

BOARD OF ZONING APPEAL FOR THE
CITY OF CAMBRIDGE GENERAL HEARING

THURSDAY, SEPTEMBER 22, 2011

7:00 p.m. in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Brendan Sullivan, Chair

Constantine Alexander, Vice Chair

Timothy Hughes, Member

Tad Heuer, Member

Douglas Myers, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: Let me call the meeting of the Zoning Board of Appeal for September 22, 2011, to order. The first matter that we will discuss is case No. 10132, 208 Lexington Avenue.

Is there anybody here interested in that matter?

(No Response.)

BRENDAN SULLIVAN: There is a letter in the file addressed to the members of the Board of Zoning Appeal. (Reading) After several conversations with Mr. Mahoney the abutting neighbor, and significant revisions, it appears that it is unlikely that the proposed addition can be agreed upon. The owners Mary Lou Jordan and Peter

Harris request a continuance of this case to December 29th, but that date is changed to January 26, 2012. Their intention is to explore other options and hopefully gain the support of the neighbors. Signed by Mark Wagner representing Jordan and Harris.

I will make a motion, then, to continue this matter until January 26, 2012, on the condition that the Petitioner change the posting sign to reflect the new date and time, and that it be maintained in accordance with the Ordinance for 14 days prior to that hearing.

Any other conditions?

All those in favor of continuing this matter?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(7:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10120, 101 Larchwood Drive. Whoever is going to speak, if you would please introduce yourself for the record. Please spell your last name.

RAYMOND FORD: My name is Raymond Ford, R-a-y-m-o-n-d F-o-r-d, Raymond Ford. I'm here to seek permission for an extension to our house. We are looking to extend our house at 101 Larchwood Drive in particular because we have young twin girls, and we've discovered in the last few years that we're beginning to run out of space. We're committed to the neighborhood in which we live. We've lived there for four years. It's a wonderful neighborhood. An exceptional neighborhood for a city of this

size. It demonstrates a wonderful neighborhood feeling. We most certainly would like to stay there. We are also committed Cantabrigians. We've lived in Cambridge for 15 years total now. Our kids go to school in Cambridge. They're part of the local sports scene in Cambridge. They play for Cambridge soccer. They play Cambridge softball. They swim at Crimson Aquatics at Harvard. These are reasons why we would love to stay where we are, but we do indeed need more space.

I'm also personally committed to Cambridge. I've owned a business in Cambridge for the best part of 20 years. I'd like to stay here because it makes it convenient for me also. And these are the reasons we're primarily applying to extend our property to stay where we are and stay as we are in that neighborhood.

We have, I believe, worked very hard at

the plans with our architect to develop a project which would hopefully meet the expectations, the high expectations of people in the neighborhood. That the property would not only fit in the neighborhood as it stands, but hopefully improve the neighborhood. Our house, as it stands, is not particularly aesthetically pleasing. We're hoping that these plans will improve that as well as give us the space which would allow us to live a more workable life with teenage daughters.

As a consequence of that, we believe that we've been considerate with the neighborhood. We have one neighbor in particular whose property abuts the extension of what we proposed to build, and we have worked closely with that neighbor to ensure that our plans meets his approval. And we have indeed gotten his approval for the plans, and we're very happy with that and we

want to continue to move forward.

Thank you for your consideration.

CONSTANTINE ALEXANDER: Is this the neighbor on your left side?

RAYMOND FORD: Yes.

CONSTANTINE ALEXANDER: That's one of the problems are your left side setbacks?

MARION ODENCE-FORD: Yes.

GRACE ESCANOMANIATIS: I'm the neighbor on that side so I'm here on behalf of my father.

BRENDAN SULLIVAN: Just a question I had in reviewing the file is I'm not sure, how long have you owned the house?

RAYMOND FORD: Four years.

BRENDAN SULLIVAN: To me it seems you're increasing the master bedroom. It's become somewhat of a master suite, I guess, on the third floor level, and yet on the second floor level you have four bedrooms now?

MARION ODENCE-FORD: Three.

BRENDAN SULLIVAN: Three bedrooms. And you're going to wind up with three bedrooms. But there is a guest room, so I guess, you know, your need for more space hence, the addition, you have two daughters.

MARION ODENCE-FORD: We have two daughters and we have family that live abroad who come to visit from time to time. We have one grandmother who lives in England, and then one grandmother who lives here and in Korea.

RAYMOND FORD: The proposed change on the second level of the bedrooms would create a much more workable space on the second floor. So the two, the bedrooms that the girls currently use now would be different and the bedrooms would become larger.

BRENDAN SULLIVAN: Because I think what you're asking for, you're going right

now from a 0.41 which is compliant with the Ordinance compliance for the A-2 Zone. And then you're going to be out of conformance with that. The GFA obviously goes up, and that's out of compliance. The existing lot is non-conforming prior to the enactment of the current Zoning Ordinance. But the left side setback, currently now it's 19.1, and you're going to six-foot, six in a 15-foot requirement. It appears to be a lot of relief anyhow. If you would identify yourself for the record.

ZEKE BROWN: My name is Zeke Brown. I'm one of the architects. I'm helping with this.

TAD HEUER: Mr. Brown, before you get into it, can I ask you a couple of procedural questions about your plans?

ZEKE BROWN: Yes.

TAD HEUER: So do you have a set of plans with you?

ZEKE BROWN: Yeah, and I might have a new set of plans.

TAD HEUER: That might not help you, but okay.

ZEKE BROWN: You're saying six-six. But go on.

TAD HEUER: Do you have a new set of plans? Because if we grant relief, we're going to grant relief on this set of plans.

ZEKE BROWN: Yes. We asked for a continuance because there was a question at the last minute before the hearing of the survey pan that we uncovered on one of the corners. And so we wanted to resolve that before moving forward. And so....

TAD HEUER: So what's the date of the plan that you have in front of you?

ZEKE BROWN: September 13th.

TAD HEUER: All right. That's what we have as well.

ZEKE BROWN: September 14th.

TAD HEUER: 14th or 13th?

ZEKE BROWN: 14th.

TAD HEUER: We have a 13th.

ZEKE BROWN: So this is the 14th.

TAD HEUER: So you're on your revision and then -- revision and then back here.

ZEKE BROWN: Yeah.

TAD HEUER: Okay. Page A-2, can you read to me what each of those four is and tell me if that's actually true?

ZEKE BROWN: What? Each of what?

TAD HEUER: You've numbered four elevations there. And I have as No. 4 in the upper left is existing west.

ZEKE BROWN: Oh, God.

TAD HEUER: No. 2 is existing north. No. 1, in the lower right, is proposed north. And No. 3, in the lower left, is proposed west. That cannot possibly be true, quite frankly, I think as you see because they --

ZEKE BROWN: Right.

TAD HEUER: -- they appear to be different faces of the house.

ZEKE BROWN: Yes.

TAD HEUER: Are there actually proposed and existing elevations of the things you want to show us or have you only shown us either proposed or existing?

ZEKE BROWN: These are the four elevations that are all proposed.

TAD HEUER: Do you have any existing elevations?

ZEKE BROWN: I do not have any existing elevations in this set.

TAD HEUER: Right. So these are mislabelled. And not only are two of the items mislabelled they're not here; right?

ZEKE BROWN: Right.

TAD HEUER: There is no existing north elevation?

ZEKE BROWN: I don't have it in this

set.

TAD HEUER: Okay. So we have a --

ZEKE BROWN: But I think that what this -- I think that the distinction here is that the hatched areas are the additions. So you can imagine what the existing is if you take away the hatched areas and that's --

TAD HEUER: I could imagine that.

ZEKE BROWN: -- that's essentially what -- that's why I elected not to include the existing elevations in this drawing set.

TAD HEUER: That's not presumably why you mislabelled them?

ZEKE BROWN: No, that's a typo.

TAD HEUER: I can appreciate that. I'm sure you understand that we're reading through a lot of these and those kinds of things make our job much more difficult.

ZEKE BROWN: Yes, I do.

TAD HEUER: Okay.

On your dimensional form, you are going

from a 19 to a six-six in a 15 on your left side. It suggests that your front setback is actually becoming more conforming. Can you explain to me how that works?

ZEKE BROWN: So part of what happened with the survey, when the survey got remeasured, is the, the -- let's see, the property line -- the house -- the property line shifted from being eight feet here, on the original file that we submitted, to being ten feet on this side. So the entire property moved over two feet.

TAD HEUER: Did it move front to back relative to the street?

ZEKE BROWN: It didn't move front to back, but what we ended up doing is we wanted to make sure that we could pull a car in and get an adequate spot. So we actually pulled our addition back.

TAD HEUER: That's understood.

My question is on the dimensional form

you're saying, I believe, if I'm correct, that you are currently 15.1 and you're going to be 17.6 in a 20, which suggests that you're gaining two-feet, five inches that you don't otherwise have. When I'm looking at your plan, it looks like you're actually intruding into the front setback more than you would on the existing; is that not right?

ZEKE BROWN: So if I'm understanding what you're saying, that this 15.1 right here is what you're talking about; right?

TAD HEUER: Yes.

ZEKE BROWN: And our setback for our addition is 19.6. So I guess --

TAD HEUER: 19 or 17?

ZEKE BROWN: It's 19.6.

TAD HEUER: Does 17.6 mean anything to you? Because that's what's been written down.

ZEKE BROWN: No. I guess when I resubmitted these drawing sheets, I did not

fill out another one of these. So I think that what you're looking at here is the original sheet breakout --

TAD HEUER: Okay.

ZEKE BROWN: -- for the prior set of plans. And this set of plans now supersedes that. So I mean that -- that should be, that should be 19.6.

CONSTANTINE ALEXANDER: Is that the only change to the dimensional form?

Go ahead.

TAD HEUER: Your front porch now. You have a front porch that appears on your existing to be a side entrance?

ZEKE BROWN: Right here?

TAD HEUER: No, no. I'm talking about the existing porch on the lower right. That's a side entrance?

ZEKE BROWN: That is the front entrance.

TAD HEUER: But is it entered from

the street?

ZEKE BROWN: Yes, it's entered from -- you come from the street and you take a left.

TAD HEUER: Here you're now reconstructing. Is that portion you're planning on here where it says 101-B is that a covered porch?

ZEKE BROWN: We are proposing to put a cover over that porch.

TAD HEUER: Okay. So that will add to your FAR if that's not calculated in your FAR already; is it?

ZEKE BROWN: And I added that.

TAD HEUER: It is. Okay.

ZEKE BROWN: In this recent version, yeah, we did that.

TAD HEUER: All right.

What is the distance between the corner of your new front porch to your property line at the street?

ZEKE BROWN: Is that is 17 feet to the corner. That is 17 feet.

TAD HEUER: That's 17 feet.

ZEKE BROWN: And there's a little, you know, obviously -- obviously there could be an inch or two in addition to that because --

TAD HEUER: It's a precisely known number; right?

ZEKE BROWN: Yeah, that's 17 feet.

TAD HEUER: All right.

So you're 17 feet and currently you are more than 17 feet away, so you're actually intruding into your front yard setback which is 20. So you need dimensional relief for your front porch as well?

ZEKE BROWN: Right, for the front porch we do. Yes, for the front porch we do.

TAD HEUER: All right.

BRENDAN SULLIVAN: Well at the very least, the form is going to have to reflect

these drawings.

ZEKE BROWN: Be updated, sure.

TAD HEUER: And when you -- sorry to make another question. On your ratio of usable open space, am I right, and I'm guessing here, you said your usable open space is going up. I presume that that's actually the inverse; correct? So you said you're at 0.23 usable open space, which doesn't seem right because you have a huge lot behind you, and you're going to 0.34? That's actually the lot coverage of the building that you've indicated?

ZEKE BROWN: Yeah.

TAD HEUER: So currently it covers about a quarter of the lot, it's going to cover about a third of the lot. But you have up to half of the lot to fill?

ZEKE BROWN: Yeah.

TAD HEUER: Is that right?

ZEKE BROWN: Yeah.

TAD HEUER: That number is actually the inverse of the numbers that are indicated on the form I believe? Is that --

BRENDAN SULLIVAN: It would appear.

TAD HEUER: All right.

BRENDAN SULLIVAN: Does anybody else have any other questions?

CONSTANTINE ALEXANDER: I have some questions.

BRENDAN SULLIVAN: On this at all, comments up to now?

CONSTANTINE ALEXANDER: Talk to me about why you need to have non-conforming FAR. I mean, as Brendan points out, you're going from a 0.41 existing to a 0.54 when the district is 0.5. Why didn't you try to stay within the 0.5 for FAR so the only relief you would need is setback?

ZEKE BROWN: Setback. We obviously talked about that, and I think it came down to just getting all of the components to work

the way the homeowners wanted it to work. I mean, there is a desire to have a mudroom. The house doesn't really have a mudroom with a nice closet. And I mean that's really -- and we did actually discuss quite a bit the length of the dormer on the third floor.

CONSTANTINE ALEXANDER: I'll talk to you about that next.

ZEKE BROWN: During -- just before the -- and when I filed for the continuance, I talked to Sean about it and he said that, you know, there was a question as to why that was longer than 50 feet. So we shrunk it. So there's definitely, you know, we were working with that, but, you know, no reason really other than, you know, we were trying to make the plan work the way we --

CONSTANTINE ALEXANDER: How many feet -- just out a curiosity -- how many feet had made it 0.5, rather than 0.54 in the FAR?

How many feet would you have lost?

ZEKE BROWN: 182.

CONSTANTINE ALEXANDER: 180 feet?

ZEKE BROWN: 180 feet.

So it seemed, it seemed like --

CONSTANTINE ALEXANDER: It's a
room.

ZEKE BROWN: Yeah, it's a room.

CONSTANTINE ALEXANDER: It's a
room.

And the top of the dormer, you're
not --

ZEKE BROWN: 158, I'm sorry.

CONSTANTINE ALEXANDER: You're not
complying with the dormer guidelines at least
in one respect. You go right to the top of
the roof. Why is that? And is there any
other explanation why they're not dormer
guideline compliant?

ZEKE BROWN: It's just a design
thing. We can certainly pull that down from

the ridge if --

BRENDAN SULLIVAN: Well, it's two things; it's pulling it down from the ridge and also up so that it does not line up with the outside of the house, the same plane as that.

ZEKE BROWN: Right.

BRENDAN SULLIVAN: And the length, what is the length of the dormer?

ZEKE BROWN: It's 15 feet.

BRENDAN SULLIVAN: Exactly 15 feet?

ZEKE BROWN: Yeah.

TAD HEUER: So you were aware of the dormer guidelines and you're not compliant in three out of three and you gave us one out of three and hoped we'd do two out of three? It doesn't sound like a --

ZEKE BROWN: Well, I thought that it was primarily -- the concern would primarily be the length of the dormer so we addressed that.

TAD HEUER: No, we usually have concerns about all of them.

TIMOTHY HUGHES: I only have concerns about two out of three, but that's well known.

CONSTANTINE ALEXANDER: That's right.

TAD HEUER: But one of those is still (inaudible).

TIMOTHY HUGHES: Exactly, right.

BRENDAN SULLIVAN: Unless it is a real problem to pull it down or pull it up, sometimes there's structural problems, maybe there are headroom problems or something like that, those are not considerations. If it's only a design consideration, then, you know, that's one thing. If it's problematical to comply with the former guidelines, then that's something, you know, I'd like to know about. But it's purely aesthetics?

ZEKE BROWN: It's aesthetic.

TAD HEUER: So you're going to -- you're losing 15 feet on your left side -- you're going essentially to a left side neighbor who's on the lot line; is that right? So even though it's not just six-six to the lot line, it's six-six to another building?

ZEKE BROWN: No, no. It actually is five-six to the lot line.

TAD HEUER: Okay.

ZEKE BROWN: And it's about 15 feet to the neighbor's garage on that side. If we are granted permission to build this, it's five-six to the property line, and then the neighbor, we measured it with the neighbor.

TAD HEUER: Right.

ZEKE BROWN: It's about -- it would be about 15 feet.

TAD HEUER: Total?

ZEKE BROWN: To their garage.

TAD HEUER: So they're ten feet in

off their property line?

ZEKE BROWN: They are -- yes.
They're nine, nine and a half.

TAD HEUER: Nine feet?

ZEKE BROWN: Yes.

TAD HEUER: Is there a reason you
didn't go back into the rear setback?

ZEKE BROWN: It was 100 percent with
having to preserve a backyard. We talked
about -- we talked about that early on. And,
you know, they liked garden. They've got a
garden back here. They've got some rose
beds. They wanted to preserve as much of
that as possible.

BRENDAN SULLIVAN: Gus, anything
else?

CONSTANTINE ALEXANDER: I have no
questions at this point.

BRENDAN SULLIVAN: Anybody else
have questions any questions?

(No Response.)

BRENDAN SULLIVAN: Is there anybody here who would like to speak on the matter at 101 Larchwood Drive? Any comments? Please identify yourself for the record.

GRACE ESCANOMANIATIS: My name is Grace Escanomaniatis, E-s-c-a-n-o-m-a-n-i-a-t-i-s. I live next-door. My father-in-law owns the property. I can only speak in regards to the side setback. We are in support of the project. We think that it's -- it is in line, outside of the other comments that you've made with the character of the neighborhood, the garage that is 15 -- or would be 15 feet away is an accessory structure and we still have -- we have a -- I don't know if you guys had seen our property, but it's, there is a good buffer zone between the two structures. So, we love the Fords as neighbors. They've been great throughout this entire process. So that's all that I'd like to add. If you

have any questions for me.

BRENDAN SULLIVAN: Okay, thank you.

Anybody else who would like to speak on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none.

I thought there was a letter here in support.

ZEKE BROWN: We just submitted that.

MARION ODENCE-FORD: We just submitted that from Doctor Manuz.

BRENDAN SULLIVAN: I lost it in the shuffle.

MARION ODENCE-FORD: Here's a copy if you like. Yes.

BRENDAN SULLIVAN: It's addressed to Marion.

(Reading) I'm writing to agree to your request for Variance which will place the extension of your house five foot, six feet from my property line. I understand that the

proposed extension of your house will be 15 feet from my garage and fence. And that you will provide the appropriate landscaping as a buffer between our properties. I have reviewed your plans and have concluded that your proposed renovations will enhance your property and the neighborhood. Sincerely, Tom Maniatis, M-a-n-i-a-t-i-s.

Okay. And that's the only letter that you have?

MARION ODENCE-FORD: Yes.

BRENDAN SULLIVAN: Okay.

Well, I think at the very least is that the dimensional form has to be corrected.

ZEKE BROWN: Yeah.

BRENDAN SULLIVAN: And also that the -- we are going to change the dormer, that that change be reflected in the drawings, because you are going to be tied to whatever I initial and you're bound by that.

ZEKE BROWN: Right.

BRENDAN SULLIVAN: Or the risk of having you back again. So that's the very least.

Any other comments?

ZEKE BROWN: No. I mean, I would just say that I think we've gone through a lot of sort of iterations because of the survey, and we kind of pushed and pulled this, and we've really been trying -- the owners have really been trying to be considerate with the neighbor and to pull it in. I mean, we -- a week ago we pulled the addition in a foot because of this change in the survey. And we felt that we were a little bit, you know, maybe asking for a greater setback relief. And so we pulled it in a foot, wanting to squeeze that and just make it more favorable. And I, you know, I just -- I think that the owners are -- have been very reasonable about this whole process. And, you know, they're not trying to just grab too much and, you

know, be inflexible with that. So I hope that the Board understands that.

BRENDAN SULLIVAN: Okay.

Gus, any -- well, one suggestion would be that the dimensional form reflect the drawings.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: That would be sort of my comment.

Do you have any other comments?

CONSTANTINE ALEXANDER: The other one is that we need to see revised dormer design that complies with our dormer guidelines.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: Because I heard no compelling reason not to comply with the dormer guidelines.

BRENDAN SULLIVAN: Yes.

ZEKE BROWN: Yes, I think we can do that. I see no reason why we can't do that.

CONSTANTINE ALEXANDER: My first initial reaction was taxed upon by Tad's question about why not go back. And I think there's an adequate explanation why not. You want to preserve your backyard. I can understand that. Even though I'm not crazy about -- and I also thought cut it back to 0.5 from an FAR point of view, but that would cost you 180 feet and that's a lot. That would affect the design. So with a bit of reluctance, I would support the petition design.

TIMOTHY HUGHES: I feel the same way. They clean-up the file and the plans, I can be good with it.

BRENDAN SULLIVAN: Okay.
Mr. Myers?

DOUGLAS MYERS: I'm thinking it over.

TAD HEUER: I would oppose the plan.

BRENDAN SULLIVAN: And what would,

the whole thing in total is problematical?

TAD HEUER: Yes. I mean, I think it looks to me like a great first attempt. I know you've made a lot of attempts so don't take it that way.

ZEKE BROWN: Fourth or fifth time, yeah.

TAD HEUER: But it looks to me like a great first attempt to keep everything that you really, really want. You want to keep the backyard and not touch it. You want to have a lot of extra space. You want to have the extra space where you want it to work. You want to move some things around, and that's all great and it's perfectly fine as long as you got a lot that supports that. You're on an unusually shaped lot because of the way the street runs so I understand that. But it doesn't change the fact that the house is where it is on that lot and you can do a lot with your rear if you wanted to. It's

just that you have to give something up. It's not necessarily that you're on a very squeezed lot and you say I only have a half bath, I need to have a shower in there and the only place I can put it is next to the lot line. You have places to go on this lot. You may not want to go there, but, you know, I do think it's a rather large estimate because you're going from conforming to non-conforming. Usually what we tend to see is people say my house is what it is at 0.54 and I want to add, you know, a small addition for a bathroom or for a dormer or headroom, and that will be 0.56. So the increase may be above what the allowable FAR area because they're starting from a point where the allowable FAR, through no fault of their own, because the Zoning Act was enacted after the house was built. Here we have a conforming house. And the notion of saying we're gonna go up to conforming 0.5 and then beyond it,

I think is pretty troubling to me, because the Zoning Ordinance says that they should be under 0.5. And 700 square feet I think would be one of the largest grants that I've ever seen on this Board in terms of actual square footage actually.

