

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JANUARY 26, 2012

7:15 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Acting Chair

Timothy Hughes, Acting Vice Chair

Tad Heuer, Member

Thomas Scott, Member

Slater W. Anderson, Member

Douglas Meyer, Member

Sean O'Grady, Zoning Specialist

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I N D E X

<u>CASE</u>		<u>PAGE</u>
10160	--	15
10158	--	3
10183	--	8
10132	--	11
10179	--	13
10204	--	107
10205	--	175
10206	--	60
10207	--	169

PROCEEDINGS

(7:15 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Acting Chair will call this meeting of the Board of Zoning Appeals to order. And as is our usual custom, we're going to start with the continued cases, and the first case I'm going to call is case No. 10158, 8 Coolidge Hill Road.

Is there anyone here on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair is in possession of a letter from James J. Rafferty, Esq., addressed to this Board saying: (Reading) Please accept this correspondence as a request to continue the above-captioned case -- that's this case -- currently scheduled for Thursday, January 26th.

Do you wish to be heard on the request to continue?

ATTORNEY VINCENT PANICO: Yes, please. Vincent Panico, I'm an attorney for the neighbor. There were two things.

My client will be away on the 23rd of March -- excuse me. Let me get the correct date.

On February 23rd and March 1st and I'd ask that it be rescheduled.

CONSTANTINE ALEXANDER: After March 1st?

ATTORNEY VINCENT PANICO: After March 1st.

And the second request is, he said he's not getting any younger and this is the fourth time the case has been on and could he get a hearing?

CONSTANTINE ALEXANDER: We're cognizant of that, Mr. Panico. On the other hand, this is an unusual situation and there

are a number of questions about the structure of the building and how the addition was put on. So I think we're going to be indulgent for a little while longer with respect to continuing the case. But I think Sean's fair to let Mr. Rafferty know that Mr. Panico's statement in support of his client. We do have to come to a conclusion, I agree with you.

What dates?

SEAN O'GRADY: And probably in fairness, another case has been filed.

ATTORNEY VINCENT PANICO: Today?

SEAN O'GRADY: In the last couple of days.

ATTORNEY VINCENT PANICO: Okay.

CONSTANTINE ALEXANDER: For a Variance?

SEAN O'GRADY: On this property for a Variance. Oh, no, am I mistaken myself? I'm thinking of another property. I'm

sorry.

CONSTANTINE ALEXANDER: Columbia, not Coolidge.

SEAN O'GRADY: Never mind.

CONSTANTINE ALEXANDER: So, Mr. Rafferty didn't request a time and you request a time after March 1st, so what's the next one after March 1st that fits in?

SEAN O'GRADY: Yes, I would push it out to probably to April 26th.

CONSTANTINE ALEXANDER: It's a case not heard so we don't have to see if people will be available.

The Chair moves that this case be continued until seven p.m. on April 26th. This being a case not heard and a waiver of a time for decision being already on file.

On the condition that the petitioner change the sign to reflect the new date and the new time, both time and date. And to the extent that any plans are going to be

submitted as part of the continued case, that they be in the file on file at ISD no later than five p.m. on the Monday prior.

ATTORNEY VINCENT PANICO:

Mr. Chairman, are those waivers just in perpetuity?

CONSTANTINE ALEXANDER: We've always treated them as such, yes.

ATTORNEY VINCENT PANICO: Okay.

CONSTANTINE ALEXANDER: By their terms there's no time limit on them.

ATTORNEY VINCENT PANICO: Okay.

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

(Aye.)

(Alexander, Hughes, Heuer, Scott, Anderson.)

CONSTANTINE ALEXANDER: Case is continued.

* * * * *

(7:20 p.m.)

(Sitting Members: Constantine Alexander,
Timothy Hughes, Tad Heuer, Thomas Scott,
Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will now call case 10183, 627 Massachusetts Avenue.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

The Chair also notes that we are in receipt of a letter from Bruce J. Embry, E-m-b-r-y, Esq., dated January 24th.

(Reading) Please be advised that our office represents Blick Art Materials, the petitioner in this case. Blick Art Materials has directed us to withdraw the Special Permit application in the above-noted case without prejudice. Please remove us from your schedule and withdraw the application.

I'm going to make a motion to accept the request to withdraw.

TAD HEUER: With the exception we're not treating it as without prejudice because it withdrawal constitutes two years.

CONSTANTINE ALEXANDER: By definition, yes. It is what it is. And so, by withdrawing it, it will be with prejudice but that's Mr. Embry's problem, not ours.

TIMOTHY HUGHES: Right, and it's a Variance case even though his letter said Special Permit.

CONSTANTINE ALEXANDER: Good point, you're right. With that correct from Mr. Hughes, I will make a motion to accept the request for withdrawal.

All those in favor say "Aye".

(Aye.)

(Alexander, Hughes, Heuer, Scott, Anderson.)

CONSTANTINE ALEXANDER: Five in favor.

Case withdrawn.

* * * * *

(7:20 p.m.)

(Sitting Members: Constantine Alexander,
Timothy Hughes, Tad Heuer, Thomas Scott,
Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair
will call case 10132, 208 Lexington Avenue.

Is there anyone here wishing to be heard

on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

The Chair also notes that we are in receipt of a letter addressed to Sean O'Grady from the petitioners. (Reading) The owners, Mary Lou Jordan and Peter Harris request that the outstanding variance request at 208 Lexington Avenue be withdrawn. They want to say (reading) they will be proceeding with the recently approved Special Permit at 208 Lexington Avenue.

Just to refresh the Board's memory, the case started out as a Variance case. It evolved into a Special Permit case. We granted relief in that case and now we're getting rid of the Variance case that's hanging around.

All those in favor of accepting the request of withdrawal say "Aye".

(Aye.)

CONSTANTINE ALEXANDER: Case
withdrawn.

(Alexander, Hughes, Heuer, Scott,
Anderson.)

* * * * *

(7:20 p.m.)

(Sitting Members: Constantine Alexander,
Timothy Hughes, Tad Heuer, Thomas Scott,
Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair
will now call 11 Brookford Street.

Does anyone wish to be heard on this
matter? Case No. 10179.

TIMOTHY HUGHES: I would like to be

heard on that matter. Where is Brookford Street?

CONSTANTINE ALEXANDER: It's up off Mass. Avenue way up on Route 16.

TIMOTHY HUGHES: Thank you.

CONSTANTINE ALEXANDER: And the Chair notes we are in possession of a letter from the petitioner, Emery Homes, E-m-e-r-y, addressed to Miss Pacheco. (Reading) Emery Homes would like to withdraw case 10179, 11 Brookford Street from the Board of Appeals hearings.

All those in favor of accepting the request to withdraw say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

Case withdrawn.

(Alexander, Hughes, Heuer, Scott, Anderson.)

* * * * *

(7:20 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: And that gets us to the last continued case which is 10160, 115 Harvey Street. But because the petitioner didn't change the time, it still says it's at 7:30 so we'll have to wait for

7:30 before we hear the case. So we'll take a brief recess.

(A short recess was taken.)

CONSTANTINE ALEXANDER: The Chair has declared that it's 7:30 p.m. So we'll hear continued case No. 10160, 115 Harvey Street.

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

Please come forward and as you know, please give your name and address to the stenographer. Give us your story.

AMELIA WESTMARK: Amelia Westmark. Last name W-e-s-t-m-a-r-k. And 115 Harvey Street.

HAROLD JENSEN: And I'm Harold Jensen. Okay?

AMELIA WESTMARK: First I want to apologize to the Board and everyone waiting for my error in not changing the time to seven p.m.

CONSTANTINE ALEXANDER: It's not our problem. You had to wait. We had to be here anyway.

AMELIA WESTMARK: Oh, okay.

HAROLD JENSEN: So I guess I'll begin. I'm just going to quickly go over the changes that we made last time.

CONSTANTINE ALEXANDER: Why don't you just take a step back.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: You were here before --

HAROLD JENSEN: Sure.

CONSTANTINE ALEXANDER: -- just to make sure we're all on the same page.

HAROLD JENSEN: Sure.

CONSTANTINE ALEXANDER: You were here before us for a Variance for various structural changes you want to make to the structure.

HAROLD JENSEN: That's right.

CONSTANTINE ALEXANDER: And you got a lot of feedback from the Board about we were not too happy with what you proposed, specifics but not the concepts. I think we were supportive of the concepts. And you went back to the drawing board.

HAROLD JENSEN: Okay, yes.

CONSTANTINE ALEXANDER: And you have other material with you regarding the parking, at some point you're going to give it to us?

AMELIA WESTMARK: Yes.

HAROLD JENSEN: Yes, we do.

CONSTANTINE ALEXANDER: Okay, fine. Let's go through the structure itself first.

HAROLD JENSEN: Okay. So, as you said, we were here in October. And then you didn't agree to what we had. We went back to the drawing board. We've since spoken with the -- we hired an architect. We hired the architect from the lumber yard to do some of

the more conceptual drawings. So we worked with him. We talked to some neighbors to see what else works with the neighborhood. We hope that what we have, we think it's a big step forward. And first off, thank you again for all your help last time. It was really helpful.

So, the major changes we have, we changed to a traditional flat roof style.

AMELIA WESTMARK: So I have the photos in your packet. I can hold it up.

CONSTANTINE ALEXANDER: We have it in the file, too. Maybe you can just hold it up.

AMELIA WESTMARK: Yeah.

HAROLD JENSEN: So we went to a traditional --

CONSTANTINE ALEXANDER: And yours is the third from the right?

HAROLD JENSEN: Yes, right in the middle there.

And we spoke with -- the architect we have has been in Cambridge for a number of years and he had photos of different houses that he has done. And so I took his word on that it was a traditional Cambridge-style house.

TAD HEUER: Who is your architect?

HAROLD JENSEN: Jia Khalsa. He's the same architect that does the lumber yard, that's doing the property around us.

TAD HEUER: Right.

HAROLD JENSEN: He helped us with that.

There's also a street -- a 3-D view. And then we have elevations. So that was the big change from the fake dormer that we had last time.

The plan stays -- technically stays the same. The plans of the layouts of all the floors, we didn't change those much. Going the flat roof actually reduces the height

from a previous submission by two feet. Going from 33 feet down to 31 feet, three inches. So it increases it from what it is now. Right now it's just under 28. So we're adding three feet in height. And then we reduced the floor space from our -- from both what we have now, the FAR that we have now and the FAR that we proposed last time. So now we're down by -- we reduced it by about three percent from what it is right now.

CONSTANTINE ALEXANDER: So what you're proposing on FAR is you're going to be 0.86 in a district that has a supposedly no march than 0.65.

HAROLD JENSEN: That's right. That's right. We're currently way over the district. We have, yes.

And then we reduced or we increased, however you want to look at it, the setback on the left, we took six inches off the left side.

AMELIA WESTMARK: This one.

HAROLD JENSEN: So from our previous submission we took six inches off. And you can see from the -- as you can see, we reduced the width of the overall house from what it is now. And that's including both sides of it. If you look at just the actual addition that we're kind of look at the additions of what's changing and that's what we have to switch sideways. The actual addition we're reducing in width by quite a bit. It's actually, it's going from 28 feet down to 21 feet. So just the addition that we're rebuilding, we're reducing it by seven feet then what we currently have right now.

CONSTANTINE ALEXANDER: And you're solving the encroachment problem on your neighbor's problem.

HAROLD JENSEN: And solving the encroachment problem, right. Yep. And if it weren't for the encroachment problem, we

would be able to build straight back.
(Inaudible). But that's why we have
to -- you can see the yellow, that's the
offset just to solve the encroachment.

TAD HEUER: This is just by
curiosity, it doesn't matter for this, did
you discuss with the lumber yard land swap
that would give you a right angled lot at all?

HAROLD JENSEN: We talked -- we
talked about it.

TAD HEUER: And they didn't care?
It's unusual that they would want --

AMELIA WESTMARK: They are going to
put the fence around it. So the fence that
they have in their plans which they submitted
to the Planning Board shows the fence going
more up --

HAROLD JENSEN: A bit at a right
angle.

TAD HEUER: So in 21 years you'll
have an adversely possessed right angled lot.

TIMOTHY HUGHES: Something to leave your kids.

HAROLD JENSEN: Well, their argument is because it's registered that we can't adversely --

CONSTANTINE ALEXANDER: Yes, that came up the last time.

TAD HEUER: Well, that's true you can never possess -- which makes the fencing it in even worse. You think if you can't adversely possess it, there should be an agreement that they deed you across the parcels you need within your fence lines.

AMELIA WESTMARK: Right. They're actually going to fence it more than we --

HAROLD JENSEN: We asked and they -- I think, because they're in a -- they don't own it. They still don't own it yet.

TAD HEUER: Right.

HAROLD JENSEN: I don't know the middle ground for a big development like

that. But I know they say they close on the property in a few weeks. I think adding another complication to it --

AMELIA WESTMARK: Two weeks.

HAROLD JENSEN: -- they just kind of blew it off and said they'll take care of us as we see fit.

TAD HEUER: Right. I just say not related to this at all, as a land use attorney --

HAROLD JENSEN: Yeah.

TAD HEUER: -- my two cents would be at some point when you have the time well down the road --

HAROLD JENSEN: Sure.

TAD HEUER: -- you figure out how to do it. Like, because if you try to sell this property with a fence line that doesn't match your lot line and people don't know the history of all this, you're going to have some mighty confused buyers and sellers and title

searchers down the road.

HAROLD JENSEN: Okay, okay.

TAD HEUER: Just my two cents
helpful hint.

HAROLD JENSEN: Good to know, thank
you.

CONSTANTINE ALEXANDER: Now, one of
the comments that was made last time about
your prior plans was the size of the roof
deck.

HAROLD JENSEN: The roof deck, yes.

AMELIA WESTMARK: Yes.

CONSTANTINE ALEXANDER: I couldn't
tell, but it seems to me you haven't changed
that; is that right?

HAROLD JENSEN: We did.

AMELIA WESTMARK: We have changed
it.

HAROLD JENSEN: We did change it.

AMELIA WESTMARK: So if you look at
this one right here, you can see it only goes

out that far. So the portion of the deck or the roof --

HAROLD JENSEN: We just went straight back.

AMELIA WESTMARK: Yep. That goes --

TAD HEUER: I have the file, but I don't have any....

CONSTANTINE ALEXANDER: It's that one page? It's at the bottom of the left-hand corner of the page.

HAROLD JENSEN: Even seeing this, the roof that just goes straight back from the house --

CONSTANTINE ALEXANDER: It's that page, there.

HAROLD JENSEN: And we think of it -- we think of it as an egress, so we just went straight back.

AMELIA WESTMARK: So there's no roof deck on this part.

