

BOARD OF ZONING APPEAL FOR THE
CITY OF CAMBRIDGE GENERAL HEARING

THURSDAY, OCTOBER 28, 2010

7:00 P.M. in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Tim Hughes, Vice Chair

Brendan Sullivan, Member

Thomas Scott, Member

Tad Heuer, Member

Douglas Myers, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. As is our custom, we will start with the continued cases and then we'll get to our regular agenda.

The first continued case I'm going to call is case No. 9956, 11 Linnaean Street. Is there anyone here wishing to be heard on that matter?

UNIDENTIFIED MALE: The abutters.

CONSTANTINE ALEXANDER: The abutters. Okay.

UNIDENTIFIED FEMALE: We're opposed.

CONSTANTINE ALEXANDER: Say it again, please.

UNIDENTIFIED FEMALE: We're opposed.

CONSTANTINE ALEXANDER: Okay. Sorry, you had to come. I just wanted to advise you that the Petitioner has requested a continuance.

UNIDENTIFIED MALE: Third one.

CONSTANTINE ALEXANDER: I'm sorry?

UNIDENTIFIED MALE: Third request.

CONSTANTINE ALEXANDER: Well, you know, five, two, six, one, what difference does it make? We're going to continue the case.

So, I think we have a letter in the file, and we do. It's a letter from Hope Legal Offices in Cambridge addressed to this Board. "Please accept this request to continue case 9956. Petitioners have recently retained this office in the aforementioned matter and we respectfully request an extension."

It is true, for the record, that we have

continued this case before, but there have been various reasons that are sufficient to continue the case before and now. I would put into the record, and so please advise Mr. Hope that whatever signage is on the property, the posted sign, must be exactly as the sign that's advertised and the notice that's sent to the abutters. There seems to be some possible question that the Petitioner modified the sign on the premises so it would be different than the sign in the public notice and that's not appropriate.

UNIDENTIFIED FEMALE: I'm an abutter and I never received a notice of this meeting.

CONSTANTINE ALEXANDER: You received a notice of the original hearing. As we put in our materials, we don't send notices out for continuances.

UNIDENTIFIED FEMALE: Sorry.

CONSTANTINE ALEXANDER: So, we have

a date to continue this date to?

SEAN O'GRADY: Given the history and the background that we've discussed, I think maybe we give them a couple months.

CONSTANTINE ALEXANDER: That's fine by me. I would also put in the record that the initial hearing that was continued, one of the reasons they requested a continuance was because they wanted to go before the Historical Commission. And so if they are going to pursue that, that they should do that before the hearing. So that whatever advice or whatever they receive from the Historical Commission is available to us as well.

BRENDAN SULLIVAN: Is there a parking plan in the --

CONSTANTINE ALEXANDER: No. Thank you. That's the other question I have in my notes and forgot to mention it.

There is no parking plan in the file. And there should be a parking plan in the file

no later than five p.m. on the Monday before whatever day we continue this case to.

BRENDAN SULLIVAN: I guess the only thing that concerns me about this is that it's an after the fact request, and that the Petitioner is enjoying the benefits of the relief that they are requesting. And that it appears from the public record that the abutter next-door is being adversely impacted by them using the site for perspective application before the Board. My only thought would be I would like to shorten --

SEAN O'GRADY: Okay.

CONSTANTINE ALEXANDER: The other point, and to your point, if in fact the Petitioner is using this space as a parking space without the curb cut, then they are right now being in violation of our Zoning By-Law. And so enforcement can actually ticket them tomorrow if we're concerned about

that.

BRENDAN SULLIVAN: Ever since the case was first advertised, and I go by there all the time and do some work around the corner from there, I have purposely gone by and see two sometimes three cars parked there on a daily basis. I mean, I've read the transcripts, I've read correspondence, and it is correct as far as them using it now and have been enjoying use of that for a while. But anyhow, that's another issue. That's an enforcement issue.

I guess my thought is rather than delaying this further out which allows the Petitioner the benefit of use, which I think which is illegal and just bad behavior, I would like to shorten that to the extent that they get through Avon Hill first and then come to us.

CONSTANTINE ALEXANDER: I absolutely agree with that, shorter rather

than longer, based on what you've said. But I would ask you, on behalf of the Board, to take some enforcement action against them. Tell them that until we have this hearing, that they are not to use this area as a parking space.

UNIDENTIFIED MALE: They're not asking for parking.

CONSTANTINE ALEXANDER: Say it again? Only on the motion to continue.

UNIDENTIFIED MALE: They're not asking for parking. They're only asking for a curb cut. They've got the request in front of you you can't grant. It's silly. I've given you two pages of this and this may be part of the reason.

BRENDAN SULLIVAN: The City Council is the only one that can grant the curb cut.

UNIDENTIFIED MALE: That's all they're asking you for. They're not asking you for parking.

BRENDAN SULLIVAN: Right. But the benefit of that curb cut is on their property.

UNIDENTIFIED MALE: You have nothing really to grant in front of you. The application asks for a curb cut. It doesn't ask for parking. It argues parking arguments, but it does not ask for parking.

CONSTANTINE ALEXANDER: Well, I presume that they're asking for a curb cut because they believe they need relief -- predicate to be able to park in the lot. I mean, if otherwise you're right, then there's no need to be before us, they go to City Council to get a curb cut or not.

UNIDENTIFIED MALE: We have -- this is the third hearing we've had on an application which is silly. They're asking for a curb cut. They're not asking for parking. They're asking for a curb cut with access to parking which is illegal. In no way states that they're asking for parking.

CONSTANTINE ALEXANDER: Well, your point is well taken. That they are asking for a curb cut. They're not asking for parking. I would assume, as I said, a curb cut is a predicate to their parking a car in the lot. And to the extent they only ask for a curb cut, we grant a Variance for a curb cut, and they need a Variance for parking, and they didn't get that from us, they'll have a separate problem and they'll need to bring a separate Petition. I think you're absolutely right about that. But we can't discuss the case on the merits. We haven't gotten there yet. But I do think if parking is not permitted now, under the Zoning, in violation of our Zoning, in view the fact that this case has been continued for so long, we should notify the Petitioner that until this case gets disposed of, the parking cannot take place in that backyard.

SEAN O'GRADY: Just for the record,

they have been told. They will be told again.

CONSTANTINE ALEXANDER: Told again. Okay. I don't know what the step is after you tell them and people don't respond. I'll leave it up to you. It's not my business. But I do think if there is some action to be taken after the second time around they don't respond --

SEAN O'GRADY: I agree.

CONSTANTINE ALEXANDER: -- we should do something. Because I think the point is right. You're absolutely right, Brendan.

TAD HEUER: Can I ask the audience -- sir, have you made requests to Inspectional Services for an enforcement? Have you asked Inspectional Services to enforce?

CONSTANTINE ALEXANDER: Did you ask for --

UNIDENTIFIED FEMALE: I didn't know I was allowed to.

BRENDAN SULLIVAN: Well, you should probably just introduce yourself for the record. Sorry.

TAD HEUER: Sorry.

CONSTANTINE ALEXANDER: Your name and address for the record.

ATTORNEY ROBERT LA TREMOUILLE: My name is Robert La Tremouille. I'll give you my card. This is Virginia Mae Burnes an abutter at Seven Humboldt.

VIRGINIA BURNES: I think I can speak for myself. Virginia Mae Burnes --

CONSTANTINE ALEXANDER: Please come forward so we can hear you.

VIRGINIA BURNES: Oh, I'm sorry. Virginia Mae Burnes, M-a-e, Seven Humboldt Street, Cambridge. I'm the abutter and I'm totally opposed, and have been and will be.

TAD HEUER: And have you asked --

VIRGINIA BURNES: I didn't know I had any -- I thought I had to call the police. And I -- I mean, it just gets to the point where you keep calling the police and I don't want to be keep calling the police.

ATTORNEY ROBERT LA TREMOUILLE: He's giving you the correct procedure.

VIRGINIA BURNES: You're now telling me something for the first time that I never heard of. You mean, I can get in touch with you?

SEAN O'GRADY: Consider it done. Yes.

ATTORNEY ROBERT LA TREMOUILLE: The complaint is made?

SEAN O'GRADY: Yes. I mean -- the complaint -- I was aware that they have been parking there. I drove passed and viewed the sign I think on Wednesday and had seen parking there and was looking for a resolution here. But given that they're asking for another

continuance, I think the enforcement is understandable.

TAD HEUER: I would also encourage you to put something very short in writing to the Department so you have a record. We have a transcript so, you know, it's recorded.

VIRGINIA BURNES: And I make it -- to whom do I make it, to you?

SEAN O'GRADY: If you like, sure.

VIRGINIA BURNES: You know, this is news to me. Thank you. I did not want to be calling the police all the time.

TAD HEUER: I'm sure that they are glad not to have to hear from you again.

CONSTANTINE ALEXANDER: Okay. Now that we've agreed to a shortened time to continue this case, do you have a date to continue it to?

SEAN O'GRADY: We can do it as early as December 2nd.

CONSTANTINE ALEXANDER: Okay. So

this is a case not heard.

The Chair moves that this case be continued until December 2nd. This being a case not heard and a waiver of time for decision already in our files. This motion to continue will be subject to the following conditions:

That the Petitioner post a sign on the property consistent with the advertisement and not modified otherwise for the requisite period of time, except that it shows the time and the date of the hearing will now be seven p.m. on December 2nd.

And on the further condition that since ultimately the relief being sought here involves parking, that the Petitioner have in our files no later than five p.m. on the Monday preceding December 2nd a parking plan so that we can consider the parking plan in the context of the entire case.

And on the further condition that if

Petitioner needs advice from the Historical Commission, that they bring that advice to us, seek it -- obtain the advice, and we be advised of the advice on or before December 2nd.

All those in favor --

BRENDAN SULLIVAN: Do we have a waiver signed by Attorney Hope?

SEAN O'GRADY: Yes, we do.

TIMOTHY HUGHES: It should be in the file already.

SEAN O'GRADY: Yes, we do.

BRENDAN SULLIVAN: So that one by Attorney Gargano (phonetic), but he's no longer on the case.

SEAN O'GRADY: He was their representative.

CONSTANTINE ALEXANDER: He was the representative at the time.

BRENDAN SULLIVAN: All right.

CONSTANTINE ALEXANDER: All those

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

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

(7:15 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 9995, 141 Portland Street. Is there anyone here wishing to be heard on this matter?

PETER COOKE: Yes, sir. Peter Cooke here on behalf of T-Mobile.

As you may recall from our last hearing, we were discussing various mounting options for the antennas. We filed revised plans with the Board.

CONSTANTINE ALEXANDER: Yes.

PETER COOKE: Which I would refer you to page three. On the bottom right corner we provided an antenna mounting detail.

CONSTANTINE ALEXANDER: You did not submit additional photo sims though.

PETER COOKE: I did not -- I actually talked with our photo sim fellow. He didn't believe that the change would really be visible from the distances that we were talking about.

CONSTANTINE ALEXANDER: So the old photo simulations are in effect?

PETER COOKE: Still effective, mainly because the -- we're not really -- those aren't really turned all that much. You know, sometimes when they mount these antennas, they can be turned very skew, tilted a little bit, also skewed a little bit. These are not just because of the orientation of the penthouse. So we didn't feel there would be much of a difference in terms of the long distance use on those.

CONSTANTINE ALEXANDER: You're not using a pipe mount?

PETER COOKE: Well, we're not. And what I'd like to do with you --

CONSTANTINE ALEXANDER: Before you go there.

PETER COOKE: Yep.

CONSTANTINE ALEXANDER: We've been told by other petitioners that the only thing you can use is pipe mount. And your company seems to be able to put these antennas up without pipe mounts.

PETER COOKE: We have come up with a design, as I might have mentioned to the Board before, this is a design feature that we had developed, and some of the other carriers involved, for the BRA in the City of Boston. These are more of a hinge-style antenna, which per the manufacturer's specs, it's not quite the way that you would normally use. Normally you would actually use these on a pipe mount. But we've been able to modify with this detail that's on this page a hinge

mount, a mount directed in the face of the building. And what it does, and I've brought along for your files anyway, this is your standard hollow wall pipe mount detail. I've got an extra here.

And what you'll see there, this is the last detail that was on our last set of drawings. What was not there was showing you the distance to the front of the antenna from the face of the wall. And you'll see that your typical pipe mount detail, once you take in the hardware, the pipe mount and the depth of the antenna, you're probably about a one foot four inches to the front face of that antenna. By using the hinge detail, and I had them call out the front face there, you -- even tilting that antenna with the hinge-mount detail, you're only about ten inches off the face of the antenna. So obviously the distance we've been talking about 150 feet in the air and 400 feet back,

you're probably not going to see it from that angle. But there are certainly cases where you will get a -- more of a flush look to it. And certainly certain times of the day some of the shadowing and some of the other things we talked about at that meeting, I think you'll see a pretty substantial difference I think. One, we're saving -- you know, again, it may be really six inches, but, you know, it's percentage-wise, it's probably 30, 40 percent, you know, closer to the front face of the building.

The other thing I wanted to bring along which is not really relevant, but it's something we talked about and you asked to see something like it, that's a, that's a box detail. That's on a building down on Tremont Street near the Orpheum Theatre. The alleyway from the Orpheum Theatre. The building to the left is one of Suffolk's buildings. That's a detail. And that one

actually has been repainted so the brick is actually a little bit better. That will give you an idea of putting antennas behind a box --

CONSTANTINE ALEXANDER: This is it?

PETER COOKE: -- like that. Which might be an appropriate detail depending on the architectural features that you're dealing with.

I think something on a penthouse, I find the boxes make it look a little too top heavy from a massing perspective. But certainly there are instances like this one, for example, that had a ledge that were pretty close to the ground. Scale-wise it made some sense, it fit into the, you know, texture and mass of the building and that might be a feature that the Board would consider on, you know, other types of installations.

CONSTANTINE ALEXANDER: Well, as Mr. Heuer pointed out at the last hearing in

terms of stealth smaller is not necessarily stealthier.

PETER COOKE: That's correct.

CONSTANTINE ALEXANDER: And this is an illustration, it seems to me, that something larger, doing it in conformance with the architecture of the building actually makes it less visible than a smaller pipe mount.

PETER COOKE: That's correct. So, trying to mount the antennas that are behind that box, you would -- no question you would see A, it's only a couple stories off the ground. You know, that hiding it really, and it's the same material that you've probably seen with the stealth chimneys and the like. It's really just reconfiguring it to hide it in that. The key on that obviously is trying to get a good brick match. And often times I can tell you in Boston when that type of installation is installed, will typically

have the contractor meet with a staff member and just review the color before it gets installed so that the color is accurate. And it may be, you know, in that type of installation if you should ever approve one in the future, maybe a condition to approval to consider is to have someone from staff just check the match on the brick or whatever the, you know, the color that the background color is.

CONSTANTINE ALEXANDER: Thank you.

PETER COOKE: Certainly.

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

(No Response.)

None?

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. I don't

believe we have anything in our file. At least the last I looked from the Planning Board on this other than the original letter. You didn't see anything more come in?

SEAN O'GRADY: I don't know. But I wouldn't think so. We did have a letter from the Planning Board before, which I read into the record the last time.

PETER COOKE: I actually did not go back on this one. I did actually see them last week for my nine o'clock appointment with you, and it wasn't on the agenda.

CONSTANTINE ALEXANDER: Okay.

I will just quickly read it because I think Planning Board communications are important, read into the record again a note we got from the Planning Board on September 22nd with regard to the earlier version of these plans. And one without what you've shown to us tonight. It says: "The Planning Board reviewed the application to add

equipment to the current installation. The Planning Board finds that this submittal is consistent with the existing installation and uses the existing building features on the rooftop and mechanical penthouse facade to minimize the distraction of additional equipment."

BRENDAN SULLIVAN: And that word consistent sends shivers up my spine. We don't want to be consistent anymore.

CONSTANTINE ALEXANDER: Right. I do think though on this one, this case is an improvement over what we've seen before.

BRENDAN SULLIVAN: Yes. Heading in the right direction.

CONSTANTINE ALEXANDER: Yes. That's what you said the last time, and I agree with you this time as well.

I want to make sure we have the right plans. These are the revised plans, right? Yes, 10/13. The most recent date.

PETER COOKE: Yes.

CONSTANTINE ALEXANDER: And as you said before, you're going to paint the mount to the color to match what it's being affixed to?

PETER COOKE: That's right.

CONSTANTINE ALEXANDER: Okay.

Comments or questions from members of the Board at this point? Ready for a vote?

The Chair moves that a Special Permit be granted to the Petitioner with respect to the equipment to be added to the property at 141 Portland Street on the basis of the following:

That adding this equipment will not effect traffic or patterns of access or egress to the property or cause congestion, hazard or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses as permitted in

the Zoning Ordinance will not be adversely affected by what you're proposing.

And no nuisance or hazard will be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the city.

And that what's being proposed would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

The Chair would note in this regard what is being proposed in a non-residential district. That it is on a building that is quite high and so the visual impact is minimized.

