

BOARD OF ZONING APPEAL
FOR THE CITY OF CAMBRIDGE
GENERAL HEARING

MAY 12, 2011

7:05 P.M.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Brendan Sullivan, Chair

Constantine Alexander, Vice Chair

Tad Heuer, Member

Thomas Scott, Member

Mahmood Firouzbakht, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:05 p.m.)

(Sitting Members: Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

CONSTANTINE ALEXANDER: The Vice Chairman acting in place of the regular Chairman will call this meeting to order. Not the regular, the Chairman. And the first case we're going to call is case No. 10075, 51 Highland Street. Is there anyone here wishing to be heard on this matter?

ATTORNEY KATHLEEN McCABE: Yes. My name is Kathleen McCabe, 129 Mount Auburn Street, Cambridge, Mass. I'm the attorney representing the owner. We realized at around four o'clock that we had not updated the sign. We were unaware of the requirement for the date of the continued hearing.

CONSTANTINE ALEXANDER: You realize that in the motion that we made -- I have the

transcript right here, spells it out. It's not like it was a surprise. This is a transcript of our hearing in April.

ATTORNEY KATHLEEN McCABE: Yes.

CONSTANTINE ALEXANDER: And I will read from the transcript.

"Brendan Sullivan: And we'll continue on the prerequisite that you sign a waiver for the statutory requirement for a timely hearing. That the posting sign be changed to reflect the new date of May 12th and the new time of seven p.m."

ATTORNEY KATHLEEN McCABE: Slipped right by me. And believe me, I'm mortified because the client took the plane home back from New York to attend the hearing.

CONSTANTINE ALEXANDER: What's the first date that's open?

SEAN O'GRADY: As we were saying, the first opening is the 23rd.

ATTORNEY KATHLEEN McCABE: Of May or

June?

SEAN O'GRADY: June.

CONSTANTINE ALEXANDER: Let me ask the fellow Board Members not necessarily you, Mahmood, because you won't be sitting here. The Legal Department wants to have an Executive Session with this, the night of the hearing. They can't be here on the 23rd. They can be here on the 9th. So they would like us to jam our calendar for that night, take one more case than we would ordinarily take so that they can come in that night, and give us an Executive Session. My view is to say no, they can come on June 9th for an Executive Session, and we'll hear the case, without jamming our calendar on the 23rd of June. So I welcome other people's points of view. I guess it's the two of you, what do you want to do?

THOMAS SCOTT: The agenda is full on the 9th?

SEAN O'GRADY: You have eight regulars and three continueds on the 9th.

CONSTANTINE ALEXANDER: The three continueds, are they really continued or phantom continued?

SEAN O'GRADY: No, I don't know what they are.

TAD HEUER: And on the 23rd we have what?

SEAN O'GRADY: The 23rd is not fully booked yet and there are no continued cases.

CONSTANTINE ALEXANDER: Ms. McCabe has something to say.

ATTORNEY KATHLEEN McCABE: I asked the clients tonight if they had any bad dates, they're leaving on June 19th for vacation.

CONSTANTINE ALEXANDER: So, they wouldn't be here on the 23rd either. Maybe they're going on vacation with the Legal Department, I don't know.

ATTORNEY KATHLEEN McCABE: Yes, and

my co-counsel and I were debating whether, you know, that would be okay we just come without them.

CONSTANTINE ALEXANDER: That's your call. Do you want to come or do you want to have it on the 9th?

ATTORNEY KATHLEEN McCABE: I'd like to have it on the 9th if possible.

CONSTANTINE ALEXANDER: Well, you and the Legal Department are accord on that. Unless you guys overrule me, I think we should move to continue this case until June 9th.

TAD HEUER: That's fine.

THOMAS SCOTT: I'm okay with it.

ATTORNEY KATHLEEN McCABE: I appreciate it.

CONSTANTINE ALEXANDER: The one requirement is that we have to have the same five members present. Now, if Brendan I'm quite sure will be here on the 9th. Tim Hughes, who is the fifth, we don't know.

He's usually here, so I assume he would be here. It could be that you only have four people on the 9th, and then you would have to go forward with the four or further continue the case. I can't give you any comfort. I think it's more likely than not that Mr. Hughes will be able to make it on the 9th but I can't promise you.

ATTORNEY KATHLEEN McCABE: Okay.

CONSTANTINE ALEXANDER: I just want to make sure you understand that.

ATTORNEY KATHLEEN McCABE: Okay.

SEAN O'GRADY: And it's more likely will go forward on the 24th.

CONSTANTINE ALEXANDER: That's true.

THOMAS SCOTT: And the Executive Session will happen at 6:30?

CONSTANTINE ALEXANDER: Yes.

The Chair moves that this case be continued until seven p.m. on June 9th on the

condition that the sign be -- please, the sign be modified to reflect the new date and the time. Change it from 7:45 p.m., which is on the sign to seven p.m. and that sign has to be up for the requisite two weeks or whatever it is before the hearing. Make sure the sign is up.

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

(Aye.)

(Alexander, Heuer, Scott,
Firouzbakht.)

(A short recess was taken.)

(7:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10078, 215 First Street.

ATTORNEY EDWARD PARE: Good evening, Edward Pare P-a-r-e from Brown Rudnick here representing New Cingular Wireless PCS, LLC as AT&T mobility. I think at the last hearing you had requested some additional plans.

FRANCIS KELLEY: Some stealthing.

ATTORNEY EDWARD PARE: Which I understand were provided as of Monday. We do have some copies here for anyone who doesn't have them. Also, he's handing out some additional, or so new view shed analyses that we performed which has the photographs and photo simulations.

CONSTANTINE ALEXANDER: I'm sorry,

what you're handing out is something new?

FRANCIS KELLEY: No, this was the same in the packet.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY EDWARD PARE: At the last hearing I think the suggestion was to, if you take a look at sheet A3, to sort of bring the antennas together. We have two sectors -- two areas of antennas facing the three sectors. The idea was to screen off using some fiberglass material to hide the antennas basically. So, in one sector you'll see a 10-by-10 square facade where the antennas will be placed behind it. On the other there's a five-by-ten. If you take a look at sheet -- you don't have -- do you have the plans?

FRANCIS KELLEY: I have them.

CONSTANTINE ALEXANDER: From a visual point of view you're adding two sheds, 10-by-10-by-10. The antennas are not going

to be visible.

ATTORNEY EDWARD PARE: That's correct. If you take a look at the photographs, probably one of the better representations of what we're doing is photograph 5, photo location 5 which is about seven pages deep into the photo simulations. You'll see the view south from Binney Street. You'll see our antennas, we have three sort of to the left there, up on top of the roof, and then one staggered by itself over towards the right. And if you flip to the next photograph, you'll see that we're pulling the antennas together and then putting them behind this stealth facade.

CONSTANTINE ALEXANDER: And neither of the -- this is an architecturally interesting building. I'm looking at it from First Street, you're standing on First Street, neither of these are visible, are they, these 10-by-10-by-10.

FRANCIS KELLEY: For the record, I'm Frank Kelley with SCI Communications.

If you look directly on from First Street, you can't see it. There's a small window where you can see it, and just because of the building that's nearly to the right of it is fairly large and blocks it when you're coming in, and then when you get closer to the building, there's an architectural feature on the front of the building that comes up higher on the rooftop that hides behind it. So we went back and forth and, you know, about, you know, whether we needed to do that, but we decided that, you know, let's just stealth everything and try and get out of here.

BRENDAN SULLIVAN: What is in the 10-by-10 enclosure? Obviously it's equipment, but....

ATTORNEY EDWARD PARE: The 10-by-10 enclosure that we're proposing?

BRENDAN SULLIVAN: Correct, yes.

ATTORNEY EDWARD PARE: The antennas will be attached behind there.

BRENDAN SULLIVAN: So it's basically just a structure to support the antenna?

ATTORNEY EDWARD PARE: Structure that actually shields -- hides the antennas frankly.

BRENDAN SULLIVAN: Right. And so that inside of that box is?

TAD HEUER: Those.

FRANCIS KELLEY: Space.

BRENDAN SULLIVAN: Nothing basically.

ATTORNEY EDWARD PARE: It's antennas and equipment and that's it.

BRENDAN SULLIVAN: Yes, okay.

TAD HEUER: Is there a reason -- so there are two proposed sheds. Do any of those photos show both sheds at once or no?

FRANCIS KELLEY: You can't see them both at the same time. There's only a small window where you can see the one in the front.

ATTORNEY EDWARD PARE: If I could point out, here is one of the -- here is the 10-by-10. Here is the 5-by-10, First Street here.

TAD HEUER: Right.

ATTORNEY EDWARD PARE: So, I don't think we have a representation with a photograph where you can actually see both of them. We still don't have a photo of it.

TAD HEUER: So if I'm looking at photo location 1, the 5-by-10 shed is not visible and it's behind essentially the pediment; is that right?

ATTORNEY EDWARD PARE: Correct.

TAD HEUER: It's hidden by pediment?

ATTORNEY EDWARD PARE: Are you looking at the after -- yes, you are. Okay.

TAD HEUER: Yes. And there's

no -- can you just go over why it wouldn't be possible to locate all these -- to consolidate both sets of these antennas in one shed, why the need for two sheds in two parts of the building?

ATTORNEY EDWARD PARE: Well, the difficulty, I mean, we need to be somewhat closer to the roof line so that we get -- we don't get shadowing. Our radio frequency goes off to the horizon, but the further back we are on the roof, the more shadow we get so we don't get the coverage. So, if we were to place them all here, we would have to cover all this over First Street and we'd lose significant coverage. So, with the antennas being in each area, the idea was let's hide the antennas, and we can still provide the same coverage. So our radio frequency engineers have signed off on these so that we get the same coverage through the stealth materials. But this is purely done for

screening.

TAD HEUER: And you expect that in the future you'll be able to do any upgrades other types of antennas within these enclosures so that you won't be coming back for a third enclosure on a different sector, is that it?

ATTORNEY EDWARD PARE: Exactly. And there's room for them -- I mean, the technology's been changing where we replace, in this instance the antennas, they've been getting smaller over time. So, you know, my sense is technology could be anything that we can't think of right now, but the idea is that we have enough here, we'd love to not have to come back the next upgrade, get some antennas concealed and be on our way.

TAD HEUER: And before we had -- or the existing to the proposal was just to add some more ballast mounts, I think; is that right?

ATTORNEY EDWARD PARE: It was.

FRANCIS KELLEY: Well, it was to swap, replace.

TAD HEUER: Right.

FRANCIS KELLEY: The three antennas. So the three antennas we were swapping.

TAD HEUER: Right. And was --

ATTORNEY EDWARD PARE: We should be clear. You know, we're not adding -- we're not adding antennas on this site.

TAD HEUER: On this site. There are enough before us that you can forgive us.

ATTORNEY EDWARD PARE: You do have enough. Understood.

TAD HEUER: So here you have ballast mounts that you have spread out across the roof of the building, and we obviously didn't like that height, so you come back with stealthing. Was there any thought given to mounting them on I guess you call it a

penthouse, but it's rather a long -- the long super structure that the stealthing is going to be put on top of mounting it to that facade flush, or would that not give you enough coverage because you're running to the roof line of the main structure?

ATTORNEY EDWARD PARE: And then directly running into the other buildings I would gather. And the other side would be reducing height significantly. I think the roof here is....

FRANCIS KELLEY: 94 feet.

ATTORNEY EDWARD PARE: 94.

TAD HEUER: We'd be losing six and a half feet maybe? Is that significant?

ATTORNEY EDWARD PARE: Well --

TAD HEUER: Maybe instead of having it at the roof line, which is say 94, that's the bottom of it. The top of it was at 94. I assume these are six-foot antennas.

ATTORNEY EDWARD PARE: Typically,

yes. You're talking about coming down onto the --

TAD HEUER: Yes, I'm just looking at the, both the -- this used to be an existing chimney-type structure. I don't know what that is. It's the lighter tan thing.

ATTORNEY EDWARD PARE: Here, why don't I give you the elevations. There's one enclosure here and one there.

TAD HEUER: Right. So my question is, was there any thought to just facade mounting along this top super structure right below it, or -- and I don't actually see it on this, but I'm looking at it physically on this plan or in this photo sim. This tan material line. Photo location 1, I guess. It looks like a tan chimney about halfway down the street and rising up out of the right side. And I can't tell whether those are antennas mounted on there from another carrier or if that's just a feature of the

building.

FRANCIS KELLEY: That might be the building behind us, Tad. It almost has to be on your building, I mean maybe it's not.

Are you talking about the blue thing in there?

TAD HEUER: No, no, I'm talking about the tan thing. This, what is that?

ATTORNEY EDWARD PARE: Oh, this here? It looks like something's attached to that.

TAD HEUER: Right, but that wouldn't be in the sector, not necessarily in the sector. You're looking at because yours is, you have at least one pointed out towards the north I think. That's where your freestanding one is. Sorry, yes, one pointing to the north and one pointing....

ATTORNEY EDWARD PARE: That has two sectors. This is the 10-by-10. So we have two sectors. We're going to be heading

antennas in two directions, not just one. But in the five-by-ten we have antennas. We have six antennas behind those two walls, so we're going in two directions.

TAD HEUER: Those are the two directions that don't seem to be covered on that existing chimney, right? Or maybe I'm wrong. It seems that that -- that faces east. And your sectors would be going north and west, right? I mean, I see it on photo location 2 as well. It looks like a large chimney structure that was rammed through all four, five.

MAHMOOD FIROUZBAKHT: It's like an elevator shaft.

TAD HEUER: Yes.

ATTORNEY EDWARD PARE: It looks like some sort of elevator shaft, but I don't see it on the roof.

TAD HEUER: Right that's why I was kind of confused. I mean I'm not necessarily

opposed to the stealthing for the proposal that you've made, I'm just confused --

ATTORNEY EDWARD PARE: Well, we certainly don't want to give up height where we have an existing installation that's there and operating. We understand with the upgrade --

TAD HEUER: Right, I'm looking at it and I'm eyeballing the existing ballast mount as I can see, and that looks like it rises at the least eight feet above the highest point in the roof. Again, I'm not saying necessarily it's --

ATTORNEY EDWARD PARE: The trouble I have is I don't even see it on our elevation here in the building plans.

TAD HEUER: And I'm not wrong that I'm seeing it physically on the photo simulations on the building, right?

ATTORNEY EDWARD PARE: That's an actual photo, I agree with you. But, you

know, I can't even tell you, I mean, it looks like it's on our building but we don't have it on the elevation.

TAD HEUER: It's certainly on the building because you can see the material running through the closed windows through that shaft.

ATTORNEY EDWARD PARE: Well, I guess our answer is we came in to upgrade our antennas. You asked us to stealth them and we're stealthing them.

TAD HEUER: I'm not sure we asked to stealth. I think we wanted something different than a ballast mount. Facade mount's it better than a ballast mount at least in my opinion.

BRENDAN SULLIVAN: Okay. Any other questions by the Board?

CONSTANTINE ALEXANDER: I'm fine.

BRENDAN SULLIVAN: Is there anybody here who wishes to speak on the matter, 215

First Street telecom?

(No Response.)

BRENDAN SULLIVAN: I see none. And there is no correspondence in the file. I will close the public comments part.

Mr. Kelley, any other further comments?

CONSTANTINE ALEXANDER: Excuse me, Brendan, do we have a letter from the Planning Board, shouldn't you read it into the record?

BRENDAN SULLIVAN: I was looking for that.

CONSTANTINE ALEXANDER: It was in there when I was looking through the file.

BRENDAN SULLIVAN: I didn't see it.

TAD HEUER: Do you have one?

ATTORNEY EDWARD PARE: I believe I do.

CONSTANTINE ALEXANDER: That was in our file at one point at least.

