

**BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE**

GENERAL HEARING

THURSDAY, JANUARY 30, 2014

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Vice Chair

Brendan Sullivan, Member

Thomas Scott, Member

Janet Green, Member

Douglas Myers, Associate Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)
(BZA Election for New Chair and Vice-Chair)

* * * * *

(7:05 p.m.)
(Sitting Members Case #10517: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: We'll start the hearing. As is our practice, we start with our continued cases.

And, Doug, are you going to sit? Why don't you come and take the first case. I'm going to call 1 Broadway, case No. 10517.

You know the drill, sir.

ATTORNEY TIMOTHY TWARDOWSKI: Thank you and good evening, Mr. Chairman and board members. For the record, my name is Tim Twardowski of Robinson and Cole representing the applicant Verizon Wireless. This application is for a Special Permit for a mobile communications facility at 1 Broadway. This is a continuation from the

hearing which was opened on the 5th of December and continued to this date. I believe we covered a lot of ground in December and we were held up over some issues that were pointed out, rightfully so, with our photo simulations. We were asked to return to the Board today with some new photo simulations to address the shortcomings that were identified, and we submitted those for the record with ISD last week. I do have additional copies if anybody would like copies.

JANET GREEN: I would.

ATTORNEY TIMOTHY TWARDOWSKI: Sure.

I think it's fair to say on a whole that the shortcomings with the original set of simulations pertain to the antennas and enclosures that are proposed for the north side of the building, this being the side

facing Broad Canal Way.

In order to correct the shortcomings, we actually took new photographs.

CONSTANTINE ALEXANDER: You took them during the daytime which also helps.

ATTORNEY TIMOTHY TWARDOWSKI: Yes, took them in daytime in as bright sunlight as we could get.

The new photos appear in the package on page 5. We actually have two photos of the same facade, photos 2A and 2B, which depict the actual view on page 5. And on page 6 this is a view facing southwest from Broad Canal Way. We've included arrows and added text box to indicate the locations of all of the enclosures for the antennas as well as the remote radio head enclosures.

The same facade is shown on pages 7 and 8. Page 7 showing the actual view. This

taken from just north of the property on Third Street facing towards the south. And on page 3A what you see is the actual view, the existing condition. And on page 8, photograph 3B, again, shows the proposed view with notes and arrows indicating the proposed enclosures for the four antennas as well as the three remote radio head enclosures that --

CONSTANTINE ALEXANDER: I have a question for you, sir, on page 10 which is your proposed view. One of the things that came out at the last hearing besides our dissatisfaction with the photo simulations at that time, was a suggestion I think by Mr. Hughes that with regard to these columns here you would have each one of them, have some dummies to go with the two that you would be covering antennas. And you explained,

sir, the architectural justification for why you wanted to do it this way. But I thought, the transcript indicates you were going to do it anyway. In other words, you were going to put false posts, the sides with the antennas. I'm just curious what happened to that.

ATTORNEY TIMOTHY TWARDOWSKI: I have that right here.

CONSTANTINE ALEXANDER: Oh, you have new photo sims?

ATTORNEY TIMOTHY TWARDOWSKI: Yeah. Just the one page which shows enclosures on all of the columns.

CONSTANTINE ALEXANDER: Oh, okay. I'm glad to hear that.

ATTORNEY TIMOTHY TWARDOWSKI: So this is shown as the -- this is labelled photo 4.

CONSTANTINE ALEXANDER: So you are

going to have two of these posts that are going to disguise the antennas and two are just dummies?

ATTORNEY TIMOTHY TWARDOWSKI:

Actually, we have a total of six. There are six columns on the building. The two center most are where the antennas would be located. The outer -- there's two on either side of the two center most, and we would be happy to, at the Board's -- if the Board prefers to go in that direction, to put false enclosures on the other four so that all six columns on that facade would match.

CONSTANTINE ALEXANDER: Well, I for one thought Mr. Hughes' idea was a good one and I would recommend it. I don't know what other members of the board would say to that.

BRENDAN SULLIVAN: Correct.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay. So we would like to see that.

ATTORNEY TIMOTHY TWARDOWSKI: And I do have also an alternate sheet showing the enclosures for insertion into the site plan in the event that the --

CONSTANTINE ALEXANDER: You anticipated my next question.

ATTORNEY TIMOTHY TWARDOWSKI: If you were going in that direction.

CONSTANTINE ALEXANDER: Okay. Just one thing, this is an insertion, it's not a whole other set of plans?

ATTORNEY TIMOTHY TWARDOWSKI: That's correct.

CONSTANTINE ALEXANDER: Anything else?

ATTORNEY TIMOTHY TWARDOWSKI: No, I'm happy to entertain any questions.

CONSTANTINE ALEXANDER: Sure.

Questions from members of the Board?

JANET GREEN: No.

CONSTANTINE ALEXANDER: There appear to be no questions. I'm going to open it up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be heard.

We are in receipt of some correspondence. There is a letter from the Kendall Square Association signed by Alexander Lee, L-e-e the Deputy Director, addressed to this Board dated January 16th. (Reading) On behalf of the Kendall Square Association, I am writing to express our full support of the telecommunications equipment

being proposed for installation by Verizon at 1 Broadway in Cambridge. The case number for this proposal is BZA case No. 10157. KSA, that's the Kendall Square Association, is an association of over 115 member businesses and organizations, including the world's leading publicly traded technology and biotechnology companies such as Google, Microsoft, Biogen, Genzyme, Novartis, and Pfizer, with a mission to promote, protect and improve Kendall Square. Of course Kendall Square is also home to MIT. As a leading global innovation cluster, it is key to the ongoing success of Kendall Square that communications within the community can be relied upon.

Many a times cellphone calls are dropped and communications are interrupted and this does not serve us well. The installation of this equipment would

certainly help solve this problem. Kendall Square is a vibrant, economic engine for the City of Cambridge contributing over 50 percent of the tax base to the quaffers of the tax payers. To retain our competitive edge, it is vital that we have this communication tools in place and functioning. Thank you for your consideration.

We also have something in the files -- you have to help me on this, Sean. It's an e-mail from Anagha Prasad, P-r-a-s-a-d.

SEAN O'GRADY: Is this the change.org document?

CONSTANTINE ALEXANDER: It says the petition, but I don't know what petition they're referring to.

SEAN O'GRADY: This is the list of names that they're referring to.

CONSTANTINE ALEXANDER: I see a lot of names. Are they in support?

SEAN O'GRADY: Those are.

CONSTANTINE ALEXANDER: Or are they opposed?

SEAN O'GRADY: This is the first time we've ever gotten anything like this.

CONSTANTINE ALEXANDER: I know, I've never seen anything like this before.

SEAN O'GRADY: I believe they are all in support. I believe they are customers and their various Zip Codes are listed.

CONSTANTINE ALEXANDER: Yes, that's what it says. The Chair, for the record, I'll read into the record I guess, an e-mail from Anagha, A-n-a-g-h-a Prasad, P-r-a-s-a-d relating to this matter. And attached to this e-mail is a full list of names of people who have signed the petition which we

initiated via change.org. Apparently, but we don't have the petition. I assume -- we're assuming that all these names, the petition is signed by people in support of the relief being sought and I'm going to assume that's the case.

So, and that's it. There's nothing else in the file that I can see. So I'm going to close public testimony.

Oh, wait, there is a letter from the Planning Board I don't think we put into the file before, so let me read it. It's actually dated December 3rd and it related to an earlier version of the plans before us.

States: The Planning Board reviewed the revised plans for installation of cellular telecommunications equipment and finds that the revised plans are a great improvement and result in a more attractive

design than the previous proposal.

They like that one, they should see what we have now with the false columns as well.

Anyway, (reading) The Board would like to acknowledge the special efforts made by the proponent, including greater involvement by the building owner and consultation with an architect to achieve a result that carefully integrates the equipment into the design of the building. The efforts made in this case could serve as a model for similar installations on buildings that are prominently located or have particular architectural distinction.

And there are, I'm sorry, there is one more letter, it's from City Councillor Leland Cheung. It's addressed to this Board. It's dated December 5th. So, again, it's with regard to -- well, it's the same proposal

before us except for the false items that they're going to be put on some parts of the side of the building.

Anyway, (reading) I'm writing to express my support for Verizon Wireless's Special Permit application for a mobile communications facility located at 1 Broadway, case 10517. I do not often write to the Board of Zoning Appeal because of your judicious and conscientious approach to evaluating cases. But I wanted to be sure to call your attention to unique benefits that approving this Special Permit will have for Kendall Square. Based on my personal experienced, with a d, and the input I have received from constituents in the area, it is apparent that Kendall Square suffers from a lack of reliable service. In fact, the lack of reliable service in Kendall Square was the

subject of a discussion at an April 2013 meeting of the City Council's cable TV telecommunications and public utilities committee. At my invitation representatives of Verizon Wireless attended the April meeting and gave assurances that a plan for improving wireless coverage in Kendall Square was underway. Given its location, it is plain to see that the proposed 1 Broadway facility would enable Verizon Wireless to improve wireless coverage for the benefit of residents, businesses, and visitors to the Kendall Square area. The Board of Zoning Appeal has a long track record of being a responsive and deliberative body at protecting the interest of the broader community when considering plans for the future. I trust the Board to exercise the same conscientious consideration in this

case as well.

And now I think I'm all done with what's in the file.

Any final comments, sir?

ATTORNEY TIMOTHY TWARDOWSKI: No, sir.

CONSTANTINE ALEXANDER: I'm going to close public testimony.

Discussion or are we ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: Okay.

It's going to be a little bit complicated.

The Chair moves that this Board make the following findings with the with regard to the Special Permit being sought:

That what is being proposed with regard to traffic generated or patterns of access or egress, will not cause congestion, hazard, or substantial change in established

neighborhood character. In this regard it is the experience of this Board that with regard to telecommunications and attendance such as these, there is maybe once a month a service call, assuming no problems, to service the facility, but there is not a lot of traffic that's generated by Verizon in this case with regard to their antennas.

That continued operation of or the development of adjacent uses will not be adversely affected by the nature of the proposed use. In fact, we have testimony that it will beneficially affect the nature of the surrounding area by improving telecommunications facility in this area, in this geographical area that where cellphone use and generally access to technology is highly desirable.

That no nuisance or hazard will be

created to the detriment of the health, safety, and the welfare of the occupant or the citizens of the city.

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

In this regard, again, the Chair would call attention to the letter of support put into the record from City Councillor Cheung, the letter of support from the Kendall Square Association, and apparently a petition that we somehow can't open which also seems to be in support.

So on the basis of these findings, the Chair moves that we grant the Special Permit being sought on the conditions that the work conform to the photo simulations submitted by

the Petitioner. They're 11 pages in length. The first page of which has been initialled by the Chair, which includes as a new page, it's called photo 4B, an alternate, which also has been initialled by the Chair. What 4B does is shows that each post, there's going to be a cannister, two of which are going to disguise the antennas, the other four are going to be, if you will, dummies to make the appearance of the building consistent.

And also that the work proceed in accordance with the plans, site plans, submitted by the Petitioner. The latest date of these -- of the first page of these drawings is 9/4/13. The first page of which has been initialled by the Chair and is supplemented by an additional sheet submitted by the Petitioner. It's sheet Z1. I should say sheets: Z1, Z2, and Z4, all of

which have been initialled by the Chair. So it's the photo simulations as supplemented, these site drawings as supplemented, that's the first condition.

The next condition will be that should you abandon this -- I'm sorry.

ATTORNEY TIMOTHY TWARDOWSKI: I'm sorry to interrupt --

CONSTANTINE ALEXANDER: No, go ahead.

ATTORNEY TIMOTHY

TWARDOWSKI: -- but the current version of the site plans --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY TIMOTHY

TWARDOWSKI: -- should have a date of December 2, 2013.

CONSTANTINE ALEXANDER: I'm looking what you --

ATTORNEY TIMOTHY TWARDOWSKI: Yeah, we submitted prior to the December hearing a revised set.

CONSTANTINE ALEXANDER: Thank you. We'll correct that.

The plans that are dated most recent date is December 2, 2013. And, again, the first page of which has been initialled by the Chair.

Thank you.

Further condition that as you should cease to operate the telecommunications facility on the building for a period of six months, unless it's caused by mechanical problems, that you will remove all of the fixtures that we have approved, you could add to the building, and restore the building face to its previous condition to the extent reasonably possible.

Is there anything else we have? I think there's something else. I guess that's it.

Okay, subject to those conditions, all those in favor of granting the Special Permit, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. You're all set.

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

* * * * *

(7:20 p.m.)

(Sitting Members Case #BZA-002610-2013:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 002610-2013, 22 Hingham Street.

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

MIKE SORRIERO: Mike Sorriero, 22 Hingham Street.

ADAM GLASSMAN: Adam Glassman, architect.

So I'd like to begin by offering some supplemental material that describes the study a little bit more and shows the plans in a bit more detail if that's okay.

CONSTANTINE ALEXANDER: Not really, but we'll take it. You're supposed to have these in the file by five p.m. on the Monday

before. Any materials.

ADAM GLASSMAN: Well, I think their critical.

CONSTANTINE ALEXANDER: They're supplementary. You're explaining they're supplementary.

ADAM GLASSMAN: You have this.

CONSTANTINE ALEXANDER: Yes, okay.

ADAM GLASSMAN: And the plans you have, I just wanted to address that we have --

CONSTANTINE ALEXANDER:
Understood. I understand. That's why I let you go forward. But otherwise typically we would not let you go forward.

ADAM GLASSMAN: Thank you.

CONSTANTINE ALEXANDER: This is illustrative material.

ADAM GLASSMAN: So I know you've all seen plans and understand what we're trying

to do. I would just add that if you turn to page two of supplemental packet, I just wanted you to see how we imagined this working as a three-bedroom, two existing on the second floor, and although we labelled the bathroom on the plans you have, we just --

CONSTANTINE ALEXANDER: Can I ask you a question at the outset?

ADAM GLASSMAN: Yes.

CONSTANTINE ALEXANDER: The last time you were here, you were showing an existing FAR of 0.73.

ADAM GLASSMAN: Right.

CONSTANTINE ALEXANDER: And you were going to go much higher. And now --

ADAM GLASSMAN: How did we get to this?

CONSTANTINE ALEXANDER: Yes. All of a sudden the building has shrunk in terms

of the FAR. What has happened since?

ADAM GLASSMAN: Last round we were somewhat newcomers to the FAR calculations. We included the basement, but the basement we improperly included in the --

CONSTANTINE ALEXANDER: That's the difference between the old number and the new number?

ADAM GLASSMAN: That's correct.

So I wanted to describe the proposed second floor where we used to have, where we used to have -- the existing four rooms, two are not legally occupiable as bedrooms. We want to keep the two that are legal. Turn one of those rooms into a bathroom. And the proposed attic space would become the modest size master bedroom.

CONSTANTINE ALEXANDER: Let me ask you a question. Why are these not legally,

these bedrooms are not legal?

ADAM GLASSMAN: The dimensions are under seven feet.

CONSTANTINE ALEXANDER: The ceilings?

ADAM GLASSMAN: No, no, the width of the room. They're not legal dimensions.

CONSTANTINE ALEXANDER: I didn't know you had to have at least seven foot of width for a bedroom.

ADAM GLASSMAN: You do. Your shortest dimension could not be less than seven feet.

JANET GREEN: It says eight-by-eight?

DOUGLAS MYERS: So you're showing the bathroom on the second floor for the first time in your drawings that you've submitted tonight, correct?

ADAM GLASSMAN: Do we have it labelled as a bathroom on the drawings that you have in hand?

DOUGLAS MYERS: You show on your plans of dated 30 January, 2014 that were in the file on page A1 you show two bedrooms and a study on the second floor.

ADAM GLASSMAN: The study, that was a typo on my part. It is a bathroom.

CONSTANTINE ALEXANDER: I'm sorry?

ADAM GLASSMAN: It is a typo on my part that it's called a study, it is a proposed bathroom.

JANET GREEN: The existing is the study.

CONSTANTINE ALEXANDER: Look at the existing.

ADAM GLASSMAN: The existing is a study.

CONSTANTINE ALEXANDER: Study? No bathroom on the second floor?

ADAM GLASSMAN: No, we're proposing a bathroom.

CONSTANTINE ALEXANDER: I understand that, but that was not Doug's question.

ADAM GLASSMAN: Right.

DOUGLAS MYERS: The question was your plan would show the proposed second floor as originally filed showed no bathroom.

ADAM GLASSMAN: Okay.

DOUGLAS MYERS: And that was modified only tonight in the plans you just brought to our attention.

ADAM GLASSMAN: Right, and it should have --

DOUGLAS MYERS: Belatedly.

ADAM GLASSMAN: Belatedly, and I

apologize. It should have been shown as a bathroom for this to make sense -- for these plans to make sense.

DOUGLAS MYERS: Okay.

ADAM GLASSMAN: Upstairs we've got -- you probably remember our last scheme was somewhat immodest and now we're moving to a more modest size proposed master bedroom on the third floor.

CONSTANTINE ALEXANDER: And you're getting there by adding two dormers on each side?

ADAM GLASSMAN: We're getting there by adding two dormers.

CONSTANTINE ALEXANDER: The dormers are -- I think they're only 15 feet in width which is what our dormer guidelines say.

ADAM GLASSMAN: Correct.

CONSTANTINE ALEXANDER: But if I

look at this correctly, they go to the ridge line which is not what our dormer guidelines --

ADAM GLASSMAN: Well, that's why as supplemental material, I added the first page. We've got the existing house on the far left. We've got the ideal conditions for No. 2 where we recessed the dormer from the face of the wall and we pulled the top of the dormer down from the ridge line. This doesn't work that makes this even possible because we have to pull the dormer on the left over the existing stair. We wouldn't have the stair access to the next level. Or we'd have asymmetrical dormers.

The third scheme shows the dormers pulled out to the face of the house on the long side and recessed down from the ridge, and we realize this is feasible if it's a preferred

design. We thought it was too close to a flat roof. We thought it would not be received favorably. The slope is only one and a quarter. If we pulled the ridge, if we pull the top of the dormers up to the ridge, we've got a two and a quarter slope. However, and as the renderings show, in either case there's not much that's visible, but we'd be happy to amend the proposal to take the dormer and pull it down a foot below the ridge.

CONSTANTINE ALEXANDER: So you -- I'm sorry, your preference is No. 2?

ADAM GLASSMAN: Our -- well, that's the ideal design.

DOUGLAS MYERS: No.

ADAM GLASSMAN: It's not our preference. I mean, it would be if it worked but it doesn't work. I'm just trying to say we understand this is the ideal design that

Cambridge likes to see.

BRENDAN SULLIVAN: Well, no, that it conforms to the dormer guidelines.

CONSTANTINE ALEXANDER: Now we're getting it.

DOUGLAS MYERS: So you would prefer No. 4, you don't like No. 2, and you would be willing to do No. 3?

ADAM GLASSMAN: We'd be happy with 3 or 4.

TIMOTHY HUGHES: You know what I need, I need a picture of an elevation that shows what the detail is going to look like on the side of the house if you put this dormer on top of that.

ADAM GLASSMAN: In the submitted material that you have, if you look at the drawn elevations, we are carrying the eave across the side of the house.

DOUGLAS MYERS: But you don't show an elevation on the south side where the second dormer's going to appear. You have a full elevation on one side showing the dormer.

ADAM GLASSMAN: Right. They're identical dormers. The sides are --

DOUGLAS MYERS: But you're asking us to simply project that the south side will have -- the dormer with the same appearance as the other side but you don't show the elevation, correct? You only show an elevation with one dormer.

ADAM GLASSMAN: That's, that's the -- it's the same dormer. I thought that was --

DOUGLAS MYERS: It's not until you bring us this document -- just a second, just a second. Not until you bring us this

document tonight for the first time do we see dormers at all with an elevation on both sides of the house. I grant you they're in the file with the photo simulations. You can interpolate that they're there, but we don't see any elevations with -- to scale depicting dormers on both sides of the house except for the document you've brought us tonight.

ADAM GLASSMAN: Well, let me go to the one of my boards. In the plan we are showing three identical windows spaced the same on both sides.

DOUGLAS MYERS: The dormer's not depicted in the plan you just pointed to. The interior underneath the dormer is depicted.

ADAM GLASSMAN: Here in our drawn elevations that you have, we are showing the dormer on one side and it is the same dormer

on the other side.

CONSTANTINE ALEXANDER: But it's not drawn.

DOUGLAS MYERS: If you say so.

ADAM GLASSMAN: I honestly --

DOUGLAS MYERS: If you say so. You say it is and I believe you, but it's not shown.

ADAM GLASSMAN: Can I -- I think you understand where I'm coming from and I'm -- I understand it should be there. I thought I was telling you exactly what the dormer is.

DOUGLAS MYERS: You're telling us now. The drawings don't tell us. That's the point I'm making.

ADAM GLASSMAN: If you do look at the front, you can see two dormers --

DOUGLAS MYERS: If we take --

ADAM GLASSMAN: -- and if you look at

the plan, you can see where they're located.

DOUGLAS MYERS: We don't see the length, we don't see the ridge line, we don't see the --

ADAM GLASSMAN: The ridge line is -- well, if you look in the elevation --

DOUGLAS MYERS: -- on both sides.

ADAM GLASSMAN: But if you look in the plan, you can see that the dormer's symmetrical.

DOUGLAS MYERS: Yeah, if we exercise a fair amount of imagination and we interpolate three different plans in three different places. But the way this is usually done, is that the elevations are shown on the sides of building especially when there's an element there for which you're requesting a Variance.

ADAM GLASSMAN: I understand.

JANET GREEN: Where is the elevation for No. 3?

ADAM GLASSMAN: The elevations that you have submitted which would describe No. 4 is this side elevation and this front elevation.

TIMOTHY HUGHES: It's the north elevation that you've submitted, it's picture No. 4, right?

ADAM GLASSMAN: Correct, where the dormer meets the ridge line.

TIMOTHY HUGHES: Right. So we don't really have a side elevation that shows a north or a south elevation that shows No. 3.