That the Petitioner is proposing to paint the new equipment in a manner that will minimize the visual impact of the property, on the property.

That the Petitioner is a licensed FCC

carrier.

And so on the basis of the forgoing, the Special Permit will be granted subject to the following conditions:

That the work proceed in accordance with plans submitted by the Petitioner. There are three pages in length bearing the most recent date of October 13, 2010. They're sheets numbered T-1, Z-1 and Z-2, the first page of which has been initialed by the Chair.

That to the extent not only must you paint the equipment or the equipment around it, the boxes, to minimize the visual impact, but to maintain that and don't let it fall in disrepair.

That to the extent that you cease to operate a facility building for any period of six months or more, that the equipment be promptly removed and the building be restored to its original conditions to the extent

that's reasonably possible at the time.

Any other conditions?

On that basis of the forgoing, I move that we grant the Special Permit.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

(7:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 9936, 1100 Mass. Ave. Is there anyone here wishing to be heard on this matter?

ATTORNEY ANNE MALONE: Good evening.

CONSTANTINE ALEXANDER: For the record.

ATTORNEY ANNE MALONE: For the record, my name is Anne Malone on behalf of the applicant Clearwire.

CONSTANTINE ALEXANDER: The last time you were here we asked you to rethink with your client the equipment you wanted to add to see if you could minimize the visual

impact on this rather visually prominent building in terms of the City of Cambridge.

ATTORNEY ANNE MALONE: Yes.

CONSTANTINE ALEXANDER: And you've made some modifications and you want to talk to us about them?

ATTORNEY ANNE MALONE: Yes.

CONSTANTINE ALEXANDER: Pipe mounts?

ATTORNEY ANNE MALONE: Yes. We do have the pipe mounts, however, we've minimized those so that they're -- the size of them at least, they don't stick above or below the antenna itself. So they're tailored to the size of the antenna. And also we were able to move them in further so that they're -- I think we got them in at least three inches further so the distance from the facade of the building and the antenna itself is about nine inches now.

What I have -- these are the photo sims

that were submitted on Monday. These are the most recent ones. And this was actually what was initially proposed.

I'm going to start with photo location B which is the middle one because that's the area of the building that I know the Planning Board and this Board was most concerned about. And initially here we had proposed to put two antennas -- actually, all three antennas on this side of the building and a second dish on the building. We removed this dish completely, and pushed all of the antennas that were initially proposed here to the sides so that they wouldn't be as visible.

So, this is what's existing. If you look at the photo location, you've got one antenna that's mounted on that side. It's as far back as possible on the penthouse.

CONSTANTINE ALEXANDER: Can I ask you a question?

ATTORNEY ANNE MALONE: Sure.

CONSTANTINE ALEXANDER: Why, if can remove the dish this time around, why was it in the last time around?

ATTORNEY ANNE MALONE: Well, again, I don't know exactly what -- often they can redesign the network so that they're communicating with different buildings.

CONSTANTINE ALEXANDER: Are we going to hear six months from now a petition to add another dish to the top of this building to the one you took out now?

ATTORNEY ANNE MALONE: I don't know that. I didn't know they were able to take it off. As far as I know the design is working with the one dish and they're able to work it so that they can do -- because this building was so prominent, they tried to redesign it so that could work with the dish.

CONSTANTINE ALEXANDER: Speaking only for myself, could you advise your client if they come back with this property seeking

another dish any time in the future, it's going to be one person who is going to vote against it. Okay?

ATTORNEY ANNE MALONE: Okay.

CONSTANTINE ALEXANDER: Okay. I am concerned about we're being salamied and, you know, now you see it now you don't. I'm not accusing you of any bad faith, believe me.

ATTORNEY ANNE MALONE: All right.

CONSTANTINE ALEXANDER: But we do have this concern on this Board.

ATTORNEY ANNE MALONE: I will certainly pass that on.

What we've also done actually with the dish itself on this one, and again it's up to the Board, but initially we had proposed to have the dish -- the dish, if you look at photo location C is coming off -- or is on the wall there. And we had initially proposed side mount which of course is popular. But what we did is put a box around it. So this

is what the box would look like in photo location C. Again, that's sort of up to the Board. We can go back and take it off if that's more preferable or it seems this sort of blends in. I thought maybe it looked a little bit more fitting with the penthouse there.

So that's what we've been able to do. And I guess the biggest thing was able to get the antennas as close as possible to the building, still allowing for the ability to turn, you know, them slightly as necessary which does happen at times. And, again, boxed out the dish, remove one of the other dishes and push the antennas back. So the only antenna visible on that -- sort of that main facade of the penthouse is right here. And actually if you look at the new photo sims, very minimal especially considering what's up there now.

So that's sort of what we've proposed

the changes we've made. Obviously everything will be painted to match. If there's any questions or concerns or anything, I'm happy to answer.

TAD HEUER: So for the boxed dish you have now.

ATTORNEY ANNE MALONE: Yes.

TAD HEUER: So, visually you've given us from photo location C which is looking west on Mount Auburn Street I guess.

ATTORNEY ANNE MALONE: Yes.

TAD HEUER: Is that visible from Putnam Street at the intersection of Mass. Ave. -- Mount Auburn and Putnam? It may not be because it's high up enough. But it just seems like an odd angle. I wasn't sure if that's the only angle you actually see that dish from.

ATTORNEY ANNE MALONE: I think these locations, because I know how -- it kind of comes to a point. And there's one from each

side, right.

TAD HEUER: Yes. That's coming from here. You see it this way.

ATTORNEY ANNE MALONE: The dish is over here I'm pretty sure. Am I doing it backwards? This is coming -- this is photo location C so that's coming this way.

TAD HEUER: Right.

ATTORNEY ANNE MALONE: Oh, no, it's not, you're right. It's on that side.

TAD HEUER: It's kind of on this -- it's on the front of the facade, right?

ATTORNEY ANNE MALONE: Right.

TAD HEUER: So to the angle there would I see it if I'm -- there's no location where I can see it from a public way straight on essentially is what I'm asking?

ATTORNEY ANNE MALONE: This one? You mean like over here?

TAD HEUER: Yes. And the reason I'm

looking at Putnam Ave. is over here, which is the other cross street. So if I were standing there on Putnam Avenue, would I have front-on view of that new box --

ATTORNEY ANNE MALONE: Again, I don't have the view from there, but because it's so far off the edge of the building I think if you can see it, you'd probably only see the very top of it. And, again, I don't know, I'm just guessing. But because of this distance from the edge of the building and the height of the building itself, you're not going to see much of that.

TAD HEUER: And is that box, is that suspended box or is that sitting on this shorter main facade of the building?

ATTORNEY ANNE MALONE: It looks like it's extended here. It can be extended down if you prefer further. We've had situations where sometimes you want it extended down so it looks like it's floating. And if that's

the case, we're happy to do that. It may not be the case here because sometimes with the false chimney it looks a little like that. But given it's a box, may be fine but we can certainly do it that way. Whatever way is the most.

CONSTANTINE ALEXANDER: Do you prefer to have it extended all the way down? It's sort of neutral. I'm indifferent myself. I think the box itself accomplishes what needs to be accomplished or can be accomplished.

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: It's up to you.

TAD HEUER: I've seen more in that photo sim.

CONSTANTINE ALEXANDER: All right. Anything further?

TAD HEUER: Well, I guess what I would say is if -- how to phrase this. If

that dish location is visible from anywhere else on a public way besides just photo location C, and there is distance between the bottom of the box and the facade so you can see space, I think I would suggest that it be extended down far enough so it at least gives the appearance of continuity. If it means dropping it all the way down so be it. I'm not asking for it to go down further where no one cares.

ATTORNEY ANNE MALONE: Enough so you can see it.

TAD HEUER: At least enough so it looks continuous from anyone standing in the street. Does that make sense?

ATTORNEY ANNE MALONE: Sure, absolutely.

CONSTANTINE ALEXANDER: I have to remember to put this in the motion properly.

TAD HEUER: Refer to the transcript I guess.

CONSTANTINE ALEXANDER: Any other comments from members of the Board?

TAD HEUER: So you just heard the presentation about the hinge mounting. Could you give a -- is that something that you could do? Is it something that you've considered and have used this different pipe mounting system because it's preferable?

ATTORNEY ANNE MALONE: The pipe mounting allows for the flexibility to be able to turn the antenna itself. And we've gone back and forth I know with this Board, you know multiple times. I've gone back to them and said give me the best that you can do structurally and from our perspective -- and this is what they've come back and told us. And actually, listening to that, these are actually closer to the building than the hinge mount would be. We asked for nine inches from the antenna to the back of the building, and I think they were

saying 12 inches in the other one.

CONSTANTINE ALEXANDER: Yes, but I think the point though is that the hinge mount, rather than the pipe mount, even though it's farther from the building, is still less visually obtrusive than the pipe mount. The pipe mount is rather ugly as I think is the opinion of most of the members of the Board. And what we've heard from another carrier there are ways, and we've been told, not by you but by your client, that's all there is is pipe mount. And we're hearing now that that's not the case. Another carrier has done that. And we would ask that particularly in the future that you explore other approaches than just simple pipe mounts because they are a problem.

ATTORNEY ANNE MALONE: I will pass that on.

BRENDAN SULLIVAN: The question that I keep asking myself is what would the

Beacon Hill Historical Association say and/or what would the BRA say about that presentation? And is there an alternate, an alternative way that they would prefer? In other words, from what we have heard is that they don't like the pipe mounts. And hence they would say another way of doing it. So....

ATTORNEY ANNE MALONE: I don't personally know. I have not done anything before the BRA.

BRENDAN SULLIVAN: I don't mean it to be a trick question. But have you represented --

ATTORNEY ANNE MALONE: I personally have not. The firm has. I personally haven't.

BRENDAN SULLIVAN: All right. So when you go back to the firm tomorrow, you might say who has represented us before Beacon Hill and stuff like that, and what do

you get away with there? Because Cambridge is quickly coming up right behind you.

CONSTANTINE ALEXANDER: Do convey to your client that the next time they come before us with a pipe mount proposal, they're going to have a less than receptive audience. So they really should think long and hard --

BRENDAN SULLIVAN: Yes, it just delays the whole process and goes on for months as opposed to one hearing.

ATTORNEY ANNE MALONE: It's also to their benefit as well.

TAD HEUER: And you can other things to do on Thursday nights. Other communities to go to.

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

(No Response.)

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

testimony will be closed.

The communication from the Planning Board -- there have been no new communications. The old communications are already part of the record.

Further comments, questions from members of the Board? Ready for a vote?

The Chair moves that we grant the Petitioner a Special Permit to add the equipment as set forth in the letter from Prince, Lobel Petitioner's counsel dated October 25th. Since the amount of equipment to be added on the revised plans that were submitted with that letter is less than that shown in the public advertisement.

The Special Permit would be granted on the basis that the additional equipment will not impact traffic or patterns of access or egress or cause congestion, hazard or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by the relief being sought.

That no nuisance or hazard would be created to the detriment of the health, safety and welfare of the occupant of the proposed use 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.

In this regard the Chair would note that the Petitioner has made a good faith effort to minimize the visual impact of what is being added to the structure.

That the Petitioner will take steps to paint the new equipment, and otherwise to minimize the visual impact of the equipment.

The Special Permit would be granted

subject to the following conditions:

That the work proceed in accordance with plans submitted by the Petitioner. They are dated -- well, most recent date is October 25, 2010. There are many pages in length, starting with pages T1, and I just initialed page T1.

And also that the visual impact of the work that's being forced for the Special Permit to be granted will be consistent with the photo simulations submitted by the Petitioner. The first page dated October 24th. And the first page of which has been initialed by the Chair.

Provided, however, that with respect to the work to be pursued, that if the visual impact of the proposed box is beyond what is shown in photo simulations of different intersection, that the Petitioner has leave to modify the plans, to take the box and bring it down, not have it suspended from the side

of the building, but to bring it to the next level, the level below there so it looks like it sits on the level below and not just suspended. Such actions would minimize the visual impact of what is being proposed.

On the further condition that with respect to the maintenance of the property, and particularly the painting to minimize the visual impact, that this be maintained. And to the extent, in other words, the painting has to be refurbished and renewed from time to time so that the visual impact continues to be minimized.

And further that if you should cease to use this facility, this equipment for any period of six months or more that it be removed promptly and that the building be restored to its prior condition to the extent possible.

All those in favor of granting the Special Permit on this basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

ATTORNEY ANNE MALONE: Thank you.

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

(7:40 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10004, 169-171 Windsor Street. Is there anyone here wishing to be heard on this matter?

(No Response.)

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

We are in receipt of a letter from the Petitioner dated October 15th. "Dear Sir/Madam: We are sorry that we missed the hearing last night, October 14, 2010. We are

requesting an extension and rescheduling the hearing for a later date."

I think we will accept that request. What date do you have for us, Sean?

SEAN O'GRADY: We can do them on December 2nd also.

CONSTANTINE ALEXANDER: December 2nd.

The Chair moves that this case be continued until seven p.m. on December 2nd. A waiver of time for decision being in the file. This also being a case not heard. The continuance will be on the condition that the Petitioner modify the sign on the premises to reflect the new date and time, that time being seven p.m.

And on the further condition that the Petitioner be requested to relocate the sign on the premises from the basement window where it is not necessarily as visible as it should be to a more prominent position on the

property.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

(7:45 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9951, 23 St. Mary Road. Is there anyone here wishing to be heard on this matter?

EDRICK VANBEUZEKOM: My name is Edrick Vanbeuzekom. I'm the architect. First name is E-d-r-i-c-k. The last name is V-a-n-b-e-u-z-e-k-o-m. I'm with EZB Designers. I'm also a resident of Cambridge.

I first want to say the owners of the

property send their apologies. Deborah Steenland had an accident this afternoon and is in the hospital.

CONSTANTINE ALEXANDER: Who has?

EDRICK VANBEUZEKOM: Deborah Steenland, one of the owners. And her husband Kim is at the hospital with her. So he just called me an hour ago to say they couldn't make it. We'll try to do what we can without them.

Before I get started I have a Petition from the neighbors/abutters to the property I'd like to submit.

CONSTANTINE ALEXANDER: Sure. I take it these are in favor?

EDRICK VANBEUZEKOM: They are in favor, yes.

I have a series of photos of the existing house.

CONSTANTINE ALEXANDER: These are not in the file now? These are additional?

EDRICK VANBEUZEKOM: Yeah. These are photo simulations of the proposed addition. There's a couple of the ones later that -- toward the bottom that you can compare the photo of the existing proposed.

What we are proposing. This is a house that is built in 1886. First start with the existing house.

This is the front of the house. It's the smallest house on the block. The owners have been living here since the mid-nineties. They want to stay in the neighborhood. They feel the need for more space. It has kind of an awkward addition currently. There's a 33-foot long dormer on one side of the house.

CONSTANTINE ALEXANDER: That's there now?

EDRICK VANBEUZEKOM: That's there now. And it actually -- the peak of it actually comes up above the existing -- the peak of the dormer comes a little bit above

the peak of the actual roof of the risen roof of the house. It's in pretty bad shape. And so what we are -- we are proposing two things: The house is currently non-conforming due to side yard setback on one side. Here's the site plan. This is the property. Here's St. Mary Road. There's one building out of the corner here and Inman Street is over here. This side of the house is non-conforming to the setback. This side actually just makes it. The house does conform to FAR. It conforms to height. So what we're proposing is two things basically. One is a small addition on the first floor which basically gives them a mud room entry covered area basically into the back of the house here. The second portion of the project is essentially expanding the third floor. And we're trying to preserve the character of the original house to obtain additional headroom up there. So, it's actually quite low

currently even with the dormer that they have up there. Most of the ceilings are about six feet tall.

CONSTANTINE ALEXANDER: That dormer that's there now, is that part of the original house? Or has it been added over the years?

EDRICK VANBEUZEKOM: I'm not sure when it was added. It was added before the owners moved in. But it's been there a while.

The proposal is basically to take the entire roof off and rebuild it holding the eave lines, but build it at a steeper pitch to get a little more height. Build the dormer back, but moving it back from the street a little bit farther. And we're actually making it even a little bit longer basically because of the way the plan of the house works out. That was the only way --

CONSTANTINE ALEXANDER: How long will the dormer be?

EDRICK VANBEUZEKOM: The dormer will end up being 36 feet on that side.

And then we're adding a 15-foot dormer on the other side, which from the front of the house balances it out. So, it's no longer just on one side.

CONSTANTINE ALEXANDER: And that dormer complies with the dormer guidelines, the 15-foot dormer?

EDRICK VANBEUZEKOM: That one does in the length. We're lining it up with the outside wall of the house so in that sense it complies. And, again, that has a lot to do with the narrowness of the house itself. There's -- and there's an existing stair coming up here. So I would have liked to split the dormer into two here. But because the stair comes up in the middle, that's where we need headroom. And so basically to get usable space out of the rear portion here, we're extending it passed there. So that's

the basic approach.

