-a-half and four- and-a-
6 half, and once you've had kids it's nice to have a little
7 space outdoors to --

8 CONSTANTINE ALEXANDER: You're going to get a
9 10x16 deck, and you can do that without having to come
10 before our board. What's -- because of this, why do you
11 need three more feet? I asked you --

12 JAMES FORDYCE: Sure.

13 CONSTANTINE ALEXANDER: -- because I'm sensitive
14 to the fact that you're intruding on the setback with this,
15 and that has an impact on your neighbor, who might feel it's
16 their privacy being invaded.

17 JAMES FORDYCE: We have discussed it with the
18 abutting neighbor, so --

19 CONSTANTINE ALEXANDER: We have no abutters in the
20 file.

21 JAMES FORDYCE: Okay.

22 CONSTANTINE ALEXANDER: That's all right. Let me

1 forward the conversation.

2 JAMES FORDYCE: So the side yard to which the
3 encroachment incurs is owned by a new shop. He is
4 supportive of the application. I'm sorry I don't have the
5 letter. I probably could provide that to you, if you're
6 interested in that.

7 But if you're up there and you're in the space,
8 three feet really makes a difference with respect to how it
9 feels, and --

10 CONSTANTINE ALEXANDER: Again, my concern is it
11 makes a difference with the neighbor, or maybe not current
12 neighbor --

13 JAMES FORDYCE: Sure.

14 CONSTANTINE ALEXANDER: -- but the next person who
15 is in the house, and you're no longer there, and the person
16 is using their deck that's included in the setback.

17 JOHN LODGE: One mitigating factor that I would
18 say is that their parking space is on that side, so the
19 distance between our house, or James' house and the next-
20 door house is -- I think it's over twenty feet. So it's
21 fairly -- I mean, you're fairly far away.

22 And actually, they have a similar deck on the back

1 of their house.

2 BRENDAN SULLIVAN: Which goes to the limit of
3 their roof.

4 CONSTANTINE ALEXANDER: Yeah, I've seen the
5 property.

6 BRENDAN SULLIVAN: Oh, okay.

7 CONSTANTINE ALEXANDER: I've seen that. But their
8 deck doesn't intrude into yours.

9 JOHN LODGE: Just, you know, it's sort of like-to-
10 like. I mean, definitely we're trying to go on the setback.
11 So that is a very reasonable question.

12 CONSTANTINE ALEXANDER: Comments and questions?

13 JIM MONTEVERDE: It's your property, correct?

14 JAMIE FORDYCE: Correct.

15 JIM MONTEVERDE: And you and your kids, they all
16 have access to the ground floor back yard, the outdoor space
17 that you have?

18 JAMIE FORDYCE: Through -- in fact, yes. In
19 practicality, it won't be space that we'll be able to have
20 our eyes on our kids in.

21 So we're both living -- we're both, my wife and
22 myself and my kids' bedrooms will be on the third floor, and

1 this will be the outdoor area that's available to us without
2 going through common space down to the back yard.

3 CONSTANTINE ALEXANDER: Not a cage per se, but.

4

5 JIM MONTEVERDE: Right.

6 CONSTANTINE ALEXANDER: A large playpen, put it
7 that way.

8 JIM MONTEVERDE: That's right.

9 CONSTANTINE ALEXANDER: Questions from members of
10 the board?

11 BRENDAN SULLIVAN: Not a question, but I just
12 think it really maybe serves no great, practical purpose to
13 stop it three feet short, because the building continues.

14 If it was something that were hanging out or, you
15 know, I could see it, but I think three feet over that
16 building would be more beneficial than to just stop it, and
17 it doesn't serve much purpose I don't think, leaving the
18 street view.

19 JOHN LODGE: Well, one thing I would say also is
20 that our design idea is to sort of stop it at the edge of
21 the gable. So it is -- you know, that -- which gives you
22 sort of at least -- sort of a defining boundary line.

1 And then if you look at further from the street
2 façade, from -- I mean, clearly from -- this has the biggest
3 effect on the next-door neighbor. But from the street,
4 you'll barely be able to see the corner of that sort of
5 sticking up there. So. Okay.

6 CONSTANTINE ALEXANDER: Anyone else wishes to make
7 a comment at this point? While Andrea's looking at that, is
8 there anyone here wishing to be heard on this matter? Wants
9 to speak? Apparently not. Okay.

10 ANDREA HICKEY: I'm okay.

11 CONSTANTINE ALEXANDER: I'll call public testimony
12 as there's no letters in the file, but you reported orally
13 to us, that you've spoken to the neighbor most affected, and
14 he or she, or maybe both --

15 JAMIE FORDYCE: Both.

16 CONSTANTINE ALEXANDER: -- have no objection to
17 that.

18 ANDREA HICKEY: Thank you.

19 JAMIE FORDYCE: Correct.

20 CONSTANTINE ALEXANDER: Ready for a vote? The
21 Chair moves that we make the following findings with regard
22 to the variance being sought:

1 That a literal enforcement of the provision to the
2 ordinance would involve a substantial hardship, such
3 hardship being is that in these tight quarters in a two-
4 family house with limited outdoor space, there is a need for
5 a -- some outdoor deck or some other outdoor space on the
6 building, and one of sufficient dimensions that would make
7 that deck useable or substantial -- replace it as useable,
8 as access to the back yard, which apparently, well, not
9 apparently, it will be used as well by the other occupants
10 of the building, the tenants.

11 The hardship is owing to the shape of the lot. It
12 is narrow and long, and therefore setbacks -- it's hard to
13 make any addition to the building of the nature proposed,
14 without requiring zoning relief.

15 And that relief may be granted without substantial
16 detriment to the public good, or nullifying or substantially
17 derogating intent or purpose of the ordinance.

18 So on the basis of all these findings, the Chair
19 moves that we grant the variance requested on the condition
20 that the work proceeds in accordance with the plans
21 submitted by John Lodge, Architects, dated February 24,
22 2019, the first page of which has been initialed by the

1 Chair.

2 All those in favor, please say, "Aye."

3 Five in favor, relief granted.

4 (Alexander, Sullivan, Hickey, Monteverde,

5 Anderson)

6 JAMIE FORDYCE: Thanks.

7 CONSTANTINE ALEXANDER: We have to wait until 8:00

8 to take our next case, so we've got a five-minute break.

9 [BREAK]

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2 (8:00 p.m.)

3 CONSTANTINE ALEXANDER: The Chair will now call
4 Case Number 017067, 97 Pemberton Street. Anyone here
5 wishing to be heard on this matter? You again, huh?

6 JOHN LODGE: Me again.

7 CONSTANTINE ALEXANDER: So Josh-- John from John
8 Lodge from John Lodge Architects is next, and Larry Goetz?

9 LARRY GOETZ: Larry Goetz.

10 JOHN LODGE: Sorry, go ahead.

11 LARRY GOETZ: I'm Larry Goetz, I'm the father of
12 the owner.

13 CONSTANTINE ALEXANDER: He's the what of the
14 owner?

15 LARRY GOETZ: Father of the owner. I'm
16 representing them today. They're unable to make it.

17 [Crosstalk]

18 LARRY GOETZ: We are requesting a special permit
19 to actually enlarge one window on the first floor and to
20 relocate a second window on the second floor. This
21 elevation is within the -- it's a corner lot, so this
22 elevation is within the side yard setback, one of the side

1 yard setbacks.

2 And in both instances, we were careful to bring up
3 the windows so they don't line up with the house next door,
4 which actually doesn't have -- I think it only has, like,
5 one window on that side anyways.

6 The window on the upstairs is an awning window
7 that starts with about five feet. The window on the
8 downstairs is a double window in the dining room.

9 CONSTANTINE ALEXANDER: What's behind the window
10 on the second floor?

11 JOHN LODGE: This part?

12 CONSTANTINE ALEXANDER: Yeah, what's the room that
13 that window --

14 JOHN LODGE: Oh, there's a -- it's the bathroom.
15 That's why the window's higher. And that will be obscured
16 by it so. And I can show you the other case is nothing.

17 CONSTANTINE ALEXANDER: I'm sorry?

18 JOHN LODGE: The other case is nothing.

19 CONSTANTINE ALEXANDER: All right.

20 JOHN LODGE: Yeah. So if you look right here, so
21 this is -- here's the setback, here's the window on the
22 first floor, and here's the window on the second floor.

1 CONSTANTINE ALEXANDER: And you've talked to the
2 neighbor who is across the street from --

3 JOHN LODGE: We have talked to the neighbors
4 behind, and the only other place you can see from that end
5 of the house, and they're fine with it.