BRENDAN SULLIVAN: There is

correspondence from the Planning Board dated April 14th to the Board of Zoning Appeal regarding case No. 10078, 215 First Street. "The Planning Board met with the Applicant's representative to discuss proposed alteration to the existing telecommunication installation. The Planning Board discussed a submitted photo simulation, and is of the opinion that the visual changes are insignificant given the location on the rooftop, height of the building, and the finish of antenna. The Board had no further comments on this application."

Okay.

ATTORNEY EDWARD PARE: I assume you have our application materials which shows the justification for each of the standards to be met?

BRENDAN SULLIVAN: Yes, we do. That's all in the file. That's in order. And not being in a residential district we

don't have to find under those criteria if it were in an Office 3A District.

ATTORNEY EDWARD PARE: Right.

TAD HEUER: Do you have a map showing the coverage gap that you were filling?

ATTORNEY EDWARD PARE: Well, we don't have any coverage right now. This is LTE, and I think as part of the radio frequency engineering materials, we're not producing plot maps because we're not providing any service. So right now the LTE and the 700 and 2100 frequencies, AT&T has a complete gap.

TAD HEUER: So you're going up -- so these antennas that you're swapping out, what are you losing when you're swapping? Because certainly they're being used for something, right?

ATTORNEY EDWARD PARE: I mean, we're not losing anything from them. They're either going to accommodate with the other

two antennas, and then these LT -- the nice thing is that we can swap. As you'll see on future installations, we have to add three antennas. Those three antennas and the associated equipment are purely LTE, high speed data, end of story.

BRENDAN SULLIVAN: So the existing are limited and the new antenna are in addition to the existing?

ATTORNEY EDWARD PARE: That's correct. The existing are 2, 3 and 3G with some 4G. And I don't want to, you know, cross the line here. But 2G, 3G and some 4G, LTE will be all data, all 4G to enhance what AT&T has already.

TAD HEUER: Are your 2Gs at some point in the future obsolete?

ATTORNEY EDWARD PARE: It's still providing phone service. The frequency's lower -- the frequency on the 2G is low, so we get a good bang for the buck. But

eventually, I think they're all going to upgrade. The higher frequencies, as you're going to see, produce a smaller footprint so you need it in a sense.

BRENDAN SULLIVAN: Any other questions?

All right, let's close the testimony part. Gus, do you have any thoughts?

CONSTANTINE ALEXANDER: No, I'm fine.

THOMAS SCOTT: All set.

BRENDAN SULLIVAN: Mahmood, any questions or concerns, ready for a vote?

MAHMOOD FIROUZBAKHT: I think so. I guess one benefit I do see to this stealth proposal is to the extent that there's a change in technology, and there's going to be equipment added down the road that sort of provides for that as opposed to trying to work with the existing building and having a petitioner come back to the extent that we

need to do additional work on the roof. So I think that to me is a benefit and a positive.

ATTORNEY EDWARD PARE: I guess in that light I know that you granted conditions in the past. If we keep the antenna or upgrades in technology for equipment or antennas behind those screen walls, we'd ask that the Board incorporate such a finding to allow us to install those antennas so long as they're behind the screen walls down the road in the future if there are changes.

CONSTANTINE ALEXANDER: Provided you don't increase the size.

ATTORNEY EDWARD PARE: Increase the size, the height, or completely within, right.

BRENDAN SULLIVAN: And swapping in kind for --

ATTORNEY EDWARD PARE: Or adding. We would ask for all of that respectfully. I don't want to be a Member of the Board.

BRENDAN SULLIVAN: I hate to leave the door open that little bit.

ATTORNEY EDWARD PARE: They wouldn't be visible.

CONSTANTINE ALEXANDER: Personally I'm not troubled by it because visual impact would be exactly what it is today. If there's ten antennas in there or three. As long as you don't change the size of the structure.

ATTORNEY EDWARD PARE: Yes.

BRENDAN SULLIVAN: Maybe I'm assuming the worst and hoping -- maybe we should hope for the best.

What are your thoughts on that.

TAD HEUER: The only thing I would say, as counsel said, these antennas are getting smaller. Obviously we're trying to minimize the impacts of any of these installations. And to the extent that the antennas become smaller and you actually

don't need something of this height, I think it would be beneficial for that height to come down. We certainly don't want to go above that. And I don't think we're going to get antennas longer than six feet, but to the extent that five years from now everything is a three-foot antenna, I think we would want to be able to see that enclosure come down in height so it's only stealthing that's actually there rather than being a shelf or something that was used for in 2011, but has no purpose of being there for 2015 except taking up more bulk on top of the building.

BRENDAN SULLIVAN: Right. Let me make a motion to grant the Special Permit for the installation to alter the telecommunication facility at 215 First Street as per the proposal, the photo simulations, and the plan, which was enclosed and will be initialed by the Chair.

The Board finds that the proposed

modification meets all the requirements in the Ordinance.

The Board finds that traffic generated or patterns of the access or egress would not cause congestion, hazard or substantial change in the established neighborhood character. That continued operation of and development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use. And in fact would probably be enhanced by it, that the area is a non-residential zoning district. The existing antenna have a very little visibility. The swapping of the antenna would allow for 4G transmission of wireless information which will increase the speed of data transmission providing a benefit to the surrounding area, both residents and businesses and visitors to the city.

The Board finds that there would not be

any nuisance, hazard created to the detriment to the health, safety, welfare of the occupant of the proposed use or of the citizens of the city, and that the proposed use would not impair the integrity of the district.

The Board notes that the Board did approve the existing facility back in March 13, 1997, case No. 7361, and made similar findings at that time.

The Board also finds that the facility, as determined to meet the urban design guidelines as set forth in Section 19.30 in the original decision, and we find that the proposed use also conforms to said design guidelines.

Now, as far as any limitations how would you word that? Going forward should they want to swap out equipment or add to. Can you give me some 50 words or less language?

TAD HEUER: To the extent that the

telecommunications --

BRENDAN SULLIVAN: Equipment.

TAD HEUER: -- equipment or value of the equipment, we're talking for purposes, can be achieved with antennas of smaller than that size that's being stealthed with this relation, that those installations can be made without coming back before the Board to the extent that the antennas are shorter.

That the stealthing shall be reduced in height, so only the necessary amount of stealthing is visible from the or is used for. Or something like that?

BRENDAN SULLIVAN: Does that sort of get you there?

CONSTANTINE ALEXANDER: I think that's fine except it's unenforceable. I mean, it's a nice statement.

BRENDAN SULLIVAN: Okay.

All those in favor --

CONSTANTINE ALEXANDER: We have to

put the other conditions. If they stop using the facility, they have to take it down. They also have to maintain the exterior of the stealth facility. We've had problems in the past where people don't maintain them and they cease to be stealthed.

BRENDAN SULLIVAN: And should AT&T cease to use the facilities, that they be returned to the original condition prior to the installation of this equipment.

MAHMOOD FIROUZBAKHT: Mr. Chair, what mechanism are we using these days to kind of ensure that the matching of the facades is accomplished to the extent that it's possible?

BRENDAN SULLIVAN: It's whether you can see it or not see it. And if we feel that they have not done a good job at it, I guess there is no next level or design review board beyond us, but we do obviously look at all of these things, and if we find that we have come

up short, or they have come up short, and then the next time they come down before us, it will be duly noted. So that it behooves the Petitioner to be as diligent as possible to make it as stealth as possible and to match the materials as close as humanly possible.

CONSTANTINE ALEXANDER: Plus we tie the decision to the photo simulations. So if they want a green shed up there, they would be in violation.

ATTORNEY EDWARD PARE: And we do go to building permits subsequent to this. So you're building officials certainly take a look at it. So if we put up green, I'm sure they will be notified quickly.

MAHMOOD FIROUZBAKHT: Green is one thing, but pink.

TAD HEUER: I think you want to avoid the pink of this chimney. Clearly well intentioned but not the way they intended.

MAHMOOD FIROUZBAKHT: This

building, because it's got some historical significance and it sort of stands out, the wrong coloration, you know, could be real detrimental to the, you know, design effort, you know, should be made to match.

ATTORNEY EDWARD PARE: It's in the eye of the beholder to some extent, but we are notified from time to time that this doesn't quite fit the mold and fix it.

MAHMOOD FIROUZBAKHT: That sounds good.

BRENDAN SULLIVAN: And one other condition, that the facility and the equipment be maintained in a good and -- what's another word besides good? Condition -- well kept condition even though we're not supposed to see it. I guess we will see it if it's not maintained well.

All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

ATTORNEY EDWARD PARE: Thank you.

(7:50 p.m.)

(Sitting Members: Brendan Sullivan,

Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case No. 10080, 150 Cambridgepark Drive.

ATTORNEY EDWARD PARE:

Mr. Chairman, Members of the Board again, Edward Pare, Brown Rudnick. Same Applicant, same status of this case. We were before the Board previously. We have some new photo simulations and photographs that were requested and we'll pass them out to you.

BRENDAN SULLIVAN: While those are being passed out these are the ones that were in the file prior to Monday?

ATTORNEY EDWARD PARE: That's right, this past Monday.

BRENDAN SULLIVAN: Yes.

ATTORNEY EDWARD PARE: In this instance this is an installation where we're adding three antennas to the facility. These are all facade mounts. It's sort of a

penthouse that sits off the roof line of this building which is up some 140 feet?

FRANCIS KELLEY: 144 from the center.

ATTORNEY EDWARD PARE: I think there was a question the last time about the photo simulations, and what we've done is we have enhanced the photo simulations with the existing photographs that we used, but up in the right-hand corner of each of the photo simulations we've created an insert so you can actually see where the antennas are going. You'll note they're all below the top of the facade or the top of the penthouse. They will be painted to match the installation behind or the color behind the building. I think that was the open issue before.

FRANCIS KELLEY: There were some additional views, too.

ATTORNEY EDWARD PARE: And some

additional views.

Again, existing installations, we have six antennas up there. We're going to add three, all LTEs. So, again, we're not providing LTE coverage. You won't see coverage plots under this scenario either. And we can depict each of the antennas being attached.

TAD HEUER: On photo location 3 whose equipment is up there already?

ATTORNEY EDWARD PARE: I can tell you that's not our dish. That's usually what attracts the attention.

FRANCIS KELLEY: Yeah, and it's not, if you notice, those other things to the right, the tower, mount and amplifiers, that's not ours, too. We ask that if they were ours, then we were going to take them down if they were ours and put them somewhere else. But we can't touch them, they're not ours.

TAD HEUER: The bracket isn't yours.

FRANCIS KELLEY: Yeah, the brackets. To the right is ours and that dish isn't ours.

TAD HEUER: Okay.

And on photo location 6, you have no equipment. I'm just looking at the paint to match of the one if you took that lamp pole where the motorcycles are and went straight up, there's an antenna in kind of the left quadrant on the top. Is that yours?

FRANCIS KELLEY: Not ours.

TAD HEUER: Okay.

What's your mount -- do you have plans?

ATTORNEY EDWARD PARE: Yes.

TAD HEUER: Are these pipe mounts, standard pipe mounts or are they something else?

ATTORNEY EDWARD PARE: Sheet A4 will show you the mount.

TAD HEUER: Mr. Chairman, I suggest

on the mounting that we've made this condition in the previous cases recently that the length of the pipe be less than the length of the antenna.

ATTORNEY EDWARD PARE: That's not an issue.

TAD HEUER: And that to the extent that there is wiring -- do you have a detail of the wiring into the antenna?

ATTORNEY EDWARD PARE: It might be on the last sheet if you have it.

BRENDAN SULLIVAN: It's a wiring diagram.

TAD HEUER: Yes. To the extent that the wiring into the antenna is visible and not fully contained behind the antenna itself, that that wiring also be sheathed and stealthed and painted to match also. Because we're just seeing --

ATTORNEY EDWARD PARE: Black wires against the --

TAD HEUER: Right. People understand the paint to match antenna, and now we're trying to get the stuff that goes with the antennas.

ATTORNEY EDWARD PARE: I understand.

BRENDAN SULLIVAN: Going back to your original point that the bracket not be higher than the antenna itself, do they ever move those up and down at all? Usually when they -- am I right to assume that when the antenna is mounted, it may, it may swing side to side, but it would never really sort of move up and down?

ATTORNEY EDWARD PARE: Correct.

BRENDAN SULLIVAN: Okay. So hence the mounting pipe should be no higher than the antenna itself.

FRANCIS KELLEY: There's an electronic tilt on --

ATTORNEY EDWARD PARE: Well, the

pipe itself is not going to be higher on this depiction. I do note that the bottom of the pipe you have -- so the pipe itself will not -- the antenna's not going to move up and down the pipe itself, but they do have some tilt capability not only side to side but up and down.

BRENDAN SULLIVAN: Right, to sort of move it back and forth or side by side. But the up and down is not necessary. Does not -- so consequentially the pipe can be no longer than the antenna itself?

ATTORNEY EDWARD PARE: That's right.

BRENDAN SULLIVAN: And that would still accomplish the goal.

ATTORNEY EDWARD PARE: Yes.

BRENDAN SULLIVAN: So I guess that would be one note that we would, we would make under the last four.

ATTORNEY EDWARD PARE: Is that same

as the gentleman --

TAD HEUER: Yes.

BRENDAN SULLIVAN: You're going to sheet A4?

TAD HEUER: Yes.

ATTORNEY EDWARD PARE: Yes. The bottom of the pipe mount is actually sticking below the antennas as you pointed that out.

BRENDAN SULLIVAN: Right.

FRANCIS KELLEY: And we usually give a copy of the decision to the construction people. So if it's in the decision, we'll highlight that so that they'll know they'll have to do that.

BRENDAN SULLIVAN: I'm sure they have 100,000 if not 500,000 pipes and that's a standard pipe that will work in most installations, but they're going to have to put a --

ATTORNEY EDWARD PARE: That would be good to have it in your decision so it's very

clear.

BRENDAN SULLIVAN: Okay. Let me open it public comment.

Is there anybody here who wishes to comment on the telecommunication installation at 150 Cambridgepark Drive?

(No Response.)

BRENDAN SULLIVAN: I see none. I don't know if there's anything from the Planning Board.

CONSTANTINE ALEXANDER: There was one from the Planning Board.

ATTORNEY EDWARD PARE: You don't have one?

CONSTANTINE ALEXANDER: Someone is swiping our letters.

BRENDAN SULLIVAN: We find them in the old decisions.

ATTORNEY EDWARD PARE: We always have a copy of the favorable ones. I did mark that, Mr. Chairman, just for my own notes.

BRENDAN SULLIVAN: There is a correspondence from the Planning Board dated March 16th referencing case No. 10080, 150 Cambridge Park Drive. "The Planning Board met with the Applicant's representative to discuss the proposed alteration to the existing telecommunication installation. Building height over 140 feet, and the location of the antenna on the building minimizes the visibility from the public way. The Planning Board has no further comment on this application."

Sum and substance of the correspondence. Any questions from the Board at all. Any comments? Anything to rebut?

ATTORNEY EDWARD PARE: No. We would ask that the Board -- we would respectfully request an approval. And with that I'll keep quiet. Thank you.

BRENDAN SULLIVAN: Motion to grant

the Special Permit for the installation of three; is that correct?

ATTORNEY EDWARD PARE: Correct.

BRENDAN SULLIVAN: Additional antenna to the building at 150 Cambridgepark Drive. As for the application, the photo simulations and drawings contained therein which would be initialed by the Chair.

The Board finds that the requirements of the Ordinance can be met. That traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in the established neighborhood character.

The continued operation of the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use. In fact, it would be enhanced.

The Board notes that the number of businesses in the area which we will benefit

from the installation of this facility and the installation of the antenna to allow the 4G transmission of wireless information.