ADAM GLASSMAN: Right, because we were not proposing No. 3. We're coming here tonight to say we understand that No. 3 might be preferable to you because the top of the

dormer is pulled down. If you prefer it, that's an option that is acceptable to us. I want you to see we looked at the options, we understand what's preferred by the city.

TIMOTHY HUGHES: Right.

ADAM GLASSMAN: What we didn't submit is the dormer pulled down from the ridge. And looking at the drawings, I know you all understand what we're proposing, if it's preferable, then we're putting that as an option.

MIKE SORRIERO: I mean, we looked at this every day. He threw this together a couple days ago. I don't know if it confused that it's --

ADAM GLASSMAN: I thought it was important for you to know that we did our due diligence. We studied our options. We understand what the guidelines say is

preferable. And although the option submitted doesn't pull the dormer down from the ridge, we know it's preferable and we can do without impacting the program in any way.

DOUGLAS MYERS: I don't want to disparage your efforts because they are worthy of and well received our curious attention, but it's also part of your due diligence to file these documents on time and to file the necessary documents and give us all of the elevations, that goes -- that is part and parcel of what you say is due diligence.

ADAM GLASSMAN: Agreed.

BRENDAN SULLIVAN: Gus, is the latest plan --

CONSTANTINE ALEXANDER: Which one?

BRENDAN SULLIVAN: The same as what the --

CONSTANTINE ALEXANDER: I think it's over here.

TIMOTHY HUGHES: You know, we can open it up to public testimony and all that. I'm left with the question then that if in fact we do prefer No. 3, and we don't have drawings of it, we don't have elevations of No. 3, can we do anything tonight?

CONSTANTINE ALEXANDER: Well, the --

TIMOTHY HUGHES: Or if we prefer anything besides No. 4? And granted, I give you the coming out to the side wall from the staircase reason and because personally I think it's a better idea to build it that way. And I always have. But I'm not in the majority here a lot of times, you know, with the dormer guidelines. But I am leaning right now towards No. 3, but so that raises

the question then if we don't have, you know, drawings, zoning drawings that show this can we --

CONSTANTINE ALEXANDER: I think the question is to Mr. O'Grady --

TIMOTHY HUGHES: -- act on it tonight?

JANET GREEN: How can we sign and approve that?

CONSTANTINE ALEXANDER: -- if we made it subject to these plans, No. 3 and what's behind them, would that be sufficient when the time comes to issue, when they apply for a Building Permit.

TIMOTHY HUGHES: There are no elevations for that.

CONSTANTINE ALEXANDER: We need more information?

SEAN O'GRADY: There's no side

elevation?

TIMOTHY HUGHES: Not for No. 3.

ADAM GLASSMAN: That was part of the study that was not formally proposed.

SEAN O'GRADY: No, there's no way to give you that without an elevation.

ADAM GLASSMAN: Okay.

CONSTANTINE ALEXANDER: So we can't consider No. 3 tonight.

MIKE SORRIERO: And I think we were putting No. 3 on here because the guidelines, it was talking against the box-like structure.

CONSTANTINE ALEXANDER: No, we understand why you did it. But the trouble is you gave us a half a loaf, you know?

MIKE SORRIERO: Right.

CONSTANTINE ALEXANDER: It confuses things rather than clarifies.

MIKE SORRIERO: Right.

TIMOTHY HUGHES: So if we can agree on it, on a design other than the one that you proposed, we're going to have to continue again until you can draw it and bring it back to us is what it sounds like to me.

ADAM GLASSMAN: Can I draw it right now?

TIMOTHY HUGHES: That's a possibility. That depends on how good you are and how fast you are.

CONSTANTINE ALEXANDER: If that's what we're going to do, we would continue this case for a recess. You can go back in the other room and we'll take other cases and before the end of the evening you can come back.

ADAM GLASSMAN: Perfect. I can produce this the way you want to see it and

I'll be right back.

TIMOTHY HUGHES: But the question is, you know, first we have to decide whether or not that's where we're leaning.

BRENDAN SULLIVAN: Do you have a cross section through the building at all? I didn't see it in any of this.

ADAM GLASSMAN: I do not have a cross section.

BRENDAN SULLIVAN: Okay.

From the floor to the -- what's the headroom? At the front of the dormer.

ADAM GLASSMAN: Seven feet.

BRENDAN SULLIVAN: Okay.

So you're going from seven feet back up to eight feet?

ADAM GLASSMAN: Approximately, yes.

BRENDAN SULLIVAN: To the ridge?
Okay.

CONSTANTINE ALEXANDER: Well, speaking for myself, I prefer No. 3. I just think that No. 4 looks a little too massive from my perspective because you're going right to the top of the ridge line and it's a small house to start with. So I would prefer, I would be prepared to vote in favor of granting relief with regard to alternative No. 3. But I don't know what the other members of the board feel like.

DOUGLAS MYERS: Speaking for myself, as long as I understand No. 3 to include the dormer being recessed or set back one foot from the ridge line on each side.

ADAM GLASSMAN: Yes.

DOUGLAS MYERS: Then that would be acceptable and I wouldn't insist on No. 2 for the reasons that you've stated.

However, instead of my sitting here and

I don't want to mislead you, and I would -- I still have questions to ask and concerns in my mind about the size of the increases that you're asking for in terms of GFA and in terms of FAR and that if this Board were to approve the Variance even as modified, unless this is going to change the FAR and GFA calculations, we -- both of those, we are putting a complying building out of compliance in both areas and that is -- and also with an increase of 15 percent in both areas, GFA and FAR, and I'm concerned.

ADAM GLASSMAN: That's why we're here.

DOUGLAS MYERS: And this Board -- I understand. And I don't say it's outrageous.

ADAM GLASSMAN: And we understand your concern.

DOUGLAS MYERS: I don't want to lead you down the primrose path --

ADAM GLASSMAN: I understand.

DOUGLAS MYERS: -- and I was planning to raise those concerns to you and to address them.

CONSTANTINE ALEXANDER: And for the record, I was going to get there, thank you, Doug, you got there before me.

Just for the record, right now the FAR on the building under your revised dimensional form is 0.73 and the district is 0.75. So you're conforming as to FAR. If we grant you the relief you're seeking, and I think that applies to No. 3 as well as No. 4, you will go to 0.86. You'll be out of compliance.

You also, I think, you've got setback issues because you have non-conforming side

yard setbacks and you're going to be increasing the massing within the setbacks. So that's the reason why you're here before us tonight and that's the point you were alluding to.

If not, I mean it's not a dramatic -- you are going from compliance to non-compliance. It's not a dramatic where you're going to be twice as much as our Ordinance requires. So I'm sympathetic to what you want to do. I don't find it a show stopper that you're going to go from 0.73 to 0.86. I'm more at this point more inclined to look at the visual impact. And, again, that's why I, anyway, think No. 3 is preferable to the others that you've shown. Anyway, I didn't mean to cut you off, Doug.

DOUGLAS MYERS: No, no, you haven't. I completed my comment, thank you.

TIMOTHY HUGHES: Do we have an amended dimensional form?

CONSTANTINE ALEXANDER: Yes. We do have it.

Otherwise it's the same form. Just the size of the existing property and you've explained why. We understand. That mistake has been made before by other people so it's not unusual.

Comments by other members of the board at this point? We send them off to do something to No. 3?

BRENDAN SULLIVAN: I have a couple of things. This plan is far, far superior to the original proposal. I think it's a welcomed proposal. So as far as the dormers are concerned, I think I would entertain or if I were to advise you is that the floor to ceiling height at the face of the dormers may

go to six-foot, eight without losing too much, then you get a little bit more pitch to the roof and all the benefits that that brings.

ADAM GLASSMAN: Thank you.

BRENDAN SULLIVAN: It makes it less flat, and I think that six-foot, eight at the front wall back up to the ridge you're code compliant because the average height has to be seven feet, and you don't lose that much. That's one thing.

I don't have any strong whether it be 3 or 4. The roof will look a little bit better with 4 going to the peak and reducing the height at the front wall a little bit, but it still gives you a little bit more pitch and that would be my only comment. But either it's easier to build 4, it may look a little bit better with 4 if we reduce the front wall

a little bit in height and it gives it a little bit more of an angle. But the house is pretty narrow. I'm not sure what is gained by bringing it down from the ridge, that's all.

CONSTANTINE ALEXANDER: Okay.

Comments from others?

TIMOTHY HUGHES: No, no.

DOUGLAS MYERS: If Mr. Sullivan's point is well taken, then are you in a position to modify the plans along the lines of his suggestion this evening?

ADAM GLASSMAN: I am. To make sure I understand it, to keep the dormers at the ridge and pull the low end of the dormer down from the edges.

BRENDAN SULLIVAN: That's it.

ADAM GLASSMAN: And that would be ideal for us.

CONSTANTINE ALEXANDER: Something

that makes sense to me.

JANET GREEN: Yes.

TIMOTHY HUGHES: Yes.

BRENDAN SULLIVAN: And the other thing because it's, it's so narrow that you really have to stand way back. You're six feet back from the front of the building so that you're never really going to see that relationship with the ridge. You really don't get a good perspective on it anywhere, unless you're -- well, anyhow, so that's maybe something to entertain.

MIKE SORRIERO: Just a question on that. I don't know if this would be a question for Sean, but does that affect the -- there's a stairway going up there, and is there a minimal height requirement for a stairwell?

SEAN O'GRADY: Your man's going to

know that.

ADAM GLASSMAN: It is seven feet.
Seven feet at the stair.

BRENDAN SULLIVAN: At the landing?

ADAM GLASSMAN: At the landing.

BRENDAN SULLIVAN: I didn't know if
that was --

ADAM GLASSMAN: It is a path of
egress, a means of egress which I believe is
seven feet.

BRENDAN SULLIVAN: That's a
Building Code thing now that I am not sure
about.

Okay, I didn't know that.

ADAM GLASSMAN: So that being said,
you know, I think we'd want to leave the low
end of the dormers where they were but we can,
we can leave them at the ridge or we can pull
them down if I had a sense of what the

consensus was on the Board.

BRENDAN SULLIVAN: I would leave them at the ridge myself. Leave it at the ridge. If the Building Inspector would okay that at six-foot, eight, that would be the best of both scenarios for me. If he says it has to be at seven, and we can check that out easy enough, then I would say we leave the outside walls as -- in order for him to get a permit. We can't -- we can vary the Ordinance, we cannot vary the State Building Code.

CONSTANTINE ALEXANDER: That's correct.

MIKE SORRIERO: Could we actually bring the roof line up a few inches?

ADAM GLASSMAN: We have room to grow the roof that solves an aesthetic problem. We're not pulling it up aesthetically.

CONSTANTINE ALEXANDER: You actually lowered the roof on your last -- the roof on these plans are slightly lower, seven inches or so lower than you were on the plans before.

ADAM GLASSMAN: Yeah. We can get to 35 feet. We weren't trying to push the envelope here. We're trying to keep the house actually as close to where it is as possible with the new work.

DOUGLAS MYERS: Given what the perceived merit of Mr. Sullivan's proposal, does this make any case for a continuance to get a definite answer on whether or not that proposal is feasible in terms of the Building Code?

ADAM GLASSMAN: Well, Building Code is eight feet.

DOUGLAS MYERS: It's seven feet.

EDRICK VAN BEUZEKOM: Six-foot, eight is the minimum.

TIMOTHY HUGHES: We have the architect's opinion here. Which is better than when there are lawyers involved. Okay? Because we would have three opinions between the two of them.

CONSTANTINE ALEXANDER: Okay, where are we at this point? Should we recess this case a bit?

ADAM GLASSMAN: I could run and recess it for this evening and continue it to the end of the evening and I'll bring back some drawings.

CONSTANTINE ALEXANDER: That's fine.

BRENDAN SULLIVAN: That's fine.

TIMOTHY HUGHES: Yes, but now I have another question about what he's drawing.

CONSTANTINE ALEXANDER: We're going to get to that.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: We have No. 4 or No. 3.

TIMOTHY HUGHES: Or are we entertaining him raising the ridge seven inches or to what he's allowed to add more pitch to this whole thing? If in fact 6.8 is legitimate like the other architect said.

DOUGLAS MYERS: Mr. Van Beuzekom.

TIMOTHY HUGHES: Yes. Then we could think about No. 4, but if it's not, and he has to go to seven, then he's got to get four inches someplace in order to increase the pitch, and he does have some room in raising the ridge, what are we asking him to draw is all I want to know.

CONSTANTINE ALEXANDER: Let me

refer to -- what is your preference to having all this discussion? What would you like to do, you and your client like to do?

ADAM GLASSMAN: I would like to keep the low end of the dormer where it is because I don't want to push it to be just making code when we might want a little fluff when we get to construction. It's good to have a little wiggle room with that. And we're only asking for two inches above the 6.8.

As far as whether we pull it down off the ridge or pull it up to the ridge, I think they're both equally valid and they don't impact program. I'm sure No. 3 might be a little bit more expensive to build, but not that much, not prohibitively expensive.

I think we -- I'm sorry, just one more. And I think we prefer not to raise the ridge but we're flexible on that point.

MIKE SORRIERO: I was going to say the opposite of what you said. I was going to say why not raise the ridge eight inches and you'll have your eight-inch or whatever, a little bit of a setback coming off the ridge with the dormer?

TIMOTHY HUGHES: And still get a decent pitch and still get the headroom they need over the landing.

MIKE SORRIERO: Just raise the ridge eight inches.

ADAM GLASSMAN: So we're not changing the slope, we're just lifting the entire roof structure.

JANET GREEN: But when you lift it --

ADAM GLASSMAN: We are not just lifting the ridge, we're lifting --

JANET GREEN: Well, yes. No,

you're lifting --

ADAM GLASSMAN: We're lifting the whole thing.

TIMOTHY HUGHES: You're not changing the pitch on the dormers because you don't have to change the height of it at the wall, at the face of the wall.

JANET GREEN: It's still going to be seven?

ADAM GLASSMAN: We're not going to stay true to the existing roof slope. The existing roof slope, we're going to alter that. Okay. As long as you're fine with that, we're fine with that.

JANET GREEN: So it's seven feet. It's seven feet at the wall and then raising the ridge?

TIMOTHY HUGHES: No, but that's the dormer. We're talking about the gable

and --

ADAM GLASSMAN: We're talking about the gable. Yes, I just want to clarify, are we lifting the entire gable or just stretching up the ridge?

TIMOTHY HUGHES: The ridge, yes, that's a good question. And that's where I'm at now. Is that what are we asking him to draw as an alternative to this?

BRENDAN SULLIVAN: I would opt for 4.

TIMOTHY HUGHES: As drawn.

BRENDAN SULLIVAN: As drawn. Make it simple.

CONSTANTINE ALEXANDER: So that would require no changes then to what they submitted?

TIMOTHY HUGHES: That's right.

CONSTANTINE ALEXANDER: I started

out by being more sympathetic to 3 just because I'd like to see us comply with the former guidelines, but I don't -- I'm not going to float my sort on that one. I could go along with four. It would make things a lot easier for everybody tonight anyway, and I don't see a dramatic impact on the City of Cambridge if we go with 4 rather than 3. So I'm prepared to support 4.

TIMOTHY HUGHES: I could do that, too. You know, most of my questions were really about whether or not we could proceed if we didn't have drawings on an alternative.

CONSTANTINE ALEXANDER: Right. Well, we do need supplemental drawings for 4.

ADAM GLASSMAN: The elevation.

CONSTANTINE ALEXANDER: Which you're going to do --

ADAM GLASSMAN: Now.

CONSTANTINE ALEXANDER: -- before the evening is over.

ADAM GLASSMAN: Yes.

CONSTANTINE ALEXANDER: Why don't we recess the case at this point. No. 4 is where we're going, but you have to give us the necessary additional drawings before we can actually take a vote on this.

ADAM GLASSMAN: Okay.

CONSTANTINE ALEXANDER: Got it?

ADAM GLASSMAN: Yeah.

CONSTANTINE ALEXANDER: You have the rest of the evening.

ADAM GLASSMAN: All right.

CONSTANTINE ALEXANDER: Doug's got to stay here then.

How long will you be?

ADAM GLASSMAN: I'll be back in an hour.

SEAN O'GRADY: Which drawings did you draw?

TIMOTHY HUGHES: What are we asking for, the south elevation?

ADAM GLASSMAN: Yeah, you're asking for the mirror images of the two elevations that I'm already showing.

JANET GREEN: There's one --

ADAM GLASSMAN: Which is the same drawing just mirrored.

SEAN O'GRADY: Unless you feel strongly about it, I can work with that mirror language if you just want to put that in. I don't want to keep you.

CONSTANTINE ALEXANDER: You can? That's where I started. I wasn't sure if you had --

SEAN O'GRADY: I thought that we were having -- I didn't appreciate --

JANET GREEN: We had many conversations.

CONSTANTINE ALEXANDER: Wait a minute.

TIMOTHY HUGHES: Now we're talking about an elevation that exists but only one side of the house as opposed to another.

SEAN O'GRADY: That I could handle.

CONSTANTINE ALEXANDER: Where is that elevation? Is it down your end? What happened to it?

DOUGLAS MYERS: It's back in the file.

TIMOTHY HUGHES: So maybe you don't have to draw anything. Just put the language in the transcript.

SEAN O'GRADY: That I can do.

CONSTANTINE ALEXANDER: That I can do. I'm just trying to find the plans that

are referenced.

BRENDAN SULLIVAN: Are we talking north/south and we're lacking south. So make a notation north elevation and south elevation.

CONSTANTINE ALEXANDER: These are the elevations right here.

ADAM GLASSMAN: Those are the old ones.

TIMOTHY HUGHES: There is one here. I just looked at it. It's a big sheet and it's folded up in the file.

ADAM GLASSMAN: You want to see the mirrored image of the north in writing and the mirrored image of the west.

DOUGLAS MYERS: This is it.

CONSTANTINE ALEXANDER: Okay.

So we'll tie the relief to these three pages that you brought tonight, plus this

elevation with a mirror language.

ADAM GLASSMAN: Okay.

CONSTANTINE ALEXANDER: And I think that will be sufficient.

SEAN O'GRADY: Yes.

DOUGLAS MYERS: Just a question of clarification. The No. 4 on the documents you submitted tonight, that completely conforms with the plans --

ADAM GLASSMAN: It's exactly the same.

DOUGLAS MYERS: -- that were on file already?

ADAM GLASSMAN: Yes.

CONSTANTINE ALEXANDER: Before we go any further, we're chasing our tail. I'm going to open this up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one.

The letters we have of support before have been read in the file already. I have no indication that there are any letters of support or opposition in our files. I'm going to close public testimony.

I trust you have nothing more to add.

ADAM GLASSMAN: (Shaking head.)

CONSTANTINE ALEXANDER: All right. I think we're ready for a vote at last.

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that this is an older structure, narrow, narrow structure in need

of additional living space. That the hardship is owing to the fact that this is a non-conforming structure as to setbacks already, and therefore, any modification, including what is being proposed, requires Zoning relief.

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

In this regard the Chair notes that there appears to be no opposition to this Petition.

The results of the relief, if we grant relief, is that the housing stock of the City of Cambridge will be improved because we'll have a structure with additional living space in a way that doesn't dramatically offend sensibilities in terms of our Ordinance.

The violations of FAR are modest in nature, and the only setback issues of that of additional massing.

So on the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with elevations A.3, dated January 30, 2014, submitted by the Petitioner, initialled by the Chair. And subject to the fact that the elevation with regard to the dormer when mirrored on the other side. So that the south elevation with regard to dormers will be identical to that of the north elevation.

And further, that the work will proceed in accordance with three pages submitted by the Petitioner, they're numbered A.5, A.1, and A.4, all of which have been initialled by the Chair.

All those in favor of granting relief
say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in
favor.

(Alexander, Hughes, Sullivan,
Green.)

DOUGLAS MYERS: I'm opposed.

CONSTANTINE ALEXANDER:
Nonetheless the motion carries and approved.

ADAM GLASSMAN: Thank you.

* * * * *

(7:55 p.m.)

(Sitting Members Case #BZA-002818-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
is going to call case No. 002818, 541
Massachusetts Avenue.

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

ATTORNEY WILLIAM GOLDBERG: Yes.
Good evening. I'm William Goldberg, 620
Massachusetts Avenue. Before I embark on
the Special Permit tonight I just pause for
a minute. My brother is Bernard Goldberg.
He was here on a hearing and he had an incident
which caused illness, surgery, rehab,
etcetera. And as his partner, I just wanted
to let you know that he's doing well. I wish

he'd come back sooner, but he's got to go through a period of amnesty.

CONSTANTINE ALEXANDER: Well, give him our regards. He's appeared before us before.

ATTORNEY WILLIAM GOLDBERG: Yes, he has.

CONSTANTINE ALEXANDER: And we're sorry to hear about his medical procedure.

ATTORNEY WILLIAM GOLDBERG: Well, thank you for your concern.

This is -- kindly state your name.

KEITH BERTRAM: Keith Bertram with PetCo Animal Supplies.

ATTORNEY WILLIAM GOLDBERG: And with regard to PetCo, we're looking for a Special Permit for the operation of a kennel. And under the Special Permit law we've had a hearing before the Central Square Advisory

Committee. With regard to the area and space itself, it's huge, but it's going to be utilized to its utmost. There are some plans that -- would you pass out the plans -- that will show the area space.

CONSTANTINE ALEXANDER: These are not in our file?

ATTORNEY WILLIAM GOLDBERG: No, they are not in the file. I had submitted them through (inaudible).

CONSTANTINE ALEXANDER: We'll receive them because I think the interior, in my judgment, the interior of the space is not relevant to us from the a Zoning point of view which is relevant to the Central Square Advisory Committee. And you're supposed to have these in our file no later on Monday than five p.m. We'll take them this time because it's not that material to the case actually.

ATTORNEY WILLIAM GOLDBERG: With regard to the space itself and in compliance with the statute and the public interest regarding No. 1, the parking in the area, there is sufficient parking and there is MBTA and busses. Central Square is a vibrant community in itself.

There will not be a change, although the use is different than what is presently there. If you go through Central Square, there are banks, there are convenience stores, and other facilities that are permanent in the mix, but there's no such thing as a PetCo. And it serves as public interest.

