

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, SEPTEMBER 27, 2018

7:25 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Slater W. Anderson, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:25 p.m.)

(Sitting Members Case No. BZA-016852-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. Let me at the outset read a statement.

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to advise that actually two recordings are being made. A citizen of the city is recording. He has his tape recorder right there. And our stenographer records the meeting as well to assist her when she prepares the minutes of our meeting.

Is there anyone else here planning or will be recording this

meeting?

(No Response.)

CONSTANTINE ALEXANDER: Guess not. Okay. Before I call the first case, as you know from standing out in the hall, we've had an Executive Session with the city -- with counsel for the city. And at that session we took a vote to approve the minutes of that meeting.

With that I'm now going to go to the continued case agenda.

(7:25 p.m.)

(Sitting Members Case No. BZA-016964-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The first case I'm going to call is case No. 016964, 330 Mount Auburn Street.

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

Name and address to the stenographer and let me make a statement.

ATTORNEY GEORGE HALL: Good evening, Mr. Chairman. My name is George Hall. I'm a partner at the law firm Anderson and Krieger, 50 Milk Street in Boston. And with me is Ryan Lynch from

Smartlink and we are here on behalf of New Cingular Wireless PCS.

CONSTANTINE ALEXANDER: Sir, we are not going to hear the case tonight because you did not have a sign posted. I checked, Mr. O'Grady checked, and the sign has to be on the lawn given where the location of the hospital. And we have no -- two different times no indication of any sign being posted.

RYAN LYNCH: So I did go on Wednesday, September 12th and I posted all four signs; two on the front street and then two on the back side on the fence based on the Memorial Drive side. I did drive by on Thursday, September 20th. All of them were up except for one that had fallen down I'm assuming because of bad weather. So I did put that one back up. I can't explain as to why they haven't been up for the last week or so. I'm assuming it was a communication error with the department of engineering that I've been in contact with. You know, there's a lot of people going in and out of that hospital. So I'm assuming that there was just a communication error there. This is the second time we've tried to be heard by the Board. It's just a, you know, we haven't been able to have the landlord keep the signs up for us. We'd like to be

able to be heard if that's a possibility.

CONSTANTINE ALEXANDER: The only thing that puzzles me at the Mount Auburn Hospital, and the signs get put up and they stay up. I never -- this is two different days.

SEAN O'GRADY: Three, three, Gus.

CONSTANTINE ALEXANDER: Three?

SEAN O'GRADY: Three. I was out there twice.

CONSTANTINE ALEXANDER: Two different days, and that was the third day.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: I don't know what to say. And we talked to you about this, about maybe going every other day to check the sign, for the -- during the 14-day period. But these number of days without a sign, I am troubled about hearing the case.

So, what other -- how would other members of the Board feel?

(No Response.)

CONSTANTINE ALEXANDER: I'll take that as a strong feelings. I'm going to ask this case be continued further. I'm sorry to

bring you down here, but you've got to, you've got to be sure that the sign is posted. It's in the Zoning Ordinance and it's important to us and it's important to the city.

BRENDAN SULLIVAN: There has to be somebody at Mount Auburn who is in charge of the grounds. And it behooves Mount Auburn Hospital because they're getting a monthly check for this thing, so, you know, and probably a very good check. So that it behooves them in their interest to protect this and the person on the grounds, so everybody's got an interest in this thing and, you know, they have to do it.

CONSTANTINE ALEXANDER: When can we continue the case to?

SEAN O'GRADY: October 11th.

CONSTANTINE ALEXANDER: Okay. That gives you enough time to get the sign up -- new sign or modified sign.

ATTORNEY GEORGE HALL: October?

SEAN O'GRADY: It's two weeks. So the sign has to be up tomorrow.

CONSTANTINE ALEXANDER: Tomorrow. Can you get

them up tomorrow?

JANET GREEN: I'm not here.

ANDREA HICKEY: It's not heard.

CONSTANTINE ALEXANDER: Maybe we should take the pressure off a little bit. How about two weeks after -- what's the two weeks after that, the 25th?

SEAN O'GRADY: The 25th, yeah.

ANDREA HICKEY: Or maybe give him the option. I mean, if he wants the earlier date if he can get the signs up.

CONSTANTINE ALEXANDER: Do you think you can get the sign up, the modified sign?

RYAN LYNCH: I think the 25th might actually be better. I don't know I can get down there tomorrow, to be honest with you.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard until seven p.m., which is tonight, on October 25th subject to the following conditions:

That you sign a waiver of time for a decision. You've already

done that.

That the sign be posted reflecting the new date, October 25th, and the new time. Sometimes people don't change the time and then we have problems. And make sure new time --

JOHN HAWKINSON: It's already seven.

CONSTANTINE ALEXANDER: I'm sorry?

JOHN HAWKINSON: It's already seven.

CONSTANTINE ALEXANDER: Already seven?

JOHN HAWKINSON: The old time is seven because of tonight.

CONSTANTINE ALEXANDER: Okay.

So the sign be posted and maintained for the 14 days as required by our Ordinance.

And lastly, to the extent that you change your plans or photo simulations, they must be in our file no later than five p.m. on the Monday before the 25th.

On that subject, some of the photo simulations we've been seeing from you are not acceptable. I mean, the 1815 Mass. Ave., the

photo simulations, unless I'm missing something, they're not there.

They're just a photo of --

SEAN O'GRADY: They're a different petitioner.

CONSTANTINE ALEXANDER: I thought it was the same one.

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: I'm sorry, you're right.

SEAN O'GRADY: We have so many cases going right now.

CONSTANTINE ALEXANDER: No, but some of these photo simulations on the regular agenda which you're responsible for.

RYAN LYNCH: Yes. We do have -- they were in the application file and I do have larger copies for everybody tonight of the same exact thing.

CONSTANTINE ALEXANDER: Okay. We'll wait until we get to the case. They're barely visible the ones in our file, that's all.

RYAN LYNCH: Okay, understood.

CONSTANTINE ALEXANDER: Okay. We're going to continue this case until October 25th. Sorry.

All those in favor of continuing the case on this basis say

"Aye."

(Aye.)

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

CONSTANTINE ALEXANDER: Case continued. Thank
you.

* * * * *

(7:30 p.m.)

(Sitting Members Case No. BZA-016894-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016894, 1815 Mass. Avenue.

Sir.

ATTORNEY SIMON BRIGHENTI: I'm attorney Simon Brighenti with Centerline Communications, LLC, working with Sprint in this matter. And this is the continuation from a previous hearing where we were told that the signs were not posted. It turns out that they were posted but just like on the last case, they were taken down. We're not sure why that is. So what we did here was we put up new signs, and I can submit this if possible, we put up new signs. On the posting day, I had attorney --

CONSTANTINE ALEXANDER: I can tell you I checked and the signs are posted, so don't worry about it.

ATTORNEY SIMON BRIGHENTI: Well, I wanted to enter this into the Board because of how this is going to play out. So I'd like to enter that if I could showing that Heather Hoffman went every other day, took some pictures for us, she has her originals with the time stamp if necessary, but that is what we've got there.

The second issue that I wanted to address was the photo simulations which I, again, this application was filed electronically on June 28th of this year. The final document -- there was one -- we were told there was one item that was needed, which was the executed notarized landlord authorization mainly because of the fact that it's a college and there were some other issues that went out and we didn't get that in until August 2nd. So the hard copy's been in -- the original hard copies were delivered on July 2nd. August 2nd was the date that we were able to deliver to Inspectional Services hard copies of everything that was submitted electronically. August 2nd we received a notice from the City that the sign postings were available for retrieval. We went and got them,

we posted them. At some point there in the time of August we were placed on the 8/23 agenda as a 6409 application. We posted the signs on August 3rd. Again, at some point they were taken down or fell down. We could not locate them when we went to the property. And on the 17th, which was five days before the hearing, I got a cell -- call on my cellphone from Mr. O'Grady that the signs were not posted so that the hearing needed to be continued. We did show up at 8/23 meeting, told that the meeting would be continued until 9/27. New signs would be needed. We were notified by Inspectional Services that signs were available for posting on August 28th. Sometime in September the items was placed on the agenda for this evening. On September 12th we did post the signs, and in that narrative that I just submitted, you will see that there was one day, Thursday, the 20th, that Ms. Hoffman, attorney Hoffman went to the site, again, found that the signs had been taken down and they were gone. So what we did was, I e-mailed Maria Pacheco and Mr. O'Grady on that Thursday evening. Friday I was told that there were new signs available. We picked them up on Friday, we reposted them on that Friday, and they've been up there ever since. After that incident I

asked attorney Hoffman to go everyday rather than every other day to take the pictures so we would have a continuous record of the posting.

So she did that. Again, that's in there and the last picture that she took was yesterday. There was possibly one day that the signs were not posted potentially a day and a half --

CONSTANTINE ALEXANDER: We're satisfied that you complied with the requirements.

ATTORNEY SIMON BRIGHENTI: Okay. Then what happened on 9/21 we reposted the signs. And then on 9/26, which would have been yesterday, I was informed at approximately ten a.m., I was out on the other end of the state in Pittsfield, an area that doesn't have cell service, which is why I was there, and Mr. O'Grady left me a message saying that the application did not contain photo simulations. And I told him I thought that I had, that I had submitted them electronically. I went back and it looks like we had submitted the one that was with our structural analysis which had some pictures, because I've submitted -- we've got about five of these coming up in the pipeline here. This one it does appear that we did not submit the photo simulations.

When we found that out, again, we were just told yesterday -- yeah, yesterday morning, Wednesday morning. I immediately e-mailed photo simulations to Mr. O'Grady and we had Aidan Griffin come down and supply the hard copies of them as well. And I believe, I wasn't there, but I believe Mr. O'Grady had said that they were submitted too late. And then he called me back and said that either call or e-mail, I'll apologize one of them, and said that that was, that was the case. So here we are.

CONSTANTINE ALEXANDER: So our initial question is whether we hear the case tonight given the late submissions.

ATTORNEY SIMON BRIGHENTI: Obviously I preferred that we did. I, just for future reference, I was trying to find where the requirement is for the photo simulations. I know in the application request there is a statement that says you need photographs of the property. We did have photographs of the property included in our structural analysis which we provided which said that the antennas, you know, did -- are able to support them. So I looked through the by-law -- I'm sorry, the Ordinance. And I kind of did a dummy application through the on-line process to get to the end of it to see if there were any requirements

specifically for wireless. I looked at Footnote 49 in the Ordinance which also does not necessarily state that, and so I don't know if there's -- I did look at the posting requirements which obviously are different. I looked through your website to find any other requirement as to the photo simulations. We do like to provide those but, you know --

CONSTANTINE ALEXANDER: I can only tell you that it's our practice, a longstanding practice in telecom cases because obviously, it's obvious, the visual impact is a very big consideration, at least if you don't consider The Spectrum Act and that's the reason why we require them.

Now, before we keep going, I'll ask what my fellow board members feel. I think given the nature of the photo simulations, I'm not as concerned about -- and I would proceed tonight. But I do need to -- what you haven't done yet, given us all a long story about the photo simulations and the like, what's the case about? How many antennae you putting up? So we can take that and then decide how important the photo simulations are.

ATTORNEY SIMON BRIGHENTI: We're taking down three -- I'm sorry, I don't want to be presumptive. We're requesting that

we're going to be able to take down three, 72-inch antennas and replace them in the same spot with three, 72-inch antennas. It's a different technology. It's a better service to the customer.

There's also three, 42-inch antennas up there. And those are -- work at a different frequency, so it's a different -- back when those were originally put up there, we used 42-inch antennas, and we're replacing those with 25-inch antennas. So there's a net reduction in square footage or area of antenna. And, again, that's why we believe it's an eligible facility under 6409, you referenced to The Spectrum Act previously. So, you know, it's an existing site with not only our antennas, but there are other antennas up there.

We went through the Planning Board this past -- I was there --

CONSTANTINE ALEXANDER: Don't go there. I don't want to get into the merits. Slow down, sir.

ATTORNEY SIMON BRIGHENTI: Okay, I'm sorry. I just wanted to give you a full story.

CONSTANTINE ALEXANDER: I want to ask the members of the Board, do you want to hear the case tonight with these late submitted

photo simulations or not? Because I don't want to get it into a case heard --

ATTORNEY SIMON BRIGHENTI: Sorry about that, yes.

CONSTANTINE ALEXANDER: So the five of us would have to come back.

ATTORNEY SIMON BRIGHENTI: I understand.

CONSTANTINE ALEXANDER: I communicated with the nature relief being sought with the simulations we have.

BRENDAN SULLIVAN: No, I mean, I'm comfortable.

JANET GREEN: I'm comfortable.

ANDREA HICKEY: I'm comfortable proceeding.

SLATER ANDERSON: Is there anybody here who is here for this case?

(No Response.)

SLATER ANDERSON: I'm fine going forward.

CONSTANTINE ALEXANDER: You are aware, of course, that we have a memo from the Planning Board with various comments?

ATTORNEY SIMON BRIGHENTI: I understand. I have not

seen the memo, but I was at the Planning Board meeting for about six hours when they went through the Cambridge empower -- I'm sorry.

JOHN HAWKINSON: Envision.

ATTORNEY SIMON BRIGHENTI: Envision Cambridge. It's very interesting. It looks like it's something that's going to be up for debate for a long time I would think. But, yeah, I was there and what they said was three things basically: They said they wanted to, the color -- I'm sorry, the antennas to work within what they call the red area of the facade which is basically that brick area that you can see in the close ups of the structure. That's no problem.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SIMON BRIGHENTI: They wanted us to use the least intrusive mounting hardware, which is what we'll do. I had asked them about the height of the antennas, because again, because some antennas are smaller than others, we had asked them if they preferred a common center line or a common top height? In meaning that the center line is, you know, half of it's above and half is below. So with a six-foot antenna you've got three feet above, three feet below.

With a four-foot antenna you've got two feet -- and they said they prefer the tops of the antennas to be uniform as opposed to the center line, which is fine. And they also stated that they wanted the -- we had shown again in that close up that there was a -- we tried to replicate the brick pattern on the antenna so it would more closely match the existing background, and they preferred that it was a, I think they used the terms the plain matte brick finish without the lines, which is fine because it's easier to maintain. You don't need an artist to go up there and change the paper. So that, those are all fine. We have no objection to any of them.

CONSTANTINE ALEXANDER: Do your photo simulations reflect the comments from the Planning Board?

ATTORNEY SIMON BRIGHENTI: They do not because those were prepared prior to in anticipation of the application. We, again, we've agreed to, we've agreed to what the Planning Board has acquired. I said that by e-mail. I said that in person at the hearing. And we would make that a subject of any issuance of any building permit that if these issues are not --

CONSTANTINE ALEXANDER: They've identified four bullet points.

ATTORNEY SIMON BRIGHENTI: Right, and I believe I addressed all of them. We can put it in the record right now. Like I said, we will not apply to for a building permit until the Inspectional Services -- or until the building inspector is satisfied that those four have in fact been met. We have no problem at all of meeting those conditions.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SIMON BRIGHENTI: I do have a board, if I could, just for a quick rundown.

CONSTANTINE ALEXANDER: Sure.