CONSTANTINE ALEXANDER: I see.

HAROLD JENSEN: So we reduced it. I mean, we're completely willing to keep -- to fully reduce it further.

CONSTANTINE ALEXANDER: Roughly how big is that roof deck?

HAROLD JENSEN: It's 23 feet long, and then this is 21 feet minus by about five. So it's probably about 15 feet wide.

CONSTANTINE ALEXANDER: It's still a good size roof deck.

HAROLD JENSEN: It's still a big roof deck, yes. Yeah.

TIMOTHY HUGHES: But it has to go all the way to the back. It has to have the length. That's the egress.

HAROLD JENSEN: Yes. And we thought about maybe taking corners out if you really want to reduce it. But we didn't get a sense that -- I mean, we didn't really know so we said we'll keep it easy.

TAD HEUER: So if I have it right, you're going to have essentially a 15-by-23 roof deck attached to an approximately a 15-by-23 studio; is that right?

AMELIA WESTMARK: Yes.

HAROLD JENSEN: Yeah, that's right.

TAD HEUER: Okay.

So I presume you're going to be vetting your -- that's going to be a rental; right?

AMELIA WESTMARK: Yeah.

HAROLD JENSEN: Well, it's where we will live first.

TAD HEUER: You're going to be in the upstairs?

HAROLD JENSEN: Yes. That will be ours at first.

TAD HEUER: I was going to say your renter, whoever finds that, if you have the wrong renter, you're going to have quite a party roof deck for a single person --

HAROLD JENSEN: I see.

TAD HEUER: -- in that studio at some point in the future.

CONSTANTINE ALEXANDER: You're going to have a good view of the apartments in the lumber yard development I'll tell you that for sure.

HAROLD JENSEN: And vice versa. I guess they'll have a good view of the party with the deck.

TIMOTHY HUGHES: I would think about renting to somebody with a serious case of vertigo.

HAROLD JENSEN: I like to put gardens, like, grow some gardens on the side of the fence. And the part we hope to do, the part that's not roof deck is just going to be a green garden space. So that's the idea.

So anything left? Yeah, we're reducing the deck size which helps -- it makes it look smaller also. And then, yeah, then we're trying to figure out the

architecture. And those are the main changes.

CONSTANTINE ALEXANDER: Now the parking.

HAROLD JENSEN: So now the parking, the garage issue. With the lumber yard, with the development of the lumber yard, they deeded us -- we have two deeded spots across the street for the house that -- I guess maybe I shouldn't use the word deeded. But they granted us permanent use of two spots across the street. And then in addition, they came up with the idea of putting the -- it was actually their idea to put the garage underneath. So there will be two parking spaces.

AMELIA WESTMARK: So two.

CONSTANTINE ALEXANDER: You have two parking spaces in the building.

HAROLD JENSEN: In the garage.

CONSTANTINE ALEXANDER: How do you

get into the building?

HAROLD JENSEN: Okay, if I can give you the easement that's filed.

CONSTANTINE ALEXANDER: By all means. I'd also like to see it on the plans somewhere. Is it drawn?

HAROLD JENSEN: Yes.

AMELIA WESTMARK: Another thing is our property goes straight back. The lumber yard property dips. So our property's actually above theirs in a way. So going down is not really going as much down.

TIMOTHY HUGHES: Oh, I see.

CONSTANTINE ALEXANDER: And the dimensions of the parking, of the driveway, comply with the Zoning By-Laws.

HAROLD JENSEN: Of their driveway?

CONSTANTINE ALEXANDER: Well, it could be your driveway, because you have the easement.

HAROLD JENSEN: It will go -- theirs

will go straight into ours so I
assume -- yeah, theirs is passed it so we can
go straight in.

CONSTANTINE ALEXANDER: You will be
driving, people who are -- I guess it's you,
if you're going to -- I assume you're going
to use one of the garage spaces.

HAROLD JENSEN: Yeah.

CONSTANTINE ALEXANDER: You're
going to drive in on the other side of the
couple buildings owned by the condominium?

AMELIA WESTMARK: Yep.

HAROLD JENSEN: Yep.

AMELIA WESTMARK: So if you look at
this more than like a 3-D, the driveways are
here and then it drives behind them.

CONSTANTINE ALEXANDER: Okay.

This is not signed. I assume this has
been signed?

HAROLD JENSEN: No, it has not been
signed. They have not closed on the

property.

AMELIA WESTMARK: They close in two weeks. So it's contingent upon --

CONSTANTINE ALEXANDER: Oh, I see, right.

Questions at this point from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: No questions. I'm going to open it to public testimony.

Is there anyone here wishing to be heard on this matter, 115 Harvey Street?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

With regard to your earlier plans there were numerous letters of support, which we read into the record the last time around.

Do you have any letters this time for the revised plans?

AMELIA WESTMARK: No, we don't. We did talk to neighbors, but because they were still in support we didn't ask them to write any letters.

CONSTANTINE ALEXANDER: I'm just asking for the record.

Okay, I will close public testimony.

Are there any further last comments you want to make at this point before the Board deliberates?

HAROLD JENSEN: I don't think so. Unless there are other questions we can answer.

TAD HEUER: What's the height of the new condos, so the ones that are going to be built around you?

HAROLD JENSEN: They go right up to the 39 feet six.

TAD HEUER: They go to 40, all right.

HAROLD JENSEN: There was a -- the front street with all of them -- here's the

plan.

TAD HEUER: Right. And you're doing essentially a -- so how much of the current house is going to remain; floor plates, framing?

HAROLD JENSEN: All of the framing, yeah. All the framing. And the front. Front half of the house?

TAD HEUER: Yes.

HAROLD JENSEN: Everything except the interior.

TAD HEUER: So you'll have framing and your floor heights are set by your existing --

HAROLD JENSEN: That's correct.

TAD HEUER: -- your current house; right?

HAROLD JENSEN: That's correct.

TAD HEUER: Okay. That was another question, is there a reason everyone else -- the last time we had a discussion are

you the wrong size for your neighborhood. And we wanted to see what you brought to us which was that the rest of the neighborhood is going to sprout up higher than you.

HAROLD JENSEN: Yeah.

TAD HEUER: That was my other question before was that what kept you at 31 feet when everyone else around you was at 39.6.

HAROLD JENSEN: It's tall.

TAD HEUER: It's the existing floor heights of your existing house.

HAROLD JENSEN: That's right. That's right. When we went up with their floor, we just made it tall enough for that third floor. The other two will just stay the same, that's right.

TAD HEUER: All right.

CONSTANTINE ALEXANDER: I'll open the matter -- do you have the plan?
Discussion by members of the Board.

Tom, do you have any comments?

THOMAS SCOTT: No. I'm very pleased with the changes that you made.

HAROLD JENSEN: Thank you.

THOMAS SCOTT: I really like the fact that you brought in the contextual view of the rest of the street so we can see how it fits in with the streetscape, even though none of those homes are there yet. But you can definitely see that your home will fit in nicely and with the neighborhood once the neighborhood is complete. You know, I think the changes are really right on point.

I like the fact that you've offset the back of the house to get away from the big property edge. It just seems like you've made all the right improvements. I'm impressed.

HAROLD JENSEN: Thank you.

CONSTANTINE ALEXANDER: Slater?

SLATER ANDERSON: I think it looks

good, the design solution. And I think it actually is a benefit to the lumber yard project. It breaks up some of their bulked-out design, so I think it looks great. Nice job.

HAROLD JENSEN: Thank you.

CONSTANTINE ALEXANDER: Tim?

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: Tad, anything you want to add?

TAD HEUER: No. I asked a lot of questions last time. You guys really addressed all of them. Very nicely done.

CONSTANTINE ALEXANDER: I think we're ready for a motion.

Yes, sir.

SEAN O'GRADY: How are we going to control for the right of way?

CONSTANTINE ALEXANDER: What I had in mind, and I'll let members of the Board comment, is the conditions. That they get an

easement with the dimensions that are here right now. So before -- it will be conditioned upon them getting the driveway per the easement as represented to us tonight.

TAD HEUER: Recorded?

CONSTANTINE ALEXANDER: Say again.

TAD HEUER: Recorded?

CONSTANTINE ALEXANDER: Recorded, yes.

SEAN O'GRADY: I'm just thinking that we have to, if that process is delayed or if it fails --

CONSTANTINE ALEXANDER: If it fails, then we're back to square one.

SEAN O'GRADY: Okay.

CONSTANTINE ALEXANDER: That's easy. I mean, in a sense that's easy.

SEAN O'GRADY: Okay, I wanted to make sure.

CONSTANTINE ALEXANDER: The

delay -- the question is -- your point is that we have the -- we just don't sign the -- we have a waiver of time of decision. We don't date the decision until they deliver to you -- we don't file the formal decision until they have complied with the conditions about the easement being signed and recorded and having recorded it with the terms right here. That's my thought.

SLATER ANDERSON: Is it your concern that they could potentially get held up?

SEAN O'GRADY: No, the concern is is that something goes wrong and then I have a Building Permit in front of me that says you have to follow the plans. Well, the driveway's there, the garage is there, the house gets built, but there's -- it's not -- it can't be accessed.

TAD HEUER: Could you issue a CO?

SEAN O'GRADY: The question is what's going to win? I mean, at the end of

the day, what have you granted if that easement fails?

CONSTANTINE ALEXANDER: The reason it fails is they've gotten no relief.

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: They wouldn't have satisfied a condition that they have a legally enforceable recorded easement.

SEAN O'GRADY: It's not that it fails or doesn't fail, it's just that it's coming, it's coming, it's coming while the statutory periods are elapsing and then potentially you get backed into a corner.

TAD HEUER: But which statutory periods?

SLATER ANDERSON: Their statutory period?

SEAN O'GRADY: Well, it's got to be exercised within a year.

TAD HEUER: Yes, and if it doesn't

then their Variances lapse and they have to come back and do just what they've done tonight all over again and say, I've had a lapsed Variance in the same way that someone says, you know, I forgot to dig my foundation for a year and actually I should have done that, can I have a renewal? And we say all right, tell us again why you need it. And we say yes or no; right?

SEAN O'GRADY: You're not waiting, you're not going to wait to sign the thing? I mean, that's the problem. I mean, what if it doesn't happen in three weeks? Do you sign it or not?

CONSTANTINE ALEXANDER: I would say I would not sign the decision until they produce for you the signed easement.

SEAN O'GRADY: And then just rely on the waiver?

CONSTANTINE ALEXANDER: Yes.

SEAN O'GRADY: Are the petitioners

comfortable with that?

TAD HEUER: Do you have any idea what we just said?

HAROLD JENSEN: Not exactly.

CONSTANTINE ALEXANDER: If they don't get the easement, they have no means of ever getting into their garage. That's the practical --

THOMAS SCOTT: But they have two other spaces; right?

HAROLD JENSEN: We do. And --

THOMAS SCOTT: Explain those two spaces again.

HAROLD JENSEN: If something happens, our plan is not to include the garage.

THOMAS SCOTT: I mean you could have a garage and use it for storage. You don't have to be able to drive into it.

SEAN O'GRADY: They can't do that.

THOMAS SCOTT: They can't?

CONSTANTINE ALEXANDER: No.

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: First of all they have an FAR issue because the garage space now becomes FAR.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: It's not FAR now.

AMELIA WESTMARK: So this gets approved as soon as we get the deed?

HAROLD JENSEN: The what now?

TAD HEUER: The recordation of the easement.

SLATER ANDERSON: If this garage wasn't part of this plan --

SEAN O'GRADY: That's one solution is to make it contingent.

SLATER ANDERSON: Well, I'm just wondering if we can take the garage in the decision and make that this garage can't be constructed or finished.

SEAN O'GRADY: Right. Once you make the box, you're done. You've crossed the line from a Zoning point of view. You either have a garage that's not FAR or you have FAR space that can be finished as of right.

TAD HEUER: But you don't have to issue a Building Permit on the entire structure; right?

SEAN O'GRADY: Yes.

TAD HEUER: You do?

SEAN O'GRADY: Well, the thing is I can't pick and choose.

TAD HEUER: Well, you can if you don't have a Variance. Right? If a Variance is necessary to complete it, which certainly is here because they're over FAR; right? So any relief they require requires a Variance from this Board. If you don't have a Variance, you're not authorized under the Building Code to issue a Building Permit;

right?

SEAN O'GRADY: Well, I think that if we make it clear, that the failure of the -- I mean, I'm not worried about the failure, I'm worried about just the timing.

CONSTANTINE ALEXANDER: Again, we have the waiver for a time for decision.

SEAN O'GRADY: We just go on the waiver?

CONSTANTINE ALEXANDER: Yes. We've done that before for so many cases. And it's in a different context, I don't know why we should be more concerned this time than we would with other cases.

SEAN O'GRADY: Because if this fails, it's really unclear what the Petitioner's rights are.

CONSTANTINE ALEXANDER: Well, it isn't actually because the motion will also provide that they have to build in accordance with the plans they submitted which plans

show a garage.

SEAN O'GRADY: But I'm saying, they build the garage, they build the driveway, they just don't have the access. It's according to plans.

CONSTANTINE ALEXANDER: Yes.

SEAN O'GRADY: Okay, well, let's -- let's just --

CONSTANTINE ALEXANDER: I hear you.

SEAN O'GRADY: I think everything will work out.

CONSTANTINE ALEXANDER: I think it will work out.

SEAN O'GRADY: Just it's going to be very bizarre if it didn't. You make it if the waiver holds up for that year.

TAD HEUER: The waiver holds indefinitely.

SEAN O'GRADY: It doesn't. The case law says it doesn't.

TAD HEUER: When does it?

SEAN O'GRADY: Basically it says stuff like the city just can't take a waiver and do whatever you want with it. It's got to be reasonable.

TAD HEUER: Well, those cases are more in the context of where people have to bring a mandamus action to force the issuance of something that they're entitled to; right? Is that the concern? That if they wanted to, they would bring a mandamus action, we would say because we this discussion about the grant of the easement. But if the petitioner doesn't bring that to the Building Commissioner, I can't imagine anyone has standing to appeal the non-issuance; right? They're the only ones who are aggrieved and if they don't complain --

SEAN O'GRADY: But I mean, I would certainly aggrieve it. I would come forward and say well, you know, I didn't get it in but I still have my rights under the thing, and

the garage is there, it's just not -- and maybe some day I'll be able to drive in there. But, you know, I think the petitioners are knowledgeable and say yes, that waiver is -- we understand what that is. That will take that waiver issue away. And I think we can probably power through it, it's just weird.

TAD HEUER: Yes.

SEAN O'GRADY: But I mean I think the Board wants to go, and I think we can. I just want it all sort of on the record so that I know what to do when -- if things crash and there's an understanding here and the Board understands.