We've been to the Historical Commission and they approved it. And, again, one of the keys here was to try to maintain the character of the house. We're keeping a lot of the original detail or rebuilding detail when necessary. We're re-siding the house. And I just want to show you here, this is a street elevation. This shows the current condition. And these are the buildings next-door to it. This shows the proposed condition. So you can see it's still basically smaller than the adjacent houses, but -- and only slightly taller than what is it is currently.

BRENDAN SULLIVAN: Does the dormer on the driveway side, the existing and proposed, the same size or the proposed will be the same size as the existing?

EDRICK VANBEUZEKOM: No. The proposed will be three feet longer than the

existing.

BRENDAN SULLIVAN: Okay.

EDRICK VANBEUZEKOM: But it will also be moved back from the street further -- the existing comes out to the front wall of the --

BRENDAN SULLIVAN: And the reason for the three feet longer?

EDRICK VANBEUZEKOM: Is in order to get usable space at the rear of the house. Let me show you the floor plan.

CONSTANTINE ALEXANDER: How much additional space are you adding? Let me put it the other way around. If you didn't have the extra three feet, how much space would you be losing?

EDRICK VANBEUZEKOM: Well, what you would lose -- if you lost three feet in this room, you would lose basically a whole usable portion of this room. You know, we're basically getting a ten-foot wide space

there. He would be down to seven feet if we were to cut it back three feet. Which, you know, it's better than nothing but it's not quite, you know, something you can really put a bed there. It's just a little less usable. So --

BRENDAN SULLIVAN: So, it's an attempt to balance the siting of the dormer on the roof?

EDRICK VANBEUZEKOM: Yes. Balance it, but in terms of the interior space as well as on the outside of the house.

TAD HEUER: What if you pushed it to the back even further, would that help you in the front? Say if you have 33 feet --

EDRICK VANBEUZEKOM: No. Because then in the front -- right now we have the existing stair in the front here. So if we pushed it three feet farther back here, then this becomes unusable space here.

TAD HEUER: You prefer it to have it

on the back than the front given that set-up, right?

EDRICK VANBEUZEKOM: True.

TAD HEUER: Okay.

EDRICK VANBEUZEKOM: But on the other hand, in order to, again, make this space useful, we've got the dormer on this side. And I think from the front it makes sense from the front sides of the dormer to line up along the street side there.

BRENDAN SULLIVAN: That existing dormer is very 1966, 1972 vintage.

CONSTANTINE ALEXANDER: My question about whether it's the original structure was not (inaudible).

BRENDAN SULLIVAN: I never would have done that.

TAD HEUER: Do you have a lot plan that shows your buildable space within your setbacks?

EDRICK VANBEUZEKOM: Yes. This

plan here. This is the setback here. So there is a little bit of a buildable space on the back of the house here. But that then seems to encroach on our usable open space. And that's one of the main reasons for going up as opposed to out. And we meet the requirements but I think that we're -- actually, yeah.

TAD HEUER: So you have 40 percent now. You're going to about 38 percent and you need 30.

EDRICK VANBEUZEKOM: Right.

TAD HEUER: That's in open space.

EDRICK VANBEUZEKOM: So if we were to take the whole room size space out of this, it would really cut into that.

TAD HEUER: How much would it cut into that?

EDRICK VANBEUZEKOM: Well, the 40 percent is basically this area here, right? This is where we have the 15-foot dimension

across the back of the house here. So if we were to take -- this whole area here would be more like 20 percent, 25 percent of the usable open space.

TAD HEUER: Right.

EDRICK VANBEUZEKOM: Not to mention the back of the house is pretty close to where the back of the house and the adjacent building is. I think the neighbors would prefer to see this go up rather than back in terms of just keeping -- preserving the green space there.

TAD HEUER: Right.

EDRICK VANBEUZEKOM: I might point out also the long dormer is actually within the setback. So in that sense it complies with Zoning, but it doesn't -- I think we're just over the ten percent rule so we don't, you know, we still need to get your approval for that.

You know, it's an unusual situation,

but I think what we're basically trying to say is we think we're improving what's there. We could leave the existing dormer there and just do the other side, but I'd rather, you know, it would be nice to make it more usable and to improve what's there.

CONSTANTINE ALEXANDER: At this point let me see if there's anyone in the audience wishing to be heard on this matter.

(No Response.)

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

And just for the record, the Petitioner has submitted to us a petition signed by the residents at 84 Inman Street, 90 Inman Street, No. 1, 90 Inman Street, No. 2 and 21 St. Mary Road. Well, it's a very short petition let me read it real quick. I think it's important because --

TIMOTHY HUGHES: When are you doing the training, Gus?

CONSTANTINE ALEXANDER: Saturday.
After Saturday.

We the undersigned have reviewed the drawings prepared by EDB Designs for the proposed addition to the Steenland/Hull residents at 23 St. Mary Road, Cambridge, Massachusetts." This is why I want to read the letter. "We understand that the dormers are larger than permitted by the guidelines, but believe that the proposal improves the appearance of the house and our neighborhood. We support the plans for the proposed addition and the owner's allocation for a Zoning Variance."

And that is the sum and substance of the comment that we have in the file.

Comments from members of the Board?

Tom?

THOMAS SCOTT: I mean, the dormer, the existing dormer looks ridiculous on the house. At least your proposal brings the

house more into proportion, I think, to allow that dormer to kind of reside there somewhat.

EDRICK VANBEUZEKOM: I think it also helps with the peak of the roof.

THOMAS SCOTT: I agree. So, I think it's an improvement. I guess I'm not thrilled about the length of the dormer, but I understand why you're doing it because of the space constraints within that area of the house. So, I'll continue to think about it.

CONSTANTINE ALEXANDER: Comments from other members of the Board?

TIMOTHY HUGHES: If I think of it in terms of adding a 15-foot dormer and a three-foot dormer, it's easier for me. I know it's an oversized dormer and it's a struggle for us, but I do understand -- that seven-foot wall in a bedroom is, you know, virtually useless for putting a bed on. And you can't push it back any farther if you want a landing at the top of the stairs. So that's

how I understand it.

CONSTANTINE ALEXANDER: Other comments from members of the Board? Tad, do you need more time?

BRENDAN SULLIVAN: I guess my thought would be along Tom's line. I think that it cleans the house up kind of nicely. The existing dormer just doesn't work. It was done rather poorly. So the proposal before us does clean up the house and makes it a little bit more unified, if you will, proportion-wise.

THOMAS SCOTT: And balanced.

CONSTANTINE ALEXANDER: I wish the way to do this was not so big a dormer. But I can't figure out a way. And you're smarter than I am and you can't figure out a way.

EDRICK VANBEUZEKOM: I put a lot of time into it.

BRENDAN SULLIVAN: It's a very narrow house.

CONSTANTINE ALEXANDER: It's a very narrow lot.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Tad?
Going once, going twice.

TAD HEUER: I guess part of it I understand all that's being said. I don't know. It's not going to matter what I'm going to say. But five feet of that dormer is being taken up by the closet. So I mean it's not even -- I mean I understand where it's put and why it's there, but we're essentially giving away five feet for something that doesn't even need to be in a dormer. Maybe you can't put it anywhere else and I get that. That's kind of frustrating to me.

EDRICK VANBEUZEKOM: Yeah.

TAD HEUER: It's not for walking around space. Not for headroom space. It's not the needs for dormer space. It's for

someone's clothes.

EDRICK VANBEUZEKOM: It is still partly for headroom space. Because I thought about breaking the dormer where the closet is shown, but if we do, it comes down too low to enter the bedroom where we have the door to the -- you don't have enough headroom where the entrance to the bedroom is. And if you try to shift the door to the bedroom over, and then you run into the bathroom. Which in our original submission, we actually had a larger dormer on the other side of the house in order to fit the bathroom into the dormer. We've pulled the bathroom more toward the interior to shorten that dormer to 15 feet. So, you know, so that's the dilemma. If we push the door, the entrance door to the bedroom.

TAD HEUER: Can you put that closet there?

EDRICK VANBEUZEKOM: I could. But

what I'm saying is if the dormer does not -- if we take out the section of dormer here, I don't have enough headroom to come in here. That's how low it comes down. I mean, I would have to eat into the bathroom, which then, you know, that's the problem with the bathroom because I'm already cutting it close on the headroom there.

TAD HEUER: All right. You're still under 35 feet, right? You're raising the roof anyway.

EDRICK VANBEUZEKOM: Yeah.

TAD HEUER: Is there a reason why you didn't consider bumping it up a bit more, not (inaudible). Would that help?

EDRICK VANBEUZEKOM: That was a Historical Commission thing. Where they wanted us to hold the eave lines. I mean, I could have gone to an even steeper roof, but there was some discussion about whether it was appropriate to make it more steep or not,

and they decided it was. But I think if I had gone even steeper, that would have been a tough call.

TAD HEUER: All right.

CONSTANTINE ALEXANDER: We ready for a vote?

The Chair moves that this Board make the following findings with respect to the relief being proposed for 23 St. Mary Road:

That a literal enforcement of the provisions of our Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner has a rather small house on a non-conforming small narrow lot, and there is a need for additional living space.

The hardship is owing to circumstances relating to the shape of the lot. The lot being, as I said, a long and narrow and undersized.

And the relief may be granted without

substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this Ordinance.

In this regard the Chair would note that there is neighborhood support and no opposition for the petition.

That the Historical Commission has signed off on what is being proposed.

And that what is proposed will improve the housing stock of the City of Cambridge by creating a structure with more living space than is presently the case.

So on the basis of these findings, the Chair moves that a Variance be granted the Petitioner on the condition that the work proceed in accordance with the plans.

And -- let me interrupt. You know, these are the final plans, right?

EDRICK VANBEUZEKOM: Yes.

CONSTANTINE ALEXANDER: Okay. You can't modify them after this.

EDRICK VANBEUZEKOM: Yes.

CONSTANTINE ALEXANDER: Proceed in accordance with plans prepared by EVB Designs. They are run from C-1.0 through C-1.2, A1.0 through A-1.3, A2.0 through A2.3, X1.0 through X1.3, X2.0 through X2.3. First page of which has been initialed by the Chair.

All those in favor of granting the Variance on the basis so moved say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Hughes, Sullivan, Scott.)

CONSTANTINE ALEXANDER: Opposed?

TAD HEUER: Abstain.

CONSTANTINE ALEXANDER: One abstention. Variance granted.

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The last case on our continued agenda is 24 Decatur Street, but I'm going to call this case immediately following because we have a case on our regular agenda involving 24 Decatur Street. We'll take up the continued case immediately following the regular case because the regular case might have a direct impact on what we're going to do with the continued case.

So, with that introduction the Chair will call case No. 10009, 24 Decatur Street.

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

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman. For the record, James Rafferty on behalf of the Applicant Christopher Walsh to my far left. Mr. Walsh's architect.

CHUCK SULLIVAN: Chuck Sullivan.

ATTORNEY JAMES RAFFERTY: Chuck Sullivan is also present.

This is an application, Mr. Chairman, for approval to construct a single-story addition to a single-family dwelling at this address. The house is recently purchased by Mr. Walsh and his wife. They have four young children and they have taken residence there. They did a significant renovation of the existing house over the past few months. The prior case that you referred to, the continued case, actually represented what was their original intention here which was

to restore this existing house and subdivide the lot and build a second dwelling unit in the rear. Despite all the merits of that approach, it did not seem to enjoy a strong level of support by abutters which led the Walshes to reconsider their plan. This case represents a successor concept which is strikingly different both in terms of its size and the extent of relief that's being requested.

The sole purpose for the relief is related to the non-conforming nature of the existing structure. This essentially is a conforming addition to an existing non-conforming structure. It's a narrow lot, narrower than is customary in the area or in the district. I think the width of the lot is within 30-foot range.

CHRISTOPHER WALSH: 30 feet.

ATTORNEY JAMES RAFFERTY: 30 feet.

So, the house has a non-conforming left side

setback. So that non-conformity remains with the property and subjects it to the limitations of Article 8.25. The proposal here or the need for relief is two-fold:

One is there are two elements to this project. One is the construction of a connector if you will between the existing house and this proposed addition. And that is a -- there's roughly on the footprint of the location of where a sun porch used to be in the former house, and the renovations here Mr. and Mrs. Walsh removed that sun porch. Although the footings remain. And if you look at the floor plan, you'll note that there's a small piece that connects, that extends off of the main house, that connects to this one-story addition. The proposal is to actually make that wall more conforming. They're bringing the left side of that wall in. Although that wall will not be a conforming wall, but it will be a foot and a

half more conforming than that wall was when it was a sun porch. But the length of that wall is less than ten feet.

The significant portion of the addition has a seven-and-a-half foot setback on the left side and that is a conforming setback. So that is -- but it's the floor area of that that extends the increase in floor area above the ten percent as of right and 25 percent by Special Permit. At the end of the day, the house will still have an FAR below that which is a proven point. By the character, nature and purpose of the house really is unchanged. The parking orientation continues in place with an existing driveway. And the house enjoys significant amount of open space and rear setback. The rear yard here is considerable. I think the rear setback here is --

BRENDAN SULLIVAN: 57.

ATTORNEY JAMES RAFFERTY: 57-foot

near foot setback in a district where the minimum requirement is 25 feet.

So, we respectfully suggest that the hardship is related to the narrow width of the lot. The need to make the connection between the existing house to get from the existing house to this addition, this connector piece is within, within the setback area. The balance of the relief is related to the non-conforming nature of the existing house.

CONSTANTINE ALEXANDER: Why, just out of curiosity, why wasn't this approach thought of the first time around? Why did we go around with the prior proposal?

ATTORNEY JAMES RAFFERTY: Well, the prior proposal was a product of what the lot would allow. Given the size of the lot, it would allow for two dwelling units. And the square footage, again, that was proposed there was a little bit in keeping with that. It really was a thinking, and it was also out

of some appreciation for the existing structure to put on this addition, the early thinking was a long an addition to this house really changes the character and style of the house. It is of a particular vernacular or workers' cottage type style. And the thinking was restore that, leave that in place and build a second house. So, then that led to a subdivision talk and owner fee. And that probably was the case. And I'll take responsibility because we did review it and I mentioned it that might be a possibility. I think from a style and design perspective, the thinking was to have two free-standing houses. It's a deep lot. It's a narrow lot. But a deep lot. The depth on it is over 100 feet. I think it's --

CHRISTOPHER WALSH: 125.

ATTORNEY JAMES RAFFERTY: 125 feet. Very deep, but narrow. And structures in the rear of the lots in this neighborhood is not

an uncommon feature. Many of them are conversions of carriage houses. The lot to the immediate left has such a characteristic. It's a three-family house that's hard up against this lot and has a significant size structure in the rear. So, I think it was an attempt to look at that. But that proved -- it wasn't a disregard. It was just the thinking that that might be a good opportunity. And the house was significantly compromised. It's condition -- if you had an opportunity to view the photos in the other case, what the Walshes have done is really added a very nice living space to the house. And the hope was that it would be more financially feasible for them if they had the second house. But that was not an avenue that seemed worth pursuing, and thus the change, the significant change here. And that's why the thinking was to -- so if you look at the floor

plan here, the second piece really is designed to accommodate four young children, oldest probably is six?

CHRISTOPHER WALSH: Eight.

ATTORNEY JAMES RAFFERTY: Eight.

The idea is to try to stay in the neighborhood. Let the children and the family grow in the house. So that's where we are.

I know there's been a lot of communication with neighbors. I know there are some neighbors here. My sense is that Mr. Walsh has done an effective job in at least communicating the contents of this new application.

CONSTANTINE ALEXANDER: Let me at this point ask is there anyone here wishing to be heard on this matter? Sir, come forward and give your name and address to the stenographer.

JEREMY GUNAWARDENA: Jeremy

Gunawardena, G-u-n-a-w-a-r-d-e-n-a.

Good evening. My name is Jeremy Gunawardena. I live at No. 20 Decatur Street which abuts No. 24 on the long south boundary. We had some concerns about the previous plan that Mr. Rafferty brought. And just to summarize those concerns I would say it had to do with the fact that the setbacks that were requested, the Variances that were requested, would bring the second object very close to us. We were concerned about being overlooked. We were concerned about the effect on the green space that was -- had emerged in that area which would be significantly affected by that. And we were concerned about the increased density of the two houses on such a small lot, the 30-foot lot, would cause.

I think the new plan that has been discussed here meets -- very much meets these concerns. And I'd like to thank Mr. and

Mrs. Walsh for responding to the concerns that were raised and for communicating the new plan to us. I think one remaining concern is that comes back to the issue of density. That in the future should a new person purchase the property or anything like that, that this extension should not become the basis for essentially creating a two-family structure out of the existing single-family structure which is certainly not the plan for Mr. and Mrs. Walsh tonight.

So if the Board was minded to grant this, if there was a way to prevent this from happening, I think that would be something that we would very much favor.

CONSTANTINE ALEXANDER: I assume, I should know this but I don't, as a matter of right, could this become a two-family house or would they have to seek a Variance, a new owner have to seek a Variance from us to go to a two-family?

SEAN O'GRADY: They would need two parking spaces. What size is the lot?

