

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JANUARY 25, 2024

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair
Steven Ng, Vice Chair
Virginia Keesler
Carol Agate
William Boehm
Fernando Daniel Hidalgo
Zarya Miranda

City Employees
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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo, William
Boehm, and Carol Agate

JIM MONTEVERDE: Welcome to the January 25, 2024
meeting of the Cambridge Board of Zoning Appeal. My name is
Jim Monteverde, and I am the Chair.

Pursuant to Chapter 2 of the Acts of 2023 adopted
by the Massachusetts Court, and approved by the Governor,
the City is authorized to use remote participation at
meetings of the Cambridge Board of Zoning Appeal.

This meeting is being video and audio recorded and
is broadcast on cable television Channel 22 within
Cambridge.

There will also be a transcript of the
proceedings.

All members, applicants, and members of the public
will state their name before speaking. All votes will be
taken by roll call.

Members of the public will be kept on mute until

1 it is time for public comment. I will give instructions for
2 public comment at that time, and you can also find
3 instructions on the City's webpage for remote BZA meetings.

4 Generally, you will have up to three minutes to
5 speak, but that may change based on the number of speakers.

6 I'll start by asking Staff to take Board members
7 attendance and verify that all members are audible.

8 STEPHEN NATOLA: Jim Monteverde?

9 JIM MONTEVERDE: Present.

10 STEPHEN NATOLA: Virginia Keesler?

11 VIRGINIA KEESLER: Present.

12 STEPHEN NATOLA: Steve Ng?

13 STEVEN NG: Present.

14 STEPHEN NATOLA: Bill Boehm?

15 BILL BOEHM: Present.

16 STEPHEN NATOLA: Daniel Hidalgo?

17 DANIEL HIDALGO: Present.

18 STEPHEN NATOLA: Carol Agate?

19 [Pause]

20 STEPHEN NATOLA: Carol Agate?

21 [Pause]

22 JIM MONTEVERDE: Why don't we call her again at

1 seven.

2 CAROL AGATE: Sorry. I was mute.

3 JIM MONTEVERDE: Oh, okay.

4 CAROL AGATE: Present.

5 JIM MONTEVERDE: Thank you. Good to go?

6 STEPHEN NATOLA: Good to go.

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2 (6:02 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Fernando Daniel Hidalgo, and
5 William Boehm

6 JIM MONTEVERDE: I will start with continued
7 cases. First case I'm going to call is Case No. BZA-245510
8 -- 45 Orchard Street. Is there anyone here who wishes to
9 speak about that?

10 SHELLY ZIEGELMAN: I'm just trying to -- can you
11 hear me?

12 JIM MONTEVERDE: Yep. Can you introduce yourself,
13 please?

14 SHELLY ZIEGELMAN: Yes. My name is Shelly
15 Ziegelman. I am Abigail Lipson's architect. And I'm just
16 trying to put on my video. There we go.

17 So I'd like to start by addressing the two
18 questions that were posed by the Board on our November
19 meeting. And these two questions were in regards to use
20 type and how this special permit petition is different than
21 the special permit petition, or the variance petition in
22 2019 and 2020.

1 Let's start with the use type. The following --
2 we see the following indicators as this is a dwelling unit
3 or a single-family for the following four reasons: The
4 2019, 2020 petition to the Board to create this unit was
5 brought forward as a Variance application. And the unit
6 size is/was 1140 square feet.

7 And if it was classified as an ADU, it would have
8 come to the Board as a Special Permit application, and it
9 would have been 900 square feet or less.

10 The same petition in 2019/2020 requested a special
11 permit for the reduction in off-street parking. If it were
12 an ADU, there would be no requirement for off-street parking
13 and citing 4.44.41, the requirement for off-street parking
14 space specified in Article 6.000 shall not apply for the
15 addition of one necessary structure in all districts.

16 Point three, the BZA's decision in 2020 granted
17 the barn to be converted into a -- and I quote, "Dwelling
18 Unit." These quotes were taken directly from the
19 transcript, and they do not say, "Accessory." And then the
20 0.4 is -- the -- we've gotten guidance all along from
21 Inspectional Services, and the documents that we've seen and
22 looked into consistently refer to the current structure as a

1 dwelling unit, never an accessory dwelling unit.

2 And when the project started, I always -- any
3 project that we do that requires a special permit or
4 variance I meet with Ranjit and his team, and their guidance
5 is always very helpful, and they guided us as, and told me
6 that this was not an accessory dwelling unit on June 1,
7 2023.

8 So those are the four points that we'd like to
9 make that clearly make us feel it is a -- it's a dwelling
10 unit and not an ADU.

11 Onto the next question that came up last November,
12 the question of the Variance Application from 2019/20 and
13 today's application and how they're different.

14 The petition the Board approved in 2020 was a
15 Change of Use variance to convert a utility building, a
16 barn, into a dwelling unit.

17 Well, the current conditions under consideration
18 are entirely different. We now have a homeowner living in
19 her home and who would like to age in place and is seeking a
20 special permit to do so.

21 The initial 2019 petition included two additions
22 that both fell outside of the setbacks and combined those

1 two additions were slightly greater square footage than what
2 the proposal on the table tonight is.

3 And the fact that they fell outside the setbacks I
4 don't mean to editorialize, but that -- you know, was asking
5 for too much. And it was -- they took away the two, in the
6 2020 petition those were removed, and the petition was
7 granted.

8 And then the other thing you should know is
9 programmatically it was different. What the two additions
10 contain were a study and a foyer/stair entrance, whereas
11 this petition contains a bedroom, an on-grade bedroom. The
12 2019 addition was also taller, and our petition -- or the
13 current petition -- is lower.

14 And then finally, the petition can't be called a
15 repetitive petition for two reasons: as defined by the
16 Ordinance and programmatically, as I just discussed above.

17 So the main point of this is that the 2019/2020
18 petition was for a different project under different
19 conditions than today's special permit application.

20 If there are no questions about these two, the use
21 and the deficit between the two petitions, we'll move on to
22 the summary and description, which you've all seen in

1 November, but I'll touch upon everything.

2 So if the slides could go up, that would be
3 helpful. Thank you.

4 Okay. So we took everything the Board said into
5 consideration and very seriously. We reduced the size of
6 the footprint of the proposed addition. We lowered it. We
7 removed the roof deck. There were concerns by the
8 neighbors, and we did studies, as you'll see in the
9 subsequent slides, as to what they would see.

10 And Abigail worked with her neighbors, wrote
11 letters with to them, and kept in contact with them as best
12 she could.

13 The selections from the Zoning Ordinance that are
14 cited are, you know, in the application. This just
15 describes what I just described to you, that the roof deck
16 was removed as gross square footage reduced, and the eave
17 height lowered.

18 We -- Abigail also hired a landscape architect so
19 we could talk about plantings and possible buffers, and that
20 she would work with her neighbors to do that.

21 The ratio of usable open space because the
22 addition got a little smaller, that ratio to lot area

1 increased by 2 percentage points. This is what it looks
2 like now in the lower right-hand corner, and this is the
3 front elevation in a photograph.

4 The top of this barrel vault doesn't go any higher
5 than the loft door, whereas the old petitions -- it was a
6 gable roof, and it came much higher.

7 Moving onto the next slide, we reviewed all the
8 site lines from No. 41 to the new proposed addition. And
9 just to note that the setback here from the proposed edge of
10 the proposed addition where my cursor is -- I don't know if
11 you can see my cursor -- to the lot line is over 32 feet to
12 No. 41, which falls pretty much on the lot line.

13 So when you're looking from the addition to No.
14 41, the windows that you see are all described here. This
15 is -- the three on the bottom are living room windows, and
16 it's in a sunken living room, so I would imagine that the
17 sill height is at least 5 feet, which means you don't have a
18 direct view out.

19 And the window above those living room windows,
20 the one window is a bedroom window -- again, a clear-story
21 height without a direct view out.

22 The one window of concern -- well, two windows,

1 but the main one would be the kitchen window. And that is
2 -- there's a counter in front of it, and then there -- the
3 window above it is a hallway window.

4 And the other portion -- this is the proposed
5 landscape plan that you see on the left, and Abigail would
6 like to work with her neighbors if they would -- if, you
7 know, if it's important to them to have a privacy hedge.
8 And that privacy hedge is shown in the lower corner.

9 This is a winter picture. Down below, it casts no
10 shadow, because north is this way. So the shadows on this
11 property from the house and from the trees fall into
12 Abigail's property, and nothing is cast onto 41.

13 So I know that No. 41 had many concerns, and so,
14 we did this study to make sure that they weren't -- we
15 weren't causing any shade or blocking any views. And as you
16 can see, the window in the kitchen is located between these
17 two trees, where they're -- it says, "existing trees" up
18 from the living room windows.

19 And it -- if you were to look directly out, you'd
20 look at the end of Unit 2 on No. 45's property, and you'd
21 have to crank your head to the right to see the addition --
22 proposed addition.

1 And if we can move to the next drawing, please?

2 So here we superimposed -- we took photographs.

3 Let's start on the left. So looking from the deck of No.49,
4 which is arrow No.3 and on that deck Abigail's neighbor was
5 concerned about what she would see, and with this new
6 proposal.

7 And you can see on the lower one the addition has
8 been superimposed, and you can only see it through -- under
9 the rail in the corner below the hayloft window. And it's -
10 - it's pretty much out of sight. It's -- and it doesn't
11 make an impact. So that neighbor was very happy with that.

12 And then on the other side, photograph No. 2 had
13 to be taken outside of -- it was not taken within the house
14 like photograph No. 3 was. It was taken on Abigail's
15 property between the two trees, the two very large trees.

16 And to give you an idea of what the view is, but
17 it's exaggerated because you would be, you know, four feet
18 back into the house if you were to end across a kitchen
19 counter.

20 So this picture above on the upper right corner
21 shows without the addition, and then this one shows the
22 addition superimposed into the perspective. So it doesn't

1 take up -- and it is also 41 feet away. That view is 41
2 feet away to the corner of the addition.

3 And on the other side, on 49 side, it's 40 feet
4 away or 31 approximately.

5 And then if we move on to the plans, we can just
6 walk through quickly, because you're all familiar -- we went
7 through this before -- it's the same proposal for the
8 program: A bedroom, a bathroom, and an entrance with a
9 closet. And the eave height was lowered.

10 The existing barn has an eave height of like 11'3"
11 and the main part of this was lowered at least a foot. And
12 then the entrance will be a bit lower still, so you're
13 walking through a transition space.

14 The seller will hold -- her whole house is
15 electric. It's very environmental. We're going to use a
16 hot water heat pump and those tend to be tall, so it needs
17 to be put in the cellar. They take -- they remove heat from
18 the air because it's a heat pump, so it can't be in a
19 conditioned space without it, the space having to be over
20 conditioned. So the cellar was necessary to run the
21 mechanicals.

22 And on the next sheet, if you please, it shows the

1 low barrel-vaulted roof, and then this is a flat roof
2 draining toward the back with skylights and it would be a
3 metal roof.

4 And then this also shows the pergola, the open-air
5 pergola near the entrance way.

6 And on the last slide, you'll have the elevations.
7 And again, just to reiterate: The roof deck was removed.
8 We've lowered the eave on this addition, the proposed
9 addition. We've reduced the square footage, and we engaged
10 the landscape architect that will work with Abigail and
11 Abigail will take input from her neighbors.

12 Do you have any questions?

13 JIM MONTEVERDE: Yep. Are you all set with your
14 presentation?

15 SHELLY ZIEGELMAN: Yes, I am. Thank you.

16 JIM MONTEVERDE: Thank you. Any questions from
17 members of the Board?

18 BILL BOEHM: Yes. I have a question. I was
19 looking over things; there was one thing that confused me
20 was that -- and this kind of gets into technical issues, but
21 that's what we're dealing with tonight -- the total gross
22 floor area you list as 4,379, and you're requesting to go to

1 47 something.

2 SHELLY ZIEGELMAN: 09. Yep. 4,709.

3 BILL BOEHM: Yep. And then I was looking back at
4 the previous applications, and it's exactly the same. The
5 2019 listed the existing conditions as 4,379, asking to go
6 to 47 and change. So it's just --

7 SHELLY ZIEGELMAN: 47 -- they're different
8 numbers, Bill. 47 -- the previous was 4,712; we're asking -
9 - what we asked for initially in November was 471 and we've
10 reduced it to 4,709. So they're slight, but they're
11 different.

12 BILL BOEHM: Right. But I'm not talking about
13 what you asked for in November, I'm talking about the
14 application way back in 2019, when that -- the applicant at
15 that time listed existing conditions also at 4,379, also
16 going to 4,700, and if I'm not mistaken, then they -- that
17 was then built.

18 So wouldn't the existing square footage be closer
19 to 4,700 than 4,000--

20 SHELLY ZIEGELMAN: I can -- I think I -- think I
21 understand your confusion. And chime in, anyone, if I'm
22 not. But what -- the 2019 application with the request of

1 4,012 was continued. And at the continuance, they removed
2 the additions that they were asking for. So it went back to
3 4,709, I'm sorry, 4379.

4 So they didn't ask for any more square footage.
5 There was -- the continuance they changed it. They took off
6 both requested or proposed additions.

7 So we were back to those numbers again of the
8 4,379. We started there. And then we're asking for 300
9 square feet more, which is for the special permit, given it
10 being a dwelling unit and not an ADU you can ask for that.
11 It's in the setbacks and it's less than half the floor area
12 of the first floor.

13 So we fall within all of those things with the --
14 you know, logic that we feel is correct.

15 JIM MONTEVERDE: Can I follow up on Bill's
16 question, please?

17 SHELLY ZIEGELMAN: Sure. Of course.

18 JIM MONTEVERDE: If you go to the floor plan,
19 first floor plan, can you -- there you go.

20 The plan that was proposed in the 2019 application
21 that was in addition to the existing barn, how dimensionally
22 different is this from what was suggested in 2019, before

1 the continuance?

2 SHELLY ZIEGELMAN: So the plan -- again, you can't
3 see my cursor, can you?

4 JIM MONTEVERDE: No.

5 SHELLY ZIEGELMAN: So the plan that was first
6 proposed had an addition similar, but you do remember
7 something similar where we have a proposed bedroom?

8 JIM MONTEVERDE: Right.

9 SHELLY ZIEGELMAN: It was a little shorter, but
10 then to the right, where you see the dining room table --

11 JIM MONTEVERDE: Yep.

12 SHELLY ZIEGELMAN: -- that pushed out. That whole
13 side pushed out with a foyer and a stair. And --

14 JIM MONTEVERDE: Okay.

15 SHELLY ZIEGELMAN: -- both pieces were much
16 taller. They were gabled roofs, and they both -- and both
17 pieces fell into the setbacks. They fell outside the
18 setbacks. They did not respect any setbacks.

19 So it didn't -- you know, it's no wonder that it
20 was rejected.

21 JIM MONTEVERDE: Well, it wasn't rejected. It was
22 -- not by the Board anyway, it was -- the discussion was

1 that the proponent agreed to a continuance, based on the
2 neighbors' objections and I think questions from the Board
3 to go back and to reconsider.

4 SHELLY ZIEGELMAN: Mm-hm.

5 JIM MONTEVERDE: And that's when they came back in
6 2020. Sorry, Bill, I interrupted you. Do you have any
7 other questions?

8 BILL BOEHM: No. No, that was my only question
9 for now.

10 JIM MONTEVERDE: Are there any other questions
11 from members of the Board?

12 STEVE NG: Yeah. This is Steve Ng. Just a quick
13 question about the heat pump, Shelly. So you're -- what you
14 were saying is the cellar will be unconditioned space with,
15 like, I guess louvers or something to let air flow in to
16 allow the heat pump? Is that where the condenser is going,
17 or the --

18 SHELLY ZIEGELMAN: The condensers go outside the
19 mechanicals for the --

20 BILL BOEHM: Oh, okay.

21 SHELLY ZIEGELMAN: -- heat pumps will be inside.
22 But it -- I have this in my own house; my house is all

1 electric with solar panels and it --

2 BILL BOEHM: It's all ducted from the basement?

3 SHELLY ZIEGELMAN: It's ducted from the basement,
4 but it --

5 STEVEN NG: Gotcha.

6 SHELLY ZIEGELMAN: -- makes your basement
7 uninhabitable because it's very cold, it draws every bit of
8 heat out of it. It's very environmental, it's very
9 inexpensive to run compared to a regular electric heat pump,
10 electric heater.

11 STEVEN NG: Mm-hm.

12 SHELLY ZIEGELMAN: A hot water heater, because
13 those are your most consumptive. But anyway, so we're
14 trying -- you know, of course over insulating and doing the
15 best --

16 STEVEN NG: Got it. Good.

17 SHELLY ZIEGELMAN: -- that way.

18 STEVEN NG: Thank you.

19 JIM MONTEVERDE: Any other questions from members
20 of the Board?

21 DANIEL HIDALGO: Just I remember from the last
22 meeting -- I don't have the updated file in front of me, but

1 last meeting a Ms. Sherry Oliver essentially supported the
2 project except for the roof deck.

3 So I'm just curious if she -- someone who lives at
4 49 Orchard Street, they've been presented with this new
5 project, and they find it acceptable? Do you know anything
6 about that?

7 JIM MONTEVERDE: We have a number of --

8 DANIEL HIDALGO: Oh, okay.

9 JIM MONTEVERDE: -- correspondences in the file.

10 DANIEL HIDALGO: Maybe I'll just wait, then.

11 SHELLY ZIEGELMAN: Yeah. Sherry --

12 JIM MONTEVERDE: We'll get to that in a moment.

13 SHELLY ZIEGELMAN: -- Sherry, yep.

14 JIM MONTEVERDE: Yep. Any other questions from
15 members of the Board?

16 BILL BOEHM: Just one more. Shelly, did you say
17 you have a landscape architect on board now, and did we see
18 a landscape plan or was that --

19 SHELLY ZIEGELMAN: Yes. Yes, so it's -- you know,
20 it's just -- it's No. 2, Drawing No. 2.

21 BILL BOEHM: Can you -- Okay.

22 SHELLY ZIEGELMAN: And it's a draft. I mean, it's

1 --

2 JIM MONTEVERDE: Nope, keep going.

3 SHELLY ZIEGELMAN: But she is a landscape -- the
4 other way. Ah, it goes that way too.

5 JIM MONTEVERDE: Yep.

6 SHELLY ZIEGELMAN: So the next one -- huh, that
7 was right. I'm sorry, if you could go to the very
8 beginning?

9 JIM MONTEVERDE: Go back. It was there.

10 SHELLY ZIEGELMAN: Go to the first -- yes. And
11 then it's not that one.

12 JIM MONTEVERDE: There you go.

13 SHELLY ZIEGELMAN: It's that one.

14 BILL BOEHM: Okay. So there are privacy hedges
15 labeled on the left side. Any specificity about what those
16 consist of, or --

17 SHELLY ZIEGELMAN: There's been much discussion
18 of, you know, what would grow in both areas that have
19 different light needs. And Abigail I believe is discussing
20 it with her neighbor. You know, Sherry has been talking to
21 her about it. And so, it's an ongoing conversation.

22 BILL BOEHM: Okay. Thank you.

1 JIM MONTEVERDE: Any other questions from members
2 of the Board? If not, I have a one final question.

3 SHELLY ZIEGELMAN: Sure.

4 JIM MONTEVERDE: The way the advertisement or
5 agenda -- says that the addition basically enabled the owner
6 to age in place. And if I go back to 2019, and then 2020, I
7 think those were both presented as the in part the rationale
8 for the reuse of the barn structure. It was for the current
9 occupant of the front building to be able to renovate the
10 space in the existing barn and move in, enabling the owner
11 to age in place.

12 Am I correct? Where I'm going with this is if
13 that's correct, and that 2020 scheme, I assume, fulfilled
14 that desire, and why is it that this addition is necessary
15 now to do the same thing? Help me understand that, Shelly.

16 SHELLY ZIEGELMAN: Yeah. Abigail, why don't you -

17 -

18 ABBY LIPSON: I can speak to that. I'm the owner.
19 This is Abby Lipson. I'm here. And I think, you know, a
20 couple years have gone by. I've been living in this space,
21 which I really love, and have appreciated a lot about it,
22 including that it's at ground level and, you know, easy to

1 navigate inside.

2 In the intervening year, I've grown older. I
3 experienced a fall that had me debilitated for a while and
4 gave me kind of a sense of what my challenges might be in
5 future, you never know.

6 And so, you know, although I have loved the barn,
7 it's a wonderful place to be as a retired person, I'm -- you
8 know -- thinking through again what the future's going to
9 hold and feeling like one-floor living beats trying to crawl
10 up a ton of stairs on your butt, you know, if you've got an
11 injury.

12 So time has gone by, and I've had more experience.

13 JIM MONTEVERDE: And that wasn't something that
14 was apparent to you in the 2020 case when you accepted --

15 ABBY LIPSON: Not -- not as --

16 JIM MONTEVERDE: -- staying within the boundaries
17 of the barn?

18 ABBY LIPSON: -- not as apparent.

19 JIM MONTEVERDE: Okay, thank you.

20 SHELLY ZIEGELMAN: And also just programmatically
21 it wasn't -- she wasn't -- she didn't direct the architect,
22 who was not me at that time to, you know, if you looked at

1 the drawings it said "study" and it and it said, "foyer" and
2 there were two additions that didn't -- you know, didn't
3 address aging in place.

4 So maybe -- maybe you thought you could age in
5 place on the second floor.

6 ABBY LIPSON: Yeah, I thought the -- I thought
7 this would be more manageable as an older person than --

8 JIM MONTEVERDE: Yep. I think you've answered the
9 question.

10 SHELLY ZIEGELMAN: -- experience has led me to
11 believe.

12 JIM MONTEVERDE: Yep. Thank you. All right. If
13 there are no other questions from members of the Board, I'll
14 open it up to public comment. We do have a number of
15 correspondences in the file, and I'm sure people will be --
16 I suspect people will be calling in to talk.

17 Let me summarize what we have in front of us. By
18 my count, as of yesterday, there were seven affirmative,
19 five against.

20 I think at the moment we have a letter dated
21 yesterday -- the twenty-third. This is from the proponent,
22 just describing I think what -- Shelly most of what you had

1 described.

2 We have correspondence dated today from Douglas
3 Okun in support. From Sherry Oliver, direct abutter, no
4 objections. That's dated today.

5 January 23, Hanna Ross -- or Hanna and Ross
6 Marino, no objections. J.P. Hitarachi on Elm in Cambridge,
7 direct abutters -- they would like to object. I assume they
8 may want to speak. There's nothing else in the
9 correspondence.

10 Pamela Winters, January 24, has a list of eight
11 items. And if she doesn't speak, I will run through them.
12 She's in objection. January 24: William Bloomstein objects
13 to the special permit: "out of character and ill-suited to
14 the dense neighborhood starving of open space and beyond
15 what is reasonable; it is definitely not required."

16 Again, I'm just trying to summarize the ones in
17 here, so people don't have to call in to say exactly the
18 same thing.

19 January 24: Somebody who resides at 41 Orchard:
20 "Starkly opposed -- strongly opposed." That's Harry
21 Shapiro.

22 January 23: Lauren Stewart, in support. It's

1 either a neighbor or they back up to 45 Orchard Street.