CONSTANTINE ALEXANDER: I want to make clear on certain things. No veterinary services are going to be performed on the premises?

ATTORNEY WILLIAM GOLDBERG:

Inadvertently.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY WILLIAM GOLDBERG:

Inadvertently. When we appeared before the task force of Central Square --

CONSTANTINE ALEXANDER: Right.

ATTORNEY WILLIAM GOLDBERG: -- we, we may have omitted to let them know that there will be veterinarian service for dogs and cats, but there will not be -- and there will be -- well, let Mr. --

CONSTANTINE ALEXANDER: This raises a whole -- to me, a whole separate set of issues. Animals on the property create noise, create possibly vermin. You're in a middle of a vibrant commercial area, and this could impact adjoining properties. It's one thing to be a Whole Foods of the pet industry

and just sell products, it's another thing to offer services.

ATTORNEY WILLIAM GOLDBERG: If I may clarify that.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY WILLIAM GOLDBERG: There will not be any dogs. No grooming.

CONSTANTINE ALEXANDER: No grooming. That's good, in my opinion.

ATTORNEY WILLIAM GOLDBERG: No grooming.

There will be veterinarians who will be on the property to -- for giving needles to the dogs, that's about the only time. Maybe twice a month; is that correct?

CONSTANTINE ALEXANDER: So it's basically ancillary to the sale of your products, the veterinary? If I had a dog and I needed whatever, the dog had some problems,

could I just go to your PetCo store and see the veterinarian there and not buy a product?

KEITH BERTRAM: No. The way the veterinary service works is there's what we call low-cost vaccination clinics.

Depending on the volume and the need in the store ranging from once a week to once a month. There would be

veterinarians -- licensed veterinarian with vet technicians that visit for one, two, three hours. For that period of time, they set up -- they do vaccinations, rabies, boosters, that type of thing.

CONSTANTINE ALEXANDER: Sort of like flu shots at the CVS?

KEITH BERTRAM: Correct. And then they leave. And as far as the set up in the store, there isn't a veterinarian on site --

JANET GREEN: It's not a surgery or

something like that?

KEITH BERTRAM: No. It's just for a brief period of time. Same similarly with, like, with the -- there is a pet wash area in the front, you know. It's drawn up to be in the front of the location for self-service. So a visitor visits with their pet. You know, leashed pets are welcomed to visit any of the PetCo stores similar to our one across from Galleria, and they can wash their own pets. But we wouldn't have on-site grooming salon. No pets in kennels.

CONSTANTINE ALEXANDER: No boarding? No overnight boarding?

KEITH BERTRAM: No boarding of dog or cats. We do have a small four-foot section with guinea pigs, hamsters, that type of thing. A small setup with ferrets. A small four-foot section with reptiles and

then I think maybe 20 feet of fish tanks. So as far as locations go, this is much more scaled down compared to most of our PetCos. It does not have the full service grooming salon that we would normally have.

THOMAS SCOTT: And there's no overnight boarding --

KEITH BERTRAM: No.

THOMAS SCOTT: -- of the animals other than the small --

KEITH BERTRAM: Yeah, just the small rodents and such. And they're all in, you know, I think one can safely say state-of-the-art habitats.

CONSTANTINE ALEXANDER: They're not really being boarded. They're for sale. And so if you don't sell them that day, you have to keep them there?

KEITH BERTRAM: Yeah, they live

there.

CONSTANTINE ALEXANDER: Right.

KEITH BERTRAM: That type of thing, but not visiting pets in this type of case, obviously.

CONSTANTINE ALEXANDER: Okay.

KEITH BERTRAM: There also is, you know, they would have the ability to cordoned off an area to do dog training. Two or four pet parents visit with their pet, and they would do dog training for an hour. And we do that type of thing. And that's pretty much our standard fare in any of the stores.

CONSTANTINE ALEXANDER: For me the picture is getting muddier and muddier. I mean, we've got to go back to where we started. You're in Central Square. There's a lot of other activities. More and more it's getting to look like a veterinary

establishment which raises a whole separate set of issues that didn't seem to be present before and I don't think it was presented before the Central Square Advisory Committee.

I mean, you're going to train animals here. You're going to maintain some pets or I should say animals and fish on the premises, all of which go beyond the near selling of pet supplies which I thought this is where this case started out with. The more of these kind of services you offer, the more you're going to create traffic problems. It's nice to talk about the MBTA, but people are not necessarily going to put their dogs on the MBTA. They're going to drive with their dogs.

ATTORNEY WILLIAM GOLDBERG: Well, it would be more controlled, controlled

environment than what I thought would be a regular pet store. The services that provided are limited in nature. They're controlled by the veterinarians. The personnel themselves will be on board to be able to control and see that there's proper administration of these services. It's not a daily service. And I would say that if it was a daily service, then I could agree with what you're saying. But in regarding the vaccination, it's once every two weeks and that isn't necessarily going to mean that every dog in the facility will be down there.

CONSTANTINE ALEXANDER: The danger, though, you're going down a slippery slope. Today you have only the vaccinations. And then you say well, six months from now, nine months from now, we can increase our profit margins by having a veterinarian every day

from two to five and people will bring their cats or dogs or whatever in for services. And there we go into the -- down the road into full-fledged veterinarian services which is far different than what's being brought before us tonight. That's what I'm concerned about.

ATTORNEY WILLIAM GOLDBERG: I hear you, but what I'm saying is that you're looking at the picture from a larger picture. If this is a facility that certainly will serve the public interest. If what has been said is that the vaccination will be every two weeks, if you're concerned about the prospect that all of a sudden the floodgates will be opened, then we can make a decision which will limit the use.

CONSTANTINE ALEXANDER: Oh, we will do that assuming we're going to grant relief.

But the fact of the matter is that that's on paper. I mean, Mr. O'Grady's not going to be running down there every other day to check whether there's animals being -- by veterinarians. He's got better things to do with his life than that.

ATTORNEY WILLIAM GOLDBERG: No, I understand that.

CONSTANTINE ALEXANDER: Other members of the board have comments?

BRENDAN SULLIVAN: The symptoms that are underlying there in that letter.

CONSTANTINE ALEXANDER: I underlined, yes.

BRENDAN SULLIVAN: Is that sentence correct or not correct?

CONSTANTINE ALEXANDER: Well, it says there will be no veterinarian services on-site. Incorrect.

BRENDAN SULLIVAN: Incorrect?

CONSTANTINE ALEXANDER: Because I've heard they're going to be.

BRENDAN SULLIVAN: Right.

So the hurdle that I have is that they gave their permission understanding that there were none. Now would that have changed their decision if --

CONSTANTINE ALEXANDER: Good point.

BRENDAN SULLIVAN: -- if that statement were that we are going to have, because then that bequests some other statements which again starts to go down another road which you've already started to go down. They gave their approval with a different impression.

CONSTANTINE ALEXANDER: Well, it would appear from what's just on the paper, is that what was presented to the Central

Square Advisory Committee doesn't square with what we're hearing tonight. There will be veterinary services on-site, let me finish. There will be inoculations or the like, but it's going to be veterinary services.

There will be some professional grooming on-site. Self-grooming. And that's actually covered by the Central Square Advisory Committee. They're made away of that.

There will be some boarding services on-site, i.e. the guinea pigs, the fish, and the like.

So in a couple of respects what it would appear that the Central Square Advisory Committee was told is different than the facts that we're hearing tonight. And what Mr. Sullivan is suggesting, I think, and

something I am amenable to, is maybe we should continue this case, send you back to the Central Square Advisory Committee, and you tell them what you're telling us tonight and see if they still will write the same letter they wrote before. Because I'm right now not comfortable, since I'm going to rely on this letter, that the committee had all the facts that we have right before us tonight.

BRENDAN SULLIVAN: They need to be told what we're being told, that's all.

CONSTANTINE ALEXANDER: Yes. In so many words, that's exactly right.

JANET GREEN: And before the end of that conversation just depending on which way this is going to go, there's a sentence toward the end of it which talks about PetCo -- which I've been in many of your stores, and they are clean and serve a much needed service. I

mean people like PetCo. It's not a problem in any store I've been in. I've probably been in five to ten of them. But the -- it says you, you have a commitment about stray dogs. And that's an admirable commitment, but what does that mean?

KEITH BERTRAM: I'm not sure what they're referring to.

JANET GREEN: Does it say that in the last sentence?

CONSTANTINE ALEXANDER: The letter says, just so you know. (Reading) Part of the business practices of PetCo is the commitment to providing adoption services for strays, and they will continue this practice with information to the community.

KEITH BERTRAM: So what -- I would imagine that's tied in with the discussion around some of our community involvement.

So PetCo works with local adoption groups. A question we're often faced with is do you sell dogs or cats? PetCo doesn't sell dogs or cats. We work with adoption groups and we try to work as a conduit to guide folks towards those adoption groups. So the way that works in reality is that if there's a local adoption group that's, you know, a non-profit 501-C3. They meet certain criteria. We give them the ability to come in, present, you know, any information about their group and such. We also work to steer people towards those groups. Because they obviously would come to us being a pet establishment inquiring about pets that are available. So our hope is that adopt a pet rather than purchasing one.

CONSTANTINE ALEXANDER: Let me give you something specific.

4:30 in the afternoon someone walks in off the street and says I found this stray dog wandering around. I feel badly about the dog, can you help out? How would you deal with that.

KEITH BERTRAM: Great question.

We would partner with our local animal control as well as partner --

CONSTANTINE ALEXANDER: Wait a minute, that's night, 4:30 in the afternoon. What do you do with that dog at 4:30 in the afternoon?

KEITH BERTRAM: Oh, if they have it. Well --

CONSTANTINE ALEXANDER: I found this dog. Here, here it is. Help find a home for it him off he goes.

KEITH BERTRAM: If that reason -- you know, it depends on the

scenario. We've had people drop off an iguana, same type of thing. Our protocol would be to do what's right for the pet. If it's in need of care. If it needs to be set up in a cage or crate, we have those on-site. We would do that. Work with the appropriate.

CONSTANTINE ALEXANDER: So you might, therefore, have dogs overnight in this crate. I delivered an example that would set that up.

KEITH BERTRAM: Just as a CVS or a Whole Foods might if someone drops a dog off there. But certainly it isn't, we don't have the set up to do that. We would do the right thing for an animal in need and transport it.

JANET GREEN: You have relationships with adoptive agencies.

KEITH BERTRAM: Absolutely. So in many cases, depending on the town, maybe our

local animal control partner can't get out there. An adoption group would be a liaison. But absolutely, that may mean that there's a pet there for a couple hours or, you know, something like that. Certainly it isn't our goal. We aren't an animal rescue, but by virtue of the fact that we're in public domain, people know we have animals, you may show up, you know, someone's dropped off a kitten, we're gonna do the right thing as opposed to leaving it for someone else to handle.

CONSTANTINE ALEXANDER: Well, I'm of a mind to continue this case with the direction to the Petitioner that they go back before the Central Square Advisory Committee, bring to the committee's attention the facts that we've extracted from you folks tonight, and see whether they still

write a letter saying we will stand by this letter or whether we have concerns. I want to hear a little bit more from the Central Square Advisory Committee. I'm concerned that they really didn't have all the facts before them in reaching the decision that they did. It's not their fault. I'm not sure it got extracted the way we've extracted it tonight.

Other members of the board feel that way or not?

TIMOTHY HUGHES: I think the fact that you and Brendan feel that way is enough. I mean, even if just one of us felt that way and couldn't vote --

CONSTANTINE ALEXANDER: Do we know how frequently the Central Square Advisory Committee meets?

SEAN O'GRADY: I don't. That's

what I was going to ask Bill.

ATTORNEY WILLIAM GOLDBERG: That was an issue that I was going to mention. There was an initial hearing that was continued because of the storm. And then there was another meeting that was continued because of my fault. And then we had this meeting, and I have to thank the City and the Central Square Advisory for putting us on tonight. So it's a case, one of lease that we have to consider as well, and that goes on and on. But I hear what you're saying and I don't disagree with what you're saying. However, if you read the decision, it doesn't -- if it says grooming, it's incorrect. I mean, I don't know whether you groom a snake or a hamster or a fish. And I mean that's such a broad term.

CONSTANTINE ALEXANDER: Yeah, but

it does say, Mr. Goldberg, there will be no veterinarian services on-site.

ATTORNEY WILLIAM GOLDBERG: That I don't disagree. That we overlooked that.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: What if we continue this case for 30 days, in other words, two more sessions. Do we have room?

SEAN O'GRADY: 30 days is the one we can't do. We can do two weeks or potentially six weeks.

CONSTANTINE ALEXANDER: The question is I don't know if the Central Square Advisory Committee will hear these folks in two weeks. I'm very happy to do it in two weeks.

BRENDAN SULLIVAN: In two weeks I'm not sheer.

SEAN O'GRADY: Do you have a sense of

when they meet? Do they meet monthly?

ATTORNEY WILLIAM GOLDBERG: I don't have but I think empathy perhaps might be a plus for having them give us an early meeting, and then I'll have to talk with the city to see if we can get a date on the middle of February.

CONSTANTINE ALEXANDER: Clearly in six weeks you should be able to have a meeting with them if we should continue it for six weeks.

ATTORNEY WILLIAM GOLDBERG: I'll do it tomorrow.

SEAN O'GRADY: Janet's not going to be here in March.

BRENDAN SULLIVAN: Last one in February.

SEAN O'GRADY: 2/27 we have four continued. I don't know whether it's closed

or not. I mean it's a light schedule now.

CONSTANTINE ALEXANDER: Let's do it for the second February -- second hearing in February. We'll find a way to hear the case that night. Because usually at least one of the continued cases gets continued further or one of the cases on the regular agenda gets continued. I want to accommodate you folks.

ATTORNEY WILLIAM GOLDBERG: Well, I do appreciate that.

CONSTANTINE ALEXANDER: But, you know, I don't want to decide the case tonight on the basis of what we've just heard.

Can everybody make it the second, what is it, February 27th?

SEAN O'GRADY: 2/27, I'm sorry.

CONSTANTINE ALEXANDER: February 27th.

BRENDAN SULLIVAN: Is there anybody

who may want to comment?

CONSTANTINE ALEXANDER: I haven't gotten there yet. I want to see where we are.

Okay, I'm going to open the matter to public testimony. We're not going to decide the case tonight I don't think, but if you want to -- and we will having a hear on the 27th, you can come back. If you want to put your comments on the record right now, feel free. Give your name and address to the stenographer, please.

PETER VALENTINE: My name is Peter Valentine, 37 Brookline Street. I've lived in Cambridge for 40 years and I got an award by the police for always standing up to the police. I'm very concerned about the well-being of the city.

CONSTANTINE ALEXANDER: Speak up a little bit, sir?

PETER VALENTINE: You want me to repeat everything?

JANET GREEN: Just going forward.

PETER VALENTINE: Okay.

I have three points to make, and I'm very concerned about the well-being of the city. I don't think -- and I don't want to have a conversation, but these are just my comments. I don't think it was fair to start off as if this is going to turn into a terrorized situation, animals running everywhere and going crazy. This is a big company. It's all over the United States. They're dedicated to their work and they would I'm sure do anything that this Board or any Board would want to make sure everything was safe. So that's one thing.

The other thing is, to me, this is the beginning of rebirth of Central Square which

was left in a torpor for years. As far as the parking problem goes, that was created by the city government. They've overdeveloped and even if PetCo didn't exist, it's gonna be a parking nightmare. Now, one thing I think is important, and I don't know exactly where to bring it up, but I'm going to bring it up right here because I believe it's so important, that there should be Zoning put in place where no large Sleepy Mattress stores are allowed to be located in the center of Central Square which are empty five days a week, okay, and to vitalize the life energy of our squares. That's my comment.

CONSTANTINE ALEXANDER: Thank you. On that last point -- one second, Ma'am. On that last point is we don't write the Zoning Ordinance, the City Council does. So your comments should be directed to them.

PETER VALENTINE: In the government's face, because it's a nightmare to walk by there and all of a sudden you lapse into a vast nothingness. You know what I mean? It can't be healthy for the vitality of our squares.

CONSTANTINE ALEXANDER: Thank you. Ma'am, you said you wanted to speak.

MARY BUTTES: Hi. Mary Buttes, 95 School Street, Cambridge. I sprained my ankle that I had, I called in to work today and I saw this so I thought I'd come in and see what it's all about. And -- but I was just thinking, you know, Woolworth's always sold fish and birds and all kind of hamsters and stuff. I don't see that being a problem. And I just walked into Walgreens and I picked up a bottle of calcium, and then I had to read it twice because it was for dogs. So I was

thinking, gee, wouldn't that be nice if there was a store that would just sell that stuff for dogs, you know? And it's the same thing in CVS and every place else. There's a whole aisle full of things for dogs that takes up a whole space. So that's all I have to say.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one else.

The only other thing in our file is a letter from the Central Square Advisory Committee which we've been talking about, but which is based on some, some incomplete facts and that's the reason -- no reason to put it in the file right now.

So I will make a motion that this case be continued as a case heard until seven p.m.

on February 27th on the condition that -- a waiver of time for a decision already is in our files. On the condition that the posting sign that's on the premises now be maintained for the period of time required by a statute, but needs to have a new date, February 27th, and same time as now, seven p.m.

ATTORNEY WILLIAM GOLDBERG: Before you take your vote, may I ask this question?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY WILLIAM GOLDBERG: We're intended to be before the Cambridge Advisory Committee. If by chance we had a hearing before the Advisory Committee which would, after hearing of the facts and they submitted a letter approving it, could -- would you accept that rather than have a hearing on the 27th?

CONSTANTINE ALEXANDER: We can't do

that under the Open Meeting Law. What did occur to me, sitting here thinking, I didn't want to make it too complicated. We can continue this case in two weeks to February whatever. What's the next one?

SEAN O'GRADY: 13th.

CONSTANTINE ALEXANDER: 13th. If you should be fortunate to get the Central Square, we'll hear it then. If you don't, we'll continue it then to the 27th.

ATTORNEY WILLIAM GOLDBERG: Okay.

CONSTANTINE ALEXANDER: Would you prefer that?

TIMOTHY HUGHES: I'm up in the air to the 13th. We should just leave it.

CONSTANTINE ALEXANDER: End of story.

ATTORNEY WILLIAM GOLDBERG: Thank you.

CONSTANTINE ALEXANDER: A motion
has been made.

All those in favor say "Aye."

(Aye.)

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

CONSTANTINE ALEXANDER: Five in
favor. We'll see you on the 27th. Make sure
you change the sign and the date.

JANET GREEN: Make sure you change
the sign.

* * * * *

(8:20 p.m.)

(Sitting Members Case #BZA-002459-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002459, 7 South Normandy
Avenue.

EDRICK VAN BEUZEKOM: My name is it
Edrick Van Beuzekom. My company is EVD
Design, I'm the architect for the project.
And this is Robert Harmon the homeowner, I'm
sure you recall.

CONSTANTINE ALEXANDER: Are you
going to introduce her?

ELLIE HARMON: I'm Ellie Harmon.

JANET GREEN: What's your name?

ELLIE HARMON: Ellie Harmon.

JANET GREEN: Okay, you have to tell her because she's writing it down.

ELLIE HARMON: Ellie Harmon.

EDRICK VAN BEUZEKOM: Right. As you recall, last time we came in we presented a scheme that had a -- we were proposing two dormers basically; one in the front and one in the back. The one in the back was the one we spoke mostly about that was in dispute over the fact that it was asymmetrical with the house and that had to do with the fact that the existing stair was there, and for cost reasons we were trying to stack that with the new stair to the third floor. So we went back, redesigned. The homeowner agreed to put some more money in the project, and so we're relocating the stair and creating a new stair opening in a different location. And so the drawings as submitted as they

show -- now on the -- instead of stacking over the current stairs in the back here, we've now taken space out of this bedroom here and created a new stair that goes up. And by putting it in the center, we're able to take advantage of the height of the existing roof for headroom and so that it doesn't need to be under the dormer. And so we've shifted the dormer over and we've shortened it to 15 feet and centered it on the back of the house. We also pulled it in from the back wall, but in order to reduce the apparent height of the dormer wall and get closer to the meeting the dormer guidelines and --

CONSTANTINE ALEXANDER: So your new dormer, the one you're proposing now, is set back from the --

EDRICK VAN BEUZEKOM: Yes, yes.

CONSTANTINE ALEXANDER: I didn't

get that from the drawings, I'm sorry.

But you're still at the ridge line, though? You're not down --

EDRICK VAN BEUZEKOM: We are still at the ridge line. And that has to do with the fact that it's so low to start with. And in order to meet the height -- we're just able to do it. We dropped the exterior wall down to six-foot, nine at the bathroom wall. So that it's as low as we can go and still get the proper average height for the room to meet the Building Code requirements.

As a result of this, we have a little bit less FAR than we had before. It's a pretty minor change, but it's conforming.

CONSTANTINE ALEXANDER: Well, you have conformance with FAR anyway.

EDRICK VAN BEUZEKOM: Right. It's conforming, yeah.

CONSTANTINE ALEXANDER: Even the original one you propose is conforming.

EDRICK VAN BEUZEKOM: That's right, yeah.

CONSTANTINE ALEXANDER: The only issue you have here is the rear yard setback.

EDRICK VAN BEUZEKOM: That's right.

CONSTANTINE ALEXANDER: That's the only reason you're before us.

EDRICK VAN BEUZEKOM: Yes.

And the fact that we're adding -- overall we've added more than 10 percent to the house since we've started the project.

And then we have a Special Permit for changing some openings on the back of the house, I remind you of that.

Back here we have a -- taken out a, moved a window and put in a sliding glass door back

here. We've also, since the last round, now that we've moved this over, we've added a window here to bring some light into the stairwell.

CONSTANTINE ALEXANDER: I've noticed that.

You still have I notice the roof deck over your addition.

EDRICK VAN BEUZEKOM: Yes, we do.

CONSTANTINE ALEXANDER: And I know your neighbor most directly affected by that has written a letter of support if my recollection is correct.