The Board finds that there would not be any nuisance, hazard created to the health, safety, welfare of the occupant of the proposed use or to the citizens of the city. And that the proposed use would not impair the integrity of the district or adjoining districts or derogate from the intent and purpose of the Ordinance.

The Board further makes findings that with reference to sheet A4 that the pipe mount detail entitled, "Proposed Antenna Detail," that the pipe mount be no longer than the antenna itself to which is being attached to it.

The Board also finds that should the facility be abandoned, that the material be promptly taken down, and that the facade of the building be restored to its original

addition.

FRANCIS KELLEY: Can you make the finding that it's not zoned residential?

BRENDAN SULLIVAN: The Board also finds that being in an Office 2 District that under Section Footnote 49, that the facility is not in a residential district and hence does not fall under the current criteria which would be attached to a residential district.

TAD HEUER: And that any exposed wires or other attachments to the antenna be perfectly stealthed to match to minimize visibility.

BRENDAN SULLIVAN: Right. Okay. All those in favor of making such findings and granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(8:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10090, 18 Healey Street. Introduce yourself for the record.

MARIANA DOWNER: I'm Mariana Downer.

BRENDAN SULLIVAN: Please give us your address.

MARIANA DOWNER: 18 Healey Street, Cambridge. And what I'm proposing to do is to install a gas fireplace in the living room in an area that is currently occupied by two French doors. It overlooks a deck, and because the living room has cathedral ceilings which come up like that, if I kept the entire fireplace in the living room, it would ruin the roof line, if I had the chimney going up inside the living room. So I'd like

to project, push the sort of chimney area out on to the deck. It's approximately one foot, four inches out and then it's going to be approximately four feet wide. So it's very small area on the deck.

I would have the vent and the chimney come up outside the deck. It would be tucked under the existing eave overhang on the living room that goes out over the deck.

And I have actually some pictures if you'd like to see them.

TAD HEUER: Sure.

MARIANA DOWNER: This is the fireplace inside. It would actually sit on the floor. But it's very energy efficient. So right now my house is not all that energy efficient. And so this would increase the efficiency of the house.

This is the deck right now. It's not a terrific picture, but these are the French doors where the new fireplace would go. So,

in fact, it would actually add privacy inside, and it would add a little privacy outside for my neighbors.

CONSTANTINE ALEXANDER: How will you be getting to and from the deck without the French doors?

MARIANA DOWNER: Oh, there's another set of stairs that already exist.

TAD HEUER: But there's no access from the house?

MARIANA DOWNER: Oh, I'm sorry, then there's a door. In fact, there's a door from the mud room right here.

CONSTANTINE ALEXANDER: So that door is going to stay just the way it is?

MARIANA DOWNER: The door is going to stay the way it is right now?

CONSTANTINE ALEXANDER: The French doors, you're not adding anything --

MARIANA DOWNER: I actually never use the French doors. There is already a

door from the mud room which is right off the kitchen and onto the deck, and then there are stairs off the deck.

TAD HEUER: So, you're not eliminating a necessary means of egress from the house?

MARIANA DOWNER: I'm not eliminating an egress, exactly. This is an extra egress that one of the previous owners put in.

BRENDAN SULLIVAN: So violation is that it is a non-conforming house now.

MARIANA DOWNER: Yes, it's actually a condo along with the two units next to it. You can see that the original owner -- this property here at 20 Healey -- well, actually this used to be called carriage house, 20 Healey, along with this main property here, which has been converted into two condos. And 18 Healey is actually one condo. So you have three condos on this property. And if

you add all of the interior square footage and the exterior, you come up to 57 percent, 57 FAR. So now I'm going to be going over that by a tiny fraction, but since I'm already in -- there was a previous permit, so I have to --

CONSTANTINE ALEXANDER: Excuse me. Sean, why is this not a Special Permit case?

SEAN O'GRADY: It's not one of the cases that a Special Permit for the increase up to 10 percent, 25 percent?

CONSTANTINE ALEXANDER: Yes.

SEAN O'GRADY: Because that's only for conforming additions, and because she's already over FAR, it's actually a Variance.

CONSTANTINE ALEXANDER: Got it.

MARIANA DOWNER: Right. You can see actually in this plan here, in the red, you can see the proportion of this addition. This is the deck here. This is my house. So, it's really a very tiny bit as projecting.

And you can see on the elevation that it is actually going to be under the eave.

BRENDAN SULLIVAN: You're only adding five square feet?

MARIANA DOWNER: Yes.

CONSTANTINE ALEXANDER: Yes.

MARIANA DOWNER: Five to six, you know, give or take a little bit.

BRENDAN SULLIVAN: Give or take a foot or two.

MARIANA DOWNER: Exactly.

BRENDAN SULLIVAN: All right.

TAD HEUER: Single digits.

CONSTANTINE ALEXANDER: You're really pushing the envelope.

MARIANA DOWNER: Yeah, I know, I'm sorry. I think it will be more attractive to my neighbors because it will make the clapboard on the outside to blend in with the clapboard of the existing house, and I will do some sort of attractive something.

TAD HEUER: You have to understand, this is the most minimal request since the years I've been on this Board.

MARIANA DOWNER: Really? And it's only taken me nine months to get here.

BRENDAN SULLIVAN: Okay, let me open this up to public comment. Is there anybody here who would like to speak on the matter of 18 Healey Street?

(No Response.)

BRENDAN SULLIVAN: I see none. The correspondence in the file dated May 3rd. "Dear Sirs: I'm writing in support of Mariana Downer's petition to install a gas fireplace in her home located 18 Healey Street." And signed by Mark J. Grubs, 47 Parker Street.

And you've spoken to all your neighbors, obviously, and they have no problems with your fireplace?

MARIANA DOWNER: Right.

BRENDAN SULLIVAN: And your five additional square feet?

TAD HEUER: And your other condo owners -- you've spoken to them? Do we have letters from them?

MARIANA DOWNER: Well, they haven't objected and I have spoken to them. And their condo owners on the other side. They're not even going to see it.

TAD HEUER: The only reason I ask is because you're condoized, and all of your square footage goes together. If they were to come for something in the future, you would have added some square footage to the entire property that would be counted against them, the same way that yours is counted against theirs.

MARIANA DOWNER: Right. Five square feet, right.

TAD HEUER: Right. But they would need to factor that in.

MARIANA DOWNER: They certainly would. They have the bulk of the actual building.

CONSTANTINE ALEXANDER: Well, it's just for our own benefit. My guess is your condo documents require their consent to any modification to the structure. You should probably get something in writing from them from a legal point of view. It's not a zoning issue, but from a real estate point of view to prove that you didn't violate your condo documents.

MARIANA DOWNER: Okay.

BRENDAN SULLIVAN: Okay. Any other questions? Concerns?

I'll make a motion to grant the relief for the Variance to allow for the installation of a fireplace as per the plans submitted.

The Board finds that a literal enforcement of the provisions of the

Ordinance would involve a substantial hardship to the Petitioner because it would preclude Petitioner from installing a much desirable gas fireplace to allow for the energy efficiency of the existing structure, replacing rather inefficient French doors which are of no value or use to the Petitioner.

The Board finds that the additional five square feet is quite de minimus in nature is a fair and reasonable request.

The Board finds that the hardship is owing to the fact that the existing house exceeds the Ordinance which pre-existing condition which predates the existing Ordinance. And that any slight addition would trigger relief from this Board.

The Board finds that desirable relief may be granted without any detriment to the public good, and relief may be granted without nullifying or substantially

derogating from the intent and purpose of the Ordinance.

I'm going to initial the drawing so you're bound by those drawings and you're not going to change anything. Okay.

All those in favor of granting the relief.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

MARIANA DOWNER: Great. Thank you very much.

(8:15 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10091, 187 Hampshire Street.

ATTORNEY ANTHONY GALLUCCIO: Good evening, Mr. Chair and Honorable Members. I'm here on behalf of Bahman Jalili who's to my right for an application of Special Permit approval for 187 Hampshire Street which would convert an existing auto body shop which consists of two lifts and a paint shop in the rear of the property at 187 Hampshire to a restaurant. The reason for the Special Permit would be for fast food approval. Mr. Chair, should I proceed with presentation? Okay.

Mr. Chair, and Honorable Members, so the proposed restaurant consists of 20 seats.

The intention is to move a number of the -- a portion of those numbers out during good weather to have a patio space outside. The restaurant is configured with the kitchen area in the rear with a counter area about a third into the restaurant. It's a plan that consists of two French doors which would come out on to the patio area. The intention, and I would say, this is an independent operator. It's a, it's not a franchise. It's -- I would say -- I've tasted it. I'm not an expert in pizza, although I've had my share, I would say it's -- I would consider it gourmet.

CONSTANTINE ALEXANDER: You should have brought us some samples tonight.

ATTORNEY ANTHONY GALLUCCIO: I know far better than to do that. But it's a little pricey. The operator has done --

CONSTANTINE ALEXANDER: You should fire him.

BRENDAN SULLIVAN: Hence no sample.

ATTORNEY ANTHONY GALLUCCIO: The operator has done business in two college areas; one in Rhode Island near RISD and Brown. And the other is down near the Berklee School of Music on Mass. Ave. So he's very familiar with sort of college community. I do think this would provide a more consistent use with the Inman Square Business District. Again, it is a restaurant with patio seating. I think he's going to rely on a good deal of walk-in as well as delivery. But he is abutted by three auto users; one a parking lot, one a gas station, and one another auto repair. So I think it's an opportunity to get a restaurant space which is more consistent with the Inman Square climate into that space.

The front building would stay as is. It's now used for both business and residential. Actually, the owner of the auto body, who also resides in the front

building, is here this evening as well.

CONSTANTINE ALEXANDER:

Mr. Galluccio, the plan shows some parking spaces?

ATTORNEY ANTHONY GALLUCCIO:

Correct.

CONSTANTINE ALEXANDER: Are they going to be for people who patronize the restaurant or for delivery trucks?

ATTORNEY ANTHONY GALLUCCIO: One is supposed to be for delivery committed. The intention is to keep the front house residential, so I wanted to make sure that we accommodated at least one parking spot for the front -- for the front dwelling. This --

CONSTANTINE ALEXANDER: So that's going to be dedicated to the front dwelling, so it's not going to be available to the restaurant or fast food?

ATTORNEY ANTHONY GALLUCCIO: That's correct. I think it's -- I wanted to make

sure that we showed that this property has never had any defined or registered spaces. So these were, you know, we were debating. I don't think we were required to show any parking because it was exempt for 20 seats and under. And the front building is now exempt. But I want -- I just thought it was unreasonable to not show at least two spaces. We could probably try to show additional, but it cuts into the patio space. There is a wide egress coming down, it's just not wide enough to show the ten feet wide spaces. As you can see from some of the pictures now, I don't know if the Board has these, but currently you'll see seven, eight, nine cars parked all the way through the driveway, and actually in front of the property. So they fit, I'm not sure it's aesthetically pleasing to the neighborhood or the best --

CONSTANTINE ALEXANDER: Are there any safety concerns? People who are going to

use the pizza joint will have to walk down this driveway, at the same time cars can be driving in and out.

ATTORNEY ANTHONY GALLUCCIO: Right. So, I think what struck me first was the existing, because it's an auto body and the owner is responsible for vehicles off hours, there's a big security fence at the front of the property which actually narrows the egress by about three feet. That will be removed by the new owner. So that will widen the existing egress by about three, three and a half feet. And there's also privacy slats for the same reason, I believe, just to sort of, you know to protect those vehicles in the evening. Those will also be removed, which is probably another five or six feet, which in my view presents a little bit of a challenge coming out, because you don't get a full view of both sides. Again, it's not, it's not 20 feet, but it's close to two lanes.

You know, my sense is that cars would be able to navigate that both ways, although it wouldn't be advertised as such because it just doesn't meet the full requirement of 20 feet. But it's almost wide enough for two lanes. So we don't show any cars along that drive because I think the intention is for it to be a walk-in restaurant, get that patio active in the good weather, and use that space primarily for the delivery. That's, that's what's proposed.

BRENDAN SULLIVAN: I suspect that if there is a conflict between pedestrians and cars, that the pedestrians would want any parking of cars.

CONSTANTINE ALEXANDER: I think that's right. I would be concerned that pedestrians may lose to the bulk of a car. If a car comes barreling down that driveway.

BRENDAN SULLIVAN: They're showing there are two spots there, but I'm not sure

it may be wise to have those two spots, but that's something --

CONSTANTINE ALEXANDER: My issue though is, my sense is this restaurant is designed for delivery and not for walk-in. Given the way it sits off the street, it's in the back, and so I think those delivery trucks are going to be going in and out of that driveway somewhat frequently in the evening. And to the extent that people do want to patronize that restaurant in person, they're going to have to walk in the driveway while the trucks are coming in and out. It's a little bit of a safety feature. That's your problem I suspect. I'm not sure it's a zoning issue, but I am concerned a little bit about that.

ATTORNEY ANTHONY GALLUCCIO: And I'm not sure we have a problem with committing -- the existing residential is grandfathered, so there's no requirement for

us to show that one space. And those spaces could be dedicated to the business. I would say that Mr. Jalili becoming more familiar with the Inman Square area, and as you, as represented in the plan, this is a serious restaurant proposal. It really isn't it a come in and get a slice and just delivery. I think he's gonna -- and again, you know, I said jokingly initially, it really is gourmet pizza. I think he is going to do very well there with his sit-in and patio use. And I think the restaurant is designed in such a way that he's willing to make that investment.

CONSTANTINE ALEXANDER: You're not hearing me, but I don't want to belabor this. The fact of the matter I believe all that. My problem is people walking in to go to the gourmet restaurant at the same time --

ATTORNEY ANTHONY GALLUCCIO: I gotcha.

CONSTANTINE ALEXANDER: -- the

delivery trucks delivering the gourmet pizza.

ATTORNEY ANTHONY GALLUCCIO: I gotcha. I'm sorry. I wasn't --

CONSTANTINE ALEXANDER: That's my point.

ATTORNEY ANTHONY GALLUCCIO: I would say on that note, because we have both, you know, a ten foot lane and about seven and a half feet, I think we could, we could potentially dedicate a walking lane there and show that.

CONSTANTINE ALEXANDER: That's what I'm trying to get at.

ATTORNEY ANTHONY GALLUCCIO: I'm sorry, I misunderstood that.

CONSTANTINE ALEXANDER: That's what I was trying to get you to, to some sort of walking lane so that we don't have that problem.

ATTORNEY ANTHONY GALLUCCIO: Thank

you. We were sort of mixed on trying to leave that other landing in the event that folks wanted in and out egress. I don't think that works anyway. So I'm happy to have that shown visibly and expressed as a condition.

CONSTANTINE ALEXANDER: Good.

MAHMOOD FIROUZBAKHT: I think that in conjunction with a good lighting, you know, would go a long way to sort of, you know, make it a safer passageway.

ATTORNEY ANTHONY GALLUCCIO: You're right. And it presents a more inviting restaurant for the back if we show that from the front of the building.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ANTHONY GALLUCCIO: Thank you.

BRENDAN SULLIVAN: The use -- well, the restaurant is permitted in the zoning district; is that correct?

ATTORNEY ANTHONY GALLUCCIO: That's

correct.

BRENDAN SULLIVAN: Okay. In considering the Special Permit for fast order food establishments, the Board needs to find some other criteria that the operation of the establishment shall not create traffic problems. And I think we've established that because it's set back and it probably would not create traffic problems. It would not reduce available parking because it is contained within an existing building, and there is no parking that is required or necessary at present.

The Board also finds that it would not threaten public safety in the streets or the sidewalks. And I think we've established that. That may be true.

That it would not encourage or produce double parking on the adjacent public streets. There is some available metered parking adjacent to the property for people

to park at. The physical design, including the color and use of materials of the establishment, shall be compatible with, and sensitive to the visual and physical characteristics of other buildings in this particular location. It is replacing an auto repair, auto body facility so that any use of color or materials would be an improvement probably over what is existing, and the Board finds that the existing proposal is an improvement.