CONSTANTINE ALEXANDER: I'm okay.

SLATER ANDERSON: You're clear in the decision to say my concern is that for some reason the lumber yard project goes up in flames --

HAROLD JENSEN: Ours, too.

SLATER ANDERSON: Well, understood. So my question backing out, you know, in that scenario was do we have a problem with the project without the parking or is the parking -- is this subsurface parking sort of a requirement?

TAD HEUER: No, because they're grandfathered at zero right now; right?

CONSTANTINE ALEXANDER: Right.

SLATER ANDERSON: Right.

SEAN O'GRADY: Well, no I think what Slater is saying --

SLATER ANDERSON: Is it three units now? Oh, it is three units. Okay. Then I don't have a problem.

HAROLD JENSEN: What we would change, if the lumber yard doesn't go through, we would just take the garage out and reduce the height of that area to below FAR and that would be storage space. That's what we originally were planning.

AMELIA WESTMARK: My questions is would we have to come in front of the Board with that?

SEAN O'GRADY: Is it a legal story above grade -- below grade? Is it a legal story below grade?

HAROLD JENSEN: No.

SEAN O'GRADY: So then it would --

CONSTANTINE ALEXANDER: It doesn't have to be.

SEAN O'GRADY: You can't lower the roof and solve FAR.

HAROLD JENSEN: Not lower.

TIMOTHY HUGHES: Raise the floor.

SEAN O'GRADY: It doesn't matter. Unless it's a story below grade then --

TIMOTHY HUGHES: The whole thing's not; right?

HAROLD JENSEN: The whole thing.

SEAN O'GRADY: That whole basement would have to be a story below grade.

There's a test in the building.

HAROLD JENSEN: It is now, but --

SEAN O'GRADY: The new section.

HAROLD JENSEN: -- when we redo the new section, the top of it will be two feet above grade.

SEAN O'GRADY: Oh, only two feet?

HAROLD JENSEN: Yeah.

SEAN O'GRADY: So it's probably going to be a story below grade. Probably, but I'm not going to shoot from the hip.

CONSTANTINE ALEXANDER: I think your concern is obviously a point very well taken. If the lumber yard situation blows up, I think you have to come back before us.

HAROLD JENSEN: Yeah, sure. That's fair.

CONSTANTINE ALEXANDER: That's all. When it comes down, you show us how are you going to deal with the parking garage, if it's still going to be a garage, and we'll deal

with it at that point in time.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: Can't solve everything tonight.

SEAN O'GRADY: No, I'm comfortable now. It's all been aired.

SLATER ANDERSON: And Sean can tell us I told you had so.

HAROLD JENSEN: So what are our steps to make sure something --

CONSTANTINE ALEXANDER: We're going to take a vote, and the indication is that the vote's going to be in the affirmative.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: The vote is going to be conditioned on, one, that you proceed in accordance with the plans you submitted to us.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: And, two, that you obtain the easement and record it as

you've given us to here.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: That you've given us here with the plan attached, and that with regard to the easement, that that easement be delivered to Mr. O'Grady before I will sign the decision making it official.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: So he can say -- once that's done, I will sign the decision and you will be there.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: Is that all right with everybody else?

HAROLD JENSEN: Their lawyer even said that the condition should include that affect. Their lawyer's expecting that.

CONSTANTINE ALEXANDER: Okay, good. And you said when is the closing scheduled for?

HAROLD JENSEN: He said in --

AMELIA WESTMARK: I think two and a half weeks.

HAROLD JENSEN: He said you should understand that the easement is to be granted by the new owner in accordance -- let's see -- with the approved development plans. He will likely not be closing on the property for two weeks or so.

CONSTANTINE ALEXANDER: Two weeks from when?

HAROLD JENSEN: Today. This was written today. Yeah. So, therefore, they should consider this and include this in the condition.

CONSTANTINE ALEXANDER: It will take us at least two weeks to write up the decision anyway.

HAROLD JENSEN: Okay.

CONSTANTINE ALEXANDER: I mean, that's just the way it works. Okay, I'm going to make a motion.

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. The hardship being is that the petitioner's structure is in poor condition and encroaches on neighborhood property, and that there is -- to make it functional and usable, it needs substantial modifications to the structure as proposed by the petitioner.

That the hardship is owing to circumstances relating to the shape of the lot discussed. The shape is rather unusual, and it is a small lot to start with.

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.

You will be improving the housing stock of the City of Cambridge.

There is no neighborhood opposition to the property.

That you will in fact improve the parking situation in the neighborhood by providing on-site parking which does not now exist.

So, on the basis of these findings the Chair moves that a Variance be granted to the petitioner on the conditions that the work proceed in accordance with the plans submitted by the petitioner; plans and elevations. The plans of which have been initialed by the Chair. The ones you have tonight. And the elevations that are attached, all of which are part of our file.

And on the further condition that prior to the time of the decision has been actually finally signed by the Chairman of the Board, that you obtain and deliver to Mr. O'Grady a limited access easement that you submitted to us tonight that creates an easement that's

set forth in the plan attached to that easement. Said easement having been initialed by the Chair. And there must be proof to Mr. O'Grady that this easement has been recorded.

Those are the conditions. Any other conditions or modifications?

On the basis of this, the Chair moves that we grant the Variance. All those in favor say "Aye."

(Aye).

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Heuer, Scott, Anderson.)

(A short recess was taken.)

* * * * *

(8:00 p.m.)

(Sitting Members: Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson, Douglas Myers.)

TIMOTHY HUGHES: We're ready to get started again. The Acting Acting Chair will call case No. 10206, 208 Lakeview Avenue.

Is there anyone here wanting to be heard on this case?

Take it away, James.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board, James Rafferty on behalf of the applicants. Cindy Friedman, F-r-i-e-d-m-a-n and John Page, P-a-g-e.

Ms. Friedman and Mr. Page are the owners of the subject property 208-210 Lakeview Avenue, a two-family house in the Residence B District. Seated to my right is Mr. Paul Rovianelli, R-o-v-i-a-n-e-l-l-i. Mr. Rovianelli is the architect of the project.

This is an application that is seeking a modest amount of gross floor area relief in order to allow for the construction of a dormer onto the third floor of this two-family house. The dormer has been designed as a conforming dormer in accordance with the dormer guidelines. And the dimensional change here is somewhat modest. The applicant has looked at a number of ways

to try to see what as-of-right opportunities existed. The net increase beyond the permitted GFA here is about 100 -- 280; is that right?

PAUL ROVIANELLI: 280. That's over the existing, yeah.

ATTORNEY JAMES RAFFERTY: 218 over the existing 180 over the allowed.

PAUL ROVIANELLI: Correct.

ATTORNEY JAMES RAFFERTY: I'm sure the Board knows, it's a significantly sized lot. It's a lot of approximately 7300 square feet. And it happens to be located in a Res B District which has somewhat of an anomaly with regards to it's FAR where the FAR drops for that area beyond 5,000 square feet. So, the result is a similarly-sized lot in a Res A District, our most restricted district, where you can have actually have a much larger house. But in this case the Res B Zoning is what it is, and the relief here does require

a Variance because of the GFA issues.

As I said, if you look at the floor plan of the house, what's really being achieved is an attempt to create a master bedroom in what would have been the attic or is currently the attic of the residence.

When you get down to 180 square feet, you really start to think well, how could we make this even smaller? In fact one of the reasons that it's at 180 square feet is that the rear porch presently has a roof over it. So by removing the rear porch, that freed up some GFA.

Similarly there's a front porch that has a roof over it, and it actually allows for a modest second floor deck so you can access it from the second floor. It's a rather conventional feature of houses of that nature. But as we looked at well, what if, what was the as-of-right option, that roof could come off the front porch. And then the

180 relief gets closer to 100 square feet. But at some point it felt to the applicants that the dormer was consistent with the guidelines, was consistent with similar homes. The homes on either side of the property have received Variances and have dormers and additions. So I think it's fair to say that what's proposed here is consistent with the character of these two-family houses up and down the street. And Mr. Rovianelli could walk you through the elements -- there's a two-part move here. One is the raising of the roof. And the second is the construction of the dormer.

You can probably just take a minute.

PAUL ROVIANELLI: The principal issue here is that to build in that second -- to build anything in that attic space is a curious situation because FAR calculates us from the where we get a five-foot height within that space, but it's

so tight up there that you really can hardly get any kind of room where you've got adequate headroom. Even though it's counting with the five foot, because it's only rising a little above that. So you have this very narrow shoot of space up there in the existing attic that's contributing to FAR.

So we're looking to raise that roof by just two feet, and that gives us enough, it doesn't change the character of the house substantially, but it allows us to really get rooms up there. So what we've done is we're using the existing stair to come up into the attic and setting a small room at the front as there is now in the attic, and then constructing a master suite in the back. To get enough room and to get a little light into the space, we're building a dormer which conforms to the guidelines. I use them as we laid it out. It's 15-foot wide. It sets in 18 inches from the wall below it, and it is

below the -- its spring point is below the ridge of the existing roof or what become the existing roof after we've raised it. So it allows us a nice space up there.

That also, then, allows us the opportunity to open up the space on the second floor and make what would be a very nice living space for these people. And as Jim said, both of the houses next-door have also been raised. It's not going to make this house very tall. At two feet it's not doing anything strange to its exterior elevation. It looks pretty good I think.

TAD HEUER: The houses on either side they haven't been raised, they've just dormer relief; right? Their roofs haven't been raised, the houses have not been raised?

PAUL ROVIANELLI: I believe on the right-hand side that roof has been raised.

TAD HEUER: On the left-hand side is just full dormers -- is that up on max height;

is that what that is? The addition on the back.

UNIDENTIFIED WOMAN: That's my house and, yes, it's just a dormer a few years -- a couple years ago.

PAUL ROVIANELLI: Oh, yeah, the dormer is what's higher in the house.

TAD HEUER: Right.

PAUL ROVIANELLI: It's a central raising of the roof.

TAD HEUER: Right.

PAUL ROVIANELLI: This is really just a shed dormer.

TAD HEUER: Right.

ATTORNEY JAMES RAFFERTY: I think you may have noticed in the initial submission, the ridge of the dormer was meeting the ridge of the existing roof and so we modified that with a plan just because.

PAUL ROVIANELLI: Pulled it back down.

TAD HEUER: Yes.

ATTORNEY JAMES RAFFERTY: That would have been a deviation.

DOUGLAS MYERS: What is the distance between the uppermost part of the dormer and the ridge line?

PAUL ROVIANELLI: You might height-wise between the ridge? It's very small. It's about six inches high. If you look on the exterior elevation, you'll see that you really begin to see that. The quality of the ruling -- the idea of it really shows up. Because if you look at that side elevation, you'll see -- you actually will see that roof up there. So it does make a difference even bringing it down a little bit.

ATTORNEY JAMES RAFFERTY: And the dormers occurring on the conforming setback. The house is non-conforming today because of its right side setback. It's only at about

four feet. But the dormer that's being installed on the conforming setback side, the dormer actually will be setback some -- looks like about -- that wall's about 18 feet from the property.

PAUL ROVIANELLI: Right.

TAD HEUER: How far is the front from the property line?

ATTORNEY JAMES RAFFERTY: 21.9.

PAUL ROVIANELLI: Yep. 21.9.

Yeah, it's really non-conforming on that right-hand side.

ATTORNEY JAMES RAFFERTY: If you were to look at the Assessor's plot plan, you would see that, however, that's a, that's a consistent placement on lots of this width. I think because they allow for driveways two-family house and they come up short because at the time they were constructed, the setback.

TAD HEUER: On the proposed north

elevation, so I guess that's your right side?

PAUL ROVIANELLI: Yeah.

TAD HEUER: There's a new skylight.
Is that skylight in the setback or not?

PAUL ROVIANELLI: Those are not in
the side -- they are higher and beyond the
skylight. Oh, the one on the north one?
Sorry.

TAD HEUER: Yes.

PAUL ROVIANELLI: Oh, I'd have to
calculate that. I think I can do that from
the plan actually. I think I've got it in the
plan. Give me a moment. That is, sorry.
Quarter inch. It starts in three and a half,
almost four feet, and we've got 4.4. So I
think I'm just sneaking in there.

TAD HEUER: You're 7.6?

PAUL ROVIANELLI: Yeah.

ATTORNEY JAMES RAFFERTY: Seven and
a half.

PAUL ROVIANELLI: We can certainly

make sure that a, you know, we can make sure it sits within the zone. I'm looking at it now and it's about three-foot, eight in from the building wall. It about 3.4 from the line.

TAD HEUER: Four foot -- four inches or 4.4?

PAUL ROVIANELLI: 4.4.

TAD HEUER: Oh, okay. All right. Yes, just make sure that's not in the setback because otherwise your Special Permit --

PAUL ROVIANELLI: Yeah.

TIMOTHY HUGHES: And that wasn't one of the windows that was included in the Special Permit?

ATTORNEY JAMES RAFFERTY: Well....

TAD HEUER: I guess it could be.

ATTORNEY JAMES RAFFERTY: It could be. Sometimes you can --

TIMOTHY HUGHES: Sometimes it's all moot --

ATTORNEY JAMES RAFFERTY: It would. But I was thinking the same thing as we were discussing it. I said, well, we are moving some windows on that side.

PAUL ROVIANELLI: That's right. And that's why it's in the -- but it looks like it's within the -- it's beyond the setback line.

TAD HEUER: Okay. And I'm not clear from the, the new windows in the attic space, are those panels on the other side or are those single light windows?

PAUL ROVIANELLI: Those are single light windows.

TAD HEUER: Okay.
And is there a -- all right. I'm fine.

TIMOTHY HUGHES: That's it?
Doug, do you have any more questions?

TAD HEUER: No.

TIMOTHY HUGHES: Do you have any questions?

SLATER ANDERSON: No.

TIMOTHY HUGHES: Presentation is finished. I'm going to open it up for public testimony.

Is there anybody that wants to be heard on the matter at 208 Lakeview? Can you step forward and identify yourself for the record and spell your name for the stenographer.

JOELLEN FLYNN: Joellen Flynn, 216 Lakeview. J-o-e-l-l-e-n F-l-y-n-n. My husband and I live next-door at 216 Lakeview, and we're very much in support of the renovations. We did a similar renovation in 2009. We did a very similar change in the attic. We made it into a master bedroom and we're very much in support. That 210 was my husband's family for many years, and I know all the Flynns, and everyone is very much in support of -- and as I said earlier to them, if they find the money hidden, send it back our way.

Thank you.

TIMOTHY HUGHES: Anyone else who wants to be heard on this?