EDRICK VAN BEUZEKOM: Yes. And we pulled it back from the edge originally to --

CONSTANTINE ALEXANDER: I'm still, I must say personally, I'm troubled by that only because roof decks are not prevalent in your neighborhood, and I suspect some day

that neighbor next-door is going to realize that his or her privacy is potentially interfered with by this roof deck. You go out to that roof deck and you look right into their bedroom windows and their property. I mean, is it really necessary to have that roof deck?

ROBERT HARMON: So to answer your first question, right now the way that house is configured, there are no windows on Louie's side of that house.

CONSTANTINE ALEXANDER: There are no windows on that side of the house?

ROBERT HARMON: Their whole front side of that house -- well, they have a window on the first floor, but that back side is all blacked off. And there is a roof deck two down. They actually have a dormer with a roof deck inside of it. So I guess there

are -- well, I guess we'd be the second one in. It's on the back side of the house. Ours is a little bit on the side.

We like the idea 'cause it was like a place where we could go. When I was younger, my mom and dad had one that looked out. And then the guys that actually are working on the project, they're like, yeah, we do a lot of projects. And what's kind of neat about this, is actually like you think about you go to New Hampshire and you go to other places, it's like, they thought that was actually a neat idea. And almost all the neighbors -- and I understand what you're saying, like, somebody might move in like, oh, I have a roof deck there. Certainly, I guess at some point we could take it down if Louie wants to move or Cheryl moves out or whatever. We wouldn't be against it. But I

guess right now as the permit is laid out, the neighbors and the abutters have no problems with it so I guess that's what --

CONSTANTINE ALEXANDER: The reason we're sensitive or at least I'm sensitive to it is we have a number of cases where neighbors come down and complain about parties or other activities on roof decks that disrupt their privacy.

ROBERT HARMON: Yeah. I guess we're both plus four and we have two kids and we might have another. So I don't think the college atmosphere is hitting us and so -- I know exactly what you're saying.

CONSTANTINE ALEXANDER: You're not going to be there forever.

ROBERT HARMON: Yes, I know exactly what you're saying. Okay.

EDRICK VAN BEUZEKOM: I mean, it's a

fairly small roof deck. It's not like you can get a lot of people up there.

CONSTANTINE ALEXANDER: No.

EDRICK VAN BEUZEKOM: It's not a party deck. It's really just for a couple of people to sit out there and watch the stars.

CONSTANTINE ALEXANDER: Okay.

Well, I said my piece. I don't feel that strongly about it, but I found it a bit disturbing.

Are there other comments or questions from members of the board at this point?

TIMOTHY HUGHES: I will make a comment that I'm on the opposite end of the spectrum from Gus when it comes to roof decks.

CONSTANTINE ALEXANDER: That's what makes the world go round.

THOMAS SCOTT: I like the fact that you pulled it back and it doesn't extend all

the way to the edges of the roof. So that that's a nice gesture I think.

EDRICK VAN BEUZEKOM: Yeah.

ROBERT HARMON: And we tried to flatten it as much as we could. That was one thing, my wife was like, she thinks it's bulky, too, but for us to have it legally be there, it has to be a certain height so I mean --

EDRICK VAN BEUZEKOM: Yeah, we tried to get a little bit of pitch on it as much as we could.

CONSTANTINE ALEXANDER: Now, let me say that also I think what you bring before us tonight is a vast improvement of what we saw the last time, and we congratulate you for that. I didn't want that to go unsaid.

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Open it to

public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be heard.

We have numerous letters of support for this project that I read into the record the last time, so it's part of our record.

There's no need to read them again. So --

EDRICK VAN BEUZEKOM: Well, I just want to note --

CONSTANTINE ALEXANDER: Let me close public testimony.

Anything further you want to add?

EDRICK VAN BEUZEKOM: Well, I just want to note that the owners have been in touch with all the neighbors to show them the new plans.

ROBERT HARMON: I guess we didn't submit them because we figured if you asked we at least wouldn't be lying on public record saying that the three main abutters wrote us -- like, we basically wrote an e-mail kind of exactly like the letters, that's why we didn't submit them. But if you asked us, at least we're not lying and saying that, you know, the people that are near are supportive.

CONSTANTINE ALEXANDER: Well, I think the letters of support -- well, I'll take them for the file.

ROBERT HARMON: Well, I mean you can take those, that's fine. But I mean we didn't put them in because we already had the letters and we verbally talked to them.

CONSTANTINE ALEXANDER: The key to the letters of support are that people don't

object to the concept. And now we're charged with making sure that the details comply with our Zoning Ordinance.

ROBERT HARMON: Yes, sir.

CONSTANTINE ALEXANDER: So that's why I'm not as concerned about the letters this time around.

ROBERT HARMON: The other thing now whole house is balanced. So the front dormer's pulled in. Originally the back dormer, so -- and as far as my reading of the guidelines, it matches. So it either had to be a foot and a half in off the back or a foot and half stepped in off the ridge line. So as far as like I understood, it was --

CONSTANTINE ALEXANDER: You're going to be both actually.

ROBERT HARMON: Oh, okay.

CONSTANTINE ALEXANDER: But anyway,

okay. We understand that you're not being a hundred percent. And Mr. Hughes here is a vigorous proponent of the fact that we don't need to go to the ridge line. You can go to the ridge line. That's not the most important of the dormer guidelines.

ROBERT HARMON: He liked the roof deck, too.

TIMOTHY HUGHES: Yes.

ROBERT HARMON: Yeah. And I'll get your phone number and the first time we have people over for a quiet piece of wine, you can --

TIMOTHY HUGHES: No, I'm too noisy for a roof deck.

ROBERT HARMON: Then, we're going to make sure we don't have you come over.

CONSTANTINE ALEXANDER: I'm closing public testimony.

Any comments from members of the board at this point? We praise the project.

JANET GREEN: Good.

BRENDAN SULLIVAN: Exactly what triggers -- what relief do you need?

CONSTANTINE ALEXANDER: Rear yard setback.

EDRICK VAN BEUZEKOM: Rear yard setback.

BRENDAN SULLIVAN: Other than that?

EDRICK VAN BEUZEKOM: And then there's the Special Permit for more than 10 percent additional floor area and changes to the exterior.

BRENDAN SULLIVAN: The only thing that really triggers your being here is insufficient rear setback --

EDRICK VAN BEUZEKOM: Yes.

BRENDAN SULLIVAN: -- for the

existing house?

EDRICK VAN BEUZEKOM: Yes.

BRENDAN SULLIVAN: So that the back dormer is within the rear yard setback.

EDRICK VAN BEUZEKOM: That's right. And only a tiny bit.

BRENDAN SULLIVAN: So if you did not do the rear dormer, you could do the rest of the project as of right.

EDRICK VAN BEUZEKOM: That's correct. Well, actually not quite correct because we still have the Special Permit issues.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: Yeah, yeah, for the relocation of the windows.

EDRICK VAN BEUZEKOM: We wouldn't have a Variance.

BRENDAN SULLIVAN: I mean, to me it

just seems like a, you know -- I go back to my original question I asked the petitioner, is, you know, Why are you doing this? And, well, the house is too small and we just bought it and it's too small for us. I mean, I just think it's a dramatic change to the structure. I'm not enamored with it, but anyhow.

CONSTANTINE ALEXANDER: Ready for a vote?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay.
We're going to have two votes. First I'll take the Variance.

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

That a literal enforcement of the provisions of the Ordinance will involve a

substantial hardship to the Petitioner.

Such hardship being is that the Petitioner will not be able to increase the living space in the property -- in this relatively small home without relief because of the property currently violates the rear yard setbacks.

That the hardship is owing to basically the location of the structure and the fact that it is a non-conforming structure now. So that relief, particularly in the rear yard, requires -- construction you want to do in the rear yard, requires relief from this Board.

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

In this regard the relief being sought is rather modest in nature. Just an

intrusion into the rear yard setback.

That this project has it would appear to be unanimous and enthusiastic support of the general neighborhood. And there appears to be no opposition from any city official or city body to the project.

So on the basis of these findings, the Chair moves that we grant a Variance, the Variance being sought to the Petitioner on the grounds that the work proceed in accordance with plans submitted by the Petitioner. There's a list of drawings many pages in length. They're prepared by EDB Design. The first page of which has been initialed by the Chair.

All those in favor of granting the Variance, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Variance granted.

(Alexander, Hughes, Sullivan,
Scott, Green.)

CONSTANTINE ALEXANDER: Now let's go to the Special Permit. I think you've demonstrated on the same plans where you're relocating the window and door?

EDRICK VAN BEUZEKOM: Yes.

CONSTANTINE ALEXANDER: All in the rear of the structure, right?

EDRICK VAN BEUZEKOM: Yes. It's all in the rear of the structure. So the sliding door and the new window and the stairwell.

CONSTANTINE ALEXANDER: This is a separate matter. I'll open it to public testimony.

Is there anyone here wishing to be heard on the Special Permit being sought?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be heard.

Again, we have those same letters that are in our record from the last hearing also in support of the Special Permit being sought. With that, I'm going to close public testimony.

Anything else you want to add regarding the Special Permit?

EDRICK VAN BEUZEKOM: No.

CONSTANTINE ALEXANDER: Comments from members of the board or ready for a vote?

JANET GREEN: Ready for a vote.

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board make the following findings:

That what is being proposed with regard

to traffic generated or patterns of access or egress will not cause congestion, hazard, or established change in established neighborhood character. In fact, what's being sought here is a modest change of windows and door in the rear of the structure related to the Variance that's been granted.

That the operation or development of adjacent uses will not adversely affected by the nature of the proposed relief being sought. Again, we're just talking about relocating some windows on the rear of the structure.

No nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant or the citizens of the city.

And further, the proposed use, the proposed Special Permit will not impair the

integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With regard to this, the Chair would just refer back to the very same language and the same findings that we made with regard to the Variance.

So, on the basis of these findings the Chair moves that we grant a Special Permit to allow the Petitioner to relocate windows and doors on the condition that the work proceed in accordance with the very same plans that were identified and initialled in connection with the Variance.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan,
Scott, Green.)

EDRICK VAN BEUZEKOM: Thank you.

(8:40 p.m.)

(Sitting Members Case #BZA-002668-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002668-2013.

Is there anyone here wishing to be heard
on this matter? It's regarding 102 Sherman
Street.

ATTORNEY SUSAN ROBERTS: Good
evening.

CONSTANTINE ALEXANDER: Good
evening.

ATTORNEY SUSAN ROBERTS:
Congratulations on your elections this

evening.

CONSTANTINE ALEXANDER: Or condolences. It depends on your point of view, right.

TIMOTHY HUGHES: Right.

ATTORNEY SUSAN ROBERTS: I'm Susan Roberts, attorney for AT&T. I work at Anderson and Krieger. With me is Derek Patton from Centerline Communications.

CONSTANTINE ALEXANDER: And as you know, we have a preliminary issue once again of posting of signage.

ATTORNEY SUSAN ROBERTS: So I did want to address that this evening. One of Derek's colleagues who you've seen before at these hearings, David Ford, told me that he had posted a sign on Sherman Street on January 16th. We don't know what happened to that, and we also don't know what happened to other

signs that were in the rear of the property and that had been up as well. I actually went to the property myself knowing that you also would go, and I did not see the signs. I went to the property management office and I spoke with the property manager and the administrative assistant there. They phoned the field supervisor, and they don't know how the signs went missing.

CONSTANTINE ALEXANDER: Where on Sherman Street was it? Because I saw no indication, when I went by, of any sign ever having been there.

ATTORNEY SUSAN ROBERTS: So I, you know, I didn't see it like around the area --

CONSTANTINE ALEXANDER: Right.

ATTORNEY SUSAN ROBERTS: -- in the woods. Since there really aren't woods. In the fence or anything like that, but I'm told

that when you go into the apartment complex from Sherman Street, there are two trees, one on the left and one on the right. The one on the left is closer to Sherman Street, that's where it was. But I, you know, I don't know. It could have been taped, and it could have flown away from the wind. In any case there seems to be some confusion. It's possible the management company inadvertently took them down because they thought the hearing was on December 5th, and that everything had been taken care of at that time, which is what the woman who is the property manager told me.

So in any case, we, going forward, have gotten the property management company to monitor all three signs everyday from the time that we're going to have them up, which will be two weeks from the -- two weeks prior to the date of the hearing. And we'll be

checking in with them everyday or almost everyday. And I think that various of us as well will probably stop by and make sure the signs are there.

CONSTANTINE ALEXANDER: I would make the same suggestion. I mean, I don't think you should -- speaking for myself, rely on the property manager. I mean, it's your petition. You want the relief. I would suggest that at least every other day during the requisite period of time someone goes by to make sure that there's a sign there. And if there's no sign, immediately get a new sign and put it up.

ATTORNEY SUSAN ROBERTS: That is a great idea, and both I and the other attorneys at Anderson and Krieger happen to go by there on their way to work. So we had already discussed doing that. We'll do it more

frequently.

CONSTANTINE ALEXANDER: Good.

JANET GREEN: I mean you might as well take a picture of it. I mean, in this day and age --

DEREK PATTON: We have taken pictures.

JANET GREEN: -- with a date stamp on the pictures. You know.

DEREK PATTON: Yeah, we have taken pictures.

CONSTANTINE ALEXANDER: I think this case has to be continued one more time but no more at least with regarding to notice. This is a second time we've had a problem with that. This is a case not heard, so we have plenty of freedom as to when we reschedule this for.

SEAN O'GRADY: We can do it in two

weeks on the 13th.

CONSTANTINE ALEXANDER: We have enough time? They've got 14 days to --

SEAN O'GRADY: You would have to be. You have to get to Maria -- oh, do you have signs that you can alter? Oh, you have no signs again?

ATTORNEY SUSAN ROBERTS: No, because we didn't know.

SEAN O'GRADY: I think she might have made them for you.

ATTORNEY SUSAN ROBERTS: I don't know.

SEAN O'GRADY: But you've got to see her and it's got to be tomorrow morning. She leaves at noon. I think she's in tomorrow. If you get the signs up by tomorrow in order to get it --

CONSTANTINE ALEXANDER: Can you do

that?

ATTORNEY SUSAN ROBERTS: Is that 14 days? Isn't that 13 days? No.

SEAN O'GRADY: I think we count that as a --

CONSTANTINE ALEXANDER: I don't know whether you count the day of posting and the day of the hearing for the 14 days. I don't know how it works.

TIMOTHY HUGHES: If you count day of the posting and the day of the hearing, you have 14 days if you do it tomorrow.

ATTORNEY SUSAN ROBERTS: And will it be this Board?

JANET GREEN: It's continued -- I mean, it's not heard.

CONSTANTINE ALEXANDER: It doesn't have to be this Board because it's not heard. I'll be here. At least I expect to be here.

SEAN O'GRADY: You want another -- oh, it's either that or you wait a month. There's six weeks I mean.

ATTORNEY SUSAN ROBERTS: Six weeks?

SEAN O'GRADY: Yes. The second February is closed.

ATTORNEY SUSAN ROBERTS: And so it would be -- if we didn't do it on the 13th, it would be when?

SEAN O'GRADY: The 13th of March.

ATTORNEY SUSAN ROBERTS: Okay, so we'll do it on the 13th.

CONSTANTINE ALEXANDER: Of February?

ATTORNEY SUSAN ROBERTS: February.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard until seven p.m. on February 13th on the condition that the

sign that needs to be there should be posted on Sherman, on Sherman Street. Yes, Sherman Street for the requisite period that's required by our Ordinance.

And that as a non-binding recommendation that the Petitioner, since we've had problems now twice before with regard to posting signs, at least every 48 hours check the premises to be sure that the sign is still there. If it's not, to immediately replace -- contact the Zoning Office and immediately replace the sign and to advise the office that the sign has been somehow taken down.

And I guess that's it. We'll continue the case. We have a waiver of time. Yes, and that's it.

So on the basis of this the Chair moves that this case be continued until February

13th.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you on February 13th.

ATTORNEY SUSAN ROBERTS: Thank you.

(Alexander, Hughes, Sullivan, Scott, Green.)

* * * * *

(8:45 p.m.)

(Sitting Members Case #BZA-002958-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002958, 68 Oxford Street.

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

Anyway, for the record, after you
introduce yourself I'll have a statement to
make.

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chairman and members of the
Board. For the record, my name is James

Rafferty. I'm appearing this evening on behalf of the Applicant Lesley University. Seated to my left is Kevin Murphy, a Vice President with Lesley, and the project architect Oliver Radford.

CONSTANTINE ALEXANDER: Before we start I would also at the front of the room is Judge Keith Long who apparently given his proximity to the front of the room is going to speak on this or has an abiding interest. Judge Long was at one point a law partner of mine many years ago before he joined the bench and I ceased to be a partner in my firm. If anyone has any objection to my sitting on this case, now's the time to express that either from any members of the Board or members of the audience.

ATTORNEY JAMES RAFFERTY: I know on behalf of the Petitioner, Mr. Chairman, I had

anticipated that you might make such a statement, and I know the Petitioner has no objection.

KEITH LONG: My name is Keith Long. And with me is Rebecca Henderson. We live in the building immediately to the east of this project. I just wanted to state that Mr. Alexander's correct. He and I were law partners last in 1990.

CONSTANTINE ALEXANDER: Long time ago.

KEITH LONG: And since that time I've had several jobs, so I certainly have no objection to Mr. Alexander serving on this Board.

CONSTANTINE ALEXANDER: I think we're ready to go.

ATTORNEY JAMES RAFFERTY: Thank you.

This is an application by Lesley University that essentially is going to allow them to make updates and improvements to the structure here at 68 Oxford Street. It has been a dormitory owned and operated by Lesley University for several decades. It's located within the Institutional Overlay District, and it's a home -- this building along with a few others, is home to a very specialized program at Lesley known as The Threshold Program. The university has been systematically upgrading the buildings associated with The Threshold Program, and what's before the Board tonight represents renovations that will allow the program or the building, I should say, to be brought up to Code. And the most significant change is an elevator is going to be installed in the building. And that's going to necessitate

creating two new interior stairs, two means of egress. It also means that the floor plan needs to be reorganized because the handicap accessible bathrooms, particularly on the third floor need a little more room.

So what's proposed here are some changes to existing dormers. And I have to acknowledge at the outset that we have proposed a change to what's in the file because we have had the benefit of conversation this week with his Honor and his neighbor. And so, Mr. Radford, I don't know if you have elevation. But what it essentially amounts to, and he'll walk you through, is that in the --it's the window, the window alignment in the dormers. As originally proposed and in your packets, the east elevation would contain new dormers with three windows in each.

CONSTANTINE ALEXANDER: I'm sorry, I'm just trying to match it up to what we have now in the file.

OLIVER RADFORD: So in the file you have --

CONSTANTINE ALEXANDER: Let me find it. Let's find the sheet that has it. So we have these.

OLIVER RADFORD: Yes. It's, excuse my, this is the existing south, existing east.

CONSTANTINE ALEXANDER: Yes.

OLIVER RADFORD: And this was would be proposed south which is this end.

CONSTANTINE ALEXANDER: Yes.

OLIVER RADFORD: I'm sorry, we've also reduced a number of windows in the dormer.

ATTORNEY JAMES RAFFERTY: These

were originally two windows.

OLIVER RADFORD: And on the east elevation, which is at the bottom of that sheet, we've reduced the number of windows from three to two in each of those dormers.

CONSTANTINE ALEXANDER: Three to two in the bottom and two to one?

ATTORNEY JAMES RAFFERTY: Right. Here's a new sheet, Mr. Chairman, if you like.

CONSTANTINE ALEXANDER: Thank you.

ATTORNEY JAMES RAFFERTY: And it shows the changes in and they are window changes in the dormers. A reduction in windows.

CONSTANTINE ALEXANDER: It's correct, though -- am I not correct that the dormers nevertheless do not comply in all respects with our dormer guidelines?

ATTORNEY JAMES RAFFERTY: That's probably a correct statement in the terms of "in all respects." I think they are, I think they have elements of the style there, but I think the dimensional, the number and the length --

OLIVER RADFORD: Right, there are some dimensional aspects in which they do not.

CONSTANTINE ALEXANDER: Just for the record.

ATTORNEY JAMES RAFFERTY: The two dormers on the east that now have the two windows, one of them, if you've seen the floor plan, allows for a new stairway that's coming up in there so there really isn't room, but it does give a code compliant means of egress. And the other dormer accommodates a handicap accessible bathroom. And it's necessary to

get the head height on the third floor for this bathroom.

CONSTANTINE ALEXANDER: I have a question on that. Are you mandated by the state? Do you have to do this or are you doing this because you want to make handicap accessible bedrooms and baths on the third floor that you don't have to have but that's desirable from Lesley's point of view? What's driving it? It's not a matter -- I'm sorry, our typical dormer guideline case, someone -- just the last case, people come in, they want -- they need living space. The only way they can get it is by putting a dormer and the dormer doesn't comply with the dormer guidelines. Sometimes we say yes, most times we say no.

Here my sense is, maybe I'm just dead wrong, is this something that you'd like to

do? You'd like to have a handicap bedroom and bath on the third floor, but it's not being forced on you by any state agency.

ATTORNEY JAMES RAFFERTY: Well, if I could speak to that.

CONSTANTINE ALEXANDER: No, please do.

ATTORNEY JAMES RAFFERTY: I think it's not completely accurate. We have spent several months at the Architectural Access Board with another Lesley building where our interpretation of the code, primarily as analyzed by Mr. Radford, suggested that since these -- since we had accessible bathrooms on the ground floor level, that that would be adequate. We had several appeals. We went through you a Variance process and frankly were turned down. So it was a ruling in that case that required us

to -- required Lesley to install elevators and make all of the bathrooms in the building accessible, even bathrooms on floors that are not accessible. So we have some situations where we have a second floor in a building for which there's no elevator to the second floor, but yet the bathroom is required to be accessible. I had a lot turned on whether it's a public bathroom and who could use the bathroom and all of that. So while it is true that Lesley likes to do more than just meet the minimum requirements, I think it's fair to say, and Mr. Murphy can probably confirm this, that the decision here, the planning decision here has been informed by decisions at the Architectural Access Board at the property -- what was the address, Oliver?

OLIVER RADFORD: 78 Oxford Street.

ATTORNEY JAMES RAFFERTY: Where we

faced this issue.