ATTORNEY SIMON BRIGHENTI: Okay, thank you. Excuse me for just one minute.

My back was to the audience. So I didn't see if anybody had responded.

SLATER ANDERSON: Nobody responded.

ATTORNEY SIMON BRIGHENTI: Okay.

So, again, here's the existing building, 1815 Mass. Avenue.

It is known as the I guess the Lesley College building, which is a little unfair because there are a lot of fine shops and other, you know, uses in that building, but that's basically the predominant use. And right now you do have these antennas up top there as you can see and over on the side. So what we're doing, again, we're explaining that these are being removed and replaced with new antennas and smaller antennas on the one side. That's kind of the -- what you're gonna get from looking at a west elevation of it. So, again, you're not gonna see a big difference other than a reduction in the size of the antennas.

And then this board is a bird's-eye view, again, showing the -- this is the kind of the before and after. And it shows that there are some additional radios, but those are inside the -- those are also being replaced, but those are not visible to the public. There's no visual impact of those radios. Those are new units. Those are essentially the brains of the operation and operate within the antenna. So you can see, again, these are the antennas and then that's the replacement. So the visual impact as it's shown on those photo simulations is minimal. It's less than what's up there now, and we will take to using those. Using those -- I'm

sorry, the conditions set forth by the Planning Board and their positive recommendation.

And as to the rest of the requirements within the by-law, again, it's as you know there's, been a lot of these in front of you. It's a passive use. There's no additional traffic other than the truck that you need to come in to install them. There's no noise. There's no smoke. There no affluent. There's no, you know, extraordinary use of utility or other resources from the town. It doesn't increase traffic at all. And really enhances the area because, again, with the new technology and people are demanding so much from the technology these days, that we are trying to obviously, it's a, it's a lagging indicator type of thing where you got the people that want the service and all the companies, you know, we've got AT&T here and Verizon and everybody else is out there doing the best we can. And, again, that was acknowledged by the change a few years ago which kind of brought that Spectrum Act into being to make these processes try to go a little more quickly and a little more streamlined.

CONSTANTINE ALEXANDER: Thank you.

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

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I think we're ready for a vote.

Okay, the Chair moves that we make the -- as you know, we have to make sort of a great number of findings; one, for Special Permits generally in our Ordinance. And then we make other findings specific to telecom case like yourself. So let me start with the general requirements for a Special Permit.

That the requirements of our Ordinance cannot be met without the Special Permit you are seeking because that's what our Ordinance provides.

That the traffic generated or patterns of access or egress are

resulting from what you're proposing will not cause congestion, hazard, or substantial change in established neighborhood character. As you have pointed out and as your photo simulations support, we're talking about antennas high up on a building, will have no impact on traffic or create congestion and won't change the established neighborhood character. This building has got plenty of antennas already, and the antennas you're putting up are replacing ones that are there before. So it's not some addition of new antennas.

That the continued operation of or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what is proposed. And, again, the history of this property demonstrate that the building goes on and the uses are developed -- are started and without impact from the telecommunications antennas that you're proposing.

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

And that generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the

intent and purpose of this Ordinance.

Continuing, the Board also finds that the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012, also known as The Spectrum Act.

Based on these findings the Chair moves that the petitioner be granted the Special Permit it is seeking subject to the following conditions:

One, that the work proceed in accordance with and in compliance with the conditions set forth in a memorandum to this Board from the Planning Board dated September 26th. We talked about that.

ATTORNEY SIMON BRIGHENTI: Yes.

CONSTANTINE ALEXANDER: Second, that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. And that's in this file right now.

That upon completion of the work, the physical appearance

and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. And I have a done that.

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

That should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

Next, that the petitioner is in compliance with and will continue to comply with in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

And then continuing, this is something we do in Cambridge: Inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concerns and scientific

study, the Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Service Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of such notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminate if any of the

petitioner's federal licenses is or are suspended, revoked, or terminated.

C, that to the extent that the Special Permit is terminated pursuant to the foregoing items that I've identified, the petitioner may apply to this Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to what I've cited already. Any such application shall not be deemed a repetitive petition and shall therefore -- and, therefore, it will not be subject to the two-year period during which repetitive petitions may not be filed.

And lastly that within ten business days after receipt of a building permit for the installation of the equipment subject to the petition, the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge stating that; A, he or she has such responsibility.

And B, that the equipment being installed pursuant to the Special Permit we are granting tonight, will comply with all federal safety

rules and will be situated and maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

All those in favor of granting the Special Permit --

BRENDAN SULLIVAN: Well, on the condition if we get back to the Planning Board.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: I think our aim here is that all of the antenna on that building be the same color.

ATTORNEY SIMON BRIGHENTI: Yes, that was one of the conditions.

BRENDAN SULLIVAN: Okay, so that they match what the other telecoms have done.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SIMON BRIGHENTI: Well, technically what -- I understand what the Planning Board said was that they are to be matte brick. I can't tell you what the other telecoms have up there.

CONSTANTINE ALEXANDER: The Planning Board said they wanted all painted materials should have a consistent matte finish that matches the red brick on this tower. A darker red is preferred without any patterning. That's what the Planning Board wants.

BRENDAN SULLIVAN: All right. This is the last of the mixed breed here of this brick faux finish, which is badly done. We have tried to get the other telecoms to make it a matte -- well, matte is a finish, is a consistent single color.

ATTORNEY SIMON BRIGHENTI: So with no black, without the striping that replicates the brick, the mortar?

BRENDAN SULLIVAN: Right. No bricks at all.

ATTORNEY SIMON BRIGHENTI: Sorry, I didn't mean to interrupt while you were --

BRENDAN SULLIVAN: That's okay. But no brick look.

ATTORNEY SIMON BRIGHENTI: I understand.

BRENDAN SULLIVAN: It's to be a flat color to match the other telecom antenna is the aim here I think.

CONSTANTINE ALEXANDER: That is a condition, then, to

the relief then.

ATTORNEY SIMON BRIGHENTI: Well, again, I hate to be splitting hairs here, but I don't -- if they're telling us to do a certain thing, the Planning Board, we can meet that. If the other telecom -- if the other telecom providers aren't meeting the requirement, we're still going by this, not what the other -- you know what I'm trying to say what the other telecom people are doing?

JANET GREEN: Yeah.

ATTORNEY SIMON BRIGHENTI: I know you're trying to make it uniform. We'll try to do it as much as we can, but if one of the other telecom people have something that's black or whatever, we don't --

CONSTANTINE ALEXANDER: I'm agnostic about this.

ANDREA HICKEY: I think we want to leave what the others may or may not have done out of it completely and tie in our requirement to what this says.

BRENDAN SULLIVAN: All right. As long as it's not a different color, and then, again, it's going to be whoever gets up there is going to look at it and says, well, it's supposed to be a matte finish. Okay,

I'm gonna stick with what I got. We'll see what happens going forward.

It's going to change in two more years anyhow. So you'll be back again.

And we'll see how you do.

ATTORNEY SIMON BRIGHENTI: Technology, yep.

HEATHER HOFFMAN: Can I ask one question? You said
consistent --

CONSTANTINE ALEXANDER: Name and address to the
stenographer.

HEATHER HOFFMAN: Oh, Heather Hoffman, 213 Hurley
Street. You said consistent with the photo simulation. But as you
pointed out, the photo simulation has the mortar on it?

ATTORNEY SIMON BRIGHENTI: Right.

HEATHER HOFFMAN: Correct?

ATTORNEY SIMON BRIGHENTI: That's what I was -- I was
gonna kind of get to that.

HEATHER HOFFMAN: And you wanted it to not have that?

CONSTANTINE ALEXANDER: Right. Okay, thank you.

HEATHER HOFFMAN: You're welcome.

CONSTANTINE ALEXANDER: So the photo simulations -- condition regarding compliance with the simulations except that the finish will be as we've just discussed.

ATTORNEY SIMON BRIGHENTI: So your initialing of this is subject to the overriding requirement of the Planning Board?

CONSTANTINE ALEXANDER: I think so. I think we should defer to the Planning Board on this.

BRENDAN SULLIVAN: Before we say yay or nay, I think the question they need to provide the photo sims. And in Footnote 45 it says in viewing a Special Permit application, the Board of Zoning Appeal shall consider the following:

The scope of limitations imposed by any license through the use of existing mechanical elements on a building's roof or other features as supported by the background. Through the use of materials that in texture and in color blend with the materials to which the facilities are attached other effects -- meet other effective means to reduce the visual impact of the facility from -- on the site.

The only way we get to that affirmative vote is the photo

simulations.

ATTORNEY SIMON BRIGHENTI: I got you.

BRENDAN SULLIVAN: Even though it doesn't say photo
sims highlighted, that's --

ATTORNEY SIMON BRIGHENTI: I understand. That's
definitely a fair interpretation of that.

BRENDAN SULLIVAN: That's the only way we get to that,
the photo sims.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special
Permit granted.

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

* * * * *

(7:55 p.m.)

(Sitting Members Case No. BZA-016852-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016852, 18 Bates Street.

DAVID O'CONNOR: I'm David O'Connor and I live at 18 Bates Street. And I'm going to start by expressing my appreciation. This is the third case where there were sign problems and it seemed like it was very simple and, yeah, I also screwed up the sign.

Shall I just describe what I'm trying to do here?

CONSTANTINE ALEXANDER: Yeah, briefly.

DAVID O'CONNOR: Back in January I was here for a Variance and a Special Permit related to changing our single-family house back to a two-family house. That was approved and it involved a dormer and the only contingency on the approval was that we shot the dormer down to 15 feet in length which we did.

Since then, as we worked with our contractor and we tried to

get some costs out of renovation, we're proposing some small modifications to some windows on two sides that are non-conforming in terms of their distance from the neighbors and hence why we need Special Permits for them.

I will say that I have run this by Sarah Burke (sic) at the Conservation Commission because we are in the Avon Hill Conservation District and she has no issue with this because they're not visible from the street.

So the -- the modifications we're asking for is -- are two:

One is that on the rear of the house, we have two windows on the second floor and we're asking to add a third window to that. Actually, the existing window is a single one. The plan we presented and got approved in January was two but now we want to add a third.

And on the east side facing our neighbor, we're replacing a double window, a double -- a two double hung windows and awning window with three double hung windows.

So I'll stop there and ask for any questions.

CONSTANTINE ALEXANDER: Have you spoken to your

neighbors to the rear and the east since they would be impacted?

DAVID O'CONNOR: We have not spoken to the neighbors in the rear. It's a large condominium complex and they're obviously aware of the construction. They didn't have any objection to the big thing. And this is all gonna be frankly blocked by trees which are on the back of their yard and our yard.

We have spoken to the neighbor on the east. We're very friendly with. And she has no issue with this change.

CONSTANTINE ALEXANDER: I don't think we've received any correspondence from anyone about this that consists of what you've just said.

Questions from members of the Board?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are not

in receipt of any correspondence or other written communications according to our files so we're ready for a vote.

This is again a Special Permit case. So the Chair moves that we make the following findings with regard to the Special Permit you are seeking:

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

That traffic generated or patterns of access or egress resulting from the window changes that you are proposing will not cause congestion, hazard, or substantial change in established neighborhood character. I think the changes speak for themselves in terms of the impact on congestion, hazard, or substantial change. We're talking about modest window changes on two sides of the building.

That the continued operation or development of adjacent uses will not be adversely affected by what is proposed. And, again, you've represented to us that the neighbor to the east has no objection and, therefore -- and then to the rear it's a large condominium building shielded by trees.

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

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

So on the basis of these findings, the Chair moves we grant the Special Permit you're requesting on the condition that the work proceed in accordance with the plans submitted by the petitioner which are in our files and which I've initialled.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

* * * * *

(8:00 p.m.)

(Sitting Members Case No. BZA-016938-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016938, 102 Sherman Street.

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

Greetings again.

ATTORNEY GEORGE HALL: Good evening, Mr. Chairman. My name is George Hall. I'm a partner at Anderson and Kreiger at 50 Milk Street in Cambridge (sic). I'm here representing New Cingular Wireless PCS the applicant. And with me is Ryan Lynch from Smartlink also representing New Cingular Wireless.

We're -- we have three matters before you this evening and they're all very similar beginning with the one you've just called. We are

making this application both under Section 6409 of The Spectrum Act as an eligible facility because it doesn't increase the size of the existing structures, and we are also in the alternative seeking a Special Permit. We have -- let's see, that's the wrong site. We have larger -- have they already been handed out? Photo simulations, the 11-by-17's?

I'll just ask Ryan to just walk you through the changes.

CONSTANTINE ALEXANDER: Do you have an extra one there?

RYAN LYNCH: Sure, you can have this one as well.

Good evening. So what we're looking to do here, we're proposing to remove three of our existing panel antennas that are located on the penthouse of this apartment building and we're looking to replace them with three more antennas. They're four inches taller and five inches wider. We're also looking to install additional remote radio units on the penthouse out of public view, as well as some additional equipment that will also be out of public view. The one thing that we are changing here, that is visible on the photo simulations is that we are moving one antenna from each sector on the penthouse there on to another wall facing out in

order to meet some separation requirements we need for our LT technology. So they need to be three feet apart from the antennas next to them.

CONSTANTINE ALEXANDER: Is that antenna, when you moved around the corner, if you will, is it going to be higher above the roof line than the --

RYAN LYNCH: It is not.

CONSTANTINE ALEXANDER: It looks like it.

RYAN LYNCH: It does appear to look a little higher on the photo sims, but it is actually going to stay below the roof line.

ATTORNEY GEORGE HALL: Yeah. So the existing conditions, just for everybody who is in the lower left-hand corner, and then the larger one on the right is the simulated conditions.

CONSTANTINE ALEXANDER: While Brendan is looking at that, this is -- 102 Sherman is in a residentially zoned district.

RYAN LYNCH: Correct.

CONSTANTINE ALEXANDER: And there is under our Ordinance we have to make certain special finding with regard to that.

You want to address that issue?

RYAN LYNCH: Sure. So, could you.

CONSTANTINE ALEXANDER: I was going to see if you knew what I was talking about.

It says in order Ordinance: The Board of Zoning Appeals shall grant a Special Permit to erect such a facility in a residentially zoned district only upon a finding that non-residential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood. That's what you need to address and we have to make a finding as to that.

RYAN LYNCH: Sure. It's already an existing site. So all we're doing is moving the antennas off to the other side of the penthouse. We believe that it's a minimal change in order to just create a lack of interference between the antennas that will provide better coverage and densification for the network in the area. But in terms of the visual implications, the antennas are, you know, pretty much blending in with the roof as it is. So we don't believe that it will make any sort of substantial

change.

CONSTANTINE ALEXANDER: And point of fact, we granted relief to have these antennas up there before.

RYAN LYNCH: Correct.

CONSTANTINE ALEXANDER: The neighborhood has not changed to my knowledge anyway, so that the findings that we made before apply equally tonight so we can rely on those previously made findings.

RYAN LYNCH: Okay.

ATTORNEY GEORGE HALL: I was going to say the same thing. We would rely on the Board's earlier determination on those, on that particular issue.

CONSTANTINE ALEXANDER: Have you seen the Planning Board's memo on this?

ATTORNEY GEORGE HALL: I have.

CONSTANTINE ALEXANDER: On all three petitions actually.