So I mean with those things concern me. I think pushing the building in -- and, again, to keep it out of the backyard, elongating it along the entire width of the lot is troubling to me. I don't think that's what the Zoning, side lot lines, side setbacks are for. And I think that you could come back with something that was not as stretched across the street, not as high in terms of your request for FAR, but it would still give you a lot of usable space that you don't have in the house right now, but it wouldn't be the everything that we like to have is the sense that I'm getting from what I'm seeing here. In addition to the fact that I think the plans

are not, as the Chairman's mentioned, to be adequate quite frankly. They're not adequate to be voted on at all as a procedural matter. But as a substantive matter and not have such a big apple. Because you're asking for setbacks for FAR. You're asking for all the things that we can give rather than one or two.

BRENDAN SULLIVAN: I guess my preference would be that the vote would be delayed until the drawings and the dimensional form are at least drawn up so that they jive together.

No. 2, is to possibly re-look at the plan in toto in taking into consideration Mr. Heuer's comments. Right now I'm on the fence as far as one way or another. It appears that three of the members will support it, one member is not, and I would like to see that maybe you couldn't pull it back a bit.

TAD HEUER: You also need four votes. It's not a majority vote.

BRENDAN SULLIVAN: But at the very least I would ask that you change the dimensional form, you change the drawings to be correct.

ZEKE BROWN: Yeah, yeah, we can certainly -- I can certainly do that. I just, it didn't -- when it was rushed, I didn't realize I had to go to the original application and resubmit the dimensions.

BRENDAN SULLIVAN: Well, again, it's both very much on a legal form and they have to be --

ZEKE BROWN: I can resubmit that for sure.

BRENDAN SULLIVAN: And I would ask that you possibly re-look at it. And you may come back and say no, this is -- this is what we want. I mean, not what we want, obviously it's what you want. But this is the minimal

relief that we're asking for in order to make this whole thing worthwhile. You may come back and say that, that's all. Okay.

ZEKE BROWN: Okay.

BRENDAN SULLIVAN: So I would ask if -- and so the Board that we continue this matter, have them come back with a correct set of drawings, and a dimensional form.

CONSTANTINE ALEXANDER: I have no problems.

BRENDAN SULLIVAN: Yes.

DOUGLAS MYERS: I would agree with that sentiment. And I'd like to say I listen to my fellow Board members, and I found that what you said to be persuasive and I would really rather than just have matters left, Board members in favor, I would like to modify my position so be it. I would like to see some modifications along the line.

BRENDAN SULLIVAN: Or --

ZEKE BROWN: Might I ask what the

Board would be in favor of seeing? Or is that not something that you're really prepared to talk about?

CONSTANTINE ALEXANDER: Say it again, please?

ZEKE BROWN: Might I ask what the Board might be in favor of seeing or is that something that I'm not really supposed to ask or you're not gonna say?

CONSTANTINE ALEXANDER: We don't generally give advisory opinions like that. I mean, that's your question. You have to draw your own conclusions from the discussion you heard tonight.

ZEKE BROWN: Okay.

CONSTANTINE ALEXANDER: But clearly, I mean you know you have to redesign the dormer.

ZEKE BROWN: That's right.

CONSTANTINE ALEXANDER: You've got to update, one more time, the dimensional

form to make it correspond to whatever plans -- and by the way, the revised plans which will show the dormer at least changed, have to be in our files by five p.m. -- no later than five p.m. on the Monday before when we hear the case again.

ZEKE BROWN: Yes.

CONSTANTINE ALEXANDER: And then you've heard I think pretty well that some members are on the fence about the size of it. Some aren't. And you'll have to figure out what you want to do. You need four votes, though, as Tad pointed out.

BRENDAN SULLIVAN: To me it seems that the encroachment on the side yard, the side yard is somewhat troubling, even though the next-door neighbor says there is a buffer, obviously the garage and what have you, I just, again, I'm a little bit troubled by going from 19-foot, one to -- I'm not sure if the six foot, six is correct --

ZEKE BROWN: It's five, six.

BRENDAN SULLIVAN: Or it's five feet and a 15 minimal. So I think you really need to re-look at that. And if there's some way that you can bring the GFA down into the compliance. And, again, you may come back and say we just can't. And that's okay. You know, but I think now that you've heard what our sentiments are and then you can use that as a food for thought, I guess, if you would.

So how long would it take? I am not here at the --

CONSTANTINE ALEXANDER: So you understand, we have to pick a date that all five of us can be here again. It's called a case heard.

SEAN O'GRADY: 12/15 is the first open.

BRENDAN SULLIVAN: December 15th is the first open?

SEAN O'GRADY: Yes.

BRENDAN SULLIVAN: Nothing --

SEAN O'GRADY: The week -- the meeting before that --

BRENDAN SULLIVAN: What are your plans for going forward with this time-wise? Is this a spring job?

MARION ODENCE-FORD: We were hoping it's a fall job.

BRENDAN SULLIVAN: Well it's probably not even if we were to decide tonight.

CONSTANTINE ALEXANDER: Even if we decided tonight.

BRENDAN SULLIVAN: You're two months out.

RAYMOND FORD: Yes, a spring job.

BRENDAN SULLIVAN: So December is not too incumbent on you?

ZEKE BROWN: No, no, not at all. I can absolutely have this reworked before then.

BRENDAN SULLIVAN: I'm sure you can. I just didn't want to -- if it was going to be a burden, push it out that far, that's all.

ZEKE BROWN: For a spring start it appears totally adequate.

BRENDAN SULLIVAN: If you want to do a fall job -- it should be done in June.

ZEKE BROWN: I think the hope was they'd break ground before Christmas to get the foundation in and start framing it. That's sort of a winter start. They were hoping for, but, you know, I mean I think if it ends up being a spring start --

TAD HEUER: Well you'd be looking at, technically be looking at, what, six weeks to write it up plus a 20-day appeal period. You know, even if we voted right now, you still would be looking at --

BRENDAN SULLIVAN: You would be able to pull a permit.

TAD HEUER: Nine weeks of time

before the permit would actually issue and be valid.

CONSTANTINE ALEXANDER: That's why.

BRENDAN SULLIVAN: So December?

SEAN O'GRADY: 15th.

BRENDAN SULLIVAN: 15th? And everybody is available on December 15th?

Let me make a motion to continue this to December 15, 2011, at seven p.m. on the condition that the Petitioner change the posting sign to reflect the new date of December 15th, and the new time of seven p.m. And that the sign be maintained in accordance with the compliance of the Ordinance. Basically 14 days. Any new submissions must be in the file by five p.m. on the Monday prior to the December 15th hearing.

So any new plans, corrected form, have to be in by five p.m. on the Monday before.

All those in favor of continuing --

CONSTANTINE ALEXANDER: Did you

have a question?

RAYMOND FORD: No, I just have a very simple question. Do we just change the poster that we already have on the wall?

CONSTANTINE ALEXANDER: Take a magic marker.

BRENDAN SULLIVAN: All those in favor of continuing this matter?

(Show of hands).

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(7:40 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10128, 146-148 Magazine Street.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board. For the record, my name is James Rafferty, 130 Bishop Allen Drive in Cambridge. I'm appearing this evening on behalf of the Applicant Emer Grall, G-r-a-l-l. Ms. Grall is the trustee of the real estate trust that holds title to the property. And seated to my left is Ms. Grall's husband Morris, Morris Keane, K-e-a-n-e.

BRENDAN SULLIVAN: This is a re-file of 10104 because that lacked certain requests for a Special Permit for the parking; is that basically it?

ATTORNEY JAMES RAFFERTY: That's my understanding. I wasn't involved in the prior case, the prior filing. But from reviewing the filing and in conversations with Mr. Keane, that's my understanding as to why it was re-filed.

This is currently a three-family house. Mr. Keane and his wife have lived next-door to this house for approximately 17 years. They were friendly with the owner of the house. He died a few years ago. And his widow continues to reside there, and Mr. Keane and his wife made arrangements to purchase the house. She continues to live there and will continue to live there.

The site itself presents an interesting Zoning issue. It's probably best described as a semi-attached. It's a side-by-side house. The right side, I guess, the 148 side, is a duplex, two units. The left side is a single unit. Mr. Keane is undergoing

some extensive renovation. He is a fairly accomplished builder with an impressive portfolio in the neighborhood of properties that he has refurbished and restored. He's looking to add this building to that. He's already begun some of the restoration work. If you've been out there, you've had an opportunity to see it.

The house is located in a Residence C Zoning District, but given the nature of the relief, he's asking for the Residence C-1 dimensional requirements apply. So, I would suggest that the principle of the dimensional tool around density and unit count is lot size. And under that requirement, the lot area per dwelling unit, this lot exceeds the minimum requirement, 1500 square feet. The lot in that district, one would only need 6,000 square feet for four units. In this case the lot is in excess of seven. But there is this provision 5.26 that I know the Board

is aware of. An interesting provision because it, it says that to add a dwelling unit to an existing structure, you have to conform to a number of certain dimensional requirements.

CONSTANTINE ALEXANDER: Four.

ATTORNEY JAMES RAFFERTY: Four specifically. Open space parking, lot area per dwelling unit, and then GFA.

So if the house is too big for Zoning purposes, you can't have an extra unit. But if the house was smaller, you could have an extra unit. And ironically part of the hardship in the decision behind the effort to create the additional unit is that it happens to be a big house, and the -- it lends itself nicely to a conversion to an additional dwelling unit.

CONSTANTINE ALEXANDER: Yes, it's a big house. I'm sorry, not to interrupt you. I'm sorry. It's a big house that's been used

as a three-family dwelling at least for 17 years or so. The prior owner had it probably for many years before that. The house was built you said in 1874.

ATTORNEY JAMES RAFFERTY: Yes. No, no, we don't dispute that.

CONSTANTINE ALEXANDER: What's the hardship that you --

ATTORNEY JAMES RAFFERTY: Well, I'm about to get to that. Just as I'm building up to my big moment.

CONSTANTINE ALEXANDER: Sorry. Sorry to steal your thunder. Go ahead.

ATTORNEY JAMES RAFFERTY: Nice and sharp after the first case.

So the house contains 447 square feet of additional GFA. And one could find themselves in conformity with 5.26 if 447 square feet were removed.

CONSTANTINE ALEXANDER: You have parking issues, too, though.

ATTORNEY JAMES RAFFERTY: Nothing that we can't deal with. But there's a way to deal with that as well. No? There aren't?

CONSTANTINE ALEXANDER: No. You can't -- I'm sorry to get into this debate. But you want a Special Permit for parking, that's obviously impossible. But because you need a Special Permit for parking, you don't satisfy the parking requirements for 5.26.

ATTORNEY JAMES RAFFERTY: But there is an as-of-right solution which I'm getting to in the presentation.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: They could add an additional parking space in the backyard and still meet the open space requirement.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: They

prefer not to lose open space for parking because his experience in the neighborhood with rental housing is many people don't have automobiles. And in this house historically there's only been two cars with the three units. But there is a scheme, we can show you the site plan, where the right-hand side of the house, the two units, is grandfathered. That has its driveway and they've been tandem parking there for years. This has one driveway. The driveway could be extended -- I wasn't going to go to parking immediately. I was going to break down the two issues.

The first is the notion that notwithstanding the fact that the structure complies with the lot area per dwelling unit requirement, and if it were to be demolished or torn down tomorrow, four units could be constructed there. I think that's highly relevant of the request before the Board.

Because the lot can accommodate four dwelling units.

5.26 says if you want to convert it to four, though, you need to have conforming GFA. One of the ways to conform the GFA is an issue we talk about rather regularly, which is, well, why don't you, in a basement that contains 1200 square feet of liveable space, why don't you fill in this portion of the basement, bring the building, take 447 square feet out of the GFA number, and find yourself with a conforming FAR. Then the last issue he would need to address is the parking.

In both cases we're asking for relief to avoid having to do -- because there's a hardship associated with the as-of-right opportunity here. The hardship is to fill in the basement, the cost expense, the impact of the house to fill in the basement. We're asking the Board to consider whether that's

necessary. Whether it benefits any of the land use objectives of the Ordinance or the dimensional requirements of this district to have in the 220 feet on each side of the basement can be absorbed. And then we have an arithmetic solution, and we have satisfied the FAR requirements. That's an opportunity available to him. He's coming to the Board, as Petitioners do, to say doing that work is a hardship. Doing that work provides little benefit to anyone. The size of the house, as we all know, is unchanged. The impact of the unit count is unchanged. We just lose 200 plus square feet in each of the basement. So what may lay out as a three-bedroom becomes a two-bedroom. And I've long believed that not all Variances are equal in the terms of the type of relief in the extent to which the project meets the spirit of the Ordinance. And I would say the overriding spirit in place here as a relationship to density, density is

set forth traditionally in the lot area per dwelling unit calculation. So we do have an as-of-right option. And I don't want to continue to tout it because someone will say then, go do it. But therein lies the hardship. And we would prefer not to have to do that.

BRENDAN SULLIVAN: But to fill in 437 square feet in the basement, you say that's a hardship. What is the nature of the hardship more of an inconvenience or seems impractical or....

ATTORNEY JAMES RAFFERTY: It's a combination. And to be fair --

BRENDAN SULLIVAN: When you say it's a hardship, hardship how?

ATTORNEY JAMES RAFFERTY: Well, there's an element of economics. There's a disruption to the layout of the basement itself.

BRENDAN SULLIVAN: Floor to ceiling

now in the basement is what? It's over seven feet.

MORRIS KEANE: Seven-feet, eight.

ATTORNEY JAMES RAFFERTY: And the way the basement is supposed to be laid out, 73 square feet is devoted to mechanical equipment. The balance of it, you could look at --

BRENDAN SULLIVAN: So rather than being a hardship, it just doesn't seem to be make practical sense to do it?

ATTORNEY JAMES RAFFERTY: Right. It's akin to the notion --

BRENDAN SULLIVAN: The only benefit is that it becomes a number game?

ATTORNEY JAMES RAFFERTY: Right. When a non-conforming structure comes here and you say, well, you know, what's the relief? The house is two feet closer to the street. What's the hardship? We don't want to have to lift the house up, move it two feet

which in theory sometimes gets down, but it's a hardship. And I think the Board has had a rational approach to such requests and say fixing that hardship would allow the Petitioner to do something in some cases even greater than what's being proposed because the non-conforming is resulting from that. I would suggest this is not much different. This is non-conforming. In one significant respect it's non-conforming in terms of its GFA. It's 400 square feet in a structure that's over almost 6,000 square feet. It's at 5900 square feet. So 400 square feet of 5900. There are ways to you could pick 400 square feet out of the house in other ways with the similar impact. So the request is based on the fact that the removal of the 400 square feet makes the house conforming. I guess one can say that part of the approach here is suggesting that 5.26 is a somewhat unusual provision or a provision that

does -- makes this not happen. The absence of 5.26 is this could happen. 5.26 wasn't always around. I'm not sure what the rationale behind it was. But as I said, the reality is that if the structure goes away or if 400 square feet comes out of the structure, it can accommodate more units. There's a -- frankly, I think there's a bit of a disconnect in that logic, but it nonetheless it finds itself in the Ordinance. So the relief requested is related to the hardship associated with removing 400 square feet. The way the application was prepared, it almost does the reverse and suggests to -- it seems to ask for 400 square feet. There's a 400 square foot addition. Interesting approach, but same result, which is okay if I can get the 400 square feet by Variance, then I don't technically have a non-conforming house. So it is, it is essentially -- that's the crux of it. I

don't think that there's -- there's lots of other pieces to the story. And Mr. Keane has been here a long time and is active in his community, and would like you to know he wants to continue to live in Cambridge. But admittedly he lives next-door. So one might say he's -- this has more of an economic model associated with it than a family lifestyle model. And he would quick to agree with that. But it's also --

BRENDAN SULLIVAN: The building is rentals?

ATTORNEY JAMES RAFFERTY: Yes, it is.

MORRIS KEANE: One of the tenants being the woman I bought it from likes it.

BRENDAN SULLIVAN: And she lived in the largest of the units before?

MORRIS KEANE: No. She lived in two-family side and her husband lived on the single-family side.

BRENDAN SULLIVAN: Okay. Well we won't get into that. That might make great theatre.

MORRIS KEANE: I think there was a movie like that.

BRENDAN SULLIVAN: So at any rate, a 2639 square foot unit with seven bedrooms living in the area, knowing the area, just doesn't rent. Or who rents a 2600 square foot unit with seven bedrooms?

ATTORNEY JAMES RAFFERTY: Ten grad students, which is illegal. Which is the other thing with the seven bedrooms you can't have three or more unrelated persons living in a house. So you find yourself with a full three floors here. And this is a full windowed walk-in basement. This is not some we see with those foundation-style windows. This is a full walk-in seven-foot, eight basement that on the right-hand side now is part of the duplex apartment that the life

tenant lives in. So it has a long history of the basement being used as part of the living space.

TAD HEUER: So what if I were to propose a hypothetical, and this may actually go to parking because I tend to be sympathetic with the notion that you have an envelope that you're working with, particularly in a conversion, particularly if this were a commercial building that you were converting into residential. I'm dealing with the envelope. The envelope is what I've got. That's what I'm trying to put units into. It's not the fact that there's additional excess space that I wouldn't have otherwise or whatever it is. Is that I'm dealing with an envelope and that envelope is what I want to divide. And I can be -- I'm fairly sympathetic with the notion that you're not extending beyond your boundaries here. You're within the massing, and you're trying

to say how many units can or should go in there, not necessarily where you add or subtract space, which I agree with the way the application is submitted tends to make it sound like you're asking for 400 feet somewhere. I don't think necessarily that's appropriate to look at here.

The reason I think my question might go to parking is because I can see that the use of this building this is a duplex side by side; right?

ATTORNEY JAMES RAFFERTY: Yes.

TAD HEUER: So you're going to plan on doing a two up, two down or front back?

ATTORNEY JAMES RAFFERTY: Yes, the left side would mirror the right side. Presently the right side is two units, first floor lower level. Second unit, second floor, third level. This plan would simply mirror that.

TAD HEUER: Okay. So I can see why

someone might not want to rent a seven-bedroom house or why it might be difficult or why it might be legally impossible. But I know many people who would like to purchase a 2600 square foot dwelling. I think a lot of people would like to, particularly if it were renovated to a high quality and it were located where it is. Is there any reason why you would not need to have more parking? Because you can do three, each have three units. You have two rentals, perhaps, and say condoize the building into three units, one of which is you sell off. That's your right side, 2600 square feet, to someone who wants a 2600 square foot home. Take out some of the bedrooms and make them larger living spaces like studies or something else. Then you have two other units that are condoized, perhaps owned by the owner, who rents them out for rental income. You have a three-unit condo. You

have a 50 percent split, one from the right half and one from the left half. You don't need anymore parking. You made a good deal. You've renovated the building, and off you go. Isn't that viable? Feasible? I mean, is it really a hardship to say that not being able to do that is impossible if it's indeed possible and viable?

ATTORNEY JAMES RAFFERTY: I don't think there's any suggestion on the part of the Applicant that that scheme isn't possible or there's alternatives, again, he could turn the whole thing into a single-family house. You could look at whether that's desirable to have another wealthy family living in the neighborhood where there's a need for more moderate-size housing. Sure. I mean, you could do a whole bunch of things. You could tear the house down and build four units. But, no, I mean, you're asking now about the economics of why that doesn't work. I don't

know anything about the cost.

TAD HEUER: I'm going on Special Permit because you need a parking space for a fourth unit if you decide to keep it as a house or a condo on -- owned condo on one size --

ATTORNEY JAMES RAFFERTY: I don't think we need a Special Permit.

TAD HEUER: No?

ATTORNEY JAMES RAFFERTY: We can tandem park as of right on a single-family house. There's a long driveway.

TAD HEUER: Yes, but --

ATTORNEY JAMES RAFFERTY: No, no. If this stayed as a three-unit building, I wouldn't be here. He wouldn't need to be here, so you're right. It's not as though the building is unusable. We haven't made the claim that the building is unusable. That's one particular development scheme. There's probably three or four others.

We're not here saying this has to happen because otherwise the building is going to become abandoned and derelict.

TAD HEUER: Isn't that what substantial hardship goes to? Like, I can't use my lot because I've got a --

ATTORNEY JAMES RAFFERTY: No, no. I must confess I've watched this approach of all or nothing creep into the analysis of hardship here, and I find it troubling. I've seen it in many cases. Which is, well, you've got to prove that there's no other alternative in order to meet a hardship. I don't see that definition laid out in any cases as defining what hardship is.

Hardship is whether or not what's necessary to achieve an outcome is practical or is the result of something unique related to the lot, the structure, and things of that nature. So I think what we've offered here, what we've offered here is pretty straight

forward. We have a house of a certain size and vintage that the Applicant has bought it for the purpose of operating it as a rental property. He is looking to create a more marketable rental unit by creating two units where currently there are one. And the Ordinance directs him to come here if he can't meet 5.26.

TAD HEUER: True.

And this may be a limiting case, but I'm not sure I can accept the principle because otherwise you'd say I have an 8,000 square foot lot, but really what I'd loved to do is have an 8,000 square foot house. And you say that the hardship is that I can't do it, and I'd like to be able to do it. We would say you can't play ball.

ATTORNEY JAMES RAFFERTY: You know, I'm going to try to be polite and say some of these analogies are ridiculous. An 8,000 foot house and an 8,000 square foot lot.

We're not coming here looking for an extra inch of square feet. We're no looking for anything beyond --

TAD HEUER: And I'm saying this is a limited case, but I can't accept the principle --

ATTORNEY JAMES RAFFERTY: And I'm just wondering why we're having a dialogue on a case that you're clearly not going to vote for, with all due respect, it seems to me --

TAD HEUER: I wouldn't make that presumption whatsoever.

