

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 27, 2014

7:20 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Timothy Hughes, Vice Chair  
Brendan Sullivan, Member  
Thomas Scott, Member  
Douglas Myers, Associate Member

Maria Pacheco, Zoning Secretary

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**PROCEEDINGS**

(7:20 p.m.)

(Sitting Members Case #BZA-003187-2014: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call this Zoning Board of Appeals to order. And as is our custom, we will start with our continued cases. And we have one continued case. It is case No. 003187, 8 Kennedy Road.

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

PETER WRIGHT: Hello.

CONSTANTINE ALEXANDER: If you are, please come forward.

Good evening. You've been here, Mr. Wright, but our practice is to you give your name and address to the stenographer and -- because we keep a stenographic record of the hearing.

PETER BELL: Peter Bell, B-e-l-l and

the house is 8 Kennedy Road.

SIGALL BELL: Sigall Bell,  
S-i-g-a-l-l B-e-l-l at 8 Kennedy Road.

PETER WRIGHT: Peter Wright,  
W-r-i-g-h-t. I'm the architect.

CONSTANTINE ALEXANDER: Who is  
going to lead the discussion, Mr. Wright,  
you?

PETER WRIGHT: Yes, thank you first  
of all for hearing us on the continuance  
because I know it gets confusing seeing two  
sets of plans.

The Bells purchased this 110-year-old  
house a while back and wish to renovate it and  
update things, mechanical, structural, and  
the plans were in need of updating. And it  
is a very tight site. It's five and a half  
thousand square foot lot, but the difficulty  
is few such as the set -- the side is one and

a half foot set back presently on one side and three and a half foot presently on the other side. The rear is also very tight. It's 10 feet from the existing deck. There's a long narrow deck at the -- on the rear, on the rear yard. And it's 10 and a half feet roughly to the property line.

In the updating of the plan we wish to bring some light into the -- one of the major reasons to bring in light into the existing basement which will be a children's play space and it's now shaded by this long, long deck and as the only area that we can get sunlight in or any light in there. And secondly, the rear is our only place we can have our second means obviously of egress. And the continuance, the second design that we have presented to you we -- it shows an exit on the opposite side where it was, where

it was originally. And we had moved the deck off to that one side to accommodate the light and open up the, what little backyard there is. And so this is, so you understand, a two-part appeal.

One is the Special Permit dealing with the windows and the moving of the door.

And the other is to reconfigure the deck.

And in doing so, we had made the initial presentation, and the Bells have presented this to all of the abutting neighbors and they had received positive and I think written endorsements. But there is one neighbor, a crucial one being in the rear, that had an issue with the initial presentation and wanted it to be pulled away from the property line, the deck. What we had done, we've reduced the deck on one side and asked if we can pop out further in towards the rear property line.

That's when we had asked -- we asked for a continuance because of his -- he did not -- last minute. It was the eleventh and a half hour. He refused to accept that. And we wanted to satisfy this person, of course, being a neighbor even though his house is 55 -- roughly, easily 55 feet away and we have bushes and a fence and all that in between his but he wanted that one private space more private. And so if you -- if I may, can I give you a simple diagrammatic --

CONSTANTINE ALEXANDER: What you have there, is that the same as what you have here?

PETER WRIGHT: No. Is that all right if I show you --

CONSTANTINE ALEXANDER: Yes.

PETER WRIGHT: -- it explains things

easier and I can tell you.

CONSTANTINE ALEXANDER: Do you have a packet for each member?

PETER WRIGHT: Yes, I do.

Do we all have one?

The first page is the existing plan diagrammatically showing you the existing deck -- I mean the pre-existing deck. Well, it is there now, excuse me. Showing the stairs going down to the -- as you look out to the back to the right.

The second plan is what we had given as a proposition. And the reason we positioned it there, we thought he would like that because it tucks behind some trees and it steps away from his house which is roughly at ten o'clock relative to the -- to here. We sensed he did not like that, so we went to the numbered 2, excuse me, which we reduced it

considerably. So you can see where we're sort of in retreat mode on these propositions.

And then he didn't like that. So we went to No. 3. That was not acceptable. He did not have any opposition to the fenestration.