I'm going to read them into the record at some point. I don't

think there's anything we have to query you about. Let me read it into the record, and this applies to all three, this case and the two that we're going to hear after this.

(Reading) The Planning Board reviewed these applications and had no objections to these proposals that meet the design guidelines as set forth by the Community Development Department, staff Suzannah Bigolin. All of the installations will be located on existing facades or within faux rooftop elements. Those that are located on the penthouse such as 102 Sherman Street, will be located below the rooftop so as to not break the cornice line on the roof. The Planning Board has no comments on these Special Permit applications. So you're good by the Planning Board.

Anything else you want to say at this point?

ATTORNEY GEORGE HALL: We've submitted a detailed memo and --

CONSTANTINE ALEXANDER: Right, thank you.

ATTORNEY GEORGE HALL: And I don't think you want me to go through them one by one.

CONSTANTINE ALEXANDER: I'm going to ask for

something in a return in a few minutes.

Any comments or questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. And there's nothing in our files other than the memo from the Planning Board that I previously referred to.

So, with that, I will close public testimony.

Discussion or ready for a vote?

SLATER ANDERSON: Vote.

ATTORNEY GEORGE HALL: Can I make a time savings suggestion?

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY GEORGE HALL: To spare you --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY GEORGE HALL: -- the tedium of reading those conditions three times. Perhaps you would hold your motion until we present the other two matters and then you can make your three motions one after the other.

CONSTANTINE ALEXANDER: That's fine by me.

ANDREA HICKEY: Unless you make the motion now and then incorporate it.

CONSTANTINE ALEXANDER: I could do it that way, too, yeah.

ANDREA HICKEY: I don't know.

CONSTANTINE ALEXANDER: Otherwise we have to continue this.

ATTORNEY GEORGE HALL: To your pleasure. I just thought having you read those three times was not going to be fun for you.

BRENDAN SULLIVAN: Do you have a copy of what the motion is? There's a copy of it. If you just want to give it to him and incorporate it by reference.

CONSTANTINE ALEXANDER: I don't know if we can do

that.

ANDREA HICKEY: I think we have to read it into the record.

BRENDAN SULLIVAN: Read it in. And if you want to give it to counsel.

CONSTANTINE ALEXANDER: You've heard me read it in the prior case.

ATTORNEY GEORGE HALL: I certainly have.

SLATER ANDERSON: It hasn't changed.

ATTORNEY GEORGE HALL: In fact, I was told before I got here what it would say.

CONSTANTINE ALEXANDER: Well, there's one -- we have to make one special finding for this case --

ATTORNEY GEORGE HALL: Yes.

CONSTANTINE ALEXANDER: -- because that's the residentially zoned district.

ATTORNEY GEORGE HALL: Yes.

CONSTANTINE ALEXANDER: So let's take the full -- all the conditions now and then we'll incorporate by reference except for the

residential area in the next two cases.

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

First the general conditions are for all Special Permits.

That the requirements of the Ordinance cannot be met unless we grant the Special Permit you're seeking tonight.

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

In fact, these new antennas, or replacement antennas are very similar appearance and impact on the neighborhood as to what's there now.

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

Again, we have in fact that this is, this is not a new set of antennas in this area where there's been telecommunication antennas there for a good number of years, and it has not impacted the

neighborhood, at least to this Board's awareness.

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

Further, there's a finding we have to make. The Board also finds that non-residential uses predominant in the vicinity of the proposed facility's location, and that what is being proposed is not inconsistent with the character that does prevail in the surrounding neighborhood.

In this regard what is being proposed tonight is not, from a visual point of view, very much different than what is there now. And our Board has previously passed on this issue and I propose we incorporate our previous findings for this site in this case.

Moving on, the Chair also moves that we make the following findings:

That the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the

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

Based on these findings, the Chair moves that the petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair, which I've done.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. And we've taken care of that.

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

Next, that should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on

which it is located to its prior condition and appearance to the extent reasonably practicable.

Next, that the petitioner is in compliance with and will continue to comply with the, in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

And then continuing, inasmuch as the health effects of the transmission of electromagnetic energy waves as a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Service Department each report if files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department, shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the admissions of the electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of such notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable details that such failure has occurred and the basis for such claimed failure.

The Special Permit granted tonight shall ipso facto terminate if any of the petitioner's federal licenses is or are suspended, revoked, or terminated.

C, that to the extent that the Special Permit has terminated pursuant to the foregoing paragraphs A and B, the petitioner may apply to this Board for a new Special Permit provided it's a public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of a Special Permit pursuant to what I referred to earlier. Any such new application shall

be -- shall not be deemed a repetitive petition, and therefore will not be subject to the two-year period during which repetitive petitions may not be filed.

And lastly, that within ten business days after receipt of a building permit for the installation of the equipment subject to this petition, the petitioner shall file with the Inspectional Services Department a sworn Affidavit of the person in charge of the installation of equipment with the petitioner with a geographical area that includes Cambridge. Stating that A, he or she has such responsibility.

And B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

All those in favor of approving the Special Permit under these conditions say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special

Permit granted.

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

CONSTANTINE ALEXANDER: Sir, rather than takes your next two Special Permits, we have a case at 8:15 that I have to call. If you don't mind, just take another seat and we'll call you right back. Okay.

* * * * *

(8:15 p.m.)

(Sitting Members Case No. BZA-016976-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016976, 36 Follen Street.

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

Name and address to the stenographer.

SAM KACHMAR: Sam Kachmar, K-A-C-H-M-A-R, 45 Saville Street, Cambridge, Mass., 02138.

ATTORNEY MARK LANZA: Good evening, Mr. Chairman, my name is Mark Lanza, L-A-N-Z-A, trustee of 36 Follen Street Realty Trust. I am the applicant and legal title holder to the property. My office address is 9 Damonmill Square and that's in Concord, Massachusetts. I'm a land use and zoning law specialist.

CONSTANTINE ALEXANDER: Okay. Well, then if you are, you should be aware that you're not entitled to relief for a Special Permit. Under our Ordinance, and I'm in Section 8.22.2.C with regard to modifications of a non-conforming structure, which of course you're doing. I'm going to read from that. (Reading) In a residence district, the Board of Zoning Appeal may grant a Special Permit for the alteration or enlargement of a non-conforming structure, not otherwise permitted in Section 22, provided that any enlargement or alteration of such non-conforming structure is not further in violation of the dimensional requirements of Article 5. And what you're proposing it will be in violation of our dimensional requirements. And with that, 8.22.3 states: That any

alteration or enlargement of a non-conforming structure, not otherwise permitted in Section 8.22.2, shall be a Variance. I think you need a Variance tonight or -- for the relief you want. I do not think you're entitled to -- a Special Permit doesn't apply.

ATTORNEY MARK LANZA: We, in all due respect, Mr. Chairman, we feel that does.

JANET GREEN: Microphone.

ATTORNEY MARK LANZA: Here's why: What we're doing is changing, extending, altering a prior non-conforming single-family residential structure.

CONSTANTINE ALEXANDER: But you are enlarging the structure.

ATTORNEY MARK LANZA: We are enlarging it. We're increasing the floor area ratio by four percent.

CONSTANTINE ALEXANDER: But there's no de minimus exception in 8.22.2. It doesn't say except for non-material changes. It's a flat rule. By an inch you have to get a Variance, not a Special Permit. I don't see how we can hear the case.

ATTORNEY MARK LANZA: Well, we are applying for, I guess you could say, at risk that -- at risk that someone could rule that we need a Variance. However, the Board should be aware that the state law on this issue is very clear. Only a finding or a finding with a Special Permit can be required by a local Zoning Board for this sort of change to a single-family residence unless we are creating a new non-conformity. We're not doing that.

CONSTANTINE ALEXANDER: Sir, the cases you're referring to are not Supreme Judicial Court decisions. They are decisions of Appeals Court. They're not final and binding law. In any event, the City of Cambridge has chosen not to change its Ordinance after these decisions. We are not a court of law. We take the Ordinance as given to us. The Ordinance as given to us, and I've just read them, I'm not going to repeat it, says you need a Variance. I don't see -- I'm not prepared -- I don't know if other members of the Board may feel otherwise, I'm not prepared to hear the case tonight. File for a Variance and we'll here the case.

ATTORNEY MARK LANZA: Okay. I think it's very clear, Mr.

Chairman, that some of the changes do not require a Variance, some require a Special Permit.

CONSTANTINE ALEXANDER: I don't want to bifurcate this case and hear a couple of changes now and a couple of changes that require a Variance. I want to hear all the changes at one time. And since you're going to need a Variance, hold those changes that don't require a Variance, we'll take them all statement.

ATTORNEY MARK LANZA: Okay, but we are prepared to do that, Mr. Chairman, if that's the Board's position. Sounds like that's the Board's position. And I have to say we did anticipate this. What we're prepared to do is seek a continuance. It will need to be a re-notice of the hearing, because the ad does not mention Variance.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: You can't do a continuance. You have to file -- you have to file a new application for a Variance.

ATTORNEY MARK LANZA: What we can do is continue, re-notice with a modified application rather than start all over again. That will work procedurally.

CONSTANTINE ALEXANDER: So you want us -- I want to make sure what you're suggesting is that when we hear the case again, we'll have two cases involving this property; a Variance for certain changes and a Special Permit for the rest.

ATTORNEY MARK LANZA: Right. You already have the application for the Special Permit for everything.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY MARK LANZA: We will modify the application to also include an application for the Variance for the things that the Ordinance requires --

CONSTANTINE ALEXANDER: You have to advertise.

ATTORNEY MARK LANZA: Yes, re-advertise.

CONSTANTINE ALEXANDER: Re-advertise.

ATTORNEY MARK LANZA: A continuance. We request a continuance to the next hearing, next month, whenever is convenient for the Board. We will file an amended application. It will have to be re-advertised and re-noticed with and including an inclusion of a Variance as well as a Special Permit, and we can address everything then if that's

what you like to do.

CONSTANTINE ALEXANDER: Let me see what our schedule is like. I mean, if he wants to continue the case with regard to that portion of the case that's -- for which a Special Permit is appropriate. And he's going to advertise for the Variance for everything else.

SEAN O'GRADY: We would request that continue this case so we don't have a repetitive petition.

CONSTANTINE ALEXANDER: Yes.

SEAN O'GRADY: And to file a new case that --

CONSTANTINE ALEXANDER: For the Variance.

SEAN O'GRADY: -- that covers everything.

CONSTANTINE ALEXANDER: They don't want to do that for some reason.

ANDREA HICKEY: He wants an amended case versus a --

ATTORNEY MARK LANZA: An amended application. Because we've already covered everything. We just have to amend it to say in addition to the Special Permit for these items, we also need --

CONSTANTINE ALEXANDER: Why don't you --

SEAN O'GRADY: That's now how we do it.

CONSTANTINE ALEXANDER: You put together and prepare for this case, and just drop it into the new case, the Variance case. Why do you want these two going side by side? I don't understand. It makes life complicated for us, complicated for the citizens of the city.

SEAN O'GRADY: And that's been the longstanding practice, that's how we do it.

CONSTANTINE ALEXANDER: Yeah. I mean, there's nothing to gain by what you want to do.

ATTORNEY MARK LANZA: Well, I think it would be more convenient for everybody, Mr. Chairman, because then you have everything all at once. You'll have an application for everything that's in --

CONSTANTINE ALEXANDER: Yeah, a Variance application.

ATTORNEY MARK LANZA: No, we need a Special Permit. We will apply for -- we will reserve our rights and apply for the Variance because the Ordinance says we have to and the Board says we have to.

But we'd like to just -- we'd like to continue.

CONSTANTINE ALEXANDER: If you want to do it that way, I don't care. It makes life complicated.

JANET GREEN: I don't understand why you don't -- if you're re-advertising it, just divide it and put it in what you bring before us and it says Variance and then it lists the parts for the Variance and the Special Permit and list parts for the Special Permit and then it comes in as the case and you have the materials, you just sort them into the right place and then it comes in to something that's familiar in the way that we work. I mean the Chair obviously --

CONSTANTINE ALEXANDER: It makes life very complicated and unnecessarily complicated for us to do what you want to do.

ATTORNEY MARK LANZA: Okay. So what you'd like us to do is continue the Special Permit hearing, file an application for a Variance --

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY MARK LANZA: -- and then merge the two

proceedings, the Variance and the Special Permit application?

JANET GREEN: I don't think that's what we said.

ANDREA HICKEY: No.

JANET GREEN: We said apply again.

SLATER ANDERSON: So withdraw this?

CONSTANTINE ALEXANDER: No. I think continue this case, but I'm not sure what purpose it's going to serve because you're not entitled to a Special Permit for at least some of the relief you want because you're extending the non-conforming structure. But if you want to do that, I don't have a problem. But we will continue it to the date that you think you're going to have your Variance hearing held. And do you know when you would --

ATTORNEY MARK LANZA: Sure, we're ready -- I suspect with all the advertising and notice, we're going to need a month. So you're meeting -- you probably have a meeting twice a month?

JANET GREEN: So --

SEAN O'GRADY: Let me just take one last stab at this.

JANET GREEN: Yeah.

SEAN O'GRADY: First thing is we don't know when you're new case will be scheduled. I don't know whether we have availability in a month, we probably don't.

The second thing is always put them together so we have one track case to track and one decision to track. If it goes to appeals, everything's in one package. We'd like you to do it that way.

ATTORNEY MARK LANZA: And that's what we're trying to do, we're trying to keep it in one package.

SEAN O'GRADY: No, what you're saying is if we continue the Special Permit, and then we bring a Variance case in, now you have two different cases, two different decisions, two different tracks --

CONSTANTINE ALEXANDER: Exactly.

SEAN O'GRADY: -- two different recordings, two different reviews. If you just would take the two cases, put them together, file a new case for a Variance and a Special Permit, then we have one case, one hearing, one decision, one recording.

ANDREA HICKEY: And the original case goes away. It's not a supplement to the original case. It's new case.

SLATER ANDERSON: This is not heard?

ATTORNEY MARK LANZA: So a new case seeking both forms of relief?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY MARK LANZA: What happens to this application?

CONSTANTINE ALEXANDER: No, you don't want -- we'll continue this case. I don't expect we'll ever hear it because it will be covered by your new application, but we'll continue the case.

SLATER ANDERSON: But not heard?

CONSTANTINE ALEXANDER: Not heard, oh, yeah, not heard.

ATTORNEY MARK LANZA: Because if it's all heard in the combined application --

ANDREA HICKEY: You can withdraw it at that point.

SLATER ANDERSON: I think it's in the interest of folks who want to hear this case to have it in the single track as well.

CONSTANTINE ALEXANDER: Right.

JANET GREEN: It seems like there might be some of those people.

CONSTANTINE ALEXANDER: I think you're right.

When -- we have to continue, however, we still technically have to continue this case. To what date should we continue it to?

Let me ask him my own question.

ATTORNEY MARK LANZA: Application can be filed next week because everything's done.

CONSTANTINE ALEXANDER: That's right.

ATTORNEY MARK LANZA: All we're doing is asking for another --

CONSTANTINE ALEXANDER: So if we continue this Special Permit case, which I don't think we'll ever here, as I said, to a time in December, let's say, when we know your case will -- your other new case will be heard. I don't see any harm to you. Because you'll, you'll get relief or not, come when the new case is heard.