ATTORNEY JAMES RAFFERTY: All right. And I'd love to be proven wrong on that, believe me. It wouldn't be the first time I'm proven wrong. But my point is I'm trying to say it's a narrow issue. It's a 5.26 issue. It's a question of dealing with the size of the house.

TAD HEUER: Right, that's true. And I think the one thing that is important

for the Board is the Board sits, as you know, on behalf of the City of Cambridge essentially. And when we --

ATTORNEY JAMES RAFFERTY: I don't mean to cut you off, Mr. Heuer, but, you know, one member of the Board has a view. And I don't -- I must say that when one member speaks for the Board, I find that unusual.

TAD HEUER: I think one member cannot speak for the Board --

ATTORNEY JAMES RAFFERTY: I agree.

TAD HEUER: -- because you need four votes. I think every member has a right to speak as long as he or she wishes to hold the floor.

ATTORNEY JAMES RAFFERTY: I don't disagree.

BRENDAN SULLIVAN: I would disagree with that analogy and that one that's not fair, but I appreciate the dialogue back and forth anyhow.

TIMOTHY HUGHES: I'm not sure I do.

TAD HEUER: Well, I think there is an importance to the dialogue. And I'm going to be pretty serious here and I would appreciate not being interrupted. The importance of the dialogue is that we sit on behalf of the City of Cambridge. We don't sit only to hear the case of the Petitioner. And the reason we don't sit only to hear the case of the Petitioner is because what we do we should think about how it has precedent on the rest of the City, not just when Petitioner leaves the room and has his or her permit, when the next Petitioner comes in and asks for the same type of relief, if we are inconsistent in a substantial way, it does the disservice to the City of Cambridge which is why we are here. When I have these discussions with you or any other counsel, it's because I'm trying to make sure that the decisions that we reach when we were not sitting are consistent with

the decisions reached when we are sitting. And that's why I have these discussions, because it's important to me to think about all of the situations that come before us and how they've met each other so we are making consistent decisions. I may very well vote for this case. Indeed I went in thinking that I probably would have voted for this case, but I want to make sure. And I have these discussions not because I enjoy having them. Not because I find them intellectually stimulating and I have nothing else to do with my Thursday nights for free, but because I think that the decisions we make should be consistent and this is my way of working out how they can be made consistent.

ATTORNEY JAMES RAFFERTY:

Mr. Heuer, if I may be permitted, I will take but one minute to tell you I have been coming here for over 20 years. I have the highest

respect for this Board and the contributions it makes to the City. My comments were not intended to be a reflection on the lack of commitment on the part of the Board. I am merely pointing out the fact that in this case, the scenario that you were leading us down, I thought was so off base I didn't see it against the dialogue. But you're quite correct. I'm but a mere participant.

You're a member of the Board and I will always respect that. And I apologize, I probably in retrospect sounded disrespectful. That wasn't my intention. I was just merely trying to say that I know how busy the Board is. I know its agendas. I know how long the night can be. I'm saying this case presents a rather straight forward analysis. The Board always has to be mindful of precedent. We know in Zoning every case is individual. The Board can't act arbitrary or capricious. The law doesn't allow that, nor is the Board's

track record such. And I never come here and say you have to grant this one because two weeks ago you granted that one because every case is different. This case has some unique characteristics. I think the most relevant portion of this case -- there are cases that come here where the lot area isn't large enough to get the fourth unit. And I had a case a year ago on Prospect Street and it did not succeed. And I told Mr. Keane here if that were the case here, I wouldn't bring such a case. But in this case the lot area is well in excess of what a fourth unit would allow. So I do think it is relevant to think of a scenario whereby if this structure was reduced in size or in fact completely eliminated, four units can go here as of right. And I'm merely trying to focus the Board's and our application on the issue of whether having a fourth unit on this lot is appropriate given the context in which it's

located. And I apologize if I offended you. I suspect I did, and in retrospect I regret having done so.

BRENDAN SULLIVAN: Okay. Well, let me end it by just saying I appreciate and endorse your line of questioning. And I do not appreciate saying that one member speaks for the Board.

Now, let me -- let's move forward. Is there anything else that you want to add to the petition?

ATTORNEY JAMES RAFFERTY: I hesitate to go back there, but that was my point. I was only saying that --

BRENDAN SULLIVAN: That's it. That's the end of it.

ATTORNEY JAMES RAFFERTY: Done.

BRENDAN SULLIVAN: Is there anything else to add?

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: All right. Any other questions from the Board?

CONSTANTINE ALEXANDER: No questions.

TIMOTHY HUGHES: No questions.

DOUGLAS MYERS: I would still like to hear more about -- I mean, I can understand the requirement to modify the basement area may be impractical, but I would like to hear more why it's really a hardship if that is what the Ordinance requires.

ATTORNEY JAMES RAFFERTY: Well, I think the physical issues associated with how that would be achieved --

TIMOTHY HUGHES: Can I ask you a question as to the developer and as a follow-up to yours, because I think the hardship lies in how much concrete's going to have to get dumped into that basement.

ATTORNEY JAMES RAFFERTY: Yes.

TIMOTHY HUGHES: We're not talking

about two inches, going from seven-foot, one to six-foot, eleven. We're talking nine inches of concrete. And if I do the rough math, I'm looking at 12 yards of concrete.

MORRIS KEANE: Yep.

TIMOTHY HUGHES: 12 yards of concrete.

MORRIS KEANE: Apart from the fact that I've actually put radiant heat into the slab in the basement at the moment which defies the whole purpose of putting in the radiant heat if I put another nine inches on top of it.

TIMOTHY HUGHES: So we're talking about 12 yards of concrete and -- nine inches thick. We're talking about structural rebar that has to go in. I think there is a, you know, a case to be made for this to be a hardship. And maybe a strain on the foundation --

MORRIS KEANE: Yes.

TIMOTHY HUGHES: -- of an old house which is probably stacked fieldstone? I don't know what the foundation looks like.

MORRIS KEANE: Fieldstone, yeah.

TIMOTHY HUGHES: So I think there's definite hardship.

MORRIS KEANE: If I may for a moment. You mentioned this what you do here is in the interest of the City of Cambridge. I've lived here for 17 years. Anything I've done in my neighborhood has been, apart from my own benefit, for the benefit of my neighbors and the streetscape. I've gotten five, six preservation walls. I absolutely love what I do. I love doing this for profit. If I was, I would flip that house tomorrow morning and make a lot of money. I have three kids. I plan on my kids getting those houses when they're older. Okay. This is not a for-profit situation. I would make money out of it, no question about it, over a long

period of time. I have far more interest in doing -- improving my neighborhood and making it a better place to live. I have seen houses just -- if you've gone through this, you've seen the projects I've done right in my own backyard. I have seen houses like this, not this one, but exactly the same as my own, being bought for 400,000, flipped, 1.2, 1.3 million aside. It changes the streetscape. It changes the neighborhood. It makes, it takes -- it becomes West Cambridge. It takes a whole neighborhood which is full of three-family houses, everything across the street, three, three units. Actually, this house I've taken from right here to there. Three people living in there, two young couples each of them have babies right now. They love the neighborhood. They've had babies while living in that house. They don't have no intention of leaving. Everything in the neighbor, three-unit

houses, full of families. But when you develop something that's 1.3, 1.4 million, families stay there for a short period of time. I've seen the house across the road from me change hands four times in eight years. And they moved to Maui. And they moved to West Cambridge. They moved to Weston. It's just a stopping point. It's way too big to be a single-family.

What I'm trying to do with the basement and first floor is turn it into a perfect two-bedroom unit. Walk out into the garden. It's ideal living space. I'm not trying to pull a fast one here, make money. These are the long-term properties that I'm going to keep.

TAD HEUER: There was no insinuation that you --

MORRIS KEANE: No, I understand. I just wanted to make my point clear that I'm not trying to flip anything here or anything

like that.

TAD HEUER: Understood.

BRENDAN SULLIVAN: Doug, was your question answered?

DOUGLAS MYERS: Yes, my question was answered.

BRENDAN SULLIVAN: Tim, any other questions?

TIMOTHY HUGHES: No, I don't have any questions.

BRENDAN SULLIVAN: Gus, any questions?

CONSTANTINE ALEXANDER: No questions.

ATTORNEY JAMES RAFFERTY:
Mr. Chairman, on the issue of parking.

TAD HEUER: Just walk us through your by-right and why it's not a good idea.

ATTORNEY JAMES RAFFERTY: This scheme wouldn't be pursued because this is a two-unit building that has pre-existing

parking prior to 61. So I would say that would go away. So then issue here is two parking spaces could be created in the rear here, and you'd still have ample open space. So the issue is you could, you could sacrifice green space to create parking. What the Proponent is asking for is to park in a tandem situation, which is not an uncommon arrangement in this area. And the site itself is within blocks of rapid transit, and has a demonstrated low auto usage. There's many people -- we were just at the Planning Board with the Hummus Building (phonetic) at the corner, 72 units, 50 percent of the parking is occupied in that building and they permitted the second floor to be converted to additional units. But this, I was surprised frankly why there just wasn't a request to waive the required parking. So this was filed with a request to allow for tandem parking.

But much like there is an opportunity, there is, I would respectfully say, a way to put two spaces into this driveway by extending it. Lose a little open space. But it's Mr. Keane's preference, and you see how the yard is really quite nice, and it's going to have decks off the back of it, and he would really prefer not to introduce parking into the rear yard.

TAD HEUER: So there's -- because you're going, you would be going from a three to a four, you would run up against, and you've advertised for it, the provision that prohibits parking underneath the window within ten feet of a window. And something that's over a one, two, three-family. Can you just explain why that wouldn't be something that -- or why that wouldn't apply here? Why it makes sense to waive that here as opposed to other buildings?

ATTORNEY JAMES RAFFERTY: You know,

I --

TAD HEUER: Or is it just a best --

ATTORNEY JAMES RAFFERTY: Well, you know, I guess one could ask why the city is more concerned about the health of a four-unit dwelling than a three-unit dwelling. The unit is in the basement either way. The parking is occurring there. I don't have a good answer to that, and I think it probably has something to do with -- I think it's a funny kind of requirement, but because it was there, it was properly cited because as you look at the extending the parking. That driveway is there today. I think the issue becomes if the fourth unit were added, then the driveway, which is grandfathered pre-existing, but pre-existing for three, isn't subject to that requirement, what is a four and they properly caught it.

TAD HEUER: So more so a hardship

that it is a pre-existing driveway next to a pre-existing building that will be used for the same purpose and intensify in a way that wouldn't necessarily put any more cars in front of that window than others.

ATTORNEY JAMES RAFFERTY: Very well said.

And it merely mimics the condition taking place on the other side, I think. In some scenarios we see these houses, as you know, with party walls and they're actually semi-attached dwellings. This one it's got two addresses, had it been developed differently over the years, it wouldn't be surprising to see that as an attachment.

TAD HEUER: And there's also a request for a waiver of parking for bicycles; isn't that right?

ATTORNEY JAMES RAFFERTY: I'm not sure why that was put in. I can't understand what the thinking was behind that. I don't

know what the bicycle requirement is. I mean, you could put bicycles all over this place. I mean, you don't have covered parking so you don't need covered bicycles. The bicycle requirements trip in, as I understand it, in a multi-family with new construction. I think it might have been an abundance of caution, but I'm sure people who lived here would have bicycles, and I think there's plenty of places to accommodate.

TAD HEUER: I was just curious as to why it wasn't there.

ATTORNEY JAMES RAFFERTY: Yes, I was, too. I don't know the answer to that. Maybe you know?

MORRIS KEANE: No.

BRENDAN SULLIVAN: All set for now. Let me open it to public comments. Is there anybody here who would like to speak on the matter 146-148 Magazine Street.

(No Response.)

BRENDAN SULLIVAN: I see nobody in attendance.

There is correspondence. (Reading)
Dear Members of the Board: We reside one and a half blocks away from the subject property; Carol since 1969 and Walter since 1987. We are writing in support of the Zoning approval being sought for this property. With his skill, care, and honoring the owners of the building Mr. Keane has the skill, dedication turning into a sow's ear into silk purses. He has truly and fully invested in our neighborhood by so improving our day to day visual and architectural environment. So naturally we support without qualification the Zoning approval being sought by the Applicant. Carol O'Hare and Walter McDonald, 172 Magazine Street.

There is a petition, letters of support from abutting neighbors for converting 146 Magazine Street to a two-family residence.

(Reading) As neighbors of 146, we the undersigned support Emer Grall and her efforts to convert the above-mentioned three-family residence into a four-family residence with tandem parking. Signed by Morris Keane, Gary and Dennis Stiller, Morris Keane again who is sort of the stuttering there.

ATTORNEY JAMES RAFFERTY:

Admittedly he's not neutral.

BRENDAN SULLIVAN: And also signed by people at 141, 143, 145, 147, 149, 51, and 151 Magazine, No. 2. And I think that's all of the correspondence.

All right, let me close public comment.

Mr. Rafferty, any other comments?

ATTORNEY JAMES RAFFERTY: No, thank you.

BRENDAN SULLIVAN: I'll close that and turn it back to the Board.

Gus?

CONSTANTINE ALEXANDER: Well, as usual, Mr. Rafferty makes beguiling arguments, but I can't support this relief here.

5.24 I think has a purpose in our Zoning Ordinance at least as far as I can see, and that is to make up conversions for the citizens. I don't think difficult, but there should be tests to be met and it should not be readily encouraged. And I think, I assume the reason for that is the density. More units we create, the more dense Cambridge becomes. And the Cambridge Zoning Ordinance is concerned with density. So I think there's a purpose between 5.24. And I don't see the legal requirement for hardship being met here. I don't think the fact that there's a hardship that you can do an as-of-right solution, is a hardship that justifies of granting a Variance. A hardship should go to the ability to use the

property for the purposes for which it is zoned. This is all about economics. This is all about numbers. You bought a three-family property and you'd like to make it a four-family property and it would be more valuable for you. I understand that. I can accept that. But that's not what I'm here for on Thursday nights; to help somebody buy a property and make it more valuable with a flash of the pen. You've got to show a hardship relating to the property that you can't use it as a three-family. This property's been a three-family or maybe even a two-family for over 100 years.

MORRIS KEANE: That's right.

CONSTANTINE ALEXANDER: Why should we change the Zoning Ordinance to allow you to go to four families? I can't get there. I don't think you meet the requirements for a Variance. I don't agree with the relief being sought so I'm going to vote against it.

BRENDAN SULLIVAN: I think to me the uptick that's been the climate for that Ordinance is to prevent or -- not necessarily to prevent, but to make a review of this Board where somebody wants to cram a unit into a building where it really doesn't fit, to create another unit for whatever reason. Personally myself, I think that that one side of this house is, to use a common phrase, a white elephant. I mean, it's just so big and so huge that to me I don't think that's really workable. Has it always been? Yes, it always has been. There are a lot of houses that have always been, and I'm not sure if in today's society that those things work as well in this particular location then I think the requirements for this section of the city doesn't necessarily lend itself for a 2600 square foot unit with seven bedrooms and a building with other condo owners and stuff like that. I guess that's where I'm -- it

really -- when you talk about starter homes, this is almost like a starter apartment. This is more like going the other way as far as being too big.

CONSTANTINE ALEXANDER: If I can respond to that. I don't see why 2600 square feet of living space is too big.

BRENDAN SULLIVAN: Well --

CONSTANTINE ALEXANDER: I mean, let me finish.

The seven bedrooms, as Tad has pointed out, you can change the layout of the property so it's not seven bedrooms. You could have much nicer and larger living spaces and dining spaces and kitchen spaces. Yes, it's maybe unusual for that area, but it's not, it's not so out of the ordinary, so grandiose to the neighborhood or to the City of Cambridge.

BRENDAN SULLIVAN: No, I mean -- listen, my house is larger than 2600

square feet.

CONSTANTINE ALEXANDER: So is mine.

BRENDAN SULLIVAN: And at times it's too big and other times it's not big enough for the two of us. So that's another issue for another time.

ATTORNEY JAMES RAFFERTY: You could try the model that proved effective for this couple. But I mean, I respect that view, but I do think that of the four items set forth in 5.26, the traditional measure of density is lot area. And that's the way the Ordinance measures density. So there is in my mind, a funny kind of a disconnect. A smaller house can have more units because that's what the outcome leads to here. So this house, which is larger, can't have that. And I would say of the four things here, lot area per dwelling unit -- and we're not even close on that one. We're a thousand feet over. To me that would suggest a certain

priority that the Board would be appropriate to employ in looking at 5.26 and saying the dense -- I agree with you. I think conversion is a function of density, and we don't want too many units. But to suggest we don't want too many units when they're in big houses, but we'll taking the same number of units in a smaller house. I have trouble understanding what's behind that rationale.

CONSTANTINE ALEXANDER: There may be --

BRENDAN SULLIVAN: And, again, the last thought I have is a large unit, 2600, seven bedrooms, whatever, the seven bedrooms, five bedrooms, however you want to make larger rooms, begets more people which I think has more of an impact on the neighborhood. And even though they are applying for four spaces, which would be the legal requirement, if you take a 2600 square foot units, unless you wanted somebody to

live there by themselves or possibly with a partner or something, it's going to beget far more cars, far more impact for the immediate area. And I think that more rooms, more people are going to fill that.

CONSTANTINE ALEXANDER: That neighborhood has survived for years and decades with this --

BRENDAN SULLIVAN: But it's changing.

CONSTANTINE ALEXANDER: It could change back. It could change a different direction. I think we should take the Zoning Ordinance as it was drafted and the requirements of the Zoning Ordinance, and you've got to show a hardship of the requirements of the statute. And the hardship proposed is not a hardship that is -- that the Variance addresses.

BRENDAN SULLIVAN: Okay.

Tim, what are your thoughts?

TIMOTHY HUGHES: Well, I think that you can make a case for hardship. And I think we're kind of missing the point, the idea that it's going to be left as a three-family if we don't give the Variance. And I think, you know, if he wants to, he can still, it can be a four-unit building as a matter of right with the alterations that we have described. And I would rather not have to see somebody go through the illogical step of pouring 12 yards of concrete into their basement in order to get there. And so I'm in favor of letting this -- and I think, you know, a duplex like this just has an internal logic of its own, that it can be a four-unit building without any difficulty whatsoever. You know, it just looks like a four-unit building to begin with. So I don't -- I think this is an improvement. To take away this excessively large unit and split it into two is a good thing for this particular

neighborhood and I'm in favor of it.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: I think the fact that there's been a long history where this building has remained the same and it's been up to the same use, shouldn't close the door or count as an argument against this man coming in to make a proposal. The density factor, I mean, we should consider it more on the merits. On the merits according to the Ordinance. That the increase in density is real, but again, I think that it is not that serious in terms of density. The hardship, I do think that by traditional standards, I think the hardship is thin. And I don't, I don't think the case for hardship is strong. But I think there's enough of an element of functional obsolescence to the building that the Applicant is bringing to the attention of the Board with a request for a Variance. I think there's enough in considering that the

increase in density is not major. There's just enough here to make a case and I would be persuaded that it should be granted in this case.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I agree. As I mentioned before, I think that the fact that we have an envelope here, which is, as Tim mentioned, it's a duplex, side-by-side. It's not a situation where you have a strange type of unit, as though the one that we've discussed several months ago and we're discussing again, I think this is designed that it's very easy to make this conversion. I think that, again, it doesn't change the envelope at all. I think I am persuaded that lot area per dwelling unit is the primary element that you're looking at in a situation like this. And here, I am persuaded that logic doesn't make a lot of sense that you could have four units here if you tore this building down and

save 400 feet. But if you decided to put this building where it is now and use the 400 square feet, I'd have a problem. I think that moving this building into a four-unit esteem makes sense. I think you can have four units on this lot by right makes sense. We were talking about how the building is structured as it is. And I don't think putting the Applicant through the kind of filling the basement or finding other square footage in his house to bring it within the FAR guidelines, makes a significant amount of sense. I think that having, while it could be used as a three-family, 2600 square feet is a large amount of space. You might want to speak to people just before you because they are in the market for something like 2800 square feet. But I think on balance, I'm satisfied there. And also as with respect to the Special Permit for parking, the fact that we have three existing driveways and of

appropriate length is positive to me. I'm willing to add additional parking onto a lot here where the parking spaces essentially already exist and then match what I presume is being used as tandem.

ATTORNEY JAMES RAFFERTY: Yes, right.

TAD HEUER: That I don't see a significant difficulty. Usually what we're looking at in these situations whether there's an unusual type of tandem parking, whether there's a hard street to back into. Here we have the fact that we already have, you know, it's a main street. We already have tandem parking where additional tandem space would be difficult, and I also think I would support this request for an additional parking space under this circumstance rather than a waiver of the parking for uses here without substantial detriment and it does make the additional units much more viable to

whoever wants to purchase it as opposed to having four units with three spaces and having the fourth on the space. And for those reasons I would be in favor of both the Variance and the Special Permit.

BRENDAN SULLIVAN: Let me make a motion on the Variance to allow for the conversion of the -- this would be the 146 side; is that correct? So 148 is on the right. 146 is on the left.

MORRIS KEANE: That is correct.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested to allow for the conversion of the additional dwelling units into two units as per the proposal submitted to the Board.

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 providing an

additional rental unit on that side of the building.

The Board finds that the existing unit of 2639 square feet as seven bedrooms is very difficult to market, and it is not desirable in the particular area as rental. And that we, the Board, find that the relief may be -- and also because of the non-conforming nature of the existing building.

The Board finds that the hardship is owing to the non-conforming nature of the building precluding him from doing this conversion as of right.

The Board finds that desirable relief may be granted without any substantial detriment to the public good and would not nullify or substantially derogate from the intent and purpose of the Ordinance.

It is granted on the condition that they conform to the drawings and the dimensional forms as submitted.

Anything else to add to that?

On the granting of the Variance
conversion?

(Show of hands.)

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Hughes, Heuer, Myers.)

BRENDAN SULLIVAN: One opposed.

(Alexander.)

BRENDAN SULLIVAN: Gus, any
comments?