And then finally we, we went to No. 4.

CONSTANTINE ALEXANDER: And that's the one before us tonight?

PETER WRIGHT: Yes, it is. Yes, it is.

And No. 4 is essentially a landing that does not project any further than the existing deck and -- but he did not like the stairs going towards his house which is, again, at nine-thirty, ten o'clock, okay? And he wanted us to, if we can, put the stairs in the other direction. Well, it gets close

to that setback and that's the circulation along -- there is an easement, a small easement right here on the -- if you don't mind me -- I hope we don't confuse you, on the right-hand side of the property, that neighbor, that's the historic house. The Cooper House. They have -- the Bells have an easement to be able to circulate back there, so we cannot have the stairs there.

We haven't heard back and we have this hearing tonight. We didn't want to -- well, and so we -- what we did, we talked to someone in the Zoning Department and they suggested something else.

PETER BELL: Yeah. So, you know, when we started the process, Peter coached us, ask for things that are customarily granted and that are reasonable. And, two, get every neighbor to sign off ahead of time.

And we tried earnestly over the months and two continuances to get this one neighbor to sign off. And, you know, frankly at this stage I'm actually nervous that we would get this Variance. And the reason I'm nervous is that if we do, based on his pattern of behavior, I expect him to contest it, to appeal. And if he does, then we're frozen for two years is my understanding.

CONSTANTINE ALEXANDER: Well, frozen as long as the case is in appeal is in the courts. It could be less, it could be more. Two years applies if you get turned down by this Board.

PETER BELL: Okay.

CONSTANTINE ALEXANDER: Okay? Or you withdrew your petition. Then you're denied, unless you do something dramatically different, you can't come back for two years.

But if we grant you relief and a neighbor appeals, it's in the hands of the courts. And then however long or short it takes it's up to the courts.

SIGALL BELL: And it makes us -- honestly it makes us very nervous because we're currently renting, and our landlord told us that he's planning to sell the house when the lease is up in September and the kids will be just getting back to school and we really feel like we need a secure plan that's not kind of up in the air. So we basically, after hearing this advice, thought we'll sort of settle for plan B or plan F, G, H at this point just because to have that security is more important to us than necessarily having our first choice on --

CONSTANTINE ALEXANDER: Now this neighbor who has been unidentified, we have

some letters in the file from neighbors who are supportive. Have you seen them and are these --

PETER BELL: I filed them, yes. All the other abutters --

CONSTANTINE ALEXANDER: Okay.

The recontinuance neighbor is not one of these three that's in this file?

PETER BELL: I would be shocked, yeah.

DOUGLAS MYERS: You placed the abutter's, the doubtful abutter's property at ten o'clock on the plans or the sketches you gave us. Does his land in any way extend across what I'll refer to as the top of the page?

PETER WRIGHT: Not totally.

SIGALL BELL: It does.

PETER WRIGHT: It does totally?

Oh, excuse me, yes, it does. I'm sorry.

SIGALL BELL: His property is much larger and so it -- what he identified to us -- and so this has been a challenging process because we haven't been able to communicate in between drawings. He preferred us to just leave drawings in his mailbox. And so we kept sort of guessing at what the priorities were and kind of rushing Peter to do quick turn-around drawings and try to get it right as you can see. And so he identified a patio that was a priority for him. And our intention was to -- he didn't want any foot traffic near or above his patio. So we tried to --

DOUGLAS MYERS: Is the patio also on what I'll call the left side?

SIGALL BELL: At ten o'clock, yes.  
And so we tried to, as you can see from

the sequencing, move the deck as far from his patio as possible.

The last set of requests that we thought which represent the final drawings is that he wanted both the deck or landing and the stairs to still fit the footprint of the exact -- existing deck and not protrude in any way toward his property, and that's why we had to swing the stairs in this unconventional way towards the center of the house. When that was turned down we thought, you know, we don't know what else we can give because we've sort of accommodated all the requests.

PETER BELL: So we got some good coaching at Zoning. So we actually think we have a really good fall back. I'll let Peter do that succinctly.

PETER WRIGHT: So our fall back that

the Bells have agreed on and living with and it works well, is not to go for a Variance, leave the deck and truncate a part of it, but leave -- and if I may, can I show you?