6 CONSTANTINE ALEXANDER: We didn't see anything in
7 writing, but their representation -- they've told you that
8 they're happy already?

9 JOHN LODGE: Yes.

10 CONSTANTINE ALEXANDER: No objections?

11 JOHN LODGE: They're not unhappy.

12 CONSTANTINE ALEXANDER: I shouldn't -- yeah,
13 that's a better word for it, not unhappy. We have someone
14 sitting in the audience who wants to speak. Can you give us
15 one second?

16 Anyone else -- any members of the board have any
17 questions? Are you through with your presentation, first of
18 all, sir?

19 JOHN LODGE: Unless you have -- unless you need
20 more information?

21 CONSTANTINE ALEXANDER: We'll find out. I have no
22 need.

1 MONIQUE FISHER: No questions.

2 CONSTANTINE ALEXANDER: No question. We'll open
3 that up to public testimony. Ma'am, it looks like you want
4 to speak?

5 MONIQUE FISHER: Yes.

6 CONSTANTINE ALEXANDER: Just give your name, speak
7 into the mic and give your name and address to the
8 stenographer, please?

9 MONIQUE FISHER: Okay. Monique Fisher, and I'm at
10 4719 Cogswell Ave, so I'm kind of catty corner from the
11 Starks. It's my understanding there's going to be three new
12 windows, one on the second floor and then two on the first
13 floor.

14 CONSTANTINE ALEXANDER: Right, correct.

15 MONIQUE FISHER: So to me it's a privacy issue.

16 CONSTANTINE ALEXANDER: A privacy issue?

17 MONIQUE FISHER: The first floor. Already, even
18 before the house has been renovated on the second floor, you
19 can see the comings and goings, especially in the winter at
20 6:00 a.m., of the family.

21 Now, on the first floor they're going to have two
22 larger windows, and right from my dining room and kitchen I

1 can already know where they've framed out those windows,
2 because I've been seeing the progress.

3 And I'm afraid that I can look directly in there,
4 and they can look directly back, because the way our
5 townhouses are, we're elevated a little bit, so we're going
6 to be looking down into those windows. And conversely, they
7 can be looking up.

8 CONSTANTINE ALEXANDER: There are no windows there
9 now, or --

10 JOHN LODGE: There is a window there.

11 CONSTANTINE ALEXANDER: Larger?

12 JOHN LODGE: Yeah, there's a smaller window --

13 CONSTANTINE ALEXANDER: I know the second floor
14 there's a smaller window.

15 JOHN LODGE: There's a smaller window, so if you
16 look carefully you can see it. It's sort of dashed in -- I
17 should have done it in a darker dash, but --

18 CONSTANTINE ALEXANDER: Have you seen those plans?

19 MONIQUE FISHER: Yeah, I looked at them online.
20 Jess wrote us yesterday about the plan. I mean, we've been
21 watching the progress of the renovation.

22 CONSTANTINE ALEXANDER: Do you have any thoughts

1 about it, preserving or improving the privacy of the --

2 JOHN LODGE: Well, actually I corresponded with
3 Jess today, and she said that they're willing to forgo the
4 window on the second floor, if that's --

5 CONSTANTINE ALEXANDER: That's not the one at
6 issue, though, right?

7 JOHN LODGE: Right. I mean I -- the first floor
8 window -- so I mean it's sort of facing onto this little
9 road, and it's probably what, about forty feet coming out,
10 somewhere?

11 MONIQUE FISHER: 15.

12 JOHN LODGE: 15?

13 MONIQUE FISHER: Well, Pemberton Court is about
14 fifteen feet, so maybe nineteen feet, because it's not --
15 it's really not that far.

16 JOHN LODGE: So the -- from the back of their
17 house to the townhouse is not --

18 MONIQUE FISHER: Yeah, I'm right there. I'm the
19 corner unit.

20 JOHN LODGE: Okay, all right.

21 MONIQUE FISHER: It's, it --

22 JOHN LODGE: Yeah, I mean I was -- we were

1 focusing on the house right next door.

2 MONIQUE FISHER: Right, but I'm just -- I'm --
3 unfortunate because I'm kind of catty corner and I'm right
4 at that angle, and when I'm going to get up in the morning -
5 -

6 JOHN LODGE: Right.

7 MONIQUE FISHER: You know, unless there's some
8 kind of window treatments?

9 JOHN LODGE: But what I would say is that it's
10 basically in their dining room. So it's not a room where,
11 you know, it's not like you're looking at them getting
12 dressed or -- and it's -- the kitchen is sort of at the
13 other end. So it's not going to be the active side of --

14 CONSTANTINE ALEXANDER: Oh, you probably have to
15 decide is it going to be curtained or shaded, or --

16 MONIQUE FISHER: It's the first floor.

17 JOHN LODGE: The same as your garage?

18 MONIQUE FISHER: Yes, but it's a three-story
19 townhouse, and the second floor is the living space. And if
20 you look up from that window, you're going to see the
21 balcony. And that's -- and so, I can see more than you.

22 I think they didn't realize how much I can see

1 into their windows, these small windows, and how much they
2 probably can see into ours. And so, that's my concern if
3 these windows are going to be bigger and, you know, they're
4 very nice neighbors, but if someone else moves in there --,
5 you know, it's an issue.

6 BRENDAN SULLIVAN: I think a conversation between
7 the owners and this lady is probably in order.

8 CONSTANTINE ALEXANDER: Yeah, I mean, I'm sorry.
9 What I was trying to get at it is maybe there are things,
10 like I say, curtain drapes --

11 BRENDAN SULLIVAN: Yeah, I thought that --

12 CONSTANTINE ALEXANDER: -- something there that we
13 could do, shades or --

14 LARRY GOETZ: Yeah.

15 CONSTANTINE ALEXANDER: Window treatments.

16 JOHN LODGE: I think that was the basic question,
17 if you'd be willing to entertain that or something similar
18 to it, would that seem to ease your discomfort?

19 MONIQUE FISHER: Oh, a little bit, yeah. But
20 people don't always keep them down and -- you know, what I
21 think is nice, they may not think is nice. So, you know, it
22 --

1 JOHN LODGE: Yeah.

2 SLATER W. ANDERSON: Frosted glass?

3 JOHN LODGE: If you -- you know, if you're sort of
4 in communication with them anyways --

5 MONIQUE FISHER: We --

6 JOHN LODGE: It would seem like, you know, you
7 could probably work out something.

8 LARRY GOETZ: Well, we can go back to the previous
9 windows, right? They were bigger.

10 CONSTANTINE ALEXANDER: Well, but you're not going
11 to change the previous windows. This is only for relief.

12 LARRY GOETZ: Right, right. Anyways --

13 CONSTANTINE ALEXANDER: Well, I'll move to
14 continue this case, just because with the summer schedule,
15 it might be the only case heard, so all five of us would
16 have to be here for that continued case.

17 So one thing, we could grant relief -- not a
18 condition, but on the understanding that you would work out
19 with your neighbor a mutually satisfactory solution. But if
20 you can't, and the relief is granted, then the case is over.

21 ANDREA HICKEY: What about giving them some time
22 to take a look? Go in the other room and --

1 CONSTANTINE ALEXANDER: Yeah, I was going to --
2 that's the next step, right. I mean --

3 JIM MONTEVERDE: Okay.

4 CONSTANTINE ALEXANDER: We moved on to the rest of
5 our agenda. You can go next door and talk about it, and
6 maybe come up with some ideas and some suggestions, and then
7 you could come back and report that agreement, and we can
8 incorporate that in our decisions, if necessary.

9 JOHN LODGE: Okay. I could do that.

10 JIM MONTEVERDE: Can I add a thought?

11 MONIQUE FISHER: Yeah, sure.

12 JIM MONTEVERDE: If your concern is, you're from a
13 at higher elevation --

14 MONIQUE FISHER: Mm-hm.

15 JIM MONTEVERDE: -- you can see down to it --

16 MARY FLYNN: Mm-hm.

17 JIM MONTEVERDE: You know, it's either the shade
18 and some way to window treatment on the vertical part --

19 JOHN LODGE: Right.

20 JIM MONTEVERDE: -- it's either that or, you know,
21 even a brise soleil that would come out this way and
22 actually truly block your view, you would block the view, or

1 an awning or a -- I don't know how much of a -- you know, I
2 don't know what the view angle is.