The establishment fulfills a need for such services in the neighborhood or in the city. Obviously outside from doing a business assessment you feel as if you can be successful at that location, and that there is a need in the neighborhood; is that correct?

ATTORNEY ANTHONY GALLUCCIO: Yeah. The one thing I would say about that is as someone who lives in the area, you know,

Aaron's just closed, and that was sort of a -- for a lot of folks that was the spot that you went to for that type of food. I think Mr. Jalili's restaurant will fill that need, but as I've said, I think it goes beyond that as well. So, I would, and there aren't a lot of restaurants that I know of that have really safe kind of patio space. I mean, we've done a great job of getting some restaurants along Cambridge Street with open windows and so forth, but Cambridge Street is still a tough place to get restaurant owners and Hampshire to really take advantage of the sidewalk seating. So this is a -- I would say that this is an opportunity to fulfill a need for that outdoor sort of European seating that I think we've envisioned.

BRENDAN SULLIVAN: The only other comparable establishment that I can think of may be Beauty's, but that's way further down in almost at the beginnings of Kendall

Square. So it's some six or eight blocks away I would think, not more than that or something. And in the immediate Inman Square area there is no like establishment as the one that's proposed that I can think of anyhow offhand.

ATTORNEY ANTHONY GALLUCCIO: I would agree.

BRENDAN SULLIVAN: So that there's possibly a need and also to fill a vacancy which has just occurred.

The establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile related trade.

And I think your testimony is it would also be attractive with the patio, and that delivery would be a primary component of your business. Takeout, not takeout but deliveries would be a primary part of your business.

And that the establishment shall, to

the greatest extent, use biodegradable materials and packaging of food and utensils and other items provided for consumption thereof. And your testimony is that it would.

The establishment shall provide convenient, suitable, well-marked waste receptacles to encourage patrons to properly dispose of all packaging materials, utensils and other items provided with the sale of food.

I guess my suggestion would be that not only do you provide them inside of the building that you provide them exterior of the building at appropriate locations, and possibly even one or so out at the driveway just to catch anything that doesn't make it in the first drop, that as you get out to Hampshire Street, that another disposal barrel be provided.

ATTORNEY ANTHONY GALLUCCIO: Right.

BRENDAN SULLIVAN: And that the establishment complies with all state and local requirements applicable to ingress, egress, use of facilities on the premises for handicapped and disabled persons, and it is street level. Is that correct?

ATTORNEY ANTHONY GALLUCCIO: That's correct.

BRENDAN SULLIVAN: Okay. So it appears that the 11.30 can be satisfied.

Let me open it to public comment at this time. Is there anybody here who wishes to comment on 187 Hampshire Street?

Would you please give your name and address for the record.

GARY MITCHELL: Gary Mitchell. My family owns the S&S Restaurant. We're the abutters maybe three or four -- abutters of the property here. We did a quick survey today and we went from one end of Cambridge Street to the other, there were 11 house of

some kind of pizza restaurants. I Googled on the way in if we would like to order pizza. There are 95 pizza delivery operations operating in Cambridge or Inman Square. I know that pizza will be successful there. And I know most of you we are not threatened by pizza or pizza delivery, the S&S whatsoever. There's no Hatfields and McCoys. Sean and our family, we've been neighbors for 30 years. We've had our cars repaired there. I called Anthony today, and I told him I had only one concern, and that one concern, we're going from one type of auto type of business where I give my car to Sean on Monday and get it back the following Tuesday. You know, we have a few concerns that this is going to a heavily auto used facility, and that's why they're coming for a fast food license. We have a pretty good idea of how much business is in Inman Square. And these gentlemen, they're going to be

successful because the real business is in the office building in Kendall Square. You can see the Mass. General Hospital, BU, Harvard and MIT. They will be successful at that site. There is no doubt. That is not a threat to the S&S. But we look at things as a delivery vehicles, I don't know, what's the one, 20 minutes you get a free pizza? That there been a lot there. If they don't do two, three hundred pizzas, four, five-hundred a day, in and out, we do think it will impact the traffic in the area. And in particular we obviously have a parking lot there, you know, and you just look at it and you say to yourself, the 7-11, big, wide driveway people come and go, fast food. Kentucky Fried Chicken. This one's kind of nestled in between us. We know it will be cleaned up. We know it will be good. Most of the restaurants in Inman Square are a little village, they'll go for pizza one day,

to the S&S the other day, the East Coast Grill the other day. And there's a circle, and that's fine. We're concerned as the nature of the traffic coming down Hampshire Street is just wicked coming down Prospect Street. And just the -- those little cars with all those little delivery things, that's our concern. You folks are on the Planning Board, we welcome a new neighbor, you know, we've been there so long that it would not affect our business. We're here only for the impact of traffic and traffic in the area, and where will people park?

If you look at the plan, the houses in the front, you're pulling up on the right. You know, you'll be like where do I park to get in? I'm a little concerned on the signage or what have you. But I'm sure they'll take care of that. That's all. There's no, really -- there's no animosity here. Sometimes you have neighbors here

that are fighting -- there's none. We like Anthony, we like Sean. These folks say they're hard working people. And the bicycles --

CONSTANTINE ALEXANDER: You're concerned. Are you opposed? Are you asking us to deny the relief?

GARY MITCHELL: No. I'm asking you to consider it based on parking and traffic.

CONSTANTINE ALEXANDER: Okay. We will do that. But I just wanted to make sure for the record --

GARY MITCHELL: Obviously there's no parking to speak of, and in particular I'm surprised they didn't have a loading zone there. I would get one or two of those meters removed so cars could go in and out. It wouldn't affect us a bit. Next to the Hess gas station, I'm sure you can get that. But somewhere we've got to be honest with ourselves, somewhere, somehow it's

Cambridge, and I spent a lot of money for this property, you need to have spaces for these properties with little names on them. If they were to get loading zones and meters removed, I'd be in favor of it. But to run in, it's hard. We did that for years without parking, I think you all know that. And I don't want to get how do you do it, Gary? How do they do it? I'm not here for that. And, really, I don't want any ill feelings in this meeting at all.

BRENDAN SULLIVAN: Okay, thank you. Does anybody else wish to comment? Yes, come forward, please, and give your name and address?

SEAN BUTLER: Sean Butler, I'm the owner of 187 Hampshire. And, Gary, there is no animosity.

GARY MITCHELL: Oh, no, no.

SEAN BUTLER: We're not the Hatfields and McCoys.

CONSTANTINE ALEXANDER: I'm glad everybody loves each other in this neighborhood.

SEAN BUTLER: I just wanted to mention two things. You mentioned 7-11 across the street. That's your property isn't it?

GARY MITCHELL: Yeah, there is an in and out.

SEAN BUTLER: And also how many vans do you have that deliver?

BRENDAN SULLIVAN: I would ask you to stick to this proposal actually.

SEAN BUTLER: But I'm just countering his concern. His concern is there's going to be trucks going in and out for delivery.

CONSTANTINE ALEXANDER: He has concerns and he's not opposed.

SEAN BUTLER: I get one chance, that's it. No animosity.

BRENDAN SULLIVAN: Anybody else wish to comment?

(No Response.)

BRENDAN SULLIVAN: I see none and I don't see any correspondence in the file. Do you have anything to add?

ATTORNEY ANTHONY GALLUCCIO: I do not, Mr. Chair.

BRENDAN SULLIVAN: The petition signed by countless people?

ATTORNEY ANTHONY GALLUCCIO: I do not. I did send the proposal to the Inman Square Business Association and didn't get any response.

BRENDAN SULLIVAN: All right. Any final parting words?

ATTORNEY ANTHONY GALLUCCIO: No, no. Actually, very helpful conversation, and I think it still would be helpful to the business. I think Gary's comments are also helpful. We were not required to show the

spaces we did, so we were really trying to, as Gary indicated, be real. I think his suggestions about potentially a committed space, especially after hours, so the neighborhood doesn't lose a meter during the day, but in those evening hours when the pizza, when people like myself start to get nestled on to their couch, and pizza delivery goes up, maybe we can work with the Traffic Department with getting a committed spot there. If that's the case. I think at this point the two spaces will be adequate.

BRENDAN SULLIVAN: What are your hours of operation?

ATTORNEY ANTHONY GALLUCCIO: The application that is before the License Commission is eleven to two? Excuse me, ten o'clock to two.

BRENDAN SULLIVAN: But they'll decide what the --

ATTORNEY ANTHONY GALLUCCIO: And I

think obviously some flexibility on the sit down, the sit down portion of it.

BRENDAN SULLIVAN: Yes, well, that's there anyhow.

CONSTANTINE ALEXANDER: Two a.m.?

ATTORNEY ANTHONY GALLUCCIO: To be open until two. I think Mr. Jalili would be happy with, you know, to 12:30. You know, to actually have the sit in portion of it open until about that point, but that's, that would be -- that's what's before the Licensing. We're going to be open to the License Commission's suggestions.

BRENDAN SULLIVAN: Any other questions?

CONSTANTINE ALEXANDER: No questions. I would, again, ask that we -- my suggestion is we condition the relief, if we're going to grant relief to the establishment, that there be a pedestrian only lane established on the premises. That

would resolve some of the safety issues.

BRENDAN SULLIVAN: Okay.

Tom, anything?

THOMAS SCOTT: I was going to say the same thing. The two spaces that are here, you said one is for the residents. The second space is for the business?

ATTORNEY ANTHONY GALLUCCIO: Yes.

THOMAS SCOTT: Is it for delivery vehicles?

ATTORNEY ANTHONY GALLUCCIO: We can, we can -- I think we can safely -- I'm not sure why there is a reason we can't commit both to commercial because the residential as it exists is grandfathered. So there's no threat to -- Mr. Jalili would like to maintain the residential use in front. I mean, as much as this is Inman Square, and we've raised the potential for the business, it is a set back garage being converted to a restaurant, and I think the residential

property in the front gives a little security to the investment being made in the back. But we can certainly commit, I think, both spaces to commercial without any -- running afoul with any existing Zoning Law. Is that --

THOMAS SCOTT: I guess I'm not going there. Where I'm going is I'd like to limit the vehicular access back there because I see this almost strictly as a pedestrian approach. I don't really -- I think if you encourage people to go in there, you're going to have a nightmare. You're going to have people trying to pull in, people trying to pull out, there's not enough room to do it properly. And if we restrict you to some type of a pedestrian access way, it's going to get even tighter.

BRENDAN SULLIVAN: You know something, I don't think those are for the general public at all. And I would not want

them for the general public. The space 1 or No. 2 is going to be for the pizza maker, who is going to come in in the morning at ten o'clock, park his car and stay there until two o'clock in the morning. And that's where he's going to park his car. And that car is going to stay there all day long.

CONSTANTINE ALEXANDER: I think you're also going to have a delivery truck.

ATTORNEY ANTHONY GALLUCCIO: Right.

BRENDAN SULLIVAN: And the other space may very well be a delivery.

THOMAS SCOTT: But that could be a designated loading spot out on the street, right? You can remove a meter.

BRENDAN SULLIVAN: Right. I think as far as 1 and 2, it may have raised some concerns that that is for the general public keep pulling in and out, and I don't see it that way at all.

THOMAS SCOTT: I almost want to see

the sign to say there is no parking in there, you know.

CONSTANTINE ALEXANDER: Yes, that would solve the problem.

THOMAS SCOTT: So we're not encouraging people to drive in here and it lessens the hazard.

CONSTANTINE ALEXANDER: I think that's a good idea.

ATTORNEY ANTHONY GALLUCCIO: I don't -- given where Mr. Jalili operates now where there is no parking, I mean, this is, again, given the spaces that exist by way of meters and given the high number of restaurants that do very in Inman Square with absolutely no parking, that's not a problem. I really just wanted to accommodate the delivery piece, because I think that's, you know, that's real and that does buoy a business like this to allow him to make the investment that he's making and that's before

you. So I think that's fine.

BRENDAN SULLIVAN: Okay. So, where we're at is that we would like to see a designated or we're saying now that the existing, be designated pedestrian. We will allow them, if they want to park a vehicle or two there, but it is not open to the general public. Would that satisfy your --

CONSTANTINE ALEXANDER: I think I would have gone further. I would say you cannot have any parking on the lot. So there's that passageway -- you don't need a dedicated pedestrian way because it's only going to be for pedestrians. There would be no cars driving in and out. I thought that's what Tom was saying.

THOMAS SCOTT: That's what I was encouraging, yes.

BRENDAN SULLIVAN: What about the parking of a vehicle here for the pizza maker?

THOMAS SCOTT: Right, for the

restaurant owner is fine.

BRENDAN SULLIVAN: Okay.

MAHMOOD FIROUZBAKHT: I guess my concern with that would be, then, you're going to have a negative impact on the parking situation outside of this property, and that if we're going to restrict the delivery guy and, you know, the pizza maker from parking in those two spaces, then they're going to have to park in Inman Square somewhere and then you're taking away a couple spaces for the general public.

BRENDAN SULLIVAN: I think we're saying we would allow the employee to park there. Not for general parking.

MAHMOOD FIROUZBAKHT: I guess, I thought we were going a different direction where we were thinking of not allowing any parking. But if that's the case, that makes sense to me.

ATTORNEY ANTHONY GALLUCCIO:

Through you, I do want -- the integrity of the proposal is important, but what happens is equally important for both the Applicant and me, myself. And so I think I'm more comfortable with the two spaces. I like the idea of the dedicated pedestrian and the advertisement that there is no customer parking. And I think that works for the business. And I understand, somebody drives back there to see if there's parking and we're trying to create a pedestrian-friendly business. So I just -- I am concerned about not having -- I'm concerned about the residential in front, which I know Mr. Jalili wants to maintain, and I think it's actually a good thing just given the sort of funkiness of Inman Square that this can happen, and I think it survives and it actually helps him make the investment. But I think there is a reality of delivery and residential there that, you know, the two spaces were sort of

the -- a way with, you know, with enough egress to get out, without interfering with the patio. That was really the safe way. There's a huge deck there now, just for the Board, and I impressed upon my client right away, you know, let's not pretend that you're going to be able to maintain this. This deck's gotta go in order to create some frontage for the restaurant. So that was an early decision. So we weren't going to sort of play cat and mouse with that and have the Board to say "What are you guys thinking? This doesn't work." So, we've tried to create as much openness back there.

TAD HEUER: All right, so we've got the butcher, the baker and the candlestick maker. Any of those three compartment of spaces by which I mean a resident, the owner or the delivery person, I think the easiest way to denote those is to put a sign at the -- if there's a fence or wall or whatever

over there, that says "Reserved not public parking" or something, and you can sort out --

BRENDAN SULLIVAN: No customer parking.

TAD HEUER: No customer parking. That's where the resident gets to park there if you're not a customer. The pizza maker, the delivery guy, you sort it out amongst yourselves.

BRENDAN SULLIVAN: Okay. Anything else?

MAHMOOD FIROUZBAKHT: No.

BRENDAN SULLIVAN: That will do it?

TAD HEUER: Do you have bike racks or bike access at all that you're considering?

ATTORNEY ANTHONY GALLUCCIO: No. As a bike rider, I would certainly be willing to accept a condition that there be bike racks for whatever the Board sees fit and would certainly -- other than something

that -- would accept the Board's recommendation on placement giving your experience working with small businesses and restaurants.

BRENDAN SULLIVAN: We've had a hard time with the car, so we'll leave the bike racks up to you.

ATTORNEY ANTHONY GALLUCCIO: Okay.

BRENDAN SULLIVAN: Addition of how many bike racks? What do they come five or ten?

CONSTANTINE ALEXANDER: Like Upper Crust, they have bikes.