CONSTANTINE ALEXANDER: You can show me but I'm -- I'm puzzled with what you're talking about.

PETER WRIGHT: Yes. So the deck is all this area right here. And --

CONSTANTINE ALEXANDER: Is that the same as this drawing right here, isn't it? Is that No. 6 in your revised plans?

PETER WRIGHT: Well, no, because that No. 6, the deck -- that landing call it is actually, there's nothing there. There's no deck. The deck presently is this configuration.

CONSTANTINE ALEXANDER: It says here.

SIGALL BELL: Yes.

PETER WRIGHT: Yeah, it only goes to where the stairs are --

CONSTANTINE ALEXANDER: Yes.

PETER WRIGHT: -- not that little landing.

CONSTANTINE ALEXANDER: No, no, I understand.

PETER WRIGHT: Oh, I'm sorry.

So I know it's a bit unusual to ask of this at a hearing, I understand, that's what Sean had said, but he said you can give this a try because we had shown him the basic idea, is that we'll get rid of this deck, leave the existing deck so we don't have a Variance technically because we can remove things by right, correct? We can remove the deck. So we're removing it here, leaving an existing small portion of the deck. But this

requires -- I have copies if you wish to look at it closer, but I -- that requires that the door is here and not there in the kitchen. It's in the center house, which is fine circulation wise. And the -- and he -- and the other neighbors and had agreed on the fenestration. They had seen this already, this new revised one which you're now for the first time looking at. They had signed off on this one specifically.

And so we've asked that this -- the deck is there as it is today, and the windows will be changed. This will now not be a window but a door. And this will be windows.

CONSTANTINE ALEXANDER: But are you still seeking a Variance?

PETER WRIGHT: No.

CONSTANTINE ALEXANDER: And that's the two years. Let me make it very clear.

If you withdraw the Variance request, the application that you made, then you cannot seek a Variance for the same project for two years.

SIGALL BELL: We understand that.

PETER BELL: Just go for the Special Permit.

CONSTANTINE ALEXANDER: Now I understand. You're just going for the Special Permit now.

PETER BELL: Exactly. But it's slightly different than what we filed because we just need to swap the door.

CONSTANTINE ALEXANDER: You have the plans here?

PETER WRIGHT: Yes, we have several plans here.

PETER BELL: And we walked this through to all the other neighbors as of

today, their letters are dated today.

CONSTANTINE ALEXANDER: This is what the rear is going to look like if we grant relief?

PETER WRIGHT: Yes, it is. It's extremely similar. The door's been reversed. Anybody?

BRENDAN SULLIVAN: What's driving this is the realignment of the inside. You're changing the inside.

SIGALL BELL: Correct.

BRENDAN SULLIVAN: So, the kitchen is moving over and hence that then triggers changing of windows and so forth?

SIGALL BELL: Correct.

BRENDAN SULLIVAN: The door preference would be to step on to a deck, have a little bit of an open area there that you could put a couple chairs and table and so on

and so forth, and then stairs down to the backyard.

PETER BELL: Yeah.

BRENDAN SULLIVAN: And that's it in a nutshell basically?

PETER BELL: Exactly. Frankly our priority is the light into the basement which is why we're more than willing to give up the Variance just to have the certainty of --

CONSTANTINE ALEXANDER:

Mr. Wright, usually when we have a Special Permit case to relocate doors and windows, we get a before and after. This is the after. What it's going to look like.

What does it look like now?

PETER WRIGHT: I'm sorry, but it's in your file.

CONSTANTINE ALEXANDER: It's in the file?

PETER WRIGHT: And it's more than likely page number, to make it easy for you --

BRENDAN SULLIVAN: Probably part of the original submission.

CONSTANTINE ALEXANDER: I thought so. I wanted to ask.

PETER WRIGHT: It's page No. 7.

CONSTANTINE ALEXANDER: No. 7?

PETER WRIGHT: Yes.

CONSTANTINE ALEXANDER: Okay.

You all set?

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: Okay.

Keep going.