CONSTANTINE ALEXANDER: So if we were -- hypothetically, if we were to turn you down tonight, what happens with regard to this dormitory?

ATTORNEY JAMES RAFFERTY: We would not be able to create the upgrades that are desired here. Create the accessibility. It's a grandfathered building, so it is true that it's part of the renovations, but the application that we -- the process we went through in the last building is that we were unable to get a Building Permit to do the renovations we were attempting to do without putting in accessible bathrooms throughout the building.

CONSTANTINE ALEXANDER: What are the nature of those renovations that you want to do?

OLIVER RADFORD: Well, let me, and actually I'm going to correct a few things that Mr. Rafferty said.

On the previous project 78 Oxford Street, our interpretation of the State Access Code was an elevator was not required in a small dormitory with accessible features on the first floor. The City, in fact, did grant a Building Permit and agreed with our interpretation of that. The state did not. When the State Access Board got involved on a separate matter for that project, and they were very -- the State Access Board was very adamant that any dormitory with bathrooms on the upper floors needed an elevator no matter how small. In deference to the -- and they eventually did grant a retroactive Variance for that other building after multiple appeals and multiple hearings. In deference

to the state's view, we've -- we and Lesley frankly did not want to repeat that experience and are accepting the State's interpretation that an elevator is required in the building.

ATTORNEY JAMES RAFFERTY: And it's the elevator that is driving everything here in terms of the dormers.

The location of the elevator means the existing internal stairways no longer work. There is improved egress, because if you see the current elevations and are familiar with the building, there's external fire escapes now, they're getting removed. And all the egress will be internal for the building. It will be code compliant egress. And that the floors themselves will become handicap accessible. But it's, it's the need as it's been directed to us, to create the elevator,

the access to the third floor that's led to the dormer changes.

CONSTANTINE ALEXANDER: And in fact the elevator, according to your filings, reduces your non-conforming FAR by a slight bit because of the location of mechanical equipment?

ATTORNEY JAMES RAFFERTY: Well, I was going to say, yes, perhaps less so the elevator than the reorganization of the basement, introduction of a significant amount of additional mechanical equipment --

OLIVER RADFORD: Also, it's more sophisticated mechanical equipment.

ATTORNEY JAMES RAFFERTY: -- but also some of the mechanical equipment associated with the operation of the elevator would qualify for exemption. So the dormers themselves probably represent only about a

net increase of 50 square feet in the building.

CONSTANTINE ALEXANDER: 54, 54 feet.

ATTORNEY JAMES RAFFERTY: 54.

But there is a corresponding reduction based on the mechanical equipment. I should say far more than the corresponding. There's a multiple, multiple reduction in the basement area, so the reality is that the net GFA in the building when we're done is actually below what it is today.

CONSTANTINE ALEXANDER: The FAR today, just for the record, is 0.99 in a 0.75 district. And by virtue of what you want to do and points you've made, it will go down to 0.93. Still non-conforming, but less non-conforming.

ATTORNEY JAMES RAFFERTY: Right.

And the intensity of the building is actually going down slightly. Currently it accommodates 30 students. In this configuration it will accommodate 24 students, plus two RAs. So it's not an expansion of the program or an intensity of the use. I mean, it is an allowed use, but the number of students occupying the building will actually be a few less than --

CONSTANTINE ALEXANDER: I'm sorry, in this day and age schools don't reduce their dormitory space, they increase it. Why?

OLIVER RADFORD: When you try and make all the floors wheelchair accessible with all the proper clearances with doors, you end up with fewer bedrooms.

CONSTANTINE ALEXANDER: You're forced to do it?

OLIVER RADFORD: Yeah. A lot of

this is being driven by the interpretation by the State Access Board that we need to make not just an elevator but accessible bathrooms on every level, accessible doors on every level, accessible with corridors. And so a lot of that's being driven by making the building fully accessible. And the program does have a number of students with disabilities. So the program is supporting of that objective but it has an architectural impact.

ATTORNEY JAMES RAFFERTY: I would say if I may?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY JAMES RAFFERTY: In addition to the changes that are appearing here, there are four conditions that we have been in discussion with our neighbors on that we would propose for the Board's

consideration, all of which are related to the windows in those dormer.

CONSTANTINE ALEXANDER: None of them are in the file right now?

ATTORNEY JAMES RAFFERTY: No, no, no.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: They're pretty concise.

The first is that the windows in the dormer elevation that accommodates the stairwell -- and could you identify that one?

OLIVER RADFORD: That one here.

ATTORNEY JAMES RAFFERTY: That one here.

Those windows will be non-operable by agreement. Those windows will not open. They will be non-operable.

Those windows will also contain

blackout shades, mechanical blackout shades that will be on a timer so that when it becomes dark outside, the shade will drop and there will be no light emissions out of the stairwell to affect the abutting property owners.

In the dormer next to it --

KEVIN MURPHY: You have a conventional light sensor in the stairwell --

ATTORNEY JAMES RAFFERTY: Yes, I was going to do the two dormers and then the one that covered them all.

In the dormer next to it, which accommodates the bathroom, the glass in those window would be frosted. The restriction on non-operable doesn't apply, but there is an agreement that in both that dormer -- in that bathroom and in the stairwell, there would be

light sensors. So one would -- the light would only come on if someone was using it. Particularly as they get later into the evening, someone would leave the light on all night or something, that wouldn't happen. So a light sensor. So they have four conditions:

One, a non-operable window in the stairwell dormer.

Two, frosted glass in the bathroom dormer.

Three, light sensors in both rooms.

And, four, blackout shades on timer in the stairwell windows.

CONSTANTINE ALEXANDER: With regard to the blackout shades, not only will there be one initially, but you'll maintain them so they'll constantly be blackout shades?

ATTORNEY JAMES RAFFERTY: Yes. And

they would be mechanized and would come down at a specific time.

CONSTANTINE ALEXANDER: The same with the other -- I have to go back, but to the extent you're going to do something initially, you'll maintain it in the same way?

ATTORNEY JAMES RAFFERTY: Oh, yes. It's a condition of the Variance.

CONSTANTINE ALEXANDER: I want to be clear, the condition is not to do it initially. It's to do it initially and to continue throughout for eternity or until this Board feels otherwise.

ATTORNEY JAMES RAFFERTY: Right. I would suggest that that's the case with most conditions attached to Variances, but if there are notable exceptions, I would say these are conditions and the Variance's

contingent upon them or as the conditions aren't complied with, there are consequences to the property owner.

CONSTANTINE ALEXANDER: Anything else?

ATTORNEY JAMES RAFFERTY: No, that's it.

CONSTANTINE ALEXANDER: You want to be heard, sir?

KEITH LONG: Yeah, just briefly. Again, my name is Keith Long, and I'm here with Rebecca Henderson. Ms. Henderson and I have lived in the building to the building to the east, 50-52.

ATTORNEY JAMES RAFFERTY: In separate units, though, Judge. You want to make sure.

KEITH LONG: Correct. My wife and I owned both for 20 years and we split it two

years ago, sold the unit on the 50 side to Ms. Henderson and she has been there as well. So she is the most directly affected, by I've had it for 18 years so I know exactly what she's talking about.

The building at 68 Oxford is a dormitory for Lesley. It's gone through various iterations. It's only now being converted to the Threshold Program which I think is a positive development. It's very intensely used. A lot of students. They're kids -- I'm sorry, they're kids and they tend to keep different hours than the rest of us. As I have told Rebecca you learn more about the love lives of Lesley students than I ever wanted to know at three a.m., and I just wanted to shout out the window "Dump the loser and move on."

So we have a problem and I have to say

that, I have to say that the current administration of Lesley with Joe Moore as the President, as been very responsive to our issues. Things have gotten, much, much, much better. It's a problem, but this is a step in the right direction. And I wanted to thank Mr. Rafferty and the folks from Lesley for working with us to mitigate the problems. It's not a solution, but it's a mitigation and we're very encouraged that the fire escapes are being taken away, because this was the scene of many late night conversations. The issue for us is the noise and the light, and I think these conditions will address the worst aspects of that. So if you're going to grant this relief, I would ask, you know, reiterate that you propose those conditions. With those conditions we will not oppose.

CONSTANTINE ALEXANDER: Thank you.

KEITH LONG: Ms. Henderson, did you have anything to say?

REBECCA HENDERSON: I second everything that Judge Long says. My bedroom is approximately 20 feet from the dormitory. And I too am learning a great deal. Is it 20 feet? It's really close. It's really close.

KEITH LONG: It seems closer.

REBECCA HENDERSON: It seems even closer and so we very much appreciated the conversation and the conditions.

CONSTANTINE ALEXANDER: Sex in the City Cambridge style.

REBECCA HENDERSON: No kidding.

KEITH LONG: Yeah, more than you want to know.

I wanted to make a personal statement. It's always a pleasure to come and watch

boards like this in action. It reminds me once again of the challenges you face and the good work that you do.

CONSTANTINE ALEXANDER: The joys of living in an urban environment.

Is there anyone here wishing to be heard besides the folks that have talked already?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one that wishes to be heard.

Mr. Rafferty, any concluding comments?

ATTORNEY JAMES RAFFERTY: No, thank you.

CONSTANTINE ALEXANDER: We'll close public testimony.

I think we're ready for a discussion. Are there any comments?

THOMAS SCOTT: Now, with regard to the dormers I have no trouble with the shape

and size. And even though they don't meet the letter of the law of the former guidelines, I feel confident that the architecture is appropriate for this structure.

CONSTANTINE ALEXANDER: Good.

Thank you, Tom. I second that as well. I'm not troubled at all by to the extent that it doesn't comply with the former guidelines under these circumstances.

I think we're ready for a vote?

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

That a literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner was forced by virtue of the rulings of the State

Architectural Board to make various modifications to the interior of the structure in order to do necessary renovations.

That the hardship is owing to the fact that the nature of the structure of the building. It's a non-conforming structure. And, again, it's a structure that needs some renovation work and can only proceed if we grant the relief being sought in terms of the Architectural Board.

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

In that regard this relief, if we grant it, will allow further the purposes of Project Threshold of Lesley University, a valuable service to the community.

That the relief being sought is modest in nature.

And to the extent, subject to the conditions I'm about to impose, will actually improve the impact on the neighborhood of this current dormitory use of this structure.

On the basis of these findings the Board moves that a Variance be granted to proceed in accordance with the -- subject to compliance with a one-page set of elevations submitted by the Petitioner, initialled by the Chair, and but subject to the following conditions, and those conditions are four in nature, and the four that Mr. Rafferty has read before, we'll incorporate that as the four conditions.

All those in favor of granting relief say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Green.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

KEITH LONG: Could I ask the Board to send Ms. Henderson and I a copy of the decision?

CONSTANTINE ALEXANDER: Don't you get it anyway by virtue of the fact that you're abutters?

ATTORNEY JAMES RAFFERTY: I'll send you my copy when I get it. You get a notice of decision, but when I get the decision, I'll be happy to send it to you.

KEITH LONG: All right. So we'll reflect that Mr. Rafferty has agreed to send it to me.

SEAN O'GRADY: And we have it on request.

KEITH LONG: All right. I just didn't know how long it would be. I just wanted to be sure we got it.

SEAN O'GRADY: It's going to be a little bit.

* * * * *

(9:05 p.m.)

(Sitting Members Case #BZA-002837-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002837-2013, 107 Hampshire
Street.

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

ANNE FINN: Hi. I'm Anne Finn.
And my husband. We want to build a dormer.

CONSTANTINE ALEXANDER: Yes.

ANNE FINN: A 15-foot dormer.

CONSTANTINE ALEXANDER: I'm sorry, did you give your name address?

ANNE FINN: Anne Finn, 107 Hampshire Street.

CONSTANTINE ALEXANDER: Are you aware that there's a letter of opposition?

ANNE FINN: I just saw that tonight, the letter.

CONSTANTINE ALEXANDER: You haven't had a chance to read it?

ALONSO GUZMAN: Yes.

ANNE FINN: We just read it, yeah.

CONSTANTINE ALEXANDER: All right. You're ahead of me. My question is if you feel you need additional time to read it and digest it, we can not proceed tonight. It's up to you.

ALONSO GUZMAN: We would like to

present our case and see, you know.

CONSTANTINE ALEXANDER: Okay.

We can start. We can always continue it later on if it comes to that.

ALONSO GUZMAN: Exactly.

CONSTANTINE ALEXANDER: All right.

ANNE FINN: So we want to build a dormer. And our attic is only six feet high in the center. So we want to raise the peak and add a 15-foot dormer on one side. That's the only way we can expand the basement.

CONSTANTINE ALEXANDER: It's on the one side. On one side of your structure you're virtually touching the house next to you?

ANNE FINN: The house, right.

CONSTANTINE ALEXANDER: It's on the other side obviously you want to put the dormer?

ANNE FINN: Right.

ALONSO GUZMAN: I mean, we can actually put it anywhere.

ANNE FINN: But there's an existing stairway going up that way, so it makes it easier to....

CONSTANTINE ALEXANDER: Your issue is setbacks?

ANNE FINN: Yeah, the both sides and the front are not made for Zoning.

CONSTANTINE ALEXANDER: All right. It's not like you're adding so much space that you're going to violate your FAR requirements which is usually what we see.

ANNE FINN: Yeah, we're still making the FAR requirement and we're still making them -- we're under the maximum height for Zoning --

CONSTANTINE ALEXANDER: Yes.

ANNE FINN: -- even with raising the peak.

CONSTANTINE ALEXANDER: And your dormers do not technically comply in all respects of our dormer guidelines as I recall?

ANNE FINN: They don't?

CONSTANTINE ALEXANDER: They go right to the ridge line? Am I right?

Yes. I don't think it -- we've heard tonight a number of cases.

ANNE FINN: That's not set back from the ridge line? It looked like it to me.

CONSTANTINE ALEXANDER: Maybe it is.

ANNE FINN: You have these plans.

CONSTANTINE ALEXANDER: Yeah, well, he has them now.

THOMAS SCOTT: Yes, I have them.

CONSTANTINE ALEXANDER: Is it?

THOMAS SCOTT: It's coming off the ridge line.

CONSTANTINE ALEXANDER: Okay. My mistake.

ANNE FINN: Okay.

CONSTANTINE ALEXANDER: So you're compliant with the dormer guidelines is what you're saying? You believe you are?

ANNE FINN: I believe I am.

ALONSO GUZMAN: Yes.

ANNE FINN: I believe I am.

I did have a phone conversation with Mr. Levine who sent in that letter, and I had offered to move the dormer to the other side away from his house, but that doesn't solve his problem of me raising the peak. It's blocking his view.

ALONSO GUZMAN: From the

Prudential.

ANNE FINN: Yeah.

He says in the letter, I'm blocking his view of the dramatic Boston skyline. And the photo he shows, you you can see this much of the Prudential Center. So I'm really not sure how a view out of a skylight is dramatically blocked.

CONSTANTINE ALEXANDER: One at a time.

ALONSO GUZMAN: My apologies.

The reason why we are raising the roof is because we have two grownup teenagers who are, you know, who need their own space. We cannot actually do the basement because the height does not comply. So the only option that we have to stay in this neighborhood is for us to actually raise the -- to put a dorm and to put the two bedrooms up there.

CONSTANTINE ALEXANDER: Your house currently, according to your dimensional form, has got 1,271 feet for purposes of our --

ANNE FINN: Yes.

CONSTANTINE ALEXANDER: -- FAR calculations. GFA calculations. So a rather small house.

ALONSO GUZMAN: Yes.

CONSTANTINE ALEXANDER: And a rather small lot, 2,164 square foot lot.

So, you have a tiny, relatively tiny structure that you need, in your judgment, you need to expand the size of so that you can better accommodate your family. Is that it in a nutshell?

ANNE FINN: Yeah.

And I also wanted to address just that what we're doing is within character of the

neighborhood. I know in the letter he says we're harming the whole look of the neighborhood. This is the house across the street that has a steeper peak in the roof. Like, we're looking to make it more steep. And this is the house on the other side of Mr. Levine that has a dormer and an apartment on the third floor. So I think it's really in character with the neighborhood to add a one dormer on one side of a house.

This is also Mr. -- my view of Mr. Levine's house. I look out my kitchen window as a brick wall. So, you know, that he's losing site of this much of the Prudential Center, it, you know, it seems on balanced, not that big of a deal. But I know for him it's a big deal, I understand it's blocking some of his light.

CONSTANTINE ALEXANDER: As we find

out every other Thursday, modifications to one structure is a big deal to neighbors.

ANNE FINN: Right, right.

CONSTANTINE ALEXANDER: Rightly or wrongly, but it's a big deal.

ANNE FINN: Right.

CONSTANTINE ALEXANDER: Okay.

Anything else you wish to add at this point?

Any questions from members of the Board?

TIMOTHY HUGHES: I have a question about, there's a picture in this letter where he draws a line approximating the new height and how much would be blocked. That bottom picture there, would you say that's accurate?

ANNE FINN: I have no way of telling whether that's accurate.

TIMOTHY HUGHES: How much are you raising the ridge?

ANNE FINN: The proposed height is 32 point and -- six inches. And the existing one is on the certified plot plan. I believe it's 27 --

CONSTANTINE ALEXANDER: .8.

ANNE FINN: .8.

TIMOTHY HUGHES: Four and a half feet.

ANNE FINN: Four and a half feet, yeah.

TIMOTHY HUGHES: I'd say that's accurate.

CONSTANTINE ALEXANDER: Five feet. Really five feet.

JANET GREEN: How long have you lived there?

ANNE FINN: Eleven years.

ALONSO GUZMAN: We bought the house, we fix it up inside. They were two.

ANNE FINN: He also says things like loss of air and, you know, I don't know. If I need a lawyer to argue about whether he's losing his air because I'm building a roof.

BRENDAN SULLIVAN: It's a single-family?

ANNE FINN: Yes.

ALONSO GUZMAN: Yes.

CONSTANTINE ALEXANDER: How many bedrooms are in there now?

ALONSO GUZMAN: Three.

ANNE FINN: Three. But one of them is really small and it has no heat. So it's not really a full bedroom.

CONSTANTINE ALEXANDER: And if we were to grant you the relief you're seeking, what would you have now?

ALONSO GUZMAN: They will have their bedrooms over there.

CONSTANTINE ALEXANDER: They'll each have a separate bedroom?

ALONSO GUZMAN: Yeah.

CONSTANTINE ALEXANDER: Three bedrooms? Three real bedrooms?

ALONSO GUZMAN: We have three bedrooms right now.

ANNE FINN: Yeah.

ALONSO GUZMAN: So they will have their bedrooms and we will have an office, another bathroom probably eventually, you know.

CONSTANTINE ALEXANDER: So you're adding a bathroom as well?

ANNE FINN: No, not at this time.

CONSTANTINE ALEXANDER: No, no. The dormer is the purpose of adding bedrooms, period.

ALONSO GUZMAN: That's it, period.

CONSTANTINE ALEXANDER: And it's not a master bedroom suite --

ALONSO GUZMAN: No.

CONSTANTINE ALEXANDER: -- with a Jacuzzi?

ALONSO GUZMAN: No. They are small bedrooms that, you know, are for the kids.

CONSTANTINE ALEXANDER: Okay.

I'll open it up to public testimony?

TIMOTHY HUGHES: Sure.

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

Is there anyone wishing to be heard in this matter?

Ms. Rhatigan? And do me a favor, if you would, please come forward. Your letter, I'm seeing it for the first time tonight. It wasn't in the file as of yesterday. So I would appreciate it, since

I haven't had a chance to read it, go through the letter. Or maybe you plan to go through it anyway, but I want to understand the basis for the objection.

ATTORNEY SARAH RHATIGAN: Sure.

And I'm Sarah Rhatigan. And I'm here representing Alyssa Carlson and John Levine who are sitting back here.

CONSTANTINE ALEXANDER: And they reside where?

ATTORNEY SARAH RHATIGAN: And the reside at 111 Hampshire Street.

CONSTANTINE ALEXANDER: So the one that's affected by the dormer?

ATTORNEY SARAH RHATIGAN: The one affected by the dormer.

And I want to preface my comments by one, apologizing to you that we haven't -- that I haven't been introduced to

the situation with advanced notice to have walked to your door with my letter and open to conversation. And also, to just apologize to the Board that in the manner in which we're coming here today with our objections, you know, before the Board before we've had any chance to talk, happened -- essentially our -- my clients received the notice from the City, which was the first that they'd heard of the proposed plans. They scrambled to get copies of the plans, to look at them. They made efforts to call, and I think there was an error -- one of the plans had a phone number for Anne, I believe, that had a, you know, it was written by the architect or the planner, and it had a miswritten number. So they called and left a message, were waiting for a call back, didn't hear. Eventually reached Ms. Finn a

few days ago.

There was a conversation and an effort to try to see if there was any sort of accommodation that could be made which fell flat. And I've heard a lot of dormer arguments. I've often been the proponent of dormer additions, and I understand and my clients are particularly sympathetic even if our letter doesn't sound sympathetic. But this is a case in which the proposed plans would do really serious harm to my clients and to the house that they live in. And it's a unique situation. I'm happy to read the letter into the record. I know you usually often will read letters into the record. I'm happy to do that. I'm happy to just walk through what the letter discusses.

CONSTANTINE ALEXANDER: The letter is long.

ATTORNEY SARAH RHATIGAN: It is long.

CONSTANTINE ALEXANDER: It's not a criticism.

ATTORNEY SARAH RHATIGAN: And I apologize.

CONSTANTINE ALEXANDER: No, no, no. But I think --

ATTORNEY SARAH RHATIGAN: I tried to be as concise as I could. I was just --

CONSTANTINE ALEXANDER: No, no. But I think if you could summarize your letter, I don't feel any need to read it into the record.

ATTORNEY SARAH RHATIGAN: Okay. I will do that. So just bear with me, I'm going to pull it out so I can be clear.

And let me also just -- we have a few copies of the photographs that are attached

to the letter that I think are helpful.

CONSTANTINE ALEXANDER: Do you have copies?

ATTORNEY SARAH RHATIGAN: So I'll just -- I've got three copies here -- two copies here.

And I have a less pretty version of the photos here.

CONSTANTINE ALEXANDER: You say it's attached to your letter?