TAD HEUER: I mean, that was my suggestion. They have them in Harvard Square. And Upper Crust has done very well with no parking spaces, but delivery on the back of the bike. That way they'll reduce the number of car trips that you need to make with your delivery trucks.

BRENDAN SULLIVAN: The addition of

five bike racks?

ATTORNEY ANTHONY GALLUCCIO: That's fine. And encouragement of bike delivery would be something that I would. It would be some reality of distance, but I think with Kendall Square and so forth, but no you're right, I think that's fine.

BRENDAN SULLIVAN: Let me make a motion to grant a Special Permit to convert an existing auto repair shop into a fast food order business at 187 Hampshire Street.

The Board finds that the conditions of 11.30 have been met, and satisfied.

The Board also finds that it appears that the requirements of the Ordinance 10.43 can be met. That traffic generated or patterns of access or egress would not cause congestion, hazard or substantial change in the established neighbor character, continued operation of or development of adjacent uses as permitted in the Zoning

Ordinance would not be adversely affected.

There would not be any nuisance, hazard created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

The proposed use would not impair the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance. And the new use would be consistent -- would not be inconsistent with the urban design of the objective as set forth in Section 19.3 on the condition that the work proceed with the plans submitted in the application, initialed by the Chair.

The Board also finds that at the entry to the property at Hampshire Street a sign denoting "No customer parking" be installed. That we will accept the two car spaces, designated one and two for employee parking only.

TAD HEUER: Or resident.

BRENDAN SULLIVAN: Or resident of the adjoining apartment building.

And that the Petitioner provide an additional bike rack containing five slots for use of the customers and/or the employees.

Anything else?

TAD HEUER: (Inaudible.)

BRENDAN SULLIVAN: Well, I think we've covered that by not having any traffic in and out of there.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, just a question. The written record will express the conversation around a loading zone that I might be able to bring to the Traffic Department; is that right? Or will there not be a transcript of it?

BRENDAN SULLIVAN: That's not us, that would be them. It's on the record, yes.

ATTORNEY ANTHONY GALLUCCIO: I just wanted to embrace this wide scale support for it while it was in the moment.

BRENDAN SULLIVAN: Yes. We can give you -- well, we can promise anything.

All those in favor of granting the relief sought.

(Show of hands.)

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Good luck.

(8:45 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10092, 350 Main Street. Introduce yourself for the record.

GERALD FANDETTI: Yes, my name is Gerald Fandetti and I represent and am part owner of 350 Main Street, The Firehouse Motel, LLC.

BRENDAN SULLIVAN: Okay, the issue that I have and other members have that I'm aware of, is that one of the submissions which is key in your application form was not submitted timely. It was a requirement that documentation be in the file by five p.m. prior to the hearing.

TAD HEUER: Monday prior to the hearing.

BRENDAN SULLIVAN: Sorry. On the

Monday prior to the hearing, and it was not. And hence I am of the feeling that it is fatal to proceeding this evening until that has been timely filed. And it is now filed now but after the fact.

GERALD FANDETTI: Mr. Chairman, may I make a comment?

BRENDAN SULLIVAN: Yes.

GERALD FANDETTI: As you know, there's a lot of activity going on in Kendall Square, primarily the petition by MIT for a zoning change. And we have been negotiating and talking to MIT about this project and their project for the last few weeks, and these conversations have been continuing for -- we hope that they can continue further, and at this point we would like to request a continuance so we can further our conversations with MIT.

CONSTANTINE ALEXANDER: How long of a continuance would you like? How much time

do you need to continue your conversation with MIT?

GERALD FANDETTI: We really don't know, but I would like to continue until the next hearing that is scheduled for the Board.

BRENDAN SULLIVAN: Well, the next available would be a month from now?

SEAN O'GRADY: June 23rd.

BRENDAN SULLIVAN: June 23rd.

GERALD FANDETTI: I think June 23rd would be a good time to --

BRENDAN SULLIVAN: Okay.

TAD HEUER: We can always continue further if you feel you're still in talks and you feel you need more time. It's not a drop dead --

GERALD FANDETTI: Hopefully we may be able to resolve any issues that we may have and can come here on the 23rd.

BRENDAN SULLIVAN: Okay. So on the motion -- is there anybody here who would

like to speak on the request for a continuance?

(No Response.)

BRENDAN SULLIVAN: I see none.

CONSTANTINE ALEXANDER:

Mr. Chairman, before we take a vote on the continuance I would like to make an observation. Speaking only for myself on the merits of the case, I'm not getting into the merits, is the parking. You're asking for parking relief?

GERALD FANDETTI: Yes.

CONSTANTINE ALEXANDER: The amount of parking that you want to have is far below what our zoning law requires. I would hope that when you come back before us, be it June 23rd or later, that you provide us with more evidence than what I see in the files now as to why parking you're seeking is sufficient.

GERALD FANDETTI: Okay.

CONSTANTINE ALEXANDER: I was

not -- I didn't find enough to make me feel warm and comfortable about this issue.

GERALD FANDETTI: Let me just -- can I make a comment on parking? Just off the cuff.

BRENDAN SULLIVAN: Thirty words or less, yes, sure.

GERALD FANDETTI: The parking, we have found that the number of cars required for the hotel use --

CONSTANTINE ALEXANDER: Save it for the June 23rd.

GERALD FANDETTI: -- is minimal. But we can --

CONSTANTINE ALEXANDER: That's your observation. What I'm trying to say is I would like to see some proof of that if there is proof of that to be provided.

GERALD FANDETTI: We can provide that. Thank you.

BRENDAN SULLIVAN: Let me make a

motion to continue this matter until June 23, 2011 at seven p.m. on the condition that the Petitioner sign a waiver for the statutory requirement for a hearing in the decision to be rendered thereof. And that the posting sign, which is evident, is changed to reflect the new date of June 23rd at seven p.m.

Is only one sign required?

SEAN O'GRADY: What's the --

BRENDAN SULLIVAN: It's a small frontage on Main but it's just --

GERALD FANDETTI: We have a sign on -- excuse me, we have a sign -- we have two signs. One down on --

BRENDAN SULLIVAN: I saw the one in front of the hotel.

CONSTANTINE ALEXANDER: There's one on the front on Main Street.

GERALD FANDETTI: Right, we have one -- but we have another one down at the end of the street there.

BRENDAN SULLIVAN: I didn't see that one.

GERALD FANDETTI: It may have -- we just nailed it up on a telephone pole.

BRENDAN SULLIVAN: Well, just double check it and make sure that it's there, that's all.

All those in favor of continuing this matter?

(Show of hands.)

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

BRENDAN SULLIVAN: And, again, I would just notice that -- in further review of the file, there is comments in there from the Planning Board and also from the East Cambridge Planning Team which you should be aware of. You know, you can send the file you can get copies of it.

CONSTANTINE ALEXANDER: We should make it clear to Mr. Fandetti, Brendan, that

the documentation that was missing, it has to be in our files by the Monday -- by five p.m. on the Monday before June 23rd.

GERALD FANDETTI: Okay.

CONSTANTINE ALEXANDER: So, if you don't get it in by then, it will be continued again.

BRENDAN SULLIVAN: All submissions have to be in by then.

GERALD FANDETTI: All submissions.

CONSTANTINE ALEXANDER: By five p.m. on the Monday before.

BRENDAN SULLIVAN: It's for the public's benefit and also we review the cases, a lot of us, come in first thing Tuesday morning and review the file. It's crucial.

(8:50 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will hear case 10093, 148 Richdale Avenue.

Whoever is going to speak, introduce yourself and spell your name for the record. And whoever is going to speak and whenever you're going to speak.

BLAKE ALLISON: Hi. My name is Blake Allison, Dingman Allison Architects, 1950 Mass. Ave. We're here to seek relief on dimensional issues about the on-site parking for this property which consists of two structures. The original structure on this site is now two condominium units. The lower structure to the rear, which was built in 2008, is one unit. Over the years there have been quite a few cars parking on the site, and currently there are four cars parking there.

On the left-hand side of the building where there is the existing curb cut, however, there are two issues, dimensional requirements in the Ordinance which are not met.

First one for which we are seeking a Variance is we don't have enough dimension there for the required aisle width. I've done some measuring of the spaces and so on, depending upon where you measure, if you take the center line of the car in its parked position and follow the diagonal line back to the wall of the building, it gives you about 17 feet, 20 feet being required for the compact car size.

The reason for four cars, is that the rear building is quite large, and the owners are considering changing it into two units. They haven't finalized their plan, but of course the plan would go nowhere without parking relief to legitimize the fourth

space. So as a preliminary to that avenue, they wanted to pursue with the zoning relief. If the building is not subdivided, it's a pretty sure bet that a large unit like that is likely to have two cars as it does presently. So, again, there's a perceived need to have the four cars on-site. Typical Cambridge neighborhood with a lot of street congestion, so there's this great demand for the on street parking that's available, and Richdale Ave. is arguably should be a one way street, but it's a two way street. So, it's a tough street to handle.

At the core of our case, though, is the fact that the entire southwest corner of the site is a large garden space. And if you -- I'll pass this around. You can see it the Google Earth image right here in the center is a large tree. And that green space right there is a focus for all the surrounding properties. As an as-of-right scheme, we

could accommodate as many as three cars in that area, but neither the owners nor the abutters want to see that happen. So, the issue then of hardship is because of the configuration of the buildings on the site and the desire on the part of the neighborhood and the owners to preserve the open space.

The second issue is a Special Permit issue which has to do with parking the cars right up to the side property line, as they do currently, which would be a waiver of the five-foot setback. And that would relate to two of the spaces. The front two grandfathered going with the front two unit building, but the second two spaces would need Special Permit relief to legitimize the --

BRENDAN SULLIVAN: A couple issues that I have is -- one is that we normally would require a certified plot plan for any relief. I don't know if you have one.

BLAKE ALLISON: Yes.

BRENDAN SULLIVAN: There's not one in the file.

No. 2, I don't know where you've come up with 28 foot, one. Unless that is -- we don't know, is that from the fence to the corner of the house or is it from n the lot line?

LISAN MO: We do have a --

BRENDAN SULLIVAN: Because there is a buffer, a planting area of about 22 inches that runs along that fence. And then along No. 148 there is also a two-foot buffer. And along that wall there, if you will, two areaways which jet out two feet. They are underneath the windows.

DAN LANKE: That's not the case.

BRENDAN SULLIVAN: Well, it was the case this afternoon.

LISAN MO: No, he's right. He's talking about the windows in the basement.

DAN LANKE: Oh, in the basement?

BRENDAN SULLIVAN: Hence and so I'm, I'm not sure where they come up with.

When the other building was built somewhat back 2006, a permit was taken out?

DAN LANKE: It was built in 2008.

LISA MO: No, it was completed in 2008.

BRENDAN SULLIVAN: So an as-of-right solution, because they had to provide parking then, and they showed two cars along here, and they showed parking out back. And obviously they haven't provided the parking. In order for them to get the Building Permit, they show the two spaces. Because if they showed them along here, it would have triggered some relief before the Board. So in order to get the Building Permit, they showed the two spaces here. Those were never provided. Hence it's sort of a flaw in that building permit.

I do have the original for that, and it was done by somebody else, but they show a little bit different dimension. And this was against, this was a certified plot plan for that particular project. They only showed 26 foot, nine as opposed to the 28 foot, one. And, again, the other thing that -- and, again, there's buffer here which reduces that area. They show car 1, 2 and then they showed parking obviously in the back.

DAN LANKE: The other one's here.

BRENDAN SULLIVAN: Which was never provided. Which enabled that structure to get the Building Permit. And it's the area ways along here which is obviously going to cut down on any encroachment at all. So I have a problem with the plan that was submitted, and also the feasibility of parking and using those dimensions, you know. I mean, the back up spaces the minimum is 20

feet?

SEAN O'GRADY: Well, I heard Blake say something -- you're not allowed to go to compact spaces until you have six spaces. So you need full size spaces on full size back ups, 18 and 22 for a straight shot of 40 feet.

BLAKE ALLISON: Right. The dimensions on the plans submitted are dimensions that we took off this survey plan which was done by a certified surveyor. And if there are discrepancies with a former plan, I'm afraid I can't provide anything on that.

BRENDAN SULLIVAN: Yes, there is.

DAN LANKE: Can I address that? I'm Dan Lanke L-a-n-k-e, and I bought the property with my wife in 1973, and we've parked the four cars there ever since in that driveway with never any complaint from our neighbors. I'm glad you point this out about the first plot plan. In fact, it was

incorrect. I went out there with my son to measure it with a steel tape. I said, Why did this guy do this? And I called him up, and he says, Well -- he gave me a lot of back and forth, and he couldn't give me a reason why he had it wrong. But of course my steel tape doesn't mean anything. So we called -- we worked with this architect, and we said do you have somebody that we can trust to measure this thing accurately? And so we had it re-surveyed. We paid for it, another survey. And in fact, his survey is correct. The first one was not correct. I apologize, I didn't know that. So the true dimension is this follow-up one of 28. The other one's not right.

BRENDAN SULLIVAN: Can we have that one there for the record then?

BLAKE ALLISON: Yes.

TAD HEUER: I'm confused. Can you get a Building Permit based on an invalid plot

plan? Because we've got a whole other set of issues that go well beyond four parking spaces or three parking spaces.

CONSTANTINE ALEXANDER: Exactly.

TAD HEUER: You've got an entire building that could have been built improperly.

BRENDAN SULLIVAN: Well, plus and one of the requirements of that Building Permit has not been fulfilled.

LISAN MO: Which was -- I'm sorry, which was?

BRENDAN SULLIVAN: Well, the parking plan that was submitted.

DAN LANKE: The parking plan was to park between the two houses. Not right here. One, two, the third was right here.

BRENDAN SULLIVAN: That's not the plan that I saw in the folder.

DAN LANKE: I thought this was the plan you just showed me.

SEAN O'GRADY: There are several plans. I don't --

BRENDAN SULLIVAN: I'm not sure which one is correct.

SEAN O'GRADY: I'm not sure either.

DAN LANKE: I've never seen a plan that showed parking in the back, ever. And I never submitted one.

SEAN O'GRADY: That's the one you submitted.

CONSTANTINE ALEXANDER: There's one in the file.

DAN LANKE: That's the one we just submitted now. We just submitted this one. Up until now.

CONSTANTINE ALEXANDER: I want to go to Mr. Heuer's question. It troubles me greatly as well. You've got a Building Permit to build or do what you did in the back house.

DAN LANKE: Yes.

CONSTANTINE ALEXANDER: You showed parking spaces on that plan.

DAN LANKE: Correct.

CONSTANTINE ALEXANDER: You did not provide -- you did not follow through with those parking spaces is what I'm hearing. You just didn't do it. You didn't put parking spaces back in the back of the house where your plan said they were supposed to be. So you didn't comply with your Building Permit.

DAN LANKE: I'm sorry. The building, it was not in the back of the house, I'm sorry. The one I showed you in the back of the house was just very recently drawn as the alternative to parking the four cars where we do. We never, ever until, you know, very, very recently showed the parking in the back. The permit to build the house was premised on the parking between the two houses. Never in the back. And if we went

to the back, we would destroy the garden of 30 years.

CONSTANTINE ALEXANDER: Is the parking use -- the parking use of the premises now is it in compliance with the parking plan you showed to get your Building Permit?

DAN LANKE: No, we're parking four cars instead of three.

CONSTANTINE ALEXANDER: That's the issue.

DAN LANKE: That's correct.

CONSTANTINE ALEXANDER: The issue is --

DAN LANKE: So, we noticed that and we said we better go talk to these guys, because, you know, we can't go forward with what we're doing without getting relief.

TAD HEUER: How many units are in the front building?

DAN LANKE: Two.

TAD HEUER: In the front building?