3 JOHN LODGE: Well, we don't want to -- since we're
4 already in a setback there --

5 JIM MONTEVERDE: You don't want to keep intruding
6 on the setback?

7 JOHN LODGE: Yeah.

8 CONSTANTINE ALEXANDER: Well, the intrusion
9 modifies the --

10 JIM MONTEVERDE: Yeah, yeah, yeah. I'm just
11 trying to offer some suggestions.

12 LARRY GOETZ: It's a beautiful idea, actually.

13 JOHN LODGE: It's a good idea.

14 JIM MONTEVERDE: There might be a solution
15 somewhere there.

16 JOHN LODGE: Are we technically allowed to go --
17 how far off of the side of the house can we go and not have
18 that count as a FAR --

19 CONSTANTINE ALEXANDER: I think you're here
20 because --

21 JOHN LODGE: Yeah, yeah. I just don't want to --
22 I don't want to turn this into an FAR issue as well.

1 Because if I put a roof out, then I have space underneath.

2 CONSTANTINE ALEXANDER: Well, do you know whether
3 -- if you did that and that caused more FAR, would that
4 throw you over the top in terms of meeting FARs?

5 JOHN LODGE: Well, I -- since this was a special
6 permit, I didn't look carefully at that, but --

7 CONSTANTINE ALEXANDER: I'm looking at the
8 dimensional form right now.

9 JOHN LODGE: I suspect we would.

10 JIM MONTEVERDE: What if it were --

11 CONSTANTINE ALEXANDER: Yeah, you're already not
12 confirming as to FAR.

13 JOHN LODGE: If you did something like that. I
14 mean, if we actually did a brise soleil -- I'm just trying
15 to think of options.

16 LARRY GOETZ: Yeah, just if it's really --

17 JOHN LODGE: -- strictly speaking approved,
18 because it's --

19 LARRY GOETZ: No, it's open.

20 JIM MONTEVERDE: I'm just grabbing for
21 suggestions. Plant a tree, plant a shrub -- you know,
22 anything that would basically block that view from above.

1 CONSTANTINE ALEXANDER: Well, why don't we move
2 onto our next case, and you folks can go next door and talk

3 -- JIM MONTEVERDE: Okay.

4 CONSTANTINE ALEXANDER: And then come back, and
5 we'll decide. Thank you. We have to wait until 8:15 to
6 take our next case.

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1 is 5.68 feet, and the windows in question are three windows
2 on the second floor that are in a stairwell, one window on
3 the first floor that is in a stairwell; another one that's
4 in the front hall, and another one that's in a dressing
5 room. That is it. That's the only relief that we're asking
6 for this project.

7 CONSTANTINE ALEXANDER: And the purpose of -- I
8 mean, what prompted you to want to do this? What problem
9 are you trying to solve?

10 KYLE SHEFFIELD: Well, the problem is that it is -
11 - there is an existing house, and it does sit conforming on
12 most sides within the property.

13 Most of these houses on Ellsworth Avenue were
14 built all within the 1870s. They're all Italianates who
15 were commissioned by Frederick Wrench, and the hardship is
16 that they're all justified to the north side of the lot.

17 So as you can see some of the plot plans, this is
18 another one that was commissioned by Frederick Wrench. 15a
19 was actually subdivided, and a triple decker was inserted
20 along this side. The same is true for 13 and 11.

21 And as a result, over time, when the zoning
22 ordinances have changed, they effectively started to push

1 these north facades into nonconforming.

2 CONSTANTINE ALEXANDER: And I understand that, but
3 what -- put aside the zoning, what problem or issue -- why
4 are you doing this?

5 KYLE SHEFFIELD: We need to be able to get some
6 light within the stairwells. They are completely dark
7 otherwise. The floor plans, as you can see here, we have a
8 front entry hall to be able to get light as you first come
9 in, also to be able to get light as you're going down the
10 stairs into the basement that's an issue.

11 The second floor there are virtually no means of
12 natural light available to us based on the stairs, and it
13 also continues to go up to the third floor.

14 MATT HAYES: The current conditions are also just
15 a blank --

16 CONSTANTINE ALEXANDER: I'm sorry?

17 MATT HAYES: The current conditions are also just
18 a blank wall, as you're driving up Ellsworth. There's no
19 windows on that current elevation.

20 CONSTANTINE ALEXANDER: Questions from members of
21 the board? None? I'm sorry, are you all through with your
22 presentation?

1 MATT HAYES: Yes.

2 CONSTANTINE ALEXANDER: Andrea, do you --

3 ANDREA HICKEY: I'm fine. Yeah, I've seen this
4 already, so.

5 CONSTANTINE ALEXANDER: Okay. I'll open the
6 matter up to public testimony. Anyone here wishing to be
7 heard on this matter? Apparently not. We have no letters
8 or the like from the files, so after Andrea finishes -- take
9 your time -- examination, we can move to a vote, or a
10 discussion first, if there is discussion to be had.
11 Comments, or are we ready for a vote?

12 Okay. This is a special permit. So we have to
13 make a number of findings. The Chair moves that we make the
14 following findings with regard to the special permit that's
15 being sought:

16 That the requirements of the ordinance cannot be
17 met unless we grant the special permit, or grant the
18 petitioner a special permit.

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

1 In this regard, I think the proposal speaks for
2 itself. It's certainly not going to create congestion or
3 hazard or substantial change in the established neighborhood
4 character; some relatively minor change to the structure
5 that requires zoning relief, because the building is an
6 older building predating zoning, and now as the zoning laws
7 have evolved, modification on this wall requires zoning
8 relief.

9 That the continued operation or development of
10 adjacent uses, as permitted in the ordinance, by the zoning
11 ordinance will not be adversely affected by what is
12 proposed. And again, I think the facts speak for themselves
13 as to where the structure is located on the lot and the
14 impact on neighboring lots.

15 No nuisance or hazard will be created to the
16 detriment of the health, safety and/or welfare of the
17 occupant of the proposed use, or the citizens of the city,
18 and generally, what is being proposed will not impair the
19 integrity of the district or adjoining district, or
20 otherwise derogate the intent and purpose of this ordinance.

21 So on the basis of these findings, the Chair moves
22 that we grant the special permit requested on the condition

1 that the work proceeds in accordance with plans prepared by
2 LDa Architecture and Interiors, and dated May 28, 2019. All
3 those in favor, please say, "Aye."

4 Five in favor, thank you.

5 (Alexander, Sullivan, Hickey, Monteverde,
6 Anderson)

7 [Crosstalk]

8 CONSTANTINE ALEXANDER: We have to wait until 8:30
9 before you call the next case. What do you have to report?

10 JOHN LODGE: So what we have agreed on is that we
11 will put an obscuring film on the glass so it's translucent
12 but not transparent.

13 CONSTANTINE ALEXANDER: Okay.

14 LARRY GOETZ: All the owner wants is light, not to
15 be able to see in or out.

16 CONSTANTINE ALEXANDER: And that is satisfactory
17 to you?

18 MONIQUE FISHER: Yes.

19 CONSTANTINE ALEXANDER: Okay. I think we, unless
20 there's a discussion we're ready for a vote?

21 MONIQUE FISHER: Ready.

22 JOHN LODGE: Ready.

1 CONSTANTINE ALEXANDER: All right.

2 LARRY GOETZ: I bet you didn't think you were
3 going to have to work so hard.

4 CONSTANTINE ALEXANDER: We're reconvening the
5 Pemberton Street case that was -- adjourned? Not adjourned-

6 -

7 LARRY GOETZ: Interrupted.

8 CONSTANTINE ALEXANDER: Interrupted, or recessed.

9 LARRY GOETZ: Recessed.

10 CONSTANTINE ALEXANDER: So back to that case. I
11 think we're ready for a vote on the special permit. Okay.
12 The Chair moves that this board make the following findings
13 with regard to the special permit that's being sought:

14 That the requirements of the ordinance cannot be
15 met without getting the special permit you're seeking.

16 That traffic generated or patterns in access or
17 egress resulting from what is being proposed will not cause
18 congestion, hazard, or substantial change in established
19 neighborhood character. And that I think can be satisfied
20 subject to a condition we're going to impose as to the
21 windows on the first-floor level.

22 That the continued operation or development of

1 adjacent uses, as permitted in the ordinance, will not be
2 adversely affected by what is being proposed. And again,
3 the solution that has been reached with regard to the window
4 that -- the nature of the windows on the first floor will
5 allow that requirement to be satisfied.