CONSTANTINE ALEXANDER: I think my
comments stand.

BRENDAN SULLIVAN: On the parking.
Any discussion on the parking, Tim, at all?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: I probably have a
lot more problem with the parking even though
this is back ten feet from the front yard,
but, you know, anyhow. What's your thought

on the parking?

CONSTANTINE ALEXANDER: On the Variance to allow the four families, I'm okay with the parking.

BRENDAN SULLIVAN: Tad?

TAD HEUER: Like I said, given Brendan's question, is there any -- so your driveway, the driveway ends at the trees; is that right, here?

MORRIS KEANE: Suppose here.

TAD HEUER: And the rear of that. Is this the deck?

MORRIS KEANE: That's the deck right there. And it actually comes back to the rear of the house. And this is all green space.

BRENDAN SULLIVAN: There is a change of grade there; is it not? As you go down?

MORRIS KEANE: Yeah. It drops three feet, four feet.

BRENDAN SULLIVAN: Okay. So

basically from your sidewalk line you're going to go back not to exceed 50 feet? You're going to put a bumper obviously?

MORRIS KEANE: Yes.

BRENDAN SULLIVAN: And on this side here you're going to go back on 48 feet? And that would be, and that's it. That's sort of the rest, green area, open space.

MORRIS KEANE: It's all open space.

TAD HEUER: And I guess my question is does it matter to the Chairman if it's possible to move this driveway back several feet if it's possible in order to get you further in off the street?

BRENDAN SULLIVAN: This guy's going to come in, park and run into the house.

MORRIS KEANE: It's the driveway. As it is, we can put three cars in that driveway, you know?

BRENDAN SULLIVAN: Yes.

I mean, I would just -- two cars can park

there as of right. This one can park there. Personally myself I would prefer not to see cars parked there, but two can do it as of right so I will set aside my objection to it all.

Let me make the motion, then, to grant the Special Permit for the parking as per the plans submitted and initialed by the Chair.

The Board finds that the requirements of the Ordinance can be met. Present tandem parking configuration has existed for many years. Tandem parking is not permitted as of right, and yet compliant with the Ordinance creating four parking spaces in the rear yard would essentially eliminate the open space in the side and rear yards and would not be desirable.

Traffic generated or patterns of access or egress would not change the cause congestion, hazard or substantial change in established neighborhood character. And it

has been established that the parking on that particular site at that location has been ongoing for a number of years. Continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

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

And the Board finds that it is desirable to have off-street parking in that particular area.

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

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(8:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case 10104, 146-148 Magazine Street.

ATTORNEY JAMES RAFFERTY: Thank you, Mr. Chairman. The Petitioner requests a withdrawal on that case.

BRENDAN SULLIVAN: On the motion to accept a request for a withdrawal of that case?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(8:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case 10153, 35 Roberts Road. Campbell, or whoever is going to speak.

CAMPBELL ELSWORTH: Good evening. My name is Campbell Elsworth. I'm at 267 Norfolk Street in Cambridge. I'm here with my client and the owner of the property Lou Ferraro of 64 Fletcher Road in Belmont month.

We are before the Board tonight to request a Special Permit.

BRENDAN SULLIVAN: Before we get into the merits of the case. In reading the Historical Commission correspondence --

CAMPBELL ELSWORTH: Oh, yes. I was going to bring that up, yeah.

BRENDAN SULLIVAN: -- not speaking for the Board, but I as one member, find this

very problematical. So go back before them, I guess, and come back with a different conclusion on their part.

CAMPBELL ELSWORTH: I don't believe that's a correct reading of this. We were before them on the 12th. Actually before -- for a non-binding review.

BRENDAN SULLIVAN: Right.

CAMPBELL ELSWORTH: So, therefore, as you can see, the last sentence of the first paragraph, it says because the case falls under non-binding review, the Commission's denial of the application will not prevent you from obtaining a Building Permit as you're proposing.

If I could discuss that. Basically in non-binding -- I mean, this is my interpretation of that Board. In non-binding reviews they are very, very stringent about certain things. They, as you can see, the second paragraph there they

say that the Commission found the proposed rear addition to be sensitively designed and well-sited on the lot. And they make the following five suggestions to us about material usage. So, the final materials actually had not -- or have not really been chosen yet, but they are trying to push any Petitioner before them in a particular direction that they find more sensitive.

BRENDAN SULLIVAN: Yes, I'm not saying it's not binding on us --

TAD HEUER: Isn't it more concerning that even though you haven't had materials decided yet, they've still said no? I mean, it would be one thing if they said we don't like the fact that you're going to vinyl side this or use shingles or something. It sounds like even though you haven't decided on materials they've suggested some. But regardless of what materials we use, we still don't like it; is that right?

CAMPBELL ELSWORTH: Well, we had suggested just because of, again, this is a two-family house, and we have found, and our builder is here with us as well, that the exterior skin needs to be replaced. And we had suggested using a hardy plank material. They, just as a matter of really policy, especially in non-binding reviews, make this suggestion about using clapboard. So they would sort of like that upgrade.

TAD HEUER: Right. I guess my point is that their issue isn't really about materials, because materials haven't been discussed. It's about the actual building of the addition.

CAMPBELL ELSWORTH: Oh, no, no, no, not at all. Not at all.

TAD HEUER: Their concern is only about materials?

CAMPBELL ELSWORTH: Only about materials, yes.

BRENDAN SULLIVAN: Campbell, if I read, you know, the Commission opposed the loss of the building's original symmetry by altering windows and redesigning the front porch.

CAMPBELL ELSWORTH: Yeah.

BRENDAN SULLIVAN: Then it got into the material, materials. That the material part of that is how they opposed the loss of the building's original symmetry by altering the windows and redesigning the front porch.

TIMOTHY HUGHES: But that's not even under -- we're given a Special Permit on a rear addition. We're not being asked to --

BRENDAN SULLIVAN: Well, I mean -- right.

TIMOTHY HUGHES: Talk about the front porch, are we?

BRENDAN SULLIVAN: I would look at the project in toto myself. Anyhow, if you want to proceed.

CONSTANTINE ALEXANDER: Let me ask you a question, though. Is there room for further dialogue with the Historical Commission? Is it all over?

CAMPBELL ELSWORTH: No, no, absolutely not.

CONSTANTINE ALEXANDER: Then if not, why don't you have that additional dialogue and see if you get a final disposition before you come to us? You know, I haven't heard the case yet. I've read the file. But I am loathed to approve something even by a non-binding review by the Historical Commission. Particularly where you could reach an agreement with the Historical Commission. So I guess I'm puzzled why you want to push the case before us tonight and then have to go back. If we allow it, if we grant the relief, I take it then that you're free to go ahead and do the project and ignore the review or the

conclusions of the Historical Commission. I don't like that personally. I like to think we work, we have different functions, but we work hand in hand with the Historical Commission. And they put a blinking amber light on this project. And I'd like to hear, speaking only for myself, I'd like to hear more from the Historical Commission. I'd like to hear more from you as to what's going on with the Historical Commission. So I'm puzzled why you want to pursue this case tonight.

CAMPBELL ELSWORTH: Well, we want to pursue it because the building has been vacant for a long time and we want to sort of move it along.

CONSTANTINE ALEXANDER: I understand that.

CAMPBELL ELSWORTH: I think it might be better to address -- well, where we -- when we left that meeting, we had proposed certain

things that we felt were reasonable. And just sort of taking them in order, the cedar clapboard, they would very much like cedar clapboard. We wanted to for maintenance because this will remain a rental unit. For maintenance elements that we would want to have the possibility of using the hardy plank. They thought -- I tend to disagree with them that it's not in keeping with the neighborhood. There's a lot of three families with hardy plank, with asbestos siding with all sorts of --

DOUGLAS MYERS: To follow up on Mr. Alexander's question.

CAMPBELL ELSWORTH: Yes, sir.

DOUGLAS MYERS: Was there a sense or an understanding that you would confer with them further and have any sort of further communication with them, a sense or understanding on your side or theirs?

CAMPBELL ELSWORTH: There were on

certain elements and let me, let me look now. We were in touch with Eiliesh Tuffy from Historical. And I can show you in the drawings what we had originally proposed to them was that we needed to shorten certain windows. They felt that that would upset -- and they were actually not on the front of the building, it was on the side of the building, on Emmons Place. They felt that that, you know, if we could maintain the symmetry of those windows, and it might -- is it okay if I open to the page? So this was one of the -- so this is the elevation on Emmons Place here. Roberts Road is here. Emmens's Place is a private way. So this is a very symmetrical house with a single here and two and two. And because kitchens are going to be created in that area, we had proposed to shorten these windows. They, I think, perhaps rightly, made a strong suggestion, which actually we are reviewing.

Eiliesh and Shary Berg just sent me e-mails today, just today, on suggestions of how to basically accomplish what we want with the internal layout. Meaning having kitchens there, but also having the articulation of the window that still comes down so we don't lose that extra 12 inches or so. Which we are very seriously looking into. And I don't think there's any -- I don't think that we have any problem in actually doing that. There are several ways to accomplish that which Eiliesh had sent me photographs about. One way is to make -- to leave it actually a full window, that goes all the way down, but then you've got, you know -- this window is probably at 28 inches high and a, countertop of course, is at 36, and so there's a pocket down behind a countertop that will run there. The other way is actually to install the smaller window, but actually keep all of the original frame, and then provide a sort of an

in-fill panel, which is also completely acceptable to them. That was one of the, that was one of the photographs that Eiliesh had sent me today as a solution.

So all of their, all of their suggestions we've taken seriously. Some of them we are, we are going to try to comply with.

DOUGLAS MYERS: So these are follow-up suggestions regarding the windows. But what about the cladding?

CAMPBELL ELSWORTH: The cladding. Well, that's an economic decision. I can't make that. I think the owner and the builder need to make that together, you know.

DOUGLAS MYERS: So there's nothing, you can't say anything specific or applied about going back to the Cambridge Historical Commission to discuss that issue? As far as you're concerned, you're going to make a decision and proceed?

CAMPBELL ELSWORTH: Well, they have allowed us to do that.

BRENDAN SULLIVAN: Let me just -- one of the findings is that for other reasons the proposed use would not impair the integrity of the districts or adjoining districts or otherwise derogate from the intent and purpose of the Ordinance.

And their correspondence said that they disapprove your application for Certificate of Appropriateness because of proposed design changes and material choices for the 1870 building were felt to be incongruous with the district. So it's, you've got to get me over that hurdle where we would find that it would not impair the integrity of the district.

CONSTANTINE ALEXANDER: My observation is that I plan to -- if we're going to go forward tonight, I'm going to abstain because I think the case is

premature. I don't want to rule on the merits because I don't think we've heard the last from the Historical or from the Petitioner.

BRENDAN SULLIVAN: Tim?

TIMOTHY HUGHES: Frankly, I'm --

BRENDAN SULLIVAN: I guess the question is whether we should proceed.

TIMOTHY HUGHES: I would be prepared to go ahead tonight, but I don't think it would be prudent given what I'm hearing from the rest of the Board. I don't think it would be prudent position.

BRENDAN SULLIVAN: Doug, what's your feeling?

DOUGLAS MYERS: Well, what it means is that the Petitioner goes back to the Historical Commission and then comes back to us and makes a report. That's what it means.

CAMPBELL ELSWORTH: So the requirement of going back to them is actually

from this Board? I mean, we are not, you know, we are -- the way we wrapped it up with them, we're not required to go back.

BRENDAN SULLIVAN: I understand that, fully understand that. However, we do --

CAMPBELL ELSWORTH: One second.

DOUGLAS MYERS: What we're saying -- I think we can discuss this among ourselves in public session. And I think look, the thought is that we would ask the Petitioner to make further efforts to communicate with the Commission, yes, but we'd have to use with regard to the issues raised by the commission.

BRENDAN SULLIVAN: The issues that they have brought up, addressed. And some sort of final form sent back to us either that they have addressed them and that they agree or agree to disagree. But right now there's too much hanging out there for me.

CAMPBELL ELSWORTH: Well, I would suggest that this is an agreement to disagree.

BRENDAN SULLIVAN: Well, what's your thought?

TAD HEUER: Well, I would agree with, speaking only as myself, which is all I can do, the other members of the Board, I think I would remind the Petitioner that if you were to go ahead, it's certainly within our purview to ask that, or to make as a condition of the Variance, the materials that you use. You know, we may say no hard plank. This is a historic house in a historic neighborhood, we think that should have clapboard siding or cedar shingle. Apart from what you're dealing with Historical on both the front and the addition, certainly as the addition itself, you're asking for the Board, the Board has and could, has and has recently in the past made conditions of the

Variance materials that --

CONSTANTINE ALEXANDER: Special Permit.

TAD HEUER: I'm sorry, Special Permit. The types of materials and stuff like that. So I guess, I do have a concern that it is an agree to disagree. I mean, one of the notes I made to myself when I was reading the application was does this impair the integrity of the neighborhood? It's a broad clause that generally we subsumed in some of the more substantive clauses that are required for our permits, but here, I think it does have some resonance. And now particularly reading the Historical Commission's letter, I think that raises my concern a bit more. So I would agree that I'd like to -- and also agree to disagree, if we move ahead, it means that you've agreed to disagree and won't and I'm somewhat hesitant there.

CAMPBELL ELSWORTH: I'm sorry, I don't understand, agree to disagree and....

TAD HEUER: And will not actually do what they would like us to do. The agreement is agree to disagree and it's final. I would like to see some sense of, you know, you mentioned the windows that you're engaged in. You know, if we were to grant a Special Permit, you would have no incentive whatsoever to do the windows and call back tomorrow and say forget it, it's off. I'm not saying you would, but that's a concern that I have that Historic would essentially be ignored if we give you the operative permit to proceed.

LOU FERRARO: What if we were to agree to some of the conditions?

BRENDAN SULLIVAN: I think you need another pass with them to be quite honest with you. We can talk for another half hour. To me I think we need to go back to them and have

further discussion and then come back with something that's on paper. And, again, when I said you may agree to disagree with some of their findings, that's fine. And let us decide whether we feel they are very material.

CAMPBELL ELSWORTH: Just to let you know we had long, a fairly long conversation with them at that Board meeting.

BRENDAN SULLIVAN: Fine. This is the only thing I have in front me.

CONSTANTINE ALEXANDER: You just told us earlier that there's more dialogue to be had with them. I asked the question and you said yes, there is.

CAMPBELL ELSWORTH: Yeah.

CONSTANTINE ALEXANDER: Once you gave me that answer, yes, then it seems to me the case is over for us tonight.

CAMPBELL ELSWORTH: Well, no, but --

CONSTANTINE ALEXANDER: I want to

hear, speaking only for myself.

CAMPBELL ELSWORTH: Right.

CONSTANTINE ALEXANDER: I want to hear the final views of the Historical Commission and your final views after you've had a chance with some more dialogue. I am very loathed, as I said before, premature, I'll say it again, premature for me to decide this case when I don't know the final views of the Historical Commission which I value greatly. I want to know your final views in response to their final views.

CAMPBELL ELSWORTH: Sure, of course, and I value their views greatly, too. And my sense is that this is their final view. And I think that, you know, if we were to look down these five points, we have -- you know, there are some that we are absolutely going to -- we sort of between us are committed to be in contact with them. It was not any additional requirement on their part that we

come back to discuss that. It's all sort of -- it's all, you know, in the process, you know. It says I'm available for site visits and ongoing consultation.

TAD HEUER: Right. What the Chairman has read from that letter, it says we would vote to disapprove because the proposed design changes and material choices for the existing 1870 building were both incongruence with the district. If we have to make a finding that what you're asking for is not incongruence with the district. That puts us in a position of saying the Historical Commission has said it's incongruence with the district not having their specialized experts, we disagree. That's sort of an odd thing for us to say, isn't it, without further information?

CAMPBELL ELSWORTH: But you're judging -- your Board and their Board are judging in completely different areas.

TAD HEUER: Incongruity?

CAMPBELL ELSWORTH: Incongruity.

TAD HEUER: I don't think so. Our Board has many --

CONSTANTINE ALEXANDER:

Mr. Chairman, I like to make a motion to --

BRENDAN SULLIVAN: Campbell, you're really not hearing us what we're saying.

CAMPBELL ELSWORTH: I'm trying to --

BRENDAN SULLIVAN: You're pushing --

DOUGLAS MYERS: Have you read the Ordinance?

CAMPBELL ELSWORTH: Yes.

JAMES UNBAN: Mr. Chairman. My name is James Unban. I'm the builder, I live at 35 Franklin Street in Somerville and worked with Campbell for a long time. The impression that I got from the Board, and even I guess in the letter there, the reason that we're here tonight for the Special Permit is

for the addition. And they approved the addition because it's not seen from the street. What they asked us to do was to consider the things that they brought into this. So they're putting the responsibilities on us to consider it, you know. So I mean, you know, I mean, Campbell does a lot of work in the city. I do a lot of work in the city. Mr. Ferraro owns property in the city. So those are valid points that we would take into consideration. But like Campbell mentioned earlier, you know, there's a financial aspect to this thing, too. You know, you're residing this entire house. You know, so I mean, there's a little give and take, you know, to what's affordable and to what makes it work. You know, I mean our intention is to make the thing look beautiful. I mean --

BRENDAN SULLIVAN: Right. But we look at the project in toto, not just this

little aspect of the back of it. And we also, even though it's non-binding on us, the findings of the Historical Commission, we have great respect for it and we really listen to what they say. And right now it is -- what they're saying is contrary to the positive findings that we can make for this case.

CONSTANTINE ALEXANDER: Well said.

CAMPBELL ELSWORTH: So well then I would ask -- this is going to be sort of odd to go back to them to -- I mean, we can start dialogue and we can -- they can come and, you know, we may -- I think we're gonna agree to disagree on the cedar clapboard.

BRENDAN SULLIVAN: And, again, that's, that's fine. But right now, I need something, some correspondence from them that says that you have had further dialogue. And that, you know, even though they wish you would use that, so on and so forth, let us be the final arbiters.

CAMPBELL ELSWORTH: All right.

BRENDAN SULLIVAN: There's too much there. Once they start saying it's incongruence with the finding of the neighborhood, that's the finding we have to make. And we can't make that finding as Mr. Heuer said, if they're saying it's incongruence. So we would be pushing aside their views that we respect very greatly.

CAMPBELL ELSWORTH: Sure, understood. And I'm just trying to look at a senior or two.

BRENDAN SULLIVAN: We're not saying that they have a veto over this. That they may put too much of a demand on you of something. You know, again, that's their wish list but it's not their checkbook that they're writing here.

CAMPBELL ELSWORTH: Right.

BRENDAN SULLIVAN: But let us be the final arbiter of that. Right now there's too

much out there to go forward.

JAMES UNBAN: I guess, Mr. Chairman, I guess the problem I have with that is that we're here for a Special Permit because it's a non-conforming building, okay? And it doesn't -- you know, the Building Code doesn't require us to build, you know, to use a certain type of siding. You know, windows have to be a certain style. I understand that. You know, and, you know, I guess the part I have a hard time with is that you're holding something that the Historical Commission, which is a non-binding -- you know, it was a process for us to go through, and they have a non-binding decision on this.

BRENDAN SULLIVAN: Right.

JAMES UNBAN: And you're actually using that as basically leverage over, you know, this decision tonight which, you know, that -- I understand your point, too, that the

siding and all that is a concern, but, you know, it's a financial concern as well.

BRENDAN SULLIVAN: Right.

JAMES UNBAN: So I don't understand how you can --

BRENDAN SULLIVAN: And you may not.

JAMES UNBAN: -- combine the two together.

BRENDAN SULLIVAN: And you may not. And I may not be able to explain it away. I know one of the findings that we have to make, and right now this letter is contrary to that finding.

So, and again, I'm not -- we may not agree with some of the things that they suggest. Let us be the final arbiter of that. However, it does need another pass back with them. Sit down and whatever changes, whatever is the result of those further conversations has to be put on those drawings.

CAMPBELL ELSWORTH: Sure.

BRENDAN SULLIVAN: Okay?

CAMPBELL ELSWORTH: Okay.

And my only concern is that as a rental structure, if the owner -- for example, if the owner -- I mean, the biggest one for them was, I think, the clapboard, you know, the clapboard cedar versus --

BRENDAN SULLIVAN: That's fine.

Plead your case before them.

CAMPBELL ELSWORTH: Right.

BRENDAN SULLIVAN: Plead your case before them. And, again, whether it's rental or condo, those things are all in fluid and in passing, it's a residential unit to us. That's all.

CAMPBELL ELSWORTH: Would you accept, because I don't think -- I'm not sure, I mean perhaps you'll make a ruling tonight that we need to go back before the Board, but really, the staff, in many, many cases at the

Historic Commission after something goes through, and it's either approved or there's some questions, the staff is authorized to work with us on suggestions. Of course, they're the kind of, they're the ones who study this stuff on a regular basis.

BRENDAN SULLIVAN: Right.

CAMPBELL ELSWORTH: Is it acceptable to you that we go back to the staff, specifically Eiliesh was there a that meeting that night and sort of work these things out and get a new statement from her or are you --

CONSTANTINE ALEXANDER: Does she speak for the Historical Commission. When you work with the staff and you get whatever resolution there is.

CAMPBELL ELSWORTH: Yes.

CONSTANTINE ALEXANDER: She does it on behalf of the Historical Commission?

CAMPBELL ELSWORTH: Oh, absolutely.

CONSTANTINE ALEXANDER: Then you've done what Mr. Sullivan has suggested. You've gone back and gotten further input from the Commission.

CAMPBELL ELSWORTH: Right.

CONSTANTINE ALEXANDER: Via staff.

CAMPBELL ELSWORTH: Yes.

BRENDAN SULLIVAN: Yes, it doesn't have to be Charlie. I would start with Charlie. But at any rate, it could be Sarah, it could be whoever. Whoever is the author.

CAMPBELL ELSWORTH: Eiliesh is the one that works -- deals with the Mid Cambridge Commission.