DAN LANKE: Yeah.

TAD HEUER: All right.

BLAKE ALLISON: In the front building?

DAN LANKE: Yeah.

TAD HEUER: Front, two. And how many in the back?

DAN LANKE: There's one present. It's five bedroom.

BRENDAN SULLIVAN: I think this does not to take into account the two area ways along the building of 148, and that planting strip there. And so that these dimensions, the -- again, I'm not even sure what size these cars are because it doesn't show the spaces, you know, parking spaces. I mean, it's sort of an incomplete plan, No. 1, to decipher. You have to sort of extrapolate some of the information out of here.

DAN LANKE: That's a picture here.

BRENDAN SULLIVAN: I know. I'm not

disputing -- and, again, this is -- you can see the area ways that are under this area here for the basement. So, that space there has to be made.

LISAN MO: Can I make a comment now? My name is Lisan Mo, L-i-s-a-n M-o. I'm the owner of the back building. These are my parents.

So, the for the first comment in regards whether the parking for the premises -- when the Building Permit was first obtained, those could be met. So you could have a car park in between the buildings and the two cars park that way. Those, you know, the space is there for that provision. And so, I mean, as far as the way they were parking now, that's, you know, that's due to the requisites of the properties that we have, the amount of residents that we have in the properties. As far as the two landscaping strips or the two strips that you mentioned, if you notice that

a car when it's parked, the way that it is or even sideways, it has a wheel, you know, it has a space between the wheel and the trunk that overhangs. So as far as the, you know, considering that the amount of space that a car needs to park, you know, if you have an additional, you know, two or three, depending on the car, feet, and you're pulling up to a place, the wheel doesn't have to be, you know, right up to, you know, the border. You know, it necessarily couldn't. So it would be, you know, set back accordingly, you know, according to what kind of vehicle you have. But I would say in any case you would have at least two to three feet depending on the vehicle for, you know, setback in terms of where the wheels are going to be. So, I mean, as far as the landscaping strips are concerned, we have cars -- I mean, you know, depending on the configuration, but this is the configuration that's worked best for us.

We have cars pulled directly up to the neighbor's yard or directly up to our fence, which we share with the neighbor, and it overhangs -- the cars overhang the landscaping strip but they don't interfere with it.

BRENDAN SULLIVAN: Yes, I don't doubt that probably works in practice.

LISAN MO: Right.

BRENDAN SULLIVAN: It doesn't work for me in theory, because you may have practiced the parking there and it worked. I'm just not of a mind to legitimize it to be honest with you, because there are plenty of other households up and down Richdale Avenue around the corner that would like to get their car off the street, and they would, you know, park in any little inch that they could possibly pull a car. That doesn't necessarily mean that it makes good urban planning, and that it's going to legitimize

it to be honest with you. And I think that this plan is flawed, to be honest with you, with showing the dimensions as is and not taking into account the areaways, and I just have a problem with it. And apparently there is an as-of-right solution. It may not be desirable, but there is an as-of-right solution.

LISAN MO: Right. Well, I mean I would argue that the reason why we kept the landscaping strips was strictly for aesthetics. I mean, if we wanted to do landscaping strips --

BRENDAN SULLIVAN: Right, and I think that's a major component for any parking plan. It may work for you guys, but it may not be aesthetically pleasing for the rest of the neighborhood. But that's in the eye of the beholder.

LISAN MO: Well, no, I would say that what we have now is aesthetically pleasing.

If we were to turn, you know, if we were to turn the landscaping strips into, you know, into a more of a lot to, you know, conform with the total parking driveway space, then I don't see how that would contribute to the functionality of the driveway. I mean, we could do that, but I mean, to my mind the -- keeping the landscaping strips doesn't interfere, you know, depending on whatever parking configuration you choose with the parking. But just because no matter how you're parking, the car will have that overhang that you have.

BRENDAN SULLIVAN: Right.

Any other questions?

CONSTANTINE ALEXANDER: No questions.

THOMAS SCOTT: No, I'm good.

BRENDAN SULLIVAN: Mahmood?

MAHMOOD FIROUZBAKHT: No questions.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I just have a question for Sean. So, it's one car for one single-family dwelling?

SEAN O'GRADY: One car per residential unit.

TAD HEUER: So, I could go on Brattle Street and have an 8,000 square foot house and I only need one parking space?

SEAN O'GRADY: Right.

TAD HEUER: I mean, I see where the Ordinance gives us where we are. I just have a big difficulty understanding you built a five bedroom house and is it fiction you only need one car? And now you're saying you may want to split it up, you need two cars the size of the house, you need two cars anyway? I mean, I see you get the Building Permit for a five bedroom with only one parking space, but was anyone really in the realm of reality when that happened? If you're coming back saying under either scenario either you keep

it as is, a big house, or you subdivide it into two and we need that fourth space anyway?

LISAN MO: Right. To be perfectly blunt the -- it wasn't to my knowledge. I wasn't actually in charge of the Building Permit process. I came in later. And basically, it was my knowledge that we had -- we were sanctioned for four parking spaces. That was my knowledge. And so, again, with the confusion of the parking plan, this is something that I was brought into. So, I mean, it was, you know, I was under the full understanding that -- and not that it has anything to do with anybody's fault before you guys, but it was my understanding that we were sanctioned for four parking spaces. So, again, I mean, the five bedroom in the back, I mean that's a lot, you know, that's a lot of people for one car.

TAD HEUER: Right.

LISAN MO: And, so I mean it was, you

know --

BRENDAN SULLIVAN: So sanctioned for four cars is fine, but that doesn't mean that you just -- you know, I mean, there's a plan that you have to submit and show where they're going to park and that's where they park. You know, just not anywhere on the lot, you know.

DAN LANKE: That's why we came before you. That's why we're here. We're trying to submit a plan.

BRENDAN SULLIVAN: Are these all condos?

DAN LANKE: I'm sorry?

BRENDAN SULLIVAN: Are these condo?

DAN LANKE: There's just three. Yeah. There's a two-family, which has been there since 1896. And there's this new one that we built.

THOMAS SCOTT: When he says sanctioned, isn't the plan that was with the

file? This plan right here that shows three spaces?

BRENDAN SULLIVAN: For a Building Permit, correct. That's right.

THOMAS SCOTT: Correct. So this is what's sanctioned.

LISAN MO: We were only sanctioned for three spaces which was my understanding.

DAN LANKE: Oh, we misunderstood. We're not developers.

LISAN MO: Yeah. It was my understanding that we had four. But I mean the plans itself demonstrate three. And I learned that when I looked at the plans last year. So that was just clarification, because, you know, I was on the same page as the Board Member here who said, you know, you have five bedroom, why wouldn't you -- you know, why are we before you two years ago in order to get a parking plan that works for everybody? Why are we here now?

DAN LANKE: If we had done this right, we would have been fully --

LISAN MO: I mean to tell you the truth the reason the back house was built was for my parents to actually move into it, but, you know, due to many things beyond our control, it turned into something that I moved into and something that, you know, we realized -- you know, we never thought that we would have to necessarily, you know, uhm, you know, go for parking or anything because it would just be us. But I mean, either way it needs to be sanctioned. So that's kind of where my thinking was.

BRENDAN SULLIVAN: This is the plan, here. Five cars as of right.

DAN LANKE: We just did this.

TAD HEUER: That was the alternative.

LISAN MO: Right, that was the alternative plan that was literally done, you

know, in the last month.

THOMAS SCOTT: And the point is we could have done this --

LISAN MO: We can do that.

TAD HEUER: They can do that.

DAN LANKE: If we do that, we destroy the pear tree, apple tree, azalea and the rhubarb.

TAD HEUER: But you also have an as-of-right solution of putting one of those cars on the street, right?

DAN LANKE: No, I don't think we do. We don't. We can't -- we won't get --

CONSTANTINE ALEXANDER: Three units.

DAN LANKE: We won't -- for three we would? For three we would.

LISAN MO: Yeah, for three.

DAN LANKE: For three we would but not for four.

LISAN MO: But we do intend for -- I

mean, either way it's practical in our eyes and in the neighborhood's eyes to have as many cars off street as possible. But I mean we do intend to convert it to two units. And in that case, you know, to meet zoning requirements we would. As far -- yeah, and again, I understand the Chair's point, you know, if anybody wants relief, you know, everybody wants parking relief as far as, you know, just cramming cars off street, but I would say that this, if you look at this in relation to the neighborhood as far as the just the driveway is concerned, I would say -- and, again, I've done a lot of inspection of the, you know, different properties, this driveway, in terms of size and dimensions is fairly unique as far as what is allowed. I mean if, you know, if it was just -- if we had the back unit -- I think we could do this. If we had the back unit just as one unit, and we had a different parking

arrangement, we could potentially do, you know, two tandem slots because we have the, you know, the driveway itself is around 30 feet. So we could do two tandem, but I mean --

DAN LANKE: (Inaudible).

LISAN MO: Oh, yeah. But I'm talking about width. But I mean so that's, you know, that's the nature of the driveway itself, is that it is a unique space. And as far as, you know, using it in the most efficient manner, this is the way that it has worked for us for the past, you know, two or so years. I mean, if there is a better way that will make it more functional and, you know, more, you know, aligned with, you know, with the Ordinance, then that would be, you know, that would something that we would be perfectly open to. But as far as, you know, working with the potential for building a second unit, which I mean we basically fully

intend to do, this was the plan that we came up with for -- in terms of functionality, efficiency and the least amount of, you know, impact on the green space.

TAD HEUER: Do you have problems with all the first three, I mean, I'm sorry, with numbers 3 and 4 or just No. 4?

LISAN MO: Three and four. So, yeah, I mean the issue in front of you guys is, to me, when I looked at this, is basically aisle width. So I mean we're about, you know, depending on how you wanted to look at it between compact, I mean, we've had large vehicles parked there, you know, SUVs.

THOMAS SCOTT: Is this how it's parked today?

LISAN MO: Yes.

THOMAS SCOTT: Is that what you guys do now?

DAN LANKE: Yes.

THOMAS SCOTT: You have four cars

parked there?

LISAN MO: Yes. If you look at the neighborhood support, we definitely --

DAN LANKE: And all of our neighbors signed off. They were happy to. They love my wife's rhubarb pie and our tomatoes.

TAD HEUER: They'd also love to come to us and ask for additional parking spaces.

Is there a reason that you can't, why you didn't present this plan, maybe because it doesn't work, with 1, 2 and 3 and then putting 4 where 4 is on the Building Permit plan between the two buildings?

LISAN MO: I mean, it would be.

BLAKE ALLISON: I would say that if you're going to park three cars there where they are now, the fourth car's just not going to have any maneuvering space to put in that position. So I would say that it, it might work but only if somebody's driving a Mini Cooper or a Smart Car. It would be very, very

tight to try to get in and out of that space if you had three cars parked along the fence line.

LISAN MO: Also, I would say to your point is that if, you know, if the third car is there, then the fourth car could be there because the issue is that we don't have the aisle width. So if we had, you know, if there was an additional two feet, you know, by right we could have up to almost five cars. But because we don't have the additional, the driveway, the, you know, the limitations of the dimensional -- dimensions of the driveway, we -- you know, the -- that's why basically.

DAN LANKE: We park at a diagonal.

THOMAS SCOTT: You don't need the setback here along this edge.

DAN LANKE: That's true, too.

BLAKE ALLISON: That's the request of the Variance which actually relates to two

of those spaces. The first two are grandfathered.

LISAN MO: And we have a Special Permit which would request that. And we have, you know, we spoken extensively with those neighbors. I mean, the cars have been parked there against that, you know, fence with no -- without complaint.

BRENDAN SULLIVAN: All right. Let me open it to public comment. Is there anybody here who would like to speak of the matter at 148 Richdale Avenue?

(No Response.)

BRENDAN SULLIVAN: Okay, I see no one in attendance. The Board is in receipt of some 16 correspondence. "To Whom It May Concern: As a neighbor of the homeowners of 148 Richdale Avenue, I support the current arrangement of four parking spaces in their driveway. This arrangement in practice for over 30 years is immensely preferable to a

restriction of parking in their driveway to just three cars. Prohibition of parking a fourth car in the driveway would bring about an undesirable result of adding parking on the street or worse, the destruction of their pleasing flower, herb and vegetable garden for over 30 years. Support of the current arrangement, in my opinion, sustains the liveability of our community." And it is signed by some 16 people in the immediate area. 162 Richdale, 142, 156. This is just a sampling. No. 25 Hubbard, No. 29 Hubbard Avenue. 175 Richdale, 175 Richdale, 175 Richdale and 175 Richdale. And that is the sum and substance of the correspondence.

Any questions by the Board at all?

CONSTANTINE ALEXANDER: I have a question and make sure I'm following what's going on. Right now there are three dwelling units on the property?

BLAKE ALLISON: Yes.

CONSTANTINE ALEXANDER: The two houses. So you only need to have three parking spaces. You're seeking to have four. And I take it you're seeking to have four because you anticipate you might increase the number of dwelling units on the property to four?

LISAN MO: We intend to.

DAN LANKE: We now have -- when we built a townhouse with the so-called garden apartment, but it has nine foot ceilings with the basement. Which turns out that we didn't really need, and it works out -- it works out better for us to make that a separate apartment. There would be no physical change -- you wouldn't see anything from the outside, but from the inside, instead of being a single townhouse, the one-family townhouse, would now become a garden apartment which has its own bathroom and its own kitchen. And the four bedrooms

upstairs.

CONSTANTINE ALEXANDER: What puzzles me is that typically when we have a conversion, people -- right now you have an as-of-right simple solution that allows you to comply with the Zoning By-Law. You're going to have three parking spaces on the premises without destroying your garden in the back. That requires with zoning. You're saying you're planning to go to four units. Typically to do that as a matter of right, you can't because you don't have the necessary parking, you only have three.

DAN LANKE: That's right.

CONSTANTINE ALEXANDER: You would come before us at that time with the plans for the four units, and you show us your parking plans and we would make a decision whether we would allow to you have four units given the parking issues. To grant the parking now before I see -- if we do, before I see exactly

the whole picture of how you're going to convert this property, troubles me.

TAD HEUER: That's exactly my thought. And I think if you want to do the conversion, I think, without prejudging it, what you would do is come before us asking for a conversion and having an additional unit and either say I need this parking space for that, or you ask us for relief to say I only want three cars for four units, and the fourth one would be allowed to park on the street. That way you don't have the situation of asking for more parking that's actually required for the units that you actually have.

DAN LANKE: Okay. We're happy to do that. That makes sense. And that's actually what my architect advised me to ask you but I didn't know how to articulate it.

TAD HEUER: Go to him.

SEAN O'GRADY: A few points. I'm in

agreement that you need to come back. But you need to come back under 5.26 as a Variance posture. You can't use a Special Permit here and then try to convert that to subvert a 5.26.

DAN LANKE: 5.26?

CONSTANTINE ALEXANDER: That's a section that allows you to convert provided you meet four criteria. And one of them is you have the necessary parking. And you won't have it because you only have three spaces because you have four.

DAN LANKE: Okay.

SEAN O'GRADY: And the second issue, and perhaps more importantly, is we issued a permit on a bad, bad plot plan, and not kind of a plot plan, a plot plan that's off by a foot or two. I don't remember that permit too well, but it looks like that house is tucked in the back corner and I'm now wondering if that permit is bad, and you have

an issue that makes this issue not even ready to even talk about because you have a really big issue that has to be resolved.

DAN LANKE: Okay. Well, we -- have you looked?

BRENDAN SULLIVAN: The suggestion would be to -- well, I guess my suggestion would be to continue this to resurrect the previous Building Permit to see what is not in order with that, vis-a-vis the application before us.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: I don't know if continuance is the answer, because that's a separate issue whether -- it strikes me what we should be doing tonight is denying relief on a Special Permit. It doesn't create a two year hiatus. You can come back -- when you're ready to convert to four units, you come back with a complete package and seek a Variance which you're going to need

four parking spaces. So that's a separate.