CHRISTOPHER WALSH: Two non-tandem parking spaces?

SEAN O'GRADY: Two non-tandem parking spaces.

CONSTANTINE ALEXANDER: The size of the lot is 37 feet.

ATTORNEY JAMES RAFFERTY: It has compliant FAR.

SEAN O'GRADY: So it's compliant FAR. Could you get two parking spaces on there?

CONSTANTINE ALEXANDER: What I'm getting at would this person -- your fear of a two-family, would the person need to get a Variance in which case if they come before us you would have the ability to object.

SEAN O'GRADY: It's possible they would not.

CONSTANTINE ALEXANDER: Possible

they would not.

SEAN O'GRADY: You know, somebody would have to sit down and try to get two parking spaces to fit. But the other three requirements seem to fit from a quick glance.

CONSTANTINE ALEXANDER: I'm loathed to -- if we were to grant relief tonight, to prohibit any conversion to a two-family. I guess I understand your concerns, but I think it goes beyond the relief that's being sought here. We're overstepping our bounds. What I was hoping to be able to tell you, but I guess I can't say absolutely is that don't worry because if someone wants to make a two-family, the new owner, that they'd have to come before our Board and get relief and be able to demonstrate that they satisfy the legal standard. And you and the neighbors would have the ability to object. I can't give you that absolute assurance is what we're talking about tonight. So I have to

tell you that I guess there is a risk, assuming we grant relief tonight, that this could happen. But if it does it's because they could do it as a matter of right under our Zoning By-Law.

JEREMY GUNAWARDENA: As a result of the extension of this it would be granted.

CONSTANTINE ALEXANDER: Even without the extension.

ATTORNEY JAMES RAFFERTY: It's the existing house.

CONSTANTINE ALEXANDER: It's the existing house, exactly. I mean that's always an issue. If you have a single-family in most residential districts, you can convert to two-family provided you meet certain conditions to parking and FAR and the like. And most times people can't, and they have to come back to us for a Variance. And the neighbors can get involved. But if you can meet the four requirements of our Zoning

By-Law, that's just how it works in our Zoning By-Law. I think there's a good chance, I'm not -- this is just me off the top of my head, that if someone wanted to make a two-family here with this extension, they probably wouldn't have issues in parking, and they have to have two parking spaces. I suspect they can't meet our requirements for the Zoning and then they would have to come back to us for a Variance. And you would be able to address it at that time. But I can't assure you of that. Yes, sir.

ATTORNEY JAMES RAFFERTY: Yes, I would say if you look at the plot plan, you would see that the minimum driveway width requirement is ten feet. There isn't ten feet down there and you can't park tandem. I think the biggest constraint would in fact be the parking. That you couldn't get there as of right. In many ways the creation of this addition limits the ability to create a

second building.

CONSTANTINE ALEXANDER: Exactly.

ATTORNEY JAMES RAFFERTY: So, that's not the intention. But I think given -- and I hadn't frankly looked at this issue until this was raised this evening. But I think this addition takes up so much of the space that the open space and the driveway would preclude you from getting there as of right. Which is not the case under the current conditions.

JEREMY GUNAWARDENA: So does that in fact change the statement that you made?

CONSTANTINE ALEXANDER: I think to a degree. No one's giving you loud and clear assurances that they can't convert to a two-family if we grant relief tonight. I think it's fair to say that the ability to do so is reduced from what it is today. Tonight they could do it without seeking relief from us tonight. They just decide they want to

make a two-family house of our house here, they can convert as a matter of right. Their ability to do that now if we grant relief and they build the addition, is minimized and may be eliminated. We have to take a closer study sitting here around the table tonight. I think what you should take away from this is that most likely it can't be a two-family on this property if relief is granted tonight without --

JEREMY GUNAWARDENA: Coming back to the Board.

CONSTANTINE ALEXANDER: -- coming back to this Board and you would be able to object.

JEREMY GUNAWARDENA: Thank you.

CONSTANTINE ALEXANDER: Thank you. Is there anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes no one else wishes to be heard.

The Chair would note for the record that there are numerous letters in our file which I will not read that are part of the record all in support of the Petitioner of the relief being sought.

Questions, comments from members of the Board at this point? Do we have two pages of the plans?

THOMAS SCOTT: Yes.

TAD HEUER: I have a question that's more curiosity than anything else. So, you're looking to add on the back, which is going to be a playroom in the basement and then a family room above it, kind of a double height presuming it goes up. So you've only got two bedrooms, you're not referring additional bedroom space. Most times when people come before to us say I'm here and I've got a growing family we want more bedrooms. Because kids don't want less bedroom space as

they get older.

CHRISTOPHER WALSH: Right.

TAD HEUER: Is there a reason? And I guess this partly goes to the question is this the thin end of the edge? Usually the standard thing we would see is more bedroom spaces (inaudible) than before. The fact that it's not that I could see it's space is expunged if you don't have a place to put your TV if you want one because it frees up space elsewhere in the house.

CHRISTOPHER WALSH: Right.

TAD HEUER: Have you given any thought -- I mean, we're going to another petition in a few years asking for more bedroom space further along?

ATTORNEY JAMES RAFFERTY: No. If we convert the family room into a bedroom without having to come here, and I think if they had the money to outfit that into a master bedroom suite in the future, I think

you could see a conversion of that space to a bedroom.

CONSTANTINE ALEXANDER: I think what Tad's asking though is a further extension on this. In other words, not give up the playroom or the family room, but add a third bedroom by one more piece of structure at the back of the lot or on the side or a dormer or something.

ATTORNEY JAMES RAFFERTY: Well, they need another Variance for the same Variance they're in here now. They're getting close to the FAR now. They're within --

CONSTANTINE ALEXANDER: They're very close right now.

ATTORNEY JAMES RAFFERTY: Yes, they're within --

TAD HEUER: Well, I know they would. And they'd certainly be entitled to come before us. It's just that we like to see as

much as possible at once. My question is is there any plan for it, we prefer it to see it all at once, that's it.

ATTORNEY JAMES RAFFERTY: I would say there's been nothing that's occurred in this process that would encourage the Walshes to come back in front of the Board. At least of which they're interaction with their counsel. So it would be my sense that it would be a good long while before Mr. and Mrs. Walsh appeared again.

CHRISTOPHER WALSH: And for the moment the four kids are all too happy to congregate in one bedroom along with their parents. And we're okay with the two bedrooms for now. As we can afford it, we would be glad to have, you know, convert that family room into a bedroom. But we know in Cambridgeport you can have a 3,000 square foot house --

CONSTANTINE ALEXANDER: Just to

follow along that, again, and to the point this gentleman made before, you decide you want another house and you sell and the people who buy it say wait a minute, I want more than two bedrooms and a family room and a playroom, let's come back for relief. But the answer Mr. Rafferty just pointed out, if they do that, they're going to have to come back before this Board. I'm sure the neighborhood would be less than silent on it, and we'll deal with it at that time.

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: It was just a question of curiosity, that's all.

ATTORNEY JAMES RAFFERTY: I thought the same thing frankly because I looked at this and said well -- and frankly, I think there are some financial factors to build out bedrooms and bathrooms that are a little more expenses. This will be more open space for the time being and the family will grow into

it. But it's a legitimate inquiry I agree.

CONSTANTINE ALEXANDER: Further questions from members of the Board? Ready for a vote?

These are the two pages of the plans?

ATTORNEY JAMES RAFFERTY:

Mr. Sullivan, said to me to be sure we use this plan in the likelihood that the printer didn't scale that exactly.

CHUCK SULLIVAN: Yes, I wasn't sure. They should be the same exact plan.

CONSTANTINE ALEXANDER: They better be.

CHUCK SULLIVAN: Nothing's changed. What's the date on yours anyway?

ATTORNEY JAMES RAFFERTY: 10/20.

CONSTANTINE ALEXANDER: 10/20.

CHUCK SULLIVAN: Yeah, it's the same date. Sometimes if they're not printed properly they're not to scale, two sheets.

CONSTANTINE ALEXANDER: How many

sheets?

CHUCK SULLIVAN: Two sheets.

ATTORNEY JAMES RAFFERTY: I took that out because the Board typically doesn't need the building section. I think Mr. Sullivan had greater confidence in the scale of this plan. The dimensions are correct. His concern was the scale might be off. He just mentioned it to me this evening.

CONSTANTINE ALEXANDER: I'm nervous that you're nervous.

CHUCK SULLIVAN: I'm not nervous. When we came tonight, I didn't know about his plans and if I had to scale some things for information for you.

CONSTANTINE ALEXANDER: I read these plans. You live and die with these plans.

ATTORNEY JAMES RAFFERTY: There's got to be a less harsh way to make that

statement.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that we have an older non-conforming structure that requires additional living space for the people who inhabit it.

That the hardship is owing to circumstances relating to the shape of the lot. It is a long and narrow lot.

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

In this regard the Chair would note that this proposal and prior proposal have been

thoroughly vetted by the neighbors, and this proposal appears to have almost the unqualified unanimous support of the neighborhood. There's really no opposition. Just one person has a legitimate question to be asked, but are not directly relevant to whether we should grant relief tonight although they are relevant. So there is neighborhood support.

That this project will improve the housing stock of the City of Cambridge.

So on the basis of the forgoing findings the Chair moves that a Variance be granted the Petitioner on the condition that the work proceed in accordance with the plans submitted by the Petitioner, prepared by Sullivan O'Connor Architects. They're two pages. They're both dated October 20, 2010, numbered A-01 and A-02 both of which have been initialed by the Chair.

Before I take a vote, this means that

you can't change these plans without coming before us again.

CHUCK SULLIVAN: Yes.

CONSTANTINE ALEXANDER: This is it. Okay.

On the basis of the forgoing, the Chair moves that a Variance be granted to the Petitioner.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

ATTORNEY JAMES RAFFERTY:

Mr. Chairman, I should note that in the application there were a couple of windows on the connector piece. I think it was a Special Permit -- no, we treated it all as a Variance because the wall itself wasn't a conforming wall.

Thank you.

(8:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will now call a continued case, case No. 9924 also involving 24 Decatur Street. Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Thank you, Mr. Chairman. James Rafferty on behalf of the Applicant. We request permission to withdraw that case.

CONSTANTINE ALEXANDER: The Chair moves that this case be withdrawn as

requested by the Petitioner.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

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

(8:25 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10010, 21 Decatur Street. Is there anyone here wishing to be heard on this matter? Please come forward.

MARK BOYES-WATSON: So Mark Boyes-Watson, Boyes-Watson Architects, 30 Bowes Street in Somerville.

JOSHUA NEWBURY: Josh Newbury, 24 Vogel Street, Weston, Massachusetts.

MARK BOYES-WATSON: This is an existing three-family house on Decatur. The

other side of the street from the case you just heard. And basically this is -- it's going to remain a three-family house. We are -- you'll see in the drawings we are improving the house. It's an old house. It's been renovated a very long time. We are increasing compliance to some aspects of Zoning and need relief for others. I would quickly show the plans and review the relief because the relief has some small components and I can take you through what illustrates the relief.

Basically some of the keys are -- it's an interesting situation where there's a single car driveway. So there's only one parking space for the lot. And at the back there was a garage and storage area which has since fallen to disuse actually so that there's grass from about -- if you can look on the survey, here back is essentially grass. So actually there's only one parking

space now. So the proposal also includes trying to get more compliance with the parking at a space, and I'll talk about that with the setback. And basically here you can see the pictures of the existing house which is fundamentally a two-story house. We're basically staying inside the envelope, and I'll describe the ways in which we aren't. The back alley is very low and the ceiling heights barely meet code. So we're going to push up the roof very slightly, and I'll show in a section, very slightly to make that work better in the plan. But otherwise the house is really staying the way it is.

So here's the site plan. So here you can see that actually this is the same footprint as was here with the exception of a little piece here. And here you see there's actually a public Cambridge Park here, a public park. And actually right now the garage comes all the way to the lot line

here and sits here. So we want to take that off, creating a rear yard that doesn't exist, increasing compliance. This is actually still just slightly non-conforming. So actually these windows that are going to go in here are going to be requiring a Special Permit.

CONSTANTINE ALEXANDER:

Non-conforming because of the rear yard --

MARK BOYES-WATSON: Because it's just less than 20 feet.

So this piece is gone. And actually consolidating the parking at the front allows this to just really to be green and not to be subject to all of that vehicle traffic that actually the garage would have suggested in the original plans. So when you look at the dimensional form, you will see that the open space actually has gone way up beyond compliance now in the proposed plan. So it goes from non-conforming for open space to

more than complying for open space.

In order to put this parking here, however, these are existing, these -- they actually got very poor foundation. They're sort of suffering from some sustenance due to poor foundation and soils. But this one here just actually makes it slightly short in this dimension just -- for the 18-foot required space to stay ten feet back from the lot line. So actually those are actually in the front yard so that's a bit of relief requested.

Basically, let me show you on the elevation --

CONSTANTINE ALEXANDER: The curb cut for that, there is a curb cut there now for only one car?

MARK BOYES-WATSON: Yes. So there's an extension of the curb cut required to get this second car.

CONSTANTINE ALEXANDER: You have to get that from the City Council.

MARK BOYES-WATSON: We have. And actually Josh has been -- while he's been showing this it to the neighbors, he's also -- you know how you have to get that sign-off from the neighbors for the extended curb cut. So that process is going well. And Josh can speak to that. But yes, we've got to acquire that. But I think -- and I think that comes as I understand, second.

CONSTANTINE ALEXANDER: And of course you're cognitive of the fact that this Board and the Planning Board itself they don't look in favor of front yard parking.

MARK BOYES-WATSON: Right. So I think what's -- exactly. And I think what -- just to put that in perspective, I mean, I'm drawing this sort of typical car here. And so, this dimension is five-foot-five-and-a-half for 18-foot space. In reality, the setback here is eight-foot one to the house. So I think that

the intent -- and I know that being here on that before, is that the intent is not to have this sort of appearance of loads and loads of cars in the setback. I think here that actually this, when you pull those cars up, they're going to be consistent with, you know, basically trying to get them so that when you look down the street, you see houses and not lots of cars. So I think it's a front yard setback Variance, it's not hugely abhorrent for the kind of neighborhood and how it works. So the plans, I don't think there's much to speak to because I'll come back to that. But just --

BRENDAN SULLIVAN: That front yard part is not inconsistent with the street?

MARK BOYES-WATSON: Exactly.

BRENDAN SULLIVAN: Right. That was my observation.

MARK BOYES-WATSON: Right. Trying to -- and we would pull them all the way except

that --

CONSTANTINE ALEXANDER: I had the same reaction.

MARK BOYES-WATSON: Yeah, yeah.

This is just a side-by-side on the elevations just to show that basically most of the things here -- this is that very, very small -- this is virtually on the property line. There's that garage that gets removed. That garage is on the property line. So actually we reduce the non-conformity of this right-side elevation. You can see with basically these are all existing windows. We're closing these two. So this is the proposal on this side.

Here is a conforming elevation as she conforms so these windows don't require relief. So there's no new windows on this one. These ones don't require relief.

So the relief in terms of the Special Permit are because, as we were just

discussing, this front yard is only eight foot setback, it needs to be ten. So these window changes actually don't require relief because they face the front yard. That stoop, however, because it comes off a non-conforming elevation, requires relief. But the back, this is slightly less than the 20-foot required rear yard setback. So these require a Special Permit, these windows in the rear elevation. And then the stoop requires a Variance for the same reason as in the front. So here you see the proposed front, the proposed rear, the existing front, the existing rear, that's that garage there.

So, just then to summarize the relief requested is I did this board so it makes it -- so basically three, four things because I don't actually show the parking on this one. So the Special Permit is for the windows that are on this elevation. The Variance for this stoop and this stoop. And then what we're

doing on the -- and just in this order. So those are the stoops. And then here, the floor area, the -- in Res C, you know, they say that if you're inside the building, you can follow the rules of C-1 and I'm talking about the gross floor area, the gross floor area that we're proposing here. So Res C is 0.6. C-1 was 0.75, and is 0.75. And what we're doing here is basically what I've illustrated in green here, is basically -- what I've illustrated in green here, is basically we've eliminated this garage and the storage that was in it. And we're -- you're not allowed to do this without talking to the Board. And we've relocated it. So we're putting here. And we're also adding a little bit here. But the sum of these new bits of gross floor area is greater than what we took off here. So actually that's why the dimensional form -- so there's an increase of 81 square feet from the

existing --

CONSTANTINE ALEXANDER: You have a non-conforming structure in FAR, even with the relocation you're increasing the non-conformity --

MARK BOYES-WATSON: Exactly.

CONSTANTINE ALEXANDER: -- to a small --

MARK BOYES-WATSON: Right. And so actually those numbers are -- I can't remember.

CONSTANTINE ALEXANDER: I can give them to you. You're going from 0.78 to 0.8 in a 0.6 district.

MARK BOYES-WATSON: Exactly.

And so -- and then -- but the -- and the thing I was saying about the -- again, if it was existing, they're allowed to be 0.75. So it's very nearly conforming today. And we're pushing it up a little bit.