ROGER THEBERGE: I'm a neighbor at 209 Lakeview just across the street. Roger Theberge, T-h-e-b-e-r-g-e, and we're very supportive of John and Cindy's endeavor. And we ourselves have enjoyed the benefits of a Variance and the fruits thereof and we are supportive of their efforts to actually improve their property.

TIMOTHY HUGHES: Anyone else?

CAROL ALLFATHER: Carol Allfather, A-l-l-f-a-t-h-e-r. I'm at 205 Lakeview Avenue across the street. We just went through a very similar renovation without a variance. We didn't need one because we didn't change the footprint of the house. And we're very supportive of this. I think it will help the block and its renovation and its resurrection, and along with the street

plan that is coming, I think it will just improve the neighborhood and we're very happy that they're -- we hope they can go forward.

TIMOTHY HUGHES: Anyone else?

ROGER BOOTHE: My name is Roger Boothe and I live on the other side of the house, and my wife Claudia Thompson is here and we submitted a letter which I hope the Board has in the file.

TIMOTHY HUGHES: I have it.

ROGER BOOTHE: And we've outlined some points there if the Board decides in its wisdom to grant the Variance, we would like conditions to be attached. Would it be appropriate if I gave you a quick summary of those?

TIMOTHY HUGHES: You can give a quick summary.

ROGER BOOTHE: The first one has to do with --

TIMOTHY HUGHES: Let me ask you a

question. Have you had a discussion about these items on letter with the petitioners?

ROGER BOOTHE: We have discussed their plans. We gave them a copy of this letter a couple weeks ago. We haven't heard from them.

The first item has to do with not permitting a garage to be built here because by raising the roof and creating the dormer, it's going to densify the site here that will be offset of protection of open space.

Similarly, point No. 2 has to be limiting parking on the site as does generally speaking one space per dwelling unit is what we're looking at in the city.

And then the applicant has communicated with us a number of limitations they're willing to have in the construction process. Those are very important to us and we would like that to be part of the condition. And in terms of raising the roof, they've talked

about a process where they would go in, detach the roof, and raise it by cranking it up inside, and that's acceptable to us. And large cranes will be on our property would not be acceptable, as we've had some issues with work they've done so far.

TIMOTHY HUGHES: As far as the construction issues are concerned, that's not under the jurisdiction of the Zoning Ordinance so that's not something that I could, I could make a motion and put in the motion. That's something that you would have to work out with the petitioners on some other kind of side bar agreement. That stuff gets -- the Building Department.

SEAN O'GRADY: Yes, building inspectors.

TIMOTHY HUGHES: The building inspector would be the person to be called in to adjudicate any construction aspect of this. It's not something we can put in the

Variance as a condition. As far as the other things are concerned, the parking and the garage, I was a little unclear about the parking. Are you talking about parking during the construction phase or ongoing parking on this site? Or were you talking about both?

ROGER BOOTHE: We were talking about parking and all the other construction impacts during construction and then talking about the garage not being allowed as subsequent to that. Perhaps my wife Claudia Thompson would be allowed to speak about the issue of character of our neighborhood is greatly enhanced by the fact that many garages have been torn down. I mean, the Flynn sites have done that and we did that. And as a consequence, there's a really nice open space in the middle of the block.

CLAUDIA THOMPSON: May I?

TIMOTHY HUGHES: Identify yourself.

CLAUDIA THOMPSON: Sure. I'm Claudia Thompson, Thompson. And I live also at 204-206 Lakeview on the side where the dormer is being proposed. And we've lived in this neighborhood for 20 years, and I think we all care very much about the quality of the neighborhood and the open space. And it's been an interesting historical pattern here. Let's see. I'm going to be careful if this is north or south. This is the property under consideration. We live at this property right here. And in the 20 years that we've lived here what's been fantastic in the neighborhood is that all of these garages have come down. So there's -- when we moved in, our house and this house, this house, this house, this house, this house, this house, all had garages. So there was a very obstructed open, unopen space in the back. And what's been great is that as people have renovated their houses

and made these improvements, one by one we've taken them down. And I think what we're saying or asking the Board to consider as part of this Variance with the petition to add density and to allow folks to raise the third floor is that in exchange could we have a commitment from the petitioners to protect the open space and not rebuild garages?

Everybody who walks into the backyards here just says wow, what a fantastic space. And I think it's appropriate to look at the tradeoffs, in particular since as I understand it the reason Residence B Zoning was changed to change the amount of open space requirement was to exactly protect these types of conditions. So it's a tradeoff we would like them to consider on the petition.

I think on the parking issue we raised that because obviously as you said, Mr. Chair, you know, really our questions on three and four have to do with things that are

legally our rights as property owners anyway. Not to have our property run over, have our brick walks run over, things like that. But we're a little concerned only because we've had issues in the few months that construction has been taking place and we just want to be sure that those don't carry on going forward and the petitioners have given us a commitment to ensure that they work with their contractors to do that but we wanted that to be part of the record. But I think it's really, the protection of the open space, and which you can see the asphalt pattern here, it's just the houses are cheek to jowl, and it's pretty unpleasant with when you have five cars parking four feet from your bedroom window and views like that. And it's two parking spaces is standard for residents, we felt that was a reasonable request.

CONSTANTINE ALEXANDER: You want to hang on to that or do you want to pass it to

me?

PAUL ROVIANELLI: Here you go.

TIMOTHY HUGHES: Is there anyone else who wants to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: I am going to close public testimony.

I will note that in the files there are in addition to the three people that spoke in favor of this, there are eight other letters from people at 231 Lexington, 202 Lakeview, 210 Lakeview, Malcomb Peyton doesn't have an address. Thomas Chen doesn't have an address.

JOHN PAGE: They're on the bottom.

CONSTANTINE ALEXANDER: They're on the bottom of the letter.

TIMOTHY HUGHES: Oh, it's written in here. 197 Lakeview, 211 Lakeview, 214 Lakeview, 218 Lakeview, 227-229 Lexington, and 230 Lakeview Avenue, all are letters of

support.

The only letter that's not in support would be the one from the people you just heard over the garage and the parking issue.

Do you want to address this?

ATTORNEY JAMES RAFFERTY: Well, I would note that the letter isn't not in support. In fact, the letter is rather silent on the issue.

ROGER BOOTHE: Could you please speak up?

ATTORNEY JAMES RAFFERTY: I understand.

TIMOTHY HUGHES: Okay.

ATTORNEY JAMES RAFFERTY: Okay.

So there are a number of issues in the letter that suggest restraints or constraints upon certain aspects of the property that may or may not be permitted. Ms. Friedman and Mr. Page provided me with a list that they sent to the neighbors; Roger

Boothe and Claudia Thompson. And it was referred to by Ms. Thompson, no dumpster in the driveway, no port-a-potty in the driveway. No smoking on the property by the workers. And that was offered back in December.

TIMOTHY HUGHES: I think there's a copy of that here.

ATTORNEY JAMES RAFFERTY: It was offered as a neighborly gesture and a reasonable gesture and certainly the applicants want to and do enjoy a harmonious relationship with the neighbors.

I think the issue around the restriction on the garage, at the moment the lot exceeds the allowable open space. It has 50 percent open space. There's no proposal. Or as I understand it, no intention to construct a garage. But as we know, variances run with the land forever. I would say as a simple matter of land use law it is

an unusual restraint to be placed upon a dormer variance. I don't know that this site could accommodate a garage in terms of its impact upon open space. But the -- there's nothing in the site plan and there's nothing, there isn't an intention, so I would leave it to the Board as to whether they feel that's an appropriate restriction. As I said, the property owners don't have any intention, I believe, of constructing a garage. And beyond that, I am not sure what else -- the construction issues I think are typically dealt with differently than in the language of a Variance, but there is a pledge that you can see here to work cooperatively.

And then the limitation of parking on the site to one space per unit, again, as I look at -- as Mr. Rovianelli has done the existing open space calculations, it appears that there's excess of open space, so I don't know what the parking field would yield here.

In some cases there might be a two household car. There could be guests. There could be visitors. I would find that restriction also somewhat unusual given the nature of the relief that's being sought here.

I know Mr. O'Grady often comments about the enforceability of restrictions that are beyond conventional means of enforcement, so I think I would only say that the applicants are very mindful of Mr. Boothe and Ms. Thompson's concerns and want to address them and look forward to an enjoyable relationship once construction is concluded, but beyond that I don't know.

TIMOTHY HUGHES: Board members want to weigh in on how you feel?

DOUGLAS MYERS: Just a couple of questions.

TIMOTHY HUGHES: Go ahead.

DOUGLAS MYERS: With respect to the asphalt strip that which has been mentioned,

historically what use of that strip has been made -- I'm sorry, am I not -- I'll try to speak louder.

ATTORNEY JAMES RAFFERTY: It's depicted here in the plot plan.

DOUGLAS MYERS: Corrected. And my question, I understand, it was mentioned in the neighbor's letter as well. But historically what use of that strip has been made with respect to parking for the permanent occupants or residents of 208 Lakeview?

ATTORNEY JAMES RAFFERTY: I don't know. I mean, the abutter might have -- the abutter has a longer history so they might have a perspective, the abutters on either side. In fact, the prior owners live next-door so they probably know.

DOUGLAS MYERS: Is anyone in a position to say historically whether two, four cars, or some other number have been

parked?

ATTORNEY JAMES RAFFERTY:

Mrs. Flynn might be in a --

CLAUDIA THOMPSON: I would like to answer that if I could since we lived there for 20 years and we're the ones who are most impacted by that. There have never been a multitude of cars parked there. In general, the ethic in our neighborhood particularly as people have been taking the garages down, has been to park at the very front of the driveways and generally not have some space where most can fit two cars anyway. What has been a big change since they purchased the house and some of its construction, understood. But some of it may not be, has been many more vehicles coming and going and that's where the concern has been raised. It's just the character of the space between the dwellings and the open space in the back.

TAD HEUER: How long do you expect

the construction, this type of construction to last?

PAUL ROVIANELLI: I would think we're talking four months.

TAD HEUER: Okay.

UNIDENTIFIED FEMALE: Can I respond to the parking?

TIMOTHY HUGHES: No, it's not necessary. I've already closed public testimony anyway. I would like to you to say what you think about it.

DOUGLAS MYERS: I have more questions for the applicants.

TIMOTHY HUGHES: Yes.

DOUGLAS MYERS: Mr. Rafferty or any member of the applicants' group, is it possible that a reasonable, that a garage of reasonable dimensions on the future on this property could be built as of right?

ATTORNEY JAMES RAFFERTY: Well, that was my -- the constraint there would be

the open space impact. So if the driveway got extended, it would reduce the open space. The footprint of the garage would reduce the open space, so I don't know the answer to that question. I would say theoretically as one looks at the site today, there probably is an opportunity for a garage of some size given the fact that the open space requirements --

DOUGLAS MYERS: To be built as of right?

ATTORNEY JAMES RAFFERTY: I believe there would be room to build some type of a structure. Whether it could be a two-car garage, a one-car garage, an oversized shed, but it would appear there might be.

TAD HEUER: There's about 700 square feet available in your usable open space because you're at 50 and the minimum required is 40.

ATTORNEY JAMES RAFFERTY: 40, right.

TAD HEUER: And you're allowed 7300 so that would give you 730 square feet of usable open space that could be devoted to an accessory structure that didn't count towards FAR.

ATTORNEY JAMES RAFFERTY: Right. And for that to qualify it would then have to be ten feet from the principle structure. I don't know -- and as you extend the driveway, if one were to do that, you would then lose the open space and the footprint. So I suspect one can get there, Mr. Myers, would be my assessment.

PAUL ROVIANELLI: And I think as the architect, I could say that the reason I can't answer your question is because I've been asked to do what the clients asked me. No one's ever asked me about a garage so no study was put into it.

TIMOTHY HUGHES: Questions?

THOMAS SCOTT: There's two sets of

plans, one that says that you're going to shingle. The other has --

PAUL ROVIANELLI: Yeah, we -- the clients in studying this, I originally had shown --

THOMAS SCOTT: Vertical siding?

PAUL ROVIANELLI: Yeah, I showed the vertical siding. They asked that we just go back to the --

THOMAS SCOTT: The shingles?

PAUL ROVIANELLI: Yes.

THOMAS SCOTT: Okay. So that's this set of plans.

ATTORNEY JAMES RAFFERTY: It's the more recent ones that also show the --

PAUL ROVIANELLI: When we dropped it, I realized we missed the --

TIMOTHY HUGHES: In this letter.

ATTORNEY JAMES RAFFERTY: This is that transmittal.

SLATER ANDERSON: I'll put a

Post-it.

PAUL ROVIANELLI: And that change was described to me as well.

TIMOTHY HUGHES: Slater, any comments?

SLATER ANDERSON: Well, obviously we're primarily focussed, I think, as far as the dormers go, the dormer goes and the other Special Permit, I think you've been consistent with the guidelines. What you're asking for isn't excessive. Obviously we have a neighbor who has concerns. I think the construction-related concerns are an interim issue that are dealt with the Building Department.

The issue of the garage and the parking, my trouble is a little bit -- I understand the concern, but it's -- to me they're not related to the dormer. They are conditions they would like to have included in this, but they really have no correlation, in my view,

to the dormer. The dormer you're asking for relief for beyond what is permitted. You have met guidelines. We have guidelines in place for this type of reason and it's not unusual in the neighborhood. So I'm not inclined to agree with conditioning the dormers on garage or parking requirement, because I don't think they're related. That's my view.

TIMOTHY HUGHES: Anything else to add?

THOMAS SCOTT: I agree. I would not condition the approval on the issue of the garage or the parking. I think what's before us is the FAR, the dormer, the windows in the setback. Those are the issues we should address.

TIMOTHY HUGHES: Tad, comments?

TAD HEUER: So I agree on that point. I do think that we have the authority to, and I think given the deference, given to Boards

of Zoning Appeal it's not something that is per se outside our authority to grant. I'm not convinced that it's applicable in this case for the reasons that have been stated by other members of the Board. I would point out that if we wanted to do it, I think we could make it a special -- we could probably condition the Variance and creating a Special Permit for any future garage. I don't think it would need to be a deed restriction prohibiting it, but, you know, I don't think we need to reach that here.

Mr. Rafferty, could you explain the -- I know in the application petition it says: The hardship is the size of the lot and the layout of the structure.

The size of the lot, if I am reading this correctly, is 48 by 153 which is a significantly sized and appropriately not undersized lot. Certainly it's a bit narrower than the 50 foot, but when we're

talking about FAR and we're not building in a setback, that doesn't necessarily -- and we're going up rather than out, the footprint is staying the same, it doesn't necessarily suggest the hardship on lot size. Could you just walk through the --

ATTORNEY JAMES RAFFERTY: Sure. My reference to the lot did have to do with its narrowness, certainly not its area.