PETER WRIGHT: I've exhausted --

CONSTANTINE ALEXANDER: And you've said that the revised, the withdrawal of the Variance and the relocation of the door has

been vetted with your neighbors other than the one that you seem to have problems with?

SIGALL BELL: Correct.

PETER WRIGHT: Right.

CONSTANTINE ALEXANDER: And no objection?

PETER WRIGHT: They had no objection to the fenestration of the door.

SIGALL BELL: It was the deck that was the --

PETER WRIGHT: And previously through e-mails and so on.

PETER BELL: And I filed the updated letters from the neighbors today just to reflect that they've seen this new set.

CONSTANTINE ALEXANDER: I'm going to read them into the file in a second.

Questions from members of the Board?

TIMOTHY HUGHES: I have one.

CONSTANTINE ALEXANDER: Go ahead.

TIMOTHY HUGHES: Did he just hand you a plan tonight that wasn't in the file by five o'clock on Monday?

CONSTANTINE ALEXANDER: Well, I know. I'm well aware of that. On the other hand, the modification that was in the file from what it is tonight is rather modest.

TIMOTHY HUGHES: Okay.

CONSTANTINE ALEXANDER: I'd be okay. Unless other members of the Board feel uncomfortable.

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

CONSTANTINE ALEXANDER: No, I thought about that, but I came to the conclusion that we can bend the rules a little bit on this one given the very modest nature of the change from what was in the files.

For your benefit, our rules require that any plans be in the files by five p.m. on the Monday before. And so we're seeing plans tonight for the first time. Typically we would say, no, this will be a case continued. But as I said, I think we can go forward given this very modest variation to what's in the files than what's here tonight.

PETER BELL: Thank you.

SIGALL BELL: We appreciate that.

BRENDAN SULLIVAN: And also we allow some leeway with things being marked up at the table at the hearing in response to feedback from abutters.

You have had an outreach to the abutters, the most affected people, and this is the result of that outreach. So it could be, you know, fine.

SIGALL BELL: Thank you.

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

I guess not. I'll open the matter up to public testimony.

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

(No Response.)

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

The Chair is in receipt of three letters which I will read into the record. A letter from Elizabeth Loughlin, L-o-u-g-h-l-i-n who resides at 157 Brattle Street. (Reading) We've met the Bell family, reviewed their plans of March 26th together in our home. Our house abuts the rear of 8 Kennedy Road diagonally. We support the Bells' plans without reservation. Again, this is the

relocation of the door, not the deck.

SIGALL BELL: It's both.

CONSTANTINE ALEXANDER: A letter from Rosamen (phonetic) Zander, Z-a-n-d-e-r, 25 Appleton Street. (Reading) I am the Bells' diagonal rear neighbor. I have seen their latest plans as of today, March 27th, and support their plans fully.

And at last a letter from Carter -- I'm going to spell the last name.

A-t-l-a-m-a-z-o-g-l-o-u. Who resides at 3 Kennedy Road. (Reading) I met Sigall Bell at 3 Kennedy Road the home of my father, Stelios (phonetic) Atlamazoglou. We are their immediate next-door neighbors. I've reviewed the plans of Mr. and Doctor Bell as of March 27, 2014, with my father and we find them well considered. We support the proposed change unreserved.

SIGALL BELL: And we also met with the Historical Society and our neighbors to the right and they said they have no problem with any changes in the backyard. It doesn't affect them and (inaudible).

PETER BELL: They have a garage that completely obscures the backyard from them.

CONSTANTINE ALEXANDER: Okay.

Anything further you want to add?

PETER WRIGHT: No.

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

Discussion from members of the Board or are we ready for a vote?

TIMOTHY HUGHES: I'm good.

DOUGLAS MYERS: I'll just say I certainly would have supported the version 4 without any hesitation.

PETER BELL: Thank you.

DOUGLAS MYERS: But for whatever it's worth, and I would have felt that any appeal would have been not likely to prevail. But I certainly don't question your judgment in acting as you have acted.

SIGALL BELL: Thank you.

CONSTANTINE ALEXANDER: I'm going to take two votes actually. The first vote is to accept the request of the Petitioner to withdraw the request for a Variance. And again, you know this means two years.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: And now

we'll go to the Special Permit for the relocation of the door.