6 That no nuisance or hazard will be created to the
7 detriment of the health, safety and/or welfare of the
8 occupant of the proposed use, or the citizens of the city,
9 and generally, what is being proposed will not impair the
10 integrity of the district or adjoining district, or
11 otherwise derogate the intent and purpose of this ordinance.

12 So on the basis of all of these findings, the
13 Chair moves that we grant the special permit requested
14 subject to the following conditions:

15 First, that the work proceeds in accordance with
16 the plans prepared by John Lodge Architects dated January
17 23, 2019, the first page of which has been initialed by the
18 Chair, and second, that the window -- the nature of the
19 windows that will be on the first floor, and the result of
20 the relief being granted will be -- how did you describe it?

21 JOHN LODGE: Translucent.

22 CONSTANTINE ALEXANDER: Translucent.

1 JOHN LODGE: But not transparent.

2 CONSTANTINE ALEXANDER: Translucent, but not

3 transparent. All those in favor, please say, "Aye."

4 Five in favor, relief granted.

5 (Alexander, Sullivan, Hickey, Monteverde,

6 Anderson)

7 CONSTANTINE ALEXANDER: Tell your son you did a

8 good job.

9 JOHN LODGE: It's my daughter.

10 CONSTANTINE ALEXANDER: Thank you for coming down.

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2 (8:29 p.m.)

3 CONSTANTINE ALEXANDER: The Chair will now call
4 Case Number 017133, 58 Garfield Street. Anyone here wishing
5 to be heard on this matter? You can go before us or you can
6 --

7 DAVID FOLEY: Yes. David Foley, F-o-l-e-y, with
8 Foley Fiore Architecture, and this is Alex Hamada, also with
9 our firm. And these are the homeowners.

10 NATHAN BEACH: We are Nathan and Becky Beach.

11 CONSTANTINE ALEXANDER: Welcome.

12 NATHAN BEACH: Two girls -- a 3-year-old and a 1-
13 year-old and a boy coming in November.

14 CONSTANTINE ALEXANDER: Oh!

15 NATHAN BEACH: We are owners of 58 Garfield Street
16 --

17 CONSTANTINE ALEXANDER: You want some relief from
18 that?

19 BECKY BEACH: Maybe.

20 NATHAN BEACH: Maybe I'll need some relief. All
21 right. So we are owners of 58 Garfield Street love the
22 neighborhood and the home.

1 CONSTANTINE ALEXANDER: It's a lovely street.

2 NATHAN BEACH: Yes, you probably know it, so we
3 are eager to raise our family there, and eager to occupy the
4 home further. So we are seeking relief to add a small
5 amount of square footage.

6 The reason -- I think if we look at the first-
7 floor plan of the existing and the proposed, what we're
8 proposing to do is -- well currently the back door to the
9 house is in the southeast corner of the house on this side,
10 sort of into the driveway and the garage.

11 So what we're proposing to do is to extend the
12 existing back line of the house to include the southwest
13 corner to allow for a back door here and a small mudroom.
14 So this --

15 CONSTANTINE ALEXANDER: The street impact is no
16 impact on the street?

17 NATHAN BEACH: No impact on the street, no. And
18 this adds 44 square feet on the first floor. So that's part
19 of what we're requesting. If we switch to the exterior
20 elevation for a moment, if we look at the existing south
21 elevation and the proposed south elevation, what we're doing
22 is extending the line of the existing gable to be

1 symmetrical about the back of the house, which then also
2 adds a small amount of square footage on the second floor
3 and a small amount of usable square footage on the third
4 floor as well above this corner that we're adding.

5 So that's the request for the main house. And
6 then if we go back to the site plan, there is an existing
7 garage that sits here. It actually sits a little further
8 back within the lot line.

9 There's a retaining wall along this backlot line,
10 and we're proposing to push the garage forward off the
11 retaining wall a little bit, but it's still within the back
12 setback.

13 We're keeping the same width of the existing
14 garage, but proposing to add a small amount of square
15 footage in the front, just to make it a little more useable
16 for --

17 CONSTANTINE ALEXANDER: SUVs --

18 NATHAN BEACH: -- cars, yeah.

19 BECKY BEACH: Maybe.

20 NATHAN BEACH: And then we're also proposing to
21 add this bike storage area on the side of the garage, which
22 technically isn't bike storage because it's taller than six

1 feet, so that's also part of the square footage.

2 CONSTANTINE ALEXANDER: In total, you're adding
3 about 300 feet to the property?

4 NATHAN BEACH: Correct.

5 CONSTANTINE ALEXANDER: Structures on the
6 property.

7 NATHAN BEACH: Yes, yes.

8 CONSTANTINE ALEXANDER: And you're now
9 nonconforming -- as to FAR you're going to be obviously, but
10 if you go 300 feet you're even more nonconforming but not --

11 NATHAN BEACH: Correct.

12 CONSTANTINE ALEXANDER: -- substantially, so I'm
13 looking through my notes. Per now, they are 0.58 in a 0.6
14 district. You can go to 0.63.

15 NATHAN BEACH: That's correct.

16 CONSTANTINE ALEXANDER: You're still not
17 dramatically in excess of the zoning requirement.

18 NATHAN BEACH: Good.

19 CONSTANTINE ALEXANDER: Questions from members of
20 the board? Inquiries? I'll open the matter up to public
21 testimony. Is anyone here wishing to be heard on this
22 matter? No?

1 We are receiving -- this is the first case that we
2 have a lot of written correspondence, all of which is
3 favorable, I should add. We have an e-mail from Liz
4 McNerney, M-c-n-e-r-n-e-y.

5
6 I live at 32 Garfield Street and have had the
7 opportunity to meet with Nathan and Becky Beach,
8 the current owners.

9 When we met, they shared the plans they have
10 developed for the house and property, including
11 the small alteration to the footprint of the home,
12 and updating/expansion/slight relocation of the
13 garage, among other items.

14 I hope that the Board of Appeals will grant them
15 the permissions they seek, they need, to complete
16 the work they have outlined.

17
18 CONSTANTINE ALEXANDER: We now -- we also have an
19 email from Tayler, T-a-y-l-e-r Milsal, M-i-l-s-a-l.

20
21 My husband, William D. Hillis, H-i-double l-i-s
22 and I are the owners of 54 Garfield Street, next

1 door to the proposed project. We have carefully
2 reviewed the application submitted by Becky and
3 Nathan Beach, and have spoken to them to learn
4 more about their plans.

5 We are writing to let you know that we fully
6 support this variance, and believe that it will be
7 a valuable improvement to the quality of our
8 neighborhood.

9
10 CONSTANTINE ALEXANDER: An e-mail from Danny
11 Hillis, and that's the husband, who I've referred, whose
12 wife made favorable comments, and he does as well. Nothing
13 more to add from that. An e-mail from Neil, N-e-i-l Mayle,
14 M-a-y-l-e.

15 NEIL MAYLE: I'm here. I'm right here.

16 CONSTANTINE ALEXANDER: Oh, you're here, huh?

17 NEIL MAYLE: Yes.

18 CONSTANTINE ALEXANDER: Do you mind if I read it,
19 or do you want to speak to it?

20 NEIL MAYLE: You can read it, and then I can speak
21 to it, that's fine.

22 CONSTANTINE ALEXANDER: I'd rather not do both;

1 why don't you speak?

2 NEIL MAYLE: Okay.

3 CONSTANTINE ALEXANDER: And then we don't need to
4 read it all, unless --

5 NEIL MAYLE: I'm Neil Mayle. I live at 64
6 Garfield. We are just to the left of their house.

7 THE REPORTER: Excuse me, could you step up to the
8 microphone?

9 CONSTANTINE ALEXANDER: Yes, thank you.

10 NEIL MAYLE: Hello. I'm Neil Mayle. I live with
11 my wife, Sara Wolfensohn at 64 Garfield Street. We're just
12 next door to the left of their house if you're facing in
13 front of their house, and --

14 THE REPORTER: And could you spell your last name
15 again?

16 NEIL MAYLE: M-a-y-l-e.

17 THE REPORTER: Thank you.

18 NEIL MAYLE: Mayle. So we live next door at 64
19 Garfield Street, and we also met with the couple and we
20 discussed their plans, and we also are supportive, and we
21 discussed with them also the fact that they'll be -- they're
22 adding windows, they're moving windows around a little bit

1 and one of the windows may face our kitchen window, so we
2 discussed how it would be nice to have some sort of
3 screening so that we all -- both have privacy.