TAD HEUER: Okay.

ATTORNEY JAMES RAFFERTY: And the narrowness of the lot leads to the footprint of the house. And as Mr. Rovianelli noted, the pitch of this garage is such that the, it's --

TAD HEUER: The dormer?

ATTORNEY JAMES RAFFERTY: -- the roof of the house is such that the five foot measurement. So there's GFA up there that really is unusable because getting up there is not easily achieved. And then

you've -- but there's I think a few hundred square feet up there.

PAUL ROVIANELLI: 450.

ATTORNEY JAMES RAFFERTY: That get counted, but have no functional use if you can't get air and light up there. So that's the reference to the structure itself.

TAD HEUER: What's the access up right now?

PAUL ROVIANELLI: It's a regular stair.

ATTORNEY JAMES RAFFERTY: But it's not a code compliant.

PAUL ROVIANELLI: No, but it's an existing usable stair.

ATTORNEY JAMES RAFFERTY: Yes, right.

PAUL ROVIANELLI: Correct.

TAD HEUER: Correct. It's non-code compliant.

PAUL ROVIANELLI: What's really

long with it is the head height. And we will be solving that. I've set it so that -- that was part of what we figured out how high to propose was enough to give us enough to give us headroom height above that.

TAD HEUER: Without having to dormer over your stairwell?

PAUL ROVIANELLI: Correct.

ATTORNEY JAMES RAFFERTY: Exactly.

PAUL ROVIANELLI: Exactly right. Especially since we're on the non-conforming side on that stairwell.

TAD HEUER: All right, thanks.

TIMOTHY HUGHES: Any other comments from the Board?

DOUGLAS MYERS: Well, I'll just say that I basically concur with the comments expressed by other members of the Board in terms of the specific conditions that were requested. I think if there's a reasonable likelihood that a garage could be built as of

right in the future, I think it would be significantly burdening the applicant's rights and interests in this property to attach that sort of a limitation in a case like this where it's more or less extraneous than what is requested.

And with regard to the parking I see no reason for the Board to intervene based on anything that I've heard tonight. So I think the application in and of itself with respect to the relief being requested is adequately based and I would support it.

TIMOTHY HUGHES: I'd like to echo what Doug has said, and in addition to that, the idea that it would be a burden if you could build it as of right and if it turns out that you can't build it as of right, that there would be a process in place for a Special Permit or a Variance for you to come back in front of the Board. It leaves enough leeway there so that we don't have to condition the

motion on there not being a garage built. And I certainly wouldn't go as far as the idea of a deed restriction. So I'm willing to make a motion now. We all set?

TAD HEUER: I will say one thing.

TIMOTHY HUGHES: Okay.

TAD HEUER: That all having been said, certainly they're your neighbors. We would hope that even though we're not imposing conditions, you are the ones who have to live less than 10 feet from them for the foreseeable future, that you would engage in conversations and make sure that the construction process is as minimally intrusive as is possible. And I trust that, you know, the letter sets that out and you will do your utmost to make sure that that happens. I think it's probably in your interest and in their interest and certainly the fact that we're not conditioning anything expressly it doesn't suggest that we don't

wish that doesn't happen.

MR. PAGE: That's why we made the offer, yeah.

TIMOTHY HUGHES: This will be done in two motions, one for the Variance and then the second motion for the Special Permit for the relocation of windows.

There are no questions about that? All right.

The Chair would move that a Variance be granted to raise the roof and construct the dormer on a pre-existing non-conforming two-family dwelling at 208-210 Lakeview.

The Chair finds that a literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

A literal enforcement of the Ordinance would prohibit the petitioner from being able to utilize a third floor of the building as

living space.

The hardship is owing to the circumstances relating to soil conditions, shape, or topography of the land or the structures. Specifically the hardship going to the placement of the structure on the lot which puts it in violation of a setback on its right side; and the age and design of the structure, which has virtually unusable third floor space that, however, is counted as FAR.

And desirable relief may be granted without substantial detriment to the public good.

The proposed dormer complies with the dormer guidelines and similar to other dormers in the neighborhood, and it will not nullify or substantially derogate from the intent or purpose of the Ordinance.

The proposed relief will not change any of the character or nature of the intensity

of the use of this two-family dwelling and is in keeping with the neighborhood space and doesn't reduce any usable open space on the lot.

All those in favor of the granting the Variance?

(Show of hands.)

TIMOTHY HUGHES: The Variance is granted. Five in favor on the condition that the work be done in accordance with the plans as submitted most recent and initialed by the Chair and dated.

(Hughes, Heuer, Scott, Anderson, Myers.)

TAD HEUER: And the two pages that you submitted, are those the only ones with relevance?

PAUL ROVIANELLI: Yes.

TIMOTHY HUGHES: And then the other plans were relevant.

As far as the Special Permit, the Chair

would move that a Special Permit for the relocation of windows be granted.

The requirements of the Ordinance can or will be met for the following reasons:

Article 8.22.2c permits the relocation of windows on non-conforming walls when as in this case, there are no further violations to the dimensional requirements.

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

The continued operation of the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

Adjacent uses will not be affected since the use of the property as a two-family dwelling will not change.

No nuisance or hazard would be created

to the detriment, of the health, safety, and welfare of the occupants of the proposed use or the citizens of the city for the following reasons:

Adding windows is a benefit and health, safety, and welfare to the occupants of this dwelling.

The proposed windows will not change the use of the property and are consistent with residential uses in the district.

All those of granting the Special Permit?

SEAN O'GRADY: Hold on.

TIMOTHY HUGHES: One more?

SEAN O'GRADY: There is one sentence in there that you'll want to catch.

TIMOTHY HUGHES: Such a permit shall be granted only if the permit granting authority specified below finds that such change, extension, or alteration will not be substantially more detrimental to the

neighborhood than the existing non-conforming use.

TAD HEUER: And the Board so finds that it is.

All right, can we also add that the petitioner notes that the neighbor most affected by this has spoken in favor of the petitioner and does not have a problem with it.

TIMOTHY HUGHES: So added.

All those in favor of the Special Permit.

(Show of hands).

ATTORNEY JAMES RAFFERTY: We don't have a non-conforming use here so I never thought that section applied.

TAD HEUER: 8.22.2c?

ATTORNEY JAMES RAFFERTY: It relates to non-conforming uses. We've got a non-conforming structure, not a non-conforming use.

TAD HEUER: Speak with
Mr. Alexander.

ATTORNEY JAMES RAFFERTY: I'm happy
to.

TIMOTHY HUGHES: You can have this
discussion for some future date so we can
continue.

(Hughes, Heuer, Scott, Anderson, Myers.)

(8:40 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Acting Chair has returned to the Acting Chair and will call case No. 10204, 50-54 Essex Street. Is there anyone here wishing to be heard in this matter?

Please come forward give your name and address to the stenographer.

JAMES KOLOSKI: James Koloski, K-o-l-o-s-k-i, 530 South Main Street, Woonsocket, Rhode Island.

CONSTANTINE ALEXANDER: You came all the way from Woonsocket?

JAMES KOLOSKI: Yes.

JED LIPPARD: Jed Lippard, J-e-d. Last name is Lippard, L-i-p-p-a-r-d. I worked at 50 Essex Street in Cambridge.

ANJA BRESLER: Anja Bresler,

A-n-j-a B-r-e-s-l-e-r. I also work at 50 Essex Street.

JED LIPPARD: We'll be brief.

CONSTANTINE ALEXANDER: Good.

JED LIPPARD: Yes. So my name is Jed Lippard, I'm the head of school at Prospect Hill Academy. We're a K through 12 public charter school serving 1131 students and three campuses in two cities; Cambridge and Somerville. Over the course of effectively two years, 2009 to 2011 we engaged in significant renovation to the property at 54 Essex which used to be Saint Mary's High School. And the rest is going to be the renovation to 50 Essex, Saint Mary's grammar school. We've been occupants of the buildings since 2002. And most of the work happened, that happened has completed. The last phase of the project was really to add signage to the exterior of both buildings. And the reason for this is two-fold:

We want to identify who we are so that it's recognizable within the neighborhood, to visitors, to our families, to students.

And secondly, as we're looking for some aesthetic coherence among our three campuses. So we've been working with James and an architectural firm to design. We've already installed the signage at both of our other buildings in Somerville, and we're simply here to ask for your permission to implement the same.

CONSTANTINE ALEXANDER: The specific Zoning issues are the sign, just so we get it on the record, each of the signs is bigger than what is permissible under our Zoning By-Law because they're I think they're no more than 10 square feet and they're going to be 12.

JAMES KOLOSKI: Correct, yes. Each of the signs -- there are six signs total.

CONSTANTINE ALEXANDER: Plus the

total amount of signage is 72 feet.

JAMES KOLOSKI: 72 feet total.

CONSTANTINE ALEXANDER: And you are than permitted.

JAMES KOLOSKI: Correct.

TAD HEUER: And the total number of signs.

CONSTANTINE ALEXANDER: Total number of signs.

JAMES KOLOSKI: Total number of signs.

CONSTANTINE ALEXANDER: One other question. You can't have a sign higher without relief from our Board, higher than 20 feet. Are any of these signs going to be higher than --

JAMES KOLOSKI: No, sir. They're all going to be installed below 20 feet.

CONSTANTINE ALEXANDER: And if we were to grant relief, we're going to tie it to the photo simulations that have been

submitted. Which means you can't put the signs on a different place on the building.

JAMES KOLOSKI: Correct, correct, yes.

CONSTANTINE ALEXANDER: You understand that. It's got to be where you're showing on those photos --

JAMES KOLOSKI: The location and the documentation that we submitted is in fact where they will be.

CONSTANTINE ALEXANDER: Good, okay. I just want to make sure we're clear on that.

JAMES KOLOSKI: Yes. And there are existing signs. The one thing that was with the other packet we submitted didn't show was there are two existing billboard signs that will be removed. So there be no -- this is not in addition to the existing signage there. It's to replace the existing signage there.

CONSTANTINE ALEXANDER: I think if

we were to grant relief, we would condition on the basis that you would remove those two billboards.

JAMES KOLOSKI: Absolutely.

CONSTANTINE ALEXANDER: That wouldn't be an issue; right?

JAMES KOLOSKI: Nope.

TAD HEUER: And these are not blade signs; right?

JAMES KOLOSKI: No, they're not. This is -- this in fact -- this is one of the buildings in Somerville. This is the exact.

ANJA BRESLER: These are blades --

TAD HEUER: Those are both?

ANJA BRESLER: Yeah.

JAMES KOLOSKI: That's the exact sign that we're proposing for 50 and 54 Essex. And it's shown in the drawing, the fabrication drawing.

SLATER ANDERSON: And it's aluminum on an iron frame?

JAMES KOLOSKI: Correct, yeah, it's an iron frame that's mounted.

THOMAS SCOTT: And it's mounted flat?

JAMES KOLOSKI: Yeah, yeah.

THOMAS SCOTT: Oh, okay.

JAMES KOLOSKI: It extends I think two inches from the --

THOMAS SCOTT: I see that.

TAD HEUER: And do you have a schematic showing the placement of the signs on an overhead?

JAMES KOLOSKI: Yes.

CONSTANTINE ALEXANDER: We have that, don't we?

JAMES KOLOSKI: It was in the packet. It's right here.

TAD HEUER: Right. So you have six signs?

CONSTANTINE ALEXANDER: Four on one street and two on the other street; correct?

JAMES KOLOSKI: Correct. They're four on Essex and there are two --

ANJA BRESLER: No, actually, there are three on Essex. One on the parking lot --

JAMES KOLOSKI: I'm sorry.

ANJA BRESLER: -- and then two on Harvard.

TAD HEUER: Right, that's what I'm having a bit --

JAMES KOLOSKI: And then one in the back parking lot.

ANJA BRESLER: Yeah, I can show you here --

TAD HEUER: I'm looking for six signs on something that I have in front of me.

ANJA BRESLER: Okay.

SLATER ANDERSON: This shows five signs.

TAD HEUER: One, two, three, four, five.

JAMES KOLOSKI: There's one more page. Right there. That's the back side of 50, the parking lot.

TAD HEUER: That's what was written, that's why I want to know where's the sixth sign.

ANJA BRESLER: It's in the parking lot.

JAMES KOLOSKI: It's in the parking lot.

CONSTANTINE ALEXANDER: I knew there was another page.

ANJA BRESLER: There it is.

TIMOTHY HUGHES: And is that visible from Norfolk Street?

JED LIPPARD: Yes.

TAD HEUER: And what's the purpose of the sign in the parking lot?

ANJA BRESLER: A lot of our guests enter the building through the parking lot.

JED LIPPARD: That's actually the

main point of entry is from Norfolk Street.

ANJA BRESLER: A lot of the parents dropping off or as guests that come through to the school.

TAD HEUER: But once you've made the effort to get into that parking lot, don't you know the school's there?

JAMES KOLOSKI: It's somewhat difficult to find the -- that sign will direct you towards the entrance. There's a courtyard between.

JED LIPPARD: There's also a church within the -- it shares the same lot so it's a way to define which building is ours.

TAD HEUER: You think the people will confuse your building with the church that's been there since 18 whatever?

JAMES KOLOSKI: No. And there's an existing billboard sign there right now.

TAD HEUER: Okay.

ANJA BRESLER: People drive down

Norfolk Street they would not actually have seen any of the other signs. So while they are slowly looking for a parking lot, they will see that, you know, that's the building that they are actually looking for.

TIMOTHY HUGHES: The parking lot is distinct to the parking lot in front of the parking building?

ANJA BRESLER: Yes.

SLATER ANDERSON: Those all one way streets --

JAMES KOLOSKI: Yes.

SLATER ANDERSON: -- Essex and Norfolk?

JAMES KOLOSKI: Yes.

THOMAS SCOTT: So these two signs flank this one and this one, flank this courtyard; right?

JAMES KOLOSKI: Correct, yes.

THOMAS SCOTT: So there's like a courtyard created between the two buildings

and there's a sign --

JAMES KOLOSKI: This courtyard right here.

THOMAS SCOTT: Yes. There's one here and there's another one here. Does the entrance to the building is here; right?

ANJA BRESLER: The entrance is opposite of each other facing each other.

THOMAS SCOTT: Right.

ANJA BRESLER: In that courtyard.

THOMAS SCOTT: In the courtyard. That's kind of a significant entrance to the facility.

ANJA BRESLER: Yes.

TAD HEUER: I'd appreciate a little more clarity on --

CONSTANTINE ALEXANDER: You think this is a telecom case?

TAD HEUER: What's that?

CONSTANTINE ALEXANDER: Do you think this is a telecom case?