ATTORNEY MARK LANZA: We'd like to be heard as soon as possible, Mr. Chairman, whatever is convenient.

SLATER ANDERSON: We just don't know when the new application --

CONSTANTINE ALEXANDER: That's right.

SLATER ANDERSON: -- is going to be --

CONSTANTINE ALEXANDER: Heard.

SLATER ANDERSON: -- scheduled.

CONSTANTINE ALEXANDER: Or if your new application comes and you want to -- some problem develops and you want to continue that one, it gets life complicated.

ANDREA HICKEY: In other words, we can't give you a new date for a case that doesn't exist yet.

ATTORNEY MARK LANZA: But you can give us a date for continuing this which hopefully will be the same date.

ANDREA HICKEY: Well, we don't know.

CONSTANTINE ALEXANDER: It doesn't have to be. Let's assume we hear your new case, your Variance Special Permit case in November, okay, and we grant you relief, you're going to withdraw -- you don't even have to come down. You can just withdraw your continued

case because it's all over. And if you, and if for some reason it doesn't happen, you can come down in December. I suggest December, just to be safe, and resume the continued case. So I would like to propose as a case not heard until whatever time we have in December.

What date?

SEAN O'GRADY: We have a 12/13.

CONSTANTINE ALEXANDER: December 13th. And, again, I don't think that you -- I don't anticipate you'll have to come down for that case.

ATTORNEY MARK LANZA: We could have this new application heard before then?

ANDREA HICKEY: Yes, absolutely.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY MARK LANZA: We'll have it in this coming week.

CONSTANTINE ALEXANDER: Okay, the chair moves that this case be continued as a case not heard until December 13th at seven p.m. subject to the following conditions:

That you sign a waiver of time for decision. And he'll have it right now. And if you don't --

ATTORNEY MARK LANZA: Sign it. So agreed.

CONSTANTINE ALEXANDER: We'll turn you down tonight.

Second, that the new posting sign be put up reflecting the new -- or a modification of what you have now, reflecting the new date -- not modification, just take a magic marker and change it. Reflecting the new date, December 13th, the new time, seven p.m. Make sure you change the time. People forget, like the case before and they had to wait around a couple hours because they didn't change it to seven p.m.

SAM KACHMAR: Seven p.m. on December 13th?

CONSTANTINE ALEXANDER: Yeah. And that the sign be maintained for the 14 days as you've maintained it so far?

JANET GREEN: So they'll have two signs?

SAM KACHMAR: Yeah, that's what I was just going to ask. Do we need to get a secondary sign?

CONSTANTINE ALEXANDER: Oh, yeah, new case --

SAM KACHMAR: So now we have two signs next to each other --

CONSTANTINE ALEXANDER: Absolutely, separate cases.

SAM KACHMAR: -- just to gain clarity. Okay. That's all. We'll do that. Great.

CONSTANTINE ALEXANDER: That's all.

And lastly to the extent with regard to the continued case, you modify the plans or information that's in your file now --

ATTORNEY MARK LANZA: It's only going to be the information because the plans -- changes are not changing.

CONSTANTINE ALEXANDER: I just want to cross the T's and dot the I's. But if you decide to proceed with the continued Special Permit case and you decide to change some of the drawings or the like, those modifications must be in our files no later than five p.m. on the Monday before December 13th. That's to allow us and citizens of the city to come down and check out and see what changes you make.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: We'll see you presumably
before December 13th.

ATTORNEY MARK LANZA: We hope to.

CONSTANTINE ALEXANDER: Up to you.

Thank you.

* * * * *

(8:30 p.m.)

(Sitting Members Case No. BZA-016948-2018: Constantine Alexander,
Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No.
016948, 678 Massachusetts Avenue.

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

ATTORNEY GEORGE HALL: Good evening --

CONSTANTINE ALEXANDER: Name and
address --

ATTORNEY GEORGE HALL: -- Mr. Chairman, George Hall
and Ryan Lynch as previously identified in the hearing on 102 Sherman
Street for the petitioner.

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY GEORGE HALL: So, again, this is a very, very
small swap out of antennas and equipment that we believe are eligible for
approval under Section 6409 of The Spectrum Act and we are seeking
that relief or in the alternative combination there with a Special Permit.

You can see the changes I think best on the photo
simulations. We have again, 11-by-17 versions of those with the location
maps in the upper left, the existing conditions in the lower left, and the
simulated conditions in the larger photo on the right. You're gonna find it
very difficult to notice any difference on the top one.

CONSTANTINE ALEXANDER: Right.

ATTORNEY GEORGE HALL: If you look very closely at the

second one at the penthouse structure on the upper left of the building, you'll see it as slightly longer. And you can kind of make that out in the third one as well.

CONSTANTINE ALEXANDER: I noticed it.

ATTORNEY GEORGE HALL: What's happening here is essentially most of the changes, the changes that are being made are by enlargement of that penthouse structure to maintain the visual integrity of the building.

Ryan can probably describe the antenna switch out is what exactly?

RYAN LYNCH: Sure. So what we're looking to do is remove three of the panel antennas that we have existing and replace them with three new panel antennas. The antennas are six inches taller and five inches wider in this case, but where they're in the stealth enclosures, there will be no visual difference. Similar to the last case we do need that separation requirement for these technologies so that is the -- hence the reason why we have to expand the enclosures. But we are keeping them the same visual way that we have them now where the

front facing facade is matching the stone.

CONSTANTINE ALEXANDER: The height of the building is not being increased?

RYAN LYNCH: That is not, no.

CONSTANTINE ALEXANDER: Good.

ATTORNEY GEORGE HALL: We've submitted a detailed memorandum addressing each of the Special Permit criteria.

CONSTANTINE ALEXANDER: You did?

ATTORNEY GEORGE HALL: Which I will spare the Board from reading unless you want me to read it.

CONSTANTINE ALEXANDER: You don't have to read it. You can assume we've done our homework.

ATTORNEY GEORGE HALL: And I'm here to answer any questions you may have.

CONSTANTINE ALEXANDER: Do we have any questions?

(No Response.)

CONSTANTINE ALEXANDER: No questions. I'll open the matter up to public testimony.

Is there anybody wishing to heard on this matter? We're talking about 678 Massachusetts Avenue, the new telecommunications equipment to be put on the rooftop.

(No Response.)

CONSTANTINE ALEXANDER: No. No one wishes to be heard. I'll close public testimony.

As I had mentioned, we do have this memo from the Planning Board which covers this property as well, and I've read it into the record for 102 Sherman Street.

I propose that I'll make a motion that we approve the Special Permit requested subject to the conditions that we outlined with regard to Sherman Street, except there's no requirement with regard to residential uses for non-residential uses predominating in the neighborhood. So all of that will be incorporated and worked into the opinion. Same rules.

(First, the general conditions are for all Special Permits.

That the requirements of the Ordinance cannot be met unless we grant the Special Permit you're seeking tonight.

That traffic generated or patterns of access or egress resulting

from what you're proposing will not cause congestion, hazard, or substantial change in established neighborhood character.

In fact, these new antennas, or replacement antennas are very similar appearance and impact on the neighborhood as to what's there now.

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

Again, we have in fact that this is, this is not a new set of antennas in this area where there's been telecommunication antennas there for a good number of years, and it has not impacted the neighborhood, at least to this Board's awareness.

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

In this regard what is being proposed tonight is not, from a

visual point of view, very much different than what is there now. And our Board has previously passed on this issue and I propose we incorporate our previous findings for this site in this case.

Moving on, the Chair also moves that we make the following findings:

That the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as the Spectrum Act.

Based on these findings, the Chair moves that the petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair, which I've done.

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

we've taken care of that.

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

Next, that should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

Next, that the petitioner is in compliance with and will continue to comply with the, in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

Inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the petitioner shall file with the Inspectional Services

Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit pursuant to paragraphs 1 and 2 above.)

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

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

* * * * *

(8:35 p.m.)

(Sitting Members Case No. BZA-016963-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call last but not least in the telecommunications cases, 016963, 280 Brookline Street.

Is there anyone wishing to be heard?

ATTORNEY GEORGE HALL: Good evening, Mr. Chairman, George Hall from Anderson and Kreiger and Ryan Lynch from Smartlink as identified in the hearing just concluded for the petitioner.

Once again this is to swap out equipment with updated equipment on the property at 280 Brookline Street which is -- appears to be an apartment building. The existing facilities were all located originally pursuant to a Special Permit in faux chimneys. I mean, the structure's designed to look like chimneys, and I believe all of the equipment that's being replaced will be interior to those chimneys. Again, Ryan, the nature of that swap out is?

RYAN LYNCH: Sure. So in this case we are actually

replacing all six antennas that we have in each sector -- or excuse me, each two of each antennas in each sector and replacing them with new antennas. They're going from 72-inch antennas to 73-inch antennas within the stealth chimneys. We're not increasing the height of the chimneys or expanding them in any way. We are adding some additional equipment that is in the center area of the roof which can't be seen from the roof.

CONSTANTINE ALEXANDER: That's what I want to ask you. One thing I did the notice in your advertisement is that you say you're installing nine remote radio units on the rooftop.

RYAN LYNCH: Correct.

CONSTANTINE ALEXANDER: I couldn't see them on the photo simulations which is good news. But this is different than Mass. Ave. where you didn't add new units as I recall. Just replaced what was there before.

RYAN LYNCH: So what we are doing is -- these are from the construction drawings that were also submitted in the application. I can bring them up further for you. They're on what we call sled mounts

behind the fire -- the chimneys here, and we're just adding some additional ones on the mounts that are already existing. So they basically look like a briefcase, and they're just mounted on these sled mounts. We're just installing some additional ones on those mounts.

CONSTANTINE ALEXANDER: Okay. And are they visible to the people on the street?

RYAN LYNCH: They are not. They're set enough into the center of the roof where you can't be seen, as you can see in the photo sims.

CONSTANTINE ALEXANDER: That's what the photo simulations would indicate?

RYAN LYNCH: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY GEORGE HALL: Yes, so we had the photo simulations, they laid out the same way, but as you will see, there's actually no difference between the existing and proposed conditions reflected on any of the photo simulations. And once again we submitted a detailed memorandum addressing the appropriate granted relief under

both Section 6409 of The Spectrum Act and the Cambridge Zoning Ordinance and I will rely on that memorandum unless the Board has any questions.

CONSTANTINE ALEXANDER: Okay. I have none.

Anybody have any questions?

(No Response.)

CONSTANTINE ALEXANDER: No?

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I will close public testimony. As I mentioned with regard to the earlier cases, we are in receipt of a memorandum from the Planning Board which generally has to the effect of no comments on what you're proposing to do. No comments being no opposition or requested modifications.

So, I think we're ready for a vote. And the Chair moves that we approve the Special Permit requested subject to the conditions that we've imposed on Sherman Street and Mass. Ave.. I guess that's it.

(First the general conditions are for all Special Permits.

That the requirements of the Ordinance cannot be met unless we grant the Special Permit you're seeking tonight.

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

In fact, these new antennas, or replacement antennas are very similar appearance and impact on the neighborhood as to what's there now.

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

Again, we have in fact that this is, this is not a new set of antennas in this area where there's been telecommunication antennas there for a good number of years, and it has not impacted the neighborhood, at least to this Board's awareness.

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

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

In this regard what is being proposed tonight is not, from a visual point of view, very much different than what is there now. And our Board has previously passed on this issue and I propose we incorporate our previous findings for this site in this case.

Moving on, the Chair also moves that we make the following findings:

That the modification of its existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as the Spectrum Act.

Based on these findings, the Chair moves that the petitioner be granted the Special Permit it is seeking subject to the following conditions:

That the work proceed in accordance with the plans submitted

by the petitioner and initialled by the Chair, which I've done.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. And we've taken care of that.

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

Next, that should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

Next, that the petitioner is in compliance with and will continue to comply with the, in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

Inasmuch as the health effects of the transmission of

electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

One, the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

Two, in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner within ten business days of receipt of notification of such failure shall file with the Inspectional Services Department a report disclosing in

reasonable detail that such failure has occurred and the basis for such claimed failure, and sixty calendar days after receipt by the petitioner of such notification of failure, the Special Permit granted tonight shall ipso facto terminate.

Three, to the extent that a Special Permit has terminated pursuant to the foregoing paragraphs 1 and 2, the petitioner may apply to this Board for a new Special Permit, provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special permit pursuant to paragraphs 1 and 2 above.)

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

* * * * *

(8:40 p.m.)

(Sitting Members Case No. BZA-016979-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016979, 20 St. Paul Street, No. 3.

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

Sir, name and address for the stenographer.

OTTAVIO SIANI: Ottavio Siani, 20 St. Paul Street, unit 3, Cambridge, Mass.

CONSTANTINE ALEXANDER: And you want monumental relief from this Board.

OTTAVIO SIANI: Yes, I would like to -- yeah, so I'm looking

to enlarge the size of a kitchen window in addition to slightly enlarging and moving up three windows in my unit on 20 St. Paul Street, Cambridge.

CONSTANTINE ALEXANDER: To your credit you also I see in our files a letter or memo from the condominium association saying they approved it.

OTTAVIO SIANI: That's right.

CONSTANTINE ALEXANDER: People often forget and you didn't. Or at least the condo association didn't forget.

OTTAVIO SIANI: You can thank Maria in the office for helping me to do that.

CONSTANTINE ALEXANDER: In your opinion any impact on the privacy of your neighbors from the enlargement of the windows?

OTTAVIO SIANI: No. I mean, as far as I understand, the purpose of these ordinances is to protect the privacy of neighbors, and on both of these sides, both sides of the house where I'm looking to change the window openings, there really are no neighbors close by.

CONSTANTINE ALEXANDER: Good.

OTTAVIO SIANI: One faces into a large parking lot and the

other is directly into a tree. And if you go through that tree, you get into a driveway. So they don't look into any buildings.

CONSTANTINE ALEXANDER: Okay. Questions from members of the Board?

ANDREA HICKEY: No.

JANET GREEN: No.

CONSTANTINE ALEXANDER: No questions. I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I will close public testimony.

We are not in receipt of any written communications other than what I mentioned from the condominium association saying that you have their approval doing the work that you want to do.

So, ready for a vote?

The Chair moves that we make the following findings with regard to the Special Permit you are seeking, and these are required by

our Ordinance if you're going to get a Special Permit just so you know.

OTTAVIO SIANI: Okay.

CONSTANTINE ALEXANDER: That the requirements of this Ordinance cannot be met unless we grant you the Special Permit.

That traffic generated or patterns of access or egress resulting from what you're proposing to do will not cause congestion, hazard, or substantial change in established neighborhood character. In this regard there would be no impact on as represented by the petitioner on neighboring properties, and we're talking about a neighborhood that's very small and encapsulated and there's not a lot of traffic, I don't think --

OTTAVIO SIANI: That's correct.

CONSTANTINE ALEXANDER: -- going back and forth.

That the continued operation or development of adjacent uses as permitted by the Ordinance will not be affected by what is proposed. And you address that in your comments about where the location of the adjacent uses are that will be affected by what you're proposing and should have no effect.