4 But otherwise we are fully supportive and we've --
5 you know, we're comfortable with what they're doing, so.

6 CONSTANTINE ALEXANDER: Thank you for taking the
7 time to come out.

8 NEIL MAYLE: Yes. We look forward to having them
9 in the neighborhood.

10 CONSTANTINE ALEXANDER: Thank you. Anyone else
11 that wishes to be heard? I should have asked for
12 that before. No? We do have one more letter that I didn't
13 read, from Diane Sullivan, who resides at 49 Garfield
14 Street.

15
16 As a homeowner of 49 Garfield, I am in favor of
17 the variance and plans being requested by the new
18 homeowners at 58 Garfield.

19
20 CONSTANTINE ALEXANDER: So you have unanimous
21 neighborhood support. Questions from members of the board?
22 Okay. Time for a motion.

1 The Chair moves that we make the following
2 findings with regard to the relief being sought: that a
3 literal enforcement of the provisions of the ordinance would
4 involve a substantial hardship, such hardship being, is that
5 the garage needs to be increased in size, and the rear of
6 the structure, which has little impact on the neighborhood,
7 given its location in the rear, will have -- will result
8 from what was being done.

9 And the need for these changes is not peculiar to
10 the current petitioners, but to anyone who occupies the
11 structure now or in the future, that the hardship is owing
12 to the shape of the lot, which creates some difficulties in
13 terms of modifying the structure, and that relief may be
14 granted without substantial detriment to the public good, or
15 nullifying or substantially derogating the intent or purpose
16 of the ordinance.

17 So on the basis of all these findings, the Chair
18 moves that we grant the special permit requested on the
19 condition that the work proceeds in accordance with the
20 plans prepared by Foley Fiore Architecture, one of the pages
21 of which has been initialed by the Chair.

22 We couldn't find a date in your plans. The date

1 we found was different dates for different pages. I have
2 initialed one of the pages, and you know the drill, these
3 are the plans. All those in favor, please say, "Aye."

4 Five in favor, relief granted. Good luck.

5 (Alexander, Sullivan, Hickey, Monteverde,
6 Anderson)

7 DAVID FOLEY: Six minutes.

8 CONSTANTINE ALEXANDER: Take your time.

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2 (8:44 p.m.)

3 CONSTANTINE ALEXANDER: The Chair will now call
4 Case Number 017135, 161 Raymond Street, Number 3. Anyone
5 here wish to be heard on this matter?

6 BHUQESH PATEL: I'm Bhuqesh Patel from Design
7 Tank, Inc. representing Jeff Rosenblum, the client for 161
8 Raymond Street, Unit #3. It's a special permit --
9 specifically the right side of the house. They live on the
10 third-floor, triple decker. It has one window in the back
11 rear that's part of the kitchen and a second one that's part
12 of the kitchen.

13 There's also a staircase that comes down. They'd
14 like to add windows to accommodate the staircase to throw
15 more light down the staircase, basically.

16 They have two young girls in the apartment, who
17 now just came to be 7, and basically able to go down the
18 staircase to the back yard on their own. So that's the main
19 reason why they're wanting to put the windows in.

20 I originally proposed putting windows in the rear
21 façade. You can look here at the existing -- sorry, at the
22 proposed. Here's the two new windows that are being

1 proposed abutting the existing window. And again, the
2 staircase kind of goes down the structure.

3 There is an anterior view. I'll kind of quickly
4 show you what the two new windows would do for the space.
5 This is a kitchen counter. This is open to the staircase,
6 and that will throw the light down. You can also see in
7 this image there's actually two really large windows.

8 That -- so sorry -- porch doors in the back, that
9 throw a lot of light in, but it's not direct light. Because
10 originally, I proposed just adding windows to the rear
11 façade, which would require a special permit.

12 If you look at the façade, you can see the really
13 large roof here that comes out. I'm just going to show you
14 a photograph of that. That's sort of the rear decks, and
15 there's -- this is sort of very exaggerated roof line that
16 comes out of over the rear decks.

17 The combination of that, as well as the fact that
18 -- it's a little hard to see, because as far as Google Maps
19 will do, but basically there's their house there.

20 The rear yard is covered by, like, 16 clustered
21 trees that are quite a lot taller than this triple-decker,
22 which means they're quite old. So there's very little

1 direct light they're getting from the back yard, and that's
2 mainly why they persisted on adding the two to the side
3 yard. They've got support letters from both the abutters,
4 on either side of the them, as well as the two abutters
5 behind them.

6 CONSTANTINE ALEXANDER: Well, I've got one letter
7 in our file.

8 BHUPESH PATEL: Oh, it's in the electronic file.

9 CONSTANTINE ALEXANDER: Usually --

10 BHUPESH PATEL: I can --

11 CONSTANTINE ALEXANDER: Why don't you read it when
12 the time comes?

13 BHUPESH PATEL: Yeah.

14 CONSTANTINE ALEXANDER: It's important what those
15 letters say.

16 BHUPESH PATEL: Yeah, essentially a signature
17 page, but basically that's what it looks like.

18 [Simultaneous speech]

19 CONSTANTINE ALEXANDER: I'm sorry.

20 BHUPESH PATEL: So there's two signature pages.
21 One is for the abutters.

22 CONSTANTINE ALEXANDER: Right.

1 BHUPESH PATEL: And the other one is for the two
2 condo owners in the building.

3 CONSTANTINE ALEXANDER: Yep.

4 SLATER W. ANDERSON: Actually the stair goes, it
5 turns, is that what you're --

6 BHUPESH PATEL: It does.

7 SLATER W. ANDERSON: So that's why it's --

8 BHUPESH PATEL: It turns. They kind of
9 retrofitted the staircase, so it's not a donut. So the
10 second floor has a larger room. So it's kind of a straight
11 shot, and then three turning stairs on -- so it's a pretty
12 long, straight shot.

13 So they just have lights on for the staircase all
14 day is what they do, because the kids are going up and down.
15 And I think that's because they're interested in creating a
16 low energy building. They put solar cells on the roof and
17 so forth.

18 This was part of that report that was submitted
19 there, try to get some daylight to the staircase. That's
20 sort of why they started on the concept.

21 The existing setback requirement for the triple
22 decker is 15 feet, and clearly this is a tight lot, it's --

1 CONSTANTINE ALEXANDER: Right.

2 BHUPESH PATEL: -- 6.7 feet, and that's the
3 special permit.

4 CONSTANTINE ALEXANDER: That's why you're here.

5 BHUPESH PATEL: Yeah. That's basically it.

6 CONSTANTINE ALEXANDER: Questions from members of
7 the board? There are no questions? Anyone here wishing to
8 be heard on this matter? No? We are in receipt of some
9 written communications, which I'll read into the record. We
10 have a letter from Norman -- I'm not sure how to pronounce
11 it, Eaousd - E-a-o-u-s-d, who resides at 157 Raymond Street,
12 Unit 1.

13

14 As the owner of a condominium unit directly
15 abutting 161 Raymond Street, I'm requesting that
16 you approve the relief being sought in this case.

17 Adding two new windows on the third floor

18 will have no negative effect on any abutters.

19 The owners of 161 Raymond Street Unit 3 maintain
20 their property in good condition. For these
21 reasons, I request that you approve the relief
22 being sought.

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CONSTANTINE ALEXANDER: Then we have petitions,
one from the -- it says --

We are the owners of the property abutting 161
Raymond Street. Support and special permit
submission, Unit number 3, that pertains to the
proposed added windows on the southeast exterior
wall -- and we have reviewed the drawings as they
pertain to said windows.

CONSTANTINE ALEXANDER: And there's I think seven
or eight persons who have signed this petition. And then
the second petition,

We are the owners of 161 Raymond Street; support
the special permit submission for Unit #3 that
pertains to the proposed added windows, and we
have reviewed the drawings as they pertain to set
windows.

CONSTANTINE ALEXANDER: And there are four

1 signatures to -- signatories to this. There's the owners of
2 Unit 1 and 2. Each unit I guess must have co-owners. And
3 that's it. I will close public testimony discussion. Are
4 we ready for a vote?

5 BOARD: Ready.

6 CONSTANTINE ALEXANDER: The Chair moves that we
7 make the following findings with regard to the special
8 permit being sought: That the requirements of the ordinance
9 cannot be met unless we grant the special permit.

10 That traffic generated or patterns in access or
11 egress resulting from this relief being sought will not
12 cause congestion, hazard, or substantial change in
13 established neighborhood character, as indicated and as
14 noted by the communications we received, the relief is
15 rather modest in nature, elevated on the third floor, and
16 the building has no real impact on the neighborhood at all.