The Chair moves that this Board make the following findings:

That traffic generated or patterns of access or egress resulting from the change will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or development of adjacent uses will not be adversely affected by the relocation of the door as proposed.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant. That's you folks. Or the citizens of the city.

And that the proposed -- what is proposed will not impair the integrity of the

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

In this regard the Chair would note that the change is rather modest in nature. It's the rear of the structure. And has no apparently -- no impact on abutting properties. And the project appears to have the support at least of the majority of the neighbors. There's one we haven't heard from.

So on the basis of these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the plan. It's numbered 8. Prepared by Peter Wright Studio Architect, dated March 26, 2014, and initialled by the Chair.

All those in favor of the granting the

Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Good luck.

\* \* \* \* \*

(7:45 p.m.)

(Sitting Members Case #BZA-002738-2013: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 002738, 1071 Cambridge Street.

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

ATTORNEY MARK BRESSLER: My name is Mark Bressler. I represent the Petitioner. The Petitioner is 1071 Cambridge Street, LLC. We are forming a restaurant in Inman Square. The owner and operator of the restaurant are with me here tonight. Keith Pooler is the chef and Servio Garcia is the manager.

We're here this evening to seek a waiver of the parking requirement so that we could comply with the city requirements and opening the restaurant.

CONSTANTINE ALEXANDER: Right now you're required by our Ordinance to have 10 spaces and you have none.

ATTORNEY MARK BRESSLER: That's

correct.

CONSTANTINE ALEXANDER: And this is a Special Permit.

ATTORNEY MARK BRESSLER: Special Permit waiver.

CONSTANTINE ALEXANDER: To waiver the required parking spaces.

The file was -- well, first of all, I'm curious, what's in the property now? I know it's vacant. But what was there before, was there a restaurant there before?

KEITH POOLER: No, it was a bakery.

CONSTANTINE ALEXANDER: That's right, okay.

KEITH POOLER: That's right.

CONSTANTINE ALEXANDER: And is this restaurant any way affiliated with Clover two doors down?

KEITH POOLER: No, they used our

name. We're leasing the space.

CONSTANTINE ALEXANDER: Oh, okay.

Usually when we get these requests involving restaurants, we get some idea of what the restaurant is going to be like. You know, the type of menu, the ambiance or whatever. The file is completely absent of this. Tell us about the restaurant.

KEITH POOLER: Well, it's going to be a small plates, wine and beer focussed. We've won awards for best wine, wine list in Boston. We've --

CONSTANTINE ALEXANDER: What's the name of the restaurant?

KEITH POOLER: Bergamot.

CONSTANTINE ALEXANDER: Oh, Bergamot. It's right down the street?

KEITH POOLER: Yes.

CONSTANTINE ALEXANDER: Okay.

KEITH POOLER: We also own that.

CONSTANTINE ALEXANDER: Oh, okay.

KEITH POOLER: And basically we've been in business for almost four years now, and there are people in our restaurant that need to grow. And we decided to branch out. So it's going to be oriented to the neighborhood. Small place. Inexpensive. Price range between eight and twelve dollars for plates. Very affordable wine list. We're known for that. Very eclectic but affordable wine list. And a vast local, local -- local, I mean I use New Deal which is right down the street. And I also use Savenor's which is around the corner from Bergamot. I get spices from Christina's. So it's very local and once the farmers startup in a couple weeks, thank God spring's coming, right? You know, I'll start using

Verrill Farm out in Concord, and things like that. So that's the basis of it; fresh, bright, well executed.

CONSTANTINE ALEXANDER: And you don't need parking because there's plenty of public transportation?

KEITH POOLER: Yes.

CONSTANTINE ALEXANDER: That's one of the arguments why you don't need to have parking spaces.

ATTORNEY MARK BRESSLER: Right. Inman Square is a bustling area that's filled with many restaurant establishments.

CONSTANTINE ALEXANDER: That's good and bad of course.

ATTORNEY MARK BRESSLER: It's good and bad --

CONSTANTINE ALEXANDER: In terms of parking.

ATTORNEY MARK BRESSLER: We feel there are ample opportunities for people to get there from the neighborhood which is going to be a big part of the marketing plan.