2 Susan Matkowski, abutter, kitty-corner to this lot. They
3 are in favor.

4 October 4: No, Susan Matkowski goes again.

5 And I think -- nope, I want to make sure I'm not
6 dipping into the old file. Nope.

7 November 17; Shelly, that's you. Or that's your
8 continuance. Douglas Okun is a repeat. That -- ones are
9 people who have written back in recently. I'll stop there.

10 Is anyone on the line who wishes to speak? Any
11 member of the public who wishes to speak should now click
12 the icon at the bottom of your Zoom screen that says, "Raise
13 hand." If you are calling in by phone, you can raise your
14 hand by pressing *9 and unmute or mute by pressing *6.

15 I'll now ask Staff to unmute the speakers one at a
16 time. You should begin by saying your name and address, and
17 Staff will then confirm that we can hear you. After that
18 you will have up to three minutes to speak before I ask you
19 to wrap up.

20 [Pause]

21 Anyone?

22 No one. There we go.

1 STEPHEN NATOLA: Harry Shapiro?

2 HARRY SHAPIRO: Hello. Can you hear me?

3 JIM MONTEVERDE: Yes, we can.

4 HARRY SHAPIRO: Okay. I live next door at 41
5 Orchard Street. Mr. Monteverde, I don't know if you want me
6 to read my entire letter, or --

7 JIM MONTEVERDE: If you could summarize it,
8 please, give us your highlights?

9 HARRY SHAPIRO: Okay. Well, to summarize, I do
10 strongly oppose the project. I'd like you to keep the
11 number -- excuse me, I have a cold -- the following number
12 in mind: 4,712 plus or minus three. That's the number of
13 square feet that the owner has been trying to expand this
14 project to since 2019, trying on a consistent basis with
15 application after application.

16 The current application really is just a repeat,
17 or another run through of that. There are small differences
18 in height and a tiny decrease in overall square footage.
19 But, you know, other than removing the outdoor deck on top
20 of the addition and slightly lowering the height of the
21 addition, the current plan is really nearly identical to all
22 of the other proposals.

1 This is not significantly different from any of
2 the previous ones in terms of requested square footage, as I
3 mentioned. Minor tinkering with the dimensions like this
4 really doesn't make the proposal any more acceptable, I
5 think.

6 And furthermore, looking back in the minutes of
7 the first meeting in 2019, the proposal was -- was rejected,
8 continued, however you want to word it, by the BZA, and the
9 reasons cited in the minutes were -- quote -- "The massing
10 of the proposed structure and expansion of the footprint."

11 The current plans do not negate the issues of
12 massing or expanding the footprint; they're still there. So
13 I think those original conditions -- those original
14 objections are still relevant.

15 Secondly, in terms of the GFA requirements, et
16 cetera, the maximum total GFA on the lot is already greatly
17 exceeded, and the lot area doesn't even meet the Ordinance
18 requirement for the third dwelling unit.

19 The lot area is 7,894 square feet, and if my
20 understanding is correct, in the Res B unit -- in the Res B
21 district -- for those portions of any lot exceeding 5,000
22 square feet, the applicable maximum ratio of floor area to

1 lot area shall be 0.35 for all permitted residential uses,
2 and the minimal lot area for each dwelling unit shall be
3 4,000 square feet.

4 The BZA decided in 2020 through its authority to
5 relax the use requirements in favor of the petition. I
6 don't understand why the new proposal for even more leeway
7 with respect to these requirements should merit --

8 JIM MONTEVERDE: Thank you.

9 HARRY SHAPIRO: -- any consideration.

10 JIM MONTEVERDE: Mr. Shapiro, you're beyond the
11 three-minute mark, and do you have anything else to add that
12 you can do quickly?

13 HARRY SHAPIRO: Yeah. Per my previous letter, the
14 BZA, it may have been unrealistic to plan to age in place in
15 900 square feet of living space, but such an unfortunate
16 miscalculation really does not justify further expansion.

17 The only other thing I want to mention is the
18 issue of the accessory dwelling unit debate. I think that
19 --

20 JIM MONTEVERDE: I'm going to ask you to wrap it
21 up now, please.

22 HARRY SHAPIRO: Okay. Am I done?

1 UNIDENTIFIED SPEAKER: [Whispered] Yes.

2 JIM MONTEVERDE: Yes.

3 HARRY SHAPIRO: Okay.

4 JIM MONTEVERDE: Thank you for your comments.

5 Anyone else calling in?

6 HARRY SHAPIRO: Oh, my wife would like to speak if
7 that's okay? They cut me off.

8 JIM MONTEVERDE: No. Introduce yourself, please.

9 HARRY SHAPIRO: Oh, okay. Here you go, Pam.

10 PAMELA WINTERS: Hi. My name is -- can you see
11 me? I don't know if you can see me. Okay. My name is
12 Pamela Winters and I'm a direct abutter at 45 Orchard
13 Street. I would like to oppose the request made by the --
14 Ms. Lipson -- to expand her unit. And I just have eight
15 quick reasons why.

16 First of all, the architect was incorrect in what
17 we can see out of our window, and what we look upon in
18 Abigail's yard. So I wanted to just say that.

19 Ms. Lipson recently sent around a letter to
20 abutters and abutters of abutters, stating her views and her
21 request. She was strongly pointed out -- pointing out --
22 that it was not an ADU. I and other neighbors feel this is

1 exactly what it is, not a single-family dwelling unit. I
2 invite the BZA to look at the converted barn and judge for
3 yourself.

4 She was allowed 900 square feet, and that is
5 exactly what the barn had in its interior prior to
6 renovation.

7 Let's see. On November 21, 2023, my husband and
8 myself had a meeting with Ranjit at the Building Department.
9 He thought that perhaps the initial application was
10 incorrect, and the dwelling unit was in fact an accessory
11 dwelling unit.

12 Also, he was thinking that the addition was not
13 acceptable -- and this is important, what Harry said -- in
14 terms of the remainder of the open space for the three
15 units. It might be good for the BZA to see what they think
16 about this concern.

17 The size of the proposed addition is not much
18 reduced with the removal of the deck. The BZA has requested
19 a detailed plan of all the plantings at the site, which was
20 not provided.

21 So let's see, Abigail's first request was to have
22 a home to age in place, which was granted. Now she wants

1 more room to age in place. This is something easily done by
2 adding a shower in her first floor unit, which has two
3 bedrooms upstairs and would be much more cost-efficient.

4 On her adjoining unit, which has multiple rooms
5 upstairs, all very easy to age in place, not to mention
6 having a stairlift installed if requested.

7 [Sneeze] Excuse me. I also have a cold.

8 If her desire to age in place in these first few
9 times, she -- it was her desire to do that, and it was
10 finally granted. Why does she need another addition for
11 this purpose? I believe Mr. Monteverde, you made that
12 point.

13 JIM MONTEVERDE: Thank you.

14 PAMELA WINTERS: This is a very conf--

15 JIM MONTEVERDE: I'm going to ask you to wrap up,
16 please.

17 PAMELA WINTERS: Sure.

18 JIM MONTEVERDE: I'll get to you people in one
19 second.

20 PAMELA WINTERS: This is a very -- I just have two
21 more -- two more items. This is a very congested
22 neighborhood. The carbon footprint would be increased, and

1 there would be less open space for abutters to look at.

2 And she was requesting a basement under the
3 bedroom for utilities -- heat and so forth. Her former
4 architect promised that all utilities could be brought
5 through the main house.

6 JIM MONTEVERDE: I need you to stop.

7 PAMELA WINTERS: Okay, sir.

8 JIM MONTEVERDE: Sorry.

9 PAMELA WINTERS: Okay. Thank you.

10 JIM MONTEVERDE: Thank you for your comments.

11 PAMELA WINTERS: Sure.

12 JIM MONTEVERDE: Anyone else?

13 PAMELA WINTERS: You have -- you have our letters,
14 anyway.

15 JIM MONTEVERDE: Yes. Mm-hm. That's correct.

16 PAMELA WINTERS: I appreciate that. Thank you,
17 sir.

18 JIM MONTEVERDE: No one else is raising their
19 hand. Okay. I'm going to close public testimony. Any
20 discussion among members of the Board? No?

21 DANIEL HIDALGO: I guess from this point on, the
22 accessory dwelling unit --

1 JIM MONTEVERDE: Tell us your name.

2 DANIEL HIDALGO: This is -- excuse me, this is
3 Daniel Hidalgo. I -- wouldn't that have, like, a designated
4 accessory dwelling unit in the previous case, if that was
5 granted? I mean I -- isn't there a special permit
6 specifically for accessory dwelling units? No. So that's
7 not the case?

8 JIM MONTEVERDE: No.

9 DANIEL HIDALGO: So we're just open to
10 interpretation --

11 JIM MONTEVERDE: Yep.

12 DANIEL HIDALGO: -- whether or not it fits that
13 definition? Okay.

14 JIM MONTEVERDE: Anyone else have anything for
15 discussion?

16 SHELLY ZIEGELMAN: I do, Jim. Can you hear me?

17 JIM MONTEVERDE: Who is that?

18 SHELLY ZIEGELMAN: Shelly Ziegelman.

19 JIM MONTEVERDE: No, I'm sorry, this is among the
20 Board members.

21 SHELLY ZIEGELMAN: Okay.

22 JIM MONTEVERDE: Any other Board members have any

1 comments? If not --

2 VIRGINIA KEESLER: I guess I do feel that there
3 was, like, a real -- there was a real change made between
4 the 2019 application and the current application in that
5 this proposal does not extend the extra 10' or so towards
6 the lot line to the right side of the lot.

7 And I would not as well that the open space ratio
8 is in keeping with the requirements of the zoning district.
9 So in that sense, I am seeing merit in the arguments that
10 have been made in favor of this proposal.

11 I recognize that the gross floor area is pretty
12 much the same as it was proposed previously, but it does
13 seem to me that there are adjustments that have been made,
14 and I think we could also seek additional detail regarding
15 the landscaping plan but I am seeing some merit, and I am
16 wondering what my fellow Board members are thinking.

17 JIM MONTEVERDE: Anyone else want to jump in on
18 that, comment on that, continue that?

19 BILL BOEHM: Virginia, I concur there's been some
20 changes. They listened. The architect listened and made
21 significant changes removing the roof deck.

22 I'm also very concerned about the kind of repeat

1 request that was turned down several years ago, and that
2 this is a very, very similar application to what we saw
3 previously and was continued and rejected.

4 So I'm torn is where I stand at this moment. I'm
5 also open to others' opinions on this.

6 JIM MONTEVERDE: Yeah. I sat on the previous two
7 hearings for this: 2019, 2020. And I share Bill's
8 sentiment. I'm torn. I recall in 2020 reading the
9 documentation and about this was the opportunity to live in
10 -- you know, age in place.

11 I don't think that 900 square feet, whatever that
12 dimension was, is an impediment. I live in a house that's
13 900 square feet, with a family. I think that's doable
14 somehow.

15 But this just feels repetitive, at least in this
16 addition that's being proposed. Even though the 2019 one
17 had two additions, it just feels like it's coming back to do
18 the same thing, or at least part of the same thing, this
19 time under the aegis of the special permit versus the
20 original round, which was under a variance, which was a
21 tougher criteria to comply with.

22 So I'm torn. I see the differences. I see the --

1 you know, the deficits in stepping away from the property
2 line, so that's not the issue. But -- and taking the roof
3 deck off, I see that. I see the plantings that have been
4 offered.

5 I still think it's rather dense, and I think the
6 addition is just -- again, I understand the proponent's
7 discussion of perhaps they've changed their mind about able
8 to age in place in the existing structure. But I'm not
9 swayed yet that I would approve the addition, approve the
10 special permit.

11 So that's my sense. I'm torn as well.

12 Anybody else have any discussion before we move to
13 a motion?

14 STEVEN NG: I totally agree with feeling, seeing
15 the conflict, the need to be on ground floor to feel more
16 safe, you know, in living there.

17 I don't know if the architect has done any studies
18 to try to create a design within the footprint of the
19 existing barn to meet those needs, but I -- I guess I, yeah,
20 I -- I'm trying to still take it in and get a feel for --
21 empathize with the neighbors and also the needs of the
22 applicant.

1 So it's --

2 JIM MONTEVERDE: Yep.

3 STEVEN NG: -- it's a tough one.

4 JIM MONTEVERDE: Okay. Anyone else?

5 DANIEL HIDALGO: I am leaning in favor. You know,
6 I totally understand the reasons for not liking the
7 precedent of voting on a somewhat similar proposal to the
8 previous one, but it wasn't a formal rejection, so it's not
9 technically a -- you know, repetitive request. And, you
10 know, the design has changed a certain amount. So I guess I
11 lean on the other side of the line in favor.

12 JIM MONTEVERDE: Okay. Shelly or --

13 SHELLY ZIEGELMAN: Thanks, Jim.

14 JIM MONTEVERDE: Is the proponent --

15 SHELLY ZIEGELMAN: I --

16 JIM MONTEVERDE: -- nope, I'm not asking. Hold
17 on.

18 SHELLY ZIEGELMAN: Okay.

19 JIM MONTEVERDE: Let me ask a question.

20 SHELLY ZIEGELMAN: Okay.

21 JIM MONTEVERDE: Not an open forum. Either you or
22 the proponent sensing the discussion among the Board

1 members, is there anything you'd like to do before I proceed
2 to a motion?

3 SHELLY ZIEGELMAN: Yes. I was hoping that Abigail
4 Lipson had written a letter to the Board, if she could just
5 like her neighbors --

6 JIM MONTEVERDE: Nope. We're done with public
7 commentary.

8 SHELLY ZIEGELMAN: Okay.

9 JIM MONTEVERDE: I think you presented most of
10 what description is, so --

11 SHELLY ZIEGELMAN: Well, it --

12 JIM MONTEVERDE: -- I'm offering you the option if
13 you would like to continue again, or if you'd like -- if
14 this is the scheme, and therefore we should go to a motion
15 and vote?

16 SHELLY ZIEGELMAN: Can I speak with Abigail for
17 one moment?

18 JIM MONTEVERDE: Yeah.

19 SHELLY ZIEGELMAN: Can you mute me?

20 JIM MONTEVERDE: Please.

21 SHELLY ZIEGELMAN: All right. Please mute me.

22 [Pause/Staff trying to mute]

1 JIM MONTEVERDE: Shelly, wave if you want to comb.
2 All right. What do you want to do? Nope, not yet. You're
3 still muted.

4 SHELLY ZIEGELMAN: Sorry about that.

5 JIM MONTEVERDE: Now you're live. Nope.

6 SHELLY ZIEGELMAN: Okay.

7 JIM MONTEVERDE: What would you like to do?

8 SHELLY ZIEGELMAN: Can I ask you and the Board if
9 you have any guidance for us? Because obviously things have
10 changed for Abigail, and, you know, after the fall she feels
11 it would -- you know, we would like to be able to have a
12 project where she could have a room and a bathroom. She
13 doesn't have a full bathroom on the first floor.

14 Is there -- do you have guidance for us? Should
15 we ask for a continuance, and --

16 JIM MONTEVERDE: Well, I think -- sorry, so
17 guidance -- sorry, I'm an architect so I take that as a
18 redesign, but no.

19 SHELLY ZIEGELMAN: Well no, okay.

20 JIM MONTEVERDE: -- we won't do that. A couple
21 other Board members, and -- yeah, if we jump into redesign,
22 it but no, we won't do that. Guidance I -- you only have a

1 few options.

2 Again, the motion is in front, or the case is in
3 front of us. We either at this point move to a motion and
4 we all vote and what happens happens. If you have a sense
5 from the discussion or comment from Board members that this
6 may not go favorably for you, then you can choose to
7 continue.

8 But the only reason to continue is to be willing
9 to go back and relook at the design based on some of
10 comments that you have heard and --

11 SHELLY ZIEGELMAN: Well, we're not going --

12 JIM MONTEVERDE: -- and I think that's about it.

13 SHELLY ZIEGELMAN: What --

14 JIM MONTEVERDE: You could withdraw.

15 SHELLY ZIEGELMAN: -- constitutes it passing?

16 Does it -- what if it's a vote, does it have to be
17 unanimous? Does it have to be --

18 JIM MONTEVERDE: No. Four out of five.

19 SHELLY ZIEGELMAN: Four out of five.

20 JIM MONTEVERDE: And if you're voted down, you
21 can't come back with a similar scheme for two years. Same
22 thing I think if you withdraw. But I think -- again, it's

1 up to you and your client.

2 ABBY LIPSON: If they read my letter and if -- if
3 they did, then let's vote.

4 SHELLY ZIEGELMAN: Abigail just asked me if you've
5 read her letter in the file?

6 JIM MONTEVERDE: I did.

7 SHELLY ZIEGELMAN: You did?

8 JIM MONTEVERDE: Yep.

9 SHELLY ZIEGELMAN: And you would like -- has
10 everyone read the letter on the Board?

11 JIM MONTEVERDE: Yes. Everyone on the Board has
12 read --

13 SHELLY ZIEGELMAN: Okay.

14 JIM MONTEVERDE: And I've just done that. So
15 let's move beyond that.

16 SHELLY ZIEGELMAN: Then --

17 JIM MONTEVERDE: Your choice is either tell us to
18 go ahead with the motion, please or --

19 SHELLY ZIEGELMAN: Okay.

20 JIM MONTEVERDE: -- continue. On the count of
21 three. One, two --

22 SHELLY ZIEGELMAN: Abigail would like to vote.

1 JIM MONTEVERDE: Okay. Thank you.

2 SHELLY ZIEGELMAN: Thank you.

3 JIM MONTEVERDE: The Chair makes a motion to grant
4 relief from the requirements of the Ordinance under Sections
5 5.31, Table of Dimensional Requirements -- specifically the
6 total of gross floor area and FAR -- on the condition that
7 the work proposed conforms to the drawings entitled -- sorry
8 -- "Lipson Residence" prepared by SWZ Architects, dated
9 January 19, 2024, initialed and dated by the Chair.

10 And further, that we incorporate -- there are no
11 supporting -- the supporting statements, sorry, and
12 dimensional forms submitted as part of the application.

13 There are no other conditions for this.

14 So Board members on a voice vote, please? Steven?

15 STEVEN NG: In favor.

16 JIM MONTEVERDE: Daniel?

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: Okay, thank you. Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Virginia?

21 VIRGINIA KEESLER: In favor.

22 JIM MONTEVERDE: And Jim Monteverde opposed. So

1 that's four out of five. Your relief is granted.

2 SHELLY ZIEGELMAN: Thank you very much.

3 [Four vote YES, One OPPOSED]

4 ABBY LIPSON: Thank you, everyone.

5 JIM MONTEVERDE: Thank you.

6 ABBY LIPSON: Have a good evening.

7 JIM MONTEVERDE: Yep, you too.

8 Now, our next continued case, although it shows up
9 in the Agenda at six o'clock, because of a discrepancy on
10 the posting sign that said seven o'clock, we'll here in five
11 minutes. So you all come back now.

12 BILL BOEHM: Jim, I had --

13 JIM MONTEVERDE: Yep.

14 BILL BOEHM: -- told Maria I would not be
15 available for the second continued case. So I don't know if
16 someone else was --

17 JIM MONTEVERDE: Yep.

18 BILL BOEHM: -- identified.

19 JIM MONTEVERDE: Yep. Yep. We're all set. Thank
20 you, Bill.

21 BILL BOEHM: Thank you. Goodnight.

22 [Pause]

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(7:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo, and
Carol Agate

JIM MONTEVERDE: All right. Seven o'clock. The next case
will be our second and last continued case. It is
BZA-245989 -- 5 Channing Street. Is there anyone here
wishing to be heard on that case? This is another special
permit.

Do we have anybody who wants to speak on 5
Channing Street, proponent, or their representation?

STEPHEN HISERODT: This is Steve Hiserodt, the
Project Architect. We are waiting for Jim Rafferty. He is
supposed to be joining us to begin the presentation.

JIM MONTEVERDE: Do you expect him shortly?

STEPHEN HISERODT: Yes. We are trying to --

JIM MONTEVERDE: All right. He's on.

STEPHEN HISERODT: He's on? Okay, great.

JIM MONTEVERDE: Please proceed with your
presentation.

JAMES RAFFERTY: Good evening, Mr. Chair. My

1 apologies. It was only prompted as a panelist in the last
2 15 seconds. I was very fearful that I was not going to be
3 recognized.

4 Unfortunately, there doesn't seem to be a way to
5 alert the Staff that someone is waiting and hasn't been
6 recognized. But I apologize for the delay. But --

7 JIM MONTEVERDE: No problem.

8 JAMES RAFFERTY: -- for the record, my name is
9 James Rafferty. I'm an attorney with the Law Offices of
10 Adams & Rafferty located at 907 Massachusetts Avenue in
11 Cambridge.

12 I'm appearing this evening on behalf of the
13 applicant, 5 Channing Street LLC. Robert Purdy, the owner
14 of the property, manager of the LLC, is present, as is the
15 Project Architect, Steven Hiserodt; H-i-s-e-r-o-d-t.

16 This is an application for a special permit
17 dealing with the construction of a confirming addition to a
18 nonconforming structure in a Residence A-1 Zoning District.

19 The project was originally -- contained two
20 nonconforming conditions. There was a garage on the right
21 side of the house that was within the setback, an attached
22 garage. That garage has been removed. And there's also a

1 nonconformity of approximately 18" on the left side of the
2 house.

3 The project was issued a building permit to
4 commence construction on the addition. After months of
5 discussion concerning a recent amendment to the Ordinance
6 and a Supreme Judicial Court case that caused the Ordinance
7 -- that led to the amendment.

8 As some Board members may be aware, single-family
9 -- one- and two-family houses enjoy a special protection
10 under Chapter 40A Section 6, meaning that certain
11 nonconforming elements of a property can be extended, and
12 there was a Supreme Judicial Court case a few years ago; a
13 case that started in the Brookline Zoning Board; worked its
14 way up from the Land Court to the Appeals Court to the SJC.
15 It's called "Bellalta v. Newton."

16 The Law Department and the City's Inspectional
17 Services Staff are very familiar with the case. In fact, it
18 is the case that informed the amendment that led to the
19 adoption of Section 8.22.2.d. That's the special permit
20 that the applicant has been directed to apply for.

21 Most respectfully, it's the applicant's position
22 that that special permit is not required in this case. And

1 in fact work began on this with a building permit, but it
2 was understood that this issue would need to be addressed,
3 the issue of the nonconforming condition on the existing
4 structure.

5 As I said, the only remaining nonconforming
6 condition is approximately an 18" side yard setback. The
7 addition -- all of the new construction that frankly is in
8 place already -- all of that is conforming. The
9 disagreement or the extended discussion between the
10 applicant, the Building Department and we were led to
11 believe the Law Department centered around whether Section 6
12 is required here.

13 I would draw the Board's attention the language of
14 Section 6. About midway through Section -- excuse me,
15 paragraph 8.22.2.d. this new amendment adopted
16 approximately a year ago allows for an increase in a
17 preexisting dimensional nonconformity, provided that the
18 Board finds that such an increase is not having more
19 detrimental effect upon the neighborhood.

20 Prior to the adoption, the ruling in Bellalta and
21 the adoption of this case -- of this amendment -- such
22 changes would have required a variance. So the effect of

1 8.22.d (sic passim) is to take a case that used to require a
2 variance and now allow it to be dealt with on a special
3 permit standard. And that standard is broad. It's unique.
4 It says it's not simply the impact on the abutters, it's the
5 impact upon the neighborhood as a whole.