TAD HEUER: Kind of.

And do you have a sample of the material?

JAMES KOLOSKI: Yes. That's the finished color on that.

TAD HEUER: And that's a -- the white, is it? A spray?

JAMES KOLOSKI: Actually the aluminum itself is white.

TAD HEUER: Okay.

JAMES KOLOSKI: And on the face of the sign what we do is we mask it with tape, spray the blue and then build the --

CONSTANTINE ALEXANDER: Is there any potential of glare if sunlight hits it directly in the neighborhood?

JAMES KOLOSKI: You know, I think if it hits it directly in the middle of the day, sure.

CONSTANTINE ALEXANDER: You're not going to blind people across the street?

JAMES KOLOSKI: No, no. It's a fairly mat finish.

TAD HEUER: My main concern was that it be mat and not something that was bright and glossy.

JAMES KOLOSKI: Yes.

TAD HEUER: That reduces visibility and also looks rather inexpensive.

JAMES KOLOSKI: Yeah, and it doesn't wear and last as well either. This is basically it's a -- it's a three-coat enamel automotive paint for lack of a better term.

TAD HEUER: Right.

JAMES KOLOSKI: These are meant to stay and keep their color and consistency for 15, 20 years.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: Any further questions at this point from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I see none.

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

Sir, please come forward and give your name and address.

JONATHAN KING: My name is Jonathan King. I live just right down the block at 40 Essex Street with my family. I'd like to make four points to the Board.

In general public schools in Cambridge have a single sign. They don't have multiple signs. And in that neighborhood right across the street is the senior citizens housing, one small sign. Across the street, kitty-corner, youth area youth center, one sign. Episcopal church, one sign. Saint Patrick's, one sign.

These schools by these buildings are the two bulkiest buildings in the area. Most of the kids coming to school, teachers coming to school, parents can find it. I'm sure the

school has the address and it's in direct communication to all members of the community who need to find it. You can find the address on their website, the location in the telephone book.

In essence the petitioners are asking to establish advertising in the area. That's what these signs are for. They're to advertise the schools to people who are not there. Certainly the students and the teachers and the parents know that those buildings are schools. It's a residential area. We already have to deal with the kids, you know, going up and down the street, though we're happy to deal with that, but we think that advertising, this kind of advertising should not be allowed in this, you know, dense residential area.

CONSTANTINE ALEXANDER: And it's fair to say you would be supportive of a smaller number of signs?

JONATHAN KING: There's already signs there that are perfectly reasonable. I walk by there everyday, perfectly happy that each building have one small sign.

CONSTANTINE ALEXANDER: Thank you. You can come forward. I recognize the person behind you, but that's okay. You'll both have time to speak.

ANN WORDEN: I'm Ann Worden, W-o-r-d-e-n and I live in Lamson Place which is right next-door to the school. And Jonathan apparently sees it as an advertisement. I just want to know why five signs? It's puzzling to me. I don't have a real strong opinion one way or the other but I would like to understand why? That would be what I would say.

CONSTANTINE ALEXANDER: Thank you. We'll have an answer -- I'll ask for an answer to your question. We'll do that when they present. These folks will have a chance to

speaking again. We're not ignoring your question.

Yes, please.

MARY ANDERSON: I'm Mary Anderson and I live at One Lamson Place. So I'm right next to the school. And I noticed -- I did come to Zoning to review their plans. And I noticed that a lot of the signs were not included on the original plans, and I just took some pictures that I could submit to the Board just because -- they're -- there's a stone sign right on Essex Street that identifies the school. And then let's see --

CONSTANTINE ALEXANDER: These are signs that they're proposing to remove?

MARY ANDERSON: No, these are the -- well, these are the pre-existing signs that I took pictures of because --

CONSTANTINE ALEXANDER: Right.

MARY ANDERSON: The stone sign and

then there's a chimney on the plans but it doesn't have this big huge sign that's on the chimney which I took a picture of. Yes, that's the distance picture and I took a close up. That's a sign of (inaudible) the school. That was put there maybe a year ago. And this is just -- let's see, I have to say this is Essex Street and then this is courtyard. So there's a sign here on Essex and there's a sign here. And then across courtyard there's another sign, too, which I didn't take a picture of. Which I just didn't notice any of those on the original plans that's why I took pictures.

SLATER ANDERSON: Are these coming down?

JAMES KOLOSKI: Correct. Those are coming down. The stone sign I don't --

CONSTANTINE ALEXANDER: You're not going to take that down.

JED LIPPARD: It's a granite wall.

ANJA BRESLER: And the sign on the chimney is actually student artwork that went up a few months ago. It was a student project. And so I don't know what the longevity (sic) of that particular sign is, but it was a student project.

JED LIPPARD: And I also reside -- I actually (inaudible) ignorance here, but I reside within the parish property and the approval process was through the parish priest for that. I don't know if it qualifies or if it's part of it. It's part of their private property inside the parking lot.

CONSTANTINE ALEXANDER: What about the two billboard signs that you said you're going to remove as part of --

JED LIPPARD: Those are coming down.

CONSTANTINE ALEXANDER: No, no.
Are these on the --

JED LIPPARD: I think the neighbor

just showed you where they are.

SLATER ANDERSON: These two.

CONSTANTINE ALEXANDER: These two?

JED LIPPARD: Correct.

MARY ANDERSON: And we're also concerned for how many different signs. There are adjacent youth center buildings or the JFK apartment buildings that each only have one sign so we're just wondering about the advertising.

CONSTANTINE ALEXANDER: Thank you. Before I recognize you, why don't we respond to the question why six signs?

JED LIPPARD: Anja worked with the architect as part of the design scheme. I would defer to her for that.

ANJA BRESLER: Yes, so essentially we wanted to create some unity among the three buildings, and the Somerville buildings that are significantly smaller than either one of these buildings each have four signs. And so

we wanted to create something that, you know, was sort of coherent across the buildings. We also looked at the, you know, sort of the way where the buildings are located and different entry points of how you could get to the building and we wanted to cover sort of direction of where you could come from. And wanted to make sure that the buildings were visible, or that the signs were visible, whether you came from Essex, from Harvard, from Norfolk. Yeah, there's a lot of traffic that we get through the park actually by the parking lot of the church. So there's one sign that's -- this sign right here which is the -- this here. You can't really see it, but --

CONSTANTINE ALEXANDER: That kind of traffic you get, that's the traffic of parents bringing children to the school presumably. They don't need a sign as someone pointed out.

JED LIPPARD: However, we are a school that's -- I mean, in fairness we have -- we've been at this campus since 2002 and there are many times where perspective families who come to open houses prior to putting up the signs that we will be removing have no idea. It's our responsibility to mark the buildings, we feel, so that people can know where they're going.

ANJA BRESLER: And we do work with partnerships, you know, we have a lot of partnerships in Cambridge. We do work with other people. I'm the one who spends a lot of time on the phone trying to explain to people how to get to the buildings and --

JED LIPPARD: College visitors.

ANJA BRESLER: Yeah.

JED LIPPARD: We have visitors frequently who haven't been to our building before. It's simply a way to mark the building.

TAD HEUER: I'm going to push back the end just on that point, isn't that true about being in a residential district, the zoning district has one sign for residential, for a non-residential building in a residential district or a residential building in a residential district for that matter. You know, isn't everyone kind of at the same disadvantage or advantage because the City Council has said fewer signs in a residential district, try a bit harder to figure out what's there; right?

JED LIPPARD: Right, point. Again, this is not my turf. I don't know the history of the logic behind the number of signs.

JAMES KOLOSKI: We've actually looked at this for excess of a year now and tried to come up with a number of different then scenarios that were -- tried to maintain the identity of the facilities without disrupting the neighborhood or being garish

or overburdensome. And frankly this was the best iteration that we could come up with that also gave you an accurate representation of our campus as well as the ability to find your way in and around there and let people get to where they're going.

CONSTANTINE ALEXANDER: There was someone who wished to speak. Maybe more than one person. Ma'am, yes, you're next.

JACKIE KING: My name is Jackie King. I live at 40 Essex Street and we've lived there -- we've lived in Cambridge for 25 years and raised our children here. We've been very active in the schools and in matters in Cambridge. And it's -- I just like to repeat the point that was made earlier, that other public schools, I mean public schools, don't seem to find it necessary to have lots and lots of signs. The school our kids went to had one sign that was just kind of part of the building. And I think that, you know, I

don't see that there's any really more problem finding this place than there are most of the public schools in Cambridge. And so, it is a neighborhood that now is having, you know, a lot of institutions and a lot of signs would make it feel more like the neighborhood was being commercialized and I think it would impinge on the residential character of the neighborhood.

CONSTANTINE ALEXANDER: I think just let me challenge that a little bit. I mean why, the building is going to still be there, you're talking about -- I'm playing the devil's advocate, I'm not suggesting that's how this is going to come out. You're talking about six relatively small signs, non-illuminated. Why these signs are going to change the residential nature of the neighborhood.

JACKIE KING: Well, I don't think they're gonna be that modest or I mean, it

seems to me that's gonna be having six signs is kind of striking. It's different from all the other public institutions right around there.

CONSTANTINE ALEXANDER: True. It doesn't necessarily mean it's wrong. It's another approach to how you identify your building in a neighborhood. All right, I don't want to debate.

JONATHAN KING: I believe that all across the United States in urban communities signage is considered a sign of commercial activity. Very strictly limited in Lexington and Concord, in the Mid-Cambridge, you know, historic district. And those of us at Cambridge Rindge and Latin made the same argument that the 500 new families that come every year need to know exactly where the building is. We used to have a much bigger sign on Broadway; right? It never even got to the Zoning Board. We were told the

neighbors, the abutters; right, will absolutely oppose this on solid ground as a residential district. Right? So my understanding is that that's deeply engrained in the description of the difference between the residential district and a business district and commercial district.

CONSTANTINE ALEXANDER: Someone else wished to speak.

Ma'am, yes.

CYNTHIA FRUDE: My name is Cynthia Frude, F-r-u-d-e. I live at 42 Essex Street. I agree with what's been said here. Six is far too many. And the one thing I do say is I think it's very tasteful sign. The one that's in the granite is very nice and people can see that and that to me it says an awful lot about your school. But to see six other signs and I never really heard that closely how big these signs are gonna be.

JAMES KOLOSKI: They're 18 inches wide by eight feet high.

CONSTANTINE ALEXANDER: 12 square feet.

CYNTHIA FRUDE: Eight feet high. My God.

CONSTANTINE ALEXANDER: Eight feet high. One and a half feet wide.

CYNTHIA FRUDE: My God. I just....

TIMOTHY HUGHES: Do you want to see the pictures?

CYNTHIA FRUDE: This neighborhood --

CONSTANTINE ALEXANDER: Have you seen the photo simulations?

CYNTHIA FRUDE: No, we haven't.

CONSTANTINE ALEXANDER: You might want to take a look at them.

CYNTHIA FRUDE: So all six are going to be eight feet?

CONSTANTINE ALEXANDER: They're all

the same size. Each sign is the same size. They're 12 square feet.

CYNTHIA FRUDE: So this little sign right next to the door, is that going to be taken down because that's a sign that says 50 Essex I believe?

ANJA BRESLER: It's going to be changed. That was a temporary sign.

CYNTHIA FRUDE: Yes.

ANJA BRESLER: But there's going to be an address -- an identifier because right now that's the only sign that identifies the address.

CYNTHIA FRUDE: 50. But could it be maybe, again, I think it looks very nice. I don't see what's so funny. I think -- I don't see that whatever you put in the granite above the door 50 would be very nice rather than something that's on the building.

ANJA BRESLER: Again, one of the reasons why we did design these signs is

because we wanted to have all campuses. We do have three campuses and two of them are in Somerville. And they're three very different buildings.

CYNTHIA FRUDE: Yes.

ANJA BRESLER: We worked over a year with the architects to find a design that was suitable for all three buildings. And that's the solution that the architects, you know, came up with.

One of the things that I do want to point out that there's two buildings. I mean, you know, you keep on talking about six signs on one. There are two very large buildings.

CYNTHIA FRUDE: Yes.

ANJA BRESLER: I mean, the width of just 54 is 108 feet. So you're talking about the width. They're 18 inches over 100.

CYNTHIA FRUDE: But eight?

TIMOTHY HUGHES: Eight feet tall seems like a lot, but it's really the size of

the windows that they're right next to. So that doesn't bother me so much.

The numbers -- I have to agree to a certain extent with Jonathan, I don't call it advertising, but I do think there's a branding going on here. And especially since you've admitted you're trying to tie together all the campuses, something that's happened in Somerville and you want it to happen again here. I see it as a branding thing rather than just trying to identify these buildings. And I think six is too many.

CONSTANTINE ALEXANDER: Let's get more public testimony. People who haven't spoken. Sir, you haven't spoken.

WARREN BROWN: Warren Brown. I live at 5 Lamson Place, unit 2. So it's sort of a question. I'm a layperson. Given the current parking lot lighting and shields on the ground is there any guarantee that

there's not going to be upward or bright lights on the signs at night and that's the last thing, is more lights coming in?

The current lighting is unshielded and my concern, my question is is there any guarantee that there will be no upward or bright lights on the signs?

CONSTANTINE ALEXANDER: If they wanted to put bright lights on the sign, they have to come back and seek additional relief.

WARREN BROWN: That's not part of this?

CONSTANTINE ALEXANDER: They have to illuminate the sign by virtue of the spotlights. I would take -- I would be of the view -- it's up to Sean -- but I would be of the view that would change what is being proposed significantly and therefore needs further relief.

JAMES KOLOSKI: I agree. We have no intention of illuminating them.

CONSTANTINE ALEXANDER: We can also condition it.

TAD HEUER: We can externally illuminate by right. One can.

SEAN O'GRADY: I suppose if they came in and gooseneck lamped it I could probably say that that deviates from the plan, but if they just stuck a spot on the ground that happened to light the side of the building, I don't think I can stop that. But we have light, illumination laws that might help.

JAMES KOLOSKI: There's no intent or plan to illuminate these signs.

ANJA BRESLER: The light currently in the parking lot is directed at the parking lot for safety reasons.

WARREN BROWN: I understand. It shines in my second bedroom as it does on the ground, it's not shielded.

CONSTANTINE ALEXANDER: Did someone

else want to speak that hasn't spoken before?
I guess not.

I'm sorry, have you finished with your
comments, sir?

WARREN BROWN: Yes.

CONSTANTINE ALEXANDER: Is there
anyone else who wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: The Chair
notes that no one else wishes to be heard. As
I recall, there's nothing in the file, any
letters one way or another. So I think we can
close public testimony but you have a chance
to make a final statement. Maybe you want to
specifically address some of the concerns
you've heard. Namely, why six signs? Is
this part of a branding effort? You've
already addressed the fact that you have no
intention of trying to illuminate -- in the
future illuminate these signs by some form of
something shining on the signs, but if you

would speak to some of these issues.