CONSTANTINE ALEXANDER: I think

(inaudible.)

MARK BOYES-WATSON: Yes, exactly.

That's what we are asking for.

So then just go to review that then, so the decreased conformity is in the gross floor area. The increased conformity is the rear yard setback. The side yard setback which is the garage. The open space, and the addition of a parking space actually makes it more --

CONSTANTINE ALEXANDER: One more time on the parking, to me anyway, that's the most troublesome anyway.

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: What happens if you can't get the City Council to give you the additional curb cut for your two parking spaces?

MARK BOYES-WATSON: Then we would just go back to I guess to the one.

CONSTANTINE ALEXANDER: You're not

going pull up on the curb and park on that front yard?

MARK BOYES-WATSON: No. No. We weren't intending -- you know what, you definitely would be pulling over the curb, yes. I don't know, how can I answer that? I guess that wasn't the intention. I think that the -- I don't see a reason for a denial on that. Because the curb cut is allowed to be 20 feet wide?

CONSTANTINE ALEXANDER: I don't know. Others are more knowledgeable on that than I.

MARK BOYES-WATSON: Yeah. The rule is you're allowed up to 20 feet. So, I think that Josh has already talked to the neighbors. They're not in opposition to that curb cut. So I don't see a regulatory reason that it won't be granted.

TAD HEUER: I can't remember, what's the rule about parking beneath a window? Are

you not --

MARK BOYES-WATSON: Yeah, right. Within, within -- the short answer is -- it is an existing one- and two-family doesn't apply.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: Anything further, Mr. --

MARK BOYES-WATSON: No. Josh, did all the neighbor outreach stuff and maybe he can speak to that.

JOSHUA NEWBURY: I did go around the neighborhood on several occasions knocking on doors, leaving letters with my contact information saying this is what I'm doing, I'd like to meet with you, show you my plans, etcetera, etcetera. And I had a good amount of success with that. I met with five neighbors and showed them the, you know, right around the plans. Nobody had any problems with them. A lot of questions, and

then, you know, everybody said yeah, that's great. We want that house to be renovated. We're excited you're here. One person responded to the letter I dropped off with an e-mail saying welcome to the neighborhood. And then one person I had spoken with twice, but he didn't see -- you know, I told him what I wanted to do. He was out of town and wasn't there to see the plans, but I talked to him on the phone. And he said yeah, that sounds good. I trust you, it sounds like a good thing. So, I don't know -- and then I have the curb cut application that people have, you know, said approval and signed. And so it's, you know, it seems like there's support unless there's something that I don't know. And I can submit the names and the addresses of the people I talked to if you want or --

CONSTANTINE ALEXANDER: No. I mean, if you have letters from them, e-mails or anything you want to give to us to put in

the file, we have no written correspondence one way or the other on this case.

JOSHUA NEWBURY: I could make a copy of the curb cut application. It has a few people's signatures.

CONSTANTINE ALEXANDER: I don't think that's necessary.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard so I'll close public testimony.

Any questions or comments for from the members of the Board?

THOMAS SCOTT: Some of the FAR that's -- oh, sorry.

BRENDAN SULLIVAN: I think it just sort of cleans the house up kind of nicely actually.

THOMAS SCOTT: My question was on

the FAR that was added in the basement, how was that -- what's occurring in the basement?

MARK BOYES-WATSON: Well, what's happening is that right now there is an area -- if you look at the FAR diagram, there is an area of FAR already in the -- you know, the FAR is seven feet. There is an area here now that's already seven feet. So what we're actually doing is aggregating this. This is the smallest unit. It's actually, you know -- and so actually this is very useful, liveable space for that unit. It really extends the --

THOMAS SCOTT: That's liveable space?

MARK BOYES-WATSON: Yes. So what we've tried to do is aggregate these small amounts of space so as to work with what's already there.

THOMAS SCOTT: Within the same footprint?

MARK BOYES-WATSON: Exactly,
exactly.

Now, just to be clear because I don't know if I was clear. This is the place where we pushed out of the footprint. And in fact, I wanted to make sure I go over that section as well. So, that was that extension.

And actually here I said I would do this and I forgot to do it. But we're -- we try to limit it to as little as we could. But we're one-foot, five-and-a-half inches taller on this back alley than what was there. We've lifted that up. I'm actually not sure that that's a Variance, but I want to -- it's sort of one of those unclear things because second-story additions actually don't have to conform so setback. And it may not require a Variance, but just want to make sure that everybody was aware that we're lifting --

CONSTANTINE ALEXANDER: Let me just

point out, if it does require a Variance, we're not granting that Variance tonight.

MARK BOYES-WATSON: We did list it. We did list it.

CONSTANTINE ALEXANDER: You did list it?

MARK BOYES-WATSON: And I only say that because I know we're not supposed to ask for Variances we don't need. But it's one of those very grey areas.

CONSTANTINE ALEXANDER: Worse, it's to do something you need a Variance for.

MARK BOYES-WATSON: Exactly. So we did list it. And Sean and I agreed that we would list that on the application. It is there, right, Sean?

SEAN O'GRADY: Yes. I lost the conversation. It says -- yes.

CONSTANTINE ALEXANDER: I've got it.

Further questions or comments, Tom?

THOMAS SCOTT: No, that's it.

CONSTANTINE ALEXANDER: Tad, Tim?

TIMOTHY HUGHES: No, I'm good with it.

CONSTANTINE ALEXANDER: Is anyone concerned about -- just a question for members of the Board at this time being anal. If they don't get the curb cut for the second parking space, should we -- in other words, condition the Variance on the parking to getting a curb cut for the second parking space so that if it's not obtained for whatever reason, they can only park one vehicle on the lot or --

BRENDAN SULLIVAN: I think that would be a foregone conclusion.

CONSTANTINE ALEXANDER: Well, unless they go over the curb.

BRENDAN SULLIVAN: Well --

CONSTANTINE ALEXANDER: Or on Humboldt Street.

BRENDAN SULLIVAN: I would think that would be an enforcement issue then at that point. I think we're accepting the plan as --

CONSTANTINE ALEXANDER: The plan we're accepting has two parking spaces.

BRENDAN SULLIVAN: As presented. With the proviso that they receive City Council approval for that curb cut.

CONSTANTINE ALEXANDER: That was in fact my question.

BRENDAN SULLIVAN: In the absence of getting the approval, then they adjust the plan according to the curb cut.

CONSTANTINE ALEXANDER: You seem to support what I'm suggesting.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: Other members of the Board?

TAD HEUER: I agree. I think if you didn't, you would end up in a situation that

we don't want which is front yard parking trying to angle into one curb cut and you destroy that flush of the house approach that they're trying to achieve here.

CONSTANTINE ALEXANDER: Right.

Okay. Ready for a vote?

The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship to the Petitioner. Such hardship being that we have a structure that is not in good condition, that needs to be upgraded.

That a hardship is owing to the circumstances relating to the shape of the lot and the location of the structures on the lot.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from

the intent or purpose of the Ordinance. In fact, the relief being sought is modest in nature. Just a slight increase in FAR. Nevertheless the structure right now is non-conforming as to FAR.

So on the basis of these findings, the Chair moves that a Variance be granted to the Petitioner on the condition that the work proceed in accordance with plans prepared by Boyes-Watson Architects. They are numbered 0001, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, first page of which has been initialed by the Chair. Provided that these plans show two front yard parking spaces, that if the Petitioner is not able to obtain permission from the City Council for a second curb cut, that only one car may be parked in the front yard.

In other words, the existing curb cut can only be utilized. But you get your curb cut from the City Council, then you can have

front yard parking for two cars per the plans.

All those in favor of granting the Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

MARK BOYES-WATSON: Special Permit.

CONSTANTINE ALEXANDER: Yes, that will be next.

MARK BOYES-WATSON: Okay.

CONSTANTINE ALEXANDER: The Chair moves that the Special Permit be granted the Petitioner to the make fenestration changes in existing --

MARK BOYES-WATSON: Mr. Chair, can I interject? I just noticed on my little cheat sheet that I should have mentioned -- see these?

THOMAS SCOTT: Skylights.

CONSTANTINE ALEXANDER: Yes, skylights.

MARK BOYES-WATSON: Yes, beg your pardon. So they're actually on that fairly low slope, they're bathrooms, so I don't think they have an impact on the neighbors. But they are within the setback so they also need a Special Permit.

CONSTANTINE ALEXANDER: And on this, when you said you spoke to some neighbors and tried to speak to the neighbors.

JOSHUA NEWBURY: Yes.

CONSTANTINE ALEXANDER: People who would be affected by the window changes and their potential privacy issues, did you call that to their attention?

JOSHUA NEWBURY: I did. And they had no problems with the skylights.

CONSTANTINE ALEXANDER: Skylights I can understand. What about the windows?

MARK BOYES-WATSON: We actually decreased the windows on that setback.

CONSTANTINE ALEXANDER: That's right.

Okay, the Chair moves that a Special Permit be granted the Petitioner to make the fenestration changes as shown on the plans that I previously identified in connection with the Variance application, on the grounds that these changes will not cause congestion, hazard or substantial change in established neighborhood character or affect traffic generated or patterns of access or egress.

That the continued operation or development of adjacent uses will not be adversely affected by what is proposed.

That no nuisance or hazard will be created to the detriment of the health, safety and/or 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.

The Chair would note that the impact of these changes as to which the Special Permit is being sought is modest in nature. It's been shown to the neighbors and appears to raise no concerns from our perspective.

On this basis the Chair moves that a Special Permit be granted on the condition that these changes be made in accordance with the plans identified with respect to the Variance that was granted.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

(8:50 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10012, 15 Raymond Street. Is there anyone here wishing to be heard on this matter?

PHILIP HRESKO: Philip Hresko, architect.

CONSTANTINE ALEXANDER: Do you have a card to give to the stenographer?

PHILIP HRESKO: Yes, I do, sir. I'll do that right now.

CONSTANTINE ALEXANDER: Thank you.

PHILIP HRESKO: And the owners of the property John and Julia Bagalay here with me.

CONSTANTINE ALEXANDER: Before we get into the merits of case I think we have some important procedural issues that we've got to deal with.

PHILIP HRESKO: Yes, sir.

CONSTANTINE ALEXANDER: Well, one procedural issue is the fact that you're seeking to put a roof over a deck and add a doorway. It's come to the attention of the Chair that the Building Permit that was granted does not make reference to the fact that you were going to add a deck and put a door where once a door was. And now -- it was a window you put a door. To do that you would need a Variance. And you didn't -- on the Building Permit application there was no disclosure that this was going to be done.

And, therefore, we have a door and a deck that are not in compliance with our Zoning By-Law, and for which you will need a Variance after the fact assuming you want it granted. So I'm not of a mind to deal with the case for a roof over something that requires a Variance. I think we've got to get the other part of the case done first or maybe we'll do it altogether if you like. The deck, the doorway and the roof. That's one issue.

Tim, you pointed out something about the dimensional form.

TIMOTHY HUGHES: What I saw in the application was the dimensional form was filled out incorrectly in terms of percentages on FAR. And that the accompanying application did not have a statement of hardship on it which is necessary for us to find in favor of a Variance.

CONSTANTINE ALEXANDER: That's

true. I mean, the supporting statement and as you know, a key element of the statute with regard to obtaining a Variance, is that you have to demonstrate hardship. And there's no statement of hardship here. We have a form that you're supposed to fill out. It's left blank. So for a number of reasons I don't think this case is ready to be heard tonight. I think what you've got to do, you've got to correct your forms. Complete the hardship application. And you've got to come back before us with it being separately advertised seeking a Variance for all of the issues that are involved not just for the roof over the deck. Because the deck intrudes into the side yard. And that deck -- I think it does. And I think it's the opinion of the Inspectional Services Department that it does.

PHILIP HRESKO: Could I ask a question, sir?

CONSTANTINE ALEXANDER: By all means.

PHILIP HRESKO: We were granted approval from the Avon Hill Neighborhood Conservation District Commission. And they're proviso is that it not be more than three feet above the grade. We are less than three feet above grade.

CONSTANTINE ALEXANDER: That's a completely separate issue. I mean Avon -- the Historical Commission, Avon Hill cannot grant Variances. They cannot vary --

PHILIP HRESKO: I understand that.

CONSTANTINE ALEXANDER: I'm sure you know that.

PHILIP HRESKO: I do understand that.

CONSTANTINE ALEXANDER: And it's good, we would want you to get the approval of the Commission, but you've separately have got to satisfy the requirements for a

Variance because you did need a Variance to put the deck and the doorway in.

PHILIP HRESKO: It was my reading that it's less than three feet it does not require a Variance.

CONSTANTINE ALEXANDER: You have less than ten feet -- the deck stands with a door, deck extends into the rear yard, the side yard setback. As a result, you're now intruding to the side yard setback.

PHILIP HRESKO: Even though it's below the three feet.

SEAN O'GRADY: In order to take advantage of that exception, the wall that you proceed off of needs to itself need not be in the setback. So that the door, the wall is nine-four from the lot line, in order to comply, it would need ten feet. Because you're in the setback, the door itself violates and you're not able to take advantage of the grand level deck rule. You

of course would also need a Building Permit to do that.

CONSTANTINE ALEXANDER: Look at him, don't look at me.

SEAN O'GRADY: And there's no Building Permit to do that.

CONSTANTINE ALEXANDER: So I think what we have to do is continue this case tonight. You have to apply for a Variance for the deck and the door and come back before us. I would suggest personally, recommend to you that you do a new application and include in that the deck, the door and the roof so that we can do it all at one time. Assuming we want to grant you the relief for the deck and the door because they don't comply with our Zoning By-Law as they now exist. But we can't take the case tonight.

BRENDAN SULLIVAN: Do you feel strongly that the three items need to be addressed at the same time?

CONSTANTINE ALEXANDER: No.

BRENDAN SULLIVAN: I guess my thought is, is it possible to hear the roof?

CONSTANTINE ALEXANDER: I thought about that.

BRENDAN SULLIVAN: And then let the other two items be separate given the time of the year. And I come from purely construction aspect, the fact that there are already contractors on-site. And that even if we were to grant, if we were to grant and it's going to push it somewhat into the beginning of the winter before they could even do anything, if we were to delay this, wrap it up to the other two issues, then they're going to fall into the dead of winter and they're going to get no benefit until the spring.

CONSTANTINE ALEXANDER: I understand what you're saying.

BRENDAN SULLIVAN: From a practical

standpoint. So if we were to grant, and then they could at least do that, and then the possible door and deck would come after that, which as a -- I think, Tim, you would agree that is lesser problematical for those two items to come later than the roof part.

TIMOTHY HUGHES: Yes, probably. But I don't think, you know, it's like, they're not doing any foundation work. I don't see -- they're not going to get that much benefit out of this roof this season anyway because it is a late start.

CONSTANTINE ALEXANDER: I'm also troubled, that's just from --

TIMOTHY HUGHES: You know, I'm not the guy that's the stickler to the procedural issues on this Board, you know, and I'm not going to start being that guy now. I'm just saying there are procedural irregularities here, and if we want to overlook those, fine.

BRENDAN SULLIVAN: Well, I think the

application form is incomplete so I think you picked up on that, you know. That can easily be filled in and they come back in half hour, 45 minutes something like that. But, again, I don't want to belabor the issue here. I mean I would proceed on the roof part tonight, but --

CONSTANTINE ALEXANDER: And I would put it up to a vote on the Board. I'm just troubled by the notion of proceeding on it to grant a Variance for something that we know relates to another piece of work or item that requires a Variance.

BRENDAN SULLIVAN: They proceed at their own risk obviously.

CONSTANTINE ALEXANDER: I know that. It strikes me -- it puts us in a -- we're sort of prejudging the end of Variance case for the door and the deck by doing this. And I'm troubled by that. But I'll be happy to put it to a vote by the

members of the Board if you want to hear this part of the case tonight.

You're going to have to come back before us again anyway. The point is even if we hear it tonight, it's not the end of the day, end of the road with this case. So, what do other members of the Board think? Do you want to hear this part tonight or do you want to wait and hear it altogether or at least hear the other part of the case first and then proceed in a logical progression which is what I'm talking about. Don't all speak at once.

THOMAS SCOTT: My preference is a logical progression.

TAD HEUER: I think I would agree. I feel like I'm being asked to vote on a Variance to add a second story not knowing whether the first story exists or not. That just seems a bit illogical.

CONSTANTINE ALEXANDER: I think we have a straw vote that three in favor of not

hearing this case tonight. So I don't think we put it to a vote unless you want me to put it to a vote.

BRENDAN SULLIVAN: No, no, that's fine.

TAD HEUER: Does fenestration have anything to do with the deck?

TIMOTHY HUGHES: The door you mean?

TAD HEUER: It does.

TIMOTHY HUGHES: It does. The door's in the setback.

CONSTANTINE ALEXANDER: When, now, Sean, help these folks. They have to do another application. How quickly could they get their case advertised and back before us, because then we can continue this case until that date?

SEAN O'GRADY: I don't know the answer to that. It would appear -- where are we now? We're at the end of October.