I'd like to share with you a description of the restaurant as well as letters of public support that were provided recently in connection with our clients.

CONSTANTINE ALEXANDER: Why weren't these put in our files?

ATTORNEY MARK BRESSLER: Well, this was submitted to the Cambridge Licensing Board in connection with their approval of the liquor license for the establishment. That approval is of course contingent upon the approval by the Boston Zoning Board.

CONSTANTINE ALEXANDER: Cambridge.

ATTORNEY MARK BRESSLER: Cambridge Zoning Board for the waiver for the parking

requirement. There are letters of support there from the Mayor and from several hundred residents who live in the surrounding community.

DOUGLAS MYERS: What would be the effect on your business and business plan if this Board were not to approve the waiver? Would it make it impossible?

KEITH POOLER: We wouldn't be able to open.

ATTORNEY MARK BRESSLER: And this permit is critical for complying with our requirements under our sublease and we cannot operate without it.

DOUGLAS MYERS: You mentioned, and I know from having seen your property, that there are many other restaurants in the neighborhood aside from a restaurant like S&S, do any of them have off street parking?

CONSTANTINE ALEXANDER: East Coast Grill.

SERVIO GARCIA: East Coast Grill.

KEITH POOLER: Does have parking but it's just, I think they have eight or ten spaces. They do at night. I think -- so where -- I'm not aware of any other restaurant that has.

CONSTANTINE ALEXANDER: One of the other restaurants up the street has off street parking that we required by our Board years and years ago. I forget which one it is. Bukowski's (phonetic), the East Coast Grill, there's a couple of them in a string.

SERVIO GARCIA: There's an Indian restaurant right on the corner of Indian street and prospect that have a parking lot behind. If I recall correctly I think they close or the person selling or.

CONSTANTINE ALEXANDER: They're in the process of selling.

SERVIO GARCIA: That might be the other one actually, yes.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

BRENDAN SULLIVAN: Can I see that last submittal?

CONSTANTINE ALEXANDER: You know, it's a tradition when a restaurant comes before us that you bring some samples of food with you.

SERVIO GARCIA: We don't have a kitchen.

TIMOTHY HUGHES: We would have taken raw oysters.

KEITH POOLER: Oh, yeah.

CONSTANTINE ALEXANDER: If there's no questions, I'll open the matter up to

public testimony.

Is there anyone here wishing to be heard on this matter? Ma'am, come and give your name and address for the stenographer.

LAURA GUSCOTT: Sure. I'm Laura Guscott, G-u-s-c-o-t-t. I'm at 307 Elm Street, No. 2. I'm a trustee with the -- that complex which is 303-315, and our biggest concern is the parking issue. We are excited about -- it sounds like a really nice restaurant. But our parking situation is already pretty tight on Elm Street. We're right across from Clover, and so I'm just wondering if there's any alternative, or it seems like an awful lot of parking spots to, you know, waive the requirement. So that's our concern.

CONSTANTINE ALEXANDER: Have you pursued --

SERVIO GARCIA: We have been in touch with a couple -- two other parking companies to see or pursue that. But one of the problem they have is also there is no lots that are in the vicinity to do that but we were exploring that.

CONSTANTINE ALEXANDER: I take it the price point of your food, your menu is such that you can't have valet parking?

SERVIO GARCIA: And that's another thing, we -- it depends a lot on which parking lot they find in order to park those cars. It's going to come out of the price and see if we can be able to afford.

CONSTANTINE ALEXANDER: Isn't there a public lot nearby?

LAURA GUSCOTT: There's a couple.

TIMOTHY HUGHES: They're small.

LAURA GUSCOTT: Yeah. There's one

on Webster. I don't know what their situation is.

SERVIO GARCIA: I don't know if it's public or it's private, the one in -- right on the corner of Webster and Cambridge Street. I don't know -- (inaudible).

LAURA GUSCOTT: I know it's empty on the weekends. And even if it's evenings and weekends. I don't know how it works. That's always the difficulty.

SERVIO GARCIA: I believe the parking lot belongs to -- there's an office building that goes by like two blocks away that they park.