JAMES KOLOSKI: Sure. Again, I think that we -- we've tried to be as sensitive as possible to the neighborhood in the design of these. And the while it does represent the school's name and logo, it also provides way finding for visitors that are coming in the campus. And I think it -- the intent really wasn't to advertise the fact that this will exist. It was more to help people to get their way around.

CONSTANTINE ALEXANDER: Did you ever, before the hearing tonight, ever reach out to the neighbors and have a neighborhood meeting?

JAMES KOLOSKI: Personally no, I have not.

CONSTANTINE ALEXANDER: To deal with some of the issues that were raised tonight? People apparently have not even seen the location of the signs until this

hearing tonight.

JED LIPPARD: We didn't specifically, around the signage, didn't actually realize it was -- but we, neighbors who I recognize here come to our school for open house events and toured the new facility since we've renovated. It's a fair question. We did not hold a meeting per se about signage.

CONSTANTINE ALEXANDER: How amendable are you to having less than six signs? If you can't answer it tonight, we would have to continue the case if you don't have an answer tonight or you come up with new plans which you can show the neighbors. But that's something that's obviously troubling at least for one member of the Board and I suspect more than one member. You need four out of five votes to get relief from us tonight or any time.

JED LIPPARD: How amenable are we?

I mean --

CONSTANTINE ALEXANDER: You can go forward with what you have right here and it goes up or down. Or you can try you have a better chance of up by sitting down with the neighbors and coming up with an alternative design scheme.

JAMES KOLOSKI: I'd be interested to hear the Board's comments as well.

CONSTANTINE ALEXANDER: Sure.

SLATER ANDERSON: How much are we exceeding, what's a lot?

TIMOTHY HUGHES: A lot.

TAD HEUER: Well, you're exceeding --

SLATER ANDERSON: It's one lot, is that what it is?

CONSTANTINE ALEXANDER: You can only have one sign -- under the Zoning Law, one sign on the lot. They have six.

SLATER ANDERSON: This is one lot?

JAMES KOLOSKI: Two.

TAD HEUER: Two?

JED LIPPARD: The city considers it two different properties.

TAD HEUER: Well, no, considers it two different numbered properties, but considers it one parcel for Zoning purposes.

CONSTANTINE ALEXANDER: Yes, right, you were turned by Community Services to have only one sign on the lot.

JED LIPPARD: I actually don't know.

TAD HEUER: That's got to be right. This is the former church school buildings; right?

JED LIPPARD: Correct.

SLATER ANDERSON: It's one property.

CONSTANTINE ALEXANDER: One sign. The sign can't be any bigger than 10 feet, it's going to be 12 square feet.

TAD HEUER: They're appraised

separately --

CONSTANTINE ALEXANDER: Let me finish with Slater.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: And 72 square feet which is a total square footage is more than what is permitted.

SLATER ANDERSON: Right. That was the threshold. Thank you.

TAD HEUER: And there's one sign there already which is the stone sign. It's counted as a sign but is not being removed.

CONSTANTINE ALEXANDER: That's not going to be removed; that's correct.

TAD HEUER: So you already are good with your one.

TIMOTHY HUGHES: That doesn't count as furniture?

TAD HEUER: No.

TIMOTHY HUGHES: I see kids sitting on it all the time.

JAMES KOLOSKI: Do you consider that a sign?

TAD HEUER: I would. I would imagine Community Development would. We had to approve on Lesley Doble Campus's addition to their pillar as a sign.

CONSTANTINE ALEXANDER: I would agree.

TAD HEUER: I would view it would be unless Community Development were to say otherwise. It looks like this is a single parcel. If it's not a single parcel, then there may be even more problems because you haven't adequate notice because if this parcel moved off you would have abutters to abutters that are not necessarily noticed on this application. So for this going forward tonight it appears it's all one parcel and we couldn't go forward I think if it were one parcel. So yes, you'd have one sign. I mean, in the same way that when we do

subdivision cases, we've generally said that is it an appropriate and reasonable maxon for each building to have its own lot if there are two pre-existing buildings on the lot. Some people want to subdivide for those purposes and say it's okay. I tend to think that each building on the lot is entitled to its own sign. With there more than one building on the lot, I think it's reasonable to have one sign. I am not convinced having looked at the photo sims and knowing where the buildings are, that they need a new the signage scheme that you proposed. Because I think it's a residential neighborhood. And I think that identifying the building for way finding is different than identifying the building in multiple places to denote that it's a campus. You know, most people recognize that those two school buildings in proximity if they have a similar sign in them are the campus. I would be perfectly

amendable to smaller signs at the pedestrian level that actually as you, if you look at a schematic of signs, you have six signs that are all the exact same size kind of placed in various different places, some on the sides of the building, some on the parking lot lowered down. I could, I would think it would be more coherent to me as a pedestrian to have a large sign, a larger sign that I see, that identifies the building and a smaller signs, because once I know that's the building I'm going to, that direct me to an entrance for instance, I'm not quite sure you need the same sign on the side of the building that you need right above the door. That me to starts to look more like the branding that Mr. Hughes referenced rather than way finding.

And I do somewhat agree with the sentiment especially by some of the members of the audience that others school buildings

with the City of Cambridge tend to have one sign over their door, one sign out in the front. They're very large structures. You know, I know it's difficult for a charter school, but to the extent that charter schools are public schools, and they are in Chapter 71, Section 89, and you want to be treated like a public schools, I understand the enrollment pressures very well because I do a lot of charter school work, but there is, at least in my mind, to note you have a public school, certainly public schools in a residential area, there is some merit to treating them like we do traditional public schools in terms of their signage and how we identify them.

CONSTANTINE ALEXANDER: You want to express any views so they have a sense?

SLATER ANDERSON: Yes. I would take a view that there are unique characteristics to this location. I think

six signs is too many. I think we have an address of 50, 54 Essex Street which I assume you use in your materials for this particular school in Cambridge which would direct people in the modern era by way of GPS to Essex Street. That I would emphasize that maybe in a significant sign or one of these type signs on the Essex Street frontage so people go to that location. I don't totally get the Harvard Street signs because I think that that's not -- someone may come that -- well, they wouldn't come that way, because Essex is a one way coming into Harvard Street. So the Harvard Street signs, pedestrians potentially yes, maybe one sign, but I think, again, maybe a smaller because it's going to be a pedestrian approaching from Harvard Street on that side. I respect the fact that you use the parking lot the rear. I assume you use that -- you have rights to that parking lot?

JED LIPPARD: Yes.

SLATER ANDERSON: So a sign in that parking lot makes sense because you get out of your car and you go where am I going here? So I, you know, do feel like, you know, six is too many, but I can also understand where four signs, not all being eight feet tall, are probably necessary because of the two buildings and the unique -- well, I mean, I lived right across the street from this when I first moved to Cambridge so I know this area very well. And it's -- you have exposure on four sides or three sides technically, but you have two buildings. So I'm somewhere, yes, six I think is too many. I think the Harvard Street ones are -- are unnecessarily large. I think one on Harvard Street is sufficient for pedestrians. Something on Essex and something on the parking lot. That's my view. So I'm sort of coming at around at four, not all eight feet tall that's

where my mind is.

UNIDENTIFIED FEMALE: I know that the stone sign --

CONSTANTINE ALEXANDER: Excuse me, public testimony has been closed.

Tom, do you want to express some views?

THOMAS SCOTT: I would be in favor of three of these signs at the size that they're proposed. I happen to like the size of the sign. The fact that it's a position flat on the face of the building, is not protruding from the building, it's not illuminated. The three signs that I would be in favor of, would be the one on this building, kind of flanking the entrance to this courtyard; the one on this corner, facing Essex Street and so that the traffic coming down Harvard could see it; and then the third one would be this one, which faces courtyard on Norfolk Street. So that you'd have the three expose -- the three major exposures covered; your

entrance, your exposure on Essex and Harvard and exposure from Norfolk. Those are the three signs I would be in favor of.

CONSTANTINE ALEXANDER: And in my view personally, I'm very close to really what Slater on Tom were saying. I think signage is necessary here. I think perhaps six -- not perhaps, I don't see a need for six signs. I want to make one other comment, too. There's been a number of comments about the purpose here is to brand, to advertise in addition to identify. I don't see anything wrong with that. And I'm speaking only for myself. I think the question before our Board is the impact on the neighborhood of whatever you're advertising or you're identification signs, not what the purpose is. There's nothing inherently wrong with trying to brand or to advertise your school with signage. Just got to deal with the Zoning Laws and you've got to meet the

requirements for the Variance. And we would be concerned about the impact on this let's say advertising sign on the neighborhood. But I think six signs are too many. I would urge you to continue this case, go back to the drawing board, come up with a different signage plan which obviously would require a smaller amount of signage on the building. I think it's the sentiment of our Board. I would then also suggest you arrange a meeting with the neighborhood, public meeting, not public, but a meeting where you can get together, show them your plans so that they can come back, and we all come back and have a sense what the neighborhood, you had a chance to think about it, talk to you, interact and I think it would be a much more fruitful process for all concerned.

So there we are. You can continue the case or we can take a vote, you know.

JED LIPPARD: Can we propose an

amendment tonight or do we actually have to resubmit?

CONSTANTINE ALEXANDER: No, you have to resubmit. I want to see new photo simulations and more of these detail as to what the sign, the renewed signage plan is going to be in terms of how big, where --

SLATER ANDERSON: You want to specify your the plan better.

TAD HEUER: Yes, if you come back, if you decide to continue and come back, I would like to see an overhead plan that demonstrates the footprint of the building and where those signs are. Because for me it was very difficult to be wandering around a multi-face site in two dimensions here and figuring out where the signage was and having an overhead that pointed out pinpoints where these things are.

JAMES KOLOSKI: Sure.

TAD HEUER: Gives you a sense of

where they are set apart from one another, the different approaches, then we'll see the different approach that you don't get from looking at the face of the building.

SLATER ANDERSON: And we'd like to see existing signs that are to be removed, noted.

CONSTANTINE ALEXANDER: Yes.

SLATER ANDERSON: Existing signs that will remain. Like, I don't know exactly where that granite one is. But that would be helpful.

CONSTANTINE ALEXANDER: Yes.

JED LIPPARD: Can I ask a clarifying question?

CONSTANTINE ALEXANDER: Go ahead.

JED LIPPARD: So anything that's on the interior property of the church, I under -- does that actually qualify for --

CONSTANTINE ALEXANDER: Exterior property of the church?

JED LIPPARD: So within the -- so, for example, the sign that the lady showed that's hung on the smoke stack which is the student artwork?

CONSTANTINE ALEXANDER: The artwork, yes.

JED LIPPARD: Are you considering that to be a sign as would count against the requirements.

CONSTANTINE ALEXANDER: Is this something that is there permanently?

JED LIPPARD: It's an installation.

CONSTANTINE ALEXANDER: I'm sorry.

JED LIPPARD: It's an installation. It's a piece of student art as part of our project that we did in the spring. It can come down.

CONSTANTINE ALEXANDER: You didn't seek any approval to put the sign up.

JED LIPPARD: We did from the church.

CONSTANTINE ALEXANDER: The church.
No, no, did you seek Zoning approval?

JED LIPPARD: No, we did not seek
Zoning approval.

SLATER ANDERSON: But your intent is
that it's not permanent.

CONSTANTINE ALEXANDER: Yes, it's
not permanent.

ANJA BRESLER: No, the idea is that
it's replaced every year by a different
student's artwork, but I cannot guarantee
that the next artwork will not have the PHA
logo on it. Because the students get to
design.

JED LIPPARD: That was not intended
to be a sign per se is my point. It was meant
to be part of our -- as if someone were to
paint a mural which -- and my question is
whether you have jurisdiction over that?

CONSTANTINE ALEXANDER: I think the
initial determination would be made by

Inspectional Services Department as to whether this installation is a sign. And whenever that decision is made, say, if it is a sign, you can take an appeal from that.

JED LIPPARD: Okay.

CONSTANTINE ALEXANDER: Or you can seek a Variance to have the sign. And if you said it's not a sign, interested parties in the neighborhood can take an appeal from that and say, yes, it is a sign. It's not something we can give you a definitive answer on tonight.

SLATER ANDERSON: My suggestion is that I think that it seems like an idea that you do with the students and it's well intentioned, that you discuss that with the neighbors as something you would like to intend to do as an annual basis and it be part of your proposal at our next hearing I guess. Unless they say it's not, it doesn't fall under the Sign Ordinance, but as a neighbor,

I would suggest you do that.

CONSTANTINE ALEXANDER: I think you're absolutely right. There needs to be dialogue with your neighbors. You're in a tight residential area and obviously there hasn't been dialogue up until tonight with the neighbors in regards to the sign and I think it's time to change that.

TIMOTHY HUGHES: And I do want to clarify, Jed, that the reason we don't want to amend this at the table tonight is because the dialogue didn't seem to take place and that's important to us as a Board to see that it does take place.

JED LIPPARD: Okay.

TIMOTHY HUGHES: And I'll just go on record as to everyone -- Tom's plan, I think the three signs seem obvious to me. And the only reason I don't necessarily go along with Slater is I don't think you necessarily want to incur the cost of pairing up different size

signs, and if you can get by with three of the same size, I could be amenable to that.

JAMES KOLOSKI: That was the process in the way we came down with it, too. The signs with did in Somerville and the signs here, they're all consistent in size so it made the cost impact a little less.

CONSTANTINE ALEXANDER: Clearly the neighborhood wants less signage than what you proposed. I would suggest you try to come back with something that meets your needs but little signage as possible. That will increase your chances of getting some neighborhood support. I think it's up to you to figure whether you need three, four signs, how big. I don't want to deal with that tonight.

JAMES KOLOSKI: Right. No, and we're not looking for you guys to do that.

JED LIPPARD: Do you have a different opinion that you want to share?

TIMOTHY HUGHES: But it could change.

JED LIPPARD: It's been very inferential.

TAD HEUER: I think I agree with Tom's. I think, you know, looking at a main sign on each of your main faces where you're going to have directional approaches. So that's something on Essex, something in the parking lot for those approaching and something Harvard and for people who are just plain lost.

JAMES KOLOSKI: But not actually physically mounted on Harvard.

TAD HEUER: Correct. Yes, just the approach.

TIMOTHY HUGHES: The approach on Harvard, yes.

CONSTANTINE ALEXANDER: I take it you want to continue this case?

JAMES KOLOSKI: We do.

JED LIPPARD: We do.