CONSTANTINE ALEXANDER: One thing, Brendan, to this gentleman's point. What you're missing is that if you force us to hear the case tonight, a finding we have to make, a body of this community, the Historical Commission has said we can't make that finding. So you're going to lose the case

tonight most likely if you push it.

CAMPBELL ELSWORTH: Well --

CONSTANTINE ALEXANDER: Let me finish.

We're giving you an opportunity, you and your client, to go back to the Commission to try to come up with something better than what you've got now with that letter. And that's going to improve your case, okay?

JAMES UNBAN: I understand what you're saying. But like Campbell had already mentioned, is that dialogue has continued. So it's not like the dialogue has not continued.

CONSTANTINE ALEXANDER: We want it to end before we decide the case or at least get closer to ending than it is right now. That's the point.

JAMES UNBAN: Okay.

LOU FERRARO: Can I ask a question? Do we need to be in 100 percent agreement with

the Historical Commission in order for you to hear us?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: No. As I said, you know, they don't have veto power over it, and let us be the final arbiter. You may agree to disagree with them, okay? Come back.

LOUR FERRARO: So I guess my point would be can we clear up some of these issues tonight and go forward?

BRENDAN SULLIVAN: No. It's got to go somewhere between this and what's before us, and that's all. You've got to go back before them one more time.

TIMOTHY HUGHES: At this point this case hasn't been heard.

LOU FERRARO: Right.

TIMOTHY HUGHES: So if we were to try and work out some of those details, we'd have

to open the case and hear the case which means you would have to impanel these same five members again which could delay you're getting back here on a continued case. Right?

I do want to say that I disagree. I think you make a valid point. I think you make a valid point. I think this is the document that is the agree to disagree. I think you can -- historically this, you know, the use of a hardy blank being incongruence with the district without impairing the integrity. Because we're really talking about use and not style in the district. The use is not changing, you know. And so I personally would be in favor of going forward. But like I said, you can see that you're not going to prevail if you go forward. So you gotta do what you gotta do.

CAMPBELL ELSWORTH: For a Special Permit we need three votes?

TIMOTHY HUGHES: No, you need four votes.

CAMPBELL ELSWORTH: Four?

TIMOTHY HUGHES: You need four votes. And I think we're putting an extra, you know, jog in this procedure that doesn't need to be there. But that's my position.

CAMPBELL ELSWORTH: And just to point out the Historic Commission or Mid Cambridge, every single case that night, and we were the last, they switched everything. So we saw them all. Every single case that was non-binding they failed. They failed. Because their level, the threshold for passing on the non-binding case, they sort of -- and I talked to them about it afterwards. They sort of make -- they're making a point to try to keep pushing people into as many sort of historic preservation type things. And, you know, some of these are reasonable and some of them are really

unreasonable, and maybe you're asking me to have that conversation and get some documentation.

BRENDAN SULLIVAN: Right. Your thoughts?

DOUGLAS MYERS: My thoughts are I think Mr. Alexander is right, you ought to go back and push this to a conclusion, but their position is unequivocal on several issues which really bear on the criteria we are going to apply under the Ordinance. So I think the Board is right to ask, and I will support the Board asking you to explore these issues further, to do everything you can to see whether the Commission is willing to change or will consider changing or not consider changing some of its language, some of its opinions about issues that are relevant, legally relevant.

BRENDAN SULLIVAN: Sean, can we get this -- is October 25th totally out? First

part of November.

I would assume you would get back to them within the next --

CAMPBELL ELSWORTH: Oh, tomorrow.

BRENDAN SULLIVAN: We can kind of shoehorn you in before December?

As soon as possible or whenever.

SEAN O'GRADY: Yes, I think you can probably put them on the 13th.

BRENDAN SULLIVAN: Of October?

SEAN O'GRADY: Yes, of October.

BRENDAN SULLIVAN: I'm not here but you can still get five members.

SEAN O'GRADY: This is not heard.

TIMOTHY HUGHES: That's correct.

BRENDAN SULLIVAN: Okay. October 13th?

CAMPBELL ELSWORTH: Very good.

BRENDAN SULLIVAN: Let me make a motion to continue this matter until October 13, 2011, at seven p.m. on the condition that

the Petitioner change the posting sign to reflect the new date and time. And that the sign be maintained in accordance with the Ordinance requirements. Any new submissions regarding this case by the Petitioner be in the file by five p.m. prior to the October 13th meeting.

TIMOTHY HUGHES: The Monday prior.

BRENDAN SULLIVAN: I'm sorry, what did I say?

TIMOTHY HUGHES: Monday prior --

BRENDAN SULLIVAN: The Monday at five p.m. prior to the October 13th meeting.

CONSTANTINE ALEXANDER: The only thing I would ask when you have further conversation with Historical, to the extent you can, you can't control them, but get their any further views in writing to us so we don't -- we're just not in a situation where you're coming back and reporting to us orally. Not that we don't trust you. It

would make life a lot easier for us.

CAMPBELL ELSWORTH: But you're looking for another document from them --

CONSTANTINE ALEXANDER: Yes, with more elaboration.

CAMPBELL ELSWORTH: -- that discusses the --

DOUGLAS MYERS: Preferably received by the Monday before the hearing. This was received today.

TAD HEUER: (Inaudible.)

CAMPBELL ELSWORTH: And to me, too. And to me, too.

BRENDAN SULLIVAN: The Monday before October 13th is Columbus Day.

TIMOTHY HUGHES: So make it the Tuesday then.

CAMPBELL ELSWORTH: Friday?

TIMOTHY HUGHES: Or Friday. I don't care which.

BRENDAN SULLIVAN: Get it in by

Friday by noontime. Noontime on Friday because they close at noon.

TIMOTHY HUGHES: Eight o'clock Tuesday morning and twelve o'clock Friday amounts to about the same thing. Because nobody's going to look at it over the weekend.

BRENDAN SULLIVAN: Right.

TAD HEUER: Of course, how much do they want to be doing over the weekend either.

CAMPBELL ELSWORTH: We'll take care of it right away.

TAD HEUER: Two quick things. On your dimensional form.

CAMPBELL ELSWORTH: Yes.

TAD HEUER: You have for one of your dimensions, you just have a calculation. If you could do a submitted dimensional -- if you could resubmit the dimensional form that does the calculation for your left side, right side so it's a number rather than --

CAMPBELL ELSWORTH: Here?

TAD HEUER: You indicated. If you can do the calculation on the form just so we have it.

CAMPBELL ELSWORTH: Sure.

TAD HEUER: I didn't see photographs in the existing structure. I mean, I've gone to see it, but if you could just have a couple of photographs, particularly of the rear, that would be great.

BRENDAN SULLIVAN: On the motion to continue until then.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(9:05 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: We're going to hear 2 case No. 10158, which is 8 Coolidge Hill Road.

Okay, if you would just introduce yourself for the record, please, and spell your last name.

BRUCE GREENWALD: I'm Bruce Greenwald, G-r-e-e-n-w-a-l-d. Representative for Salvatore Battinelli.

BRENDAN SULLIVAN: The reason I called it now is because I feel that it needs to continue because of a failure to post it properly. The requirement of the posting is that it has to be 20 feet from the public way.

Notice that the posting sign is on the building, but obviously well up the driveway,

out of the public view.

BRUCE GREENWALD: Okay.

BRENDAN SULLIVAN: So I think it's fatal to be going forward not being properly posted and noticed basically. It may seem technical in nature, but we have an awful lot of them and we are very strict with the requirement.

TAD HEUER: And since you appear to have legal opposition, it would not be prudent to do something that would be easily appealable and have the case heard because it's a lot easier to appeal on a procedural issue.

BRUCE GREENWALD: No, I understand fully.

BRENDAN SULLIVAN: And unfortunately --

BRUCE GREENWALD: Unfortunately I didn't have anything to do with the posting and where the owner put it. So, in fact, I

was going to go by and just check on it today to make sure it was in the right spot, but I guess that wouldn't have mattered anyway. Because it hadn't been in the right spot for 14 days --

DOUGLAS MYERS: Just your piece of mind.

BRUCE GREENWALD: That's my peace of mind, yeah.

BRENDAN SULLIVAN: It probably should be where the number is on the house.

BRUCE GREENWALD: On the street?

BRENDAN SULLIVAN: Yes.

BRUCE GREENWALD: Even though it wouldn't necessarily be on the property?

BRENDAN SULLIVAN: Well.

BRUCE GREENWALD: Because there's an easement into the property.

BRENDAN SULLIVAN: Right. But it has to be no more than 20 feet from the public way. So that would be from Coolidge Hill

Road.

BRUCE GREENWALD: Okay.

BRENDAN SULLIVAN: So wherever that 20 feet -- no more than 20 feet is.

BRUCE GREENWALD: Unfortunately the owner is out of the country so I can't speak for him.

BRENDAN SULLIVAN: Right.

Are you also aware of the letter from Mr. Bracken?

BRUCE GREENWALD: Yeah.

BRENDAN SULLIVAN: So you may have some dialogue with him accordingly.

Sean, can we do October when?

SEAN O'GRADY: October 13th.

BRENDAN SULLIVAN: October 13th, that's fine.

SEAN O'GRADY: Was there some --

CONSTANTINE ALEXANDER: Do we have time to get the sign up in 14 days?

SEAN O'GRADY: It would have to be up

tomorrow I suppose. I suppose how you count it. I always count it from the Friday morning.

BRENDAN SULLIVAN: Well, no the sign -- he's got another whole week.

BRUCE GREENWALD: 14 days is it?

SEAN O'GRADY: Okay, I'm sorry, what was the question?

CONSTANTINE ALEXANDER: Are they able to get the 14 days in in time for the October meeting?

SEAN O'GRADY: That's right.

BRENDAN SULLIVAN: We're going to continue this until October 13th.

SEAN O'GRADY: Let me just ask a question, for some reason October, and I missed it before. Were we not scheduling continuances for October 13th for some reason?

BRENDAN SULLIVAN: I'm not here on October 13th. Only the cases I sat on.

SEAN O'GRADY: Oh, okay. That's why we had a gap. If you want to do the 13th, that's fine.

BRENDAN SULLIVAN: October 13th at seven p.m. Let me make a motion to continue this matter.

TAD HEUER: I think there are people here.

BRENDAN SULLIVAN: Is there anybody here interested in that matter?

We're going to continue this until October 13th. Does that work for you people?

UNIDENTIFIED MALE: I'm attorney Baracken's (phonetic) assistant.

BRENDAN SULLIVAN: Come forward and speak very briefly on the continuance only, not the merits of the case.

CONSTANTINE ALEXANDER: Is it convenient for you to be able to be here on the 13th?

UNIDENTIFIED MALE: I am.

CONSTANTINE ALEXANDER: Let me ask your clients. Is it convenient for your clients will be here on the 13th?

UNIDENTIFIED FEMALE: We haven't got our calendars here.

UNIDENTIFIED MALE: This is very important to us so we will be here.

UNIDENTIFIED FEMALE: We can't do it now?

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Well, I think your attorney will make someone available on the 13th.

BRENDAN SULLIVAN: Let me make a motion to continue this matter now on October 13th at seven p.m. on the condition that the Petitioner have a posting as per the Ordinance requirements, and that it be maintained for a period of 14 days prior to the hearing of October 13th. Any resubmissions to be in the file by the Friday

by noontime prior to the October 13th because any changes to the file, whether it be in your drawings or dimensional form or anything, that be in the file by the noontime Friday prior to the October 13th.

BRUCE GREENWALD: Which is the 7th?

BRENDAN SULLIVAN: The 7th, correct. Okay. So on that motion, then, to continue.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor to continue the matter.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

BRENDAN SULLIVAN: And I think in the interim you may have conversation with counsel and with the abutters.

BRUCE GREENWALD: The only other question that I had was there any other issues? There should have been a letter from Historic saying that's okay. So this is the

only issue?

CONSTANTINE ALEXANDER:

Non-binding.

BRUCE GREENWALD: There's no issues
with --

UNIDENTIFIED MALE: Can you repeat
that?

BRENDAN SULLIVAN: All right.
There's a letter from Historical regarding
this matter. Are you aware of that is Tom?

UNIDENTIFIED MALE: He was not aware
of that.

BRENDAN SULLIVAN: Okay. It's in
the file. Why don't you just take a look at
it before you leave. It's public record.
You can get a copy of it tomorrow. You may
want to peruse it with --

UNIDENTIFIED MALE: Yes, sure. Is
that okay?

BRENDAN SULLIVAN: It's fine. So
the matter is continued until then.

Thank you.

(9:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10154, 21 Manassas Avenue.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you for remembering me. James Rafferty. And seated to my left is Terrence and Amy Smith S-m-i-t-h. Mr. Smith, prior to this evening, felt I enjoyed cordial relations with the Board and asked if I would assist him. He's now asked that I say nothing, and he's going to present his application himself.

TERRENCE SMITH: Thank you, Jim.

ATTORNEY JAMES RAFFERTY: But having said that, just to clarify, just a

quick moment of introduction.

An unusual case. I would suggest very small lot. Very small house. 1870-style house. Rear addition held in very declining condition. The Smiths have lived there for 17 years. They are going to have to take that down and reconstruct. And as we know under Section 6, if they put the same thing back, they would be fine so the setbacks aren't really an issue. In doing so they would like to put a second floor, some space on the second floor to go so far as to introduce to this house the luxury of a bathroom on the second floor. Currently there is no bathroom on the second floor. The bedroom's there. So you'll hear a little bit about Mr. and Mrs. Smith's plan. But the other thing worth noting, it is a somewhat anomalous zoning district because there is an FAR issue here, but the FAR for the residential use is at 0.75. The permitted

FAR for commercial use is 1.0 in this Business A District. So if they were to turn this as Mr. Smith is fond of saying, if he were to turn this into a barroom, he could have a bigger building and it would remain as a single-family house. So hidden somewhere in all that lies the basis for a hardship, and we're hoping the Board would recognize the modest increase presented by the Petitioner.

CONSTANTINE ALEXANDER: It is true, though, just for the record that you are going from a -- your FAR is now FAR compliant.

ATTORNEY JAMES RAFFERTY: That's right.

CONSTANTINE ALEXANDER: And you're going to go to non-compliance.

TERRENCE SMITH: Yes.

CONSTANTINE ALEXANDER: I hear the commercial argument, but the fact of the matter is we're talking about a residence.

ATTORNEY JAMES RAFFERTY: It is

true. And the hardship has a lot to do with this -- it's a very undersized lot.

CONSTANTINE ALEXANDER: I understand. I just wanted to get that in the record.

ATTORNEY JAMES RAFFERTY: And I think that number is around --

TERRENCE SMITH: It's around 200 square feet. It's around 200 square feet.

CONSTANTINE ALEXANDER: You're going to increase the size of the house by 15 percent?

TERRENCE SMITH: Yes. It -- also when we started in this process, we were, prior to having the plot plan that you have, we were using the calculation the city has on the -- on our lot, on the tax records which has the house at 1460 square feet. With this change we're going to 1462. The plot plan that we found at that size of the house is actually, was actually in compliance in terms

of gross floor area. We're still not in compliance through the setbacks. So --

CONSTANTINE ALEXANDER: I'm sorry, I lost that. I thought your dimensional form showed setback compliance?

ATTORNEY JAMES RAFFERTY: No. But setback isn't an issue because of Section 6.

TERRENCE SMITH: Setback's not an issue because of --

ATTORNEY JAMES RAFFERTY: We're not changing -- they're going back in the same footprint.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: But, no, the setbacks are -- well --

TAD HEUER: There's no -- setbacks to the building up in a setback, right?

ATTORNEY JAMES RAFFERTY: I'm sorry?

TAD HEUER: Are they building up in it? So you can put back what you have by

right.

TERRENCE SMITH: We're putting back what we have.

TAD HEUER: But you're putting it up in the same plane; right?

TERRENCE SMITH: Yes.

AMY SMITH: Correct.

TERRENCE SMITH: Yeah, the required front setback -- I mean, it's nominal. The required front setback is five feet. We're at 4.84. The required left side setback is a calculation. It's the eave of the house on the left side. So we share the sides of our house because it's an L-shaped lot, are the lot line. The eaves are the lot line. And there are site setbacks under -- for residential purposes this is a C-1?

TAD HEUER: Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: Yes, the left and right side do not comply today. And the second, the house -- the footprint will

be unchanged but the -- they will go up. So the second floor. So the second floor is within the setback. So in addition to the GFA there is setback relief.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: Thank you.

TAD HEUER: Are one of these letters are from the flag lot neighbor to your left?

TERRENCE SMITH: Yes.

TAD HEUER: Which one is that?

AMY SMITH: James Dwyer.

TAD HEUER: 23 Manassas?

TERRENCE SMITH: 23 Manassas Avenue.

ATTORNEY JAMES RAFFERTY: The what? The flag lot?

TAD HEUER: The flag lot.

AMY SMITH: Is that a technical term?

TAD HEUER: Yes.

TERRENCE SMITH: Because it goes like this and then it's like a flagpole. I get it.

TAD HEUER: Pork chop.

ATTORNEY JAMES RAFFERTY: A pork chop? I relate more in terms of food.

TERRENCE SMITH: I thought it was because Jim puts a flag up on it.

ATTORNEY JAMES RAFFERTY: So, yes, so the non-conformance setbacks today Section 6 would allow the rebuilding of a single-family house on the same footprint, but the second floor. But it is a condition that is very contextually consistent with the abutting house. There are three residential houses in this business district just in from the corner of Huron and Manassas, and they all have similar scale in context which is short footprints. And a deep rear yard and close to conforming front yard, but very narrow on

the sides.

TAD HEUER: And who owns the accessory structure in the back?

ATTORNEY JAMES RAFFERTY: The shed?

TAD HEUER: Yes.

ATTORNEY JAMES RAFFERTY: It's on their lot.

TERRENCE SMITH: No, the shed is on Jim's lot which is in the picture.

TIMOTHY HUGHES: This little plastic thing here?

TERRENCE SMITH: Yeah. That's the shed we have. But the larger shed is on the neighbor's side against our fence.

CONSTANTINE ALEXANDER: And the other side of your lot is the old St. Peter's School.

ATTORNEY JAMES RAFFERTY: That's correct.

AMY SMITH: Correct.

CONSTANTINE ALEXANDER: What's that

being used for right now?

ATTORNEY JAMES RAFFERTY: That was converted by Special Permit to an office building, and the tenant in there is the Smithsonian. They're on a long-term lease for maybe 20 years.

BRENDAN SULLIVAN: Yeah, seven more to go.

Okay, that's the presentation?

ATTORNEY JAMES RAFFERTY:
Essentially, yes. So it really is driven by the size. It is an exceptionally small house. And if you actually look at the second floor floor plan, it doesn't come anywhere close to the definition of grandiose. It just literally will allow for a bathroom presently. The Smiths have lived there for 17 years. Their parents do visit on occasion, and so it would be a benefit to have the bathroom on the same level as the bedroom. And given the say once in a

generation remodeling of the house and given the disruption of the occasion, they looked at an opportunity to slightly expand the status quo or improve the status quo I should say.

BRENDAN SULLIVAN: Any other questions by the Board at all?

DOUGLAS MYERS: How close, is there a deck involved that's going to be as part of this construction?

TERRENCE SMITH: We're replacing an existing deck on the back of the house, but it's not a raised deck. It's a --

ATTORNEY JAMES RAFFERTY: On ground?

AMY SMITH: A wooden slab, yeah.

TERRENCE SMITH: Well, this is the existing deck on the plot plan. It's right here. And then we'll have a -- it's going to come up here. But I'm not seeing it on the drawing.

AMY SMITH: It's just going back to where it's at.

DOUGLAS MYERS: Any increase in size?

AMY SMITH: No. Just a condition.

TERRENCE SMITH: Oh, it's right here.

ATTORNEY JAMES RAFFERTY: Upgrades.

TERRENCE SMITH: Just at the base of the back door.

ATTORNEY JAMES RAFFERTY: How about above grade, above ground?

AMY SMITH: A couple feet.

TERRENCE SMITH: A couple inches.

AMY SMITH: Yeah, two or three inches.

ATTORNEY JAMES RAFFERTY: So it's a wooden patio?

TERRENCE SMITH: Yeah, it's a wooden patio.

BRENDAN SULLIVAN: Anything else?

DOUGLAS MYERS: No.

BRENDAN SULLIVAN: Gus, any questions?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: Tad, any questions?

TAD HEUER: I've been there. This really can't be seen from the street, right?

TERRENCE SMITH: No.

TAD HEUER: Because you've got the front of your house is blocking it --

TERRENCE SMITH: Yes.

TAD HEUER: -- and your neighbors to the left and you've got the school.

TERRENCE SMITH: It can be seen from the parking lot and from the --

TAD HEUER: From the parking lot coming through the other way.

TERRENCE SMITH: Yes, yeah.

BRENDAN SULLIVAN: Let me open it public comment.

Is there anybody here who would like to speak on the matter of 21 Manassas Avenue?

(No Response.)

BRENDAN SULLIVAN: Seeing none.

There is correspondence in the file from James and Margaret Dwyer, 23 Manassas Avenue. (Reading) Honorable members of the Board: We are writing to express our strong support for the Variance application filed by our neighbors Terry and Amy Smith to allow them to make needed repairs to the house and add a bathroom to the second floor of 21 Manassas. We have reviewed their plans and as their nearest residential abutters and long time neighbor residents, we see nothing in those plans that will adversely impact our home or neighborhood. We strongly approve of their petition.

Correspondence from Martha Bedell Architects. B-e-d-e-l-l. (Reading) I'm writing in support of Terrence and Amy

Smith's application for the Variance of the dimensional controls of the Zoning Ordinance. Adding a second story will have no affect on the view from or the light and air at our house across the street. And signed by Martha Bedell, B-e-d-e-l-l at Five Clement Circle, which is directly across the street on the other side of the fence I guess.

TERRENCE SMITH: Correct.