6 But what was intended there and is addressed in
7 8.22.d is not what is present in this case. It is not
8 proposed in this case that the existing nonconformity be
9 increased. There is no change in the nonconformity.

10 And in the Bellalta case, the court was very
11 clear. They said that what the Building Department needs to
12 do is to determine whether or not the particular
13 nonconformity, determine what it is, and then determine
14 whether the proposed alteration or addition would intensify
15 the existing nonconformity or result in additional ones.

16 And the court stated, "If the answer to that
17 question is in the negative, the applicant will be entitled
18 to a permit to proceed with the proposed alteration." It
19 was with that understanding and knowledge of Bellalta that
20 the applicant spent consideration amount of time discussing
21 this case with ISD.

22 And a building permit was issued with the

1 understanding that this issue, the question of the
2 applicability of the Bellalta holding -- and the relevance
3 of the 8.22.d section would apply -- that would have to be
4 resolved before a Certificate of Occupancy could be issued
5 in this case.

6 And I understand the sequencing here is somewhat
7 out of the ordinary, and I've seen correspondence
8 criticizing the impact of the additions. But I note that
9 the additions are conforming. The additions -- candidly --
10 are really not what's before the Board.

11 If the Board were to find that 8.22.d is
12 controlling here, notwithstanding the fact that we are not
13 increasing the nonconformity or changing it at all, the real
14 question for the Board is not what is the impact of the
15 addition, the real question for the Board is what is the
16 impact of allowing the left side setback of 18" to remain on
17 the structure?

18 Because the only other alternative to cure this
19 is, other than a special permit granted by this Board, given
20 the ISD's current position, would be that the applicant
21 would have to remove 18" of the existing structure.

22 And if the Board concludes that 8.22.d is

1 appropriate, I think the evidence is quite compelling that
2 that 18" on the left side of the house is not having a
3 detrimental impact upon the neighborhood.

4 But I think it's also in the Board's purview here
5 to conclude that based on the language of 8.22.d and the
6 holding in the Bellalta case, that a special permit is not
7 even required, and the Board can in this case -- as it has
8 done in other cases -- make it known to the Building
9 Department that this construction can proceed without the
10 need of the special permit.

11 We have -- as I said, we have Mr. Hiserodt here,
12 the architect, who can walk the Board through the plans
13 although I'm sure the Board is familiar with them. But it
14 is admittedly somewhat of a unique situation that the Board
15 is dealing with in this case.

16 It's a situation prompted by years of litigation
17 and land-use policy discussion around the special protection
18 afforded one- and two-family nonconforming structures. It's
19 led to changes in the Ordinance.

20 Again, if one were to closely read the amendment,
21 the special permit that the applicant is being directed to
22 obtain, it really covers the question of whether it would be

1 allowed to increase a preexisting dimensional nonconformity.

2 So 8.22.d follows Bellalta in saying that if you
3 have a nonconforming setback, you can continue that
4 nonconforming setback with your addition. What you cannot
5 do is create a new nonconformity, such as a height
6 nonconformity or an FAR nonconformity.

7 So Bellalta in this amendment are very significant
8 changes in the law that allows property owners to proceed
9 under a special permit. But as I said at the outset, in
10 this case, in those cases where the proposed alteration is
11 conforming, I think it's not necessary for the applicant to
12 obtain the special permit.

13 But if the Board were to determine that they read
14 8.22.d in the same way that the applicant was directed to
15 seek relief under, we would suggest strongly that the
16 standard under which you review this case, that you could
17 easily conclude that the 18" nonconformity remaining on this
18 structure does not have a detrimental effect upon the
19 neighborhood.

20 Thank you.

21 JIM MONTEVERDE: Thank you, Mr. Rafferty. Just
22 for my own clarification, when the -- and tell me if you

1 know this or not, or someone else who can speak to it --
2 when the building permit was issued, was there a condition
3 or any discussion on the permit or in the permit about the
4 portion of the existing structure that's over the setback
5 line and an agreement to modify it to make it compliant?

6 JAMES RAFFERTY: I'm going to have Mr. Hiserodt
7 address that. But the answer, Mr. Chair, is yes, there is
8 language in the building permit that addresses the need to
9 remove the nonconformity. And Mr. Hiserodt, I have not had
10 any prior involvement.

11 I can tell you what Mr. Hiserodt's, or Mr.
12 Hiserodt can tell us what his understanding of that
13 condition was. And he proceeded with the understanding that
14 this issue had been referred to the Law Department, and that
15 there would be an ultimate determination made by the Law
16 Department.

17 He tells me he spent several weeks -- in fact
18 months -- awaiting such a determination, and that he then
19 learned in the process that no, the position of the
20 Department was the special permit was needed.

21 But as for the amount of discussion and what was
22 forwarded by Ms. Hiserodt, I would ask if he could address

1 it.

2 STEPHEN HISERODT: The -- if --

3 JIM MONTEVERDE: Can you introduce yourself,
4 please?

5 STEPHEN HISERODT: This is Steve Hiserodt of DH
6 Architects.

7 JIM MONTEVERDE: Thank you.

8 STEPHEN HISERODT: There were lengthy discussions
9 at several points during the process about how to proceed
10 and which method we should, or which type of special permit
11 we should apply for.

12 But what we arrived at was a building permit which
13 shows the 18" of the nonconforming portion of the existing
14 structure as being demolished. So that was one of the
15 things we were permitted for was demolishing that section,
16 demolishing of the garage, and the full construction of the
17 addition.

18 It was my understanding that the order in which
19 these things were to occur was up in the air because a
20 decision had not been made about how to proceed with the
21 approval process.

22 JIM MONTEVERDE: Okay.

1 STEPHEN HISERODT: So we --

2 JIM MONTEVERDE: The Department contained
3 documents that indicated that 18" portion was to be removed?

4 STEPHEN HISERODT: Yes.

5 JIM MONTEVERDE: To bring it into compliance?

6 STEPHEN HISERODT: Yes.

7 JIM MONTEVERDE: Okay. All right. That was my
8 question. Thank you. Anything else in terms of
9 presentation? And -- oh, one other fact. And the addition
10 is built, constructed, is that correct?

11 STEPHEN HISERODT: Yes.

12 JIM MONTEVERDE: Oh, we know that. We see the
13 photos.

14 STEPHEN HISERODT: Yep.

15 JIM MONTEVERDE: Okay. And the 18" portion of the
16 existing building that's over the property line was not
17 removed?

18 STEPHEN HISERODT: It has not been demolished. We
19 were waiting for this process to run its course.

20 JIM MONTEVERDE: So I understand that Mr.
21 Rafferty's discussion, if we find that by 8.22.2.d you
22 really don't need a special permit, certainly for the

1 conforming addition as the application states, and we take
2 no action, you basically remain out of compliance with your
3 setback on that one side of your building, correct?

4 STEPHEN HISERODT: Yes. That is correct.

5 JIM MONTEVERDE: Mm-hm. Okay. Thank you. Any
6 other questions from members of the Board?

7 JAMES RAFFERTY: Mr. Chair, if I could just
8 suggest that if the -- and this has happened in prior cases
9 -- if the Board were to conclude that the special permit
10 applied for is not necessary, it's not the case that the
11 Board would take no action, the Board would need to make
12 such a finding so -- and be adopted by at least four
13 members. And that finding would be communicated to the
14 Building Department.

15 JIM MONTEVERDE: Yes. Okay. Thank you. All
16 right. Questions from members of the Board?

17 VIRGINIA KEESLER: I was wondering if you could
18 walk through the changing gross floor areas and -- it just
19 seemed to be a point of confusion.

20 STEPHEN HISERODT: The change meaning the most
21 recent submittal change? Orientation --

22 VIRGINIA KEESLER: Yes, the --

1 STEPHEN HISERODT: The general description of what
2 is being added?

3 VIRGINIA KEESLER: So the new conditions as
4 compared to the conditions prior to the addition at the rear
5 of the house.

6 STEPHEN HISERODT: Okay, can -- I think Stephen,
7 are you controlling the presentation?

8 STEPHEN NATOLA: Yes.

9 STEPHEN HISERODT: If you could go to the first
10 floor, which should be A101?

11 JAMES RAFFERTY: I think it's A102.

12 STEPHEN HISERODT: Oh, okay. Yeah.

13 UNIDENTIFIED SPEAKER: So what's the difference?

14 STEPHEN HISERODT: It's -- I mean essentially if
15 you -- you see the courtyard with the circular tree at the
16 bottom of the page?

17 JAMES RAFFERTY: Steve, could you orient the Board
18 to where the street is on this drawing? I've always found
19 that --

20 STEPHEN HISERODT: The street is on the right-hand
21 side.

22 JIM MONTEVERDE: Okay.

1 STEPHEN HISERODT: And if you can't see a cursor,
2 it's hard to really point out exactly where, but the front
3 of -- the front block of the building, which is from the
4 front porch -- if you look at the lower side of the page or
5 the left-hand setback, the first corner that you run to is
6 essentially the existing structure that has been kept.

7 Or if we go to -- maybe go to the sheet A012,
8 which is where we have the volume calculations and the area
9 calculations.

10 JIM MONTEVERDE: Right.

11 STEPHEN HISERODT: Other direction.

12 JIM MONTEVERDE: The other direction. There you
13 go. Nope, keep going.

14 STEPHEN HISERODT: One more.

15 JIM MONTEVERDE: Right there.

16 STEPHEN HISERODT: There we go. If you go down to
17 the -- yeah, the -- on the lower row on the third drawing
18 from the left, the area shaded in pink is essentially the
19 original house, or the portion of the original house that
20 was kept.

21 And then if you go up to the first floor above,
22 the area you can see on the first floor, which is a little

1 bit to the right -- the area in blue is the addition. The
2 area in pink, again, is the existing house. If that -- does
3 that explain the question?

4 VIRGINIA KEESLER: I think it just -- and maybe
5 it's just looking at this too quickly -- the increasing
6 gross floor area seemed greater just, like, looking at
7 what's in the -- on the slide as compared to the change that
8 you have noted in your table. So maybe just talking through
9 that a little bit more specifically.

10 STEPHEN HISERODT: I guess I'm not sure what -- I
11 mean, it is, what kind of clarification you're looking for?

12 JAMES RAFFERTY: Well, Steve --

13 STEPHEN HISERODT: If you look at the gross --

14 JAMES RAFFERTY: -- maybe you can break down --

15 JIM MONTEVERDE: Excuse me.

16 JAMES RAFFERTY: -- the amount of --

17 JIM MONTEVERDE: Excuse me --

18 JAMES RAFFERTY: -- square footage. I mean it's -

19 -

20 JIM MONTEVERDE: -- Mr. Rafferty -- just give me a
21 second.

22 JAMES RAFFERTY: I apologize.

1 JIM MONTEVERDE: No problem. If you could just --
2 I think what Virginia is talking about is with the -- in the
3 dimensional form --

4 STEPHEN HISERODT: Yeah.

5 JIM MONTEVERDE: -- what's listed as a requested
6 condition of 3,615 versus the existing condition of 3,059,
7 the additions that are shown on that sheet that we just had
8 up looked to be greater than 500 some-odd square feet. Is
9 that just --

10 STEPHEN HISERODT: There was an addition in the
11 back of the existing structure. If you go back to that
12 sheet, you can see the areas of the existing structure that
13 were demolished before we started to the bottom row.

14 JIM MONTEVERDE: Okay. So you take off the shed
15 roof thing --

16 STEPHEN HISERODT: Yeah. The area in the light
17 blue adjacent, that was all demolished --

18 JIM MONTEVERDE: Okay.

19 STEPHEN HISERODT: -- making space for the new
20 addition.

21 JIM MONTEVERDE: And so, you do a subtraction from
22 the existing conditions and then you add on to the --

1 STEPHEN HISERODT: Exactly, yes.

2 JIM MONTEVERDE: -- the new additions add on,
3 Okay.

4 STEPHEN HISERODT: Yeah.

5 JIM MONTEVERDE: Okay. Virginia, does that
6 explain the arithmetic better?

7 VIRGINIA KEESLER: I -- looking at the site, I was
8 seeing that the amount that was being demolished seemed to
9 be -- it didn't seem to be quite adding up. I guess I'm
10 curious if other Board members are seeing --

11 STEVEN NG: Yeah. I agree. I think the proposed
12 areas are totaling up over 2,000 square feet, 1,400 plus
13 eight.

14 JAMES RAFFERTY: Steve, can you share your math,
15 what the net reduction is? And then what the net add was,
16 just so Board members could get some confidence in the
17 number?

18 STEPHEN HISERODT: I'm not sure if I have --

19 JIM MONTEVERDE: Just I asked if we could just
20 enlarge your sheet here. You're looking at -- if you total
21 up the demolition? Describe it.

22 STEPHEN HISERODT: One of the issues is that the

1 basement are is diagrammatically shown in terms of change,
2 though none of that area is included in the gross floor area
3 calculation. It is not required to be gross floor area.

4 JIM MONTEVERDE: Yep.

5 STEPHEN HISERODT: So that may have --

6 STEVEN NG: Not that.

7 STEPHEN HISERODT: -- impact.

8 STEVEN NG: Steve Ng again. You've got demo area
9 totaling what I'm looking at as 230 and 442, right?

10 VIRGINIA KEESLER: Yeah, but that's --

11 STEVEN NG: That's all the area I see being called
12 out as demo. And then you're adding over 14 -- about 2,200.

13 STEPHEN HISERODT: Yeah, but the original square
14 footage of the house was well under what was allowed by
15 Zoning.

16 JIM MONTEVERDE: I don't think that was the
17 question but --

18 STEVEN NG: You're including the existing basement
19 -level square footage --

20 STEPHEN HISERODT: Yes.

21 STEVEN NG: -- in your calculation.

22 STEPHEN HISERODT: Yeah. That is correct. So

1 that -- yeah, that is a little misleading. It should be,
2 then, it's about 2,300, the original square footage.

3 JIM MONTEVERDE: Right. So if it's 2,300 as the
4 existing condition, the requested condition is 3,615?

5 STEPHEN HISERODT: Yeah.

6 JIM MONTEVERDE: The ordinance max is 3,617, so
7 you're two square feet under that, but that would I think go
8 to explain the -- what we're seeing graphically, the -- and
9 numerically, the difference. That seems more reasonable
10 than 1,600 square feet.

11 STEPHEN HISERODT: Yeah.

12 JIM MONTEVERDE: Okay.

13 STEPHEN HISERODT: Part of that is the requirement
14 for percentage of demolition adds up different aspects of
15 the structure, not necessarily GFA-related.

16 JIM MONTEVERDE: Okay. So I've just made a note
17 of that on the dimensional form that's part of the file.
18 Struck the 3,059 and put in the 2,300.

19 STEPHEN HISERODT: Okay.

20 JIM MONTEVERDE: Just for the record.

21 STEPHEN HISERODT: Sorry for that confusion.

22 JIM MONTEVERDE: Okay. Any other -- Virginia, do

1 you have any follow-up to that?

2 VIRGINIA KEESLER: No. That was very helpful.
3 Thanks.

4 JIM MONTEVERDE: Okay. Thank you. Anyone else
5 have a question? If not, I have one.

6 Looking at the drawings, there was one thing that
7 caught my eye. And if you could please, Ms. Hiserodt, just
8 explain for me on the -- Stephen, could we go to A105? 105,
9 the roof plan?

10 STEPHEN HISERODT: Okay.

11 JIM MONTEVERDE: Yep. There's a note on the
12 drawing that says, "Porch cover/sunshade meeting the
13 definition of Article 22.53, excluded from gross square
14 footage calculation."

15 STEPHEN HISERODT: Yes.

16 JIM MONTEVERDE: The Ordinance has since gotten
17 rid of 22.53, but when it did exist, it referred to floor
18 area exemption or pergolas, arbors, and trellises. And it
19 further said that ground space -- underline ground --
20 directly underneath an outdoor pergola, arbor, or trellis,
21 was exempt from the floor area.

22 STEPHEN HISERODT: Yeah.

1 JIM MONTEVERDE: So when you say that -- and do
2 you have a -- do you have the existing condition photo?

3 Sorry, I'm bouncing around.

4 STEPHEN HISERODT: The issue there was when we
5 initially applied for the permit, the new green zoning had
6 not been --

7 JIM MONTEVERDE: Yep, correct. I understand.

8 STEPHEN HISERODT: So we were caught between when
9 applying for the permit, I had to designate these as meeting
10 the pergola condition?

11 JIM MONTEVERDE: That's my question. Is it a
12 pergola? I'm looking at the --

13 STEPHEN HISERODT: No, now it is -- because of the
14 zoning change, it is not a pergola, it's a full-covered roof
15 that --

16 JIM MONTEVERDE: Right.

17 STEPHEN HISERODT: -- has solar panels on top of
18 it.

19 JIM MONTEVERDE: It does.

20 STEPHEN HISERODT: So it still does not count as
21 GFA.

22 JAMES RAFFERTY: Because as you know, the green.

1 The changes to the green building, this is considered a
2 shade structure now. So as Board members probably recall,
3 coverings over porches in the light constitute a GFA, but
4 they can now be treated as shade devices. And the area
5 beneath them is no longer considered GFA.

6 JIM MONTEVERDE: Right.

7 JAMES RAFFERTY: That's an adoption in the last
8 two months.

9 JIM MONTEVERDE: Yep. So that entire roof
10 structure is covered with a solar array?

11 STEPHEN HISERODT: It will be. They're not
12 installed yet.

13 UNIDENTIFIED SPEAKER: They're paid for.

14 JIM MONTEVERDE: Let's -- any other questions from
15 members of the Board? If not, I will open up public
16 comment. We do have a number of letters in the file. Oh,
17 okay. Let me just summarize.

18 We have a letter yesterday the twenty-fourth of
19 January from Gary Hildebrand raising -- strenuously
20 objecting the request for a special permit. They're
21 neighbors, I think, 7 Channing.

22 JAMES RAFFERTY: No, they're rear abutters on

1 Traill, I believe, Mr. Chair.

2 JIM MONTEVERDE: The address they have is 7
3 Channing.

4 JAMES RAFFERTY: Oh.

5 JIM MONTEVERDE: And I have another letter from
6 yesterday, the twenty-fourth of January. It's Peter -- I'm
7 sorry, Hans-Peter Biemann. Sorry, I'm trying to read that
8 upside-down. "Family strenuously objects to the approval of
9 the permit without appropriate modifications agreed with the
10 abutters."

11 And the specific issues are, first solar canopy
12 are disproportionally large and brash and 6 rear sconces,
13 each with lamps pointing up and down are installed up to the
14 roof height.

15 January 23, Tom Stohlman continues in favor.
16 Joseph Glenmullen, from January 22, in support. Hans-Peter
17 again. Philippe Michelon -- I can't see a date. They are
18 in full support. And I'll stop there and open it to public
19 comment.

20 Any members -- so members of the public, if I've
21 summarized your letter here, there's really no reason to
22 restate it, but feel free to speak as you wish.

1 Any member of the public who wishes to speak
2 should now click the icon at the bottom of your Zoom screen
3 that says, "Raise hand."

4 If you're calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6.

6 I'll now ask Staff to unmute speakers one at a
7 time. You should begin by saying your name and address, and
8 Staff will confirm that we can hear you. After that you
9 will have up to three minutes to speak before I ask you to
10 wrap up.

11 STEPHEN NATOLA: Tom Stohlman?

12 TOM STOHLMAN: Tom Stohlman at 19 Channing Street.

13 JIM MONTEVERDE: Yep. Thank you. Go ahead.

14 TOM STOHLMAN: Hi. I wanted to make sure that the
15 Board knows I did write to clarify a previous error that I
16 made in the calculation of the basement gross square footage
17 being included or not included.

18 And I know this really isn't part of the special
19 permit process, but if you're giving feedback to the City,
20 your application still has this as something that should be
21 included in the gross square footage calculations, the BZA
22 application.

1 And the City's new wording was put in in February
2 of 2023 is actually pretty convoluted and confusing for
3 people reading things new.

4 So with that over, I'm clarifying the previous
5 error. I want to make sure you all understand the basement
6 square footage is not used in the calculations anymore. And
7 I think people have already stated that it's a little
8 awkward to be discussing a special permit for a project
9 that's already been built, and I want to make clear what I'm
10 in favor of here.

11 What I'm in favor of is I don't think there's
12 anything to be gained by demolishing the building. I think
13 in the end, what the proponent is going to pay if that's
14 what you decide is just not, where you can be spending that
15 money on other things that will -- it won't exactly solve
16 the problem, but at least it'll help ameliorate it with the
17 neighbors.

18 Now, I still believe even when you don't include
19 the basement square footage, that this project overall
20 exceeds the FAR requirements. Just a little bit. It's 20-
21 40 square feet when I calculate it. I'm an architect too.
22 You're still -- it's still being exceeded.

1 And, you know, what do we do about that? It's
2 already been built. And I do want to make sure I'm not --
3 I'm not in favor of exceeding the square footage, what I'm
4 in favor of is a reasonable requirement for the owner to
5 look to the neighbors and try to correct what -- the them, I
6 think from the street this thing looks fine. I see it from
7 the street.

8 But the neighbors are looking at something that
9 has a lot less open space than it used to. It has
10 significantly more massing -- even more so because of this
11 new solar panel amendment.

12 And I think -- I think something has to be done to
13 help them enjoy their properties too because of these two
14 factors.

15 So I hope the Board takes that into consideration.
16 That's what I'm in favor of.

17 Thank you.

18 JIM MONTEVERDE: Thank you for your comments.

19 Anyone else? Four more.

20 STEPHEN NATOLA: Gary Hilderbrand?

21 GARY HILDERBRAND: Mr. Chairman, I'm Gary
22 Hilderbrand. Can you hear me?

1 JIM MONTEVERDE: Yes.

2 GARY HILDERBRAND: Thank you. My wife Pamela
3 Gorgone, and I live at No. 7 Channing Street, as you
4 mentioned. We are direct abutters to the south of the
5 applicant's property. Thank you for hearing our comments.

6 And I did submit a comment letter yesterday. I'm
7 glad that Maria had confirmed, and the Board members have it
8 in your files.

9 Before I summarize my comments, I want to give you
10 a relevant story. It's very short. When we submitted our
11 plans for a building permit for 7 Channing Street in 2014,
12 we were advised by then Zoning Officer O'Grady that our
13 calculations were incorrect, and that we needed to take four
14 square feet out of the 24- -- sorry 2,300 square-foot house
15 that we have. That's net, by the way.

16 We asked for clarification on how overhangs and
17 how the boiler room had been calculated, but we were asked
18 to come back with a redesign for four square feet.
19 Basements counted then. We sacrificed a third of our
20 basement and we resubmitted and got approval.

21 I tell you this because it relates that the
22 precision, we have come to expect from the ISD and the BZA.

1 We're told that Mr. Purdy is careful and generous as a
2 property developer, and that's great to hear. But we feel
3 aggrieved by the process. Tom Stohlman has, you know,
4 indicated one of the reasons why, which is why are we still
5 talking about a special permit, when the project is probably
6 95 percent complete?