And that no nuisance or hazard will be created to the

detriment of the health, safety, and/or welfare of the occupant of the proposed use, that's you, or the citizens of the city. And that generally what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate the intent and purpose of this Ordinance.

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

Just to you understand, should you decide after tonight you want to change these, you're going to have to come back and see us again. So you're satisfied this is it?

OTTAVIO SIANI: Yes.

CONSTANTINE ALEXANDER: Okay.

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

(Aye.)

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

CONSTANTINE ALEXANDER: Five in favor. Good luck.

OTTAVIO SIANI: Is there anything I need to get a record of

this for the contractor?

CONSTANTINE ALEXANDER: What will happen is a written decision will be prepared in the next two, three, four weeks, that will be filed with the City Clerk. That's when the decision becomes final. And you'll be notified. You'll get a copy of the decision and everybody who got notice of the hearing, the abutters and the abutters of abutters will get a letter saying that relief has been granted.

And there's a 30 day --

JANET GREEN: Twenty days. It's really 20 days. And the 20th day you can't go down at five o'clock. So you really have to go in on the 21st day to get the --

CONSTANTINE ALEXANDER: Building permit. Long story short, you're talking two or three months before you'll be able to start work. Because of what I just described. We have to write up the decision, we have to file with the City Clerk. We have to wait, there's an appeal period of 20 days, and you don't want to start doing work and then somebody appeals out of the woodwork.

OTTAVIO SIANI: And then you have to put it back and --

CONSTANTINE ALEXANDER: Well, or you're just shut down at least. And the case can go on for years.

JANET GREEN: And then you have to take it down to the Court and file --

CONSTANTINE ALEXANDER: And you have to wait until everything is finalized and then you go ahead. And I would estimate two or three months from now.

OTTAVIO SIANI: Okay.

* * * * *

(8:50 p.m.)

(Sitting Members Case No. BZA-016986-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016986, 187 Hampshire Street.

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

Name and address to the stenographer.

NADER MICHAEL: Good evening. Nader Michael, 839 Boston Post Road, Weston.

JIGARKUMAR PUROHIT: Jigarkumar Purohit, J-I-G-A-R-K-U-M-A-R P-U-R-O-H-I-T. And address is Three Prescott Road, Everett.

MOHMED NADIM PANWALA: Mohmed Nadim, M-O-H-M-E-D N-A-D-I-M and last name PANWALA, 43 Mountain Avenue, Revere, Mass., 02151.

CONSTANTINE ALEXANDER: Sir, I know you have photos and you have the sign up. But you -- because you've talked to Sean. And you understand that under our Ordinance it's not -- if the sign -- I'm going to read, the sign has to be not more than 20 feet from the street line.

And your property is set back I know like on a driveway. So if you put the signs in the window, you'll be more than 20 feet away from the street line. In which case you're not complying with our statute. You've got to get the sign at the street or close to the street. And that's why we can't hear the case tonight.

NADER MICHAEL: Yes, I spoke with Sean when he told me that. I move it right away directly on the building, right on the street, on the front of the store.

CONSTANTINE ALEXANDER: Yeah, but it's too late. You have to do it 14 days. You have to have the sign at that location for 14 days. I know when I went and Sean went a different time you didn't have it there.

NADER MICHAEL: It was blowing from the wind, and I brought it even for the city and it was like wet. When we got it, I install it right away. Right after and I had it like, I had it when I install it on the front right away after I spoke with Sean and like we -- it was like windy, rain.

CONSTANTINE ALEXANDER: Nobody is suggesting bad

faith on your part or ignoring the law. A lot of people aren't aware of this 20-foot requirement, and there's always a problem in the wind and the like. Unfortunately you've got to put that sign back up on the front. We'll continue the case to another night, and we'll proceed then. I'm sorry, we have no choice. That's just the way our Ordinance is written. If it were written differently, we could hear your case, but it's not. And so that's what the City Council wants us to do it that way.

NADER MICHAEL: Okay.

CONSTANTINE ALEXANDER: Don't go away. When can we hear the case?

SEAN O'GRADY: We can hear them next time, 10/11.

CONSTANTINE ALEXANDER: 10/11?

SEAN O'GRADY: October 11th.

CONSTANTINE ALEXANDER: Okay. That will give you enough time to put the new signs?

SEAN O'GRADY: The sign would have to be up tomorrow.

NADER MICHAEL: Okay.

CONSTANTINE ALEXANDER: Can you get it up tomorrow?

NADER MICHAEL: Okay.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that we continue this case as a case not heard, which is important, until seven p.m. on October 11th. So seven p.m.

NADER MICHAEL: Okay. And one of the owners, the new owners --

JIGARKUMAR PUROHIT: So I'm traveling on the 11th. I'm not here in the country. But he's going to be here.

CONSTANTINE ALEXANDER: That's okay.

JIGARKUMAR PUROHIT: Just wanted to make sure you know.

CONSTANTINE ALEXANDER: From our point of view if you're happy, we're happy.

NADER MICHAEL: We're always happy.

CONSTANTINE ALEXANDER: Okay. So the case be continued as a case not heard until seven p.m. on October 11th subject to the following conditions:

That you sign a waiver of time for decision.

NADER MICHAEL: We'll have it tomorrow morning.

CONSTANTINE ALEXANDER: I'm sorry?

NADER MICHAEL: I will have the sign tomorrow morning.

CONSTANTINE ALEXANDER: Okay. Well, you can take the existing signs, that's my next condition. The new sign be -- modified sign be posted reflecting the new date and the new time, and maintained for the 14 days. You can just take the sign that's there now and take a magic marker --

NADER MICHAEL: I can change it. Change the date.

SLATER ANDERSON: And the time.

CONSTANTINE ALEXANDER: Make sure you change the time otherwise you'll have to wait until later on. Seven p.m., October 11th.

JIGARKUMAR PUROHIT: Okay.

CONSTANTINE ALEXANDER: And I don't know if you filed a copy of your -- no, there's nothing else. If you're going to change your plans, but you have no plans. This is not -- this is a change of ownership.

JIGARKUMAR PUROHIT: Yes.

CONSTANTINE ALEXANDER: So those two things. Put the sign up. Yes, sign that. And just make sure you get that sign up and you need it for the 14 days.

JIGARKUMAR PUROHIT: We can do it right away.

CONSTANTINE ALEXANDER: So we'll see you on October 11th.

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

(Aye.)

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

CONSTANTINE ALEXANDER: Five in favor. Case continued.

* * * * *

(9:00 p.m.)

(Sitting Members Case No. BZA-016989-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016989, 180 Prospect Street.

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

EDRICK VANBEUZEKOM: I'm Edrick Vanbeuzekom, I'm the architect for the project. And this is the owner of the building, Roseanne Rankin and project manager Ray DeSimone.

The project is on Prospect Street, 180 Prospect Street. This is a house that the property is split down the middle basically, the house is split down the middle. One half of the property is part of the Prospect Court development, which actually was involved with David Bosen

(phonetic) doing that ten years ago or so. And now we're renovating the other side of the building. Here are some photos. I know you have some in the file. There are some additional ones.

CONSTANTINE ALEXANDER: We have them in the file.

EDRICK VANBEUZEKOM: Yes.

CONSTANTINE ALEXANDER: I've seen them. Take a look.

EDRICK VANBEUZEKOM: Basically we're looking for relief is for a covered entry porch. And I'll just show you here. This is the existing site plan. This narrow strip here is the buildable area by zoning setbacks. We have a driveway here. And there was a landing here which we've -- we're replacing and we're also adding a new exit door over here for this unit. So we wanted to extend the porch over that way.

The proposal you can see we are doing a covered porch here with steps facing to the front so it's no longer exiting into the driveway and steps to the back for the rear exit here which serves both the rear unit and the front unit. That's basically the gist of it.

CONSTANTINE ALEXANDER: And the zoning relief you

need just side yard setback?

EDRICK VANBEUZEKOM: Side yard setback, that's correct.

I'll give you a quick overview of what it looks like. So from the -- this is the side that we're working on. And so, you know, the exterior is also being upgraded to be compatible with what we did previously. Here are the steps coming in from Prospect Street.

CONSTANTINE ALEXANDER: And that dotted line shows you the --

EDRICK VANBEUZEKOM: That's the setback line, yeah.

CONSTANTINE ALEXANDER: That's the setback line?

EDRICK VANBEUZEKOM: Yeah.

CONSTANTINE ALEXANDER: Got it.

EDRICK VANBEUZEKOM: And this is from the side. We wanted to put a roof over it to protect it. Pretty straightforward. And I think, you know, it sort of adds to the house itself, too, in terms of giving a little more three dimensionality to that facade. So I think sort of historically it works well with the house.

CONSTANTINE ALEXANDER: Okay.

EDRICK VANBEUZEKOM: So that's basically all we're looking for.

CONSTANTINE ALEXANDER: Comments or questions from the members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: None. I would say I would open the matter up to public testimony, but we only have one person sitting in the audience, not counting John who doesn't count.

JOHN HAWKINSON: That's been known to happen.

CONSTANTINE ALEXANDER: Anything you want to add, John?

JOHN HAWKINSON: No, thank you, Mr. Chair.

CONSTANTINE ALEXANDER: Okay, I'll close public testimony.

Discussion or ready for a vote?

(No Response.)

CONSTANTINE ALEXANDER: Ready for a vote.

The Chair moves that we make the following findings with

regard to the relief being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that the side of the house that's very close to the side lot line needs some shelter to cover people who enter in bad weather, enter or depart from the structure. And that would involve not only you folks, but anybody who owns that structure. It's just, if you will not a defect, that's too strong of a word, but a quirk in the design of the building.

That the hardship is owing to the fact that this is a long and narrow lot. It's an unusually shaped lot. And, therefore, that creates the setback issues that's the subject to tonight's hearing.

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

In this regard the Chair would note that the relief being sought is modest. It improves the physical appearance of the structure. And judging from lack of any comments in our files, there's no neighborhood opposition.

So on the basis of all of these findings the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by EVB Design issued August 9, 2017?

EDRICK VANBEUZEKOM: Whoops, it should be 2018?

CONSTANTINE ALEXANDER: All right. I'll correct it. '18 and initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

Good luck.

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

* * * * *

(9:15 p.m.)

(Sitting Members Case No. BZA-016997-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016997, 212 Hampshire Street.

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

ATTORNEY SEAN HOPE: Good evening, Mr. Chair, members of the Board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here tonight on behalf of the petitioner. We have Binoj Pradhan. He is the manager of 212 Hampshire Street, LLC. And we also have from Khalsa Design, Incorporated we have Tanya Carriere.

And if you guys both want to spell your name for the stenographer.

THE STENOGRAPHER: I have his name here.

TANYA CARRIERE: Yes, C-A-R-R-I-E-R-E, Tanya, T-A-N-Y-A.

ATTORNEY SEAN HOPE: So this is an application requesting Variance, Variance relief to add a third floor to the existing Ryles Jazz Club at 212 Hampshire Street. Also a Special Permit to reduce the parking.

So the Board may be familiar, but just briefly. So Ryle Jazz Club is really in the heart of Inman Square. For a long time it's been a destination for music, live entertainment. There's also been a series of dancing, salsa dancing. So it really has been a multipurpose function facility. The property is owned by the same family that owns the S&S Deli across the street, and so there's been some connection between the two over the years. And I believe it was last year when the property became on the market, it was pretty public because it was a prominent location. One of the things that caught a lot of people's interest was the fact that the

property had a series -- was conveyed with a series of deed restrictions. The deed restrictions were pretty broad, and essentially it eliminated the use of any restaurant, catering, anything with alcohol that would serve patrons. So the allowable uses which are in the Business A district, many of those were not allowed as part of the deed restriction. The one use that was allowed was a liquor store, and that's expressly in the deed. So the commercial uses and the retail uses were used on the first and second floor, and so those uses were no longer allowed except for the liquor store.

Another thing there's been the growth of the Inman Square Neighborhood Association. They are an association that's -- that is aimed at furthering the ground floor retail and promoting the retail along Hampshire Street. I mention that because as part of the outreach, we did go and talk with the Inman Square Association early on. And one of the main points was they wanted to make sure that there was ground floor retail that was able to remain in that location. With the deed restrictions one of the allowed uses that wasn't restricted was a residential use. And as the Board is aware, when you're doing residential on main

thoroughfares, you have doors and windows but it doesn't promote active retail. So the petitioner went out to the neighborhood and worked with his architect and came up with a ground floor use, which is going to be a wine store on the ground floor, but then sought to do residential on the upper floors. In the research at the Historical Commission they actually found a historical photo. And if you look there on the left-hand side as part of the packet, so that is what the property looked like back in 1922. So there was a third floor that wasn't there originally. And in 1960 there was a fire that eliminated that third floor and they've had two floors ever since.

So when we looked at creating a mixed use development, we looked at what the allowed number of units is. And so under the -- under the calculation, there's allowed for seven dwelling units if you made the whole thing residential. And so part of it was if you make the, if you take that seven and you make the second and a third floor residential, one, you exceed the FAR, and you would also exceed the setbacks.

CONSTANTINE ALEXANDER: Wait, I'm confused. Your application says eight dwelling units.

ATTORNEY SEAN HOPE: That's right. And so seven is

allowed, we are applying for eight. And one of the representations we made to the neighborhood Mid Cambridge and Historical is that we are offering one of the units to be affordable. So we're not taking the density bonus. So this is not something that we're adding for a bonus. This is just to make the property more attractive, and also felt that it was something the community was requesting. So even though it's an affordable unit, we still need, because we're exceeding the lot area per dwelling unit, so we still need a Variance for that additional unit.

CONSTANTINE ALEXANDER: Question: Right now the FAR requirement for the district is 1.75. You're at 1.61 now. That's a different use and the like. If -- how many dwelling units could you -- and with the ground floor design you're proposing, could you have if you didn't seek a Variance on the FAR under 1.75? One more, one less unit, am I right? I'm just guessing.

ATTORNEY SEAN HOPE: Yeah. So it's -- there's two things. So the FAR is not about the unit count.

CONSTANTINE ALEXANDER: No.

ATTORNEY SEAN HOPE: Even if you did seven units, you'd

still over the FAR. So part of it was, when you replicate what's there and you fill up the floor plate, you could make seven units and make larger units, but the pro forma and the way it laid out, eight units, eight units is what the preferred was. So we could have come in here for eight units, but we also after talking to the neighborhood, recognizing that we're asking for FAR relief as well as setback relief, there was an idea let's create a community benefit. We actually did talk to some neighbors and the Inman Square Association doesn't have a meeting place, and so that was one of the ideas for the ground floor to create a meeting place. But business associations come and go. Right now they're active. They could become less active or even find another location. And after we talked with the city, we thought we got a lot of support for promoting and including in the development an affordable unit. So we could have done seven. We still would have needed FAR relief because in order to even do seven units, the floor plate would be very similar. So we're asking for eight units which exceeds the lot area per dwelling unit by one as well as the additional FAR. So we're asking for a two on FAR, and that is essentially is the floor plate on the third floor.

CONSTANTINE ALEXANDER: You still could have an affordable unit, you just would have six at market units and one affordable unit with seven?