BRENDAN SULLIVAN: On the letterhead of the Office of the Mayor, (reading) Dear Members of the Board: I'm writing this letter of support for the petition submitted by Terrence F. and Amy Smith to replace existing single-story rear addition on a non-conforming single-family dwelling with two-story rear addition at their home at 21 Manassas Avenue. I am confident that all of Terry and Amy Manassas Avenue neighbors support this petition. And without a doubt I support their petition and

hope the members of the Board will support it also. Signed David Maher, the Mayor.

Okay. And that is the substance of the correspondence and I will close public comment.

Any final words do you want to get yourself in any more trouble? No, that's it?

TAD HEUER: He's not in trouble. He's fine.

BRENDAN SULLIVAN: Gus, what's your thought?

CONSTANTINE ALEXANDER: I'm good.

TAD HEUER: I'm good. I just had a -- it doesn't bear on the -- just as a matter -- are you planning on doing re-siding or replacing fences?

TERRENCE SMITH: We're going to replace the fence. We're going to -- we're going to shore up the foundation on the -- it's a gravel foundation. So we're going to essentially put a new foundation in

from the interior to reinforce the front of the house and the sides. It's, we've had issues with water and pests so we're addressing that. The existing addition doesn't sit on a foundation, so it's, it's sinking.

TAD HEUER: So, Mr. Chairman, I would say this is a paradigmatic case of an oddly-shaped lot with soil issues that beyond the modest request for relief would certainly fall within the category of the Variance.

BRENDAN SULLIVAN: That whole little block there, maybe it's a commercial block, are actually sitting on very bad soil conditions there. It's actually sitting on peat. It's very dense soil conditions there?

ATTORNEY JAMES RAFFERTY: Is that what paradigmatic means?

BRENDAN SULLIVAN: Yes.

ATTORNEY JAMES RAFFERTY: I

apologize.

BRENDAN SULLIVAN: As a matter of fact, where the parking lot is behind their house actually used to house a multi-family residence which used to be Mr. Consodine's (phonetic) the custodian of St. Peter's and it actually had to be torn down because it was sinking into the ground, too, and hence became part of the parking lot.

TAD HEUER: Great source of fuel.

BRENDAN SULLIVAN: So it's a soil conditions are bad in that area.

DOUGLAS MYERS: Even though the application would create two new non-conformities, I think clearly the case for a Variance is strong and it falls comfortably within traditional hardship guidelines.

BRENDAN SULLIVAN: Tim, you all set?

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: Let me make a

motion to grant the relief requested and 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 a much needed addition and a reworking of the house.

The Board finds that the existing conditions of the addition presents serious health and safety issues and which mean extreme water damage and structural damage to the basement and the foundation necessitating this work which directly relates to the soil conditions underneath.

The Board finds that the request to relief is a fair and reasonable request. The hardship is owing to the fact that the soil conditions are such which the existing section of the building, and has become structurally unsafe and is needing to be

rebuilt. And the addition of the second floor and the bathroom is a fair and reasonable request and part and parcel of the request.

The 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.

All those in favor of granting the relief.

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(9:30 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: I will call case No. 10155, 14 Dana Street.

ATTORNEY SEAN HOPE: Good evening, attorney Sean Hope, Hope Legal Offices. Tonight on behalf of 14 Dana Street, LLC, we have Mr. Ben Rogan to my right.

Spell your name for the record.

BEN ROGAN: B-e-n R-o-g-a-n.

ATTORNEY SEAN HOPE: We also have Mark Donohoe.

MARK DONOHOE: And my name is Mark Donohoe, D-o-n-o-h-o-e.

ATTORNEY SEAN HOPE: And we have the architect, project architect Peter Quinn.

PETER QUINN: And I'm the architect, Peter Quinn, Q-u-i-n-n, Peter Quinn Architects, Cambridge, Mass.

ATTORNEY SEAN HOPE: So this is an application to redevelop an existing multi-family as well as a carriage house to a three-unit connected building with three, three parking spaces, two of which will be in the interior of the building. There are three primary aspects to this development proposal. So the first is the restoration of the colonial mansard building. The front of the structure that is facing Dana Street. As part of this process, we've been to the Mid Cambridge Conservation District and they found that building was historically significant. So part of that process is

restoring that property.

The second aspect is demolishing the second story and first story structure that's connected to the rear. If you look at the proposal from the plans from the east elevation, the mansard building is a three-story structure, and then the building steps down to a two-story element and a first-story element. These are all along the east elevation and they're about two and a half feet from the property line. Part of our approval which we received from the Mid Cambridge Conservation District was to demolish these buildings and rebuild those.

The third aspect is a carriage house. The carriage house as well -- all these properties are in extremely, extreme disrepair. Primarily the foundation elements, the carriage house is probably the worst of the three. It's sitting on pebble stones and dirt. The two-story elements

were probably built after the mansard solely as well. If you look, and I think there are some pictures, the floors are bevelled and warped inside and they're actually dipping towards the side yard setback.

Outside of the foundation issues, primarily the Mid Cambridge Conservation District wanted us to refocus on rebuilding the carriage house and they wanted us to keep the actual style that was existing. So when the developer looked at the unit, our first thought was to gut the interior like you see in most Cambridge-style housing and rebuild it back. When we looked at the integrity of the building, we realized we would essentially be rebuilding the entire structure from the ground up. This allowed for an opportunity to improve the setbacks. So as you'll see in the plans, the east elevation is about two and a half feet. Part of the proposal is to actually demolish that

building and rebuild that back seven feet from the rear property line. The rear carriage house is a half a foot from the rear property line. So we're gonna demolish that and reconstruct that and give it a 15-foot setback. So those are two non-conforming setbacks. They'll still stay conforming but we're increasing the non-conformity. The ideal --

CONSTANTINE ALEXANDER: Decrease in non-conformity.

ATTORNEY SEAN HOPE: Yes, it's important. Decrease in non-conformity.

The idea was to try to present an as-of-right proposal, but with the three parking spaces, the two which are interior, we need to create the turning radiuses. So we actually brought the east elevation in the rear property as close as we could into the interior to make sure that we could actually add landscaping. Part of the issue in that

neighborhood is about privacy and landscaping. So when we brought the rear carriage house up 15 feet or 14 and a half feet, this allowed us to do some screening landscaping and some basic patios on the outside.

So there's three elements of relief. So even though we are improving the side yard setback, we are still building inside the setback. It's really due to the deteriorating nature of both buildings that we're actually reconstructing those.

The other element is because we are rebuilding the side portion and the rear portion, all the windows are considered new or added windows. So there's a Special Permit that we would need to add those windows. The Mid Cambridge Neighborhood Conservation District, they were very particular about where we put those windows.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SEAN HOPE: One, we maintain almost all the existing windows in the mansard building, primarily it's a colonial style house and it's actually a prominent house on Dana Street. So the additional windows as well were for light and air. The existing structure had only a few windows. But even placement of those existing windows were controlled by the Commission as well as neighborhood feedback.

So the hardship is owing to the shape of the lot and the existing structures thereon. So that the necessary reconstruction of those buildings that are in disrepair would require relief. So we brought those in. But to make those compliant, we wouldn't be able to meet the open space as well the parking requirements. So we adjusted the buildings accordingly to be able to meet the open space requirement which we do comply with, as well as to do the

interior parking which is actually preferable as opposed to having them on a lot.

So I just wanted to also the Board to realize that when we actually thought about the number of units, over time there was varying amounts. We looked at the Building Permit through rent control, there was four, maybe as many as five units. We actually wanted to keep it to the lot area the zoning allowed in the district. So we went with three dwelling units.

Also, an initial proposal of the carriage house, we actually had a larger building. The carriage house is now connected to the front main building. But based on neighborhood feedback as well as keeping the mansard building the prominent structure as well, so we actually lowered the height of the carriage building. There was some issues about massing or wanting to make sure that massing in that area. So part of

what you see before you today is based on reworking by Peter based on the Commission's feedback which was part of the approval.

CONSTANTINE ALEXANDER: Can you just return to where the relocation of the windows?

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: I'm not sure I followed you.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: You're not really relocating any windows in the mansard building itself, are you?

ATTORNEY SEAN HOPE: We're actually adding two. Right, so all the existing windows are staying. I think we're adding one in the east elevation. And I think one on the west elevation facing the landscaping and the driveway area.

CONSTANTINE ALEXANDER: Right when you go to the plans can I see those windows?

PETER QUINN: Yes.

ATTORNEY SEAN HOPE: And what is it?

CONSTANTINE ALEXANDER: Historical
has signed off on it?

ATTORNEY SEAN HOPE: Yes. This is
the approval, Certificate of
Appropriateness. Here's copy for the Board.

And also to note for the Board, we had
two rounds at the Mid Cambridge Conservation
District, but we also had private meetings
with the rear direct abutter, city councillor
Reeves. There's an condominium building who
I think some people are here today as well.

There's also a shadow study as part of
the packet. And one of the good news about
the shadow study is that the existing
condominium building creates a lot of the
existing shadow, but part of bringing down
the height of the carriage house as well as
to keep shadows down. In terms of features,
there's a fence that would run between the

west elevation and the condominium building. There was a request that we put a neighborhood fence, so that we don't have this stockade fence. There are elements of this proposal that really were based on neighborhood feedback. It's a tight lot, but I also think the addition of the buildings and also the interior parking garage creates landscaping that wouldn't otherwise be possible.

BRENDAN SULLIVAN: Okay. There's a letter from the Mid Cambridge Neighborhood Conservation District. And these drawings, Mr. Quinn, incorporate these submissions here?

PETER QUINN: Yes.

BRENDAN SULLIVAN: All right. Any questions?

CONSTANTINE ALEXANDER: I'd like to hear from Mr. Quinn about the windows.

PETER QUINN: Sure.

The windows that we're adding are on

this side right here, there was one small window added, and a one and a half bath, and one additional window there. You can see those. And this drawing here, this is the -- it's actually, if you have the package, it indicates the small letter n there as in new window. So it's just creating, instead of two separate windows, and then on this side the one new window right there.

CONSTANTINE ALEXANDER: What's the purpose of that small window?

PETER QUINN: There's a half bath.

CONSTANTINE ALEXANDER: Half bath?

PETER QUINN: Yes.

CONSTANTINE ALEXANDER: And that small window works in your opinion? Works architecturally in other words?

PETER QUINN: Yes. This side actually has a bit of a windows, what they call a stair ring (phonetic). It's kind of an interesting facade because whereas on the

other side, it's more rigid.

CONSTANTINE ALEXANDER: I'm fine.

PETER QUINN: Do you need me to explain anything more about the plans?

CONSTANTINE ALEXANDER: Not from my point of view. Maybe other members of the Board.

TAD HEUER: So obviously this is miles better than what you had there.

ATTORNEY SEAN HOPE: Sure.

TAD HEUER: My question is the more technical one: You're doing a full demo of everything of the mansard building; right?

ATTORNEY SEAN HOPE: Yes.

TAD HEUER: As a technical matter, well, as a technical matter, it seems to me that that would mean that you've demolished non-conforming structures and therefore you're left with at least to your lot an existing non-conforming structure in the front that's not performing as to its left

side setback?

ATTORNEY SEAN HOPE: Yes.

TAD HEUER: And then you've got just a big backyard. That's what will exist at some point in time.

So, usually we would say you've gotten rid of a non-conformity, and that's what the Zoning Code wants to do, get rid of non-conformities. It would minimize what's impossible. If they're really gone to the point of no return and we demolish it and then say it's taken us 125 years, but we're now more conforming than we were before and that's the point of the Ordinance. We can stop there.

Here I understand what you're doing. You're bringing -- you're saying -- getting a lot of rear setback back because we're no longer essentially on top. You pulled it in the 15, 16 feet, whatever it is.

ATTORNEY SEAN HOPE: Right.

TAD HEUER: But you're still invading on your rear setback in a way that technically the Ordinance wouldn't want you to do. Could you just talk me through that?

ATTORNEY SEAN HOPE: Yes. Well, you know, we are improving the setback. And so part of the approval to demolish the building wasn't just to demolish it. It was demolishing it with the idea of being able to rebuild something that was similar, better improving the setbacks. And actually the carriage house, I don't know if we would have had approval to actually tear down the carriage house. Because even though it was in disrepair and not on any foundation, they actually wanted to build it back in the same style architecturally. So probably as important as the mansard structure, which probably has the best foundation but still historically significant, so was the carriage house equally important. So it

wasn't just to tear this down to be able to build anything. It was to keep the integrity of what was there, the colonial build. And as well as improve the setback. So I would say -- they probably -- I don't know if we would have been able to get a demolition permit to tear it down to make it more conforming. But it was only conforming to actually keep consistent with the character and integrity of the neighborhood. So I think those two things were tied together, you couldn't do one necessarily without the other.

TAD HEUER: And you're saying you couldn't be in full conformity with the rear setback because that impinges on your parking issue?

ATTORNEY SEAN HOPE: Well, parking and also the layout of the building. As you can see, the mansard is connected over to the second two-story element.

TAD HEUER: Right.

ATTORNEY SEAN HOPE: So if we actually -- so right now we have a seven-foot setback along the side. So that, you know, there's a consistency with the layout of the units.

TAD HEUER: Right.

ATTORNEY SEAN HOPE: So that if we, and I think it's 16 feet.

PETER QUINN: Basically side by side, and that's the parking. And then on the other levels the units share footprint. So this is just two-story addition.

ATTORNEY SEAN HOPE: And also the point is the turning radius for the driveway here, we have the site plan. So if we pulled, if we pulled the building back another six or seven feet to make it compliant, you would have a driveway. Then you wouldn't be able to really turn.

TAD HEUER: I understand.

ATTORNEY SEAN HOPE: So part of this is to keep it consistency and allow for a safe driveway into these two parking spaces. So even shifting the building all the way over, wouldn't really allow -- it's not impossible, but I don't think you would have a functional unit at that point.

PETER QUINN: Right. I've worked on projects where we've had to comply with the letter of that law. In other words, we have a non-conforming structure, we're making it less non-conforming, and therefore, we essentially keep that existing building there and build a new one inside of it, if you will, and then eventually take away. So, you know, there are ways to theoretically conform to it, but it's impractical.

TAD HEUER: Can you walk me through the, what the rear unit three looks like versus what you're replacing the existing carriage house?

PETER QUINN: Yeah, sure.

The carriage house, in the drawings there are some existing elevations of the plans.

TAD HEUER: That's fine.

PETER QUINN: In any case, let's see. I'm not sure I can answer that question exactly.

TAD HEUER: That's fine.

PETER QUINN: This is the existing. It's really garages. It's not quite correct to call it carriage house, but it's got a full story with a three-bay garage. And see if I can find the existing EC-1.

Three-bay garage, and then above is the loft space. And we have some pictures of that, you can see it.

Now keep in mind the back side of that is really right on the rear property line. And for us to even conceive of developing that, you know, in many cases it can take a

carriage house like this and have some flexibility. We, you know, wouldn't be able to get windows on the rear. We wouldn't really be able to do much at all with this side here. This is just a small passage. So we basically would have a very difficult time to try to turn that into any kind of liveable residence.

TAD HEUER: And are you keeping any of the elements of that carriage house or are you just doing something in the style of the main house?

PETER QUINN: In the style, yeah. In the style. You know, we kept the orientation of the roof the same. You know, in case we have a shed dormer. It's moved forward.

CONSTANTINE ALEXANDER: Nothing stylistic about that carriage house.

PETER QUINN: I don't think so.

BRENDAN SULLIVAN: And there's

nothing worth saving. Nothing salvageable.

PETER QUINN: Its interior is a dirt floor.

So we've kept the slope approximately the same. It is -- our building is about five feet higher than that ridge, but that's as low as we could get.

BEN ROGAN: It was at one point about nine feet higher and that was one of the things that we've -- the major components that we adjusted with with our neighbors and so on was to get that roof down as low as we could. We eliminated liveable space. We had a bedroom up on that third floor. It was a three-story structure initially, and so we deleted that from the program and reduced the height of the roof by about four and a half or five feet.

TAD HEUER: So essentially this is the reverse of the project that Guy Assif is doing up on Avon Hill; right?

ATTORNEY SEAN HOPE: Yes.

BEN ROGAN: Only this will be nicer.

ATTORNEY SEAN HOPE: It's the architect.

TAD HEUER: You don't have to cut-off the top of your roof? Okay.

BRENDAN SULLIVAN: Tim, any questions?

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: None.

BRENDAN SULLIVAN: Okay, let me open it to public comment.

Is there anybody here who would like to speak on the matter of 14 Dana Street?

DOUGLAS BOND: Hi. I'm Douglas Bond. I'm Chairman of the Board of the Dana Street Condo Association. And just briefly, I'm pleased that we've been able to work well with this group and to -- not only myself, but other owners have provided input in terms of

permit or fence and so on that I think would be quite suitable, and looking forward to it.

BRENDAN SULLIVAN: Ms. Morrissey.

PEGGY MORRISSEY: I'm Peggy Morrissey. I live at 340 Harvard Street which is the abutter at the rear. And we are totally, totally pleased to see all the raccoons, the rats, and everything else that has been living there for years just vanish out of our neighborhood. And we've had several conversations with these developers and we're very happy and give them our blessing.

BRENDAN SULLIVAN: Great, thank you. Anybody else wish to comment on the matter?

(No Response.)

BRENDAN SULLIVAN: I see none. There is correspondence on the Mid Cambridge Conservation District Commission.

(Reading) Mid Cambridge Neighborhood

Conservation District hereby certifies pursuant to title, chapter, article, section of the code of the city that the Commission is -- that the construction described below is not incongruence to the historic aspects or architectural character of the building or districts. And in fact, approves of the plans. And makes some comments which have been incorporated into the drawings, and the plans which are before us. And they have a Certificate of Appropriateness, which is dated September 21, 2011.

Okay. Anything else to add?

ATTORNEY SEAN HOPE: No, that's it.

BRENDAN SULLIVAN: Anything else to add? Gus?

CONSTANTINE ALEXANDER: I'm in favor of it.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I'm in favor. I had a big concern about the intrusion of the rear

yard setback, a demo and then a rebuild, but I understand Mid Cambridge's point and Attorney Hope's point that the demolition would not likely have been approved by Mid Cambridge were it not wired to this construction of the new structure and I think it certainly improves the neighborhood.

BRENDAN SULLIVAN: Okay.

Tim.

TIMOTHY HUGHES: I'm good with it.

BRENDAN SULLIVAN: Doug?

DOUGLAS MYERS: My only concern is that the rats and raccoons may migrate in the direction of Trowbridge Street. I'm in favor.

BRENDAN SULLIVAN: Direct them elsewhere?

Let me make a motion, then, to grant the relief requested.

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

Ordinance would involve a substantial hardship to the Petitioner because of the non-conforming side and rear yard setbacks are such and also predate the existing Zoning Ordinance. That any change in these wall planes would require any relief.

The Board finds that the existing structures are in great disrepair, and that the granting of this proposed relief would allow the Petitioner to improve the non-conforming side to the rear yard setback violations as well as approve the integrity and the aesthetics of both wall planes.

The Board also notes the Letter of Appropriateness of the Mid Cambridge Neighborhood Conservation District on the project.

The hardship is owing to the shape of the lot and the positioning of the existing structures thereon which predates the existing Zoning Ordinance, and the current

hardship, which the proposed renovation, much needed renovation, would require some relief.

The Board finds that 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 or purpose of the Ordinance.

All those in favor of the granting the Variance as per the plans submitted?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

BRENDAN SULLIVAN: On the Special Permit to -- and those are all somewhat highlighted, Mr. Quinn, as far the relocation of the windows; is that correct?

PETER QUINN: It's modification of the pre-existing non-conforming building.

BRENDAN SULLIVAN: Additional relocation of windows and the additional landscaping. That's not part of our thing.

ATTORNEY SEAN HOPE: It says the structure's reconstructed directly not be relocated. Additional new windows because it's a new wall plane.

BRENDAN SULLIVAN: Okay.

PETER QUINN: So just the plans.

ATTORNEY SEAN HOPE: Yes.

BRENDAN SULLIVAN: I make a motion to grant the Special Permit.

The Board finds that the requirements of the Ordinance will be met.

That the overall site will be vastly improved. The exterior and landscaping are consistent with the existing neighborhood character.

That the Board finds that traffic generated or patterns of access or egress would not cause congestion, hazard or

substantial change in the established neighborhood character.

What is the existing parking on the lot?
How many cars?

ATTORNEY SEAN HOPE: Four to five at one time.

BRENDAN SULLIVAN: The Board finds that there is a reduction in the amount of parked vehicles on the site which will allow for more open space is being added, and that the patterns of traffic and congestion will be improved.

The Board finds that continued operation of or development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use.

And that there would not be any nuisance or hazard created to the detriment or the health, safety or welfare of the occupants of the proposed use or to the citizens of the

city.

All those in favor of the granting the
Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes,
Heuer, Myers.)

(9:55 p.m.)

(Sitting Members: Brendan Sullivan,
Constantine Alexander, Timothy Hughes, Tad
Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will
hear case No. 10156, 65 Stearns Street.

Introduce yourself for the record,
please, spell your last name for the record
and tell us what you would like to do.

MARTHA BARGMANN: Okay. My name is
Martha Bargmann. Let me spell the last name
B-a-r-g-m-a-n-n. And I am asking for a
Variance for building a deck. The Variance
is for relief from a setback. Setback is

four and a half feet now. The deck is the planned deck is four-nine. Nine inches above the allowance, but in order to be in alignment with the dining room door, the size of the deck is nine-twelve. And the remaining yard is 49 feet by 36 feet. So the relative size is fairly small. And it's a corner lot. And it's not imposing on privacy of the abutters and the abutters are supportive. I think I included just the neighbor's signing saying that they supported that. And then this is just an extra letter from a neighbor who wanted to be here but couldn't be.

BRENDAN SULLIVAN: Okay. Was there is somewhat of a plan, is there not?

DOUGLAS MYERS: It was a very small plan. I wanted to ask.

TIMOTHY HUGHES: Was it like that?

BRENDAN SULLIVAN: No.

TIMOTHY HUGHES: It was smaller than

that?