7 And we're aggrieved by the mass and bulk of what
8 you see on the screen; the -- we believe nonconforming
9 addition.

10 Counsel's presentation is pretty interesting
11 regarding 8.22.d. Curious reasoning to suggest that a
12 special permit isn't required at all, since that was the
13 assumption when the building permit was granted. It seems
14 to me the City took a risk initially with this building
15 permit. There was a pledge to remove the left-side
16 nonconformity; quite an absurd thing to do. And of course
17 it didn't happen.

18 There's too much confusion in the area
19 calculations, as we just witnessed. Misleading, to put it
20 mildly, obfuscating more like it.

21 And again, I suggest that precision is mandated
22 for all of us in this work, and we're not seeing it. We'd

1 like to know what is the FAR calculation? Tom Stohlman just
2 told you that it exceeds the allowable. Why would we let
3 that happen in a building that's already built?

4 My wife and I recognize that this beautiful street
5 has homes of diverse sizes and scales and characters. It's
6 kind of what we like about the street. We love living here.
7 But we believe this addition meets neither the letter nor
8 the intent of our Zoning Code.

9 We find the roof over the deck, the occupiable
10 deck itself and the overall mass and bulk offensive and
11 detrimental to the character of the neighborhood, and
12 they're a nuisance.

13 And you have four unhappy abutting homeowners who
14 have all themselves abided by Zoning at every turn in their
15 careful stewardship of property and community.

16 I think this project is a detriment to the
17 community, and if you would show my letter, there are four
18 slides, four images that I think really make my case.

19 Thank you.

20 JIM MONTEVERDE: Thank you.

21 STEPHEN NATOLA: Hans Biemann?

22 HANS-PETER BIEMANN: Hello. This is Hans Biemann.

1 Can you hear me?

2 JIM MONTEVERDE: Yes, we can. Go ahead.

3 HANS PETER BIEMANN: Hi. So my full name is Hans-
4 Peter Biemann. And my family lives at 12 Trail Street,
5 directly behind 5 Channing. So my perspective is that of an
6 abutter to 5 Channing, who in fact grew up in the
7 neighborhood.

8 And I'd like to point out that to my knowledge,
9 all of the direct abutters to this project have significant
10 reservations and strenuous objections. And four of them, to
11 my awareness, feel that some major remediation needs to be
12 made.

13 I agree with what Tom said, that nobody is calling
14 for demolition of the building, in terms of the removing the
15 entire addition or anything like that.

16 I also wanted to point out that during the earlier
17 part of the meeting, I believe a Board member brought up a
18 parameter about the front porch and was referring to ground
19 underneath it. And this is at the ground level that's on
20 the east side.

21 And then the conversation followed up with the
22 west side third-floor solar roof. So I'm not sure that that

1 first question really was addressed.

2 I agree with what's been said that if there's a
3 building permit that calls for a demolition of 18" of the
4 entire side of the house, and for the -- and for some
5 unclarified steps to be taken later in terms of permitting,
6 and then a developer goes ahead and builds out completely,
7 that is taken at some risk.

8 And I certainly wouldn't have done that, and I'm
9 not sure that it's appropriate that that -- the fact that
10 this is now built be factored in the way some might want to
11 factor it in.

12 As far as our family's perspective, we bought our
13 property in 2008 because of the setting and the opportunity
14 for this kind of back yard and wonderful surroundings offer
15 open space, trees, sky, pleasant homes.

16 This new addition adversely affects our property
17 and our use of it. I've noted about living height, lofty
18 observation platform, exaggerated massing in my letter.

19 And I want to also point out that developers are
20 drawn in by large share of profits. And there are more of
21 these opportunities all over the neighborhood. If the
22 special permits would be granted when there's a

1 nonconforming, original property and you do build out in the
2 way that this is done, which does require a special permit.

3 If that special permit were duplicated all over
4 the place, I can tell you there are five nonconforming
5 houses neighboring just my house and 5 Channing that would
6 add close to 2000 square feet each on average, and the draw
7 -- the financial draw for developers to come in and
8 steamroll through these neighbors, they can -- replicating
9 what we we're seeing.

10 And I appreciate if you could go back up from 45
11 to 44, to go back to the picture. Because what this shows
12 from our neighbors' house is the view that our neighbor has
13 of this new property. And you can see the two sister
14 houses. These houses are identical houses -- the one on the
15 left behind the tree, which is 3 Channing, and then 5
16 Channing.

17 So look at A and look at B. Is this going to be
18 happening? Whenever you have a house like A, are we going
19 to be letting a developer come in, get a special permit, and
20 build a house like B? We're supposed to be protected under
21 Section 10.43, as I understand. And I think it's very clear
22 there's all kinds of adverse effects on the neighborhood

1 from what we see on the vertical here.

2 The developer first reached out to me January 13
3 and has offered to discuss the project with me and his
4 architect, and I'll be happy to do so under a coordinated
5 plan with the BZA as part of the consideration of a permit
6 approval that has appropriate remediation agreed by all of
7 the abutters.

8 Thank you very much.

9 JIM MONTEVERDE: Thank you for your time.

10 STEPHEN NATOLA: Jonathan Siner?

11 JONATHAN SINER: Hi. Good evening. Thank you for
12 letting me speak. Last name is Siner. I grew up at 6
13 Channing Street, which is across the street, with my mother,
14 who lives still at 6 Channing Street.

15 And I just would support the abutters' concerns
16 about the size and the mass of the property, and also concur
17 with their concerns about the approach that is ongoing with
18 development that bypasses reasonable concerns of abutters to
19 the appearance of the structures.

20 My specific question that I presume the Board
21 could answer is regarding the allowance related to the
22 pergola -- the green pergola; it allows that to be built.

1 As someone not familiar with the statutes, I would wonder
2 whether that is intended for something that's based on the
3 ground, rather than in this instance, which effectively is
4 adding a third story to a two-story building.

5 So I think that may be worth a point of
6 discussion. I'm not familiar with the Ordinance, but that
7 is not how I would think about it. It's essentially a third
8 story onto this building.

9 Thank you very much.

10 JIM MONTEVERDE: If I can address that one. I did
11 some research. And it -- the requirement, the condition
12 that floor area could be exempt for a pergola, arbor, or
13 trellis -- and that would be the ground space beneath that
14 pergola -- was the old Code reference, not the current one.

15 And the current one which Mr. Rafferty mentioned
16 does allow a covering if there's a solar array on top of it
17 as the -- one of the proponents has said is to be installed.

18 So that's the difference. Under the current Code,
19 it can be there as a green element, which if the panels are
20 installed, it will be.

21 All right. Thank you for calling in. Anyone
22 else?

1 STEPHEN NATOLA: Joe Glenmullen.

2 JOSEPH GLENMULLEN: Hi. Can you hear me?

3 JIM MONTEVERDE: Yes.

4 JOSEPH GLENMULLEN: Hi. I'm Joe Glenmullen. I
5 also live in the neighborhood at 68 Sparks Street. And I
6 wrote a letter in support of the special permit.

7 I've tried to follow this discussion about all
8 these elements, but it seems to me that the solar structure
9 on the top that we're all looking at right now based on what
10 the Chairman just said is allowed. It seems that the
11 conforming addition is allowed.

12 So it's really just a question of those 18 inches,
13 which it doesn't -- since there is no extension of the
14 nonconformity, no increase in the nonconformity, it seems --
15 it doesn't seem like there would be any reasonable reason
16 not to allow that 18" to remain, especially since it's built
17 out.

18 So I agree with the people who say that it would
19 be absurd to take that 18" off. And I would just hope that
20 there could be some kind of mitigation at the back with
21 landscaping for the people.

22 And I agree with the person who said that on

1 Channing Street, the house actually looks greatly improved.

2 So I just want to reiterate my support for the
3 special permit if such a thing is necessary. It seems like
4 the only thing really under consideration is those 18". And
5 I haven't really heard anything that would require a special
6 permit for leaving the existing nonconformity if it's not
7 being extended or intensified.

8 So thank you.

9 JIM MONTEVERDE: Thank you for your comment.

10 Anyone else? That seems to be the extent of
11 public commentary.

12 JAMES RAFFERTY: Mr. Chair?

13 JIM MONTEVERDE: Public comment? Mr. Rafferty?

14 JAMES RAFFERTY: Thank you. Mr. Chairman. Might
15 Mr. Hiserodt be permitted to address the question of the
16 GFA? It's a critical issue, and I understand. This house
17 doesn't have any additional GFA. And I have great respect
18 for Mr. Stohlman. We've shared with him the drawings, the
19 calculations.

20 It is not the case that this house has excess GFA
21 beyond the allowed FAR. Mr. Hiserodt would mention that.
22 Because if that were the case, this would require a

1 variance.

2 JIM MONTEVERDE: Correct.

3 JAMES RAFFERTY: And ISD would not have issued
4 that building permit.

5 JIM MONTEVERDE: Correct.

6 JAMES RAFFERTY: So Mr. Hiserodt can take you
7 through the review he went with -- through the Building
8 Department on the calculations, floor by floor. So there is
9 a portion of the garage that was included. I've sent Mr.
10 Stohlman some information on it, but I don't want the Board
11 to be left thinking that the GFA as set forth in the
12 dimensional form is less than accurate.

13 I would like Mr. Hiserodt, who is an experienced
14 architect in this city to at least be given the opportunity
15 to explain to the Board or to affirm the accuracy of the
16 information he's placed in the dimensional form.

17 JIM MONTEVERDE: We just -- I think we covered
18 that previously. So I don't think there's a reason -- and
19 when we looked at the colored diagrams of what was
20 subtracted for demolition, what was added for the addition.

21 So I appreciate your comment, Mr. Rafferty, but
22 unless there's another Board member that has a question

1 relating to that, I think that as far as the Board is
2 concerned, that's a nonissue. We basically are following
3 the arithmetic that has amended for the existing gross
4 square footage.

5 As I said, the note that I made in here modifying
6 the dimensional form, the existing condition of
7 approximately 2,300 square feet, and we request the
8 condition of 3,615, and the Ordinance requirement of 3,617.

9 We will assume that ISD reviewed it, and if they
10 had that conversation with Mr. Hiserodt, that's all behind
11 us. And that's done. And we're accepting that. So.

12 JAMES RAFFERTY: Thank you.

13 JIM MONTEVERDE: Unless there's a question from a
14 member of the Board about the area tabulation, I don't think
15 that's rightly the item in front of us.

16 JAMES RAFFERTY: Understood.

17 JIM MONTEVERDE: All right. I'll close public
18 comment, public testimony. Any discussion among members of
19 the Board? Please? I feel like I'm in a deep hole here.

20 STEVEN NG: This is Steve Ng.

21 JIM MONTEVERDE: Yep.

22 STEVEN NG: I don't understand what point we would

1 make approving a special permit for this, especially after
2 the building's done. We're getting public feedback on
3 certain issues.

4 How are we supposed to direct this or guide this
5 applicant to -- you know, work with us to make something
6 that works with the neighbors' support?

7 JIM MONTEVERDE: Yep.

8 STEVEN NG: I don't see the point. For me, I
9 honestly -- let's leave -- they went and got a permit, a
10 building permit, because when you say, you'll "Well, we'll
11 just be compliant" all across the board so you chop off 18
12 inches, you can get a building permit. So you built the
13 building, but make it make -- you want to close out your
14 permit, finish everything that's on the drawings.

15 JIM MONTEVERDE: Yeah. I agree.

16 STEVEN NG: Or convince me otherwise. That's all.
17 I mean.

18 JIM MONTEVERDE: No, no. I go back to Mr.
19 Rafferty's presentation, and I have open in front of me my
20 second favorite paragraph in the Ordinance, 5.22.2.d. and
21 what's advertised. And I'll read it.

22 And it says, "Special Permit to build a conforming

1 addition to an existing non-conforming Single Family
2 Residence. The proposed addition does not increase the
3 nature of the existing nonconformity."

4 I don't think we need to approve a special permit
5 to do that. It's conforming. There's no need -- they're
6 not asking for anything in here that requires a special
7 permit. They're not asking for a waiver of the fact that
8 the existing building is 18" over the property line. It is,
9 and it'll remain that way.

10 So I think we could agree not to rule on the
11 special permit by simply saying there's actually no basis
12 for a special permit here; that as advertised, to build a
13 conforming addition, it's conforming and it's allowed.

14 And I sympathize with the neighbors, and I
15 understand their concerns about massing and everything else
16 that goes along with it, but it's a conforming addition.

17 And the special permit is really -- the way it's
18 written is asking for nothing. So no relief. So I think
19 there's no way I could vote for a special permit. Anybody
20 else have any comment?

21 DANIEL HIDALGO: I tend to agree. And also, I
22 feel a little bit uncomfortable trying to intervene with the

1 neighbors to try to come up with some kind of accommodation.
2 I don't think that's really our role at this point. That's
3 the only thing I wanted to say.

4 STEPHEN HISERODT: So this changes everything.

5 DANIEL HIDALGO: Yeah, I just --

6 STEPHEN HISERODT: Go ahead.

7 JIM MONTEVERDE: Any other comments from --
8 questions, comments, discussion from members of the Board?
9 Does everyone feel there's something to vote on here?

10 STEVEN NG: Well, I guess the question is the
11 addition -- like you were saying, Jim, is there's no issues
12 with it, since it's within the bound-- you know, setbacks
13 and so on. But they did get a building permit that requires
14 them to take the 18" off the existing structure. Isn't that
15 correct?

16 JIM MONTEVERDE: That's what I understand.

17 STEVEN NG: So that is -- that's their fight,
18 right, with the ISD?

19 JIM MONTEVERDE: Correct. To close out the
20 permit.

21 STEVEN NG: Right. I don't think our decision
22 should make any comment to -- you know, any opinion on

1 whether or not that should be changed in their building
2 permit. I think that's --

3 JIM MONTEVERDE: Yeah. They're not asking for it.

4 STEVEN NG: Right.

5 JIM MONTEVERDE: I don't want to add something to
6 the application that's been made to the Zoning Board that's
7 not there.

8 STEVEN NG: Right.

9 JIM MONTEVERDE: And I don't see it there. So --

10 JAMES RAFFERTY: Mr. Chair, might I be heard just
11 on a procedural question, then?

12 JIM MONTEVERDE: Yeah, please.

13 JAMES RAFFERTY: So as you know, the Board -- an
14 applicant -- the applicant was directed to seek this special
15 permit by Inspectional Services. And there has been some
16 back and forth for an extended period of time over the
17 applicability or the necessity of this special permit.

18 We are making the contention that this special
19 permit is not needed, in which case the Board would have to
20 make a finding.

21 JIM MONTEVERDE: Oh, I agree.

22 JAMES RAFFERTY: But they agreed with that

1 conclusion. I don't think the Board can simply walk away
2 from this case without addressing that.

3 JIM MONTEVERDE: No, I -- sorry. I didn't mean to
4 imply in anything I discussed that we're walking away. We
5 will come to a finding.

6 JAMES RAFFERTY: Okay.

7 JIM MONTEVERDE: The finding is that the special
8 permit's not -- you know, based on the application, no
9 special -- we find that no special permit is required.

10 JAMES RAFFERTY: Thank you. That's all.

11 JIM MONTEVERDE: Right? I think you made that
12 clear before, and I have followed that.

13 Members of the Board, are you comfortable with
14 that?

15 CAROL AGATE: Yes.

16 JIM MONTEVERDE: Carol, yep, Virginia?

17 BILL BOEHM: Can I ask for a clarification?

18 JIM MONTEVERDE: No. Not at the moment.

19 JAMES RAFFERTY: No. No, don't ask.

20 JIM MONTEVERDE: Not in there. Carol, thank you.
21 Virginia, are you also on this one?

22 VIRGINIA KEESLER: Yes.

1 JIM MONTEVERDE: Are you ok with that?

2 VIRGINIA KEESLER: Yes.

3 JIM MONTEVERDE: And Daniel, you're ok with that?
4 Steven, you're okay with that?

5 STEVEN NG: Yes.

6 JIM MONTEVERDE: All right. So the motion. Well,
7 the Chair makes a motion just to say that we have found
8 under the finding that the special permit applied for for
9 Case 245989, specifically to build a conforming addition to
10 an existing nonconforming single-family residence -- I know
11 -- the proposed addition does not increase the nature of the
12 existing nonconformity.

13 Give me one second. I have someone who wants to
14 pull me back from the edge here. Where was I?

15 So we come to a finding that the special permit
16 requested is not required by the description here to build a
17 conforming addition to an existing, nonconforming single-
18 family residence and the proposed addition does not increase
19 the nature of the existing conformity.

20 And basically the advertisement in the ask, there
21 is no request for relief. It's a conforming addition, and
22 the existing house will remain nonconforming in that it sits

1 over the property line.

2 So with that garbled motion, Board members take a
3 voice vote. Virginia?

4 VIRGINIA KEESLER: In favor.

5 JIM MONTEVERDE: Carol?

6 CAROL AGATE: In favor.

7 JIM MONTEVERDE: Daniel?

8 DANIEL HIDALGO: In favor.

9 JIM MONTEVERDE: Steven?

10 STEVEN NG: In favor.

11 JIM MONTEVERDE: And Jim Monteverde in favor.

12 [All vote YES]

13 JAMES RAFFERTY: Thank you very much.

14 JIM MONTEVERDE: You're welcome.

15 JAMES RAFFERTY: Have a good evening.

16 JIM MONTEVERDE: Can I take a five-minute break?

17 STEVEN NG: Sure.

18 JIM MONTEVERDE: Everyone be back in five. Thank
19 you.

20 (BREAK)

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(8:02 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo,
and Zarya Miranda

JIM MONTEVERDE: This is the Regular Agenda.
We're rewinding the clock to 6:30. And we have
myself, Steven Ng, I just saw you.

STEVEN NG: Yeah.

JIM MONTEVERDE: Daniel, you're here? And Zaraya?

ZARYA MIRANDA: Zarya here.

JIM MONTEVERDE: Zarya. It's been so long I
couldn't --

ZARYA MIRANDA: I know.

JIM MONTEVERDE: -- pronounce your name.

ZARYA MIRANDA: -- nice to see you.

JIM MONTEVERDE: Nice to see you too. Okay. We
can proceed if everyone's ready. So the next case -- this
is the first Regular Agenda case is BZA-252059 -- 1 Langdon
Street. Is there anyone here who wishes to speak to us
about this one?

SARAH RHATIGAN: Yes. Good evening, Mr. Chairman.

1 This is Sarah Rhatigan, Trilogy Law --

2 JIM MONTEVERDE: Yeah.

3 SARAH RHATIGAN: -- 12 Marshall Street, Boston.

4 How are you? Thank you.

5 JIM MONTEVERDE: Good.

6 SARAH RHATIGAN: Great. Thanks so much. I am
7 here representing the owner and petitioner, which is John
8 Harvard LLC, probably the best name in town; and Andy
9 Martineau and Mark Levin from John Harvard LLC are here with
10 me as well.

11 JIM MONTEVERDE: Yep.

12 SARAH RHATIGAN: And this is an application --

13 JIM MONTEVERDE: Before you get into it --

14 SARAH RHATIGAN: Yes.

15 JIM MONTEVERDE: -- can I ask you a quick
16 question?

17 SARAH RHATIGAN: Sure.

18 JIM MONTEVERDE: Sorry to interrupt.

19 SARAH RHATIGAN: No, no problem.

20 JIM MONTEVERDE: I notice you were on the Planning
21 Board Agenda for earlier this week?

22 SARAH RHATIGAN: We were, and there was --

1 JIM MONTEVERDE: And I don't see anything in the
2 file from them.

3 SARAH RHATIGAN: Yeah. The --

4 JIM MONTEVERDE: Did it get reviewed there or
5 discussed?

6 SARAH RHATIGAN: It wasn't -- unfortunately, the
7 Planning Board had -- there was a technical issue where the
8 City's website was down. So they weren't actually able to
9 hold the meeting.

10 JIM MONTEVERDE: Okay.

11 SARAH RHATIGAN: I did speak to -- I had spoken to
12 Swaathi Joseph from CDD prior to the Planning Board meeting,
13 just to ask her about the -- you know, the providence of
14 them calling the case to the Planning Board.

15 And she had said that that was as a routine
16 matter, because as you'll hear in our petition, the property
17 previously got a Planning Board special permit.

18 JIM MONTEVERDE: Right. Yeah. I saw that.

19 SARAH RHATIGAN: But it was not an instance where
20 any of the Board members had -- you know, asked to hear it
21 for any -- you know, because there were any concerns.

22 JIM MONTEVERDE: Okay.

1 SARAH RHATIGAN: So -- and I'm sorry, I'm also
2 just getting a text that Mark Levin from our team needs to
3 be promoted to a panelist. If the Staff could help us with
4 that, that would be great.

5 JIM MONTEVERDE: Yep. Yep, sorry for the
6 interruption, but I just want to confirm we can go ahead
7 here --

8 SARAH RHATIGAN: Yep.

9 JIM MONTEVERDE: -- and we don't need to continue
10 or something else.

11 SARAH RHATIGAN: Yeah, no we're -- we're -- I
12 think we're all set.

13 JIM MONTEVERDE: Okay.

14 SARAH RHATIGAN: We should be fine. Thank you.
15 Thank you for that. And I also wanted to just ask whoever -
16 - I'm not sure who's running the slides. We had sent in a
17 presentation slide set this just peeled back some of the
18 language and has a couple more photos. I'm not sure if
19 they're able to post those as we're talking. We're trying
20 to make it easier as opposed to harder.

21 But anyway, I'll start talking. So this is a
22 project -- this is an apartment building on Langdon, right

1 at the corner of Langdon and Massachusetts Avenue, just
2 outside of Harvard Square, just north of -- oh, I see.
3 Thank you. I see Mark is here -- just north of Cambridge
4 Common.

5 And it's an existing apartment building. The
6 building was built in I think 1924. And what we are doing
7 today is requesting that the basement -- a basement area
8 that is on -- as we're looking at the site plan right now,
9 it's a portion of the building that faces Mass Ave.

10 A portion of that area has been used as leasing
11 office for Chestnut Hill Realty, who manages the building.
12 It's no longer used for the leasing office. We're asking
13 that this be converted to two residential apartments.

14 But the history to this goes back to the Planning
15 Board again. So if you could advance back up towards the
16 floor plans, so I'll just kind of run through this briefly.

17 So prior to 2014 -- what we're doing is we're just
18 showing you the basement plan, because that's the only thing
19 that is at issue here -- prior to 2014, you can see in the
20 highlighted on the right-hand side it says, "Existing
21 apartment" there's kind of a large-ish apartment that was on
22 the right there, facing Mass Ave.

1 And then below that, there was a smaller existing
2 office for the rental group.

3 And this was the time where the owner applied to
4 the Planning Board for a special permit under the
5 Massachusetts -- the Mass Ave Corridor's Basement Overlay
6 District provisions that allow for building out basement
7 apartments if a building's in existence, and if the building
8 already has a basement apartment.

9 So the applicants were eligible for the special
10 permit applied in 2014.

11 If you could go to the next page?

12 The next page shows the plans that were approved
13 by the special permit in 2014, and the boxes circling the
14 five apartments that were allowed to be constructed -- a
15 combination of studios and one-bedrooms.

16 And then if you look to the right, the area in
17 question, it was -- you know, maintained in the existing
18 apartment and maintaining the existing office at the front.