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: So there's no magic. The affordable unit is not necessary to this relief. You can do that if you want and you want, and I think the city appreciates that. But my dilemma is where's your hardship? You can do, you can convert -- why do you need to violate the FAR -- violate. Seek relief from the FAR requirements? Why not just do a less -- a more modest plan with one dwelling unit less? And also to me, ties back into the Special Permit for parking. You're going to be adding, under your proposal, eight more dwelling units with no parking in a very dense area of the city with no really nearby public transportation. At least in terms of the T. The T is not that close to Inman Square. Yeah, you can walk it, but it's not that close. And in snow times and winter, where are these eight cars presumably going to park?

ATTORNEY SEAN HOPE: Yeah. So taking the parking

question first. So the prior use, and I'm not exactly sure what the occupancy was, but the prior use received a Special Permit to reduce the parking by 16 spaces from this Board I think.

CONSTANTINE ALEXANDER: That's for the prior use being the Ryles.

ATTORNEY SEAN HOPE: Yes, the prior use. And I think the point is that the prior use far exceeded, in terms of the intensity of the use, the number of spaces, far exceeded this proposed use. So the ground floor retail under the small business exemption is essentially covered. And so the eight additional dwelling units would require eight parking spaces where the previous use had to get a Special Permit from this Board for 16 spaces. So I would argue that this proposed use is going to be less intense in terms of the parking on the neighborhood. I would say that there is, there is -- the bus lines that are ample along Hampshire Street as a transportation node. But, again, you know, there are eight parking spaces. I do think that as opposed to the prior use, this is going to be far less intense. And I do mean -- we did provide a transportation map that there are availability of multiple forms of

transportation. To the Chair's point, you're still 12 -- it's a 12-minute walk to the Red Line. So it's not immediately adjacent. But I do think the conversion to residential is going to be far less intense than the proposed use.

BRENDAN SULLIVAN: Are these rentals or condos?

ATTORNEY SEAN HOPE: This is going to be a rental. The petitioner is going to be the owner/operator of the ground floor retail and he's going to maintain the building; is that correct?

BINOJ PRADHAN: Yes.

ATTORNEY SEAN HOPE: As rentals.

BRENDAN SULLIVAN: So that the eight units are going to be rentals with one of the units being affordable?

BINOJ PRADHAN: Yes, sir.

SLATER ANDERSON: Deed restricted affordable?

ATTORNEY SEAN HOPE: That's right. And so when we talked to the Cambridge Housing, we, you know, we talked about the development. And so the Board could restrict -- would have to in its decision, restrict one of the units to be affordable, and then we would have

to abide by whatever the affordable program is at that time. So they may -- I mean it's gonna be low income. But if they changed it, but we would go with whatever, whatever program they would. They didn't make the distinction, though, because this is not an inclusionary housing project, because if we had to provide 20 percent, we would also get the density bonus. So we are voluntarily offering one unit as affordable to be regulated by the city's affordable housing department.

BRENDAN SULLIVAN: Is there any on-site room for bicycle storage?

ATTORNEY SEAN HOPE: Yes, there is. And so we --

CONSTANTINE ALEXANDER: In the plans you see it.

ATTORNEY SEAN HOPE: Yeah, in the plans. And we can walk through that.

But just to also speak to the hardship. So one of the challenges with the hardship really also correlates to the deed restriction.

SLATER ANDERSON: Can I make an observation about that before you go too far on that?

ATTORNEY SEAN HOPE: Yes.

SLATER ANDERSON: This property was purchased by the applicant, correct, with full knowledge of deed restrictions?

ATTORNEY SEAN HOPE: Correct.

SLATER ANDERSON: That is not a hardship in my mind.

ATTORNEY SEAN HOPE: Let me finish. So I think it's a balance. Because you're right, this applicant or anyone else could make it work. The building could be fully residential, make residential on the ground floor. He wouldn't have to add a floor as a way of making the numbers work. There is an incentive and there's a strong community benefit in keeping the ground floor retail. Ground floor retail, as the Board knows, doesn't drive projects. It often breaks even. So the idea is this is an important building, there's a strong community push, and there's letters in the file to support this to create the ground floor retail. So the ground floor retail is fairly large, so if you're going to have residential above to offset that because of the deed restriction -- and remember with a deed restriction, it's not just a ground floor. There were two whole floors that were fully used for all types of uses: Salsa classes, functions, comedy shows. So we're taking all of that off the table. And so what do you do

to make that work? So one of the -- the balance that we've struck is to create this third floor. And I would tell you that if there wasn't a historical photo, if we weren't replicating what was there, we probably wouldn't be here for a third floor frankly. I mean, when I was early on and I looked at this, I said the challenge we're probably dealing with. And so when the historical photos surfaced, we went and we did our community outreach. And we had a lot of support for the ground floor retail. We didn't have any neighborhood opposition that I was aware of. We did a community meeting. So we had a lot of support for keeping the ground floor active and to really to make it a viable project, because there are lots of uses; we could do residential, office residential to make the numbers work. So this is really balancing the community benefit of ground floor retail and also the idea of being able to do a historic renovation, and we believe that the addition of the hopefully the affordable unit makes this balance work for the Board and we've also gotten positive support from others in the neighborhood about it.

BRENDAN SULLIVAN: Yeah, but I mean those are all numbers that we're not privy to in a sense. We'll take your presentation.

So what you're saying it's really a tradeoff.

ATTORNEY SEAN HOPE: That's right, there's a balance.

But to Mr. Scott's (sic) point, we're not saying there's nothing we can do.

There are uses, and I think those uses will be less compatible with the building particularly in this important corner in Inman Square and I accept your point.

BRENDAN SULLIVAN: I would hope as I read through the pleadings, that there would be a little bit more meat on the bone for the reasons.

CONSTANTINE ALEXANDER: Yeah. As I read the file, I said I don't see the hardship. And I'm still not convinced what I'm hearing justify -- it's all about you need these eight units so we can have something retail on the ground floor. But, you know, that's going to benefit the property, the owner of the property. You're going to get rent from that. Ground floor residential units are not particularly desirable. So, and I think you can reconfigure the upper floors for dwelling units and meet the FAR requirements.

ATTORNEY SEAN HOPE: So just a clarification. So if we

reduced it to seven units and not had eight, that wouldn't change the FAR. So the FAR would be the same because it's based on the floor plate. But to the Chair's point, you know, we could, we could -- we're not saying we couldn't, we could have seven units which would keep in line with what the site would allow. It would still have the same square footage. It would still give us some of the same benefits that we would have with the ground floor retail and be able to offset some of that. So to that point. And I think so there's setback relief, which is one. You can't create that upper floor without the setbacks. In a Business A you have to have -- come in at ten feet on all sides. So you really wouldn't be able to either replicate the (inaudible) or have a functional upper floor. So there's setback relief that's not tied to the number of units. And then the FAR as well, they line up. So you take the floor plate and obviously it's a mansard style roof. But to your point, maybe the additional unit is probably where we wouldn't have to have. And we could do without it. And we do think it makes it viable and this is something that's part of the program. But, you know, if that was something that the Board found particularly objectionable, I think the design itself, you know, we went through Mid Cambridge Conservation

Commission and they --

CONSTANTINE ALEXANDER: The design I agree with you.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: And the issue is -- the issue is not whether we have an objection to it. I don't see you carrying the burden of proof to demonstration why you should be entitled to the zoning relief.

ATTORNEY SEAN HOPE: Specifically for the additional unit?

CONSTANTINE ALEXANDER: Yeah. What's the legal justification? What's the hardship that requires you to have that additional unit? What are the special circumstances involving, you know --

ATTORNEY SEAN HOPE: Yeah, the shape of the lot.

CONSTANTINE ALEXANDER: The shape of the lot and all that. And, and just -- I don't mean to interrupt you.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: And the fewer units you have, the fewer, less problems you create with potential problems with

parking. You got to -- I'm still troubled by eight dwelling units with no parking whatsoever in this area. And plus, and sorry, I keep interrupting you. I apologize. Plus you're going to have traffic, people driving presumably to the retail use, to the liquor store -- the wine store I should say.

ATTORNEY SEAN HOPE: Yeah. So there is another wine store in the neighborhood so I don't think that we would necessarily attract. And the idea is almost all the retail that's on Inman Street, even though there are meters, is really from the neighborhood. You know, from neighborhood retail. And so one of the, one of the benefits we see, not maybe eight versus seven, but to the residential also is that it actually promotes the ground floor retail. So that as there are patrons on the street being able to service some of this neighborhood retail we think we would be adding to that.

To your point, though, there is not -- the eighth unit itself, you know, we started off with seven, and there were seven market rate units, and we looked at different options to add to the community benefit package, and the additional unit was something that we thought was the

benefit and that --

CONSTANTINE ALEXANDER: And it's the same benefit with seven units, but you still dedicate one for affordable housing.

ATTORNEY SEAN HOPE: I think you could but there are also some economics and that's not the only piece.

CONSTANTINE ALEXANDER: But that's -- you should know the economics don't justify the granting of the relief you're seeking.

ATTORNEY SEAN HOPE: No, I understand. And also, I mean, financial hardship can be, but I wouldn't say substantial.

SLATER ANDERSON: Not on a new acquisition.

ATTORNEY SEAN HOPE: Understood. Understood.

SLATER ANDERSON: That's -- it has to, the market decides what it's worth based on the restrictions that are placed at the time of acquisition. I mean, that's -- you know, if someone overpays, it's not our problem to fix.

ATTORNEY SEAN HOPE: Understood. And I think the point is, it's not -- the eighth unit doesn't create without a substantial hardship and that's part of the requirement in the statutes. You can say

it's a hardship, but it's not substantial. And I think we're saying it's not the project doesn't work if we don't have this eighth unit.

CONSTANTINE ALEXANDER: It doesn't have what, I'm sorry?

ATTORNEY SEAN HOPE: I said, we're not saying the project doesn't work at all if we don't have this eighth unit. So if the Board felt that staying with the seven was appropriate either for the parking reason or also because we're adding and may not have a hardship specifically dedicated to that, we would accept that and that was part of the --

SLATER ANDERSON: The parking is a Special Permit. So that's a separate from the Variance hardship issue.

CONSTANTINE ALEXANDER: Separate, yeah.

SLATER ANDERSON: I mean, I -- I like the building. The building as is right now does look like, you know, someone lobbed the roof off. I mean, original design of restoring that is great. I see eight, one-bedroom units. I mean, that easily could be four, one-bedroom units and two, two-bedroom units. You know, you've got it in as eight like 500

square foot units basically. So, you know, there's a way to definitely at least get in compliance with the unit count I think. And I respect and appreciate the provision of an affordable unit. I think that is a reasonable offer for the ask. So in its totality, I don't have a huge issue with the proposal. I mean, I think the hardship thing is -- I mean, there's more about the -- probably the shape of the lot and the building itself that's a hardship than, you know, than the deed restrictions.

ATTORNEY SEAN HOPE: Yeah, I mean, I would say, you know, it is on a corner lot and it's fully built out so that it's non-conforming in several different ways. To be accurate, if it was staying all commercial, you wouldn't have to have the setback. But still the fact is that any residential because of the footprint would be extremely small. So regardless of unit count, we would be here asking for setback relief. And I think if we were asking for a third floor to replicate it, we would be here for FAR relief. So, you know, may be identified right off the bat. But I think maybe our more tenuous ask is about the additional unit. And if we haven't made our compelling argument to say, well, we need the additional one, we can accept that, but...

BINOJ PRADHAN: I bought another property. I'm a local business owner on Cambridge Street. I have one of the liquor stores, City Liquors. I redid the whole building. The neighborhood loved it. I put flower pots. I don't know if you drove by the liquor store on Cambridge Street, City Liquors, 620? That I redid the whole building. Everybody loved it. Neighbors came to me and thanked me because I put some flower pots that's permanent there. We flower everyday.

One thing after buying the property is like when you buy the property you think oh, wow it's nice and everything. But once you buy it and when you get into it and you see all the details, then you realize what you bought, you know. And that's something that I found on this property, that if anybody went out, you will find all rotten exterior. You know, which I didn't realize that before. And I brought a structural engineer, he goes you might have to replace the whole post that's outside that's holding the kind of extension. And, you know, you think something but you plan something, and next thing you know it turns out to be something else. And that what has happened to me on this project.

And I tried to see, I went to the historic office and tried to see

what was like that building before to bring it back to its original state, which I did with Cambridge Street, similar to that. And I saw the building and said, wow, it looks nice. I'm really attracted to that. But when I did my numbers with the architect, and with the cost of construction going up so high, and I did the numbers, and I talked to my bank lender. They go, like, okay, this is how much revenue we need so you can qualify for the construction loan. So that was something I never discussed with him. And I was hoping that, you know, everything would go smooth. But after hearing what you have said, and I understand what you've said about the hardship and everything, and I totally agree with you guys. But just that sometimes when you look at the final way, when you rent a two-bedroom and three-bedroom, it's more challenging. Because I own property on Cambridge Street, and what I realized is renting a three bedroom is more challenging than renting a two bedroom. And renting a two bedroom was more challenging than renting a three bedroom. Plus renting a two bedroom versus a one bedroom, the revenue was kind of different. It was more for one bedroom you get more revenue than -- versus a two bedroom. And when I did my math and I talked to the lender and I said

how much money? And I talked to a contractor, that said, you're looking at at least \$2 million on construction costs, because you have to do the whole exterior outside and you got to do all the windows, you got to do all the windows on the first floor, all the third floor, because the roof that we are proposing is not a straight roof or a flat roof, it's a mansard roof. And he said that matching a mansard is not easy, and plus, you know, the architect, (inaudible) they want more details. Like, they put all the corners and every detail they came up with, that was -- I showed it to my contractor, he was like, you're asking for a lot for what you actually try to get for that third floor addition. And, you know, even he said is it worth it for you? And I said, I'm in. I want to do it. It looks better. I like the property. I take pride in my property. I take pride on 620 Cambridge Street. And I want to take pride on this property. I'm the one who's going to be running the business on the first floor. I run the business on Cambridge Street also. I have a restaurant. You know, I've been part of Inman Business Association for almost three, four years since it's been there. And I try to be part of the community. I reach out to the community. When I did the liquor store also, I went to the Inman Square

Neighborhood Association, I heard what they had to say, and I just listened to them. And based on that, you know, I've been making the decision the.

SLATER ANDERSON: Do you have a license for the liquor store there?

BINOJ PRADHAN: Yes, sir. Yes, sir. YEAH, it was intense process. I went to the Inman Square -- like I said, Inman Square Business Association and Inman Square Neighborhood Association. There were about 200 people. They like the way I run my other liquor store. It's not just a liquor store. It's basically a craft store. We call it a craft wine and beer store. If you go to my store, you're not gonna see Budweiser and Bud Light. You see mostly drafts that are imported. We specialize in that. We are -- we just got -- we get local actually give us the award for this year, and we won Regional Choice award, too, because we carry a lot of craft stuff. It's not like a liquor store you go buy nips and bottles. This is something we specialize only. Specialize high end quality imported stuff which actually attracts customers. Because they just opened a total wine -- Liquor Junction in Twin City Plaza in

Somerville, and that's hurting my business but it's not much, you know.