17 The continued operation or development of adjacent
18 uses, as permitted in the zoning ordinance will not be
19 adversely affected by what is being proposed, and I think
20 that speaks for itself in terms of adding two windows on
21 this structure will not affect the development of adjacent
22 uses.

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

4 And that generally, what is being proposed will
5 not impair the integrity of the district or adjoining
6 district, or otherwise derogate the intent and purpose of
7 this ordinance. So on the basis of all these findings, the
8 Chair moves that we grant the relief being sought on the
9 condition that the work proceeds in accordance with two
10 pages of plans submitted by the petitioner, both of which
11 have been initialed by the Chair. All those in favor,
12 please say, "Aye."

13 CONSTANTINE ALEXANDER: Five in favor, relief
14 granted.

15 (Alexander, Sullivan, Hickey, Monteverde,
16 Anderson)

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2 (8:58 p.m.)

3 CONSTANTINE ALEXANDER: The Chair will call Case
4 Number 017137, 77 Lakeview Avenue. Anyone here wish to be
5 heard on this matter?

6 SAM KACHMAR: I am Sam Kachmar from SKA. I'm here
7 with my associate, Axel Ramirez --

8 BOARD MEMBER: Let's hold that microphone really
9 close to you and have you talk right into it.

10 SAM KACHMAR: My name is Sam Kachmar. I'm here
11 from SKA with my associate, Axel Ramirez, and our client,
12 Weiliang Shi, and our associate, Ian Masters. We're here to
13 seek relief from the zoning ordinance in regards to Article
14 8, Section 8.22 for a property at 77 Lakeview.

15 The current house, even though it has a 0.3 FAR
16 currently, we're seeking to raise that to a 0.32 FAR, but
17 because of the zoning ordinance in regards to 1943, when you
18 can't add more than 10% of an existing structure's size,
19 there was an addition in 1970 and an addition in 2008,
20 neither of which had FAR calculations.

21 But based upon our discussions with the Zoning
22 Commission and with Sean O'Grady, we thought that this would

1 push us over to 11.27%. So we're here seeking relief for a
2 special permit in regards to that.

3 Also, we're seeking a special permit for the
4 movement of three windows along the far side that our
5 clients are seeking to actually increase the privacy with
6 their neighbors.

7 Currently, there's three windows that kind of look
8 directly across to their neighbors. They are sort of
9 seeking to break that apart, so their windows will look over
10 towards others blank walls, and the neighbors will also look
11 towards blank walls in that regard.

12 CONSTANTINE ALEXANDER: Have you spoken to the
13 neighbors about what is being proposed?

14 SAM KACHMAR: Spoken to both Bob and Kate, and to
15 -- I think it's the new neighbors over on the other side,
16 and none of them had any issues with it, although getting
17 ahold of them was a challenge, as many people have headed
18 out of the city for the summer.

19 CONSTANTINE ALEXANDER: We have no letters in our
20 file.

21 JIM MONTEVERDE: Do you have a plan view?

22 SAM KACHMAR: Oh, yes.

1 JIM MONTEVERDE: I recall correctly from the file;
2 you're basically filling in -- almost a reveal between an
3 addition and the original house?

4 SAM KACHMAR: Yeah, so this one sort of shows it.
5 So basically, you can see here there is this little notch in
6 this house. This was an addition.

7 JIM MONTEVERDE: Yep.

8 SAM KACHMAR: And so, what we're seeking to do is
9 to just unify this to the rest of the house and actually
10 clean up the roofline, which currently is kind of staggered.

11 JIM MONTEVERDE: Right. Well, that's where you
12 get the additional FAR to go over that.

13 SAM KACHMAR: Exactly. And so, it's -- this is
14 covered. Additional FAR. We're actually adding 32 square
15 feet on this floor and 32 square feet on that floor, for a
16 total of 64.2 square feet. So it's a 1.72% addition onto
17 that the house.

18 CONSTANTINE ALEXANDER: And just to -- the windows
19 in the setback?

20 SAM KACHMAR: Do you have the sheet that shows
21 that line? Great. And so, currently in their kitchen
22 there's three -- there's a bank of three windows that looks

1 across to the neighbor, and what we're seeking to do is
2 basically to shift those windows out and create two windows
3 here and then a blank wall here where the neighbor had a
4 window over this way.

5 And also, we have one window in the back yard that
6 is within that setback, but that doesn't look back to
7 anyone, that's just --

8 CONSTANTINE ALEXANDER: Have you spoken to that
9 neighbor who --

10 SAM KACHMAR: The neighbor on the other side of
11 Huron and Fairweather? I've not spoken to that neighbor.
12 There's a large screening of trees along that way. I don't
13 think anybody can see --

14 CONSTANTINE ALEXANDER: Well, maybe if they had
15 written to us, or if you're in the audience, I can assume
16 they're in support, or if not, opposed. Comments or
17 questions from anyone that's on the board? I'll open the
18 matter up to public testimony. Let's see. No one in the
19 audience, we don't have to worry about that.

20 And as I mentioned, there are no letters in our
21 files. Ready for a vote?

22 BOARD: Yes.

1 CONSTANTINE ALEXANDER: The Chair moves that we
2 make the following findings with regard to the special
3 permit being sought:

4 That a literal enforcement -- that the provisions
5 of the ordinance -- requirements of our ordinance cannot be
6 met without the special permits being sought.

7 That traffic generated or patterns in access or
8 egress resulting from the work covered by the special permit
9 will not cause congestion, hazard or substantial change in
10 established neighborhood character.

11 Basically, the impact of these modifications to
12 the structure are to the rear and side, and don't have any
13 impact on the neighborhood, and I guess witnessed by the
14 fact that there are no comments in opposition to what is
15 being -- what you desire to do.

16 That the continued operation or development of
17 adjacent uses, as permitted in the ordinance, will not be
18 adversely affected by what is being proposed, and no
19 nuisance or hazard will be created to the detriment of the
20 health, safety and/or welfare of the occupant of the
21 proposed use, or the citizens of the city.

22 And that generally, what is being proposed will

1 not impair the integrity of the district or adjoining
2 district, or otherwise derogate the intent and purpose of
3 this ordinance.

4 So on the basis of all these findings, the Chair
5 moves that we grant the special permit requested on the
6 condition that the work proceeds in accordance with plans,
7 with two sets of plans; one are construction documents and
8 the others are plans, special permit cover plans, both of
9 which are dated July 11, 2019, and both of which, the first
10 page of which has been initialed by the Chair.

11 All those in favor, please say, "Aye."

12 Five in favor, relief granted. Good luck.

13 (Alexander, Sullivan, Hickey, Monteverde,
14 Anderson)

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2 (1:54 p.m.)

3 CONSTANTINE ALEXANDER: Okay, they should call the
4 case and move on, finish up. The Chair will call Case
5 Number 017118, 90 Jackson Street. Anyone here wishing to be
6 heard on this matter?

7 ADAM COSTA: So Thank you, Mr. Chairman and
8 members of the board. I'm Adam Costa. I represent Blue
9 Maple, LLC and its manager Mark Hanlon. I've got Charles
10 Teak here with me tonight as well, who's assisting with the
11 project, and we're before you tonight with both a request
12 for a variance and request for a special permit.

13 THE REPORTER: Could you spell your name, please?

14 ADAM COSTA: Yes. It's Adam, A-d-a-m, last name
15 is Costa -- C-o-s-t-a. So as I said, we're here for both a
16 variance and a special permit.

17 CONSTANTINE ALEXANDER: Let's deal with the
18 variance first.

19 ADAM COSTA: Okay, certainly. So I'm going to
20 give you a brief overview. And then if you'd like more
21 information this is a -- I think a fascinating project, but
22 it's for the most part a by-right project that doesn't

1 really require review.

2 So I'm not going to get into all the particulars
3 of the project, the by-right aspects of the project, unless
4 you'd like more information; I'm happy to do it. But I'm
5 going to focus on the substance of the variance and the
6 special permit.

7 So the variance is to not use an at grade swing up
8 window, and stairwell grades, but to use above grade
9 railings in the setback.

10 And you have these plans in your packets, but I
11 brought a full size myself so I can just sort of point out
12 for you what we're talking about exactly.

13 The variance is really focused in three areas --
14 excuse me, five areas -- three on the north side and two on
15 the south side. So you can see from the south elevation on
16 the bottom right side we've got a location with an arrow
17 pointing to a variance here, and at this window well, a
18 second location here at that window well, and then similarly
19 the north elevation you can see we've got one, two, three
20 arrows pointing to the locations of the variances.