19 If you can go to the next slide?

20 So that work was all completed, and the building
21 had -- at that point it was permitted to have 38 units.

22 Opposite And then at some time -- I'm sorry, I'm not sure

1 Andy or Mark if you have the exact date, but at some time
2 after the five units were constructed, it was decided that
3 the existing apartment, the original existing apartment,
4 which was quite outdated and a little bit too large for
5 their uses, would be abandoned and converted to an expanded
6 office for the company.

7 So as you can see in this photo, this is -- this
8 plan is showing you what the existing office space looks
9 like. So basically, they took over what used to be the
10 larger apartment, they created a reception area. This is
11 all accessed by a stairwell down to this kind of lower level
12 office.

13 And what we are asking today is to convert this
14 office area to the right, which is -- you know, not needed,
15 to convert -- to basically reestablish a residential
16 apartment and to add a second apartment.

17 If you can go to the next slide, No. 10, so this
18 is showing the two proposed basement units. This is a
19 Variance Request. We can't use the Basement Overlay
20 provisions to add these units back.

21 We kind of went through a process of talking to
22 the Planning Staff and to Inspectional Services about this,

1 and they agreed that unfortunately by abandoning the
2 existing apartment in that basement, we lost the use of that
3 as residential use.

4 But this is really an ideal setup for the -- both
5 the owners, and we hope for the city of Cambridge as well by
6 providing some much-needed, you know, residential apartment
7 space.

8 If you could advance to the photos, we wanted to
9 just show if you could reorient those for us, that would be
10 great. Just talk a little bit about the minimal impacts
11 here.

12 So what you're looking at here is the corner of
13 the building as it's seen -- you're standing on Langdon
14 Street and Mass Ave is to your right. So you can see the
15 leasing sign there, that blue sign.

16 And if you see the wrought iron handrail in front
17 of you, those are the -- that's the stairs that lead down to
18 the leasing office.

19 And that first -- that basement level with the
20 windows there is what would be converted to the residential
21 apartments.

22 Next slide, please? Or next photo?

1 So we're just kind of walking you around the
2 building. So now this is the section that is on Mass Ave as
3 you are looking north.

4 And so, you can see these windows already exist.
5 There's not going to be -- the proposed change of the use of
6 the inside of the building doesn't result in requiring any
7 changes to the exterior. All the windows can remain the
8 same. The visual will be the same.

9 Next photo please?

10 This is just a straight-on shot of how the
11 building looks from Mass Ave.

12 Next slide?

13 Just from a different angle.

14 Next slide?

15 And this is showing the other side. There's a
16 driveway that leads back to a parking area in the rear. And
17 this is showing what those windows looks like. So this --
18 again, this would all be apartment windows.

19 Next slide?

20 More photos. This is of looking towards Mass Ave.

21 And I think there's just one more photo, or maybe
22 this is the last one. Yes. That's good.

1 So in terms of the Variance request, the -- I can
2 go -- I'm happy to go through as much of the sort of the
3 hardship arguments as you'd like. We've tried to put that
4 into the application to detail it for you, but it is a quite
5 unique property in terms of a number of factors, both the
6 fact that it's a large kind of oddly-shaped building with a
7 -- sort of a half-level basement that is a little unique.

8 The lot is situated both in the Business District
9 at the front, and then it has a little section of
10 Residential at the back, so that affects -- you know, unit
11 counts that would be allowed on the lot.

12 The only thing that's happening with the change of
13 the use in the basement is that it increases the
14 nonconformity. It's already a preexisting, nonconforming
15 apartment building. I think under current zoning, the lot
16 would only allow for 15 units.

17 But as I mentioned, you know, it was original 33.
18 Special permit allowed for it to be 38. We lost a unit, we
19 went to 37, and we're trying to go back up to 39.

20 But the relative impacts to the community should
21 be none to -- actually we would argue probably an
22 improvement in the sense that it will reduce the amount of

1 public coming and going to the leasing office, less stops
2 and traffic in terms of -- you know, people parking in the
3 front to try to run into the rental office.

4 These new apartments are at the front of the
5 building, the furthest away from the residential portion of
6 the lot and the residential district up Langdon Street.

7 Let's see. I think that that's it. And we'd be
8 happy to hear any questions if the Board has questions or
9 comments.

10 JIM MONTEVERDE: Okay. Thank you.

11 SARAH RHATIGAN: Thank you.

12 JIM MONTEVERDE: Any questions from members of the
13 Board? If not, our file contains -- for public comment --
14 contains one letter dated January 15, from Salim Tabit who
15 is in support of the zoning relief, and I'll open it up to
16 public comment.

17 Any member of the public who wishes to speak
18 should now click the icon at the bottom of your Zoom screen
19 that says, "Raise hand." If you're calling in by phone, you
20 can raise your hand by pressing *9 and unmute or mute by
21 pressing *6.

22 I'll now ask Staff to unmute speakers one at a

1 time. You should begin by saying your name and address, and
2 Staff will confirm that we can hear you. After that you
3 will have up to three minutes to speak before I ask you to
4 wrap up.

5 [Pause]

6 It seems that no one is raising their hands, in
7 which case we'll close public testimony.

8 Any discussion among members of the Board? Ready
9 for a motion? Anyone?

10 STEVEN NG: Yeah, we're ready.

11 JIM MONTEVERDE: All right. Excellent. Thank
12 you.

13 The Chair makes a motion to grant relief from the
14 requirements of the Ordinance under Sections 5.31, Table of
15 Dimensional Requirements, and I think that is specifically
16 dealing with the number of dwelling units where the existing
17 condition is 37 and the requested is 39, and the Ordinance
18 requirement is 15. So that, at least to my eye, is the only
19 relief necessary for the dimensional form.

20 Under Section 8.22.3, alteration to a
21 nonconforming structure. Section 5.26 for Conversion --
22 conversion from Office to Residential, and 10.30 for a

1 Variance. And I think the hardship that had been laid out
2 in the correspondence we have from the proponent, as well as
3 the additional apartments, certainly help the city's need
4 for more dwelling units.

5 On the condition that the work proposed conforms
6 to the drawings entitled "1-3 Langdon Street," prepared by
7 Lowe Associates and dated December 4, 2023, initialed and
8 dated by the Chair.

9 And further, that we incorporate the supporting
10 statements and dimensional forms submitted as part of the
11 application. And there are no conditions.

12 Board vote please, by a voice vote? Steven?

13 STEVEN NG: In favor.

14 JIM MONTEVERDE: Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Daniel?

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: Zarya?

19 ZARYA MIRANDA: In favor.

20 JIM MONTEVERDE: Thank you. And Jim Monteverde in
21 favor.

22 [All vote YES]

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JIM MONTEVERDE: That's five in favor, relief is granted. Thank you.

STEVEN NG: Thank you. Have a good evening.

SARAH RHATIGAN: Thanks very much.

JIM MONTEVERDE: You're welcome.

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(8:18 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo, and
Zarya Miranda

JIM MONTEVERDE: Next case is BZA-251720 -- 55
Stearns Street.

Is there anyone here who wishes to speak about 55
Stearns Street? Michael Wiggins, are you participating in
this case?

MICHAEL WIGGINS: Good evening, Mr. Chairman. I
don't know if you can hear me.

JIM MONTEVERDE: Yes, we can.

MICHAEL WIGGINS: Oh, okay. Mr. Chairman, it's
Michael Wiggins with the Law Firm of Weston Patrick at One
Liberty Square in Boston.

I'm here this evening representing Steffen and
Meredith Lyngbaek. They are the owners of 55 Stearns
Street, and they're proposing to -- they're looking for a
special permit to add some living space within their
dwelling at 55 Stearns Street.

They are in a side yard setback, but with respect

1 to an addition they want to do a second floor, so that's
2 pretty much what they're -- why they're here for a special
3 permit.

4 They're also making some changes to the front of
5 the building, which is within the front yard setback. So
6 those are the principal things that they're looking for.

7 They're also going to be asking for a variance
8 this evening. They have a peculiar situation at 55 Stearns
9 Street, and it's at the corner of Esten Street, I believe.

10 And on that is -- the problem there is the -- I'm
11 sorry, there is a garage right on the corner that's too
12 close to the corner.

13 Could I interrupt for one second my presentation?
14 I'm having trouble with my architect. Tara Nuqul is trying
15 to join the conversation. I think she has her hand raised,
16 and I'd like to have her added as a panelist, if possible.

17 [Pause]

18 TARA NUQUL: Hi, we were able to join. Thank you,
19 Mike.

20 MICHAEL WIGGINS: Okay. So we have Tara with us,
21 as well as Sam Kachmar and Associates (sic) with us this
22 evening. I just was starting to talk about the garage. And

1 what I -- what you'll see as Tara walks you through is that
2 the garage where ostensibly a car could be parked is too
3 close to the corner. It's within 25'.

4 And so, the proposal is to move what's a very
5 awkward parking space sort of on the side of the road at 55
6 Stearns around to Esten Street, where the car would be able
7 to come in to the lot and be well-screened, due to -- there,
8 and be able to park in the garage from the rear.

9 So -- and just I should mention that Steffen and
10 Meredith are proposing the changes to the building because
11 they have a young family and are going to need more space.
12 And Tara can walk you through what they'll be gaining with
13 this additional square footage.

14 So I'll let Tara go ahead now and just walk you
15 through the plans.

16 TARA NUQUL: Thank you, Mike. Good evening
17 members of the Board. My name is Tara Nuqul here with Sam
18 Kachmar and the rest of the team. We're here today
19 requesting relief by way of special permit regarding the
20 proposed work in the front yard and side yard setback line.
21 The areas we require relief for are all preexisting,
22 nonconforming areas.

1 We're also requesting relief for a variance
2 regarding the removal of the curb cut located at the front
3 elevation on Stearns Street.

4 If you can go to the first sheets and the cover
5 page, please.

6 This sheet is where you can see a picture on the
7 left of the existing house, and a render of the proposed
8 work on the right side.

9 Next slide, please.

10 The top center of this page shows the FAR
11 calculations. We're increasing the FAR from 0.54 to 0.62,
12 which is below the maximum FAR of 0.75. We're raising the
13 building height from 27' to 32'8", which is also below the
14 maximum height of 35'.

15 Our proposed open space calculation is 62 percent,
16 which is more than double the minimum open space percentage.
17 As you can see so far, and especially as it's related to the
18 relief we request, our goal had been to create a modest and
19 contextually respectful project.

20 Next slide, please.

21 This sheets shows the existing site plan. With
22 the setback plans in red, the property lines in blue and the

1 garage setback lines in green. At the bottom of the plan,
2 you can see the existing curb cut located at the Stearns
3 Street that we are proposing to remove and relocate to Esten
4 Street.

5 We are proposing to relocate the main driveway in
6 efforts to lower overall car circulation within Stearns
7 Street, while also increasing accessibility to pedestrian
8 walkways, which are currently blocked if cars are parked in
9 the existing driveway.

10 Next slide, please.

11 This sheet shows the proposed site plan. On the
12 right side of the site plan, you can see the proposed curb
13 cuts and driveway location on Esten Street. This curb cut
14 location allows for less traffic on Stearns Street as well
15 as a more aesthetically pleasing front elevation, where the
16 proposed cover porch will be located.

17 In addition, the front porch provides higher curb
18 appeal and more opportunities for community building between
19 our clients and the surrounding community.

20 Next slide, please.

21 On this sheet, we have the two renders side-by-
22 side. The render on the left shows the existing conditions,

1 and the render on the right shows the proposed work.

2 Next slide, please.

3 This sheet shows the solar studies of the existing
4 and proposed work. You can see that the proposed work has
5 no significant impact on any of the neighboring houses in
6 terms of increased shadows.

7 Next slide, please.

8 This sheet shows the existing streetscape photo
9 from Stearns Street on the top of the page and the proposed
10 render on the bottom. In this view, you can see the
11 proposed covered porch in place of the existing driveway.
12 You can see that we are keeping a lot of the existing
13 elements of the house as well as adding decorative details,
14 which keep to the roots of Cambridge.

15 Next slide, please.

16 This sheet shows the existing streetscape photo
17 from Esten Street on the top of the page and the proposed
18 render on the bottom. From this view, you can see the
19 proposed driveway.

20 Next slide, please.

21 On the top left corner, we have the existing floor
22 plan for level Z. And in the center of the sheet we have the

1 proposed floor plan. We are asking for relief on the
2 windows highlighted in red.

3 Next slide, please.

4 On the top left corner, we have the existing floor
5 plan for level 1, and in the center of the sheet we have the
6 proposed floor plan.

7 We are asking for relief on the windows
8 highlighted in red. We are also asking for relief on the
9 new front door that has is being centered on the wall, as
10 well as the front porch, which is being extended over to the
11 right.

12 Next slide, please?

13 On the top left corner, you can see the existing
14 floor plan for level 2. And in the center of the sheet, we
15 have the proposed floor plan.

16 We are asking for relief on the window highlighted
17 in red.

18 Next slide, please.

19 On the top left corner, we have the existing floor
20 plan for level 3 and the center of the sheet you have the
21 proposed floor plan.

22 We are asking for relief on the new roof and new

1 dormer, which are highlighted in red. Both dormers are
2 12'4" from the exterior dimensions. As you can see, having
3 the dormers allow for both bedrooms on this floor to have a
4 new bathroom with modest head height.

5 Next slide, please.

6 On the top left corner, we have the existing roof
7 plan, and in the center of the sheet we have the proposed
8 roof plan.

9 We are asking for relief on the new roof and new
10 dormer, which are -- and the new flat roof above the porch
11 at level 1. These items are highlighted in red.

12 Next slide, please.

13 This sheet shows the south elevation. On the top
14 half of the sheet we have the existing elevation, and on the
15 bottom half we have the proposed elevation.

16 On the proposed elevation, you can see that we are
17 increasing the building height by 5'7". This makes the
18 building height 32'8", which is below the maximum height of
19 35'.

20 We are also proposing new windows at the front
21 entry, as well as a new flat roof that ties in the existing
22 bumpout to the new porch. These items are highlighted in

1 red.

2 Next slide, please.

3 This sheet shows the west elevation. On the top
4 half of the sheet we have the existing elevation, and on the
5 bottom half we have the proposed elevation. We are asking
6 for relief on the items that are highlighted in red.

7 Next slide, please.

8 This sheet shows the north elevation. On the top
9 half of the sheet, we have the existing elevation, and on
10 the bottom half we have the proposed elevation.

11 We are asking for relief on the items highlighted
12 in red.

13 Next slide, please.

14 This sheet shows the east elevation. On the top
15 half of the sheet we have the existing elevation. On the
16 bottom half, we have the proposed. We are asking for relief
17 on the items highlighted in red.

18 Next slide, please.

19 On this sheet, we have some additional photos
20 showing the existing site conditions.

21 Next slide, please.

22 On this sheet, we're showing the certified plot

1 plan.

2 Next slide, please.

3 On this sheet we have a QR code that you can scan
4 to see a rendered review of the proposed work. This is the
5 end of our presentation. Thank you for your time and
6 consideration.

7 JIM MONTEVERDE: Thank you.

8 MICHAEL WIGGINS: If I may, Mr. Chairman, I -- my
9 clients themselves have exhaustively contacted the abutters
10 list and have engendered from that effort I would say
11 unanimous support.

12 Maybe only a couple of people have not responded,
13 but we have -- as you can see from the file a lot of
14 support, including from the direct neighbors who are most
15 impacted by this addition at 51 Stearns.

16 So I would submit that this project can be
17 implemented, the special permit, with no detriment at all to
18 the neighborhood. And so, certainly I think we have the
19 standards we need for issuance of the special permit.

20 With regard to the variance, I think the hardship
21 is evident, given the location of this ancient garage. It
22 might have been used for something at some point, some

1 vehicle, but certainly is no longer able -- it could not be
2 used now.

3 And I think we've improved the situation
4 considerably by relocating an awkward parking situation on
5 the Stearns Street side and relocating it to the Esten
6 Street side.

7 So I would submit that the standards for hardship
8 have been met, and that the public good is going to be
9 served by that improvement.

10 JIM MONTEVERDE: Thank you. Any questions from
11 members of the Board?

12 VIRGINIA KEESLER: I'm just curious if the garage
13 is not currently being used as a garage, is the intent that
14 once you change the curb cut, it would be used as a garage
15 versus a storage or something? Just wondering as that
16 pertains to the parking in front of the garage.

17 MICHAEL WIGGINS: As I understand it, yes. It
18 would be used for parking and conceivably, I mean there
19 might be a car in the garage and there's enough room to put
20 one behind it outdoors.

21 VIRGINIA KEESLER: Thank you.

22 JIM MONTEVERDE: Any other questions?

1 I have a couple comments. Regarding the variance,
2 which is to relocate the driveway within the front yard
3 setback, I don't object to that per se, and I appreciate you
4 getting the cars off of Stearns Street and where they appear
5 to park in the front yard setback.

6 And I'm not sure I caught what you just said, Mr.
7 Wiggins, completely. But I was going to ask if you would
8 accept a condition that the proponents not park in that
9 driveway; that that's access to the garage, they use the
10 garage, and that's fine. But not in the driveway. Is that
11 possible?

12 MICHAEL WIGGINS: Well, the only thing, Mr.
13 Chairman, I'd submit is that when it -- when a car is in the
14 driveway, if you look -- and perhaps Tara could direct us to
15 the slide that shows the picture of the fence --

16 JIM MONTEVERDE: Yeah, I saw it. I saw it. So
17 the fence is there to screen, yeah, I understand.

18 MICHAEL WIGGINS: It does. And so, you know, I --
19 I would respectfully submit that it would not be much of an
20 impediment to the public if for example if there is a second
21 car -- we obviously can't fit two in the garage -- that it
22 would be allowed as long as the garage is used principally

1 for at least one car.

2 JIM MONTEVERDE: Can they park on the street?

3 MICHAEL WIGGINS: Certainly they can, but I think
4 that -- we're actually benefitting the public by being able
5 to use that off-street area that is screened.

6 So I think the -- I understand not wanting to park
7 in the front yard setback, but in this case, I think we've
8 achieved enough of the screen that I don't think it would be
9 objectionable to the public and Esten Street is a fairly
10 narrow street and doesn't have a lot of parking on it, so.

11 STEVEN NG: Yeah.

12 JIM MONTEVERDE: Okay.

13 STEVEN NG: Jim, I think Esten Street I kind of
14 the very appropriate location for the cars entering and
15 exiting from the resident site and --

16 JIM MONTEVERDE: I agree.

17 STEVEN NG: -- that, you know, that public way is
18 predominantly for vehicular access, like all the neighboring
19 properties have their driveways, you know. So I don't think
20 it's a detriment if there is a car kind of be in the
21 driveway area from outside of the site.

22 JIM MONTEVERDE: Okay. Thank you. And one

1 further question I have, relative to one of the special
2 permit items. You're asking for relief to relocate the
3 front and rear decks. It's the front deck that concerns me.
4 Can you go to the -- I think it's a 3D view, or the
5 isometric?

6 Yep. There you go. Go back one. Sorry. There
7 you go.

8 It seems that -- and then this gets repeated in
9 the elevation studies for the front of the house -- that
10 that front porch I'll call it, deck, and the roof over it --
11 I don't mind the deck so much, it's the roof over it --
12 seems to break, at least in this description of the
13 properties to the left, it seems like that front addition
14 that exists already steps to the street, intrudes in the
15 front yard setback, where all the neighbors seem to be able
16 to stay within that.

17 It seems the garage is placed almost within the
18 front yard setback off of Stearns.

19 But where you already have that intrusion into the
20 front yard setback, this makes it even more dramatic and
21 adds onto it across the front of the building. I'm troubled
22 by it. So I don't know if any other members have a concern

1 about it.

2 Otherwise, I'd ask if there are any -- if there's
3 a possibility to look at that and not increase the roofline
4 across the front of the house within the front yard setback.

5 Anybody else have any concerns about that?

6 Members of the Board? No? Hearing none? Okay.

7 Anyone else have any other questions? Others,
8 I'll open it up to public commentary.

9 [Pause]

10 I'm hearing no other questions. There is one last
11 -- oh, I stand corrected. There are -- my count yesterday,
12 and I'll confirm it now as I go through these, there were
13 seven pieces of correspondence in favor and none objecting.

14 And we have the following in the file: Dated
15 January 26, unfortunately they didn't print their name, but
16 16 Newell Street is in support. January 12, Paula Cortes, I
17 believe in support.

18 January 6; I can't tell what that signature is,
19 but 48 Stearns Street in support. January 6, I believe it's
20 Anita McClellan in support. January 6, Justi Godoy in
21 support. January 6, Jeffrey Garland and Astrid Werner in
22 support. January 6, James Mahoney in support.

1 William Hudson, January 12, in support.

2 And those are the letters we have in the file. So
3 I will open it up to public comment.

4 Any members of the public who wish to speak should
5 now click the icon at the bottom of your Zoom screen that
6 says, "Raise hand." If you are calling in by phone, you can
7 raise your hand by pressing *9 and unmute or mute by
8 pressing *6.

9 Any members of the public who wish to speak
10 should now click the icon at the bottom of your Zoom screen
11 that says, "Raise hand." If you're calling in by phone, you
12 can raise your hand by pressing *9 and unmute or mute by
13 pressing *6.

14 I'll now ask Staff to unmute speakers one at a
15 time. You should begin by saying your name and address, and
16 Staff will confirm that we can hear you. After that you
17 will have up to three minutes to speak before I ask you to
18 wrap up.

19 STEPHEN NATOLA: James Mahoney?

20 JAMES MAHONEY: Hi, this is James Mahoney. I live
21 at 234A Walden Street, 232-234. I --

22 JIM MONTEVERDE: We can hear you, yep. We can

1 hear you.

2 JAMES MAHONEY: Oh. On the -- Okay. Can you hear
3 me?

4 JIM MONTEVERDE: Yes. Please, go ahead.

5 JAMES MAHONEY: Can you hear me?

6 JIM MONTEVERDE: Yes, please --

7 JAMES MAHONEY: Oh, okay. So I unconditionally
8 support what they want to do here. It makes perfect sense.
9 All of our driveways come off of Esten Street. It makes
10 perfect sense to driveway come off.

11 In fact, when you look at photographs there,
12 there's a double gate that is used for access. It has been
13 used previously for access back there.

14 We all park -- some of us park out in the open. I
15 park in the garage so I'm fortunate. I see this house from
16 the back of my property. I have a two-story, detached
17 property there. I can see the house from both floors, could
18 makes -- does anything detrimental to the view of my house.

19 As far as the porch across the front, the --
20 concerned that they made sure that the "new people" -- quote
21 -- were going to be engaged with the neighborhood and be
22 able to use a porch so they could see and talk to people.

1 And both Steffen and Meredith have independently said that
2 that was one of the things that they were looking forward
3 to.

4 So I think from having lived in this neighborhood
5 most of my life, I think what they're trying to do fits in
6 really well with the neighborhood. It makes perfect sense
7 to me, and I support everything that they want to do.

8 Thank you.

9 JIM MONTEVERDE: Thank you for your comments.
10 Anyone else? Nope. That looks like it's it. So we'll
11 close public testimony.