And because we specialize in different stuff. So when you hear the word liquor store, it doesn't sound, you know, warming. So what I will tell you is it's a craft store. We have high reviews. You can look on Yelp. We do a very good service. Our whole idea is customer service and stuff.

And the reason I bought this building was because I wanted to put a business, that's what I know, that's what I do. And a lot of customers love it. They said you love you provide this, you know, and that's the whole idea. I can't compete with Total Junction or Liquor Junction and all these guys because they're selling in the cost price. And I took this property and I saw there was a lot of work needed to be done. And when I saw the picture from the Historic with the third floor, I was really mesmerized with the picture. I said wow, it looks so nice, you know.

CONSTANTINE ALEXANDER: You got to understand, you make your business decision and you bought the property how you're going to design it. If it turns out it's more complicated or more expensive than you anticipated, we're not the people to give you relief.

BINOJ PRADHAN: No, no, I understand, sir.

CONSTANTINE ALEXANDER: That's not our job. And we're more concerned with the impact on the city and compliance with the zoning by-law. And for me, just to be clear, I will not approve -- I will not vote in favor if there's going to be eight units. Seven units with one set aside for affordable, fine with me. I think everything else I can go along with. But I can't go -- I personally can't go along with eight just so you understand.

JAMES WILLIAMSON: Opportunity for information questions for the public?

CONSTANTINE ALEXANDER: I haven't gotten there yet.
Anything further you want to add?

ATTORNEY SEAN HOPE: The only thing I would add in support of the cost element, I know it's not totally germane, so this is in the Mid Cambridge Historic District, and typically they may give some design feedback, but part of the reason why we had this so many design it was actually binding. So because this is an increase over 750 square feet, they actually had binding review. So some of the detail work I believe that Mr. Pradhan would have done a great job anyway. But there was

actually specific binding review over this. So what you see in the file was vetted. We actually did a site visit and they actually did have special things --

CONSTANTINE ALEXANDER: I have no doubt.

ATTORNEY SEAN HOPE: -- and special things.

CONSTANTINE ALEXANDER: But they did those from a different point of view than us.

ATTORNEY SEAN HOPE: Definitely.

CONSTANTINE ALEXANDER: We have a different responsibility, different set of rules to play by.

ATTORNEY SEAN HOPE: And I just want to make a point.

This is not -- he just found some rotted wood that he didn't see before.

There was some of that in an older building, but there also was additional layer of specific details in reference to really making this a historic replication because it's not a restoration.

BRENDAN SULLIVAN: Right now the minimum lot area per dwelling unit is 600 square feet.

ATTORNEY SEAN HOPE: That's right.

BRENDAN SULLIVAN: If we drop down a unit to seven, that number is -- right now it's five-something, 540?

TANYA CARRIERE: 540 for eight.

BRENDAN SULLIVAN: For eight. What does that change the number for seven then? Sorry.

TANYA CARRIERE: I have to do the math.

CONSTANTINE ALEXANDER: Use your calculator.

BRENDAN SULLIVAN: It would be over six. So that brings us a little bit into a nicer --

TANYA CARRIERE: 617.

SLATER ANDERSON: But you are losing the rental income from one, but you're turning that -- what you're really doing is turn that into a two -- one of the units into a two bedroom.

CONSTANTINE ALEXANDER: Right.

SLATER ANDERSON: Let's say you're getting 1500 for the one or whatever it is, 1200 to 1500. You're going to be getting, you know, 2600 to 3,000 for that. You're not losing a lot of income by going the seven honestly I think.

BINOJ PRADHAN: If the Board thinks, you know, that's the best way that you feel comfortable with, I'm fine with that.

CONSTANTINE ALEXANDER: Well, we'll see. We'll take a vote and have further discussion and we have a citizens of the city sitting behind me to my right who wants to speak.

But anyway, any further comments or questions right now?

ANDREA HICKEY: Yeah, I mean your comments about the parking are interesting from a couple of perspectives. I think if you add a two bedroom and take away a one, who's to stay that's not going to bring another car and we're right back where we started from? I mean, I think the idea of an affordable unit is a really important one.

CONSTANTINE ALEXANDER: Oh, I agree with that.
Nobody disagrees with that.

ANDREA HICKEY: And personally if I have to make a tradeoff between parking and an affordable unit as a compromise --

CONSTANTINE ALEXANDER: Well, I'm proposing we still maintain a requirement that there be one affordable unit there.

ANDREA HICKEY: I don't know whether that's something

they're --

CONSTANTINE ALEXANDER: They can do it. They'll tell you they'll make less money perhaps, but it can be done.

SLATER ANDERSON: The economics aren't much different I think when you go from seven to eight or eight to seven.

ANDREA HICKEY: Yeah, I would just hate to lose an affordable unit to not be guaranteed a better situation with the parking, that's all.

CONSTANTINE ALEXANDER: I think we all agree with that.

SLATER ANDERSON: No, I agree it's a requirement, because we're still allowing the FAR. We'll well aware the FAR here.

ATTORNEY SEAN HOPE: I would just say, though, typically when you have an affordable unit, you get a 30 percent density bonus. Now you're adding 20 percent, too. So we're not adding 20 percent, but we're not getting a bonus. So that is -- it's a financial impact that the petitioner would have to --

JANET GREEN: I think that's a good point.

CONSTANTINE ALEXANDER: Well, it is. But I mean, to be

sure the financial impact is -- the finances are worse suggesting what you want, but I don't think it makes it unaffordable. I don't think this project craters because of that. You know, that's -- when you have to comply with the law, sometimes you have to take less of a profit than you would like as a developer. To me that's how I look at it.

Anyway, go ahead.

SLATER ANDERSON: I was just going to say I see the parking frankly as the biggest economic issue because we're not dealing with a new structure here. We're dealing with an existing structure that you're going to modify, improve in an anchor location, and it's going to be more attractive than it is right now. You can't do subsurface parking. I mean there just isn't a parking option. So I'm less concerned about the parking issue than I am, you know, in I think maybe trying to get more in compliance some way.

CONSTANTINE ALEXANDER: Okay.

James, you said you wanted to speak?

JAMES WILLIAMSON: Well, I have a couple of questions.

CONSTANTINE ALEXANDER: Can you come around the

front here?

JAMES WILLIAMSON: I have a couple questions and maybe a comment but maybe not.

CONSTANTINE ALEXANDER: Okay.

JAMES WILLIAMSON: Thank you.

So my name is James Williamson, 1000 Jackson Place here in Cambridge.

The first question I have is about the unit mix. There's been a huge, hew and cry in Cambridge, I'm sure, Sean, you're familiar with it. The demand for three bedrooms, three-bedroom units has been very salient in certain quarters, so -- and the owner said you can't -- he'd have trouble he thought renting a three-bedroom unit. So my question is, you know, to what extent have you in fact considered a three-bedroom unit one or more as part of the mix here, and isn't it maybe a little less hard than maybe for whatever reason you may seem to think it would be to rent given everybody's talking about how the wait list for three bedrooms is ginormous.

ATTORNEY SEAN HOPE: Is this a back and forth?

CONSTANTINE ALEXANDER: You can answer his question.

ATTORNEY SEAN HOPE: You can answer.

BINOJ PRADHAN: One thing I do have a three-bedroom apartment, and one thing I notice is when I give it to rental agent, it is usually mostly college student that rent those three bedrooms. And one thing I experienced honestly, to be honest about it, and nothing against students and stuff, when I have a unit that's three bedroom, there's a lot of parties going on. And there's a lot of gatherings. Like, one time I had, I don't know, maybe 50 people in a three-bedroom apartment. I was shocked. I didn't know what to do. And all my neighbors, all the tenants around were complaining about all these parties going up to one, two o'clock. And I have -- I was a student and I understand, you know, they like to party. But one thing about three-bedroom apartment, the reason I didn't do it was because these apartment, when I put it on the market for rent, trust me it's going to be a rental student who is going to take this away immediately. And that's what I wanted to avoid. And with one-bedroom apartments, that's something I've seen less. And I have

another multi-family where it's all one bedroom, I never have that issue.

This is just --

CONSTANTINE ALEXANDER: I don't think we as a matter of zoning relief, we can't require him to have a three-bedroom apartment.

It's his decision --

JAMES WILLIAMSON: (Speaking at the same time as the Chair.)

THE STENOGRAPHER: One at a time, please.

BINOJ PRADHAN: And the reason I didn't want this at the property, was because there's a retail downstairs. And one thing I noticed was when you have that many people upstairs, and like whatever they're doing, it kind of shakes the building. And this is not a concrete building.

CONSTANTINE ALEXANDER: You don't have to justify it. That's your call when you go ahead and develop it.

James, anything else?

JAMES WILLIAMSON: And the related question was I think Sean said that it would be managed. I think your exact words managed

by the city or the -- so did you mean to say that the renting of whatever turns out to be -- if it turns out to be the case that there's an affordable unit, do you mean to say that the affordable unit is going to be handled by the housing division, Chris Cotter's housing division at CDD?

ATTORNEY SEAN HOPE: That's correct. So they would take their rental pool, they would do the income guidelines, and then they would select the property -- very similar to an inclusionary unit where you have the 20 percent and they have the whole program. So it would be part of the inclusionary housing program monitored by the city.

JAMES WILLIAMSON: Because it does seem if that's the case, there is an opportunity there to work with the owner, even though it's not required, to try to see if a three bedroom, you know, because they love -- they're all about three bedrooms.

ATTORNEY SEAN HOPE: I would say they've changed the ordinance now to give the Affordable Housing Department more flexibility. Because they don't do it by unit, they do it by square footage. So sometimes they'll say, hey, we'll take a thousand square feet in a three bedroom instead of getting multiple units. In this case this is a voluntary,

so that same conversation is a little different if we were over 10,000 square feet. But to your point, and I think to Mr. Pradhan's point, he's not interested in doing a three bedroom at least at this time. But I do think what we're talking about allows for two bedrooms which could conceivably have a family with a small child so that you could -- so I think we're going in that right direction.

CONSTANTINE ALEXANDER: I want to get off this --

JAMES WILLIAMSON: Just the idea that, you know, working them you could avoid the problem of having students, you could have it be a family. Which are two bedrooms.

The neighbors have been mentioned. I just happen to have a conversation with somebody working at the library on my way here before I got here who has lived on Antrim Street for 20 years who didn't know anything about this. Doesn't mean there wasn't the kind of contact that you're describing, but so is there any, are there any letters of support from any neighborhood organizations?

CONSTANTINE ALEXANDER: Yeah, there are some in the file. We haven't gotten that far yet.

JAMES WILLIAMSON: Okay.

And then the last bit is about the parking. In fact, there are -- I mean, because I take the 83 bus everyday. The 83 bus does stop directly in front of Ryles. By the way, I'm good friends of the manager of Ryles for many, many years. And he took the 83 bus sometimes on his way home if he was lucky enough to get out in time. So the 83 does go right by the front. And the 91. Although they're going to change the route of the 91 to go straight up Prospect Street because there's stuff going on, but the 83 would still presumably go by there.

The question I had is so, I didn't quite understand what you said about the parking, there's already an allowance, a waiver of a 16 parking spot would have been required but that was already waived? And, and the question is so where do people, how did people get in your, from your point of view, how did people get to Ryles? It's a busy, sometimes quite busy. If they drove, where did they park?

ATTORNEY SEAN HOPE: So, one -- the prior use being the retail functional music venue needed a Special Permit from this Board in order to operate what you had as the Ryles Jazz Club. So the number of

spaces that were for the whole building is going to be reduced. Because at this point the ground floor retail benefits from the small business exception, right? So the first four are waived. And then the retail is a one-for-one. So where 16 was required before, now only is eight. I would argue that the intensity of the use, the intensity of the requirement is reduced.

In terms of how they got to Ryles, we actually have a former owner and proprietor, but I would say, you know, there's metered parking. I actually went out and counted between Inman Street and Prospect. There are 16 metered spaces, and there's a host of metered spaces down Cambridge Street. So, you know, and after six o'clock or eight o'clock now those meters are free. So you would have people go and park at the meters there. And then potentially now, too, people also -- because of the drinking and driving and different things, people take Uber and cabs and the rest. But I would say, you know, the liquor store he's proposing, this is going to be a neighborhood type craft beer store. So it's going to be far less of a draw, the intensity would be reduced.

JAMES WILLIAMSON: As far as you know there wasn't a

parking issue given the more intense use?

ATTORNEY SEAN HOPE: I mean, Ryles has been there for a while --

JAMES WILLIAMSON: I'm just asking.

ATTORNEY SEAN HOPE: I don't live in the area.

Whatever it was, people got used to it and they're also on a commercial thoroughfare. There are side streets that are residential, but this is not a commercial business in a residential neighborhood. It's in a Business A, and there are definitely uses that are allowed that are all would have a very similar type of use.

JAMES WILLIAMSON: And I'm sorry, there's just one piece of that that I don't really understand. The Special Permit to allow for the use, the Ryles use, right, you needed permission not to have 16 parking spaces?

ATTORNEY SEAN HOPE: Yeah. And it was actually Mr. Rafferty not myself who was the attorney. But it was an expansion of the use, and expansion of the use expanded what they were -- the offerings. And the parking requirement included -- triggered -- the

expansion of the use triggered an additional 16 parking spaces. And they had to come to this Board and seek relief to waive those 16 parking spaces.

JAMES WILLIAMSON: The intentional unit. So how many parking spaces were required -- stayed as a requirement --

ATTORNEY SEAN HOPE: I don't have that information.

CONSTANTINE ALEXANDER: James, we're going afield. I know, that's interesting but not relevant to the case we're deciding right now.

JAMES WILLIAMSON: Parking is not relevant?

CONSTANTINE ALEXANDER: No. But was it 16 spaces in the Special Permit for the Ryles operation.

JAMES WILLIAMSON: What I'm trying to understand is -- which I think is reasonable to try to understand here, is there a currently, given it's not there, it's not open for business, but is there currently a set number of parking spaces required for the existing permitted use, what is that number?

SLATER ANDERSON: That use is prohibited now so it's not

relevant.

CONSTANTINE ALEXANDER: Yeah.

JAMES WILLIAMSON: But if it were say eight and, you know, so this -- to ask for a waiver is going from eight to zero, if you understand what I'm asking. This is gonna waive any parking requirements?

CONSTANTINE ALEXANDER: Exactly. The relief they're seeking is that no --

JAMES WILLIAMSON: Have there been any required parking spaces for the previous use?

CONSTANTINE ALEXANDER: And Mr. Hope has said in connection with the expansion of the Ryles establishment, 16 -- a Special Permit was granted for 16 spaces. That's, that's ancient history. That's not our history now.

JAMES WILLIAMSON: Yeah, but that's not -- okay. That's not what I'm asking. I got that the 16 was waived.

CONSTANTINE ALEXANDER: Right.

JAMES WILLIAMSON: But was -- there's a base number

there prior to the --

CONSTANTINE ALEXANDER: I don't know.

SLATER ANDERSON: Are there any parking spaces on-site currently?

ATTORNEY SEAN HOPE: It's completely built out.

SLATER ANDERSON: So there's no parking.

JOHN HAWKINSON: I hate to speak, Mr. Chair.

JAMES WILLIAMSON: Thank you.