ATTORNEY SARAH RHATIGAN: It is, yes. I sent it by e-mail so hopefully that's in the -- yes, yeah.

And so Ms. Fin's home -- I'm sorry, I don't know your last name.

ALONSO GUZMAN: Guzman.

ATTORNEY SARAH RHATIGAN: Guzman.
Thank you.

Ms. Finn and Mr. Guzman's house is the

yellow house.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SARAH RHATIGAN: And our house is the brick house.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SARAH RHATIGAN: So the brick house has an interesting history in that it's an old house, early 1800s, that was actually moved to the site. There was a combined effort by the Cambridge Historical Society and then the affordable housing entity. It was, it was about to get demolished. It was on McGrath-O'Brien Highway. They moved it to this site. Previously in the early, the atlas that I could find from the 1930s shows there used to be row houses along here. Three row houses. I'm not sure if they burned down. Somehow the lot became vacant. They moved the house

here in the 1980s.

CONSTANTINE ALEXANDER: Is the space between your house and your client's house is that a driveway?

ATTORNEY SARAH RHATIGAN: Yes, it's a driveway. And it accesses -- so the brick house was essentially attached to a new structure that was built in the back that is an affordable, or was affordable home with deed restrictions. And the front house is a historic house with deed restrictions and there's a facade agreement. And this may not be relevant, but for whatever it's worth. So that is a driveway that accesses the rear house.

The distance between the two houses is something under 20 feet. We have about 16 feet from our wall to our lot line, and I believe you have about just under three feet

from their house to the -- so, again, just under 20 feet distance. The houses are the same height now. What's odd or interesting is that the brick house has no windows on the first two stories of the house. And I apologize if we don't have a --

ANNE FINN: I do.

ATTORNEY SARAH RHATIGAN: Oh, you have a picture, yes, of course. And then I had a picture that I can show to you. It shows the same thing. I mean, there are no walls, there are no windows on the first two stories. I'm not sure why. But the way that issue was mitigated is that there are skylights along that roof. So when you're in their home, the only window light access on this side of the house is their third floor skylights.

CONSTANTINE ALEXANDER: And you're

looking up, there's a skylight?

ATTORNEY SARAH RHATIGAN: You're looking sideways and you're looking up.

So the view from the skylight --

THOMAS SCOTT: Is that how this photo was taken, through the skylight?

ATTORNEY SARAH RHATIGAN: Yes.

THOMAS SCOTT: Through the skylight?

ATTORNEY SARAH RHATIGAN: Through the skylight.

THOMAS SCOTT: And did somebody like hold a camera through the skylight --

ATTORNEY SARAH RHATIGAN: No, no, no. I was up there and I stood there with my --

THOMAS SCOTT: -- literally at eye level you could see through the skylight?

ATTORNEY SARAH RHATIGAN: Exactly.

THOMAS SCOTT: Okay.

ATTORNEY SARAH RHATIGAN: I've got it on my cellphone. I stood in the room and I took pictures out the window.

THOMAS SCOTT: Okay.

ATTORNEY SARAH RHATIGAN: So here's, here's another shot. You can see their room up there. It's a nice -- they essentially converted a third floor space into a combined -- they use it a combined study and a guest bedroom.

You know, we appreciate that everybody's, everybody's feelings about their home and their view are precious, but this is, this is, again, this is unique. They've got a walled-in side of their property. One side that accesses the south facing view. And you may not find it dramatic, but when you're able to sit in your

top room and look out and see the fireworks on July 4th, this is, this is a big deal. And there's no way that raising the neighbor's roof by five feet, which five feet when it's on level with your third floor view, is significant. And then the other issue is that the dormer, as I understand it from the drawings, the front wall of the dormer isn't set back from the main wall of the building. I think it's, it's a little unclear but I think it's going to be flush so that this will be essentially a massing effect. So I understand finding the comments of air funny, but there's, there's a dramatic impact that the proposed addition will have.

My clients are very, again, are very sympathetic and could imagine that maybe there are some other possibilities for how to expand their house to allow them to live with

their growing children. I mean, I don't know if they considered building off the back. There's -- currently there's a deck off the rear of the house that I imagine could possibly, you know, contain an addition, either a one-story or a two-story addition.

The other thing that's -- the plans and the dimensional table are a little difficult to -- it took quite a while to sort of tease it out. I can't tell from the drawings if the square footage measurements are accurate. So now I understand that your third floor, you said, has a six-foot ceiling through the middle. But it was unclear to me how you raised the roof five feet and add dormers and the only increase in the square footage is 200 square feet. By my calculations I was guessing -- and I'm sorry, I'm rounding numbers here, but my understanding looking at

this dimensional table there's an increase of about 250 square feet on their dimensional sheet.

ANNE FINN: Oh, that's 'cause I had to include the areas of the attic that were over five feet in the initial calculation. So the existing conditions includes that extra part of the attic that's currently above five.

ATTORNEY SARAH RHATIGAN: Okay.

So there were in the letter, you know, reading in its completeness, I go through some inadequacies in the submissions, including that there aren't existing drawings of the basement or any indication of what the basement ceiling heights are and whether that should have been included in the square footage. You know, these things don't make an enormous difference unless the

story is much different than it looks, and there is a greater increase in the square footage.

Frankly from my clients' point of view, they don't particularly care about the FAR. I know that the Zoning Code cares about the FAR.

CONSTANTINE ALEXANDER: I understand that.

ATTORNEY SARAH RHATIGAN: But their concerns are really what I described to you, which is the impact on them. The, you know, if the dormer could be placed on the opposite side of the house, I'm sure the other neighbor wouldn't be pleased, but maybe it wouldn't have as much of an impact.

I also understand that putting the dormer on that side without raising the roof, as I understand it, was not something that

they were willing to negotiate on.

ANNE FINN: We can't. It's not seven feet.

ATTORNEY SARAH RHATIGAN: So that's where we are.

ALONSO GUZMAN: And we offer to move the dormer to the other house.

CONSTANTINE ALEXANDER: What I'm struck by is this case is all about a failure to communicate. I mean, you didn't show your plans to your neighbor before you filed your application. At least as far as I can tell. You've got, you have an opportunity to sit down and express your feelings to these folks. Often that's what happens. And if something that gets worked out by the neighbors and the neighbors can live with and you can live with and hopefully our Board can live with as well. This is, to me, all last

minute. No communication between the two. We have the letter that came in tonight or not tonight, but very recently. Our Board hasn't had a chance to study it. Those folks haven't had a chance to study it. I don't know whether it makes any sense to continue this case and give you an opportunity to sit down, but it's your call in the first place. Do you think there is any hope for sitting down and talking to your neighbors and coming up with something that works with all of you?

ANNE FINN: I mean, I tried offering putting the dormer on the side. She mentioned that the deck in the back, is there any chance of us violating the FAR and expanding into our backyard with the building? Is that -- I mean that seems like harder to do than add a simple 15-foot dormer.

CONSTANTINE ALEXANDER: Well, you

know, if you add FAR and go over the limit and not by a lot and it creates no neighborhood opposition as opposed to what you're proposing today where your abutter is against what you have tonight, I think our Board would be sympathetic to that situation. I'm not saying you have to do that.

ANNE FINN: Then I have to plan all these plans for addition and risk having another abutter --

CONSTANTINE ALEXANDER: Well, your other risk, though, is that you get turned down tonight. You know, I'm not saying you're going to, believe me.

ANNE FINN: Yeah, yeah.

CONSTANTINE ALEXANDER: And then you're out for two -- well, not out for two years. You can come back with a plan on the back. That would be a different petition but

it gets complicated.

THOMAS SCOTT: How is the attic space used today? Is it unusable?

ANNE FINN: A gaming room and we have stuff stored up there.

CONSTANTINE ALEXANDER: Not used for living purposes? No bedrooms, no beds up there?

ALONSO GUZMAN: No.

THOMAS SCOTT: I mean, one of the things that I'm struck by is kind of the nice massing of the houses along the street. You know, they're all relatively the same size, and then all of a sudden your house is going to be bumped up five feet. It seems like it would be out of scale with something else. Is there any way to --

ANNE FINN: If you do down like two doors there's a huge apartment building, you

know where the Kirkland Cafe is and --

THOMAS SCOTT: Yes.

ANNE FINN: -- there's like a dry cleaners. So it's not like the whole street is that level.

THOMAS SCOTT: Yeah.

I guess what I'm asking is, is there -- could you leave the front of the house in this shape and just have raised the roof, you know, kind of further back and put the dormer back? You may only get one bedroom up there, but is that adequate enough?

ANNE FINN: Can you do that, just raise the roof on half a house?

THOMAS SCOTT: Sure.

TIMOTHY HUGHES: You can do anything. It's all a question of time and money.

ALONSO GUZMAN: Exactly. Which we don't have. We have time but we don't have money.

THOMAS SCOTT: It would save you money.

ANNE FINN: Would that solve the problem of blocking the --

THOMAS SCOTT: -- you would be raising less of the roof and you wouldn't be obstructing their view.

ANNE FINN: Yeah.

THOMAS SCOTT: You know what I'm saying?

ANNE FINN: That's an idea.

ALONSO GUZMAN: You know, because we won't be actually obstructing their precious Prudential, you know, from the window which we understand is really, you know, important for them. But, you know, that -- but the

thing is that if the Board is going to come back, if we're going to come back with new drawings and, you know, are you going to be willing to work with us?

CONSTANTINE ALEXANDER: I'm of a mind to continue this case, give you a chance to rethink it, talk, finally talk to your neighbors. You may come back with the very same thing, but I think Tom has put out a very, very good suggestion to you that might solve all your problems.

THOMAS SCOTT: I mean, you may not get everything that you want, but you may, you know, keep peace with your neighbors and --

ALONSO GUZMAN: The putting the -- expanding the second floor over the deck, that's, you know, but that's foundation is a lot of money. It's way more money. But

what we don't want is to go over the volume of the house in ratio to the lot.

ANNE FINN: The FAR.

TIMOTHY HUGHES: You've got a little leeway there, though.

JANET GREEN: Yes, you do. So you've got -- I mean --

TIMOTHY HUGHES: I mean, there's room on the FAR. I mean the max is 0.75.

JANET GREEN: Yes, that counts.

CONSTANTINE ALEXANDER: Like I said before, the FAR issue is not -- if it makes peace in the neighborhood and it's not -- it's not dramatic departure, our Board has no problem. We do it every night. Every time we have a hearing we're approving Variances for FAR within reason and for good reason.

BRENDAN SULLIVAN: Looking out of the skylights that is facing which direction,

south, east, north?

ATTORNEY SARAH RHATIGAN: So there are skylights on both sides. Right?

ALYSSA CARLSON: There's one on the northwest side and two on the southeast.

ATTORNEY SARAH RHATIGAN: Thank you. And two on this end. So I knew there wasn't that much. So one, right, so this is looking, this photo is looking towards the front of the house. So that's Hampshire Street. This is looking towards 107 Hampshire Street. So this is south facing?

BRENDAN SULLIVAN: Yes.

ATTORNEY SARAH RHATIGAN: South.

ANNE FINN: Southeast.

ATTORNEY SARAH RHATIGAN:
Southeast, yes.

BRENDAN SULLIVAN: So that I guess you get the sun most of the day coming through

there?

ATTORNEY SARAH RHATIGAN: Yeah.

BRENDAN SULLIVAN: So that a shadow study might -- and I don't mean to be cute with this, shed some light on the impact or lack thereof.

ATTORNEY SARAH RHATIGAN: And if you don't mind me just commenting, not to -- I don't want to belittle my clients' perspective here on this, because we're not just --you know, there are, there are views of the city. This is not just a view case. So if you increase, again, this is you increase the height and you create dormer, a dormer with windows facing essentially down and on into third floor skylights, we're not raising our roof. If we could raise our roof and they could raise their roof, you know, maybe we could all, you know, live happily.

But this is also a privacy issue. I mean, I would not be comfortable --

ALONSO GUZMAN: No. We --

ATTORNEY SARAH RHATIGAN: Just let me finish.

I would not feel comfortable sleeping in that bedroom with windows facing out on me unless I had skylight shades and part of the, you know --

JANET GREEN: Their view is a brick wall, right?

ATTORNEY SARAH RHATIGAN: I mean, that's --

JANET GREEN: That's their view? Their view is a solid brick wall.

ATTORNEY SARAH RHATIGAN: But that's how they bought it, right?

JANET GREEN: Yes.

ATTORNEY SARAH RHATIGAN: When

these guys looked at the house and it was marketed to them, everybody's, you know, saying look at this third floor room. This is what makes this house workable. Without that third floor room and without the lights, you know looking out on the south, this is a house that is quaint and old but it's got a bricked first and second floor on one side of it. I mean, that's your experience of it when you walk into the home.

BRENDAN SULLIVAN: That's sort of the photo that resonates with me.

ATTORNEY SARAH RHATIGAN: With me as well, yeah.

BRENDAN SULLIVAN: And then this is just a raised roof line. And then if you add a dormer to this, it's going to have a dramatic impact.

ATTORNEY SARAH RHATIGAN: Right.

And the physical distance between your, you know, the front wall of your room and that dormer is under 20 feet.

CONSTANTINE ALEXANDER: And the setback requirements in our Ordinance serve two purposes to my mind.

ATTORNEY SARAH RHATIGAN: Right.

CONSTANTINE ALEXANDER: One is safety. The building's too close to the other. And the second is privacy. And this issue before this setback issue that's before us, deals -- raises the issue of privacy.

ALONSO GUZMAN: We actually offered to move the dorm to the other side. To build the dorm on the other side. We really don't care if the old windows are looking out to the other neighbor's house. But they --

ANNE FINN: We'd be looking over the other neighbor.

ALONSO GUZMAN: Yeah. That's not a problem for us. We will actually move to the other side. What their main complaint is that raising the roof is taking the view away. That's their main complaint.

ATTORNEY SARAH RHATIGAN: Well, we have two complaints, and I would say that raising the roof is still an issue, but privacy issue is probably a bigger one.

THOMAS SCOTT: But the privacy issue could be solved if they put skylights here instead of windows here. They wouldn't be able to see.

ATTORNEY SARAH RHATIGAN: So I'm sorry, so you mean a dormer without windows facing the front?

THOMAS SCOTT: Yeah, yeah. But it could have skylights allowing light into their space.

TIMOTHY HUGHES: I think that -- I don't know, maybe I read this wrong, but --

THOMAS SCOTT: We're trying to get you guys to talk and try to come up with a resolution.

ALONSO GUZMAN: But the point is that the whole argument that the lack of privacy, we actually offer to solve that. To move the dormer to the other way, they will have their privacy, we will have our privacy. That is totally out of question.

THOMAS SCOTT: But the height issue causes you problems.

ALONSO GUZMAN: Yes, the height issue is the problem.

THOMAS SCOTT: That has to be considered as well.

ALONSO GUZMAN: Yes, that's the main point that we have to work out as well.

CONSTANTINE ALEXANDER: Tim.

TIMOTHY HUGHES: I'm less driven by the dramatic view of Boston than I am by the light issue. I mean, the idea that this is the only way you can get south light into this brick building is through those two skylights. And I'd hate to see that happen.

The other problem is like, that I see, I'm reading this, your setback on that side of the house is 2.8 or two-foot, eight feet? It's less than three feet.

ANNE FINN: Both sides of the house, yeah.

TIMOTHY HUGHES: And you've got the dormer built right out to the facing wall. You can't put windows in that anyway because it's less than three feet. That's a State Building Code. Unless you get an exemption from the State to put windows in the face of

that. So the only place you'd be able to put windows -- so that, you know, there's no privacy issue there because there wouldn't be any windows in it. You know, barring an exemption from the State. But the light issue is what, you know, resonates with me. You raise the roof and then you're gonna cut off some light to the already -- there's a minimum amount of light that can get into that house anyway from that angle, and it is the south facing part of the house. Yeah, Again, I think -- so I think you got to redesign this in a way that works for everybody.

CONSTANTINE ALEXANDER: It comes back to where I am. I mean, this case is not ready to go forward tonight.

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: We've heard a lot of I think very good comments and good

suggestions from members of the board. You have a neighbor that you have to deal with. I think we need to continue this case.

ALONSO GUZMAN: Perfect.

CONSTANTINE ALEXANDER: Give you time to rethink it. You may come back with the very same thing you have before us tonight and take your chances. But I don't think it's a good idea. The problem though we're going to have right now is timing. We can't -- if we continue the case, it's going to be until April.

SEAN O'GRADY: April.

ALONSO GUZMAN: Okay.

CONSTANTINE ALEXANDER: I don't know what your schedule is like.

TIMOTHY HUGHES: They're not going to start building in this weather.

CONSTANTINE ALEXANDER: What's the

first date?

SEAN O'GRADY: April 10th.

CONSTANTINE ALEXANDER: April 10th?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Can all members of the Board make it April 10th?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Does that work for you?

ANNE FINN: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case heard until April -- seven p.m. on April 10th on the following conditions:

That the posting sign that's there now has to be maintained for the 14 -- not now to then, but for the 14 days before April 10th, except that you must change the date and the time. The date to April 10th. Time to seven

p.m. If you don't do that, we're going to continue the case again. So make sure you do that.

On the condition you sign a waiver for a time for a decision. We have to make a decision before then. So what we ask people to do, and they always do, is sign a waiver to allow us to wait until April 10th.

And on the final condition that to the extent that you come up with revised plans or revised dimensional form, that they must be in our files no later than five p.m. on the Monday before April 10th. Must be by then.

And to the extent that you do new plans, you may have to give us a revised dimensional form as well. Both of those have to be in our file by then.

All those in favor of continuing the case until April 10th at seven p.m. say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Green.)

* * * * *

(9:40 p.m.)

(Sitting Members Case #BZA-003007-2014: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 003007, 72 Fresh Pond Parkway.

Is there anyone here wishing to be heard

on this matter?

Good evening, give your name and address to the stenographer, please.

SUSAN CORY: I'm Susan Cory. 114 Washington Avenue, Cambridge. I'm the architect.

JINANE ABOUNADI: Jinane Abounadi, 72 Fresh Pond Parkway, Cambridge.

MUNTHER DAHLEH: 72 Fresh Pond Parkway.

SUSAN CORY: What we're proposing to do is take down a one-story addition that's 10-foot, two inches wide and replace it with a two-story addition that's 13-foot, two wide. And by doing this we would be adding a mere three feet to the addition, but it allows us to make two reasonable bedrooms on the second floor.

The houses in this area of Larchmount,

(sic) this is the west side of Fresh Pond Parkway, feel like a village. It's very dense. It's very charming. And almost all the houses on this particular block have a central house with wings on either side. And the -- everything complies with our proposal. We have the FAR. We have the open space, the lot coverage, the height. All the setbacks comply except for the fact that even though the new addition would be 10-foot, two inches from the side yard, along with the 12-foot, eight inch on the other side yard, it doesn't add up to 25 feet.

However, that is the fabric of the neighborhood. And just on this one block at No. 90, for example, there's a seven-foot, the distance to the property line on one side.

At 86 there's an eight-foot, two inch and a 10-foot on either side.

At No. 82 there's nine foot on one side.
And No. 70 there's 10 feet and 10 feet.
And at No. 66 there's seven feet on one
side.

So you can see that this is actually a
more generous side lot setback than most in
that particular area.

And we have two neighbors, including
the direct abutter here to show their
support.

That's basically it. It's very
simple.

CONSTANTINE ALEXANDER: Questions
from members of the Board?

(No Response.)

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

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

GARETT BRINKERHOFF: My name is Garrett Brinkerhoff. I live at 70 Fresh Pond Parkway. I believe you already have a letter from me.

CONSTANTINE ALEXANDER: We have two letters. Yes, we do. I can just read your letter into the record or you can speak.

GARETT BRINKERHOFF: I wanted to confirm what this woman said. That our house does have wings and they're two-story wings. She just says that their proposal -- so it does preserve the architecture character of the neighborhood. And I think, you know, just the three-foot extension that they're proposing does not create any sense of constriction to my eye even though it may not technically be within --

CONSTANTINE ALEXANDER: Thank you for taking the time to come down tonight.

THOMAS SCOTT: Excuse me. Are you the abutter directly adjacent to the addition?

GARETT BRINKERHOFF: Yes, I am.

THOMAS SCOTT: Oh, okay.

CONSTANTINE ALEXANDER: You're the one most directly affected by the addition. If anybody is affected it's you.

RUSS WINDMAN: I'm on the other side. I'm an abutter on the other side.

CONSTANTINE ALEXANDER: Your name, please?

RUSS WINDMAN: Russ Windman, 78 Fresh Pond Parkway. That's north of the my house.

CONSTANTINE ALEXANDER: Okay.

RUSS WINDMAN: And it's true my house has little bump outs. People might call them wings, but they're two stories and

I state it is typical in the neighborhood. And of course visually I'm not directly in line with proposed addition, but I'd like to see it happen because it means the grandparents can be around for the kids a lot more than they normally would be. And as he said, it's not anybody's sensibilities more directly affected than ours. And that's all I have to contribute unless you have questions.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one else wishes be to be heard.

We are in receipt of two letters, but the person who wrote each of those two letter have spoken tonight. I don't see any need, unless you want me to, to read your letters

into the record? You're satisfied with your --

RUSS WINDMAN: As long as they're part of the record, no need to read them.

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

Any further comments you want to add at this point?

SUSAN CORY: No, I think that's it.

CONSTANTINE ALEXANDER: Okay, thank you.

THOMAS SCOTT: Is there a photograph of the existing condition or not in the file?

JANET GREEN: There was a photograph.

CONSTANTINE ALEXANDER: Yes.

THOMAS SCOTT: Okay, thanks.

CONSTANTINE ALEXANDER: Ready for a vote?

Okay. The Chair moves that this Board make the following findings with regard to the Variance being sought to replace a one-story sunroom with a two-story addition.

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being that the Petitioner is in need of additional living space that can only be achieved by what is being proposed, replacing the sunroom with a two-two story addition.

The hardship is owing to circumstances relating to the shape of the lot. It is a relatively small lot relative to the size of the structure on the lot, and the structure currently is non-conforming. I believe it's non-conforming, is it? Or is it conforming? The sunroom?