12 Any discussion among members of the Board? Either
13 a variance or the special permit?

14 STEVEN NG: I think we're ready for a motion,
15 unless there's --

16 JIM MONTEVERDE: Okay.

17 STEVEN NG: -- none.

18 JIM MONTEVERDE: We'll take these one at a time.
19 Let's start with the variance. And that's to relocate the
20 driveway within the front yard setback. The Chair makes a
21 motion to grant relief from the requirements of the
22 Ordinance under Sections 5.31, Dimensional Requirements

1 Article 6; 6.44.1.c, Parking in Front Yard Setback; and the
2 conditions of 10.3, Variance.

3 On the condition that the work proposed conforms
4 to the drawings entitled, "Lyngbaek Residence, prepared by
5 SKA Architects and dated Jan 19, 2024; initialed and dated
6 by the Chair.

7 And further, that we incorporate the supporting
8 statements and dimensional forms submitted as part of the
9 application. And no conditions.

10 Board members, please, by voice vote. Zarya?

11 ZARYA MIRANDA: In favor.

12 JIM MONTEVERDE: Thank you. Daniel?

13 DANIEL HIDALGO: In favor.

14 JIM MONTEVERDE: Thank you. Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES]

20 JIM MONTEVERDE: So the variance is granted.

21 Special permit: To raise a roof and add dormers
22 to third floor, relocate front and rear decks and add

1 windows within setbacks. The Chair makes a motion to grant
2 relief from the requirements of the Ordinance under Sections
3 8.22.2.d and 8.22.2.c, Nonconforming Structure; and Section
4 10.40 for a Special Permit.

5 On the condition that the work proposed conforms
6 to the drawings entitled -- I'm sorry, I just had it in
7 front of me -- "Lyngbaek Residence," prepared by SKA
8 Architects date January 19, 2024, initialed by and dated by
9 the Chair.

10 And further, that we incorporate the supporting
11 statements and dimensional forms submitted as part of the
12 application, with no conditions. Board vote by voice vote,
13 please? Steven?

14 STEVEN NG: In favor.

15 JIM MONTEVERDE: Virginia?

16 VIRGINIA KEESLER: In favor.

17 JIM MONTEVERDE: Daniel?

18 DANIEL HIDALGO: In favor.

19 JIM MONTEVERDE: Zarya?

20 ZARYA MIRANDA: In favor.

21 JIM MONTEVERDE: And Jim Monteverde in favor.

22 [All vote YES]

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JIM MONTEVERDE: Special permit is granted as well. Congratulations. Thank you.

MICHAEL WIGGINS: Thank you, Mr. Chairman.

TARA NUQUL: Thank you for your time. Have a good evening.

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(8:43 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo, and
Zarya Miranda

JIM MONTEVERDE: Next case is BZA-251999. It's a
special permit. Is there anyone who wishes to speak to us
about that case?

JOHNATHAN PAGADUAN: Hi. My name is Jonathan
Pagaduan, architect.

JIM MONTEVERDE: Yep. Okay. We can hear you. Go
ahead.

JOHNATHAN PAGADUAN: Great. So we're requesting a
special permit for the 72A Inman Street for the -- I'm
representing Angela and Daniel -- Angela Jaimes and Daniel
C. Monet.

We're requesting a special permit as we're -- for
the reasons being the existing structures currently existing
were built in the -- both side setbacks, left and right.
And along with the increase in the GFA for the dormer on the
third floor.

If you can go to the next slide?

1 So these are some renderings that were produced
2 just to show representation of what we have in mind, both
3 left, center and right.

4 If you can go to the next slide?

5 So this is what we're showing, existing
6 conditions. Mainly, we're going to be demolishing or doing
7 most of the work on the second and third floors. We're
8 going to be moving the primary -- their existing primary on
9 the second floor to the third floor, which is where we're
10 going to be adding the dormers and adding an additional full
11 bathroom.

12 Currently, the existing home only has one full
13 bath with one half-bath on the first floor. So this is an
14 increase that would be beneficial for them.

15 If you can go to the next slide showing proposed.

16 So you can see here on the -- what we're proposing
17 is to add an additional bedroom onto the second floor with a
18 full -- relocating the third or the full -- the bath to the
19 front from the rear, and replacing it and turning that into
20 a full bedroom.

21 And the third floor we'll be turning, like I
22 mentioned previously, into the new primary suite, including

1 an office space and a walk-in closet with the full primary
2 bath.

3 So both sides will have dormers, which are --
4 would be sitting in the setbacks. I think it's 7.5
5 required, but it's just not possible to do that on this
6 site, as it's super narrow.

7 Yeah. I mean, that's -- next slide, I guess?

8 JIM MONTEVERDE: While you're on that slide --

9 JOHNATHAN PAGADUAN: Yep.

10 JIM MONTEVERDE: If you can go back to the third
11 floor, can you -- I'm not able to read the dimensions on the
12 screen that I'm looking at, but can you tell me what the
13 dormer dimensions are in total for both sides of the roof?

14 JOHNATHAN PAGADUAN: In total?

15 JIM MONTEVERDE: Yeah, please. Total on each
16 side.

17 JOHNATHAN PAGADUAN: The -- I guess -- can -- so
18 one side would be I think that says 9'2.5" and 8'6".

19 JIM MONTEVERDE: Yep.

20 JOHNATHAN PAGADUAN: And then on the opposing side
21 it is 15'7" and that number is a little tough to read. I
22 think it's 6'9.5".

1 JIM MONTEVERDE: Okay. That's enough. Can I stop
2 you there for a moment? So there's a letter in the file --

3 JOHNATHAN PAGADUAN: Mm-hm.

4 JIM MONTEVERDE: -- from the Mid Cambridge
5 Neighborhood Conservation District Commission, which has
6 reviewed the plans.

7 JOHNATHAN PAGADUAN: Right.

8 JIM MONTEVERDE: And it states -- and I quote,
9 "The proposed dormers comply with the City of Cambridge
10 Design Guidelines for roof dormers."

11 JOHNATHAN PAGADUAN: Mm-hm.

12 JIM MONTEVERDE: I don't think I agree. I think
13 those Guidelines say specifically that you're allowed 15' of
14 dormer on either side of the roof. And I think you're well
15 beyond that. On one side of the roof you're -- well, on
16 both sides of the roof you're just -- you're beyond it.

17 JOHNATHAN PAGADUAN: Right.

18 JIM MONTEVERDE: So I for one would not at the
19 moment view this favorably. Also looking at what the uses
20 are, gives someone a nice, generous primary bedroom. I
21 don't know that I would be at the moment sympathetic to the
22 amount of dormers that you're creating:

1 One, because I do not it conforms to the Dormer
2 Guidelines, and then I think it has issues with what the
3 rest of the character of the neighborhood is. But I just
4 want you to know that before we go too much further.

5 But do you have anything else you want to present?
6 Go through elevations or anything else?

7 JOHNATHAN PAGADUAN: It would just be the
8 elevations. I think that would be the last slide, I think.

9 JIM MONTEVERDE: Okay.

10 JOHNATHAN PAGADUAN: These are the -- this would
11 be, this is the existing. You can go to the next one. So
12 yeah, these would be the elevations with the proposed
13 dormers on either side.

14 JIM MONTEVERDE: Mm-hm.

15 JOHNATHAN PAGADUAN: So the following slide after
16 this, I did a quick walkaround the area. There are a couple
17 of examples of existing homes with similar dormers that I
18 thought would set a precedent, but I'm not sure of that.

19 JIM MONTEVERDE: Not a good one.

20 JOHNATHAN PAGADUAN: Yeah.

21 JIM MONTEVERDE: Again, that's just me speaking
22 personally.

1 JOHNATHAN PAGADUAN: Sure.

2 JIM MONTEVERDE: Okay. Anything else to present?

3 JOHNATHAN PAGADUAN: I believe that's everything
4 that we've submitted, yes.

5 JIM MONTEVERDE: Okay. Thank you and on your site
6 elevations, where I think you said you're within the side
7 yard setback, the elevations that you're showing, are any of
8 those windows moving around, or are you just replacing --

9 JOHNATHAN PAGADUAN: No. We're just replacing
10 them with the -- we're --

11 JIM MONTEVERDE: Okay.

12 JOHNATHAN PAGADUAN: -- all the windows are
13 remaining.

14 JIM MONTEVERDE: Okay.

15 JOHNATHAN PAGADUAN: Yeah.

16 JIM MONTEVERDE: All right. Any questions from
17 members of the Board? All right. I will -- let me look in
18 the file. There are no correspondences from neighbors or
19 abutters.

20 There is the correspondence I referred to from the
21 Mid Cambridge Neighborhood Conservation District Commission
22 dated January 2. Again, it reads: "Approval was granted

1 based on the following findings of fact: One, the proposed
2 dormers comply with the City of Cambridge Design Guidelines
3 for roof dormers." I don't think that's correct, but that's
4 what it says.

5 And two, "The proposed window placements will
6 remain -- will maintain the character and style of the
7 original windows." And it is not -- it's not asking that
8 you go back and submit any details or anything else before
9 you're done. So it's approved as depicted on your drawings.
10 That's everything that's in the file.

11 So let's open it up to see if there are any public
12 comments.

13 Any member of the public who wishes to speak
14 should now click the icon at the bottom of your Zoom screen
15 that says, "Raise hand."

16 If you're calling in by phone, you can raise your
17 hand by pressing *9 and unmute or mute by pressing *6.

18 I'll now ask Staff to unmute speakers one at a
19 time. You should begin by saying your name and address, and
20 Staff will confirm that we can hear you. After that you
21 will have up to three minutes to speak before I ask you to
22 wrap up.

1 Anyone? Yes.

2 STEPHEN NATOLA: Ann Spanel.

3 ANN SPANEL: Thank you. Can you hear me?

4 JIM MONTEVERDE: Yes.

5 ANN SPANEL: Okay, great. Sorry, I'm just
6 enlarging my statement here. My name is Ann Spanel. And I
7 have lived at 85 Pemberton Court for 28 years. I'm an
8 abutter to 45 Cogswell, Apartment No. 7, that's the
9 property. And that's --

10 JIM MONTEVERDE: Excuse me. We're talking about
11 72 --

12 ANN SPANEL: Oh, I'm sorry.

13 JIM MONTEVERDE: -- Inman Street.

14 ANN SPANEL: Sorry.

15 JIM MONTEVERDE: Wrong case?

16 ANN SPANEL: Yeah. Wrong case.

17 JIM MONTEVERDE: Okay. Come back in a bit. Next
18 one. Anyone wishing to speak about --

19 STEPHEN NATOLA: Joseph Artley.

20 JOSEPH ARTLEY: Hello?

21 JIM MONTEVERDE: Yep.

22 JOSEPH ARTLEY: Oh, there we go. Okay. I am Joe

1 Artley.

2 JIM MONTEVERDE: Can you introduce yourself,
3 please.

4 JOSEPH ARTLEY: 72 Inman Street. And I am right
5 next to Angela and Dan's house. They're my new neighbors.
6 And as new neighbors, I know they've got a couple of new
7 kids, and the third-floor expansion would help them a great
8 deal. And as a consequence, I am in favor of their
9 application.

10 JIM MONTEVERDE: Very good. Thank you for taking
11 the time to talk to us.

12 JOSEPH ARTLEY: And Jim, when are you going to
13 come back to the Y?

14 JIM MONTEVERDE: Soon as I get too fat to walk
15 around, I think.

16 JOSEPH ARTLEY: [Laughter].

17 JIM MONTEVERDE: Anyone else? That's it for our
18 public testimony. Discussion amongst the Board members.
19 Does anybody share my concern about the amount of dormer or
20 the dormer length, or are you ok with it?

21 STEVEN NG: Yeah. I mean the Guidelines are
22 there, and, you know, for -- to use -- out of I guess what's

1 the Board's favor in terms of, I mean, I can see how the
2 third floor is, you need the dormers to get some more space
3 up there.

4 I think they could still get a pretty good master
5 suite, even with -- if you're working with the 15' on each
6 side, but --

7 JIM MONTEVERDE: Yeah. That's my sense.

8 STEVEN NG: Just wanted to -- was checking to see
9 how everyone --

10 JIM MONTEVERDE: Yep.

11 STEVEN NG: -- was just thinking about it.

12 JOSEPH ARTLEY: Yep.

13 JIM MONTEVERDE: Again, the Board has typically
14 interpreted that the Guideline, especially the length and a
15 couple of other details, but the length in particular rather
16 specifically and regularly. So anyone else? Any other
17 comments, any discussion?

18 DANIEL HIDALGO: Yeah, I concur. It's really
19 pretty far over the 15' on each side and --

20 JOSEPH ARTLEY: Yep.

21 DANIEL HIDALGO: -- I feel like we should try to
22 be consistent to the Board. So I -- you know, given some of

1 our earlier discussions, I agree that it would be useful for
2 the proponent to think about ways of bringing that in.

3 JIM MONTEVERDE: So Jonathan, you heard from three
4 of us. Assume that those are three -- you need four out of
5 five positive --

6 JOSEPH ARTLEY: Yeah.

7 JIM MONTEVERDE: -- votes to get your request.

8 JOSEPH ARTLEY: Right.

9 JIM MONTEVERDE: The options that I have are go
10 ahead with a vote and you can read the tea leaves, or we can
11 continue and allow you to go back and work to -- and please,
12 don't ask your Conservation Commission for guidance on the
13 dormers --

14 JOSEPH ARTLEY: Got it.

15 JIM MONTEVERDE: -- in terms of what the Dormer
16 Guideline is. But if you don't have a copy of them, I
17 believe they're available electronically.

18 JOSEPH ARTLEY: Yeah.

19 JIM MONTEVERDE: You've got to hunt for it, but
20 you'll - find it. If not, you stop in ISD, they'll hand you
21 a paper copy of it.

22 JOSEPH ARTLEY: Mm-hm.

1 JIM MONTEVERDE: Please take a look at those and I
2 think the piece in particular that a few of us are objecting
3 to is the reference that the maximum dormer width, however
4 many dormers you want to spread this over --

5 JOSEPH ARTLEY: Mm-hm.

6 JIM MONTEVERDE: -- is 15' on each side.

7 JOSEPH ARTLEY: Yep.

8 JIM MONTEVERDE: And I agree with Steve -- you
9 know, Steven's comment that just looking at your plan, it
10 looks like there is a way to do that on both sides, even if
11 you maxed it out with 15 square feet per side. So that
12 would be if you want to continue.

13 JOSEPH ARTLEY: Yeah.

14 JIM MONTEVERDE: Basically, go back and take a
15 look.

16 JOSEPH ARTLEY: Yeah. I think we'll continue,
17 then.

18 JIM MONTEVERDE: Continue? Okay. In that case,
19 let me make a motion to continue this matter until -- can
20 everyone here tonight do February 29? Jonathan, you too?

21 JOHNATHAN PAGADUAN: February 29?

22 JIM MONTEVERDE: Yep.

1 DANIEL HIDALGO: I can do that.

2 JIM MONTEVERDE: Rest of the Board members?

3 STEVEN NG: I can do that too.

4 JIM MONTEVERDE: Yep. And Virginia?

5 VIRGINIA KEESLER: Yes, that's fine.

6 JIM MONTEVERDE: Zarya?

7 ZARYA MIRANDA: Yes.

8 JIM MONTEVERDE: Zarya?

9 ZARYA MIRANDA: Yep.

10 JIM MONTEVERDE: Okay. Jonathan, that works for
11 you?

12 JOHNATHAN PAGADUAN: Yep.

13 JIM MONTEVERDE: Okay. So that'll be 02/29/24.

14 So let me make a motion to continue this matter until
15 February 29, 2024, on the condition that the petitioner
16 change the posting sign to reflect the new date of February
17 29, 2024, and the time of 6:00 p.m. Please be careful to do
18 the time also.

19 Also, that the petitioner sign a waiver to the
20 statutory requirements for the hearing. This waiver can be
21 obtained from Maria Pacheco or Olivia Ratay at the
22 Inspectional Services Department. I ask that you sign the

1 waiver and return it to the Inspectional Services Department
2 by a week from this coming Monday.

3 Failure to do so will de facto cause this Board to
4 give an adverse ruling on this case.

5 Also, that if there are any new submittals,
6 changes to the drawings, dimensional forms, or any
7 supporting statements that those be in in the file by 5:00
8 p.m. on Monday prior to the continued meeting.

9 On the motion to continue this matter until
10 February 29, 2024, by a voice vote of the Board members,
11 Steven?

12 STEVEN NG: In favor.

13 JIM MONTEVERDE: Virginia?

14 VIRGINIA KEESLER: In favor.

15 JIM MONTEVERDE: Daniel?

16 DANIEL HIDALGO: In favor.

17 JIM MONTEVERDE: Zarya?

18 ZARYA MIRANDA: In favor.

19 JIM MONTEVERDE: And Jim Monteverde in favor.

20 [All vote YES]

21 JIM MONTEVERDE: That's five in favor, the matter
22 is continued.

1 * * * * *

2 (8:58 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Fernando Daniel Hidalgo, and
5 Zarya Miranda

6 JIM MONTEVERDE: Next case is BZA-252425 -- 45
7 Cogswell Avenue No.7.

8 MICHAEL WIGGINS: Good evening again, Mr.
9 Chairman. It's Michael Wiggins from the Law Firm of Weston
10 Patrick in Boston.

11 And here with me tonight are Michael Brodie, my
12 client, his architects -- Anja Pajevic of SKA Architects.
13 They should be on as panelists with me, but we can --

14 JIM MONTEVERDE: Yep.

15 MICHAEL WIGGINS: -- just confirm that.

16 MICHAEL BRODY and ANJA PAJEVIC: We're here, Mike.

17 ANJA PAJEVIC: Yeah, we're here.

18 MICHAEL WIGGINS: Okay. You're there. And I
19 don't know if Michael is with us as well. Perhaps he could
20 raise his hand and then join us.

21 MICHAEL BRODIE: Yes, I'm here.

22 MICHAEL WIGGINS: Oh, excellent. Thank you,

1 Michael. Michael is a longtime professor at Harvard
2 University who has lived at this property for over 42 years.
3 He's looking -- there's a picture on the front -- he's
4 looking to make a very small addition to the rear of his
5 property to accommodate his needs.

6 I'd like him to just very briefly describe to you
7 why he's looking to do this. He has personal reasons having
8 to do with his longevity there and future needs.

9 MICHAEL BRODIE: Yeah. Thank you very much, Mike.
10 I've lived for 42 years in my home that has never been
11 renovated. To age in place, I'd like to make my home safer
12 and more habitable.

13 On the second floor, I want to widen my narrow
14 kitchen a bit to make it easier to maneuver while cooking.
15 On the third floor, I want to replace my bathtub with a
16 safer, more accessible walk-in shower.

17 And on the ground floor, I want to add a small
18 bathroom and add a little more space to what is currently a
19 single, small bedroom so that my daughter and her husband
20 and my new 6-week-old granddaughter can visit. So that's
21 why I'd like to do it.

22 MICHAEL WIGGINS: Thank you, Michael. So now I'd

1 like to turn it over to Anja, who can walk through these
2 plans and show you how they appear visually, and also the
3 dimensions.

4 JIM MONTEVERDE: Yes, can Anja please focus or be
5 sure to mention what pieces you are actually looking for
6 relief for?

7 ANJA PAJEVIC: Yes. Good evening, members of the
8 Board. I am Anja Pajevic from SKA, joined here today by Sam
9 Kachmar. We are representing Michael Brodie for the special
10 permit at 45-7 Cogswell.

11 This proposal involves a modest rear addition and
12 the extension of an existing second-level deck to this
13 single-family home and Residential Zone B.

14 Relief is primarily sought for the rear setback,
15 as we request to bring the existing home in alignment with
16 the adjacent property at 45-6 Cogswell.

17 On this page, you can see the existing home on the
18 left and proposed home on the right.

19 Please go to the next page.

20 This is just the -- thank you. This sheet
21 contains quantitative values and descriptors pertaining to
22 both the existing and proposed home. The areas of

1 importance for the special permit are the floor area ratio,
2 or FAR, and the setbacks, which this proposed addition seeks
3 to only enlarge these existing nonconformities.

4 With the maximum FAR of 0.5, the existing FAR is
5 nonconforming at 0.762. The proposed addition will increase
6 the FAR by 0.138, totaling the proposed FAR of 0.9. These
7 values can be seen under the FAR calculations.

8 In addition, the existing home does not conform to
9 the setbacks on the front, right, nor rear setback. In the
10 proposed addition, we are requesting relief primarily for
11 the rear setback, as we exasperate (sic) that existing
12 nonconforming. This is more easily illustrated on the next
13 page.

14 Next page, please.

15 This sheet compares the existing and proposed site
16 plan. The existing site plan is located on the left and the
17 proposed on the right. The outer blue lines on each site
18 plan delineate the property line, while the inner blue lines
19 represent the property setbacks for Residential Zone B.

20 As seen here, the existing home is nonconforming
21 on the front, right or rear setback. The area of relief is
22 highlighted in red.

1 The requested area encompasses the proposed
2 addition to align with the adjacent property, resulting in
3 4.5' addition, as well as expanding the existing deck by 8"
4 towards the rear setback.

5 The existing rear wall of the home is at 90'2.5"
6 from the rear property line, and the existing deck is 10'8"
7 from the rear property line.

8 On the right, you can see the proposed home is now
9 14'9" from the rear setback, and the proposed deck is 10'
10 and half an inch.

11 In a conscientious effort to foster positive
12 neighborhood relations, our client had made the decision to
13 revive the initial proposed deck design after engaging with
14 neighbors.

15 The original proposal was larger, and the client
16 chose to reduce the deck to this current proposal in a
17 desire to respect the sentiment of the neighbors and
18 preserve the fabric of the neighborhood.

19 Next page, please.

20 On this page, it includes axonometric views of
21 both the existing and proposed, the existing on the left
22 proposed on the right. This helps illustrate how the

1 extension of 45-7 Cogswell is to align to the adjacent
2 neighbor and how the addition remains modest and
3 contextually respectful to the neighborhood.

4 Next page, please.

5 This page illustrates the predicted shadows
6 created at morning, noon and evening for both winter and
7 summer solstice. Due to the position on the site, the
8 proposed addition has little to no impact on the shadows
9 cast on the neighboring walls.

10 Next page, please.

11 On this sheet, the top image -- the top is an
12 image of the existing and the bottom is a three-render of
13 the proposed home. This is the view from the private way at
14 45 Cogswell. There is no work at this elevation.

15 Next slide, please.

16 At this view -- sorry, excuse me -- as seen in
17 this view, there are no changes at this elevation. But in
18 the background the back corner and posts of the deck are
19 visible.

20 Next page please.

21 As seen on this sheet, the rear addition and
22 extension are visible, as well as the two proposed windows

1 on the third level.

2 Next page, please.

3 Like the last page, these images illustrate the
4 proposed addition deck and windows.

5 Next page, please.

6 In this view, it can be seen how the proposed
7 addition aligns with the adjacent lawn and the neighborhood
8 while maintaining comparable fenestration.

9 In addition, the proposed deck will remain at the
10 exact -- is the same height as the existing deck and will
11 only extend 8" closer to the rear property line than the
12 existing deck currently does.

13 Next page, please.

14 This image -- this page illustrates the impact of
15 the proposal in plan. The large plan in the center depicts
16 the proposed while the top left corner is the existing.
17 Highlighted in red is the area of relief, as well as
18 included area impact to FAR, which includes the addition and
19 the area, the covered area by the second-level deck.

20 The dashed black line illustrates where the
21 existing deck resides. It is important to note that part of
22 their requested addition and how it's by-right the area of

1 the existing deck. The area of relief will also allow for a
2 bathroom at this level.