CONSTANTINE ALEXANDER: All right, let this gentleman. Go ahead, John.

JOHN HAWKINSON: S&S provided parking for Ryles.

CONSTANTINE ALEXANDER: I suppose that's true. Yeah.

JOHN HAWKINSON: So -- I mean, that's not insignificant.

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

GARY MITCHELL: My name is Gary Mitchell. I represent the Mitchell/Wheeler family. We own S&S Realty and S&S Restaurant. For over 100 years we have been in Inman Square. We love this project.

This gentleman here wants to bring back this building to what it was in the 1800s. If we're talking about one apartment in Inman Square, I drive through Fresh Pond, Harvard Square, Kendall Square, Lechmere, there are hundreds and thousands of apartments, no one is coming to Inman Square to build and renovate and develop. This gentleman wants to bring it back. And it is truly magnificent.

Ryles was licensed for 312 nightclub restaurant guests. Our customers parked everywhere. S&S lots, down Inman Street, Antrim Street, all over the place. For you to hold up one apartment for this gentleman --

JAMES WILLIAMSON: Not me.

GARY MITCHELL: No, this Board, is beyond my family's wildest dreams. Please, 312 people are licensed for, plus our employees. There were 75, 100 cars all over Inman Square on any given night. Eight little apartments in Inman Square is dramatically less parking than you can ever imagine that Ryles would ever do.

This gentleman's an immigrant. My great grandmother came to this country 100 years ago, landed in Inman Square, built the S&S,

bought that historic building. This gentleman came today to bring it back. Truly, I couldn't believe it. Mid Cambridge Neighborhood Association loves it. We love it. The neighborhood loves it. He wants one apartment? One more. I can't believe it. I can't believe I'm sitting here listening to you folks telling him he can't have it. I don't see the neighborhood against it. We're not against it. You folks, oh, seven, eight. I see thousands of apartments in Cambridge everywhere I turn. We're for it.

Let's talk about the retail nature of Inman Square. It is dead as a doornail. I could assure you that. I'm there everyday. He's gonna put a package store in there. What do people do? They come to the S&S, they get some takeout. Maybe they'll park in our space. They'll walk into his store, get a bottle of wine, and go home. That's good for the S&S. It's good for Inman Square.

So I go to Community Development and I say what are you doing this to guy? It's crazy. He wants to do the right thing in Inman Square. For you folks he wants to do the right thing in Inman Square. We're the abutters. We're the neighbors. It's good for him. It's good for

square. Let him have what he wants. We're not talking about a skyscraper.

CONSTANTINE ALEXANDER: We got the message, sir.

GARY MITCHELL: All right. Anybody have any questions for me?

Ryles was licensed for 312 people. I don't know how many parking spaces we got --

CONSTANTINE ALEXANDER: We got the message I said.

GARY MITCHELL: All right. Give him his one space.

CONSTANTINE ALEXANDER: Thank you.

GARY MITCHELL: We are the abutters.

CONSTANTINE ALEXANDER: Thank you.

GARY MITCHELL: Thank you.

Any questions?

JAMES WILLIAMSON: No comment.

CONSTANTINE ALEXANDER: Sir, you wanted to speak?

MAHESH VISWANTHAN: I actually am just here because I'm curious about the process. I was really surprised that he's here,

because he's an old friend. I have known him for 15 years, something like that. And I've known how he does things. And if he's doing something over here, I don't know the details of this, whatever he does is good for the neighborhood. That much I know. I own some property in the area. I don't live too far from there. And some of the things are that he's on the ball -- if he's doing one bedroom apartments, he's on the ball, because I own some one bedrooms and I own some two bedrooms, and the one bedrooms go much faster as rentals, because people prefer -- it's a lot easier on their pocketbook. It's better for people. If I had one more bedrooms, it would be actually more helpful for people.

Regarding parking, I have tenants in Cambridge in two small buildings, and I have one parking spot in the building where I lived. I've never owned a car. I don't plan on owning a car. And once in a while I'll get a tenant who is like can I park over here? Otherwise I actually have to rent it out to somebody who works in the area in Kendall, One Kendall Square because people just don't actually have cars. And so I don't see having cars is a big problem. Anyway, so if he wants to build something in my neighborhood, I'm really happy with it.

CONSTANTINE ALEXANDER: Thank you.

MAHESH VISWANTHAN: That's all I have to say.

CONSTANTINE ALEXANDER: I guess that's nothing else.

SLATER ANDERSON: Letters?

CONSTANTINE ALEXANDER: Yeah, I'll get to the letters.

I will close public testimony. We are in possession of three letters with no particular order.

SLATER ANDERSON: There's two copies of Toomey's letter there.

CONSTANTINE ALEXANDER: You're right, there are. We have two letters. I'm sorry, there was a duplicate copy of the letter. One is from City Councilor Timothy J. Toomey, Jr. (Reading) I am writing to lend my strong support for the Variance and Special Permit application to construct an addition at 212 Hampshire Street, formerly Ryles Jazz Club. The Ryles Jazz Club location has been an important part of the growing Inman Square commercial corridor, and I am excited to see a proposal that includes ground floor retail as well as a residential component on the upper floors. As Inman Square struggles to become a vibrant retail

destination, the addition of appropriately residentially scaled residential dwellings will help support the local retail coffee shops and other ground floor commercial activity that needs pedestrian activity in order to thrive. Additionally, I commend the applicant for designing the third floor addition that will replicate the former third floor addition that was burned by a fire many decades ago. This historic renovation will enhance the character on the Inman Square, Hampshire Street, Cambridge Street commercial node. I am also aware of the numerous use restrictions placed on the property that create a hardship for the applicant to have viable project without the additional residential component and setback relief as requested. Despite the limitation of retail and commercial uses, I am pleased by the applicant's willingness to restrict one of the residential dwellings as affordable in perpetuity which will benefit the community and add to the Cambridge's housing stock of affordable housing units. I hope the Board will find that a hardship exists for the proposed addition, and that the requested parking reduction in its support of the development will further the city's growth policies of reliance and alternative forms of transportation. This portion of Hampshire Street is extremely well served

by many modes of public transportation, numerous parking meters, and Hubway car share options. For all these reasons, I strongly urge that you approve the zoning application without delay.

And the other letter is from the East Cambridge Business Association. And it's from Jason Alves, A-L-V-E-S, the Executive Director. (Reading) On behalf of the East Cambridge Business Association, we would like to lend our support for the application for 212 Hampshire Street. The owner of the property has expressed an interest in returning the building to its previous mansard style in maintaining two commercial retail spaces at the ground floor. Having retail at this location is important in keeping Inman Square an active retail district, and we are happy to see the commitment to bringing two uses into this space. The owner has taken care in renovating and approving another building along Cambridge Street that needed substantial work. We are confident that the applicant will deliver a great project that will bring new residents and retail to Inman Square. I hope you will find favor with this application.

I think that's it. I don't think there's anything else. That is it.

No, we have something from the Planning Board. I

apologize.

(Reading) The Planning Board reviewed and discussed the plans to add two stories of rental units to the existing ground floor retail space at Hampshire and Inman Streets. They discussed the parking relief and found that the parking requirement for residential parking is less significant than a jazz club and support that Special Permit to reduce the parking requirement in this location which is well served by multiple MBTA bus lines. The Planning Board supports the dimensional variances and appreciate the proponent's commitment to restoring the building to go original form. And here's an important one, they requested that the applicant explore any opportunities to change the mix of units creating larger units if possible, but specifically do not want this to be at the expense of providing an affordable unit or the restoration of the building.

And that is it.

Close public testimony. Comments?

I think it's a great project. I don't think, I think parking is not an issue for the reasons we've all explored. I would like to see a different mix of residential units. Eight, 500-square foot, thereabouts,

one-bedroom units, I don't think is going to wear well in the community.

I'd like to see at least one, two-bedroom unit and I definitely want to see

an affordable unit. That's me speaking, not the Board in this building.

That's where I'm coming.

ATTORNEY SEAN HOPE: To that point, we did take the Planning Board's advice we did explore how we could maybe change the unit mix. And one of the things that we came up with with our eight-unit program, with one affordable, is to take -- combine -- make one of the one bedrooms a studio, which would allow us to make one of the one bedrooms as a two bedroom. So we would, instead of having eight, we would have a two bedroom and a studio and six, one beds. That was a way of trying to address and also keeping the program that we thought was appropriate.

And I would say again to the Board, I think you've heard from the petitioner, what he believes will make this vibrant and successful.

And it's not a zero sum game. But I think that if the Board could see especially with the augment in the unit mix to allow for the eight units, I think he would be appreciative and I think it would help support what we're

trying to do.

CONSTANTINE ALEXANDER: What commitment do we have if we approve eight units that the -- this one, two bedroom, one studio, six, one bedrooms would in fact be the case?

ATTORNEY SEAN HOPE: So, the floor plate would stay the same. I don't know if you've done this in the past, but you could -- I mean you could as a condition write in addition to the affordable unit, that the unit mix be augmented such that there would be a two bedroom, a studio --

CONSTANTINE ALEXANDER: That's what I do when I make the motion. I wanted to hear your views on that.

ANDREA HICKEY: So if that was agreed, which would be the affordable unit?

SLATER ANDERSON: I would say it's not the studio.

ANDREA HICKEY: I think you're right.

CONSTANTINE ALEXANDER: I think that's right.

ANDREA HICKEY: Is it necessarily a one bedroom then?

CONSTANTINE ALEXANDER: To me I wouldn't go so far as

to micromanage and tell him whether the two bedroom has got to be the affordable unit or the one bedroom. I think that's going a little too far.

BRENDAN SULLIVAN: Yeah, it's going to incur --

SLATER ANDERSON: Yeah, I'm fine with the one bedroom.

BINOJ PRADHAN: Can I ask one thing to Board, is -- I don't know if you seen the plan, but I made one unit handicap accessible. I put an elevator there. That took a lot of my space of the floor plan on the second floor. So I don't know if the Board is okay with me taking the elevator to make that a two bedroom?

CONSTANTINE ALEXANDER: I'm sorry, I didn't follow the beginning. You have an elevator in the building?

TANYA CARRIERE: If we can't do it just by Building Code. We have to keep it there.

SLATER ANDERSON: That's fine.

BRENDAN SULLIVAN: I would support the plan as presented. I mean, there's a lot of -- a lot of moving parts. There's some tradeoffs, and I think that at the end of the day I would vote for it as presented. That the affordable unit be a one bedroom.

CONSTANTINE ALEXANDER: Yeah, but what about the idea of having a commercial use two bedroom?

BRENDAN SULLIVAN: You know, there is some validity to the fact that the more bedrooms the more people it brings, and that there is no parking limited bike storage in the back, so on and so forth.

There is a great need for one bedrooms. An awful lot of single people who don't want a roommate who don't want the cost of a larger apartment, and so there are -- we're never gonna satisfy the two's and three bedrooms and so on and so forth. And I, I would support what's presented and that the affordable unit be a one bedroom.

JANET GREEN: I feel the same way that Brendan's expressing it. I just think there's so many positives to this project, and I think there are a lot of complications. But I think hearing from a business person in Inman Square about the value of that, the letter from the Mid Cambridge saying that they really appreciate having this restored in this way. I think that it's, you know, the owner decides whether they'll do a one bedroom or a two bedroom or a three bedroom. I don't think that we should try to decide that too much. I don't disagree. I think it would be a

good idea to have a two bedroom. But I agree with the point that you have more people if you have more bedrooms. And it's amazing how many 500 square foot one bedrooms are filled now because of the cost. The cost of living. And so I really can support this project as it is.

SLATER ANDERSON: I think unbalanced the clear benefits of this and your thoughtful approach to this and everything you've done and what you've offered, outweigh our maybe strict, rigid adherence to what our requirements are in this. This is a clear benefit to the community, so I support it as proposed.

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

ANDREA HICKEY: Yeah. I agree. I think that eight units as proposed versus dividing it up to a two bedroom, a studio, I don't think that really is sort of a benefit at all. As originally proposed, I think it's a thoughtful project. I think -- I'm very comfortable approving it as originally proposed.

CONSTANTINE ALEXANDER: I think everybody has spoken, I'll make a motion. We have two votes to take obviously; one for

the Variance and one for the Special Permit for parking.

So let's start with the Variance first.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this project would not go forward -- this project which is very beneficial to the neighborhood and to the city cannot go forward, whether by this petitioner or anyone who would want to develop the property without the relief being sought.

The hardship is owing to the -- it's the shape of the lot, and it's historical -- and it's closest to the street on two sides which means that the setback requirements cannot be met. And that there's also a need given the desire on the part of the city, city officials or city representatives to have a commercial space on the ground floor requires that they have eight units above the commercial units.

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

purpose of the Ordinance.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with the plans prepared by Khalsa, K-H-A-L-S-A, they're dated 9/12/2018, the first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

CONSTANTINE ALEXANDER: As to the Special Permit, this is a Special Permit to reduce the parking requirements or to eliminate any required parking on the premises -- on the lot. This is a Special Permit which requires a whole different set of findings.

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

That the requirements of the Ordinance cannot be met without a Special Permit that's being sought.

That traffic generated or patterns of access or egress will not cause, congestion, hazard or substantial change in established neighborhood character. In this regard there is ample public transportation in or about the location of the structure, and that in fact the businesses and the Inman Square area have not been hurt by the fact of lack of parking when Ryles was operating its business in this building or on the site where this building will be built.

That the continued operation or development of adjacent uses as permitted by the Ordinance, will not adversely affected by what is proposed. In this regard we've have had testimony by quasi -- like specific officials, like the Est Cambridge Business Association, and the testimony of this gentleman, here that they will not be adversely affected by what is proposed in the lack of parking for this site.

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

And that generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the

intent and purpose of this Ordinance.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit to eliminate the parking requirements of our Ordinance, again, based on the plans that I referred to with regard to the Variance which will also apply to the Special Permit.

All those in favor please say Aye.

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

CONSTANTINE ALEXANDER: We're going back to the Variance that we granted. We needed additional condition:

That of the dwelling unit -- of the eight dwelling units that we granted relief for, one will be dedicated in perpetuity for affordable housing to be administered by and comply with the affordable housing that the city offers generally from time to time.

Okay?

ANDREA HICKEY: Question: What if the building at some

point got converted to condos, would we want that considered in
perpetuity?

SLATER ANDERSON: I think it's still affordable.

CONSTANTINE ALEXANDER: Still affordable unit.

ANDREA HICKEY: I think that needs to be -- regardless if
whether it's a rental or a condominium building that it be --

CONSTANTINE ALEXANDER: Well, I didn't put a limitation.
I said just one of the dwelling units has to be affordable.

ANDREA HICKEY: I thought you said rental. I'm sorry.

CONSTANTINE ALEXANDER: But anyway if I did, your
point is well taken.

SLATER ANDERSON: In perpetuity.

CONSTANTINE ALEXANDER: Yeah, in perpetuity whether
a rental unit or a condo unit.

All those in favor please say "Aye."

(Aye.)

(Whereupon, at 10:20 p.m., the

Board of Zoning Appeal Adjourned.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

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

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals
transcript, note any change or correction and the reason therefor on this
sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of October, 2018.

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

My Commission Expires:
April 29, 2022

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