CONSTANTINE ALEXANDER: Usually

it's -- two months I think.

SEAN O'GRADY: Well, I would think that were they to come in in the very near future, like tomorrow, maybe December 16th.

CONSTANTINE ALEXANDER: So it would be safe you say, how about the first session in January?

SEAN O'GRADY: Well, yes, I mean, the other thing too is that, I think I would take your advice, just continue this case off into the future. Package the new case as the package, and then if that comes in in December, well then that's great. And the other one we can just not worry about. So it's almost immaterial were we to continue this. Do you understand that strategy?

CONSTANTINE ALEXANDER: Do you follow us? We're saying you come back, start all over again with a broader Variance application. The roof, the deck and the door. The quicker you get your application

in, the quicker we can advertise it, the quicker you can have your hearing on everything before us. Depending how quickly you do it, is probably the second session, sometime in December, certainly in January, depending on if you file the applications in the next couple days. And we'll continue this date until sometime in February. This case should be moot. It will be up or down on the case you bring before us in December.

PHILIP HRESKO: Understood.

CONSTANTINE ALEXANDER: So.

SEAN O'GRADY: So mid-December then or do you want to go to January?

CONSTANTINE ALEXANDER: They have to file the application. Let's continue this case until February.

SEAN O'GRADY: January 27th is the last one I have a schedule for.

TIMOTHY HUGHES: That's going to work. That's far enough out.

PHILIP HRESKO: We would like the December 17th date.

CONSTANTINE ALEXANDER: Well, that's up to you. The quicker you get your application in, the more likely it will be December 17th.

PHILIP HRESKO: My understanding is the only condition is the 9.4 feet instead of 10 feet. So we're talking 0.6 feet difference that would allow us to have a door.

CONSTANTINE ALEXANDER: Sit down with Sean tomorrow or sometime this evening.

PHILIP HRESKO: That's fine.

SEAN O'GRADY: I'll talk to you actually tonight. I won't be in tomorrow. I'll walk out with you.

CONSTANTINE ALEXANDER: Make sure you specifically understand what it is you've got to get relief for and then you can use that for your application, okay.

PHILIP HRESKO: Understood. Thank

you. Thank you for your time.

CONSTANTINE ALEXANDER: Don't go too fast. I've got to make a motion and you have to sign a waiver.

PHILIP HRESKO: Understood.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on January 27th?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: This case being a case not heard. On the condition that the Petitioner sign a waiver for a time of decision.

And that the Petitioner further modify the sign. The sign that's on your premises now, you have to do it with a magic marker or whatever, change the date and time to seven p.m. on January 27th so the sign is in compliance. But separately, this should all be moot, I want to make it very clear one more time. You file your application for a

package Variance as we described it. If you do it quickly, we'll hear your new package end of December, perhaps early January. And in which case the case will be done and you don't need to show up on January 27th.

PHILIP HRESKO: Understood.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

(9:00 p.m.)

(Sitting Members: Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott, Douglas Myers.)

TIMOTHY HUGHES: The Chair will call case No. 10014, 32 Quincy Street. Go ahead present yourself.

ALEXANDRA OFFIONG: Good evening.

TIMOTHY HUGHES: Please identify yourself for the stenographer.

ALEXANDRA OFFIONG: My name is Alexandra Offiong of the Harvard University Planning Office. I'm here tonight with Charles Aquino (phonetic) architect with Payette Associates and we're pleased to request amendments for a project that you -- that the Board approved last summer, last July for the renovation and expansion of

32 Quincy Street, the home of the Harvard Art Museums which you may have seen is currently under construction right now. So, since as you may recall, this is a significant project that is a renovation of the original 1926 Fogg Museum Building. It calls for demolition of some of the later additions and a new extension along Prescott Street of about -- resulting in about 35,000 square feet of new construction overall on the site.

Since the time that we were here last summer to now there have been just some very minor design refinements that Charles will walk you through that have improved the programmatic and operational requirements of the building. And we've been told by Inspectional Services that we should -- we should seek the approval of the Board for these. They result in very minor changes to the actual Variance amendments and we're happy to walk you through that. But I think

if you would like we could walk you through the specific design changes.

CHARLES AQUINO: So what I have here is a Board which is actually just a mounting of the second page that's in the package that you have right now. And so there's two fundamental things that we'd like to talk to you about tonight. One is that we've made some changes to the Winter Gardens or Wing Galleries, which are the two gallery spaces of the new side of the new Prescott Street addition. And those are sort of geometric changes that are about making the design a little bit more friendly to the context the building sits in, the Carpenter Center and its building's relationship to Broadway. They're also about making the space a little bit more regular for display art. And they're important spaces because these are some of the beacon spaces that allow vision into the museum. One the underlying

criteria for this project is we want the public to be able to see in the building and understand that it's a museum.

And so particularly this Wing Gallery on Broadway and -- the intersection of Broadway and Prescott is of fundamental importance because of the views that you'll be able to get into -- important pieces of sculpture will be on display there.

ALEXANDRA OFFIONG: We should just note that this is the design that was approved in 2009 and this is the current design.

CHARLES AQUINO: And so the real thing that you see that has changed is really just these two areas.

The other thing that we want to just walk you through is the refinement of the design of the rooftop glass addition. A this is an important programatic element to the museum. It includes both the study center, which is kind of a reading room, library

reading room sort of function where individuals can come up here and request a piece of art we've brought up from art storage, and then they put it down on a table in front of you and you can view this. And that happens in the fourth floor of this section of the building. And then the top floor is the conservation center. So this is where they're doing all the kind of restoration conservation work. So those are fundamental programs that require light instead of the glass addition is important to that.

And over the past year as we've been putting together the contract documents, we have made refinements to all the building systems, and in particular to the roof system for maintenance access. So we just wanted to call your attention to the idea that we have designed the cat walk system with an individual ladder that goes up in order to

provide access to maintain the glass to maintain shades that control solar gain into those spaces. If can imagine, we have a greenhouse up here and we need to put shades in two layers, both on the outside of the build and the inside of the building in order to control the amount of solar gain that comes into the space. So we will need to provide maintenance access sort of to let's say clean the glass and maintain the shades.

So you can see in the renderings this sort of subtle change. They're computer renderings. So take it with a grain of salt that this scale, the weight of the computer plotter almost makes them look more pronounced than what they are. Really what we're talking about is light metal grating that wraps around the ladder that goes in between.

The other thing that we've been working on is the design of all the mechanical

systems. And so when we came to you last year, we had two or three I think stacks that were for exhaust systems associated with the conservation center. As we finalized the design, we have a few other exhaust stacks. We've been able to lower them as a result of a wind study. So all of the stacks are cut-off at the height of the glass as it extends beyond the roof. So that's why you can see that none of them are projecting here. And in your packet there's actually a section that shows them a little bit more clearly. The vast majority of those stacks don't operate on any regular basis. They're for things like a smoke controlled system for spray booths and for emergency generator exhaust. So things that really generate money. The two stacks that are over here that are operated for the laboratory ventilation area, those are the ones that (inaudible).

Dimensionally, the modifications to the Winter Gardens or the Wing Galleries -- we use both phrases -- result in very subtle tweaks to the multi-plane setback calculations. So we've run through that and we haven't really changed the numbers that we were presenting to you.

ALEXANDRA OFFIONG: Just to add the -- this is 17 feet. This is really the pinpoint, and this is the non-conforming setback. The design still -- everything that is newly developed meets the between building setback. And the calculation really changed by a tenth of an inch from what was approved here to what was here. So it's very, very minimal.

CHARLES AQUINO: And that change is really the result of just setting the final grading around the building. That affected the grade plane around the building moved around four inches between last year and this

year basically.

DOUGLAS MYERS: What do you see the Zoning Ordinance issues with respect to the design changes on rooftop addition?

CHARLES AQUINO: Nothing. We just want you to know what the outside of the building includes.

TAD HEUER: So you're really here for a tenth of an inch because you moved the trapezoid to the square?

ALEXANDRA OFFIONG: Well, we're here because this design changed. So the designs that we submitted in 2009 no longer reflect the designs that we would like to build. So it's more -- it's less a change in the Variances themselves and more a change in the design of the change of the building. Because the two Variances -- one is the setback, it's changed so little. And the other one is just alteration and enlargement of a non-conforming structure which is -- the

building is non-conforming for parking, and so it's more of a --

TAD HEUER: But the alteration of the front -- the statute is mechanical. So really we don't care about those, right?

ALEXANDRA OFFIONG: No.

CHARLES AQUINO: I think we've taken a literal interpretation saying if anything in the final contract documents looks different than what we presented to you last year, then we want you on board.

BRENDAN SULLIVAN: They just want to make sure they get the CO at the end of the day.

CHARLES AQUINO: That would be good.

TAD HEUER: And on the Winter Gardens, you said the switch to the more rectangular form is to help, I presume that's from your -- is that Carpenter Center from the street?

CHARLES AQUINO: Yes, it does.

It's not as tight to the street as before. And it's much more open here to the sense of space that's created there. And we're very sensitive to the Carpenter Center because it's a landmark building as well. And so I think the idea that we can get a little more compact and generate a space that's rectangular is just a little bit easier to do an art installation.

TAD HEUER: Is that glass, is that a display space? A sculpture or is that wall a hanging wall?

CHARLES AQUINO: This -- okay, that's a good point. I should have mentioned that. This panel here is a wood panel. So it is made of the same material as the wood box and it's able to slide back and forth in order to protect the collection from the sun. So it's basically a moving sunscreen. You can see through it if you look head on, but because the wood panels are thick and spaced

tightly, the sun can't shine through it.

BRENDAN SULLIVAN: So you adjust that for time of day time of year basically?

CHARLES AQUINO: That's right. It would -- it has preprogrammed let's say three positions and so the panel will live whatever panel is right for that time of day. We're very excited about this, I don't know if you can tell.

TIMOTHY HUGHES: Any further questions from the Board?

TAD HEUER: If we're going to be pedantic, just to clarify, when I'm looking at in the current design, this upper right, if that louver system moves, I guess what it is, the closest point it gets to the Carpenter Center has been indicated on its ability to move? The louvers meet on the inside?

CHARLES AQUINO: Yes.

ALEXANDRA OFFIONG: Does this shift down anymore? It does not shift.

CHARLES AQUINO: It doesn't get closer to the Carpenter Center, but that line is the --

ALEXANDRA OFFIONG: The furthest extent.

CHARLES AQUINO: -- the furthest it can go.

TAD HEUER: Okay.

CHARLES AQUINO: Even though we might find it entertaining if it could go further, structurally you'd never be able to hold it up if it became a sail out in the breeze.

TIMOTHY HUGHES: Is there anyone here who would like to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: Seeing no one, close public testimony.

Is it your understanding, then, that for all the reasons that we granted the

Variance in the first place, hardship and not detrimental, they still hold?

ALEXANDRA OFFIONG: They're identical, yes.

TIMOTHY HUGHES: There's not a -- the tenth of an inch is basically the only additional Zoning non-conformity or violation?

ALEXANDRA OFFIONG: There's been no other change. The proposal of the use, the design is -- other than those minor changes we've described, is all exactly the same proposal.

TIMOTHY HUGHES: Great. Any other questions from the Board? Ready for a vote.

The Chair would move that we grant a Variance to amend the plans approved in BZA case No. 9809 to reflect minor changes in design changes in the building addition.

The Chair would note that for all of the existing reasons of the original Variance,

the literal enforcement provision, the hardship provision, the lack of substantial detriment and relief nullifying or substantially derogating from the intent or purpose of the Ordinance are still in effect.

So all those in favor of granting the Variance?

(Show of hands.)

TIMOTHY HUGHES: Five in favor.

It's granted.

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

(9:15 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10011, 44 Pemberton Street. Is there anyone here wishing to be heard on this matter?

TIMOTHY BURKE: Hi. My name is Timothy Burke. I'm the architect for the project.

CONSTANTINE ALEXANDER: Do you have a card for the stenographer?

ALEXANDRA BOWERS: Hi. I'm Alex Bowers I'm the homeowner.

TIMOTHY BURKE: So thank you for this opportunity to present our project.

This is sort of an overview, this is the property on Pemberton Street. This is Rindge Ave. and Mass. Ave. here. It's an existing two-family house, and it has a two

car garage that's on the property as well. These are some photographs of the house that exists today. This is a views of the side with the driveway and the garage. There is a bay on the front and a bay on the side that rises up through the roof with a gable dormer on that side. And then this is the side of the house that we are seeking relief for the proposed work here. And also on the back of the house, this is an existing second means of egress, the back door is for each of the two units. And currently you just open the door and fall down the steps. So we'd like to improve that and make that more code compliant.

These are the plans of the house. The first floor is one unit plus part of the second floor. And then Alex and James's unit is the second floor, has some living space and three bedrooms on the third floor.

CONSTANTINE ALEXANDER: That's the

current?

TIMOTHY BURKE: That's the existing plan.

And they have two kids, and they're running out of space pretty fast.

This is -- these are the elevations of the existing house. And we can use those as a reference as I show you what we're looking to do.

The main goal was the fact that on the third floor where the bedrooms are there's no bathroom. So we were -- the proposal is to add a dormer here on the third floor. And I'm fairly tight with space from the stairway over to that side, but in this case I have been able to pull the dormer back from the existing exterior wall below which is shown dotted here.

CONSTANTINE ALEXANDER: How long is the dormer?

TIMOTHY BURKE: The dormer is 20

feet and one and a quarter inches.

CONSTANTINE ALEXANDER: And our dormer guidelines say?

TIMOTHY BURKE: They recommend 15 feet. We did look at options of how we could do that, and I can show you what happens with that.

CONSTANTINE ALEXANDER: Please.

TIMOTHY BURKE: Okay.

It is less than half and it meets all the other requirements. This is a drawing of the proposed dormer that would have two gables to break it up, so almost as if it was two dormers connected. And it is setback quite far from the front and the back. It's less than half -- the overall length is 43 feet from that.

And this was a rendering I put together of the proposed dormer. And then this would be one that would meet -- well, this one I'd have to pull it out to the face of the wall

below. Well, although there's still an overhang, you know, the roof still runs by it. This would be a simple 15 foot long shed dormer.

CONSTANTINE ALEXANDER: Could you not get a gabled affect with -- you're showing us probably the least attractive 15-foot dormer you can show. But isn't there an alternative so that they get a little more architecturally attractive and still be 15 feet in length and not more?

TIMOTHY BURKE: I could add -- there would be two small gables if I did this sort of what we call Nantucket dormers. I could do that, but the gables would be quite small.

CONSTANTINE ALEXANDER: Or you'd have one gable I suppose. I don't know.

TIMOTHY BURKE: Yes.

CONSTANTINE ALEXANDER: I mean, you don't have to have two gables. My point is is that I'm sure you're showing us at least

an alternative.

TIMOTHY BURKE: This would be certainly be the most economical and simplest to build. And we thought that with the extra effort and cost that would go into this in terms of the attractiveness of the house and the fact it already has a large gable dormer on this side as well.

TAD HEUER: How big is the dormer on the other side, the existing one?

TIMOTHY BURKE: Let's see, the dormer is 13 feet long.

TAD HEUER: So what's wrong with a single dormer that matches the one that you got on the other side and the length that you recommend?

TIMOTHY BURKE: Well, we have very little space in this direction because I need to keep the hallway and the stairs existing. So I've squeezed in a shower and a sink and a room with a toilet. So instead of trying

to build two bathrooms, we really just built one that the family can use so one person can be bathing and one person can be using the toilet. And then there's a stack washer/dryer as the kids generate a lot of clothes. And a small linen cabinet there.

So I really tried to squeeze it in as much as I could given the available space. It's quite a tight amount of room available. And also I was able to keep this full back as well which I thought was an advantage.

CONSTANTINE ALEXANDER: I understand why you would like the 20-foot dormer and the accommodation it gives you inside. I'm not convinced yet. I'm going to defer to my colleagues as to why you couldn't have it -- it may be less desirable, but you could have certainly functional bathroom up there with a 15-foot dormer.

TIMOTHY BURKE: It could be the traditional bathroom all in one space. What

we were trying to do is with a family of four, give them that flexibility to do multiple things. And also to keep it -- I think if we did push it, if we squeezed it to 15, I would need to push it out to the outside wall where I think it's, you know, it looks a lot better if I can pull it in from the outside wall. Also given it's the way the street is angled and it's twisted, it's not a highly visible side of the house, we have spoken with the neighbors. This immediate abutter here is in favor of it and --

CONSTANTINE ALEXANDER: You'll have an opportunity to speak, don't worry.

THOMAS SCOTT: The existing dormer extends out beyond the plane of the wall below?

TIMOTHY BURKE: It's a bay so it overhangs.

THOMAS SCOTT: It overhangs the bay?

TIMOTHY BURKE: The bay, right.

You can see here in this photograph. That's quite a large structure.

BRENDAN SULLIVAN: It's quite common for the street.

THOMAS SCOTT: Yes, okay.

BRENDAN SULLIVAN: What are these?

TIMOTHY BURKE: These are hampers, clothes hampers for the clothes.