DOUGLAS MYERS: Yes.

BRENDAN SULLIVAN: Is it coming off the house?

MARTHA BARGMANN: Yes.

BRENDAN SULLIVAN: That's staying?

MARTHA BARGMANN: Yes.

BRENDAN SULLIVAN: That's staying?

MARTHA BARGMANN: Yes.

BRENDAN SULLIVAN: And then you're basically going to in-fill this area here?

MARTHA BARGMANN: That's correct.

BRENDAN SULLIVAN: You're going to turn this window into a door?

MARTHA BARGMANN: That's correct.

BRENDAN SULLIVAN: And you're going to come into the backyard?

MARTHA BARGMANN: Uh-huh.

TAD HEUER: How high up is five-foot nine on this?

MARTHA BARGMANN: It should be right

up to there, yeah.

CONSTANTINE ALEXANDER: And you're raising it because you want to eliminate steps from the dining room on the deck?

MARTHA BARGMANN: That's correct.

CONSTANTINE ALEXANDER: And if you didn't raise it, if you put it on the ground, would it need Zoning relief?

BRENDAN SULLIVAN: If it's within a setback, any deck, the two components; one, it would have to be -- as of right, it would have to be within the side yard requirement, rear yard requirement, and it cannot exceed more than 48 inches above the meeting grade. So if you're higher and wider, then it triggers relief.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: And the existing back stoop or back porch is probably four feet or greater off the grade.

TAD HEUER: This is a silly

question, but I presume the layout prevents you from putting the deck on the other side?

MARTHA BARGMANN: Yes, it does.

BRENDAN SULLIVAN: This is a kitchen window?

MARTHA BARGMANN: It's a kitchen.

DOUGLAS MYERS: And what is your understanding of the hardship involved?

MARTHA BARGMANN: The hardship involved was -- let's see. So what I was doing is keeping it alignment with the house so that I could have these doors off of the dining room and keep it level. And then also just using the space, the 9 by 12, just creating that space off of that side of the house.

CONSTANTINE ALEXANDER: You needed additional living space which a deck provides of sort, additional living space, that's your hardship giving the size of the house. And because of the location of the house on the

lot, you need Zoning relief because you're -- this additional living space is going to be in the setback.

MARTHA BARGMANN: Okay.

TAD HEUER: Well, doesn't it (inaudible).

CONSTANTINE ALEXANDER: It does.

TAD HEUER: It's too high.

CONSTANTINE ALEXANDER: I know it's too high, but the fact that it's down on the ground --

BRENDAN SULLIVAN: It's within the --

TAD HEUER: Is it -- so you're four-nine between grade and the deck, is that going to be this kind of lattice stuff?

MARTHA BARGMANN: Yes.

TAD HEUER: How tall is that chain link?

MARTHA BARGMANN: The chain link, how tall is that? I would say the chain link

is about four and a half.

TAD HEUER: So your deck is going to exceed the height of your side fence?

MARTHA BARGMANN: Yes, it would.

BRENDAN SULLIVAN: Well, the --

MARTHA BARGMANN: The floor of the deck?

TAD HEUER: Yes.

MARTHA BARGMANN: Yeah, maybe about -- no? It's below. Because you can't see it from this little alley.

BRENDAN SULLIVAN: I suspect that your sill line of the house is probably along here. That you're probably going to come off of that at this level here. The fence is up in here.

MARTHA BARGMANN: Right.

BRENDAN SULLIVAN: So I would suspect it's probably a five-foot fence.

MARTHA BARGMANN: Right. Because I'm five-foot, six.

BRENDAN SULLIVAN: And that would be probably four to six inches below that.

TAD HEUER: Four to six inches?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Or furniture sitting on the deck, it will be visible from the public way.

BRENDAN SULLIVAN: That's correct.

CONSTANTINE ALEXANDER: It doesn't trouble me, but I think that's my observation.

BRENDAN SULLIVAN: Yes, that's correct.

CONSTANTINE ALEXANDER: If you're worried about privacy or visual impact, it will have a visual impact by having a four-foot, nine deck.

BRENDAN SULLIVAN: Somewhat.

CONSTANTINE ALEXANDER: Yes, somewhat. Not that bad.

BRENDAN SULLIVAN: Okay. Any

questions at this point?

Tim?

TIMOTHY HUGHES: No, I don't have any questions.

BRENDAN SULLIVAN: Doug, any further questions?

DOUGLAS MYERS: No further questions.

BRENDAN SULLIVAN: Is there anybody here wishing to speak on the matter 65 Stearns Street?

Yes, introduce yourself.

PAULA CORTEZ: Paula Cortez, 25 Newell Street and I'm a neighbor and I fully support what Martha's trying to do. And I sort of represent the rest of the neighbors that signed the petition again in support of the project.

CONSTANTINE ALEXANDER: Thank you.

PAULA CORTEZ: And as far as visibility goes, it's a little alleyway.

And across that there's about an eight-foot fence of the neighbors, so they're sort of screened. And then on the other side there's that long setback to the rest of the other houses. So -- and also it's the existing plantings all along your property edge as well. So it's, it is a nice little screen as it is now and will continue to be.

BRENDAN SULLIVAN: Thank you.

There is correspondence, an application for Variance supporting statement, a petition. (Reading) We, Ms. Bargmann's neighbors support her building a nine by twelve deck, four-foot, nine in height. It does not impose on our privacy. The property is a corner lot, and the deck will be along the side street side of the lot which is not adjacent to our properties. There is plenty of natural screening, shrubs and trees as well as fencing. The views to and from our

properties will be minimal. Signed resident at 55 Stearns Street, 60 Stearns Street, 24 Newell Street, 1416 Newell Street, 218-220 Walden Street and No. 20 Newell Street.

And that is the sum of the correspondence.

Okay. Gus, what is your take?

CONSTANTINE ALEXANDER: I'm in favor. I see no problems.

BRENDAN SULLIVAN: Tad?

TAD HEUER: I'm kind of troubled with it. I think it's a bit high coming off of where it is. It's abutting the street even though it is a side. And it is an alley type street, but it is a public way and that traversable street. I think I'd probably prefer that the existing rear exit way be blown out on both sides and have the steps down to a slightly shorter deck, but you can do by right in terms of height and setback and lower to the street.

BRENDAN SULLIVAN: Okay. Tim,
what's your take on it?

TIMOTHY HUGHES: I'm good with it.

DOUGLAS MYERS: It's not a slam dunk
in my opinion. The intrusion into the
setback is substantial and introduces a new
non-conformity, but on the whole I think
weighing the case for a Variance and it's well
within, I think, the parameters of a hardship
and hardship criteria so I would vote in
favor.

BRENDAN SULLIVAN: I guess it's
probably --

DOUGLAS MYERS: And I'm
also -- excuse me. And I give weight to the
testimony of the neighbors about privacy and
the fact that it does not seem, the visual
intrusion does not seem to be severe or
particularly noticeable.

BRENDAN SULLIVAN: Okay.

I suspect that this problem area

probably does not get used as much as it could. And if you were to build this deck, that you would probably use that outdoor space quite frequently. In other words, it would be, I think, obviously you're doing that because it's going to be amenity to you. But you're really capturing, I think, much more usable space with the deck outside of the dining room than, you know, going outside and sitting here. I mean, it's -- I think that's probably your intention to do this the whole time. And so it's a nice spot actually. So I would support it.

Usually we would require a little bit more of a drawing. And I think what I may do is to ask before I sign the decision, that we do sort of get an elevation of exactly the materials and what it's going to look like. And the reason being is that because the Building Inspector is going to need something to look at and to see what we approved. So

that, I would ask that -- I mean, I make a motion that I would vote for this tonight, but I would like to see what the railing material is going to be and also what the enclosure underneath is going to be. You mentioned lattice work. But I would like to see what the railing is going to be. I would like to see it a little more traditional looking.

Now my other thought is you have a door underneath this, which obviously gets into your basement.

MARTHA BARGMANN: Yes.

BRENDAN SULLIVAN: So there's going to be a space underneath this to get in there?

MARTHA BARGMANN: Yes.

BRENDAN SULLIVAN: So I would like to see some elevation some plan of what it's going to look like visually before I sign the decision.

MARTHA BARGMANN: Okay.

BRENDAN SULLIVAN: Let me make a

motion to grant the relief requested for the constructing of a nine by twelve deck off the back of the existing house 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 the Petitioner from gaining some much desirable usable space, and the location of the deck and the height of the ground is necessitated by ease of accessibility to wit from inside the property albeit the dining room.

The Board finds that the hardship is owing to the non-conforming nature of the existing house and the siting of the house which predates the existing Ordinance. And any alteration, addition of this nature, which the Board finds is fair and reasonable would require relief from this Board.

The Board finds that 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. And the Board notes the letters of support from the immediate abutters.

The Board grants this Petition on the condition that the Petitioner does furnish a more detailed drawing elevations of the proposed deck.

All those in favor of granting the relief?

(Show of hands).

BRENDAN SULLIVAN: Four in favor.

(Sullivan, Alexander, Hughes, Myers.)

BRENDAN SULLIVAN: And one opposed.

(Heuer.)

TAD HEUER: I think it's too high. And the setback it creates is a not a

substantial hardship. And it would allow the Petitioner to have equal access to adverse space without derogating from the intent or purpose of the Ordinance.

BRENDAN SULLIVAN: All right, thank you.

Make sure you do get that in to us, though. And you can call Sean to setup some type of transfer if you would.

Thank you.

MARTHA BARGMANN: You.

(10:10 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: The Board will hear case No. 10157, 23-25 Haskell Street.

Okay, if you would introduce yourself for the record. Please spell your last name and tell us what you'd like to do.

LUKE BEGLEY: My name is Luke Begley, B-e-g-l-e-y. And this is my wife Rachelle. And what we are applying for is permission to build a dormer on the third floor of our residence. What we currently live in is what amounts to a two-bedroom, one

bathroom residence within the upstairs. It's treated as sort of attic space. It's not entirely useful. With the ability -- with this dormer we believe that it will be much more usable space and convert to more three and a half bedroom to four bedroom residence with an additional bathroom.

BRENDAN SULLIVAN: Is it a condo?

RACHELLE BEGLEY: Two-family.

BRENDAN SULLIVAN: I'm sorry, it's a --

LUKE BEGLEY: Two-family.

BRENDAN SULLIVAN: It's a two-family. And you live on the second unit?

LUKE BEGLEY: Yes.

CONSTANTINE ALEXANDER: Are you aware of our dormer guidelines?

LUKE BEGLEY: Yes.

CONSTANTINE ALEXANDER: And can you explain why you want to build a dormer that

doesn't comply with our dormer guidelines?

LUKE BEGLEY: Are you referring to the width or the length?

CONSTANTINE ALEXANDER: Length.

LUKE BEGLEY: Our architect and our contractor are agreement with us that with the -- we have two chimneys in the house, and with the slopes of the roof on both sides of the house, it appears like as if there's more living space than there really is. So with the two chimneys being in the middle of the room, one in the middle of the room and one in the middle of the two rooms in that stairwell, there really is not that liveable space. And if we were to cut down from that 16-foot, nine-inch size down to 15-foot that you guys have in your guideline, it would also limit -- we don't have any closet space in the rest of our house. They're all roughly one-foot deep and we're hoping to, that additional one-foot, nine-inches goes from

having an additional upstairs closet to one-foot deep to close to three-feet deep. That was our motivation.

CONSTANTINE ALEXANDER: You could get the additional closet space by reducing the size of the room. But you're not talking about a lot of additional -- loss of additional space if you -- I'm missing something. The dormer guidelines -- the problem with the dormer -- not the problem. The dormer guidelines are designed to minimize the aesthetic impact, the visual impact on the community on a structure that's going to be too big from the gross floor area. And so, you know, usually we would hear, if we allow it, the dormer being not in compliance with the dormer guidelines because of head space issues or stairwell issues, and you have no choice. What I'm sort of hearing is that you do have a choice, you don't like the choice that you have to

make. Maybe I'm wrong. Correct me if I'm wrong.

RACHELLE BEGLEY: Well, I think that part of the problem is that there's a window in the back of the house. And we don't want to put the closet on that side because essentially we'll lose that window. So we need to put the closet basically next to the stairwell and then the amount of space, because of where the chimney is, it becomes a very awkward space to try to fit a bathroom in there given the place where the chimney is in the stairwell.

TAD HEUER: So, I have similar concerns. Not only the length but also that it goes into the side wall, the dormer guidelines also say it shouldn't be done. But also that you picked a shed dormer. When I look at that neighborhood, the way those houses are built, they're kind of cross or semi-cross construction; right? You've got

a gable dormer that goes into a gable roof. And with the exception of I know one house on Haskell that has a shed. It's a very small shed. It's down by Mass. Ave. It's maybe a six-foot shed. And anyway not counting the grotesque, monstrosities behind you on Rindgefield, no one else has shed dormers actually. It's actually not a feature of that neighborhood at all. Everyone has gable dormers. They have big oversize gable dormers on one side. And sometimes there's houses further up the street that have smaller gable dormers along the roof. But no one actually has a shed dormer in the neighborhood.

RACHELLE BEGLEY: I think there's a shed dormer on Rindge right -- which we can see right from --

TAD HEUER: There's one right around the corner.

RACHELLE BEGLEY: Yeah.

TAD HEUER: Maybe the corner lot, between Rindge and Haskell?

RACHELLE BEGLEY: Yeah, we can see it right from our front window. Yeah. And there is at least one over on Yorkshire and what's the name of that other street?

TAD HEUER: And then you start getting pretty far away, and those houses don't actually look a lot like your house. I mean they exist in the general vicinity, but not -- I mean, Haskell Street was I think built pretty much around the same time and all the same style and people generally tend to be, when they, you know, have done extra space, they haven't done the shed, they have done gables based on six, one half dozen of the other. But, you know, it's something that I personally think is important that you've got a neighborhood that's maintained it's architectural integrity fairly well over the course of some odd years. And shed

dormers is something that you see on the house behind you on Rindgefield, it's awful. I wouldn't say that this looks like that, but it's something I would be weary of. I'd be interested to see if you get the same result, you know, perhaps losing a foot somewhere and also with your gable structure and have the advantage of perhaps being able to make a case for an oversized gabled surface and just wall through maybe, I don't know. But that's kind of my thought. It's kind of the wrong size also kind of the wrong shape for where you are.

RACHELLE BEGLEY: I think with the gable, though, we would still have -- you know, we would have a limited head space. And what we're trying to do is make -- there's two rooms on the third floor; one is larger and the other is smaller in terms of size. What we're trying to do is put the bathroom into the line of the house (inaudible)

bedroom in a master suite so we maintain a four-bedroom house with two bathrooms. You're right, we could make the smaller room on the third floor a huge bathroom, but it is not really the desired affect. We'd like to maintain a four-bedroom house.

LUKE BEGLEY: Plus the cost of extending the plumbing all the way across, it wouldn't allow us to do it.

RACHELLE BEGLEY: Yeah, that's the other thing, the location of the bathroom where we were intending to put it is directly below the bathroom which is on the second floor which is directly below the bathroom on the first floor. And so it's just a straight shot up for the plumbing. Regarding the plumbing, we had renovations done last year on the second floor bathroom.

TAD HEUER: You have a full bath on the second floor; right?

RACHELLE BEGLEY: Yeah.

TAD HEUER: So I mean, when I look at your plan, you know, you've got the, you know, you've got the clawfoot tub and the separate shower. I mean, yes, that's ideal and great and, you know, that's what everyone thinks that's all you want in a bathroom. Obviously there are houses that deal with very large tubs that combines the shower, that's very nice. That's an easy way to get inches. I mean, there are other kinds of things --

LUKE BEGLEY: I don't want to appear that we're being luxurious here.

TAD HEUER: No, no, no.

LUKE BEGLEY: That clawfoot tub was actually a gift by a -- it's a gift from a friend, you know. It's not like we're going out and shopping for a high end, you know --

TAD HEUER: Oh sure. All I'm saying is you can get the functionality of a master suite with things that don't, they don't have a separate for each. And you combine the

functionality you get space back. There are ways to get the functionality that you want up there, I think, without necessarily the proposal that you've given us. Which I understand why you're doing it. And you're just hearing a bit of feedback in terms of looking at what the neighborhood is like and how those changes affect the neighborhood and not just the interior or exterior. You can put your bathroom pretty much wherever you want as far as we're concerned as long as it doesn't have a measurable impact on the exterior appearance. So those are my thoughts.

BRENDAN SULLIVAN: I think actually this thing could give you, you could access the closet this way here. And I don't know, it just seems like the whole thing could be reworked so that it can shrink. You know, there are three aspects of the dormer guidelines that it's not compliant. One is

pulling in from the edge of the roof. The other one is the length. And the other one is coming off of the plane of the house. In other words, going back up one-foot, six from the plane of the house to the front of that which can sometimes be problematical because it makes that wall come in, pushes everything that way and then you've got plumbing to go back down again. You know, it chases and everything.

But anyhow, there are three of the four aspects of the dormer guidelines that it does not comply with. And there's Mr. Hughes always says, they are guidelines and they're not binding.

TIMOTHY HUGHES: Especially the one over the side wall. I think the intent there is not to interrupt the eave. And if you have a continuous eave structurally, it makes more sense.

BRENDAN SULLIVAN: Well, it becomes

a little more challenging.

TIMOTHY HUGHES: It's trickier and it's more expensive to pull it back.

TAD HEUER: I agree. I think in this situation they actually have a better case than most because, you know, you cross through with the oversized gable dormer. And that works better for the neighborhood. I would actually be willing to give on the dormer guideline as to the soffit if it were that type of a -- if it were something that was compatible to say the other side of the house almost. I mean, that makes sense because that's the way of the rest of the houses in neighborhood are built. But that's what we're being presented with.

TIMOTHY HUGHES: I had kind of an initial reaction to the shed -- and the gable on one side and the shed on the other side. And I didn't look at it close enough to figure out whether or not if you did the gable on that

side, would that interrupt? Because the staircase is all the way over to one side. And I was wondering if you could, if the gable would have come down and cut into the headroom of the staircase on that side?

TAD HEUER: No, because you've got the closet and shorten up your -- maybe it does.

TIMOTHY HUGHES: Yes. I'm not sure. I didn't do the math in terms of that. I think you're right about stylistic. The gable would look better.

TAD HEUER: If you trim on to the edge of that closet, but I don't think you get to the stair.

TIMOTHY HUGHES: No.

RACHELLE BEGLEY: If you trim it to the closet as well as to the windows side of the room; right?

TIMOTHY HUGHES: Oh, I see, yes.

TAD HEUER: Yes, you would have less

of the window space if you did.

TIMOTHY HUGHES: I mean, the stairwell is coming up underneath this? The center gable.

TAD HEUER: No, no, next to it I think.

BRENDAN SULLIVAN: I think the stairwell is next to it.

TIMOTHY HUGHES: So then it must be more towards the center of the house to have enough headroom to get up the stairs then, and without putting the dormer over the stairs. But if you get up over the stairs without putting a dormer over, you can eventually do a gable.

BRENDAN SULLIVAN: It's a full access stairwell. And then you run into the roof line coming in different.

TIMOTHY HUGHES: Right.

BRENDAN SULLIVAN: I guess that we're saying is that the shed doesn't really

fit the house. I mean, it's probably the easiest, simplest way of putting a dormer up there, but it doesn't fit the architecture of the house. And I'm somewhat hesitant to approve it because it just seems -- it doesn't fit. It just doesn't look right. I'm not sure if that even the layout cannot be reworked somehow.

LUKE BEGLEY: I would invite anybody to come over and try it. There's not as much headroom there as appears.

BRENDAN SULLIVAN: I mean, who did it, Concord Lumber did it?

RACHELLE BEGLEY: Yeah.

BRENDAN SULLIVAN: I mean, you know, they just go on the computer type thing and they just crank these things out and what have you.

RACHELLE BEGLEY: It's the chimney that kills us.

LUKE BEGLEY: There's one in the

middle of the room and one in the middle of the two rooms.

BRENDAN SULLIVAN: Listen, I don't doubt it.

DOUGLAS MYERS: It's not that we lack sympathy but it really does seem to be unanimous sentiment that modifications need to be done.

BRENDAN SULLIVAN: Let me open it to public comments.

Is there anybody here who wishes to speak on the matter 23-25 Haskell Street?

(No Response.)

BRENDAN SULLIVAN: I see none.

Have you spoken to your neighbors? Are there any letters of support at all?

RACHELLE BEGLEY: No.

LUKE BEGLEY: Just letters of support from the architect and the surveyor.

RACHELLE BEGLEY: We had a baby by accident in the middle of the project.

BRENDAN SULLIVAN: It's a two-family. Do you own the whole two-family?

RACHELLE BEGLEY: Yeah.

BRENDAN SULLIVAN: All right. So you have a tenant on the first floor, you're on the second floor, and need to make the third floor work better for you.

RACHELLE BEGLEY: Yeah, I mean, the house was in disrepair when we bought it. There's really no heat on the third floor. It works sporadically. So we need to do a project of some sort and we're going to make it financially -- it makes sense for us, you know, we want to do what we want to do, including old heating and updating the electric. Currently we don't use the third floor at all. So like my husband said, we're living in a two-bedroom apartment with one bathroom.

CONSTANTINE ALEXANDER: What you're

hearing is the general support for what you want to do, but the solution that you presented to us is not ideal particularly given the fact that that the dormer guidelines. You have to go back, speaking only for myself, go back and rethink this project. I don't think you're getting any cold water, no way, no how.

LUKE BEGLEY: Can I ask is the most important issue style of the dormer that seems to be the unanimous feeling?

CONSTANTINE ALEXANDER: I think the gable is a much better solution. Again, speaking for myself, I think the gable's a much better solution. And I'm willing to part from the dormer guidelines with the gable.

RACHELLE BEGLEY: If we were to do the gable, I mean, I'm not an architect by any means, but by virtue of being a gable wouldn't it necessarily be smaller and therefore --

BRENDAN SULLIVAN: No.