CONSTANTINE ALEXANDER: This is what we call a case heard so we have to pick a date that all five of us can sit again, and I want to make sure that the neighborhood understands.

Sean, what is the earliest?

SEAN O'GRADY: February 16th.

CONSTANTINE ALEXANDER: Would that give you enough time to redesign and meet with the neighbors? I suspect not.

JAMES KOLOSKI: I don't think so. Comfortably. I don't think that --

CONSTANTINE ALEXANDER: Give us an idea of when you would be ready to come back to us after --

JAMES KOLOSKI: Well, is it -- how do you guys -- is it every other week?

SEAN O'GRADY: It's every two weeks. It's just that the next one is --

TAD HEUER: February is unusual.

JAMES KOLOSKI: Oh, February's a funny month, yeah.

SEAN O'GRADY: Yes. I mean, we're out into probably the first prudent slot would be March 22nd.

JAMES KOLOSKI: Okay.

CONSTANTINE ALEXANDER: Our schedule is full.

JAMES KOLOSKI: Between then? Yeah.

JED LIPPARD: We could do --

TIMOTHY HUGHES: You're talking about three weeks to the 16th; right?

SLATER ANDERSON: You want to make sure --

JAMES KOLOSKI: My concern is having --

SLATER ANDERSON: He has something to present that's clear to the neighbors.

ANJA BRESLER: The architects need to look at --

JAMES KOLOSKI: Yeah. I just think the parties that need to be involved and engaged on this, I would feel more comfortable in March.

CONSTANTINE ALEXANDER: March 22nd.

SEAN O'GRADY: March 22nd it is.

CONSTANTINE ALEXANDER: March 22nd we're going to meet again at seven o'clock or thereabouts, and hopefully between now and then you'll have a meeting with these folks about what they're now going to propose.

The Chair moves that this case be continued until seven p.m. on March 22nd. This being a case heard, therefore, on the condition that the petitioner sign a waiver of the time for us to reach our decision. It's a standard requirement otherwise by law we will be forced to reach a decision for relief to be granted. So if you give us an extension for us to reach a decision.

That the signs on the property now, the

advertising sign be changed to reflect the new date, mark it by pencil, mark it out, to March 22nd. The time seven p.m. And on the further condition, the final condition, that whatever your revised plans are with regard to the signage, and including the photo simulations, that they must be in our files at the Inspectional Services Department files, no later than five p.m. on the Monday before March 22nd. That's for the purpose of allowing you or any interested citizens of the city to go down to the Inspectional Services Department and see what's being proposed and not have to find out the night of the meeting. So if you don't get it in by five p.m. the Monday before, we're not going to hear the case on March 22nd.

SLATER ANDERSON: Can I just point something out since we're talking about school. I believe that is school vacation week. I don't know if that has any affect on

anybody.

JED LIPPARD: No for public school.

SLATER ANDERSON: I won't be going anywhere.

CONSTANTINE ALEXANDER: Can all five of us be here on March 22nd?

TIMOTHY HUGHES: I can.

CONSTANTINE ALEXANDER: I made the motion. All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Heuer, Scott, Anderson.)

CONSTANTINE ALEXANDER: Case is continued until March 22nd. Sign the waiver.

* * * * *

(9:30 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10207, 140 Columbia Street.

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

Okay, I think we're ready to go.

Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Thank you, Mr. Chairman. James Rafferty on behalf of the applicant. The case is filed and the project description did not make reference to the change in the roof height. And I could spend sometime trying to convince you that since that feels like an as-of-right move and it does involve another part of the Ordinance that hasn't been advertised for, but I understand the sentiment and the practice behind it. So we've submitted a request and actually provided a new advertisement in case.

CONSTANTINE ALEXANDER: Just for the -- I guess there's a neighbor here, I'm not sure.

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: You're going to advertise the case to be heard, better advertised. Was it January 26th was

the date?

ATTORNEY JAMES RAFFERTY: February 16th.

CONSTANTINE ALEXANDER: February. February 16th.

ATTORNEY JAMES RAFFERTY: Right. It's already been accepted.

CONSTANTINE ALEXANDER: I know. So do you want to continue this case?

ATTORNEY JAMES RAFFERTY: We'd like to continue this case with the expectation that -- to a date well beyond February 16th so that we can actually have the Board act upon -- it will be -- it has a different case number because of the advertisement.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So we filed the very same case, same plan, same everything, but with an added phrase in the description that has a different case number. So we'd like to continue this case to a point

in April perhaps so that we can have the February case acted upon and then withdraw this case.

TAD HEUER: Is there a reason not to administratively put this one to the 16th and if that one goes then we do them both? Is there a reason not --

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: That's what I thought you were going to request.

TAD HEUER: I'm happy to get rid of them both at the same time. If this one goes and this one is going to be redundant, you know, there's no point in holding this over for two months.

ATTORNEY JAMES RAFFERTY: Thinking of the citizens of Cambridge. That is a great idea. I only wish I had thought about it.

TAD HEUER: And given that we have a transcriber, you know, who will do everything

for the record, you too can have retroactive.

CONSTANTINE ALEXANDER: Make sure the record reflects that was Mr. Rafferty's idea.

Sir, you're here.

UNIDENTIFIED MALE: I am not the neighbor. The neighbor left.

CONSTANTINE ALEXANDER: I heard there was a neighbor here.

ATTORNEY JAMES RAFFERTY: The neighbor is here, but we told him what was happening. So he just left two minutes ago.

CONSTANTINE ALEXANDER: He or she understands what's happening?

ATTORNEY JAMES RAFFERTY: He loves what happening with the project. He wished you could vote it tonight, he told us, be he'll be back on February 16th to express his strong support.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven

p.m. on February 16th on the condition that the petitioner sign a waiver of time for a decision.

On the further condition that the sign on the property be modified manually to reflect the new date. The new date February 16th and a new time of seven p.m. Make sure you change the time as well. And well, just for the record, to the extent you want to change your plans that are a part of this petition, you have to have them in the office, ISD office by five p.m. on the Monday before.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Heuer, Scott, Anderson.)

CONSTANTINE ALEXANDER: Not heard.

* * * * *

(9:35 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Tad Heuer, Thomas Scott, Slater W. Anderson.)

CONSTANTINE ALEXANDER: Last but not least, the Acting Chair will call case No. 10205, 67 Smith Place.

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

For the record, you have to give the stenographer your name and address.

TIMOTHY SHANNON: My name is Tim Shannon and I'm the owner of unit 16 located at 67 Smith Place in Cambridge. And I'm here to request a Special Permit to construct a storage building to supplement the existing

use which I had approved back by this Board back in 2008. And I'm located in an IB-2 Business Zone. And I'm requesting this permit to supplement the use with the change in the economy and, you know, I have the lot rented to store cars. They'd like to put maybe some inside just because of the dust and the dirt. And that's why I'm here.

CONSTANTINE ALEXANDER: Now the relief you're seeking, the Special Permit is to have a warehouse use?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: The structure that you're going to build must comply -- I assume you believe it complies in all respects with our dimensional requirements?

TIMOTHY SHANNON: Oh, yes.

CONSTANTINE ALEXANDER: Because if you don't, you have to come back.

TIMOTHY SHANNON: Yeah. Oh, no. I

met with the Building Commissioner, and, you know, I'm sure Sean can --

CONSTANTINE ALEXANDER: Are you going to park cars in the building now?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: How many floors of parking will there be?

TIMOTHY SHANNON: Just one. It's just one. You can see right here. It's going to be located here. If you go into the pamphlet, you can see there's an outline of the building towards the end. It's -- the dimensions are 75-by-60. The height is 20 feet high. It's basically one of those steel butler buildings, which is --

CONSTANTINE ALEXANDER: I'm sorry, right now the space that the building is going to occupy is used for parking cars?

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: So the number of cars on the lot is not going to

change by virtue of the building, you're just going to shelter --

TIMOTHY SHANNON: Yes, yes.

CONSTANTINE ALEXANDER: -- now?

Getting there in terms of traffic, are you going to triple the amount of cars?

TIMOTHY SHANNON: No. There isn't any loading and unloading of vehicles on the site which didn't happen before. You know, it's the cars will be driven to and from the site.

CONSTANTINE ALEXANDER: Have there been any complaints so far with regard to the use of the site without a building for the number of cars?

TIMOTHY SHANNON: No.

CONSTANTINE ALEXANDER: Traffic complaints from neighbors?

TIMOTHY SHANNON: No, no. I haven't had any complaints as far as traffic, noise. The site, when I first received the

Special Permit in 2008, the site was a fenced, privacy slats, paved, drainage system installed, sliding gate, and it's pretty much secluded, you know, from the rest of the complex.

CONSTANTINE ALEXANDER: Do you remember this?

SLATER ANDERSON: I do remember it.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

THOMAS SCOTT: Can you just tell me what are those pictures on the left?

TIMOTHY SHANNON: Oh, this is what I did. Basically I took some pictures of the abutting properties just to show you that it is an industrial zone area, and there are a lot of butler buildings. This is Anderson-McQuaid over here. They just recently put up a butler building, like the same type of building.

This is Gallagher Electric which is on

the side that abuts the side of my lot. Mount Auburn Hospital actually runs this hospital. This is right as you come into this area right here.

And then you have Cambridge Landscaping. And you can see, you know, this is -- you can see this is coming into my lot. So you can see how the lot is all jersey barriered in, and all privacy slats and pretty much secluded from everything else.

SLATER ANDERSON: Who stores cars for parking?

TIMOTHY SHANNON: Excuse me?

SLATER ANDERSON: Who stores cars there?

TIMOTHY SHANNON: Car dealerships. I'm actually, you know, talking to the Cambridge Honda right now which isn't far away. It's on the other side of -- by the --

SLATER ANDERSON: Fresh Pond?

TIMOTHY SHANNON: Fresh Pond, yes.

TAD HEUER: This isn't your lot, is it?

TIMOTHY SHANNON: This is my lot, yes.

TAD HEUER: Where are the cars?

TIMOTHY SHANNON: There's no cars in there now.

CONSTANTINE ALEXANDER: It's the economy.

TIMOTHY SHANNON: Yeah, the economy. No, and I happen -- I was paying over \$18,000 in taxes with my combined property. So that's why I'm asking for some kind of relief.

CONSTANTINE ALEXANDER: Do you think that by virtue of building this building, you're going to get cars?

TIMOTHY SHANNON: Oh, I think so, yes. Because the biggest concern is the dust from the area. J.C. Lombardi is in the rear of the property, and it's a very dusty area.

And it would make it more attractive to them if they can house these cars inside.

THOMAS SCOTT: How many cars can you fit in the building?

TIMOTHY SHANNON: Roughly, I didn't calculate that. I have, let's see, I can probably give you a rough idea. I would say 1, 2, 3, 4, 5, 6, 7, 8 -- 10, 20, maybe 30.

CONSTANTINE ALEXANDER: This is like a field of dreams. If they build it, they will --

TIMOTHY SHANNON: Yeah, I hope they'll come. Because that's what I did. I spent almost \$25,000 hoping that they would come.

CONSTANTINE ALEXANDER: I know.

TIMOTHY SHANNON: And they still haven't come. So it might be a baseball field.

So that's pretty much what I'm proposing. I have some, you know, some

people came on my behalf. I have some --

CONSTANTINE ALEXANDER: Do you have letters of support? I don't think there are any in the file.

TIMOTHY SHANNON: Yes.

CONSTANTINE ALEXANDER: If you do, I'll put them in the file.

TIMOTHY SHANNON: I have these right here. I have these letters of support. He's a neighbor.

CONSTANTINE ALEXANDER: You were here before.

JOHN CHUN: I was here before. Residential, yes.

TAD HEUER: Right.

JOHN CHUN: John Chun, C-h-u-n from 48 Loomis Street.

CONSTANTINE ALEXANDER: Mr. Chun, can I put on the spot? Are you in favor of it?

JOHN CHUN: Yes, I am in favor of it.

I'm here in support.

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: I guess not. The Chair notes no one wishes to be heard.

Sir?

EDWARD HASSY: No, we're just abutters and we're in favor of it.

CONSTANTINE ALEXANDER: Give your name and address.

EDWARD HASSY: My name's Edward Hassy. I own unit 7 on 67 Smith Place and I own 168 Terman Street. And I'm in favor of it.

CONSTANTINE ALEXANDER: The Chair will note that the petitioner has delivered to us letters of support from Watertown Landscaping, Inc. at 67 Smith Place, unit 2; from John Walker Architect, 150 Whittemore

Avenue, Cambridge, an abutter; 67 Smith Place, unit No. 7; from Formaggio Kitchen which is a facility in the area, we've seen before; from J.W. Construction located at 67 Smith Place, suite 17; from Caccavaro Construction, 67 Smith Place, unit No. 3; from Mastrangelo and Sons Roofing in Belmont, Mass.

TIMOTHY SHANNON: Yeah, they own a unit in the building in the complex.

CONSTANTINE ALEXANDER: The Winters Company, 67 Smith Place; and from Jim Kelley at Cambridge Landscape. Also an abutter in the immediate area of the building. So all letters of support.

Any further -- I'm going to close public testimony. And anything else you want to add?

TIMOTHY SHANNON: No. I just think you can see the job that I've already done with the property and I think it's going to

enhance the property, and I don't think it's going to be detrimental, you know, to the neighborhood as far as traffic, noise, and I would, you know, really like if you consider to, you know, approve this.

CONSTANTINE ALEXANDER: Thank you.

Comments from members of the Board?

Are we ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: How come I knew that.

The Chair moves that the petitioner be granted a Special Permit to construct a storage building on this site to supplement the existing use of open vehicle storage as previously approved by this Board.

With respect to that, the Special Permit would be granted on the basis that the requirements of the Ordinance are that this can only be done with a Special Permit. That

what is proposed will not cause congestion, hazard, or substantial change in established neighborhood character; this being an industrial area, and the use of the building would be similar to what's on the lot right now.

That the continued operation or development of adjacent uses will not be adversely affected by the nature of the proposed use. Again, that flows from the fact that this is an industrial area with buildings very similar to what the petitioner is proposing.

That 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 that the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this

Ordinance.

Again, this is on the basis of what we talked about, it's an industrial area. You're proposing to build a building for storage use, and the nature of the building is consistent with the adjoining properties.

On that basis the Chair moves that a Special Permit be granted to the petitioner as previously indicated.

All in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Special Permit granted.

(Alexander, Hughes, Heuer, Scott, Anderson.)

TIMOTHY SHANNON: Thank you very much. Thanks, I hope they come.

(Whereupon, at 9:45 p.m., the Board of Zoning Appeal Adjourned.)

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C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

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

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 3rd day of February 2012.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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My Commission Expires:
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