21 What's most unique about this, I think, is that
22 you can see immediately adjacent to three of these locations

1 we've actually got elevated entrances to doorways with
2 similar railings.

3 Those railings were allowed by right, but these
4 other railings are not, because they're within the setback.
5 So we need variances in order to place these railings in
6 those five locations as shown.

7 CONSTANTINE ALEXANDER: And the railings are for
8 safety purposes?

9 ADAM COSTA: That's correct. So I've got some
10 photos here. I'm sure that you know as well as I do the
11 differences between window wells with -- there we go -- I
12 have a couple copies of this, and I'll try to look at them
13 backwards, then show you.

14 So you can see that there is one location with the
15 egress in the window well. And the way that that would
16 typically work is somebody would, in the event of an
17 emergency, the need to utilize the egress, they would open
18 the window, they would then have to step out into the
19 opening, they'd have to raise the grate, it's on a hinge,
20 sort of hinges outward -- and then they'd have to climb the
21 interior ladder that's sort of built into the actual window
22 wells.

1 The function is not great if you're a child or
2 elderly or, or oversized or whatever the case may be. It's
3 sort of -- it's tight quarters. The idea here would be to
4 show what we've actually got and what was allowed by right
5 until recently.

6 You can see there's a photo there in the top left
7 corner I think of the 9 Donnell Street property. That's a
8 property that we sought -- my firm sought permits for. Mr.
9 Teague was involved in that one as well. That was in 2017,
10 and in 2017 we did that by right, and you can see that we
11 did it with the exact sort of railings that we're proposing
12 in this location.

13 So, you know, we believe this is a hardship
14 because of the safety issue. You can see in our paperwork
15 that we've also cited in addition to the safety aspect and
16 the improved safety associated with these railings, we've
17 also cited to the fact that this is a -- we're striving for
18 this to be a net zero project.

19 I understand, and Charlie knows it better than I
20 do, but I understand that the City Council I think in 2015
21 adopted a net zero resolution by 2022, a requirement that
22 single-family construction be net zero. That's the objective

1 of this project.

2 And there's a challenge -- we'd essentially have
3 to use a different type of window if we utilize the window
4 wells, which are less efficient, and therefore affects the
5 net zero capability of the project.

6 So in an effort to sort of strive to meet those
7 goals of the net zero resolution, as well as to provide
8 better safety, we're seeking the variance for this purpose.

9 I will say, and, you know, we can -- I understand
10 it's more of a special permit criteria than it is a variance
11 criterion, but certainly you've got that third part of the
12 test whether this is, you know, consistent with the zoning
13 scheme in the city and whether it is, you know, a
14 substantial detriment or --

15 CONSTANTINE ALEXANDER: Right.

16 ADAM COSTA: -- derogates from the purpose and
17 intent of the ordinance. And we don't think it does. You
18 know, first of all, as you saw in three of these locations,
19 the railing are immediately adjacent to other railings.
20 We're going to utilize a similar design.

21 You can see here we've actually got vertical rails
22 here, because not only are there vertical rails on the

1 doorways, but we've also got vertical siding in those
2 locations. And then where we've got horizontal siding in
3 these locations, we're using horizontal rails so they blend
4 in with the design.

5 We're improving by virtue of reconstruction of
6 this home on the site. The previous home violated setback
7 requirements. This home is going to be conforming to all
8 setback requirements, which is why it's a by right project.
9 So we're improving upon the setbacks, even though these
10 railings would encroach into that setback. We're already
11 improving upon the setbacks.

12 We've been in communication -- and I should say
13 this, because I've heard this board ask it before -- we've
14 been in communication with the neighbors. In fact, we did
15 this a couple of different ways. A number of weeks ago, we
16 sent out -- in fact, back in mid-May we sent out a letter to
17 neighbors all in the vicinity of the project, inviting them
18 to a meeting on Monday, May 27, at the NOCA coffee shop at
19 156 Rindge Avenue. Two people showed up.

20 Charlie met with them. He also invited them to
21 contact him by e-mail if they had questions -- nobody's
22 contacted him by e-mail. Charlie has had an opportunity to

1 talk to the abutters, the immediate abutters on both sides
2 of this property. They have not raised concern with this
3 proposal, either the driveway or the substance of the
4 variance.

5 CONSTANTINE ALEXANDER: I don't think we have --
6 they haven't been writing to us; last I looked, they
7 haven't.

8 ADAM COSTA: No, one of them indicated that they
9 might be here tonight. Apparently, they're not. Another
10 spoke with Charlie just earlier today, in fact, and
11 indicated that no objection -- what they have requested, not
12 necessarily as a consequence of the relief they sought, but
13 just in connection with the redevelopment is they're
14 requested fencing on both sides.

15 CONSTANTINE ALEXANDER: They requested what?

16 ADAM COSTA: Fencing on both sides, along the
17 property boundary. So the proposal is for a six-foot
18 stockade fence along the property boundary on both sides.
19 There's already a chain-link fence on one side.

20 CONSTANTINE ALEXANDER: Right.

21 ADAM COSTA: The other side has sort of a mix of
22 fences. So we're going to install a six-foot stockade

1 fence.

2 We were proposing something shorter, but that's
3 the request of the neighbors, and we're happy to accommodate
4 that. And that's going to essentially mean that they can't
5 even see what we're seeking a variance for, because there's
6 going to be a stockade fence six feet high that's obscuring
7 their view of the project generally.

8 CONSTANTINE ALEXANDER: I'm not sure how desirable
9 that would be as a neighbor to have a six-foot stockade
10 fence.

11 ADAM COSTA: They're requesting it. We weren't
12 proposing it, but that's what they've asked for, and we're
13 going to accommodate them. So you can see in our paperwork,
14 and I'm not going to read it all verbatim -- we've walked
15 through the variance criteria, and explained how we satisfy
16 them.

17 I've already talked about the hardship. I've
18 already talked about why literal enforcement of the zoning
19 ordinance would decrease that safety and affect our ability
20 to meet the net zero requirements.

21 It's possible -- you know, we were sort of
22 cautious or conservative in our request for these variances.

1 We're fairly certain that we probably need the variances
2 along the north elevation. We're not really certain we
3 necessarily need them along the south elevation. You've got
4 this sum 20 setback between the two sides of the site.
5 Previously, existing conditions with the old house, which
6 has now been demolished, was a sum 17.

7 The requested conditions are for a sum 22.7, so
8 we've got a little bit of space there. So depending upon
9 where we place these railings exactly, it's possible that we
10 may not even necessarily need the variance relief there.
11 We're going to place them as close as we can to make them
12 functional, but we would certainly need them on the north
13 side to place them in these locations.

14 So that's all I've got on the variance. I'm happy
15 to answer any questions, or I can move on to the special
16 permit if you'd like.

17 CONSTANTINE ALEXANDER: Any questions from members
18 of the board?

19 SLATER W. ANDERSON: I just have a question. You
20 mentioned about on L Street?

21 ADAM COSTA: Yes.

22 SLATER W. ANDERSON: One that was by right in

1 2017. It's not now, or what happened? Was there a change
2 in the building in the zoning, or is that --

3 ADAM COSTA: So that's my understanding. We
4 sought all proper permits for that site, and there was no
5 relief required for purposes of the installation. You can
6 see here that this recent Bellis Circle construction --

7 SLATER W. ANDERSON: Yeah.

8 ADAM COSTA: My understanding is they actually got
9 a variance from this board for purposes of installing
10 essentially something equivalent to what we're seeking to
11 install here. But we were never required to get it from the
12 Building Department when we proceeded with the Canal Street
13 property.

14 CONSTANTINE ALEXANDER: I understand that this is
15 the result of a policy adopted by the ISD, that they're
16 having a number of these cases where stairwells are being
17 expanded -- egress, and therefore railings make good sense,
18 and it's --

19 ADAM COSTA: Yeah, I can see where the basement
20 already has --

21 CONSTANTINE ALEXANDER: Yeah.

22 ADAM COSTA: -- that being related to that.

1 JIM MONTEVERDE: Can you explain the one part of
2 the description under the hardship is -- and you mentioned
3 it about the net zero and the window type and the window
4 well or the egress in the basement.

5 ADAM COSTA: Right. So my understanding is that
6 the by right design, which would not require the variance
7 and not require the railings, you'd essentially be utilizing
8 the window well, would require us to use double hung window
9 instead of casement windows, for purposes of -- the purpose
10 of the egress if you use the casement window. It wouldn't
11 function the same way.