TAD HEUER: No. And that's what I was saying, because you've got this strange place, and type of architecture on your street where your dormers actually if you think about it, so on the right -- so here. You've got this, essentially a dormer; right?

RACHELLE BEGLEY: Right.

TAD HEUER: That's not a common dormer. A common dormer would be something you would see on Harvard Square.

RACHELLE BEGLEY: Yeah, right.

TAD HEUER: Tiny little dormer tucked in, comes off the ridge line so it's shorter than the height of the building and comes in from the side wall and has a window in it. Here, in the architecture of these houses, is these kind of huge oversized dormers that when you look at the top, fit on the top and cross shape; right?

RACHELLE BEGLEY: Yeah.

TAD HEUER: Verse out, east, west and then you've got four gables pointing in two in each direction. Two long and two short.

I'm if looking something like that, it probably gives you a bit more, could give you a bit more space because I think as Gus has said, I think I'd agree and I'd be a bit more lenient on the dormer guidelines if it's something that matches the architecture and it's something that doesn't appear anywhere else in the vicinity except in really bad examples like the one on Rindgefield. But my concern is introducing a foreign species of dormer into this neighborhood where you've got a pretty good sense, I would be more willing to, and particularly because you've got a tradition of these oversized dormers, to be a bit more forgiving on things like the length, things like the depth. If you can show me that they all go into the ridge like

this one does, maybe --

RACHELLE BEGLEY: So if we were to put that basically on the other side of the house.

TAD HEUER: Or something like that, you know. Go to, you know, I don't know if Concord Lumber will -- it may be beyond their desire.

RACHELLE BEGLEY: Hard to achieve?

TIMOTHY HUGHES: It may not be in their skill set.

TAD HEUER: But it's certainly within the skill set of many folks who come before us.

RACHELLE BEGLEY: Yeah.

BRENDAN SULLIVAN: Just something that would look a little bit more and blend in a little bit better. So it just doesn't look like something got stuck up there, you know. It's a very big. But it's really just and all the years I've sat here, I ride around

the city and I look at all my mistakes. And just like oh, that looks awful. It just looks awful. And, you know, we take very seriously the aesthetic value of what we approve. And --

TAD HEUER: As you're coming around that corner, Haskell that is that's a pretty open sided structure to anyone coming in around that point out towards Mass. Ave.

BRENDAN SULLIVAN: So I think what you're hearing is that if you could --

RACHELLE BEGLEY: We're on the far side of Haskell.

BRENDAN SULLIVAN: Just what we're saying is basically if you go back to them and just saying the shed dormer just doesn't work for us, you know, and what are our alternatives? Something that like. Just, and you can take pictures of some of the other houses on the street or something like that and say we want something that makes it looks

like it belonged there. Like it would have been built with the house as opposed to something that's just stuck up there.

Now there's going to be obviously a conflict between ease of building, dollars and cents, and what have you, but it needs to go up another level than this actually. We're in full sympathy of your wanting to do something there, but just something that --

TIMOTHY HUGHES: I think ultimately you're going to be happier with the house in the long run in terms of resale value, too, if you do this right the first time.

RACHELLE BEGLEY: Sure.

LUKE BEGLEY: Is it okay to -- these are a couple houses that are in the neighborhood. I don't know if you guys are looking at something more along the lines of that?

BRENDAN SULLIVAN: It's not what I was thinking of. These may have been some of

my mistakes.

DOUGLAS MYERS: And the shed dormers.

LUKE BEGLEY: Is this -- this is one of the same houses. And I think that's over on Yorkshire around the corner from us.

TAD HEUER: You've got examples of -- shed dormers is wider than it is. The gable is more peaked.

BRENDAN SULLIVAN: Yes. Basically this is what you're doing there. It just doesn't look right.

So I guess I would ask for myself, and that maybe you could just take some of the comments here, go back and try to rework it to the best of ability and come back with something else. That's all. Or you may very well come back and just say no, that's what we want to do. That's what we can afford to do. That's what we need to do. I don't know. But I'm not comfortable approving. I

think we told you, can you do a little bit better.

Does everybody concur with that?

CONSTANTINE ALEXANDER: Yes, absolutely.

RACHELLE BEGLEY: And from a cost perspective if it turns out that, you know, doing a similar gable dormer on the other side winds up being, you know, X times more expensive than doing a shed dormer we simply can't afford it. Does that give us any leeway?

BRENDAN SULLIVAN: Well, you have to come back with that information.

RACHELLE BEGLEY: Okay.

DOUGLAS MYERS: We will consider it.

BRENDAN SULLIVAN: I think you need to go through that exercise. Okay?

Sean, the end of October?

CONSTANTINE ALEXANDER: This is a case heard.

BRENDAN SULLIVAN: How long do you think it will -- this is the end of September.

LUKE BEGLEY: We'll have to check with the architect and see about the turnaround on the design.

TAD HEUER: It's more on us. Unless you have a really slow architect, it will be done before we're ready.

BRENDAN SULLIVAN: First meeting in November? I'm back on the 25th.

SEAN O'GRADY: November 10th is the only November we have.

BRENDAN SULLIVAN: 11/10. That will work?

CONSTANTINE ALEXANDER: And that means you have to get these a couple days before November 10th as Brendan will point out. You have to get revised plans to us. The question is does that give you enough time to analyze it, revise, prepare revised plans if that's what you want to do?

LUKE BEGLEY: Is there like a cut-off date where we don't think we're going to be able to get those by we should inform you guys?

TAD HEUER: Oh, yeah, if you can't do it by that day and you just let us know whenever and say we're not going to be done by November 10th and we'll just push you to the next available date.

CONSTANTINE ALEXANDER: The only reason we ask if you know you can't do, you'll clutter up our calendar. If you think you can do it, fine. And if you don't make it, fine.

LUKE BEGLEY: Right. A lot of this is just depending on other people, too.

BRENDAN SULLIVAN: Yes, that's all right. I didn't want to push it off too much. We can always, again, extend it again. I didn't want you to be all of a sudden ready and then oh, my God, you know, we're not back

there for another month. I would rather have -- well, anyhow.

Let me make a motion to continue this matter to November 10, 2011, at seven p.m. on the condition that the Petitioner sign a waiver of statutory requirement for a hearing, and that you change the posting signs on your house to reflect the new date and time of November 10th.

RACHELLE BEGLEY: Change the sign?

BRENDAN SULLIVAN: Yes, change the sign. Cross it out and put the new date of November 10th.

CONSTANTINE ALEXANDER: Yes. Get a magic marker. Make sure you change the time as well as the date.

BRENDAN SULLIVAN: And also that on the condition that if there are any changes to the plans, that they be submitted to the Board -- to the Inspectional Services by five p.m. on the Monday prior to November 10th.

And also if there are any changes which result in a dimensional form change, any of the square footage or anything like that, that that form also be changed to reflect the new plans. Because we can't do this unless you change the drawings.

All those in favor of continuing the matter?

(Show of hands).

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(10:35 p.m.)

(Sitting Members: Brendan Sullivan, Constantine Alexander, Timothy Hughes, Tad Heuer, Douglas Myers.)

BRENDAN SULLIVAN: 16 Garden.

RICHARD HARDUWAY: Good evening.

BRENDAN SULLIVAN: Good evening.

If you would introduce yourself for the record and please spell your last name for the record.

RICHARD HARDAUAY: I am Richard Hardauay, H-a-r-d-a-u-a-y, architect.

MICHAEL GULESERIAN: And my name is Michael Guleserian, G-u-l-e-s-e-r-i-a-n.

BRENDAN SULLIVAN: Okay.

Mr. Hardauay, if you briefly, I think we've all reviewed the file.

RICHARD HARDAUAY: I'll be very brief. I know it's late. Thank you very much for staying here this late.

BRENDAN SULLIVAN: This is early.

DOUGLAS MYERS: Plus we have no choice.

RICHARD HARDAUAY: What we would like to do is build a small vestibule on this corner of the hotel, the front, left corner of the hotel, which would replace what's there now. It's a fabric canopy on a metal frame sitting on a concrete slab. The slab appears to be a vestige from a similar vestibule that's been in this location in the past. We've found old photographs dating back to the thirties that showed it and it was there in the 1980 when I got married and because I had my reception at the hotel, and I remember it being there.

BRENDAN SULLIVAN: I remember it become there.

RICHARD HARDAUAY: Okay. At some point it disappeared and I can't tell you when.

Anyway, what we want to put there is a small structure, one story. It measures nine and a half by eleven and a half approximately. It has its gabled appearance on the two sides that face the public way. It has been approved by the Historical Commission.

The hardship to the hotel lies in the fact that it's really a very almost an untenable situation now where cold air blows in on the restaurant patrons in the wintertime. It's unsafe. We have this platform out there that's partially covered by the canopy, not completely. There's a step there which isn't a good thing. So when the snow and ice on the ground, it's a poor situation out, we'll bring it down to grade so that you have a walk in on level on grade

to the interior.

BRENDAN SULLIVAN: The entrance on Garden Street will be maintained or eliminated?

RICHARD HARDAUAY: That will be eliminated.

BRENDAN SULLIVAN: That will be eliminated.

RICHARD HARDAUAY: Yeah.

BRENDAN SULLIVAN: So the entrance will be --

RICHARD HARDAUAY: It's actually already been eliminated. The door is still there, but it's been sealed up and it's gonna be replaced with a window.

BRENDAN SULLIVAN: So the entrance from the lobby obviously will be maintained and this will be the main entrance from the outside.

RICHARD HARDAUAY: That's correct.

CONSTANTINE ALEXANDER: I have a

question. Why was this never done before? You've had restaurants there over the years on and off. It's just an obvious --

RICHARD HARDAUAY: Yeah, it's an obvious thing.

MICHAEL GULESPERIAN: Situation. You know, it was there years ago.

CONSTANTINE ALEXANDER: What was there?

MICHAEL GULESPERIAN: I don't know when or why it was removed. But in the restaurant that was before this one, the -- I guess that entryway was inside which took away floor space and also took away from -- when people walk by, I don't know if you guys have seen the old restaurant or the new restaurant, you actually couldn't see in because the structure inside this blocked your view.

CONSTANTINE ALEXANDER:
Absolutely.

MICHAEL GULESPERIAN: And now it's a beautiful view from the sidewalk. And now we just have that issue with the weather and the cold weather.

BRENDAN SULLIVAN: I think the restaurant was your dad and your uncle?

MICHAEL GULESERIAN: Yes.

DOUGLAS MYERS: How long has the new restaurant been there?

MICHAEL GULESERIAN: We opened at the end of April.

BRENDAN SULLIVAN: I think years ago I think it was their idea of maybe some updating. The canopy sort of came in vogue. That then became sort of a parking station for stuff like that. And I think the focus was the entry from the lobby more so from the street. I think that was the whole focus at that time. I don't know. I forget what the main reason was. But anyhow, I remember one being there and then I think in the

refurbishing of the outside of the building to be pointing everything else that sort of became a victim of it. They thought it was dated, and yet it was a much needed amenity, like you said, to access into the --

RICHARD HARDAUAY: He knows more about the building than you do.

MICHAEL GULESERIAN: I know. Where was this when we were doing the research?

BRENDAN SULLIVAN: Any questions at all, Gus?

TAD HEUER: I have a couple. So, I'm not the familiar with the interior of the restaurant now. You've got 40 square feet?

MICHAEL GULESERIAN: The building or the restaurant?

TAD HEUER: Building, building.

RICHARD HARDAUAY: Building area. What does it say on here?

131,000 square feet.

TAD HEUER: 131,000. That's for

your GFA?

RICHARD HARDAUAY: Pardon me?

TAD HEUER: That's your gross floor area?

RICHARD HARDAUAY: That's correct.

TAD HEUER: Your lot area is --

RICHARD HARDAUAY: No, that's the building area. The lot area is 34,000.

TAD HEUER: Right.

So you're at -- in some ways when I'm making this it sounds ridiculous. In other ways it all sounds ridiculous. You're at 3.8 in a 1.75 district.

RICHARD HARDAUAY: Correct.

TAD HEUER: So you're twice this allowable size. More than twice the allowable size?

RICHARD HARDAUAY: Correct.

TAD HEUER: Right?

On one hand you say another 112 feet isn't that big of a deal. On the other hand

don't we say we're twice the size, 38 can't you find 112 feet somewhere else to be content neutral? 112 feet? I mean yes, it's one one-thousandth of a percentage. But you're also two and a half times the size of an already generously-sized Zoning district; right?

RICHARD HARDAUAY: Well, it pre-existed the Zoning. And when it pre-existed this Zoning, it had this bump on it.

TAD HEUER: Right.

RICHARD HARDAUAY: But I mean, in answer to your question, yes, probably that's where footage could be found. But with the current configuration of the building, the way it would virtually have to be found is by taking seats out of the restaurant. So that's -- therein lies the hardship.

TAD HEUER: Right.

I mean, the second question about this

1926 structure, it's pre-existing non-conforming. And onto it you're essentially grafting and kind of -- I guess I'd like to you explain more in detail what this is. Because you don't see all 130,000 square feet of the building when you're walking by on Garden Street, but you will see this very small vestibule entry that I guess I'm kind of concerned will look a lot like a parking attendant's booth which I think is not a great addition to that area at all. There's no resemblance to the area at all. It's not as grand as the church. It's not as grand as the hotel. It's stuck in the lot. I guess I'm kind of worried about it, a very prominent intersection of Cambridge Common, two small little parking lot attendant looking booths popping up next to an area that is, you know, a national historic landmark on one side, church may be a national historic landmark on the other. And then you've got

the apartments across the street.

RICHARD HARDAUAY: Very good word by the way.

TAD HEUER: These kinds of things, if incongruence to this area. So I mean, either address that or, you know, in addition walk me through exactly what this is going to look like. I guess I'm not getting a sense in terms of materials.

RICHARD HARDAUAY: The hotel gets its name from George Washington, The Commander. The person who built it wasn't a fan of the George Washington. And if you look in the courtyard, when you enter the hotel, the facade there is a replication of the facade of Mount Vernon. And if you look further, you can see a bunch of gables up at the top that's the thing we used here. That, you know, yes, this is a brick building but it's got some accessories on it that have a more residential scale of the building with

gabled roofs. So, we were trying to pick up the design elements. We were trying to pick up was that we have these radiating bushwas -- and there's another word for your collection, coming out of these arches here. And we picked that theme up with the radiating lines down the stucco here and here as well.

The columns at the entrance, in that portico that I mentioned is a replication of Mount Vernon are the sign of those columns is again repeated in these columns here. And the same detailing, and same vocabulary and so forth. So, I didn't think of it as an alien element to the building.

TAD HEUER: So that in terms of actual finishes I'm looking at -- so you've got synthetic and you've got PVC trim.

RICHARD HARDAUAY: The PVC trim -- we're not talking about plastic siding on a building. You won't be able to tell this -- the PVC, Azek, I don't know if

you're familiar with it, it looks like it's wood. It's white.

BRENDAN SULLIVAN: It's maintenance free.

TAD HEUER: It is maintenance free.

RICHARD HARDAUAY: Yeah.

TAD HEUER: I guess part of my concern, not (inaudible) that's why I'm asking. Is to avoid something like this being attached to this structure looking like it doesn't belong to the structure either in terms of visual impact or in terms of quality materials because as you know it's at a very prominent corner.

RICHARD HARDAUAY: Well, I mean, the hotel has white windows and white trim. You know, the building is white wood. And, in fact, the columns at the entrance, although they appear to be wood, are actually concrete.

TAD HEUER: Right.

RICHARD HARDAUAY: But in any event, it doesn't matter. It's white. It's white. What you're looking at is white. And that's what you'll be looking at here.

TAD HEUER: Are those true divided panes?

RICHARD HARDAUAY: Yes.

No less the person. Charles Sullivan by the way thought this design was excellent.

BRENDAN SULLIVAN: And so it's of a sufficient size to accommodate people in inclement weather to wait for their vehicles.

MICHAEL GULESERIAN: That's the intention, yes.

BRENDAN SULLIVAN: It has to be a sufficient size to accommodate that. And also architecturally probably does work for where it is and for the building.

TIMOTHY HUGHES: How many Daniel Pinkwaters can you fit in this place?

BRENDAN SULLIVAN: Actually, the

two hotels, The Mandarin and The Continental.

CONSTANTINE ALEXANDER: The Continental, yes.

TAD HEUER: In terms of your parking attendants, just out of curiosity, do you have any plans making it look less parking now that you have this great design for your vestibule? The parking attendant's hut sticks out like a sore thumb, doesn't it?

MICHAEL GULESERIAN: The funny thing about that. There's actually a history behind that. Exactly, yeah. When we went to -- it's a little bit before my time. My father and my uncle, when they wanted to put a valet shack, for lack of a better word, we had to go before the Historic Commission. And it turns out that that hut, whether you like it or not, is modeled after Graham Gun's shack in Harvard Yard.

RICHARD HARDAUAY: But built as a small fraction of the cost.

DOUGLAS MYERS: It would not manifest the inferior in its appearance.

TIMOTHY HUGHES: Does that comment on the original or the replica.

MICHAEL GULESERIAN: Point well taken. You know, could it have been a little bit upgraded or what not? Possibly. We don't have any plans right now, but we're always looking to upgrade the area.

BRENDAN SULLIVAN: But once this goes in, if it goes in and it looks wonderful, it will make the other one scream at maybe something. Maybe.

TIMOTHY HUGHES: Or not.

TAD HEUER: I would suggest if Charlie Sullivan likes this proposal here and he compares it to the parking type that he has within 15 feet, he might be convinced that another structure more like this one would be more in keeping with the historical A lawn of the area (phonetic).

TIMOTHY HUGHES: You can put that bug in his ear, too, if you want to.

TAD HEUER: What about these folks right here, they have more of say on the property than I do. Charlie will listen to them. He won't listen to me.

BRENDAN SULLIVAN: Let me open it up to public comments. There is nobody in attendance.

There is correspondence from the Cambridge Historical Commission. (Reading) The property located at 16 Garden Street is in the Old Cambridge Historic District where exterior alterations are subject to review and approval. At a public hearing the Commission approved a Certificate of Appropriateness for the vestibule addition. And there is a letter of Appropriateness -- Certificate of Appropriateness with the comments and the description of some of the work which is in

compliance with the drawings that are before us. The drawings reflect this correspondence.

RICHARD HARDAUAY: The same drawings.

BRENDAN SULLIVAN: And with the directive that the work has been carried out as indicated on the plan elevations approved.

The approval was granted on the condition that the construction details of the vestibule, window, door, awnings, including color and stucco finishes be reviewed with and approved by the Executive Director of the Cambridge Historical. Be that as part of our conditions, also.

Anything else?

CONSTANTINE ALEXANDER: I am fine.

TIMOTHY HUGHES: I'm cool.

BRENDAN SULLIVAN: Anything else, Tad?

TAD HEUER: You don't plan on taking

down the sign, are you?

MICHAEL GULESERIAN: Which one?

TAD HEUER: The big one.

MICHAEL GULESERIAN: No, we replaced it.

TAD HEUER: I know.

MICHAEL GULESERIAN: No, we like that sign. Wait, you want us to change it, or you like it?

CONSTANTINE ALEXANDER: It's a little large.

TAD HEUER: It's a little large. I wouldn't say it's quite in the Citgo mode.

MICHAEL GULESERIAN: The roof sign or the one on the side?

CONSTANTINE ALEXANDER: The roof sign.

MICHAEL GULESERIAN: Oh. You have to talk to Charlie about that one.

TAD HEUER: I think I've got a window before it becomes historic.

BRENDAN SULLIVAN: Probably protected, too, like the Shell sign.

CONSTANTINE ALEXANDER: The Shell sign.

BRENDAN SULLIVAN: Let me make a motion to grant the relief requested for the addition to replace the existing raised front roof slab and the fabric canopy with a new vestibule structure as per the drawings 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 the Petitioner from building a much needed canopy -- I'm sorry, enclosure to protect patrons from inclement weather.

The Board also finds that there was at one time a vestibule similar to the one that is proposed in this location.

And the Board finds that the hardship

is owing to the existing building on the lot and the pre-existing non-conforming nature of thereof. And that the proposed location of the vestibule is the only feasible location at this building due to the shape and location of the property on the existing structure which predates the existing Ordinance.

The Board finds that the 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.

All those in favor of granting the Variance for the canopy vestibule.

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

BRENDAN SULLIVAN: Now for the

Special Permit because of the vestibule you're actually expanding the use to that limit.

The Board finds that the requirements of the Ordinance can be met.

The extension will not be anymore detrimental to the neighborhood than the existing non-conforming use of the existing building and the restaurant which this serves.

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

And that the continued operations of or development of the adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use, and that there would not be any nuisance or hazard created to the detriment

of the health, safety, welfare or the occupants 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, otherwise derogate from the intent or purpose of the Ordinance.

The Board notes the letter of appropriateness from the Cambridge Historical Commission.

TAD HEUER: Can I ask one question before we vote?

BRENDAN SULLIVAN: Yes.

TAD HEUER: Where the vestibule is positioned as you're coming out of the parking lot and take a left turn at Garden Street, does the vestibule interfere with my view as of Garden Street as I'm coming out of the parking lot the way that the current awning wouldn't or is it not at all?

BRENDAN SULLIVAN: It's set back.

CONSTANTINE ALEXANDER: It's set back exactly. I think it's set back.

TAD HEUER: From the sidewalk?

RICHARD HARDAUAY: So you're coming out here. So I guess, I guess if you're at the point of entering traffic, your vehicle would be there, about there. The driveway would be about there. So I guess I would say no.

TAD HEUER: Okay.

BRENDAN SULLIVAN: All those in favor of granting the Special Permit?

(Show of hands.)

BRENDAN SULLIVAN: Five in favor.

(Sullivan, Alexander, Hughes, Heuer, Myers.)

(Whereupon, at 10:55 p.m., the meeting of the Board of Zoning Appeals 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 12th day of October 2011.

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

My Commission Expires:
April 23, 2015

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