BRENDAN SULLIVAN: I guess my thought would be to take this, put it on this wall here, and then you take the shower, and you know, flip that there which obviously reduce, you know -- in other words, can pull this down.

TIMOTHY BURKE: It's overall width is just a little over five feet. So, I certainly didn't look at the many options of trying to squeeze this -- a lot into a small space.

BRENDAN SULLIVAN: It's a very grand area that's all.

TIMOTHY HUGHES: I actually disagree. I think it's a very functional area, but I wouldn't call it grand.

TIMOTHY BURKE: It's serving four people.

TIMOTHY HUGHES: I mean, the closet is kind of tiny in fact. And you have the laundry and the linen room. I'm looking for a place to move something. And I'm measuring all over this place and I don't see it.

BRENDAN SULLIVAN: Where is your laundry facilities now?

TIMOTHY BURKE: Right now it's in the back stairwell on the second floor. So it's kind of right -- it's not in the right spot.

BRENDAN SULLIVAN: And I guess that may be the tail that's wagging the dog here, is getting the laundry equipment in a more functional spot which obviously is going to take up a certain amount of square footage.

Much more desirable to have it on the floor, have it near all that and get it out of the back hall.

TIMOTHY BURKE: Near the bedrooms. The kids may be small, but they generate a tremendous amount of laundry.

CONSTANTINE ALEXANDER: We want to ask further questions at this point or should I take public testimony?

BRENDAN SULLIVAN: No, that's it.

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter? Please come forward and give your name and address to the stenographer, please.

LYNN CANNICI: My name is Lynn Cannici. I'm at 32 Pemberton, two doors down.

ALEXANDRA BOWERS: Hi.

LYNN CANNICI: I got a phone call. I live two doors down. I got a call tonight from the abutters next-door to me.

CONSTANTINE ALEXANDER: In between you and the property in question?

LYNN CANNICI: Yes. And they were -- they are in Chile for a year and have been there since the end of July. This is the -- this afternoon at five o'clock they got notification from their neighbors that they were going to be presenting this situation tonight. Five o'clock their time. I'm not sure what time it was here. They have had no idea that this was going on. They have had no notification from their neighbors that they were thinking of putting this up, and the neighbors have known where they've been since July. So, their request is that this whole situation be delayed for a month so that they can find out exactly what it involves and how it might impact them.

CONSTANTINE ALEXANDER: You know, I'm puzzled. I mean, by law the city sends out a letter notifying weeks in advance of the

hearing, notifying abutters of a petition. These people, your neighbors and their neighbors who are in Chile, don't they have some mechanism when their mail is forwarded to them.

LYNN CANNICI: I'm sure their mail is forwarded to them, but they knew nothing about this.

TAD HEUER: What's their name?

LYNN CANNICI: Rabicz, R-a-b-i-c-z. Lisa and Mike.

CONSTANTINE ALEXANDER: Does it say when the notice is sent out in advance of the hearing, how many days? What's the requirement? Sean would know.

TIMOTHY BURKE: 14 days is the minimum.

CONSTANTINE ALEXANDER: 14 days?

LYNN CANNICI: Well, it might have taken --

CONSTANTINE ALEXANDER: It might

have taken 14 days to get to Chile.

LYNN CANNICI: Exactly. And they've known that they're in Chile.

CONSTANTINE ALEXANDER: If we were to continue the case for a month, what would they be able to do in Chile? I'm sure they're not going to fly back to look at the plans?

LYNN CANNICI: No, not at all. But I as their next-door neighbor -- I mean, I haven't even seen the plans. So I was unaware of what they were planning to do. I would at least look at the plan, maybe talk to them, find out what it involved and communicate that back to my neighbors.

CONSTANTINE ALEXANDER: What's your name again?

TAD HEUER: What's their address?

TIMOTHY BURKE: That would be 46, right?

LYNN CANNICI: No, no. 30 -- well I'm 32.

CONSTANTINE ALEXANDER: And you're 40, right?

ALEXANDRA BOWERS: 44.

LYNN CANNICI: They're 36 or 38. The numbers are not sequential.

TIMOTHY BURKE: You're in this house here.

LYNN CANNICI: I'm there, they're there.

BRENDAN SULLIVAN: That would mean Fed-Exing a drawing.

CONSTANTINE ALEXANDER: Yes. You said you never received notice?

LYNN CANNICI: No, no. And I've gone no place.

CONSTANTINE ALEXANDER: Sorry to hear that.

LYNN CANNICI: Yeah, me too. No, I got no notice whatsoever.

TIMOTHY BURKE: There is a sign posted on the house.

CONSTANTINE ALEXANDER: Yes, there's clearly a sign posted. You may not have noticed walking down the street, but there is a sign on the property.

LYNN CANNICI: No, no, I did not notice. And I walk my dog everyday passed the house, so I didn't see I sign.

TAD HEUER: So, are you Lisa Emily Olson, is that you?

LYNN CANNICI: No, I'm her neighbor. I'm Lynn Cannici. I live at 32 Pemberton, but I was asked by Lisa to come.

CONSTANTINE ALEXANDER: We're just wondering why you didn't get any notice.

BRENDAN SULLIVAN: Are you a homeowner?

LYNN CANNICI: Yes, I'm a homeowner.

TAD HEUER: You're both listed on the service list.

LYNN CANNICI: And I got nothing. I got absolutely nothing.

TIMOTHY HUGHES: Well, there's Lisa's. Lisa's came back.

LYNN CANNICI: Oh, it came back?

TAD HEUER: Yes. It came back as return to sender, insufficient address, unable to forward.

LYNN CANNICI: Well, that would explain why she never got it. But I certainly --

TAD HEUER: It would.

LYNN CANNICI: I mean, I'm happy to send that to them.

BRENDAN SULLIVAN: Well, that just tells them that --

CONSTANTINE ALEXANDER: Right, there's a case going on.

BRENDAN SULLIVAN: It really would take at this point communication between the two parties probably getting a set of drawings, Fed-Exing it down to them, getting an e-mail address and then having

conversations probably that way.

ALEXANDRA BOWERS: I did e-mail her today actually and said to her -- and it didn't go through the first time. So I tried a second time and I don't know if it actually went through.

LYNN CANNICI: I think her feeling was that why only let her know at the eleventh hour.

CONSTANTINE ALEXANDER: Well, they didn't do that. She may have notified the eleventh hour, but that's because she's in Chile. It's not because -- and the city sent the notice out when it's required to and just --

LYNN CANNICI: Okay. Well, you know, I didn't get a notice either.

BRENDAN SULLIVAN: She's just the messenger.

CONSTANTINE ALEXANDER: She's just the messenger. The message to go back though

is they didn't pull a fast one or wait until the last minute.

LYNN CANNICI: Okay. No, I understand. I understand. But I also didn't get a notice.

CONSTANTINE ALEXANDER: Let's talk, you want another month or the person to whom you're the messenger they want another month to consider this. Let me just ask your reaction to that.

ALEXANDRA BOWERS: I have no problem. I mean, we wouldn't be able to start construction until the spring. Next time I'm not sure if I'll bring babies. But I mean, if they have any input, if they want to put into the plan, that's fine.

CONSTANTINE ALEXANDER: But one of the things, putting this aside, you can see from the nature of the questions you've been getting is this question about do you really need a 20-foot dormer? Or maybe put it a

different way, you may need it but should we allow you to have a 20-foot dormer. And I think you get the consensus of unease at least amongst some Board members. It doesn't mean we're going to turn it down. But there's an unease. Maybe the month will also give you an opportunity to reflect and see if you can't come up with something that's probably a little more toward the dormer guidelines?

TAD HEUER: I guess my question is you showed us the shed, a 15-foot shed. Clearly you're putting something inside that 50-foot shed that works. The mixing and matching. I mean, I don't know if that was purely illustrative this is what a 50-foot shed looks like on this house. I presume there's something behind it, i.e. a bathroom.

TIMOTHY BURKE: Oh, there still would be the bathroom there.

TAD HEUER: Right.

ALEXANDRA BOWERS: It's not a

very -- as flexible space.

TIMOTHY BURKE: They weren't very happy with the plan, the client.

LYNN CANNICI: Is there, is there a geographical input for the Rabiczkes at 38 Pemberton?

CONSTANTINE ALEXANDER:
Geographic?

LYNN CANNICI: Well, I mean what kind of an input -- what kind of effect would it have for them as the abutting neighbors?

CONSTANTINE ALEXANDER: You may shadow and light study.

TIMOTHY BURKE: We did a rendering of it here. This is the proposed dormer here. And the other thing that we're going to do is get rid of the octagonal and put a rectangular window more like what was there originally. And rebuild the back porch.

LYNN CANNICI: So this is what it's like now?

ALEXANDRA BOWERS: No.

TIMOTHY BURKE: No.

CONSTANTINE ALEXANDER: There's a picture of your street.

LYNN CANNICI: Oh, I see.

TIMOTHY BURKE: So it's the dormer would take place right in that section.

LYNN CANNICI: Okay.

TIMOTHY BURKE: So it doesn't go above the roof. You know, we've kept it below the ridge line.

LYNN CANNICI: I see. And what's this?

TIMOTHY BURKE: This would be a dormer that met of the 15-foot length which is the recommended maximum length in Cambridge for a dormer.

LYNN CANNICI: I see, okay.

CONSTANTINE ALEXANDER: Well, if we were to continue this, just among members of the Board, we call this a case heard. We have

to reassemble the same five of us for the case. And I don't know what people's availability are roughly a month or so from now among the five of us. I have to check with Sean about the availability of our schedule.

BRENDAN SULLIVAN: I'm available December, not in January.

CONSTANTINE ALEXANDER: Say again.

BRENDAN SULLIVAN: I'm available in December, not in January.

CONSTANTINE ALEXANDER: Let me just step aside for a second and check with Sean about availability of time.

ALEXANDRA BOWERS: Isn't it 20 days that people have to say they don't like it?

BRENDAN SULLIVAN: After a grant of Variance, it would probably take three to four to five weeks for it to be typed up, put into a final legalese form. Then the Petitioner would come down -- I'm sorry, then

after it's in a legalese form and the Chair signs it, then there is a 20-day period from there. So that's the start date for 20 days at which point anybody can contest that.

LYNN CANNICI: Okay.

BRENDAN SULLIVAN: The little fly in the ointment here they would then be notified as per the list. It's abutter to abutter within 300 feet of the location should be notified, because those are the ones presumed standing under law.

LYNN CANNICI: Am I within 300 feet?

BRENDAN SULLIVAN: Yes, you are. Now, why you haven't been notified, but at any rate, we can ask Maria tomorrow.

SEAN O'GRADY: December 16th unless you wanted to overload another night. I'm not sure.

CONSTANTINE ALEXANDER: Let me ask members of the Board, first of all. Is everybody available December 16th?

BRENDAN SULLIVAN: Yes.

THOMAS SCOTT: I'm not. I'm away.

TIMOTHY HUGHES: Let me check my
schedule.

CONSTANTINE ALEXANDER: You're away
in January.

BRENDAN SULLIVAN: I'm away the last
half in January. The first meeting in
January is?

SEAN O'GRADY: January 13th is our
first meeting.

BRENDAN SULLIVAN: That's fine.

TIMOTHY HUGHES: I have a case heard
on the 16th already.

SEAN O'GRADY: We're talking
January 13th now.

TIMOTHY HUGHES: Oh, we are?

CONSTANTINE ALEXANDER: Tad and
Tim? I'm okay for the 13th.

TIMOTHY HUGHES: Look at that?
Nothing.

BRENDAN SULLIVAN: To finish the thought. The problem here is they will be notified. Say we were to grant it and we run into the same communication problem again --

LYNN CANNICI: Well, I can make sure -- I mean, if I get it, I can make sure they get it. I can scan it and send it to them.

BRENDAN SULLIVAN: Well, I think the comfort level on this side of the table is that we would want input from those people, that's all. They want to know exactly what's going on. That they get copies of what's presented to us.

TIMOTHY BURKE: We'd be happy to give it to them.

BRENDAN SULLIVAN: And that you have conversation. And then you can come back and say, yeah, we've done all this. A letter from the people would be very helpful saying that, you know, they have no problem. That

would be a plus. Or that whatever, but something.

CONSTANTINE ALEXANDER: The only thing that occurs to me is that we've suggested to you, sort of hinted to you that you may want to revise these plans. Typically if you do revise the plans, they have to be in our files by five p.m. on the Monday before the day of the hearing. If that rule were applied, I'm not sure if the folks in Chile would have a chance to see the revised plans sufficient time to comment and come back. I think we should provide a longer lead time for revised plans for this so they have more time for the neighbors' input. What do members think? Rather than the Monday before, we push it back a week earlier than that.

TAD HEUER: The neighbors in Chile won't be coming and reviewing the file.

CONSTANTINE ALEXANDER: No, but

they have an opportunity to scan them in --

TIMOTHY HUGHES: If they have an opportunity to see this plan and the revised plan is actually smaller and has less of an impact.

LYNN CANNICI: Exactly, that's what I was thinking.

CONSTANTINE ALEXANDER: That's a fair point.

BRENDAN SULLIVAN: Their input on this plan is crucial if we were to pull that in a little bit, they would be even more happier with that.

CONSTANTINE ALEXANDER: We can do the 13th and the plans have to be in the file by five p.m. on the Monday before. And everyone is available on that date.

The Chair moves that this case be continued until seven p.m. on January 13th. This being a case heard, on the condition that the Petitioner sign a waiver of the time for

a decision to be reached.

That the sign that you now have posted on the property, modify that with a magic marker to reflect the new date and new time. Now you look for the sign this time.

LYNN CANNICI: I will.

CONSTANTINE ALEXANDER: And on the last condition that to the extent that you revise the plans from the point you submitted tonight, that those revised plans be in our files no later than the five p.m. on the Monday before January 13th.

On the basis of this, I move that this case be continued. All in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

(9:40 p.m.)

(Sitting Members: Constantine Alexander,

Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10013, 89 Belmont Street. Is there anyone here wishing to be heard on this matter?

TONY SANCHEZ: My name is Tony Sanchez. I'm one the designers.

JUSTINA PEREGRIN: Justina Peregrin.

NANCY DOWLING: Nancy Dowling, D-o-w-l-i-n-g.

JIM COMEAU: Jim Comeau, C-o-m-e-a-u.

CONSTANTINE ALEXANDER: And you want really significant relief from this Board, right?

TONY SANCHEZ: So, right now we have an existing closed porch and we have some updated photos on this. And we're looking to put a walk-in closet above that because there

is a lack of interior closet space.

CONSTANTINE ALEXANDER: And that increases the FAR?

TONY SANCHEZ: 98 square feet. The FAR is point --

CONSTANTINE ALEXANDER: You're going from 0.91 to 0.93, and the district is 0.5.

TONY SANCHEZ: Yes.

CONSTANTINE ALEXANDER: You're non-conforming now and you're going to slightly increase the non-conformance?

TONY SANCHEZ: Yes.

CONSTANTINE ALEXANDER: And the hardship being is that you need additional closet space?

TONY SANCHEZ: Yes. So right now they're putting their clothes in boxes --

NANCY DOWLING: Tupperware.

TONY SANCHEZ: Tupperware boxes.

JIM COMEAU: That box has been my

closet for sometime.

TAD HEUER: So you can -- and not to be flip. You can buy things like wardrobes.

TONY SANCHEZ: The interior space, because of the pitched roof, we can't really put many things against that wall because it's so low. So it would have to be off that wall significantly which would then decrease the space they can move in there, walk around in.

TAD HEUER: Right.

JIM COMEAU: Yeah. And I think you can see by looking at the rest of the pictures this -- I have some other. It is a very small room to start with.

NANCY DOWLING: On two sides both where the bed is against the wall and where the bureaus are, they're slanted ceilings, you know, where the attic is in. And, therefore, there's really no good wall space. In fact, I don't have a way to put the mirror

that goes over my bureau over the bureau. So we have such limited areas for these things.

JUSTINA PEREGRIN: You can see here.

TIMOTHY HUGHES: It's a perfect place for a dormer.

BRENDAN SULLIVAN: My thought is that you haven't been married long enough to even suggest go buy a wardrobe.

TAD HEUER: Well, I'm just saying --

BRENDAN SULLIVAN: You can see where that would be a problem. Coming back --

CONSTANTINE ALEXANDER: Tim's lived in Europe for a while.

TAD HEUER: I lived in many places where there are fewer or zero closets.

TIMOTHY HUGHES: I live in one now.

CONSTANTINE ALEXANDER: You want relief.

TAD HEUER: I guess my thought is that it seems like it's been slapped on top of a convenient place to slap 100 square feet

on top of it. And it, I mean, it --

JIM COMEAU: There's absolutely no place to slap anything there. The only two walls that actually have height of a person's head, the top of a person's head is the one where this bureau is and there's a chimney behind that, so you can't do anything there.

And then this other one, which is just basically the window, it's exterior. That's the only spot -- that's the only other wall. There's no, you know, we looked and looked.