The issue about whether that building has been built based on bogus plans is an issue that's outside of the jurisdiction of this case tonight. You've got to go back and satisfy Mr. O'Grady that you don't have a problem. And if you do, you're going to need a separate Variance to allow you to continue that structure that you built based upon the bad plans. I think that's how it goes.

MAHMOOD FIROUZBAKHT: Okay. Just to flush that out, Gus, let's say to the extent -- and this may not be at all what the Petitioner wants to do. But to the extent that they do want to continue with this Special Permit application as proposed, if we deny them tonight, then would they basically be -- would double jeopardy sort of apply and they couldn't come back with the same application for two years?

CONSTANTINE ALEXANDER: That's

right, with a Special Permit. But if they come back with a Variance with a different set of circumstances. I can't see any circumstances based upon what I'm hearing tonight why we would grant a Special Permit, whether tonight or on some future date, given on just this, these set of facts because of the all the issues that have been raised. Maybe I'm wrong.

TAD HEUER: Couldn't conceivably you grant a Special Permit for a third car in diagonal positioning for five feet from your lot line?

CONSTANTINE ALEXANDER: You could. If you want to continue the case on Special Permit, fine. I just hate clamoring our agenda.

MAHMOOD FIROUZBAKHT: The thinking there would be just basically buying some time to figure out what's going on in the file as opposed to foreclosing on the possibility

of proceeding with this.

BLAKE ALLISON: That sounds good. We'll take a continuance on this and in the meantime we're sort out the other issues and hopefully be coming back for the creation of the fourth unit if I hear things correctly.

MAHMOOD FIROUZBAKHT: Right.

LISAN MO: I mean, I'm in full agreement with that. I just wanted to state the reason why at least from our, you know, our side why we came about it this way. And the thinking in my mind was that the reason was that either way the practical use of that driveway is four parking spaces due to the nature of the dwellings. You know, multi-family, whether it's a five bedroom or, you know, two units unchanged, but still a five bedroom. That typically would, you know, necessitate additional parking, four parking spaces at the very least. So our thinking was that, you know, either way,

whether you, you know, whether you have the building plans, you know, fully prepared, all that good stuff, or not, the understanding was that those, you know, the nature of the property in terms of the amount of resident's house would, you know, would necessitate four parking spaces.

TAD HEUER: And I think the distinction, if I heard Mr. Alexander correctly, is that you could come back, if this is what you're saying, correct me if I'm wrong, you could come back looking for a conversion to four and a Variance that would allow you four units, and a Variance for only three spaces --

CONSTANTINE ALEXANDER: Yes.

TAD HEUER: -- which is a different posture than saying I need four spaces because I have a fourth unit. Yes, if you come here asking for four spaces and we say we can't give you that, and you say well, I

can't do four units, because I need four spaces on my lot and I'm stuck. You can't do it in this posture. But if you came back and say I want an exemption for relief of one of the spaces, we can put that wherever you want, go put it in the street, tell me I have to find off-site parking, you put it in the neighbor's driveway, whatever you want to do to serve that fourth unit. It's not up to us. We're just saying you only need three to serve this. And if you find that your, you know, your renters need more parking, you sort it out and you know away from us.

BRENDAN SULLIVAN: That might behoove us to step back from tonight and address the comments that were made and the comments and to, again, sort everything out when you come back. I don't know. We're into the end of June at this point.

BLAKE ALLISON: I think we're going to need a little time.

BRENDAN SULLIVAN: Okay, so I mean, you tell me. You know, you've got June, July August, September going forward.

LISAN MO: I would say July. The earliest in July as possible.

BRENDAN SULLIVAN: When are we in July?

SEAN O'GRADY: 14th.

BRENDAN SULLIVAN: And you can always continue it beyond that with just a simple letter.

CONSTANTINE ALEXANDER: It's a case heard. We have to make sure everyone can be her on July 14th.

BRENDAN SULLIVAN: July 14th, everyone on Board? You are now.

Let me make a motion.

CONSTANTINE ALEXANDER:
Mr. Chairman, the \$64 question, what happens to the four spaces now between now and July 14th, do they continue to use them?

BRENDAN SULLIVAN: We're not the zoning police. We're just the judges.

THOMAS SCOTT: They've been using them for two years.

CONSTANTINE ALEXANDER: I know. I don't see any reason to allow them to continue to use them.

BRENDAN SULLIVAN: Just tell them everything is pending.

THOMAS SCOTT: The neighbors don't seem to mind.

BRENDAN SULLIVAN: Let me make a motion to continue this as a matter as a case heard until July 14, 2011, at seven p.m., on the condition that the Petitioner sign a waiver to the required statutory hearing time and rendering a decision, and also to change the posting date on the sign to reflect the new date of July 14th and the time of seven p.m.

All those in favor of granting the

continuance?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott,
Firouzbakht.)

(9:30 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will

hear case No. 10094, 61 Foster Street. Is there anybody here interested in 535-545 Cambridge Street?

Are those being continued, do we know that?

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: You're neighbors? Yes. That is going to be continued.

CONSTANTINE ALEXANDER: Both cases.

BRENDAN SULLIVAN: Both cases are going to be continued.

CONSTANTINE ALEXANDER: We talked about that. In one of the cases there is no posting the sign, and in the other the tenant has decided not to proceed. So the landlord doesn't have a person to occupy those premises for the instructional studio yo. So I think he advised Sean that he would be amenable to continuing the case.

BRENDAN SULLIVAN: Just to let you

know they're going to be continued. The request is to continue until June 9th anyhow. But you should check the posting date on the sign and you can also call the Building Department to find out. But you don't have to hang around if you don't want to.

FROM THE AUDIENCE: Thank you very much.

BRENDAN SULLIVAN: The Board will hear case 10094, 61 Foster Street. And you're Jill.

JILL DESIMINI: I'm Jill. That's true.

BRENDAN SULLIVAN: Give your name for the record. Please spell it and the address.

JILL DESIMINI: I'm Jill Desimini D-e-s-i-m-i-n-i and I live at 61 Foster Street. I'm here to seek relief in the form of a Variance to construct a small addition to a kitchen. It's in violation of 5.31 and

5.13. The property, it has a -- the property currently is non-conforming in the front and the rear. And also is over its FAR, and is not within the distance between the house and the garage.

BRENDAN SULLIVAN: You're adding 25 square feet?

JILL DESIMINI: I am adding 25 square feet.

BRENDAN SULLIVAN: To a house that right now has 1348.

JILL DESIMINI: Yes. 148 of that is in the attic. That's over five feet so it's actually not habitable space.

BRENDAN SULLIVAN: That's allowed in -- the zone is 0.5 and you're going to go from a 0.56 to a 0.57.

JILL DESIMINI: That's correct.

BRENDAN SULLIVAN: Which is a little more than the five square feet on the earlier case. You're not the littlest, but you're in

second.

JILL DESIMINI: I'll take second.

BRENDAN SULLIVAN: You recently bought the house?

JILL DESIMINI: I did recently buy the house, that is correct.

BRENDAN SULLIVAN: When you saw the house, it's lovely, we love the neighborhood, but the kitchen it just doesn't work.

JILL DESIMINI: Yes.

BRENDAN SULLIVAN: I guess.

JILL DESIMINI: We love the house. We actually renovated the bathroom which we did not need a Variance for. We've been before the Historical Commission twice. The house didn't have any substantial work done since the 1950s, and so the kitchen is apparently less than six feet wide which makes it difficult to have modern appliances.

BRENDAN SULLIVAN: So it's a nice house but very dated?

JILL DESIMINI: Yes. It's lovely. We love the neighborhood. We love the house.

BRENDAN SULLIVAN: Did you speak to your neighbors at all?

JILL DESIMINI: I did speak to my neighbors. And at the Historic Commission hearing, the house on the corner of Foster and Foster Place was in front of us, so almost the entire neighborhood was there, 25 people.

CONSTANTINE ALEXANDER: I assume the Historical Commission approved what you want to do?

JILL DESIMINI: Yes.

BRENDAN SULLIVAN: That's the Half Crown Neighborhood?

JILL DESIMINI: Correct.

BRENDAN SULLIVAN: And I must have seen the correspondence from them.

CONSTANTINE ALEXANDER: I didn't see it the other day.

JILL DESIMINI: I submitted the

letters.

BRENDAN SULLIVAN: Did they give you any communication?

JILL DESIMINI: I submitted it with the file that I sent about them approving it.

BRENDAN SULLIVAN: Oh, I'm sorry, it is here. Okay. So that's it?

JILL DESIMINI: That's it.

BRENDAN SULLIVAN: Is there anybody here who would be interested in case No. 10094, 61 Foster Street?

(No Response.)

BRENDAN SULLIVAN: I see none. There is no correspondence in the file other than from the Cambridge Historical Commission. To the owner of the property at 61 Foster Street, the above-referenced property is subject to the jurisdiction of the Cambridge Historical Commission, which is the Half Crown Marsh Neighborhood Conservation District. And a Certificate of

Appropriateness was granted on March 31, 2011, for 32 square feet in addition to the first floor kitchen. And there was no other comment from it. So it has been approved. The Petitioner has noted a voicing of opinion favorable from immediate abutters, neighbors at that hearing.

Any questions, concerns? Can we give another 25 or 32 square feet?

TAD HEUER: Can someone create a hardship other than the hardships that are just created, because I just don't -- as a matter of principle I think failure to retain proper value is a hardship that we used to grant on and it expands into a conforming setback so it's not really size and shape of the house. So, I'm willing to go with 140 and have a little square feet in the attic, you want to use that, but I'd appreciate somebody giving me hardship to hang on.

THOMAS SCOTT: Is this the current

kitchen?

JILL DESIMINI: That's the current kitchen. I can show you the photographs if that would help with the hardship.

THOMAS SCOTT: It is a hardship. It's less than a galley kitchen currently.

TAD HEUER: This is a galley kitchen.

THOMAS SCOTT: It's barely a galley kitchen.

TAD HEUER: You haven't seen my galley kitchen.

BRENDAN SULLIVAN: Beacon Hill has galley kitchens.

JILL DESIMINI: It's a tough galley kitchen. In order to do -- it has a -- you notice in the plan, it has a door. On either side you can go around the house in the center so the actual work space in the kitchen is about eight feet by four feet.

BRENDAN SULLIVAN: It might

preclude the Petitioner from fair and reasonable use of the property, a standard which is prevalent in the neighborhood which is being denied by this particular petition due to the fact that it is an existing non-conforming structure.

THOMAS SCOTT: And they want to put some modern appliances in there that actually fit. Come on.

JILL DESIMINI: Similar relief was granted to the identical house next-door.

BRENDAN SULLIVAN: And it would encourage domestic tranquility and good culinary arts.

THOMAS SCOTT: There we go.

MAHMOOD FIROUZBAKHT: Sounds good to me.

BRENDAN SULLIVAN: I make a motion to grant the relief requested for the -- we're going to approve this plan, so you're not changing this plan?

JILL DESIMINI: That's correct.

BRENDAN SULLIVAN: The Board finds that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner because it would preclude the Petitioner from --

JILL DESIMINI: Can I ask one question about not changing it? You just mean the size requested not the sort of the interior?

BRENDAN SULLIVAN: Well, I don't care what you do on the inside. It's basically that the addition and the location of the windows.

JILL DESIMINI: Do the locations of the windows matter if you cannot see them from the street?

BRENDAN SULLIVAN: Yes.

JILL DESIMINI: Okay, that's fine. I won't change them. I just wanted to make sure what I was agreeing not to change.

That's fine.

BRENDAN SULLIVAN: The inside.

CONSTANTINE ALEXANDER: You could change them, but you would have to come back for separate relief, that's all.

JILL DESIMINI: Okay. I won't change them.

BRENDAN SULLIVAN: Because it would preclude the Petitioner from fully utilizing the property in a fair and reasonable manner, to expand slightly the kitchen which is totally inadequate.

The Board finds that the requested relief is quite de minimus and a fair and reasonable request.

The hardship is owing to the fact that the existing house is non-conforming in floor area and possibly setback, I think, right?

JILL DESIMINI: Front rear setback and the dimensions from the garage to the house.

BRENDAN SULLIVAN: And that a lot of the floor area is located in unusable portion of the attic, hence, the addition on the first floor is a fair and reasonable request.

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

On the condition that the work proceed with the plans as submitted and initialed by the Chair.

All those in favor of granting the relief?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor and one negative.

(Sullivan, Alexander, Scott, Firouzbakht.)

BRENDAN SULLIVAN: Comments?

TAD HEUER: I entirely endorse this,

but I did not see the hardship to the standard as provided by the Petitioner.

CONSTANTINE ALEXANDER: Good luck.

BRENDAN SULLIVAN: Granted.

(9:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will

hear case 10095, 117 Amory Street.

Introduce yourself for the record, please, spell your last name.

GREGORY HYDE: I am Greg Hyde. My last name is H-y-d-e, and I'm from Hyde Park.

ANDREW SHINN: And my name is Andrew Shin, co-owner of 117 Amory Street. Last name is spelled S-h-i-n-n.

BRENDAN SULLIVAN: Okay. And what would you like to do?

GREGORY HYDE: We've been living in this facility for nearly four years now. We decided to live there for a year before we did anything. And so now we have quite a number of things that we are working on. And the -- there are two that require your involvement.

The first one is fairly straight forward. Is that the factory building that is part of our house is 47-by-47 feet and we lived in it -- I have one corner of it, Zeek

has another corner, we have our living and dining room in that area. But there are no windows in three of the four walls. All the windows are in one wall. And the building is only one foot from the property line. So we are petitioning to allow -- for you to allow us to put windows in two of the other walls. And that would allow us to establish more proper bedrooms in those two areas. Now it is more -- it is totally open. And the, as I say, the brick walls are only a foot away from the property line. So the proposal there -- and we've consulted extensively with our neighbors who are quite wonderful, to have the windows actually inset into the building so that the window is three feet from the property line and that also relates then to the fire safety considerations.

BRENDAN SULLIVAN: It's building code issue.

GREGORY HYDE: Building code.

The other part of this is that our property, when we purchased it, had not a single blade of grass on it anywhere. And the factory building is only one story, has a flat concrete roof, 20 inch I-beams holding it up, and we would like to develop the roof area for solar. Also to do a small amount of gardening and to have a green roof on that surface.

Our petitioning to put stairs up to that roof in an area which is in the setback and to build a head house and a garden room on the top of this building so that we would have access to the roof, the head house and that would improve ventilation and lighting into the living space down below. And as I say, give us an outdoor space which we don't have very much of at present.

CONSTANTINE ALEXANDER: You'll have internal access to the roof?

GREGORY HYDE: Internal access to

the roof. But the -- there is a setback, but -- which we've talked with our neighbors and discussed this. I think the setback satisfies their concerns and the angle of things, but it is technically within the setback area of the standard zoning, so that we are requesting a Variance to allow this stairs and the head house to be on the roof, set back from the existing walls but still exactly within the --

TAD HEUER: Correct me if I'm wrong. You're also asking for FAR relief, correct?

GREGORY HYDE: Yes, that is also true. Yes.

TAD HEUER: So my question when I saw this is, I very much like the plan, my concern is that you're at 0.86 in a 0.75 district, and you want to go higher. You want to add about 380 square feet. And my, at least in my review of the plans, most of that is in the garden room because the head house would be,

because it's a head house it's at roof level.

GREGORY HYDE: We counted that in that number.