SUSAN CORY: No, it's non-conforming now.

CONSTANTINE ALEXANDER: It's non-conforming now.

So any relief, any modification to the structure would require Zoning relief.

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

In this regard the proposed relief being sought is consistent with the character of the neighborhood, and it has support of the neighbors or abutters most directly affected.

So on the basis of these findings, the Chair moves that a Variance be granted to the Petitioner as requested on the condition that the work proceed in accordance with plans

submitted by the Petitioner, the first page of which is a plot plan, been initialled by the Chair. Let me just stop right here.

These are the plans. If you modify them, you're going to have to come back here. You're satisfied, this is it?

SUSAN CORY: Yes.

CONSTANTINE ALEXANDER: On the condition that the work proceed in accordance with the plans previously referenced and that are initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Good luck.

(Alexander, Hughes, Sullivan, Scott, Green.)

* * * * *

(9:50 p.m.)

(Sitting Members Case #BZA-002997-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002997, 120 Henry Street.

Is there anyone here wishing to be heard
on this matter? That's you.

As you know, name and address for the stenographer, please.

ANN MARIE MADOR: Sure. My name is Ann Marie Mador, M-a-d-o-r, 120-122 Henry Street. It's a two-family. Can I read my statement?

CONSTANTINE ALEXANDER: Sure.

ANN MARIE MADOR: So I'm here today to ask for a Zoning Variance to put a roof on a back porch that we're building. It's -- that project is currently underway and it's in compliance.

My husband and I are finishing a project that started about 12 years ago when we added a landscaped backyard to our property. When we bought our house, the lot was completely blacktopped. And so we petitioned our neighbors to move our driveway from the backyard -- from the back of the house to the

side of the house and we put some grass in. At the time we said, well, at some point we'll put a porch so that we can access our backyard from our kitchen. That's what we're starting to do now. And then we found that once we tried to design a new roof, our FAR compliance became I guess non-conforming.

CONSTANTINE ALEXANDER: Right.

ANN MARIE MADOR: So, the roof is pretty important to us.

CONSTANTINE ALEXANDER: Well, you were non-conforming before.

ANN MARIE MADOR: Yeah, I think we were non-conforming before because our house --

CONSTANTINE ALEXANDER: And you were 0.79 in a 0.6 district. And now the relief you're seeking you want to go to 0.92. So you're going to be 50 percent higher in

a FAR point of view than what our Ordinance requires. That's a substantial change.

ANN MARIE MADOR: So when we went from 0.79 to 0.93?

CONSTANTINE ALEXANDER: Well, yes, 0.93 as compared to 0.6 is 50 percent more than --

ANN MARIE MADOR: Right.

CONSTANTINE ALEXANDER: And as you heard from before on my reciting the magic of the Variance, you have to show a substantial hardship.

ANN MARIE MADOR: Right.

CONSTANTINE ALEXANDER: And the hardship you cite in your materials is that you're going to remove the visual clutter from the spiral staircase. You're going to have, that unless you have the roof, you're going to limit the usefulness of the deck

which you've added on your own anyway.

ANN MARIE MADOR: Well, we're in the process.

CONSTANTINE ALEXANDER: And you're also going to increase a solar gain. I'm not sure that any of those, strictly speaking, meets the hardship requirements. So talk to us a little bit about this.

ANN MARIE MADOR: Well, the house -- because the house was built with this blacktop in the back, it didn't put a back porch on which most of the houses in our neighborhood have that. And our neighbors sit out on their porch, and which is nice, and we would like to do the same thing. And I understand that's not a hardship. But if we don't have that covering because the way the house sits, faces the southwest, it's baking hot. Really hot. In fact, we don't really

use that part of the --

CONSTANTINE ALEXANDER: Why didn't you -- just out of curiosity, I understand why what you're doing what you want to do. Why didn't you do it all at one time? Come before us and say we want to build a rear porch. And first you did a deck.

ANN MARIE MADOR: No, no. We haven't -- we're doing it like today. This is all happening now. We haven't --

CONSTANTINE ALEXANDER: Okay, but you didn't come in and say we want to add -- maybe that's my confusion. You want to add a rear porch to the house. You want to put a porch over a deck --

ANN MARIE MADOR: No, no. There's nothing there now. There's no deck. There's no porch. We're building a porch right now today. And when we designed the

porch, it came up and said oh, if you put a roof over it, it's going to affect your FAR so you have to go before the Zoning Board and get a Variance. And we said, okay. But we started the porch because we need to get to the backyard from our house. So we started that. It isn't complete, but it's in process.

And the thing about the sun in the back is that it's very hot, and so the roof is going to allow us to use the porch and that's, you know. I don't....

CONSTANTINE ALEXANDER: Okay.

ANN MARIE MADOR: And so just design-wise in our neighborhood most of our -- most of the porches in the backyard all have conversation over them. It's just the way they're designed.

And we've talked to our neighbors. We

talked to the direct abutter on the side and the direct abutter in the back, and actually they would prefer a roof because it's more private for them in looking at our space so that they don't see us. Because they're -- the owners live on the top two floors in the back house, and as well for the side people, too, they live on the top two floors. So it does allow them some privacy from seeing whatever is going on in our back porch as well.

CONSTANTINE ALEXANDER: Is the top of the roof going to be used as a roof deck?

ANN MARIE MADOR: No.

CONSTANTINE ALEXANDER: Okay. No plans for a roof deck.

ANN MARIE MADOR: And, yeah. And so we are also putting in a spiral staircase to get to the third floor which --

CONSTANTINE ALEXANDER: That's the visual clutter you want to disguise to some extent?

ANN MARIE MADOR: Kind of -- yeah. We had to put in this major fire escape because we have a third floor apartment that we're concerned about egress, you know? It helps soften that sort of industrial look.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: Gus, I have a question.

CONSTANTINE ALEXANDER: Yes, go ahead.

THOMAS SCOTT: If it's -- if it was designed as just a shade structure, without like a roof covering of some kind --

JANET GREEN: You mean if it was like a pergola?

THOMAS SCOTT: Yes. Does that

still count as adding FAR?

TIMOTHY HUGHES: Yeah, it does for the most part.

THOMAS SCOTT: It does?

TIMOTHY HUGHES: If it's spaced like three feet apart or 32 inches apart or something.

THOMAS SCOTT: How much apart? Oh, so you have to space the structural elements a certain --

SEAN O'GRADY: Yes, it's designed to discourage it.

TIMOTHY HUGHES: Wide enough so that it's impractical as coverage.

THOMAS SCOTT: Yeah?

TIMOTHY HUGHES: Yeah.

THOMAS SCOTT: I'm just asking.

TIMOTHY HUGHES: I forget what it is, but it's too far apart for it to be of any

use.

THOMAS SCOTT: Can you do something with fabric and not --

TIMOTHY HUGHES: Retractable awning you mean?

SEAN O'GRADY: So there's a new section of the Ordinance that has some shading devices. So I mean solar gain is the only concern, otherwise to get, to get as of right.

THOMAS SCOTT: To get it as of right?

SEAN O'GRADY: Let me put it this way. To get it without creating FAR.

JANET GREEN: Oh, really?

THOMAS SCOTT: Right, right. So you could put a solar shade element of some kind, an awning of some kind over a structure.

SEAN O'GRADY: Yes. There are restrictions, and I haven't looked at this

case and I don't know whether this case is a case that would allow that, but it's out there.

THOMAS SCOTT: It's there, yes.

ANN MARIE MADOR: So, whatever, it doesn't matter. Because we used to have, you know, three steps that went up to the back of our house with a roof on it, and we just took that down. So that probably was counted into our 0.79 before anyway. Is that what you're saying?

TIMOTHY HUGHES: Probably.

ANN MARIE MADOR: So the FAR -- just so I understand. Because our house is so big and the lot is so small --

CONSTANTINE ALEXANDER: That's it. The structure to the size of the lot is irrelevant.

ANN MARIE MADOR: Right.

TIMOTHY HUGHES: The square footage of the house to the square footage of the lot.

ANN MARIE MADOR: And it counts all the floors, the basement?

JANET GREEN: It depends. It counts --

TIMOTHY HUGHES: Counts all the liveable space.

CONSTANTINE ALEXANDER: Yes. If the height of the basement is less than seven feet, it doesn't count.

ANN MARIE MADOR: No, it's all pretty high.

CONSTANTINE ALEXANDER: It's over seven feet?

ANN MARIE MADOR: Yeah, yeah.

CONSTANTINE ALEXANDER: That would count as your FAR and possibly some of your attic.

JANET GREEN: If, you know, you had a room and it came down like this, so it wasn't high enough here, you wouldn't count those little places over here.

ANN MARIE MADOR: But if we have -- our basement is probably 1200 feet. 1200 square feet.

CONSTANTINE ALEXANDER: Than it's higher than seven feet.

ANN MARIE MADOR: Oh, yes.

SEAN O'GRADY: Did you count that in your FAR?

ANN MARIE MADOR: It must be, because I can't imagine -- we live in 2400 square feet. So I can't, you know, how did we get up to 5,000 square --

CONSTANTINE ALEXANDER: Who prepared the dimensional form, did you do it?

ANN MARIE MADOR: Our architect.

CONSTANTINE ALEXANDER: Oh, your architect did it?

ANN MARIE MADOR: Yeah.

But each floor is about 1200 square feet, so that makes sense that it's up to whatever. I saw it and I wen oh, well, that is interesting.

TIMOTHY HUGHES: It's like 5200 square feet.

ANN MARIE MADOR: Yeah.

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Can I see the file? I know those are the plans. I need the dimensional form.

ANN MARIE MADOR: We don't live in that much space.

Yeah, the third is probably a 1,000, 1200, 1200, 1200. That's probably what it is.

CONSTANTINE ALEXANDER: Let me see your dimensional form?

ANN MARIE MADOR: Oh, did they count our front porch?

TIMOTHY HUGHES: Oh, maybe.

ANN MARIE MADOR: Our front porch is covered.

CONSTANTINE ALEXANDER: Your dimensional form shows that you have a gross area of 5,258 feet.

ANN MARIE MADOR: So they must be counting our front porch, too.

CONSTANTINE ALEXANDER: Looks that they are. That's a large amount of gross floor area for a single-family home unless you're on Brattle Street.

ANN MARIE MADOR: It is a two-family home.

CONSTANTINE ALEXANDER: But this is

only for your half?

ANN MARIE MADOR: No, no, no.

That's the entire house.

CONSTANTINE ALEXANDER: The whole house?

ANN MARIE MADOR: Yeah, yeah.

CONSTANTINE ALEXANDER: It's not condominiumized?

ANN MARIE MADOR: No, no.

CONSTANTINE ALEXANDER: Oh, I'm sorry. I thought it was. And on a 5900 square foot lot. So it's almost -- almost one foot one.

ANN MARIE MADOR: How did it get -- it came that way when we bought it. It was like that --

TIMOTHY HUGHES: It was like that when I got here.

CONSTANTINE ALEXANDER: Questions,

Brendan or Tom? Or I can read into the public record the letters while you're looking at that.

BRENDAN SULLIVAN: But my initial impression, I mean, obviously what is there now needs something rather than sort of the latter coming down. But what is proposed is to me quite dramatic and quite excessive.

CONSTANTINE ALEXANDER: That's my impression.

BRENDAN SULLIVAN: We're going from one extreme to another, and that would be my first impression on it.

CONSTANTINE ALEXANDER: Well, exactly. And my question so far, I thought it was my skepticism, as you say it's -- something's got to be done, but it strikes me that this is a bit much in terms of impact. Anyway, let me stop and publicly

musings on this thing. Let me read into the file the letters that -- there are letters. I believe they're all in support, but let me get there.

There's a letter from Kim Walker-Chin who resides at 336 Pearl Street, which I take is around the corner from you.

ANN MARIE MADOR: She's the backyard.

CONSTANTINE ALEXANDER: Backyard.

ANN MARIE MADOR: We're on Henry.

CONSTANTINE ALEXANDER: And you're on Henry, I know. And you're on the corner of Pearl and Henry?

ANN MARIE MADOR: Right. But her whole side, her house is our backyard.

CONSTANTINE ALEXANDER: (Reading)
Please be advised that my property abuts 120-122 Henry Street, Cambridge, Mass. I

approve the renovation being done by my neighbors Brad Harkavy and Ann Marie Mador.

There's a letter from Marc, M-a-r-c Chamblee, C-h-a-m-b-l-e-e and Lisa Ziegler, Z-i-e-g-l-e-r-Chamblee. (Reading) We are writing in support of the above-referenced petition that has been filed by Brad Harkavy and Ann Marie Mador for a Variance to allow the construction of a roof over the first floor deck being added to their house at 120 Henry Street. We live at 110 Henry Street, two doors away from Brad and Ann Marie. Our living room overlooks their backyard where the deck is being added. Brad and Ann Marie have been diligent in communicating with us and other neighbors about their plans. They've fully informed us about the project and provided us with architect's drawings. We ask that the Board grant their petition for

a Variance so they can install a roof over the deck because we believe that doing so will increase the visual clutter of the circular staircase, will better integrate the porch into the architecture of the home, and will increase the home's energy efficiency by shaving the rear of the house. In these ways the Variance will benefit the neighborhood and the community as well as the homeowners. We appreciate the work that Brad and Ann Marie have done and are doing to enhance the appearance of their home and garden. Being that we are close neighbors, their work is advantageous to us and we hope that you will act favorably on their petition for a Variance. Thank you for your consideration.

And then we have a petition that was submitted by the Petitioner. It states: We abutters, abutters to abutters, and

neighbors across the street to 120-122 Henry Street, Cambridge, Mass., support granting a Variance to allow the building of a roof over the rear porch of the house that's described in this case. And it looks like about 15 people have signed the petition.

Approximately 15 people.

Everything else -- that's it in terms of the public file. So there are a number of letters and a petition in support of the relief being sought.

I will close public testimony.

Anything else you would like to add at this point?

DAVID YING: I would like to make a statement.

CONSTANTINE ALEXANDER: Oh, I'm sorry, sir. Go ahead.

DAVID YING: Yes, my name is David

Ying. I'm at 116 Henry and directly adjacent to Brad and Ann Marie. My family has lived there for over 12 years and we were part of the project to relocate the parking lot and create the backyard. Our family is 100 percent in favor of the work that Brad and Ann Marie are doing, including installation of the roof. We've watched because we share a driveway. The construction of the new fire escape, which is fantastic, because I think it's a much safer egress in case there's an accident. And I don't know anything about FAR, but I do know that a lack of a roof back there I think would make the whole structure look a little bit stranger than putting a roof. And I also know that in the time that the backyard has been put in place and the work that Brad and Ann Marie have done with their house, it's really a center of the

neighborhood. A lot of people come over to the backyard, and especially in the fair weather months, and it's a very social scene. And I think the -- we absolutely have no problem with the addition of a roof. And I think that the vision that Brad and Ann Marie have in terms of modifying the house is an asset to the whole neighborhood.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

What about, though, the suggestion I think it was Tom made, about an awning. I assume it would be cheaper. You still get the same shielding effect and you wouldn't add to the massing of the structure. I'm just curious, any consideration been given to that?

ANN MARIE MADOR: We hadn't given any consideration other than a roof

because --

CONSTANTINE ALEXANDER: You want a roof?

ANN MARIE MADOR: Well, if you look at our house, it's one of these Victorian painted ladies. That there's, you know, a lot of attention to detail on the woodwork. And there's a lot of wooden balls and these kind of things.

CONSTANTINE ALEXANDER: Right.

ANN MARIE MADOR: And so we were trying to incorporate that sort of Victorian feeling still and not have it look like this space age thing sticking out the back of your house. So we never thought about anything other than trying to have it look somewhat like the front porch.

CONSTANTINE ALEXANDER: Okay. I guess the point only is, and I don't want to

belabor it, is that there is an as-of-right solution here. So even, and I'm not saying we will, even if we turn you down, you would still be able to get some sort of shielding of your deck. So it's not a hopeless situation. But I'm not saying that's the way we are going to come out. We'll find out shortly.

Any comments?

BRENDAN SULLIVAN: Do you live on the first floor?

ANN MARIE MADOR: We live on the first floor and the second floor.

BRENDAN SULLIVAN: And rent out the third floor?

ANN MARIE MADOR: And we rent out the third floor.

BRENDAN SULLIVAN: The entry to the third floor unit is through the front of the

house?

ANN MARIE MADOR: It's through the side of the house and the driveway.

BRENDAN SULLIVAN: And I'm sorry, they just continue to go up?

ANN MARIE MADOR: And they continue to go up, right.

THOMAS SCOTT: Does the fire escape serve both your second floor --

ANN MARIE MADOR: It's going to, yes.

THOMAS SCOTT: -- and the third floor?

ANN MARIE MADOR: It's going to. Because my daughter's back bedroom is that back -- on that side of the house and the only egress she has is to come to the front of the house and down the stairs.

CONSTANTINE ALEXANDER: Before you

put up the circular stair, what was the second means of egress for the apartment?

ANN MARIE MADOR: It used to be a two-family and you could center the second floor from downstairs from the outdoors in the backyard. There used to be a door. You could come straight up. But we've taken that out to put this porch on and getting rid of that staircase, so she won't have --

CONSTANTINE ALEXANDER: Wait a minute. So you're putting -- I can understand why you want to put the porch on.

ANN MARIE MADOR: Yeah.

CONSTANTINE ALEXANDER: That creates the visual clutter that you say the porch is going to eliminate. There's a little bit of problem here. The visual clutter being the spiral staircase?

ANN MARIE MADOR: The spiral

staircase is based on this porch itself that we're building.

CONSTANTINE ALEXANDER: Right.

Okay, then --

ANN MARIE MADOR: I'm not sure I understand.

CONSTANTINE ALEXANDER: Maybe I'm confused. You're creating visual -- by building the porch, you're going to create the visual clutter that you say the porch is designed to eliminate. The spiral staircase is the visual clutter, and you're doing that because of the porch.

ANN MARIE MADOR: We're doing the spiral staircase because of the law to get our third floor tenants out of the --

CONSTANTINE ALEXANDER: Then why did you say because of the porch?

ANN MARIE MADOR: Maybe I misspoke.

I don't know. I'm sorry.

CONSTANTINE ALEXANDER: Okay. All right. Maybe it's just me.

ANN MARIE MADOR: I'm confused.

CONSTANTINE ALEXANDER: Anyway, comments from members of the board at this point?

THOMAS SCOTT: There was no, like, internal solution for that stairway? It had to be outside of the --

ANN MARIE MADOR: For the third floor?

THOMAS SCOTT: Yes.

ANN MARIE MADOR: No. And the solution prior to this was a ladder was stapled to --

THOMAS SCOTT: I saw that.

ANN MARIE MADOR: That was the answer and it was not sufficient.

BRENDAN SULLIVAN: Why not just have an, off the third floor, a that you step onto a balcony and you take the ladder down? On the second floor you do a balcony and you take the ladder down, rather than this very elaborate spiral staircase.

ANN MARIE MADOR: I think the spiral is nicer. But ultimately we also wanted a porch to access our backyard from our house so....

BRENDAN SULLIVAN: Well, you can still get the porch on the first floor. But it's just that rather than having the spiral coming down, that you would just have a wrought iron balcony off the second floor window, off the third floor window, and that they walk on the balcony and then down the common ladder basically. You know, be a wrought iron one, but it would be....

CONSTANTINE ALEXANDER: I mean, you talked about preserving the Victorian nature of the structure. The spiral staircase surely doesn't do that.

ANN MARIE MADOR: Yeah.

CONSTANTINE ALEXANDER: Anyway.
Any other comments?

TIMOTHY HUGHES: No.

JANET GREEN: I mean, I'm never a fan of the spiral staircases. I have to say that right upfront. But I also find that the idea of the, you know, the ladder coming down and doing it, I don't find -- I find the spiral staircase in my mind is an easier real egress from the house than coming out and going down a ladder giving that you have different people with different abilities and different sizes and all that.

BRENDAN SULLIVAN: Well, it's for

emergency only.

JANET GREEN: Yeah.

BRENDAN SULLIVAN: You know, it's not meant to be a primary --

JANET GREEN: No, I realize that. But just from, I'm just saying that I think that the -- I don't like the spiral staircase. I do think it's a better way to get out than going down a ladder. But that's just an opinion.

The thing that I'm really struck with is the -- I'm really struck with the neighborhoods comments. I'm struck with the fact that so many people have spoken for this and not just spoken for it in a sort of perfunctory, oh, I don't want to offend my neighbor or something like that. But a lot of people have come out really in favor of the way the space used by the neighborhood, the

thoughtfulness that went into it. Even though it's a very large addition to the FAR, it's not the kind of addition that adds two or three more bedrooms to a house and changes that character. It's a porch, not a bedroom. So it seems to me that those factors influence how I think about it.

BRENDAN SULLIVAN: I guess, it's one of those, you know, right sort of smack dab in the middle, you're not really for it, but you're really not totally opposed to it either. And that I guess, yes, I mean if that's what you want to do -- it probably comes down to a thing of personal taste. And it would not be my personal taste, but then again it's not my house.

JANET GREEN: Right.

BRENDAN SULLIVAN: And your neighbors have reviewed it. They find it

that it's lovely. I mean, I may never go by this house again or I may go by it occasionally and look at it and go oh, you know, it really is way over the line, but again, it's a personal taste. It's not my taste. But then your taste is probably better than mine. I mean, who knows. But anyhow, I -- if I have to come down on one side or the other, I would vote yes I guess.

JANET GREEN: Me, too.

CONSTANTINE ALEXANDER: I'm going to go both with what Janet and Brendan said. First of all, the FAR issue is in a sense a technical issue. As Janet points out, you're not building a massive structure there where you're adding some bedrooms. Because the way our Zoning Law works, if you put a roof over a deck, that becomes FAR. So as a technical, in a sense, technical violation,

I agree with Brendan. It's not my taste. I don't like the spiral staircase one bit. I -- but not my property and as Brendan said, and I have to agree. So with a great -- frankly, with a great deal of reluctance, because also you are departing from the FAR, the technical FAR issue a considerable amount, I guess I would vote for it but with a great deal of reluctance.