3 Next page, please.

4 Highlighted in red are the areas of relief, which
5 include the rear addition and the second-level deck. All
6 else will remain as existing. On this level, the proposed
7 deck encroaches on the rear setback only by an eight
8 additional inches.

9 Next page, please.

10 Highlighted in red are the areas of relief, which
11 include the addition and two windows on the left side. The
12 proposed windows are to match the size and style of the
13 existing windows.

14 Next page, please.

15 The existing roof and solar panels are to remain.
16 Highlighted in red is the area of relief which includes the
17 proposed addition's roof that is to match the existing in
18 appearance. There a two proposed skylights at the
19 addition, as well as a relocation of an existing skylight.

20 Next page, please.

21 This sheet illustrates the south or the front side
22 of the home. The existing elevation drawing is located in

1 the top left corner, with the corresponding picture next to
2 it on the top right.

3 Below that on the bottom left is a render
4 depicting the proposed home that is accompanied by the
5 proposed elevation drawn in the bottom right. Highlighted
6 in red is the area of relief.

7 Next page.

8 This sheet illustrates the west or the left side
9 of the home. Existing elevation on the top left, proposed
10 on the bottom right. The areas in red, the highlighted in
11 red is the area of relief.

12 Next page, please.

13 This sheet illustrates the north or the rear side
14 of the home, the existing elevations on the top left,
15 proposed on the bottom right. Highlighted in red is the
16 requested area of relief, which includes the entirety of
17 this façade.

18 Next page, please.

19 This sheet illustrates the east or the right side
20 of the home. This side is mostly obscured by the adjacent
21 property. The area highlighted in red illustrates the area
22 of relief, which is obscured by the adjacent building.

1 Next page, please.

2 This sheet has the certified plot plan of 45-7
3 Cogswell.

4 Next page, please.

5 These are some images taken from 45-7 Cogswell
6 that illustrate the urban nature of the existing site.

7 Next page, please.

8 These are our images that are taken at 45-7
9 Cogswell that represent some of the visible second-level
10 decks that face the property.

11 Next page, please.

12 Please feel free to scan this QR code to view the
13 3D render that illustrates encompassing views of the
14 exterior. That is the end of our presentation. Thank you
15 for your time and consideration.

16 MICHAEL WIGGINS: Thank you, Anja. I'd like to
17 just add a couple of things to relieve -- the 8" we're
18 talking about are literally just to be able to enable
19 Michael to be able to put a chair out on the deck.

20 It had been much larger, and the reduction of that
21 deck came in after we had spent a lot of time talking with
22 the neighbor at the rear in 83 Pemberton, Barbara Hickey.

1 I'm going to talk to you about other outreach.

2 But I do want to just read into the record briefly
3 an agreement we reached with Barbara Hickey and her Counsel,
4 Cheryl Watson Fisher. The agreement is -- this was to
5 enhance some -- a little more privacy for Barbara Hickey.
6 She has agreed to withdraw her objection. There is an
7 objection on the file.

8 She has agreed to withdraw that on the expressed
9 conditions that number one, the lower panes of the two
10 kitchen windows on the second floor and the lower panes of
11 the two bathroom windows on the third floor, as depicted on
12 the revised permit set of plans that you have before you
13 tonight, will be permanently shaded or tinted.

14 In other words, the lower panes, so that it
15 wouldn't be visible from Barbara's back yard. You wouldn't
16 see anybody in the bathroom on the third floor. You
17 wouldn't see anybody in the kitchen while they're preparing
18 meals.

19 The other condition that we agreed to is that the
20 fence, located to the common boundary of 45-7 Cogswell Ave
21 and 83 Pemberton, will be maintained in its current
22 location, and that the hydrangeas that grow along that fence

1 -- I understand they're really quite wonderful in the summer

2 --

3 MICHAEL BRODIE: They are.

4 MICHAEL WIGGINS: -- will be maintained here.

5 Will be maintained in that current location. Evidently,

6 Barbara Hickey is quite fond of those.

7 And also, again, she wanted an express condition

8 which is reflected in the plans that we be no more than 8"

9 from -- no more than 8" close to the property line with the

10 rear deck. That is currently the case.

11 We reached out extensively. Michael has reached

12 out to a lot of his neighbors. He is a part of an

13 association called, "The Cogswell Street Association" - "45

14 Cogswell Street Station Association." And that's a

15 consortium of owners in the development that he was part of

16 42 years ago.

17 There are specific requirements before anybody can

18 make any exterior improvements that you have to meet, and he

19 has met with the Association, and you have on file a letter

20 signed by the President and the Board that approves -- that

21 finds that the -- this particular design conforms to the

22 Design Guidelines in the Association.

1 In addition to that, he's gotten the unanimous
2 approval of all of the members of the Association with these
3 improvements and has reached out to abutters. He's -- also
4 in the parallel Association -- it's 47 Cogswell, which is
5 another group of townhouses that were built about the same
6 time.

7 Several of those people have submitted letters in
8 support, including his direct abutter on the left side, if
9 you will. They will be facing the new deck above the second
10 floor, or on the second floor that faces them. So they've
11 indicated that they're in support of this.

12 Of course, for the Board to find for this special
13 permit, you have to find that there will be no substantial
14 detriment to the neighborhood.

15 I would submit that with the extent -- the extent
16 of the approval he has already received for the Association
17 indicating that this property -- you know, fits in, and
18 meets their guidelines -- indicates that the neighborhood
19 largely agrees that there is no substantial detriment to the
20 neighborhood. I know there are a couple of people who will
21 speak in opposition, but I wanted you to get a sense of the
22 approval for it.

1 I would also like to draw your attention to the
2 certified plot plan, if we could. Oh, that's in front of
3 us.

4 If you'll notice, when you look at it, his
5 property at the rear you can see sort of a notch, where the
6 property right next to him, 6 Cogswell, sticks out a little
7 closer to the property line than his property.

8 So what Anja has walked you through is a modest
9 addition that fills in there, just a rectangle that makes it
10 parallel to that -- to the back line of that property.

11 I know that this Association and these
12 developments were built with notches here and there,
13 especially in the front. But I also want to draw your
14 attention to a copy of the Assessor's block plan that I had
15 uploaded. It's not in Anja's presentation, but I had asked
16 the Staff if they could upload it. And I don't know if
17 that's possible now.

18 But it shows --

19 JIM MONTEVERDE: They just stepped away, so
20 continue to speak.

21 MICHAEL WIGGINS: Okay.

22 JIM MONTEVERDE: Explain what's there.

1 MICHAEL WIGGINS: Yeah. I'll explain to you
2 what's there. It shows the comprehensive overview from the
3 Assessor's point of view of all of those buildings into two
4 Associations.

5 And yes, in their front yards, some of them are
6 staggered, and that's a nice feature, as is Micheal at his
7 front. And I just want to emphasize that we are not trying
8 to be unfaithful to those overall designs; in a lot of those
9 buildings at the rear, you'll find that they have common
10 planes all the way across the back.

11 And that's what we're proposing here for this
12 small addition. It would be in a common plane with his
13 neighbor Ewa Basinska. I don't know if that's the name of
14 the -- or Eva. I'm sorry.

15 MICHAEL BRODIE: Ewa Basinska.

16 MICHAEL WIGGINS: Ewa Basinska. It would be
17 consistent with the plane of her building, and she is one of
18 the people that supports. She's reviewed the plans and is
19 in favor of them.

20 So I would submit that this is the sensitively
21 done project that will not detract from the neighborhood,
22 will not detract from the overall scheme of this design that

1 was -- you know, these designs that were put into place 42
2 years ago.

3 JIM MONTEVERDE: Thank you. Any questions from
4 members of the Board?

5 I have one. Do I understand the plans correctly,
6 that in the existing condition, there are two bedrooms, a
7 master, and a guest? And after the renovations there will
8 be two bedrooms, a master and guest.

9 MICHAEL WIGGINS: Yes, well --

10 JIM MONTEVERDE: They both expanded a bit, but
11 it's --

12 ANJA PAJEVIC: Correct.

13 JIM MONTEVERDE: -- it's two bedrooms and it will
14 stay two bedrooms. Correct?

15 ANJA PAJEVIC: Correct. Yes. Correct.

16 JIM MONTEVERDE: Okay. And approximately 4'6"
17 addition toward the rear basically gives them breathing room
18 in the kitchen and allows you to flip-flop the guestroom and
19 the library and the lower level to make a little more
20 generous, gracious bedroom and et cetera. Same thing up
21 above. Is that correct?

22 ANJA PAJEVIC: Correct.

1 MICHAEL BRODIE: Exactly, yes.

2 JIM MONTEVERDE: Okay. All right. Thank you.

3 Any other questions from any members of the Board? If not,
4 before we open it up to public commentary, in the file we
5 have -- last time I counted, there were six correspondents
6 in favor, two opposed, but let me see if that's still the
7 case.

8 We have one from Monique Fischer, Ashley Pittman,
9 both of Cogswell Avenue. I don't have it -- I can't find
10 the date on this one, but they're writing to oppose. Based
11 on -- and I'm not sure everything written in here is
12 correct; that's why I asked the question about the number of
13 bedrooms.

14 It says, "First, no other townhouse located for
15 development has a third bedroom." You don't. Gets --
16 again, it is two bedrooms, it's going to be a two-bedroom.

17 Second, that "No -- don't believe any other unit
18 has undergone the sort of expansion proposed." I don't
19 think that's kind of relevant to what we need to rule on.

20 And third, that the townhouse unit -- they do not
21 believe that the townhouse units meets the minimum
22 Dimensional Requirements for a Residence B dwelling. Again,

1 that's -- we're seeking a special permit. There will be
2 some dimensional variances. But this letter from Monique
3 and Ashley.

4 A letter on January 25, Ann Spanel from 85
5 Pemberton Court. They have a lot -- let's see, oh, yep, BZA
6 denied. So they were in objection. Is that -- to do with
7 the property is already nonconforming. Lot is undersized.

8 Second, the existing structure exceeds the GFA,
9 which I note in the Dimensional Form.

10 And then we have January 24, Janet McFadden, in
11 support.

12 January 23, Ewa Basinska, in support. All right.

13 January 22, Joe Wassong, in support.

14 January 19, Patti Brainard, in support.

15 January 20, Dana Shaefer and Matt Pesci, in
16 support.

17 January 20, Thomas Leib, in support.

18 Ann Spanel, we did already. And then we have a
19 letter from --

20 ANN SPANEL: Excuse me, I was told -- sorry, I was
21 told I could read my statement.

22 JIM MONTEVERDE: One second. That's fine. Just

1 one second.

2 ANN SPANEL: Okay.

3 JIM MONTEVERDE: I'll open it up for public
4 commentary.

5 ANN SPANEL: All right.

6 JIM MONTEVERDE: We have another message, January
7 17, from S. Heyveart, Acting Pursuit of the 45 Cogswell
8 Station Homeowners Association. And "The Association hereby
9 approves of and supports the plan and special permit." I
10 think that's what Michael was talking about.

11 This is Barbara Hickey, January 16. Well, I think
12 you -- this was an objection, but I think Counselor, you
13 said that that's been resolved?

14 MICHAEL WIGGINS: Yes. That's the letter I -- or
15 the conditions that --

16 JIM MONTEVERDE: Yep --

17 MICHAEL WIGGINS: -- I read into the --

18 JIM MONTEVERDE: And I think --

19 MICHAEL WIGGINS: -- that I promised Attorney I
20 would do that.

21 JIM MONTEVERDE: -- when we're done if we rule in
22 favor, I think if you could send that to us that would be

1 helpful. So that's in summary what's in the file.

2 Any member of the public who wishes to speak
3 should now click the icon at the bottom of your Zoom screen
4 that says, "Raise hand."

5 If you're calling in by phone, you can raise your
6 hand by pressing *9 and unmute or mute by pressing *6.

7 I'll now ask Staff to unmute speakers one at a
8 time. You should begin by saying your name and address, and
9 Staff will confirm that we can hear you. After that you
10 will have up to three minutes to speak before I ask you to
11 wrap up.

12 STEPHEN NATOLA: Ann Spanel?

13 ANN SPANEL: Thank you. I'm Ann Spanel, and I
14 have lived at 85 Pemberton Court for 28 years. I'm an
15 abutter to the property at 45 Cogswell No. 7.

16 I am in opposition. So as noted, in the BZA
17 application this property is already nonconforming in
18 several respects. The lot is undersized. When the home was
19 originally built, it did not meet setbacks for any side of
20 the lot. My property abuts the property in the rear of the
21 home. The present rear setback is just over 19' to the
22 property line, already less than the required 25' of

1 setback.

2 If this addition is allowed, then the home will
3 extend further into the back yard and be less than 10' from
4 the rear property line. That distance does not include the
5 proposed rear deck. The distance from the rear and elevated
6 deck is less than 8' from the rear property line.

7 From the end of my property to this new structure,
8 if allowed, there would be just 13'. And the end of my
9 property is a back fence of my yard, where I spend a lot of
10 time in the warm weather. From the end of my property to
11 the deck, the distance is approximately 9'. Any way the
12 distance is measured, it is far less than the 25' rear
13 setback requirement.

14 Second, the existing structure exceeds the gross
15 total floor area, GTFA, by more than 500 square feet.
16 Allowing the special permit in this addition will increase
17 the GTFA to nearly double what is allowed.

18 Similarly, the existing ratio of GTFA to lot area
19 already exceeds the City's Ordinance. Allowing this
20 addition will also cause the ratio of gross floor area to
21 lot area nearly double -- to be nearly double what is
22 permissible.

1 In his petition, Mr. Brodie states that the
2 health, safety and -- sorry, the health, safety and welfare
3 of abutters will not be adversely affected: page 3,
4 paragraph D. I disagree with this. I have serious medical
5 conditions which will be worsened by the proposed
6 construction, unable to prevent dust and toxins from
7 entering my old and leaky house.

8 I've had to vacate my home temporarily twice, due
9 to nearby construction, almost -- one of them was almost the
10 exact same distance away. This is 32' from my actual
11 windows in my home. The other one was 31'.

12 Dust from -- this construction will entail the
13 removal of the rear wall of the house, creating dust and
14 debris -- significant amounts. Dust from dirt piles and the
15 dumpsters will also severely impact my health.

16 Noise from trucks and construction equipment and
17 the loud radios that are often on building sites will make
18 it impossible for me to rest during the day, which is a
19 medical necessity; it's not a luxury for me.

20 Some construction materials listed in the
21 application will also generate dust, thus further
22 deteriorating my health. I am a senior citizen with

1 compromised health, and I'm no longer able to move.

2 Therefore, I ask that the BZA deny this special permit.

3 Thank you.

4 JIM MONTEVERDE: Thank you for offering your
5 comments. Anyone else?

6 STEPHEN NATOLA: Ray Doucette?

7 RAY DOUCETTE: Hello. Yes. My name is Ray
8 Doucette. I'm an attorney for Ms. Barbara Hickey. Can you
9 hear me?

10 JIM MONTEVERDE: We can. Go ahead.

11 RAY DOUCETTE: Hi. Yes. I'm an attorney for Ms.
12 Barbara Hickey. As mentioned by Attorney Wiggins, our
13 office did enter into an agreement with the owner of the
14 property, but our client did also want to make it a point to
15 note that the extension of the 8" of the deck would be
16 exasperating and already nonconforming rear setback, which
17 would be -- you know, intruding onto her privacy and her
18 enjoyment of open space.

19 But as mentioned, that agreement was entered into.
20 It was signed. And we just wanted to make sure that it was
21 adhered to and part of the file as well.

22 JIM MONTEVERDE: Yes. Thank you. I think if we

1 take positive action, then we'll ask that that agreement be
2 forwarded to the ISD office.

3 RAY DOUCETTE: Great.

4 JIM MONTEVERDE: Anything else?

5 RAY DOUCETTE: Thanks, Mr. Monteverde.

6 JIM MONTEVERDE: Yep. Nice to see you, Ray.

7 RAY DOUCETTE: You as well.

8 JIM MONTEVERDE: Thank you. Anyone else? Anyone
9 else? I will close public testimony. Discussion among the
10 Board members?

11 So let me just address or confirm some of what Ann
12 Spanel said you can see in the Dimensional Form. I mean,
13 the building is nonconforming. The existing area is
14 nonconforming. It's basically increased by 360 some-odd
15 square feet.

16 And yes, the FAR goes from what's allowed is 0.5.
17 What's there now is 0.762 and what it'll be after the
18 renovates is 0.919. So that does seem to be a significant
19 addition compared to the Ordinance requirement. But I'll
20 leave it at that.

21 Are there any other -- I think the other comments
22 that were made about construction and dust and building

1 materials and noise from construction is not something that
2 this Board controls, that we can factor into our decision.

3 So is there any other discussion from members of
4 the Board, or are you ready for a vote? Or a motion, I
5 should say?

6 VIRGINIA KEESLER: I was just going to say I think
7 the fact that was standing out in my mind from this
8 discussion was -- again, just the porch is only 8" closer to
9 the lot line.

10 JIM MONTEVERDE: Yep, that's correct. Any other
11 discussion, or are we ready for a motion?

12 DANIEL HIDALGO: For me, this meets the
13 requirements of a special permit. Doesn't -- you know,
14 drastically, it's not out of keeping with the character of
15 the neighborhood and, you know, as mentioned, it just moves
16 us -- moves it 8" closer to the lot line. So that strikes
17 me as, you know, within reason. So I'll support this.

18 JIM MONTEVERDE: Okay. Anyone else? Let me move
19 to a motion then.

20 STEVEN NG: I think we're ready for a motion.

21 JIM MONTEVERDE: Yep. Thank you. And this is a
22 special permit. The Chair makes a motion to grant relief

1 from the requirements of the Ordinance under Sections 5.31,
2 Dimensional Requirements, that's the rear yard setback for
3 the construction as well as the deck; and Articles 8.22.2.c;
4 8.22.2.d for a Nonconforming Structure, and then the
5 requirements of the special permit.

6 Let me go through those. That criteria is: It
7 appears that the requirements of this Ordinance cannot or
8 will not be met. That's correct.

9 Traffic generated would cause congestion,
10 hazard, or substantial change. I don't think so.

11 Continued operation of or the development of
12 the adjacent uses would be adversely affected. I don't
13 think that's presented here.

14 Nuisance or hazard would be created to the
15 detriment of the health, safety, or welfare. I don't think
16 so.

17 And for other reasons, would impair the
18 integrity of the district or adjoining district. And I
19 don't think so.

20 So I think it meets all the criteria of 10.43
21 for a special permit.

22 So on the condition that the work proposed

1 conforms to the drawings entitled "Brodie Residence,"
2 prepared by SKA Architects, dated January 18, 2024,
3 initialed and dated by the Chair.

4 And further, that we incorporate the supporting
5 statements and dimensional forms submitted as part of the
6 application.

7 Further, that the special permit is granted
8 incorporating the following conditions. And it's just one,
9 and that is Attorney Wiggins, please forward us -- to
10 Inspectional Services -- a copy of the agreement that you've
11 reached with the abutter behind the project, the Hickeys.

12 MICHAEL WIGGINS: I certainly will.

13 JIM MONTEVERDE: And with that, it's a Board vote
14 based on a voice vote.

15 Daniel?

16 DANIEL HIDALGO: In favor.

17 JIM MONTEVERDE: Zarya?

18 ZARYA MIRANDA: In favor.

19 JIM MONTEVERDE: Virginia?

20 VIRGINIA KEESLER: In favor.

21 JIM MONTEVERDE: Steven?

22 STEVEN NG: In favor.

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JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: Relief is granted.

COLLECTIVE: Thank you, Mr. Chairman. Thank you.

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(9:33 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Fernando Daniel Hidalgo, and
Zarya Miranda

JIM MONTEVERDE: Next case, still in the
neighborhood, is BZA-249637 -- 36 Cogswell Avenue. Anyone
wishing to speak about this one? Mr. Lodge? Are you there?

[Pause]

JOHN LODGE: I'm sorry. I apologize. My name is
John Lodge, and I'm the Architect for Kevin and Amanda
Pojasek at 36 Cogswell Avenue. My address is 56 Aberdeen
Avenue in Cambridge. I'm not sure if Kevin and Amanda have
been elevated as panelists.

KEVIN POJASEK: Yes, we're on, John, thank you.

JOHN LODGE: Oh, great. So I thought I would just
left Kevin and Amanda give you sort of a quick context of
how long they'd been there and what we're proposing, and
then I'll just take you through the design.

AMANDA POJASEK: Great. Good evening. I'm
Amanda.

KEVIN POJASEK: Hi. And I'm Kevin Pojasek. Thank

1 you to the Board for hearing our case. I first moved to
2 Cambridge nearly 25 years ago, and we've owned the property
3 at 36 Cogswell for close to 15 years now.

4 AMANDA POJASEK: And we have -- we moved away for
5 a spell to England. We have our three kids in Cambridge.
6 They all came home to that house in Cogswell. We moved away
7 for a few years, and we just returned this past year.

8 And with the kids growing, we realize that
9 everybody needs a bit more space and -- you know, workspace
10 to study. So we'd love to create more space and better
11 layout for our kids, who are now becoming teenagers.

12 KEVIN POJASEK: All right. So if we could go to
13 the plans? Great. So basically, what we're proposing is
14 that as it stands now, if you look at the rear of the house,
15 there's an enclosed porch. And we're proposing to enclose
16 that to create a new stairwell to the basement.

17 As it stands, currently the basement stair --
18 there's only one basement stair, so there's no second means
19 of egress. And the stair -- the existing stair is
20 nonconforming.

21 So our idea is to add a second stair that's --
22 that meets code, and provides a second means of egress,

1 because we're going to put two bedrooms and a bathroom in
2 the basement.

3 So enclosing the porch is as-of-right, but what we
4 want to do is we want to add two pairs of windows to
5 increase the amount of natural light and ventilation into
6 the basement.

7 At the same time, if we go to the second floor
8 plans, thank you -- at the same time given the size of the
9 lot, which is pretty small, to increase the amount of open
10 space, we're proposing a 7 x7 deck, which is on top of a
11 one-story ell off of the primary bedroom facing south to
12 give us a little bit more open space.

13 Both the deck and the proposed pairs of windows
14 fall within the rear yard setback. And that's why we're
15 coming to you tonight for a special permit.

16 JIM MONTEVERDE: Does that sum it up?

17 KEVIN POJASEK: Yeah. I can go through the
18 elevations too, if you'd like to look at those, but.

19 JIM MONTEVERDE: So I think that the issue in
20 front of us, just as you just said, the enclosing the porch;
21 that porch is within this rear yard setback moving the
22 windows around, or changing the windows there is in the rear

1 yard setback?

2 KEVIN POJASEK: Correct.

3 JIM MONTEVERDE: Right? That's basically what
4 you're seeking relief for?

5 KEVIN POJASEK: Correct.

6 JIM MONTEVERDE: Right? Okay. And I'm assuming
7 it's already nonconforming?

8 KEVIN POJASEK: Correct.

9 JIM MONTEVERDE: Yep. Nonconforming in terms of
10 gross floor area -- GFA -- you're actually reducing that.
11 Congratulations.