12 I do believe that there are -- and Charlie knows
13 this better than I do, and I'll invite him to chime in if he
14 wants to say something, but my understanding is that there
15 are -- although they are difficult to get, you have to
16 purchase them from Europe and they're quite costly, hence
17 the financial hardship.

18 There are windows that swing in that could be --
19 they would be potentially as efficient from a net zero
20 perspective as the windows that we're proposing here with
21 the variance. But again, they'd be costly, and I guess it's
22 sort of difficult to get your hands on them.

1 CONSTANTINE ALEXANDER: The windows -- they also
2 wouldn't raise egress issues, if you've got to go -- it's
3 like a door that opens the wrong way?

4 JIM MONTEVERDE: I don't think there are enough
5 people. You're around 49 people, the door doesn't have to
6 open out, you can -- right? I'm assuming you could open in
7 for egress purposes?

8 ADAM COSTA: I think that's correct. I think for
9 purposes of emergency egress in the edition of the code --

10 JIM MONTEVERDE: Right.

11 ADAM COSTA: -- that you're okay, as long as you
12 don't jump into that next use category, which --

13 JIM MONTEVERDE: Right.

14 ADAM COSTA: -- 49 sounds right.

15 JIM MONTEVERDE: No.

16 ADAM COSTA: Yep. But again, based on the cost
17 and the difficulty getting those, we still believe it's --
18 you know, it's a hardship.

19 JIM MONTEVERDE: So what you're proposing to use
20 is a casement window?

21 ADAM COSTA: That's correct.

22 JIM MONTEVERDE: And it's -- what, large enough to

1 give you the egress width to be able to get out, and get out
2 in that well, and then --

3 ADAM COSTA: Right. It's -- it has to be five
4 square feet --

5 JIM MONTEVERDE: Correct.

6 ADAM COSTA: -- is the measurement under the ninth
7 edition of the code, so it's large enough to meet the
8 requirement.

9 JIM MONTEVERDE: It's large enough to comply with
10 that?

11 ADAM COSTA: Correct.

12 CONSTANTINE ALEXANDER: Comments from members of
13 the board? Any further comments, I should say.

14 CONSTANTINE ALEXANDER: Honestly, there's no one
15 in the audience?

16 ADAM COSTA: There is.

17 CONSTANTINE ALEXANDER: He has nothing to say.

18 ADAM COSTA: Oh, sorry.

19 CONSTANTINE ALEXANDER: And also, we have no
20 letters in the files. Why don't you just speak quickly to
21 the special permit?

22 ADAM COSTA: Sure. So on the opposite side of the

1 plan here, you can see the proposal we've got for the site,
2 the site, the layout plan. We've got a proposed driveway
3 here, the location of the driveway currently.

4 Well, first of all the new proposed driveway is
5 going to be substantially reduced in size as compared to the
6 existing driveway. So that's an improvement.

7 We had proposed as part of the application that we
8 submitted that we be utilizing permeable pavers for the
9 driveway. We've actually been in communication with DPW,
10 and they've requested that we install a storm water system
11 beneath the driveway in lieu of the permeable pavers.

12 They raised some concerns about long-term
13 maintenance in a residential context of these permeable
14 pavers. So we're going to replace that with a system and
15 use permeable pavers elsewhere on the site. So we're
16 significantly increasing the permeability of the site
17 overall, as compared to the previously existing condition.

18 We'd like to relocate the driveway, or I should
19 say shift the driveway. And you can see in the top plan
20 here, we've got an area marked as 313 square feet for a
21 special permit.

22 This is a location within the five-foot setback

1 where we'd be shifting the entire driveway.

2 The purpose of that is we require a 22-foot drive
3 aisle for backing out of the garage spaces, for purposes of
4 backing out, and then doing sort of that swing into the
5 driveway to get out to the roadway.

6 We have a by-right option here, and we're allowed
7 to have a by-right option in the special permit context, we
8 don't need to establish a hardship.

9 We have a by-right option where we could actually
10 install garage doors, not only on the front of the garage,
11 but on the rear of the garage, and allow the vehicles to
12 actually pull through a bit, because they can pull up to
13 five feet from the boundary, and therefore everything could
14 be shifted and be fully compliant.

15 That's not ideal, garage doors on both sides. It
16 also offers some improvement by shifting the driveway.
17 First of all, we're reducing the curb but, based upon
18 existing conditions. It's currently a very wide curb cut
19 for a driveway that is not as wide as the curb cut.

20 We're improving the orientation of the driveway as
21 compared to the adjacent properties, or at least the
22 property across the street currently. It's more or less

1 opposite, and we're going to stagger them a bit by virtue of
2 moving the driveway to this location. So that reduces the
3 potential for conflicts.

4 There's no conflict with adjacent properties. You
5 can see you've got them a good distance away on the other
6 side of the house here, and similarly the driveway comes out
7 onto the cross street on the property on the opportunity
8 side. There's no egress onto Jackson. So there's no
9 conflicts with either of the adjacent properties by virtue
10 of shifting the driveway.

11 And again, because we've been in consultation with
12 the neighbor next door and they've requested that six-foot
13 tall stockade fence, they've got no issue with the location
14 of the driveway; they don't care how close it is to the
15 boundary, because they're not going to see it.

16 CONSTANTINE ALEXANDER: Okay. Comments from
17 members of the board? I'm going to talk about -- mention
18 that we have no one in the audience to speak to this, and we
19 have no letters in our file. So, ready for votes? I'll
20 start with the variance. The Chair moves that we make the
21 following findings with regard to the variance being sought:

22 That a literal enforcement of the provisions of

1 the ordinance would involve a substantial hardship. The
2 hardship is to the petitioner.

3 The hardship is these railings are desirable for
4 safety purposes, for egress on these basement windows, and
5 this hardship runs with the property, whether you or whoever
6 owns the property needs a railing of this sort, and also if
7 necessary, to deal with -- Zero was it, Nine Zero?

8 ADAM COSTA: Net Zero.

9 CONSTANTINE ALEXANDER: Yep.

10 ADAM COSTA: Net Zero. I knew it was net zero.

11 CONSTANTINE ALEXANDER: That the hardship is owing
12 to the -- again, the shape of the lot, and just generally
13 the shape of the lot, and the nature of the configuration of
14 the structure to be built on the lot.

15 And that relief may be granted without substantial
16 detriment to the public good, or nullifying or substantially
17 derogating intent or purpose of the ordinance.

18 So on the basis of all these findings, the Chair
19 moves that we grant the variance requested, on the condition
20 that the work proceeds in accordance with the plans prepared
21 by Blue Maple LLC, dated July 8, 2019, the first page of
22 which has been initialed by the Chair. All those in favor,

1 please say, "Aye."

2 Five in favor for the variance.

3 (Alexander, Sullivan, Hickey, Monteverde,
4 Anderson)

5 Turning to the special permit, the Chair moves
6 that we make the following findings -- this is regarding the
7 driveway within a five-foot setback required by our
8 ordinance -- that the requirements of the ordinance cannot
9 be met unless we grant the special permit.

10 That traffic generated or patterns in access or
11 egress resulting will not cause congestion, hazard, or
12 substantial change in established neighborhood character.
13 The impact of this driveway being too close to the lot and
14 to the lot line is minimal, and has been minimally mitigated
15 by a six-foot-high stockade fence, which the petitioner is
16 proposing to erect and maintain.

17 That the continued operation or development of
18 adjacent uses, as permitted in the ordinance, will not be
19 adversely affected by what is proposed.

20 And again, that's the impact of the stockade
21 fence. It minimizes the adverse impact, if any, resulting
22 from the driveway being too close to the lot line, and no

1 nuisance or hazard will be created to the detriment of the
2 health, safety and/or welfare of the occupant of the
3 proposed use, or the citizens of the city.

4 And generally, what is being proposed will not
5 impair the integrity of the district or adjoining district,
6 or otherwise derogate the intent and purpose of the
7 ordinance.

8 So on the basis of all these findings, the Chair
9 moves that we grant the special permit requested; again, on
10 the condition that the work proceed in accordance with the
11 plans referred to with regard to the variance we just
12 granted. All those in favor, please say, "Aye."

13 Five in favor, good luck.

14 (Alexander, Sullivan, Hickey, Monteverde,
15 Anderson)

16 ADAM COSTA: Thank you very much.

17 (End of proceedings.)

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Page Line 'Change From' 'Change To' Reason for change

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 proceedings.

Date

CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this _____ day of _____, 2019.

Notary Public

My commission expires:

August 6, 2021