BRENDAN SULLIVAN: And a year from now I would be very interested to go by there or maybe by the end of next fall I will make a point to go by and, anyhow, see what the results of all of this and what it looks like and maybe change my taste.

CONSTANTINE ALEXANDER: The only thing I would do is, it's a little bit of -- I'm not happy with the presentation. You know, you say I need a roof over the deck,

but you built the deck or you planned to build the deck, and then you build a roof. You should have come to us and say we want to put a rear porch on the house, right? And then I -- but you're boot strapping. I need a roof to go over a deck that I'm planning to build. That's a little bit -- that's cute frankly. And maybe it wasn't intended to be such, but it is and it doesn't sit well with me frankly. I'm not going to change the vote I expressed, but my reluctance is still there more so because I think the cuteness of your approach.

ANN MARIE MADOR: It wasn't intentional. It wasn't intentional this approach.

CONSTANTINE ALEXANDER: Ready for a vote?

TIMOTHY HUGHES: I don't, you know,

I agree. It's like, it's like it seems like too much but it's not, you know. On paper it seems like too much.

THOMAS SCOTT: Is the fire escape built and the spiral stair?

ANN MARIE MADOR: They're installing it now.

THOMAS SCOTT: Oh, it is?

ANN MARIE MADOR: Yeah.

THOMAS SCOTT: So it's too late to change it to a ladder?

JANET GREEN: I could remember every circular staircase that we've had since I've been on this Board. Every one, I do too.

ANN MARIE MADOR: You do?

CONSTANTINE ALEXANDER:
Particularly in a Victorian house.

THOMAS SCOTT: For a Victorian house it just seems so foreign.

CONSTANTINE ALEXANDER: You want to maintain the nature of your Victorian house and then you build a spiral staircase. That's part of the cuteness I don't appreciate frankly.

ANN MARIE MADOR: They really did a nice job.

CONSTANTINE ALEXANDER: Ready for a vote?

TIMOTHY HUGHES: Sure.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with respect to the Variance being sought that the Board makes the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that would not be able to have a backyard, a sheltered backyard area

for living purposes.

That the hardship is owing to the fact that it's a non-conforming structure currently, and any modification would require Zoning relief.

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

In this regard the Chair would note that the relief being sought is supported very strongly by all of the abutters and neighbors. And that this Board -- doesn't drive our decision, we take that into serious consideration when reaching our decisions.

So on the basis of these findings, the Chair moves that the Variance be granted on the condition that the work proceed in accordance with plans submitted by the

Petitioner, prepared by Studio Watt, W-a-t-t O'Keefe, and they are dated what appear November -- the revised plans, November 5, 2013, the first page of which -- this is the most current ones?

ANN MARIE MADOR: Uh-huh.

CONSTANTINE ALEXANDER: First page of which has been initialed by the Chair.

All those in favor of granting the Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: You in favor?

THOMAS SCOTT: No.

CONSTANTINE ALEXANDER: I will vote in favor as well. Four in favor.

THOMAS SCOTT: Opposed.

CONSTANTINE ALEXANDER: In favor. One opposed.

(Alexander, Hughes, Sullivan, Green
in favor. Scott Opposed.)

ANN MARIE MADOR: Thank you. I'll
send you a picture.

* * * * *

(10:15 p.m.)

(Sitting Members Case #BZA-002974-2013:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 002974, 28 Huron Avenue.

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

BLAKE ALLISON: I'm Blake Allison for Dingman Allison Architects, 1950 Mass. Ave.

AARON EPSTEIN: Aaron Epstein, 28 Huron Avenue.

CONSTANTINE ALEXANDER: We hope you're there.

Okay. This is a modification for which you advertised?

BLAKE ALLISON: Yes.

CONSTANTINE ALEXANDER: Because you're withdrawing part of the relief that you were originally seeking.

BLAKE ALLISON: That's correct.

CONSTANTINE ALEXANDER: Why don't you just elaborate for the record.

BLAKE ALLISON: Initially Aaron Epstein had gone around and consulted with all the neighbors about the various aspects

of the Variance request. He found everybody was in support so we submitted the application, including asking for relief to turn the garage into living space.

Subsequently I was contacted by Attorney Panico who represented some of the neighbors directly behind us, and they had become uncomfortable with the garage portion of the request. So I met with them and with Attorney Panico, and the result was that we all agreed that we would withdraw that part of the Variance request and that we would proceed only with the proposed work on the house. And I believe there's a letter in the file from Attorney Panico that speaks to that issue. And his clients are happy now to support the proposed work on the house.

This diagram right here of the first floor plan shows the proposed work. This

little L-shape in yellow highlighter is the proposed additional square footage. It's 34.5 square feet on one story. It's being added onto an existing bump-out in the back. And the space is requested in order to fit a kitchen in there. It's -- a lot of the ground floor -- the first floor of the House is taken up by an entry foyer and a stairwell so that the living room and the dining room actually aren't very big. And this space is circulation to the back door, kitchen, and then hopefully a little bit of a space left over for a small family eating area. It's new young family moving into the house, so this is the kind of the primary change that they needed to make to the house so it would be functional for family living.

Interestingly the proposal is actually to reduce the footprint of the building. As you

can see in the photograph, there's an existing deck that's built around the, this bumped out part now. And underneath that deck is a basement storage room. So that's all gonna go away as part of the proposed construction, and an existing non-conformity on the site, which is the rear yard setback, and right now it's only 24 feet, as a result of the proposed work, it will be increased to over 27 and a half feet. And this was very important to the neighbors next-door, realizing that the setback or the distance between their house and this house was actually going to be increased, that's what persuaded them to support the work.

The other part of the proposal is to put a small 21 square foot roof over the existing back door. This would be a new porch here with new steps, but there's no roof there

currently. So the roof is requested as an FAR issue and it's simply to make it a safe access to the back.

CONSTANTINE ALEXANDER: 21 square feet.

BLAKE ALLISON: 21 square feet on just the roof part.

CONSTANTINE ALEXANDER: Nothing under it.

BLAKE ALLISON: Nothing under it. Just a roof over porch.

And actually right in that back porch area another existing non-conformity on the site, which is distance between buildings, there's only about eight feet now and that will be increased to about 12 feet. So that non-conformity will go away as well.

There's a slight increase in the usable open space as a result of taking away some of

this construction here. And I was trying to figure out the history of that little side porch there and wouldn't you know the Cambridge Historical Society had an answer in one of their photographs which I thought I had right here. But anyhow, it shows that existing porch. And parked out in the street in the front of the photograph is a vintage Volkswagen Bug. So I think we can assume that that little side porch has been there for a good long time. And the -- I'll let the owner submit these additional documents from the neighbors, because he went around and talked to everybody to sign this. But the one modification on this page 2 there is that the neighbors behind -- I scratched out their signature because this was relevant to both the garage and the work on the house, and I just didn't want to confuse that they're only

giving their consent to the work on the house as per Attorney Panico's letter.

CONSTANTINE ALEXANDER: Just for the record, as you've pointed out, the project that you're proposing with the garage removed, conversion to an office removed, you are going to reduce non-conformity of the current non-conformities with regard to rear yard and distance between buildings. You pointed both those things out.

BLAKE ALLISON: Yes.

CONSTANTINE ALEXANDER: The reason you're still before us, though, is you have an FAR issue.

BLAKE ALLISON: FAR issue, yes.

CONSTANTINE ALEXANDER: You are now at 0.742 and you're going to go slightly higher to 0.755 in a 0.5 district. So it's a slight increase.

BLAKE ALLISON: Yeah, 0.13 I think if I remember the numbers correctly.

CONSTANTINE ALEXANDER: At the end of the day, you're roughly 50 percent over the allowable FAR. You'll be at 0.755 in a 0.5 district. But it's very slight more than you are now.

BLAKE ALLISON: Slight increase, yes. But interestingly enough the volume in the footprint of the building is actually reduced in the overall scope of the project.

CONSTANTINE ALEXANDER: Right.

Questions from members of the board?
Busily reading? Keep going.

I will open the matter up to public testimony.

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

Sir, come forward, please. Give your

name and address to the stenographer.

ALEX SUNIKOWSKI: Alex Sunikowski,
S-u-n-i-k-o-w-s-k-i.

CONSTANTINE ALEXANDER: And your
address, sir?

ALEX SUNIKOWSKI: 40 Huron Avenue.

CONSTANTINE ALEXANDER: I'm sorry?

ALEX SUNIKOWSKI: 40 Huron Avenue.
So I'm the abutter to the right side of the
property.

CONSTANTINE ALEXANDER: As you face
the structure on the right side? A large
white house.

ALEX SUNIKOWSKI: Yes.

BLAKE ALLISON: This is looking down
the driveway. So you're.

ALEX SUNIKOWSKI: Yeah, correct.

BLAKE ALLISON: If this little
sliver of the house is visible in the

photograph.

ALEX SUNIKOWSKI: The new owners have approached us, they integrate us into the planning decisions, and we thought it would be really nice to get a new family in the neighborhood. We had before a tenant that kept on rotating. So to see that somebody is going to have a stable family with young kids, I have young kids, is welcome. I thought they were very, you know, respectful and cordial in including us in the process. I think that they change that they're proposing is going to increase their quality of life in the kitchen which is something that you use everyday. And the impact that I can see from my side I understand is less than two feet in terms of the extension of that. My family feels this is a modest request and we are happy to support the request.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one else.

We are in possession -- the Board is, of a petition submitted by the Petitioner. It says: We have reviewed the plans for the kitchen renovation and converting the existing garage to a studio office at 28 Huron Avenue. We have no objections. And it is signed by residents at 25 Huron Avenue, 33 Huron Avenue, 31 Huron Avenue, 29 Huron Avenue, 72 Raymond Street, 9 Grey Gardens East, 40 Huron Avenue. Someone who didn't give an address. And 32 Grey Gardens East.

We also have a letter from attorney Vincent J. Panico, Esq. I think we should

read it into the record. (Reading) I represent Mr. and Mrs. Robert Moncleef (phonetic), 11 Grey Gardens East, Cambridge, Mass., a direct abutter to 28 Huron Avenue which is scheduled for a Variance hearing on Thursday, January 30, 2014. The petitioners Aaron Epstein and Jacqueline Bell are represented by Blake P. Allison, architect. They have sought the approval of my client for their Variance Petition. My client has informed the Petitioners that they would not approve of any change of use to the existing garage. I'm informed that as a result of my clients' concerns, the Petitioners have removed from their petition any requests for changes of use or physical change to the garage. Based on the Petitioner's representation that no Variance or Special Permit will be requested for the garage, my

client has agreed to not object to the Variances involving the main building/the residential house.

And then the last paragraph it says reservation of rights, but as you pointed out, Mr. Allison, that that garage is off the table now and, therefore, what's left is that the Moncleefs have no objection to the relief you are seeking.

With that I'll close public testimony.

Comments from the Board or are we ready for a vote?

TIMOTHY HUGHES: Good to go.

CONSTANTINE ALEXANDER: Okay.

These are final plans?

BLAKE ALLISON: Well, there is a new first floor plan that supersedes the one that you have there and that was submitted on Monday.

CONSTANTINE ALEXANDER: I've got to reference them in my vote.

BLAKE ALLISON: Yeah. This will be the new plan here.

CONSTANTINE ALEXANDER: I saw that.

BLAKE ALLISON: I submitted all that.

CONSTANTINE ALEXANDER: This is applicable as well, isn't it? Doesn't this supplement what's here?

BLAKE ALLISON: It's all the same except that one's -- that one just shows some landscaping relevant to the driveway. It's not --

CONSTANTINE ALEXANDER: This is the one you're talking about?

BLAKE ALLISON: Yes, that's correct.

CONSTANTINE ALEXANDER: I think I

still need to reference these plans as supplement and modified by this.

BLAKE ALLISON: Yes, I think that would be correct.

CONSTANTINE ALEXANDER: Okay.

With regard to the Variance being sought, the Chair would move that we make the following findings:

That the literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner.

Such hardship being is that the kitchen area cannot be modified, cannot be upgraded and modified without Zoning relief.

That the hardship is owing to the fact that this is a substantially non-conforming structure initially. And, therefore, any modification requires relief.

And that relief may be granted without

substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note, and being part of the record, that the project itself would in fact reduce the amount of non-conformance that currently exists.

That the relief being sought with respect to a Variance is very modest in nature. It seems to have universal neighborhood support.

On the basis of these findings, the Chair moves that we grant a Variance to the Petitioner as requested with the conversion of the garage of course withdrawn, on the condition that the work proceed in accordance with the plans submitted by the Petitioner, the first page of which has been initialled by the Chair. And to the extent such plans

are modified by a subsequent submission by the Petitioner dated January 26, 2014, also initialled by the Chair.

All those in favor of granting the Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Green.)

(10:30 p.m.)

(Sitting Members Case #BZA-002991-2013: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair will call case No. 002991, 11 Dunster Street.

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

ATTORNEY JOSEPH HANLEY: Attorney Joe Hanley with McDermott, Quilty, and Miller, 131 Oliver Street in Boston. I'm here with Jim Kimball to my far right who is the architect for this case. And Angelo Papa who is the principal owner of Mike's Pastry.

I just passed out for the Board some materials. We led off with the Applicant's statement of substantial community demand which is meant to show compliance with the Ordinance for the Special Permit as well as photographs showing you the existing site, the floor plans, and renderings of the space. So I'll just give you a brief overview background on Mike's Pastry. A historic, well-celebrated, long-established Italian bakery in the North End opened in the fifties and this is their first expansion. This will be their second shop and they're very excited

to bring their unique concept to Harvard Square is the first expansion for Mike's Pastry. Locally owned. Family operated. I would suggest it's a concept and a brand and a product that isn't available in the square, and that's also supportive of your decisions and your Ordinance for a Special Permit.

We had a very positive outreach process. We worked with the Harvard Square Advisory Committee. I have a letter from them.

CONSTANTINE ALEXANDER: I think it's in our files.

ATTORNEY JOSEPH HANLEY: A letter of support.

CONSTANTINE ALEXANDER: It's an e-mail actually.

ATTORNEY JOSEPH HANLEY: Yes. And I've also taken the opportunity to get

involved with Harvard Square Business Association and get up to speed on some events.

Mike's is a concept that takes community participation very seriously and that's how they've operated in the North End.

To the Ordinance requirements, they also run a clean operation that's focussed on minimizing the impact on the community.

This application, I think, has some good mitigating factors to it. The space is fairly small. We're looking for six seats. There is no kitchen. All of the product is actually prepared and cooked off site in the North End and then is delivered.

CONSTANTINE ALEXANDER: How many times a day or week will you be making deliveries to the store?

ATTORNEY JOSEPH HANLEY: Just once.

ANGELO PAPA: Once a day.

CONSTANTINE ALEXANDER: Once a day.

In the morning?

ANGELO PAPA: First thing in the morning.

CONSTANTINE ALEXANDER: First thing in the morning.

ATTORNEY JOSEPH HANLEY: Right.

And so the deliveries aren't independent trucks. It's just the products from Mike's. As you'll see in the letter with advisory committee, we agreed to do that early in the morning before rush hour so as to mitigate any impact on traffic.

CONSTANTINE ALEXANDER: What are the hours of operation?

ANGELO PAPA: Eight in the morning until ten o'clock.

THOMAS SCOTT: How are the

deliveries taken, through the front door?

ANGELO PAPA: Yes.

TIMOTHY HUGHES: You know, you practically have to drive right passed my house from the North End.

CONSTANTINE ALEXANDER: We have to make a bunch of findings. This is what's called for our purpose of our Ordinance a fast order food establishment. And under our Zoning Ordinance we have to make a number of findings to allow, to grant the Special Permit that you're seeking. So let's just tick off the requirements to make sure you do satisfy them.

The question is -- we have to find that the operation of what you're proposing to do will not, shall not create traffic problems, reduce available parking, threaten the public safety in the streets. I guess we

have rioting to get your cannolis might threaten public safety.

Encourage or produce double parking on the adjacent streets. To reach your point, I think it's already been made, you're only going to have seating for six. It's not a place where people are going to come and sit. And they may drive by to pick up their cannolis but they're not -- or other pastries. I don't mean you're only going to do cannolis. But this is not an area where people do drive in to come. It's easier to park in the North End than it is to park in the Harvard Square frankly.

Talk about the physical design. I'm reading from the requirement of the Ordinance. (Reading) The physical design, including color and use of materials of the establishment shall be compatible with and

sensitive to the visual and physical characteristics of other buildings, public spaces, and uses in the particular location.

Now you did submit somewhere in the file, I don't know what happened to it, here it is, pictures of the way -- the exterior of the building. Are you going to modify that in any way?

ANGELO PAPA: No.

CONSTANTINE ALEXANDER: So it's going to look just like it does now?

JIM KIMBALL: Yeah, we'll have a decal sign kind of like the adjacent tenant has.

CONSTANTINE ALEXANDER: I'm going to get to that signage. Any blade signs going to come off the building?

JIM KIMBALL: There is a blade sign there. Existing blade sign that we will just

reface with Mike's Pastries.

CONSTANTINE ALEXANDER: What was there now? I forget.

JIM KIMBALL: They took over the old Topaz jewelry store. So we'll use their blade sign.

ATTORNEY JOSEPH HANLEY: It will be subject to Historical Commission review.

CONSTANTINE ALEXANDER: That, and you will also be subject to Community Development in terms of the signage requirements of our Ordinance.

ATTORNEY JOSEPH HANLEY: Yeah. And we've had the opportunity to review that and been complied.

CONSTANTINE ALEXANDER: Make sure you do have the signage and run by and get an approval from Community Development.

Okay, going back to the Ordinance.

(Reading) The establishment fulfills a need for such a service in the neighborhood and the city. I don't want to go there. But your point is there's no other place to get these kinds of pastries and there's a need.

ATTORNEY JOSEPH HANLEY: We've written a statement for that.

CONSTANTINE ALEXANDER: The establishment will attract patrons primarily from walk-in trade as opposed to drive-in automobile related trade. And I think that's self-evident from the kind of products that you're offering and the nature of the neighborhood.

The establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and the utensils and other items provided for consumption.

Tell me how that's going to work.
Somebody comes in and let's say buys a
cannoli. What, do you wrap it in tissue
paper and then they walk out?

ANGELO PAPA: Tissue paper and we
have boxes.

CONSTANTINE ALEXANDER: Okay.
Will there be a trash receptacle near the door
so people can throw that tissue paper away?

JIM KIMBALL: Actually two.

CONSTANTINE ALEXANDER: Two?

ATTORNEY JOSEPH HANLEY: Yes.

CONSTANTINE ALEXANDER: Inside near
the front door?

JIM KIMBALL: One where the coffee
is served and one kind of near the front door.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JOSEPH HANLEY: We also
have internal trash storage facility on the

plans as well.

CONSTANTINE ALEXANDER: The establishment shall provide -- you've already covered that -- convenient, suitable, and well-marked waste receptacles to encourage patrons.

You've dealt with that.

And do you comply with all state and local requirements with regard to handicapped and disabled persons?

JIM KIMBALL: Yes.

CONSTANTINE ALEXANDER: That's your representation to us?

JIM KIMBALL: Yes.

CONSTANTINE ALEXANDER: There are no steps. Is it street level?

JIM KIMBALL: It's street level. And actually we are constructing a new toilet room, handicapped access toilet room on the

first floor. Currently it does not.
There's one does not exist in that space now.
So we've had to add one.

CONSTANTINE ALEXANDER: Okay.

That's all the requirements that we have to
tick off for the fast order food
establishment.

Any questions from members of the
Board?

(No Response.)

You want to speak, Miss Jillson?

DENISE JILLSON: Well, I
came -- yes, I might as well.

CONSTANTINE ALEXANDER: It's up to
you. I mean, you don't have, but you came.

TIMOTHY HUGHES: You've been here
all night.

DENISE JILLSON: So, for the record,
Denise Jillson, J-i-l-l-s-o-n. I'm the

Executive Director from the Harvard Square Business Association, and we're here this evening to support this application and are looking forward to it for all the reasons stated. And, you know, I was telling Angelo earlier tonight that it is inevitably when you're in Harvard Square, you could be up in the super crosswalk, you can always tell the people who have been to the North End because they're carrying their Mike's Pastry boxes. And just the other day I was mentioning it to a staff person, and they went out for lunch and came back and said, you're not going to believe what just happened, I just passed a group of tourists, clearly they were tourists, they were all carrying a Mike's Pastry boxes.

So it will be interesting to see that, you know, to have him here in Harvard Square.

There's been a lot of buzz about it, and a lot of activity. People on Facebook talking about it. Tweeting about it. E-mailing us saying When are they opening? I think people are standing in line already. So I think clearly a good thing for the square. We don't have cannolis so there is a need and hope that you consider their application.

Thank you.

CONSTANTINE ALEXANDER: Thank you. Are you going to attract Bill Clinton to come to Harvard --

ANGELO PAPA: I would love it.

CONSTANTINE ALEXANDER: I'm sorry?

ANGELO PAPA: I would love it.

CONSTANTINE ALEXANDER: I'm sure you would.

Ready for a vote.

TIMOTHY HUGHES: Absolutely.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this Board grant a Special Permit to -- make the following findings with regard to the Special Permit being sought for the operation of a fast order food enterprise at 11 Dunster Street.

That the traffic that will be generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

Although I might add what you just told us make me wonder, maybe we'll have mobs out in front of the storefront.

JANET GREEN: That's right.

DENISE JILLSON: We probably will.

CONSTANTINE ALEXANDER: That the continued operation or development of adjacent uses will not be adversely affected by the nature of the proposed use. Maybe

First Printer will have anything to say about. They're not going to be able to serve much in the way of desserts any longer.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant by the proposed use or the citizens of the city. In this regard since you didn't bring us any cannolis, we're going to take that on faith.

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

So the on the basis of these findings the Chair moves that a Special Permit be granted to the Petitioner to operate a fast order food establishment at 11 Dunster Street.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: I'm abstaining.

(Whereupon, at 10:40 p.m., the
Zoning Board of Appeals
Adjourned.)

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The original of the Errata Sheet has been delivered to Inspectional Services.

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

this matter.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of February, 2014.

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

My Commission Expires:
April 23, 2015

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