12 KEVIN POJASEK: [Laughter]. Yeah, by about -- you
13 know, five square feet. But --

14 JIM MONTEVERDE: Everything counts.

15 KEVIN POJASEK: Everything counts, I know.

16 JIM MONTEVERDE: Okay. No, unless you have
17 something else to present, I think that's -- I think we got
18 the basics here. All right. Any questions from members of
19 the Board? If not, in the file we have one letter. Let me
20 just check.

21 Yep. One letter dated January 21, from Deborah
22 Lieberon, who lives next door who is, as she says, has no

1 objection. So I'll take that in support.

2 I'll open it up to public commentary. Any members
3 of the public who wish to speak should now click the icon at
4 the bottom of your Zoom screen that says, "Raise hand." If
5 you're calling in by phone, you can raise your hand by
6 pressing *9 and unmute or mute by pressing *6.

7 I'll now ask Staff to unmute speakers one at a
8 time. You should begin by saying your name and address, and
9 Staff will confirm that we can hear you. After that you
10 will have up to three minutes to speak before I ask you to
11 wrap up.

12 [Pause]

13 No one seems to be calling in, so we'll close
14 public testimony. Any discussion among the members of the
15 Board? Not?

16 DANIEL HIDALGO: I think we're ready for a motion.

17 JIM MONTEVERDE: Ready for a motion. Okay. The
18 Chair makes a motion to grant relief from the requirements
19 of the Ordinance under Sections 5.31 -- and that's really
20 the rear yard setback that's affected by the new enclosed
21 porch -- as well as windows being moved around or changed in
22 that rear yard setback as well.

1 And then our old favorite, Section 8.22.2.d and
2 8.22.2.c for a nonconforming structure, and the conditions
3 for a special permit let me run through again. It appears
4 the requirements of this Ordinance cannot or will not be
5 mete. That's correct.

6 Traffic generated would cause congestion or
7 hazard. It will not.

8 Continued operation of or development of adjacent
9 uses would not be adversely affected. Not.

10 Nuisance or hazard would be created to the
11 detriment of the health, safety and/or welfare. No.

12 And for other reasons, the proposed use would not
13 impair the integrity of the district or adjoining district.
14 I think not.

15 So I think they comply with all of the criteria
16 for Section 10.43 for a special permit on the condition that
17 the work proposed conforms to the drawings entitled "36
18 Cogswell Avenue," prepared by John Lodge Architects, dated
19 November 9, 2023, initialed and dated by the Chair.

20 And further, that we incorporate the supporting
21 statements and dimensional forms submitted as part of the
22 application.

1 On a voice vote from the Board, please?

2 Steven?

3 STEVEN NG: In favor.

4 JIM MONTEVERDE: Virginia?

5 VIRGINIA KEESLER: In favor.

6 JIM MONTEVERDE: Daniel?

7 DANIEL HIDALGO: In favor.

8 JIM MONTEVERDE: Zarya?

9 ZARYA MIRANDA: In favor.

10 JIM MONTEVERDE: And Jim Monteverde in favor.

11 [All vote YES]

12 JIM MONTEVERDE: That's five in favor. The relief
13 is granted.

14 JOHN LODGE: Thank you very much. Thank you for
15 your time.

16 AMANDA POJASEK: Thank you.

17 KEVIN POJASEK: Thank you.

18 JIM MONTEVERDE: Yep. Good luck.

19 AMANDA POJASEK: Thanks.

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2 (9:42 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Zarya
5 Miranda

6 JIM MONTEVERDE: Next case is BZA 252170 -- I
7 think this says 8.5-10 William Street Unit 8.

8 CARL SOLANDER: Hi. Carl Solander, Architect, 818
9 Mount Auburn Street in Watertown.

10 JIM MONTEVERDE: Yep. Very good.

11 CARL SOLANDER: Hopefully this is the simplest
12 case of the night. We are -- this is a four-unit condo
13 building. My clients, Sam, and Bushra are here. Maybe they
14 can give a brief introduction of what we're trying to
15 achieve, and then I'll walk you through the images.

16 SAM SLAVIN: Sure. Thank you for having us. My
17 name is Sam Slavin. This is my wife, Bushra Taha. I was
18 born and raised in Cambridge and bought this condo together
19 from my parents almost nine years ago.

20 And Bushra and I are raising our 1-year-old son
21 there, and hoping to increase our usable, livable space to
22 stay in a neighborhood that we love and for Bushra's parents

1 to come visit and stay with us more often.

2 Part of that is finishing the basement, and so to
3 create -- bring a bit more light into that space, we're
4 hoping to add a couple of windows to the basement space.

5 JIM MONTEVERDE: Thank you.

6 CARL SOLANDER: So if we can just go through the
7 images. We're basically doing an interior renovation here,
8 which is already under construction.

9 JIM MONTEVERDE: Can I stop you for a second?

10 CARL SOLANDER: Mm-hm.

11 JIM MONTEVERDE: How many units did you say were
12 in --

13 CARL SOLANDER: It's a four-unit condo.

14 JIM MONTEVERDE: Oh, that's right. Okay. I think
15 we have correspondence from Unit 8, Unit 8.5, 10, and 10.5.
16 That's everyone, right?

17 CARL SOLANDER: Yep.

18 JIM MONTEVERDE: Okay. Good. Go ahead.

19 CARL SOLANDER: Yeah. So this is work we're doing
20 upstairs on the top plan. And the bottom plan shows work in
21 the basement. You can scroll down.

22 So the windows in question, that red box shows

1 where we would open these two windows up, and that area is
2 currently an unfinished area. We are digging out this slab
3 to raise the ceiling a bit to make it living space.

4 You can go down to the next slide. Yeah. Just
5 show the bottom plan, please.

6 So that area highlighted in red again. There's an
7 existing window, the one in the middle of those three
8 windows. And we're just looking to replicate that window,
9 one on each side in a kind of symmetrical arrangement within
10 that what will become a finished basement office space.

11 And then next slide?

12 JIM MONTEVERDE: And is that side of the building
13 within the side yard setback?

14 CARL SOLANDER: Yes. That's the reason we're --

15 JIM MONTEVERDE: So that's the reason you're --

16 CARL SOLANDER: -- applying for a special permit.
17 Yeah. I have some photos of that down the next couple
18 slides.

19 JIM MONTEVERDE: That's good. Thank you.

20 CARL SOLANDER: So that's the interior image of
21 the three windows with the existing one in the center, some
22 cabinetry we're going to build there.

1 Next slide?

2 So this is the front. Unit 8 is the lower left
3 quadrant of this four-unit condo. And on the left side is
4 the side yard where these windows would be.

5 Next slide? So that -- yeah. You can skip that
6 one. But yeah.

7 So that's the side yard. As you can see, it's
8 fairly narrow. It's about six feet to property fence. We
9 did not get a plot plan drawn because we're not doing any
10 exterior work other than this.

11 So that's a drawing I did on a photograph showing
12 how we would space the windows basically two bricks apart
13 from the existing window and match all the details and the
14 size of that window.

15 There are already four windows on this side of the
16 basement. However, the other three you can see one of them
17 toward the back there are in unfinished storage spaces and
18 not part of Sam and Bushra's deeded area of the condo.

19 Next slide?

20 Just the measurements to the property fence. So
21 you can see the spacing we're dealing with. I believe we
22 also did receive letters from the neighbors on that side,

1 who support the project.

2 And that's it.

3 JIM MONTEVERDE: All right. Thank you.

4 Any questions from members of the Board? Again,
5 this is a special permit, and what's in front of us is the
6 addition of two basement windows. And the only reason
7 they're here is because it's in the side yard setback. So
8 that's what's in front of us.

9 Any questions from members of the Board? If not,
10 we have correspondence in the file. I'll go to that one I
11 was looking for. So we do have a letter from the other
12 owners of the condominiums. So this is really representing
13 the condo or the condo association. They approve the the
14 renovations.

15 There's a letter from January 22, from Evan
16 Jenness. This is on the facing property, 6 William. He's
17 conferred with his mother, who's vision impaired. And they
18 approve the plan. Are they the folks that are closest to
19 you?

20 SAM SLAVIN: Yes.

21 JIM MONTEVERDE: Yeah? Okay.

22 SAM SLAVIN: Yes.

1 SAM SLAVIN: That's correct. They are two owners
2 in two units in that abutting property, and --

3 JIM MONTEVERDE: Yep.

4 SAM SLAVIN: -- and both have submitted letters.

5 JIM MONTEVERDE: Yep. And then you have -- yes,
6 and this is someone else in Unit 8. That's duplicate. And
7 that's what we have in the file. So I'll open it up to
8 public comment.

9 Any members of the public who wish to speak should
10 now click the icon at the bottom of your Zoom screen that
11 says, "Raise hand." If you're calling in by phone, you can
12 raise your hand by pressing *9 and unmute or mute by
13 pressing *6.

14 I'll now ask Staff to unmute speakers one at a
15 time. You should begin by saying your name and address, and
16 Staff will confirm that we can hear you. After that you
17 will have up to three minutes to speak before I ask you to
18 wrap up.

19 And no one seems to be calling in, so I will close
20 public testimony. Any discussion among members of the
21 Board? Can we move this to a motion?

22 STEVEN NG: Yes. I think so.

1 JIM MONTEVERDE: Motion. Okay. And this is a
2 special permit.

3 Oh, hold on. We have somebody in the public who
4 raised their hand. So.

5 STEPHEN NATOLA: Michael Dolan?

6 MICHAEL DOLAN: I'm sorry, I thought it was asking
7 me to be the panelist on the next matter.

8 JIM MONTEVERDE: No. Do you have any public
9 comment to offer on --

10 MICHAEL DOLAN: No, I --

11 JIM MONTEVERDE: -- 8.5-10 Williams Street, or --

12 MICHAEL DOLAN: I do not think. Thank you.

13 JIM MONTEVERDE: Okay. Thanks. Done? Okay. I
14 will call close public testimony, commentary. The Chair
15 makes a motion to grant relief from the requirements of the
16 Ordinance under Sections 5.31.

17 Again, that's because the two basement windows are
18 within the side yard setback; my favorite Section 8.22.2.c
19 Nonconforming Structure; and then the conditions of the
20 special permit which, again are:

21 One, it appears the requirements of the Ordinance
22 cannot or will not be met. That is correct.

1 Traffic generated, or patterns of access or egress
2 would cause congestion or hazard. They will not.

3 Continued operation of or development of adjacent
4 uses, would be adversely affected. Not.

5 Nuisance or hazard would be created to the
6 detriment of the health, safety and/or welfare. No.

7 And for other reasons, the proposed use would not
8 impair the integrity of the district or adjoining district.
9 No.

10 So I think they qualify under all of those
11 conditions for the criteria for a special permit under
12 Section 10.43.

13 On the condition that the work proposed conforms
14 to the drawings entitled "Slavin Residence," prepared by
15 Reverse Architecture and dated 11/02/2023, initialed and
16 dated by the Chair.

17 And further, that we incorporate the supporting
18 statements and dimensional forms submitted as part of the
19 application.

20 Board members, please take a voice vote on the
21 motion to grant the relief. Zarya?

22 ZARYA MIRANDA: In favor.

1 JIM MONTEVERDE: Thank you. Daniel?

2 DANIEL HIDALGO: In favor.

3 JIM MONTEVERDE: Virginia?

4 VIRGINIA KEESLER: In favor.

5 JIM MONTEVERDE: Steven?

6 STEVEN NG: In favor.

7 JIM MONTEVERDE: And Jim Monteverde in favor.

8 [All vote YES]

9 JIM MONTEVERDE: That's five in favor. Relief is
10 granted.

11 CARL SALANDER: Thank you.

12 JIM MONTEVERDE: You're welcome.

13 SAM SLAVIN AND BUSHRA TAHA: Thank you.

14 JIM MONTEVERDE: I would like to request a two-
15 minute break.

16 (BREAK)

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(9:51 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Zarya
Miranda

JIM MONTEVERDE: Next case is BZA-251572 -- 1350
Mass Avenue. This is a Telcom case. And I don't think the
President and Fellows of Harvard College will be here, but
who is here? Allison Conwell from Certerline?

MICHAEL DOLAN: Actually, this is Michael Dolan
from the Law Firm of --

JIM MONTEVERDE: Oh, okay.

MICHAEL DOLAN: -- Brown Rudnick.

JIM MONTEVERDE: How are you, Michael?

MICHAEL DOLAN: Can you hear me okay?

JIM MONTEVERDE: I can.

MICHAEL DOLAN: Great. Thank you.

JIM MONTEVERDE: Before you jump into this, I
notice that year on the Planning Board Agenda for this week?

MICHAEL DOLAN: Yes. Just like an earlier
applicant referenced, we --

JIM MONTEVERDE: So they had technical

1 difficulties?

2 MICHAEL DOLAN: We went to attend the meeting, and
3 it never happened because of some Internet issues the City
4 was having.

5 JIM MONTEVERDE: Okay.

6 MICHAEL DOLAN: You know, the comments that we
7 were going to talk about related mostly to the fact -- well,
8 we can get into it, but, you know, they just wanted to
9 understand if we had any flexibility to move our antennas
10 back, and we can't because the line-of-sight RF issues. And
11 I can kind of dive into it right now, but --

12 JIM MONTEVERDE: Okay.

13 MICHAEL DOLAN: -- essentially, what we're doing
14 is I represent AT&T. They have an existing rooftop antenna
15 facility. We're looking to replace 12 antennas with 12 new
16 antennas in nearly the identical spot. You can see from the
17 photo simulations, including with our application that
18 there's no visual impact from what we're proposing, other
19 than maybe a benefit.

20 I had one of these previously before the Board,
21 where one of the antennas that were -- two of the antennas
22 we're removing, we're going to be able to stack on top of

1 each other, and as smaller antennas.

2 So in that sense, there's actually less mass. But
3 they're in the exact same location. We're just replacing
4 some remote radio heads and related equipment as well.

5 By way of background with, you know, the way this
6 application has gone, we were -- we went before the Harvard
7 Square Advisory Committee, they supported the application.
8 They noted as well one of the Board members, and we knew
9 this of course, that Harvard had done an internal review of
10 our proposal and approved of it.

11 You know, they want us to get this improved
12 technology folded in in time for Commencement. So we're
13 trying to work with them to get that done. And as I say,
14 there is effectively zero visual impact with this facility.
15 And we're seeking a special permit.

16 JIM MONTEVERDE: Thanks. Can you just walk us
17 through the photo simulations, please?

18 MICHAEL DOLAN: Sure. So that's Location 1,
19 Existing Conditions. If you look up on the top left, you'll
20 see the Alpha sector.

21 And over on the right is the -- you can barely see
22 it up there. But there's a little portion of the Gamma

1 sector.

2 And then if you go to the next slide, those are
3 the proposed conditions from the same vantage point. You
4 can see that the same location of the Alpha sector we're
5 putting the antennas up.

6 But we do have those two smaller ones stacked. So
7 that's the part I was alluding to that actually there's less
8 mass than what we have there, then we will have there than
9 we have currently.

10 And if we go to the next photo simulation, that
11 will be another existing condition, from a different vantage
12 point showing the Gamma sector up to the top right on the
13 roof. Those are not our antennas that you see in the middle
14 of the building on top of that penthouse like structure.

15 JIM MONTEVERDE: Yeah.

16 MICHAEL DOLAN: But if we go to the next photo,
17 you can see there's our proposed antennas in the exact same
18 location. I -- you know, if someone walked by after we made
19 this change, they'd have no idea we made the change.

20 If we go to the next photo, that's another
21 existing condition, so the Beta Sector.

22 And if we go to the next photo, those are the

1 proposed antennas at that same location. Once again,
2 collectively it's 12 antennas being removed, 12 antennas
3 going in to replace them.

4 JIM MONTEVERDE: Okay. Thank you. Any questions
5 from members of the Board? If not, we are in -- we have
6 been sent one letter in the file dated January 17, 2024,
7 from the Harvard Square Advisory Committee. Mason Wells.
8 They are supportive of the applicants' proposal.

9 Had no additional comments, and it was noted that
10 Harvard University had conducted an internal review, and
11 were also supportive of the project, I think as Mr. Dolan
12 has told us.

13 On that, this is a special permit. Sorry. Any
14 questions from members of the Board? I'm jumping ahead of
15 myself. Did I ask that?

16 All right. Not hearing any -- and I read the
17 correspondence in the file. I'll open the matter up to
18 public comment.

19 Any members of the public who wish to speak should
20 now click the icon at the bottom of your Zoom screen that
21 says, "Raise hand." If you are calling in by phone, you can
22 raise your hand by pressing *9 and unmute or mute by

1 pressing *6.

2 I'll now ask Staff to unmute speakers one at a
3 time. You should begin by saying your name and address, and
4 Staff will then confirm that we can hear you. After that
5 you will have up to three minutes to speak before I ask you
6 to wrap up.

7 No one. All right. Close public testimony. Any
8 discussion among members of the Board? If not, ready for a
9 motion?

10 STEVEN NG: I think we're ready for a motion.

11 JIM MONTEVERDE: All right the Chair makes a
12 motion to grant relief from the requirements of the
13 Ordinance under -- and this is a special permit. So this
14 criteria, this is Section 10.43, is that it appears the
15 requirements of this Ordinance cannot or will not be met.
16 Correct.

17 Traffic generated would cause congestion. No.

18 Continued operation of the development would be
19 adversely affected by the nature of the proposed use.

20 That's no.

21 Nuisance or hazard will be created to the
22 detriment of the health, safety and/or welfare. No.

1 And for other reasons, the proposed use would
2 impair the integrity of the district or adjoining district.
3 No.

4 So I think all the criteria for Section 10.43 for
5 a special permit are met. Before we vote -- well, let me do
6 one thing here. I'm on a roll here.

7 On the condition that the work proposed conforms
8 to the drawings entitled "AT&T Rooftop Facility, Cambridge,
9 Mass Avenue, 1350 Massachusetts Ave," prepared by
10 Centerline, dated November 27, 2023, initialed and dated by
11 the Chair.

12 Further, that we incorporate the supporting
13 statements and dimensional forms that are submitted as part
14 of the application.

15 And we're going to include this little spiel. And
16 then we can vote. Based on the findings, the Chair moves
17 that the petitioner be granted the special permit it is
18 seeking subject to the following conditions:

19 One, that the work proceed in accordance with the
20 plans submitted by the petitioner, and initialed by the
21 Chair.

22 Two, that upon completion of the work, the

1 physical appearance and visual impact of the proposed work
2 will be consistent with the photo simulations submitted by
3 the petitioner and initialed by the Chair.

4 Three, that the petitioner shall at all times
5 maintain the proposed work, so that its physical appearance
6 and visual impact will remain consistent with the photo
7 simulations previously referred to.

8 Four, that should the petitioner cease to utilize
9 the equipment approved tonight for a continuous period of
10 six months or more, it shall be promptly remove such
11 equipment and restore the building on which it is located to
12 its prior condition and appearance, to the exact reasonably
13 practicable.

14 Five, that the petitioner is in compliance with
15 and will continue to comply with in all respects the
16 condition imposed by this Board with regard to previous
17 special permits granted to the petitioner, with regard to
18 the site in question.

19 In as much as the health effects of the
20 transmission of electromagnetic energy waves is a matter of
21 ongoing societal concern and scientific study, the special
22 permit is also subject to the following conditions:

1 a) That the petitioner shall file with the
2 Inspectional Services Department each report it files with
3 the federal authorities regarding electromagnetic energy
4 waves emissions emanating from all the proponent's equipment
5 on the site.

6 Each such report shall be filed with the
7 Inspectional Services Department no later than 10 business
8 days after the report has been filed with the federal
9 authorities.

10 Failure to timely file any such report with the
11 Inspectional Services Department shall ipso facto terminate
12 the special permit granted tonight.

13 b) That in the event that at any time federal
14 authorities notify the petitioner that its equipment on the
15 site, including but not limited to the special permit
16 granted tonight, fails to comply with the requirements of
17 law or governmental regulations -- whether with regard to
18 the emissions of electromagnetic energy waves or otherwise -
19 - the petitioner, within 10 business days of receipt of such
20 notification of such failure, shall file with the
21 Inspectional Services Department a report disclosing in
22 reasonable detail that such failure has occurred, and the

1 basis for such claimed failure.

2 The special permit granted tonight shall ipso
3 facto terminate if any of the petitioner's federal licenses
4 is or are suspended, revoked, or terminated.

5 c) That to the extent a special permit has
6 terminated, pursuant to the foregoing paragraphs a) and b),
7 the petitioner may apply to this Board for a new special
8 permit, provided that the public notice concerning such
9 application discloses in reasonable detail that the
10 application has been filed because of the termination of the
11 special permit, pursuant to paragraphs a) and b) above.

12 Any such new application shall not be deemed a
13 repetitive petition, and therefore would not be subject to
14 the two-year period during which repetitive petitions may
15 not be filed. And finally:

16 d) That within 10 business days after receipt of a
17 building permit for the installation of the equipment
18 subject to this petition, the petitioner shall file with the
19 Inspectional Services Department a sworn affidavit of the
20 person in charge of the installation of equipment by the
21 petitioner with a geographical area that includes Cambridge
22 stating that:

1 a) he or she has such responsibility, and
2 b) that the equipment being installed pursuant to
3 the special permit we are granting tonight will comply with
4 all federal safety rules and will be situated and maintained
5 in locations with appropriate barricades and other
6 protections, such that individuals, including nearby
7 residents and occupants of nearby structures, will be
8 sufficiently protected from excessive radiofrequency
9 radiation under federal law.

10 The end.

11 All right, then. We are ready for a vote. Give
12 me one second, let me save that.

13 STEVEN NG: Yes.

14 JIM MONTEVERDE: Yep.

15 STEVEN NG: Ready for a vote.

16 JIM MONTEVERDE: Ready for a vote.

17 Steven?

18 STEVEN NG: In favor.

19 JIM MONTEVERDE: Virginia?

20 VIRGINIA KEESLER: In favor.

21 JIM MONTEVERDE: Daniel?

22 DANIEL HIDALGO: In favor.

1 JIM MONTEVERDE: Zarya?

2 ZARYA MIRANDA: In favor.

3 JIM MONTEVERDE: Jim Monteverde in favor.

4 [All vote YES]

5 JIM MONTEVERDE: That's five in favor. The relief
6 is granted.

7 MICHAEL DOLAN: Thank you very much.

8 JIM MONTEVERDE: Thank you all.

9 MICHAEL DOLAN: Excellent use of technology, Mr.
10 Monteverde. Very impressed. I was worried whether you'd be
11 sufficiently hydrated before that, but it looks like you've
12 taken care of it.

13 JIM MONTEVERDE: Nah. I was going to say I did
14 that all from memory, but that would be lying. All right.

15 MICHAEL DOLAN: Thank you all very much.
16 Goodnight.

17 JIM MONTEVERDE: Thank you, everyone. Thank you,
18 Board members, for your help.

19 COLLECTIVE: Thank you, goodnight, everyone.

20 JIM MONTEVERDE: Take care. Goodnight.

21 COLLECTIVE: Bye.

22 [10:09 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

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

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

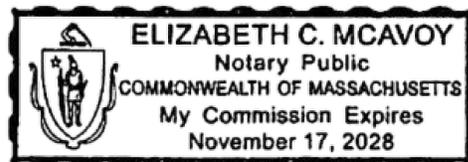
In witness whereof, I have hereunto set my hand this sixth day of February, 2024.



Notary Public

My commission expires:

November 17, 2028



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