What happened is we did talk to the -- when this was something we were thinking about along the way, but we did talk to the builder, the architects about -- and they said, you know, if you're ever going to do anything anywhere, where you do it? Just because of the fact -- right now, I mean -- and the neighbors are fine about it. They've all been behind us all along. We've done an awful lot of work on the exterior. And the

neighbors are all aware of why there is a big blue tarp on top of that.

TONY SANCHEZ: We've worked with different roof schemes and tried to break up that mass, and then even some type of ornamentation. As far as the roof goes, that gives us the lowest profile from the street, but the --

CONSTANTINE ALEXANDER: Can you see this from the street or the side?

JUSTINA PEREGRIN: We actually have an image here which you can see. You can't actually see the back of the house.

TAD HEUER: But that's because there's a tree in the way, right?

TONY SANCHEZ: Even from the side here.

JIM COMEAU: There's a large house really next-door that blocks your view from the street on that side.

JUSTINA PEREGRIN: That was sort of

the best scheme. We tried doing a hipped roof that blended in with it, and the height of the ceiling wasn't -- you couldn't walk in it. So that really was our -- that's where we, you know, reached sort of our limits.

JIM COMEAU: Visually I think it was much worse. There were some other options. One thing is that, you know, what we tried to do is restore the entire house to pretty much to where it was in 1904 when it was built. We pulled off all the aluminum siding, and we did everything in the way that the house deserves it. And we, as close as we could, we did the exact same thing with that closet, but it just doesn't have it. There's no place else to put it. We just, you know. Unless, you know, you do a dormer or something.

NANCY DOWLING: The only other thing is a matter of expense. I mean, a dormer is an option, but a dormer requires a lot more construction. And, you know, at this point

we don't have the funds to do that. We need a closet. It seems to be a practical solution that gives us a nice closet space immediately. And I don't think that visually it affects the look and effect. I think we have improved the visual effect of this on the street. It used to be the ugliest house on the street.

JIM COMEAU: Now, it's the prettiest.

NANCY DOWLING: The most gorgeous house on the street.

JIM COMEAU: Our neighbors are ecstatic about it.

NANCY DOWLING: And, I mean, we have people actually walking by and just wow, you know, staring at the home.

JIM COMEAU: There's one other issue as well over the dormer. The joists, if you're going to build a dormer, you have to increase the joists. We didn't know that

until we talked to our builder. So we have the two by eights out on that new construction. So it's --

NANCY DOWLING: Two by six.

TONY SANCHEZ: It's not a new construction.

NANCY DOWLING: It's not a new construction.

JIM COMEAU: No, no. But I mean a new ceiling. Oh, I'm sorry. I'm getting everybody confused.

THOMAS SCOTT: It's just really odd I think, and out of character with the house. It's very strange. I mean, it's this mass element that's stuck on there with no windows in it, not really sure what it is. It doesn't seem to have any relevance to the rest of the house. And you're right, the rest of the house looks really great. You've done a nice job restoring some of the details of the house. And then to stick something like this

on it just a little odd.

TONY SANCHEZ: I think to get the maximum space --

BRENDAN SULLIVAN: Put a couple windows in there.

TONY SANCHEZ: Well, to get the maximum space we thought it would be more economical to not just windows because they're going to be covered with clothes. And then if you are in the back, I think it would be kind of detrimental to see hanging clothes.

BRENDAN SULLIVAN: Just plank it on the inside. Put the windows in and just plank over them. From the outside it looks like it means something, but, you know, just go right over it.

JUSTINA PEREGRIN: I think we actually had discussed that as an option to make it look pretty. We decided that why put in windows if they're going to be covered.

BRENDAN SULLIVAN: It just makes that element a little more interesting that's all.

JIM COMEAU: If you open that window, if it was a full window, we have the extra -- the header and everything. The windows and the dressing and, you know, that would also, you know, have some space and texture.

JUSTINA PEREGRIN: I mean, we would be happy to make that change to the windows.

BRENDAN SULLIVAN: Or sometimes what we've done is we've gone up to the window and we put a separate panel in there and you put four screws so that, you know --

TONY SANCHEZ: What if we could do a smaller decorative window at the top of that peak so that we could let some natural light in, it wouldn't be blocked by clothing or anything? Just something about blocking out windows.

JIM COMEAU: Maybe some kind of a stained glass or something that would fit the period of the house.

TAD HEUER: What about shades?

CONSTANTINE ALEXANDER: I was going to make the same suggestion. Simpler solution is to put a window in and shades.

TAD HEUER: Put a bar right across.

CONSTANTINE ALEXANDER: Yes.

Well, I would just point out to members of the Board, I certainly -- the design issues that have been raised by other members are good, but if we're going to do have windows, what do we do about the plans? And we have a case heard. And I'm sure you want to go ahead and do the construction. We're at the end of the evening. It's not a matter of going to another room and drawing in the windows. Maybe it is, I don't know. Mechanically we have some issues here as to how to proceed going forward.

So, I mean I don't know what your construction schedule is. We could just continue this case until -- I don't think we would take long to reconsider, December --

TONY SANCHEZ: We'd like to get it -- try to get it approved as soon as possible because this construction has stopped and this is all ripped off actually and we don't want any water to get in there. Would we be able to use -- you know, just draw them in with pen or pencil or maybe make a photocopy, cut it out and make a collage.

CONSTANTINE ALEXANDER: You've got to do it before we take a vote?

BRENDAN SULLIVAN: When's the next hearing?

JIM COMEAU: The issue right now is we have a tarp over the construction.

CONSTANTINE ALEXANDER: When's the next one, November 17th, 18th whatever it is?

SEAN O'GRADY: Yes. The next that

doesn't feel right for some reason. Yes, we only have the one in November. November 18th.

CONSTANTINE ALEXANDER: Can everybody make the 18th? I can. What's your schedule like on the 18th, Tim, is it blank?

TIMOTHY HUGHES: You don't have to rub it in.

BRENDAN SULLIVAN: What this does is it will give you the next couple of weeks. You know, rather than sitting here and just putting in and say okay, well a couple windows. And then when you get into it, say, oh, they have to shift one way or the other. Whatever you give us, that's it. So for the next two weeks if you could refine and define exactly where they're going and what's going in, that would give you two weeks to do that would be my suggestion.

TAD HEUER: Yes, I think my overall

concern is the same way that I personally and I think the Board tends not to like shed dormers. I think I tend not to like sheds, and to me it looks like it's a clothes shed, you know, right? But anything that gives an indication, and particularly given the amount of work you put into the house already, I think I would echo what Tom has said. It would seem kind of silly to have gone this far and then end up putting such an under appreciated mass in the back, while utilitarian inside, it looks more utilitarian outside doesn't go with the rest of the house.

NANCY DOWLING: Can I share? There will be a design of the molding that goes around with dental work to differentiate the two floors, so I think there will be some continuity to what we put on the house.

TONY SANCHEZ: Well, then we have to --

BRENDAN SULLIVAN: It's this blankness here. It needs something.

CONSTANTINE ALEXANDER: Too much wall.

BRENDAN SULLIVAN: It needs something above those two windows. Whether it be two more windows or a window.

NANCY DOWLING: So maybe something decorative at the top?

TAD HEUER: Something to take up space.

BRENDAN SULLIVAN: Well, it's, glass you know, more so than a design thing. But anyhow that would be....

CONSTANTINE ALEXANDER: I think the Board is suggesting that we continue this case to November 18th. Rethink the plans. You have to get new plans in with the windows by the Monday before, by five p.m. on the Monday before.

TONY SANCHEZ: Right. So you said

November 18th?

CONSTANTINE ALEXANDER: That's the date, November 18th?

JUSTINA PEREGRIN: Excuse me, can I just ask -- when would that construction happen then as a result of that?

TONY SANCHEZ: After we get that new permit.

CONSTANTINE ALEXANDER: Let's say on the 18th we grant you the Variance. Then we have to write up the decision. And it has to be filed with the City Clerk and then there's 21 days appeal.

SEAN O'GRADY: Mid-January before you pull the permit.

NANCY DOWLING: I'm just really concerned about the interior of the second floor that is now not going to be able to be finished --

CONSTANTINE ALEXANDER: Well, even if we granted relief tonight, you're still

going to have problems. You're not going to be able -- the date would be early January anyway before you can do construction. So, you know, it's not like we're adding maybe three weeks to your time table. The problem you've identified is a problem, but it's not a problem that wasn't there before.

BRENDAN SULLIVAN: Sean, when is the date for decision? I mean, do they have to sign a waiver?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: The Chair will move that this case be continued until seven p.m. on November 18th. This being a case heard.

On the condition that upon the condition that the Petitioner sign a waiver of time for decision. We need to have that as a matter of law.

And that on the further condition that the sign that is on the premises now, modify

it with a magic marker to reflect the new time and new date, both time and date. And keep that sign up.

NANCY DOWLING: Sure.

CONSTANTINE ALEXANDER: And on the last condition that to the extent you submit the revised plans, which you better, that they must be in our files by no later than five p.m. on the Monday before the November 18th hearing.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

(10:00 p.m.)

(Sitting Members: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 10015, 100 Concord Avenue. Is there anyone here wishing to be heard on this matter?

PETER COOKE: That would be.

CONSTANTINE ALEXANDER: You're back again?

PETER COOKE: I am.

BRENDAN SULLIVAN: I need to do something for the record.

CONSTANTINE ALEXANDER: But let him introduce himself first. Go ahead for the record.

PETER COOKE: For the record, Peter Cooke here on behalf of the Applicant T-Mobile Northeast, LLC.

BRENDAN SULLIVAN: In the interest

of public disclosure, 100 Concord Avenue even though the applicant is T-Mobile, the location is Saint Peter's Church and I am a member of Saint Peter's Church.

I wrote to the Law Department and requested an opinion as to whether or not I could or should sit to hear this particular case. Arthur Goldberg wrote back to me to say that I did not have to recuse myself if I feel I am able to act objectively on the application. However, before I participate he recommended that I fill out and file with the City Manager the attached disclosure form pursuant to General Law 268, subsection 23(b)(3) to dispel even the appearance of a conflict of interest.

For the record, I have filled out the required form disclosure of appearance and possible conflict of interest stating that I am a member of the church, however, I have not had any discussions with the church vis-a-vis

this applicant and the church, or have any discussion with anybody associated with the church regarding this matter. And I filed it with the City Manager.

Anybody has any objection to my sitting on the case before we go forward? Okay.

CONSTANTINE ALEXANDER: I'm not going to ask you what you said in confessional.

BRENDAN SULLIVAN: And I don't know if anybody wants -- I mean, that's the copy of the form that needs to be filled out.

Okay.

CONSTANTINE ALEXANDER: Mr. Cooke.

PETER COOKE: Thank you.

TAD HEUER: This is going to be better than hinge mounts.

PETER COOKE: This is about as good as it gets in my business an empty room and no exterior changes.

We are -- this is a current installation

T-Mobile has within the church steeple. Both the equipment and the antennas currently are located inside. We have, in our previous Special Permit, replaced three out of the four existing louvers, and the antennas are mounted behind those louvers. What we are looking to do here is to add another piece of equipment to the interior equipment room which will not be visible. Add a fourth antenna which relates back to our trying to maximize our existing sites which will give us -- by changing out these antennas to 90 degree bandwidths as opposed to 120 where we get better coverage to the north and northeast. And the other three antennas would be relocated to be centered on the existing fiberglass louvers.

And then the only exterior change will be the replacement of the fourth and remaining louver with fiberglass to match louver. And that's all that there is to it.

CONSTANTINE ALEXANDER: Because this is in a residential district, we have to make certain findings under our Zoning By-Law.

PETER COOKE: Yes.

CONSTANTINE ALEXANDER: And I'll touch on that.

We can only grant a Special Permit upon a finding that non-residential uses predominate in the vicinity of the proposed facility location.

And that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhoods.

Just tell us a little bit about that.

PETER COOKE: Well, per the original Special Permit, that finding was required at that point, I believe and it still pertains that the surrounding area's predominantly non-residential.

CONSTANTINE ALEXANDER: When did you get the original Special Permit? Five years ago?

PETER COOKE: Good question. Yeah, it was back in the '06 -- '05, '06.

CONSTANTINE ALEXANDER: I will take note of the fact that the neighborhood has not changed in the last five years.

PETER COOKE: You have actually church property on two sides of it.

CONSTANTINE ALEXANDER: And then you the observatory --

PETER COOKE: And actually you have the observatory on the opposite side. So, it is a residential district, but predominantly non-residential use. And with regard to the nature of the district, hopefully -- I don't think anybody knows it's there, and we're all happy about that. And we think it fits, you know, it fits in.

We did go sew the Planning Board on the

19th. Hopefully you've received their correspondence.

CONSTANTINE ALEXANDER: I don't think we received any correspondence.

TAD HEUER: You want to represent to us what they said?

PETER COOKE: They basically said that they're not only happy with this installation, but their letter will tell you these are the types of installations they would like you to approve going forward.

CONSTANTINE ALEXANDER: We don't have a letter in the file. But we'll take your representation.

PETER COOKE: Thank you.

TAD HEUER: Could you speak to that coverage gap that's being closed?

PETER COOKE: Actually -- I can actually. And it is not -- it is a pretty subtle difference, but these are maps kind of existing and proposed. Essentially this is

the location here, the yellow. What we're pushing into, the dark green essentially is in-building coverage. The green is in-vehicle coverage.

CONSTANTINE ALEXANDER: The light green?

PETER COOKE: The light green, excuse me. So what we're really pushing out with that change is into this area here. We're trying to -- making this part essentially go away.

CONSTANTINE ALEXANDER: Is that basically the observatory and the dorms?

PETER COOKE: It is. There are some residences in that area. What we're finding is that -- and I'm sure it's something that you've asked me every time somebody comes to look at a new site. Is there something you can do that would lessen the need for new sites? So, you know, obviously we still have -- I don't want to say a coverage gap so

to speak, but a coverage gap from the standpoint of building coverage. So we're trying to minimize as much of that as we possibly can before we come in and say we need a new site. I think in this case, it's a pretty easy, you know, it's a pretty easy fix. And certainly trying to minimize, you know, that -- I can't tell you that there are -- not on the side of Cambridge for T-Mobile. I can't tell you that anybody is to the north. But I would say that more than likely, you know, what's remaining here they won't need as tall, as big a site as they normally have so that's the idea.

TAD HEUER: Is that the Rindge Avenue set?

PETER COOKE: That is actually -- that is another existing on their site. The black dots are all existing. I'm not sure exactly what site that is. I would have to --

CONSTANTINE ALEXANDER:

That's (inaudible.)

PETER COOKE: Yeah, I think that's it. That would make sense.

CONSTANTINE ALEXANDER: To me the non-visual impact to what you're proposing trumps everything, at least in my judgment. And it's almost like interior -- redoing and relocating the interior.

PETER COOKE: It is. It is. And I think to be honest with you, we know there's some sensitivity to it and, you know, obviously any exterior change we need to come see you so here we are.

CONSTANTINE ALEXANDER: Is there anyone wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair would note no one wishes to be heard in this matter. There's nothing in the file. No communication from the Planning Board, but

you represented to us that the Planning Board has reviewed the plans and expressed no objection.

Questions, comments from members of the Board.

TIMOTHY HUGHES: I think we should put steeples on everything.

CONSTANTINE ALEXANDER: Or louvers. Okay. Ready for a motion.

The Chair moves that this Board find that where non-residential uses predominate in the vicinity of the proposed to serve this location and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

The Chair would further note that this finding was made once previously by this Board and granted in the original Special Permit, and nothing is incurred with respect to the neighborhood that would change that

finding.

The Chair would further note that the visual impact of what is proposed is next to zero. In view of the fact that it's -- it will be in a steeple with louvers on the outside, and those louvers will essentially remain as they were before as demonstrated by the photo simulations submitted by the Petitioner.

The Chair moves that we make the further following findings:

That what is proposed will not impact traffic or patterns of access or egress or cause congestion, hazard or substantial change in established neighborhood character.

That the continued operation of adjacent uses would not be adversely affected by the proposed use.

That no nuisance or hazard would be created to the detriment of the health,

safety and welfare of the occupant or the citizens of the city. Occupant being I guess the church.

And that the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose from this Ordinance. In fact, as was indicated several times this is very modest in nature in terms of its visual impact upon the city, and that the Petitioner has submitted evidence to indicate the need for this additional equipment.

On the basis of this a Special Permit will be granted on the condition that the work proceed in accordance with the plans submitted by the Petitioner. Two sheets, T-1 and Z-1. And that the visual impact will happen, it will be consistent with the photo simulations submitted by the Petitioner and which are in our file, but which are laminated

and therefore cannot be initialed by the Chair. Both pages being initialed by the Chair.

On the basis of the forgoing, the Chair moves that we grant the Special Permit.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

PETER COOKE: Thanks very much.

(Alexander, Hughes, Sullivan, Heuer Scott.)

(Whereupon, at 10:10 p.m., the meeting adjourned.)

C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

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

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 10th day of November 2010.

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

My Commission Expires:
April 23, 2015

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