TAD HEUER: Right. And I may be wrong, but that's a very small amount of space. And if the goal is to get you up to the roof and to be able to use that space, which is clearly unusable now, and I think all of the goals of solar up there, you know, some decking in, putting in gardening and, you know, other stuff, and that's a great use for it, my concern is the bulking up of a lot that's already highly bulked in a neighborhood that's very bulked. They're very close together. As you said, you're a foot from your lot line. The garden room is what's troubling me because it's essentially an amenity that I don't necessarily see a hardship for, particularly to be able to get up and have access to the roof and do all the things horizontally that you seem to be

proposing in the plan, which I think is good. And I guess my first inclination was if we were to give you some roof access so essentially allow you put up a nice head house, it doesn't have to be an ugly door with a slant on it, but something that got you up there and got you out onto the roof, you know, in looking at that I can't tell if that would be in the setback or not, but my inclination when I first saw it, I would be interested in what other Board Members thought, is wouldn't we resolve the problem, which is get you up on the roof and use it by getting you, if you needed, relief for putting in a head house possibly in a setback, but the 400 square feet of additional room on this roof is a bit more than a hardship that you might allow. So that was my initial thought. I would be happy to hear other members' thoughts or your thoughts on it.

BRENDAN SULLIVAN: You know, I guess

the room itself, the way you can respond is that it's a working room which augments the garden space obviously. It would be akin to a -- you know, many years ago a shed out in your garden that a potting shed or something they used to call them. So that it's a, it's a working room that -- I mean, you could almost garden -- I'm not sure if you would garden 12 months of the year, but you would garden well beyond the season and also pre-season. And, again, I think you would also use it as a greenhouse in a sense; is that correct? Is that how I read this?

GREGORY HYDE: That is correct. And it would also be a space where you can be indoors and enjoy the garden to some extent.

BRENDAN SULLIVAN: In inclement weather?

GREGORY HYDE: In inclement weather.

BRENDAN SULLIVAN: In any type of

weather really.

GREGORY HYDE: Yes. Because our -- the living space that we have down below doesn't -- isn't a particularly light space, and it would be very nice to have this space where we could enjoy the gardening during inclement weather, and be protected and look out at the garden and the green roof and enjoy that.

CONSTANTINE ALEXANDER: This case strikes me very similar to the Foster Street case we just heard, where they wanted, needed more room for a kitchen. The kitchen in the house isn't really worth -- they needed more kitchen space, and we granted relief. That was the hardship. You don't need the kitchen space, but you need more living space to allow you to fully utilize the structure. And to do that and to use the rooftop which is a large area, you need some -- a room on the top floor and that's why you want your relief. So,

it's really making the house more amenable for the inhabitants of the house, that's what you're going for. And there are legal issues, of course, the hardship as Mr. Heuer pointed out in the prior case, and I suspect he's going to point it out in this case as well. That's the crux of the matter. This will make this a better place to live for you and whoever your successors are.

TAD HEUER: I think that's the argument that anyone who comes before us makes. Is that (inaudible) --

CONSTANTINE ALEXANDER: Yes, I know.

TAD HEUER: -- curious aspect of their property. The question is whether in this case you have a structure that was not built to be a house. It was built to be a factory building, and it's been converted into a house, and perhaps naively done so. But the fact that it is -- I mean, you also

use the house as a house, and use the garage facility as a garage. And the fact that it's being used as two units may be financially amenable to the Petitioner and I don't begrudge them for it. But it's not as though this is an absolute necessity to have a house with light in it. You want a house with light in it, you move into the front of the house. And to having that garage in the back with that level of height on it, I can certainly see the value of making it a green space. I'm not sure there's a necessity to add 400 square feet. And I think for the Petitioner to be coming here and asking for another 400 square feet, we may have had very little discussion.

BRENDAN SULLIVAN: The way I looked at it, I tend to agree that the garden house, if you will, is a little bit grand. And I read it as access to the green roof, which is all very nice and they don't have any open space so that's wonderful thought that the

garden house was a little bit of a stretch. But now I actually went down to the property twice, parked across the street, and said, okay, here's an ugly looking building, and what do you do with this ugly looking building which would make it more blend in with the neighborhood? And one who used to own a commercial building garage in the middle of a residential neighborhood, we made it look like a residence. And one way of doing it is that you put the clapboard in front of it, shingle it, whatever it may be. And put on a roof, a pitched roof or any kind of a roof. And you're going to add floor area once you start making it look like a residential structure and blend in more, and take this ugly masonry building away. And so, absent of that and what purpose does that serve by putting a roof on it and make it a more residential structure, that the plan that's before us tends to not guild it, but it tends

to make it more pleasing, I guess. And it doesn't take away the masonry look of the building, but I think it softens the image quite a bit, I guess, to me. That sort of really would be my final take on the thing. Again, I don't mean to -- that would be my take on it.

And then I went back and I went back the other day and did the same thing and then sort of pictured the thing and said, you know, yeah, probably.

ANDREW SHINN: Thank you. That's our intention with the building. You know, it has some history to it. It is a large garage. It was built for a purpose for manufacturing and, you know, we'd like to turn it into residential space. But because it is so dark and heavy and grand, we'd like to do something to soften it. But also the neighbors around it also really appreciate it for its bunker-like sense that it has. There

are ivy walls growing upon it, and they actually would like us to keep the building and do nothing with that. And to keep it as a residential space, we'd like things to make it more habitable as opposed to a dark and cold in the bark corners.

BRENDAN SULLIVAN: You'll have a chance to -- is that your initial presentation?

GREGORY HYDE: Yes.

BRENDAN SULLIVAN: Any other questions, Gus?

Tom, any questions?

Tad, any further?

Mahmood, any --

MAHMOOD FIROUZBAKHT: I'd like to take a look at the plans.

BRENDAN SULLIVAN: Let me open it to public comment. Is there anybody here that would like to speak regarding 117 Amory Street. Please give your name for the record

and come forward.

STEVE LEWONTIN: My name is Steve Lewontin, and I'm closest neighbor. I'm at 107 Amory Street, and the south wall of that monstrous garage structure is actually the wall of my garden. I actually -- there should be a letter from me in your records there, but I don't know if I got it here in time. So I don't want to read the letter, so I'll just repeat more or less what's in there.

And so that the number one thing for me, the thing that I really like about what they're doing is that they're going to preserve my beautiful garden wall. It's one of the precious things about my house. And more than that, though, I would say that by making it possible for them to make a reasonable living space out of what really is a pretty ugly building, I don't know if you've seen the inside of it. You may have seen the outside, but the inside is this dark cavern.

Encourage them to keep this space and keep my wall the way it is. Because, as far as I understand the zoning rules, as of right, as you guys say, they can tear the whole thing down and put a three-story building in the middle of the lot, and they wouldn't have to come in here for review probably because they would have all the setbacks. And then I would be really upset. If sticking to the letter of the zoning rules meant that they had to tear that thing down and disrupt the whole neighborhood, I think that would be far worse than a protectional Variance that keeps in the spirit of conserving the building and conserving the environment around it. So that's sort of the most important thing to me.

And the other thing is everything that people have been saying about the architecture and making it into kind of -- I don't know if I would call it softer, I don't know if they call it softer, but it's

definitely to have all the green stuff on the roof and to have all the greenhouse up there, it's going to make it a really attractive property. It's the perfect combination of keeping that industrial thing there and conserving that, but also making something more than just this big pile of bricks out of it basically. And I think it's -- it's going to be very exciting actually to have this house in the neighborhood, and with all the green space and solar panels on the roof, I think it's going to be a landmark in Inman Square.

LEWIS COSTA: My name is Lewis Costa, and my family owns the property on the other side. I echo everything you say. We're like bookends actually I should say. My dad and my family have own the properties along the other edge since the 1960's. I've utilized that wall since the age of three or four with basketballs and baseballs. And,

you know, I feel the same. If there's ever a project that truly represents what Cambridge is all about, this is it. I have had one chance to go inside the home of Andrew and Greg during the open house, and what they're telling you is very much the case. It's cold, it's a cave-like atmosphere, and they're doing a lot of good there. It's exciting for me, for some of the neighbors that I've spoken with, my family, to bring in some green, solar, plants, gardens. It's fantastic. To take away some of what they've been doing, taking away plastic off the sides of the house and the vinyl and putting up actual wood, it's fantastic. This is Cambridge. This is what it should be and what it should represent. So I really hope that this goes forward. I'd like to see it. I'm excited.

CONSTANTINE ALEXANDER: I have a question for you.

LEWIS COSTA: Yes, sir.

CONSTANTINE ALEXANDER: You've been here before us -- this property, the prior owners -- someone wanted to do something to this structure, I forget exactly what it was, and we turned them down.

LEWIS COSTA: Yes.

CONSTANTINE ALEXANDER: As I recall, you came down and you were in opposition to what they wanted.

LEWIS COSTA: Absolutely.

CONSTANTINE ALEXANDER: Okay.
Tell me the difference between what that was and why you were opposed to that and why --

LEWIS COSTA: It was a monstrous development on the roof, and it looked like a massive flying saucer on steroids landing on the property. Taking away all the sunlight from the garden that we have in the parking lot. And one of my concerns was that it was too big and not getting enough

sunlight.

CONSTANTINE ALEXANDER: Okay.

LEWIS COSTA: The original plans that they had, I had mentioned my concern, and they went back and revised everything to my satisfaction, my family's satisfaction. We feel very confident and comfortable with what they've come forward with this. The other project was completely different.

CONSTANTINE ALEXANDER: All right. I was just wondering.

STEVE LEWONTIN: Also the other project was to make it commercial space. They were going to make offices and studios.

CONSTANTINE ALEXANDER: Yes, that's what I recall.

LEWIS COSTA: They were going to have architects working off the level, so that when you were coming in and gardening, there were architects at their desks working on their plans and everyone in the

neighborhood felt --

THOMAS SCOTT: And they work until midnight or one most of the time.

LEWIS COSTA: Apparently.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: Let me augment something that Mr. Costa wrote in his correspondence. That he had a chance to meet the petitioners at an open house. "They showed blueprints with their proposed plans. We were very impressed and content with the quality of the proposed work and materials. We had some minor issues which they addressed rather quickly and they surprisingly adjusted their blueprints a bit to address our concerns and meet our requests. They have been extremely caring of our concerns, and have addressed everything to our satisfaction."

There are also five other correspondence in the file all in support.

One at 112 Amory Street, apartment 2. The other one's at 117 Amory, and the other letter in support is at 110. And the other one is also at 117. And the other one is 112 Amory Street, unit 3. All in support of the proposal.

Anything else to add or rebut, refute, counter? One last shot.

When did you start this process? I guess obviously --

GREGORY HYDE: Four years ago at this point. Like I said, we said we wanted to live there for a year before we did anything. And then planning and doing small things along the way. Trying to decide what really wasn't working, what didn't end up bothering you, and -- but having more access to the light would improve the quality of the wing there quite a bit. Having a room and actually have windows that face the sun.

BRENDAN SULLIVAN: Okay. Any

questions from the Board at all? Concerns?

MAHMOOD FIROUZBAKHT: None.

BRENDAN SULLIVAN: I will make a motion, two part, grant a Variance to construct the garden room on top of the roof as per the plans submitted.

The Board finds that a literal enforcement of the provision of the Ordinance would involve a substantial hardship to the Petitioner as it would preclude the Petitioner from having some valuable outdoor room to access the garden area and to be able to work in the garden area on the roof having no outside open space, green space to be able to enjoy.

The Board finds that the relief being requested is a fair and reasonable request, somewhat small in nature, but very desirable as is evidenced by the letters of support in the file, and also testimony in person by the neighbors.

The Board finds that the hardship is owing to the fact that it is a pre-existing non-conforming structure, and that any addition would require some relief from the Ordinance.

And the Board finds that this is a fair and reasonable request.

The Board finds that relief may be granted without substantial detriment to the public good, and finds that the Petitioner has a tremendous amount of support in the neighborhood for this particular project. And relief may be granted without nullifying or substantially derogating from the purpose of the Ordinance.

On the condition the Variance is granted on the condition that the work be in conformance with the drawings.

You're not going to change these at all? Which I will initial.

All those in favor of granting the

Variance for the relief being requested.

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Scott,
Firouzbakht.)

BRENDAN SULLIVAN: One negative.

And any --

TAD HEUER: Although I appreciate the project, and I'm sure I'll enjoy looking at it when I go by, I don't think feel there's been a showing of substantial hardship for the structure of the lot. I believe the outdoor space can be accessed and achieved without the increased FAR in the conformance. And I do not believe there's a minor derogation from the by-law as it constitutes an increase of nearly ten percent.

BRENDAN SULLIVAN: Okay. So the Variance is granted.

Now, on the Special Permit to allow for the addition of the two windows; is that

correct?

GREGORY HYDE: Correct.

BRENDAN SULLIVAN: As per the plan.

The Board finds that the requirements of the Ordinance can be met. That the addition of two new windows in the first floor brick walls will be set three feet in from the property line, and will provide much needed ventilation and egress from the proposed corner --

GREGORY HYDE: Correct.

BRENDAN SULLIVAN: -- of the existing structure.

The Board finds that traffic generated or patterns of egress or ingress would not cause congestion, hazard or substantial change in the established neighborhood character.

That continued operation or development of adjacent uses permitted in the Zoning Ordinance would not be adversely

affected by the proposed use, and that there would be no nuisance or hazard created to the detriment, health, safety or welfare of the occupant of the proposed use or to the citizens of the city.

And that the introduction of these windows would not impair the integrity of the district or the adjoining district. In fact, it would make it more residential in appearance and functionality.

All those in favor of granting the Special Permit for the windows?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(10:10 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Tad Heuer, Thomas
Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: The Board will
hear case No. 10096, 535-545 Cambridge
Street.

The Board is in receipt of
correspondence on the letterhead of the Bean

Town Company dated May 12th to Mr. Sean O'Grady. "Dear Sean: I am writing to request that the hearing for the above-referenced Special Permit be continued to June 9, 2011, meeting of the BZA. The owner of the property, Mr. Resnick, has been in negotiation of the lease with the proposed tenant, and the proposed tenant has not yet been able to iron out, including many issues relating to the design of the space, in a mutually agreeable way. They continue to try to work it out. Hopefully that will come to a resolution in the next 28 days. Accordingly, I am requesting an extension." Signed by Alissa Devlin, Esq., A-l-i-s-s-a Devlin D-e-v-l-i-n, Esq.

All those in favor of continuing this matter until June 23, 2011 at seven p.m. provided that the Petitioner sign a waiver to the statutory requirement for a hearing and a decision to be rendered thereof. Change

the posting sign to reflect the new date of June 23, 2011, and the time of seven p.m.

All those in favor of granting the continuance.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(10:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Tad Heuer, Thomas Scott, Mahmood Firouzbakht.)

BRENDAN SULLIVAN: Let me open case No. 10097, 535-545 Cambridge Street.

The Board is in receipt of a correspondence on the letterhead of the Bean Town Companies to Mr. Sean O'Grady. "It has

been reported to Mr. Resnick that the signage advertising his application for the above-referenced Special Permit was at times not visible in the window in which it had been displayed. Mr. Resnick requests a two-week continuance of the public hearing so he may re-advertise and be heard at the next available Board of Zoning Appeal hearing. In addition, Mr. Resnick plans to use his additional time to meet again with the community groups and work at addressing their concerns with this Special Permit application. Thank you for consideration. Alissa Devlin, Esq."

I'll make a motion to continue this matter until June 23, 2011 at seven o'clock on the condition that the Petitioner sign a waiver to the statutory requirement for a hearing and a decision to be rendered therefore.

And also to change the newly installed

posting sign to reflect the new date of June 23, 2011 at seven p.m.

All those in favor of continuing the matter?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Heuer, Scott, Firouzbakht.)

(Whereupon, at 10:10 p.m., the
Zoning Board of Appeal Meeting
Adjourned.)

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of May 2011.

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

My Commission Expires:
April 23, 2015

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