TIMOTHY HUGHES: Yes, there is Vinfen, and they have parking. But there is public parking that you can enter from Webster that's behind the Family Dollar Store and that area there. It's a small lot but it

is public.

LAURA GUSCOTT: Yeah. And there's also -- I don't know the situation, but the, the two -- well, it used to be, they used to sell stone heads, and they're gone now, and they had parking, too, which is right beside CLM on Webster. I don't know what their --

SERVIO GARCIA: As far as I know, that place has been it's on the market to be rented. Whoever rent it, that's --

KEITH POOLER: We'll get their parking.

LAURA GUSCOTT: If you can talk to them, I don't know.

KEITH POOLER: It's not associated with us unfortunately. I wish it was.

LAURA GUSCOTT: I know. I don't know if there's any option there.

CONSTANTINE ALEXANDER: The dilemma

here, it seems to me, is the fact that there's plenty of restaurants along Cambridge Street in this area of the city and not enough parking. And to impose a 10 parking space requirement on these folks is probably with any restaurant project in that space.

LAURA GUSCOTT: Sure. It does seem like a lot. I'm just wondering if there's any, you know, something.

CONSTANTINE ALEXANDER: Yes, I know.

LAURA GUSCOTT: You know? I don't want to be unreasonable of course.

CONSTANTINE ALEXANDER: Well, again, maybe explain to us and to this person your efforts to deal with the parking and why you think you don't need it.

SERVIO GARCIA: I mean we believe that it is going to be according to the price

point of the customer that we are aiming for, it is going to be catered to a vast majority of the neighborhood. So that means a lot of people in the neighborhood.

CONSTANTINE ALEXANDER: You think people will be walking to the restaurant?

SERVIO GARCIA: We have pretty much something similar to where we are right now on the corner of Beacon and Kirkland or Washington. We have a parking lot but it's also 10 spaces. And there are three -- there are two restaurants in that building and that intersection there, four, five persons come in. And we depend a lot on the neighborhood when I say we are aiming to do the same thing. There are a lot of people walk to us or take public transportation. Some of our guests right now in the restaurant they walk from Harvard Square and Porter Square or 86 spots

or 83. So Inman Square I think there will be something similar where Inman Square we able to get there, there is no too far from Central Square. It's probably 10, 15 minute walking distance we would be willing to do that. But we're definitely targeting the neighborhood and hoping to have food traffic into the place.

CONSTANTINE ALEXANDER: Let me throw a thought out to members of the Board which probably will be shot down, but given the concerns you expressed, and there are issues about parking, what we could do is grant a Special Permit for say two years and see how parking works out. In fact, you people mostly come from the neighborhood. In fact, is parking not a major problem. And give us sort of like an experiment to test out how it all works. I don't know whether if

there's any sentiment from the Board for that or not.

DOUGLAS MYERS: The problem that I see is if it doesn't work, it's ruins (sic).

CONSTANTINE ALEXANDER: How long is your lease going to be for?

SERVIO GARCIA: We have a lease for a total of 21 years.

CONSTANTINE ALEXANDER: Well, that's with options.

SERVIO GARCIA: Seven.

CONSTANTINE ALEXANDER: So you're obligated for at least seven years. And then after that it's your option.

SERVIO GARCIA: Then it's up to us.

CONSTANTINE ALEXANDER: Seven years is a long time. Your point is well taken. We don't want to throw you out of the restaurant after two years if you've got five

years.

SERVIO GARCIA: That's another thing, we have special parking and after two years we'll be pretty much --

BRENDAN SULLIVAN: What was in the space before?

SERVIO GARCIA: Before that it was a bakery a couple years ago.

CONSTANTINE ALEXANDER: Local bakery.

BRENDAN SULLIVAN: Okay.

And then that's right. Clover and then the pickle place. And then this was sort of a --

TIMOTHY HUGHES: They subdivided to the pickle place and then this is the next one over from them.

Where are you going to get your pickles from?

KEITH POOLER: Our own.

DOUGLAS MYERS: I'd like to respond to what you said and then hear what you say about what I say. I looked at the map. Is it true that Elm Street, that the part that you live on is one way heading into Cambridge Street at that point?

LAURA GUSCOTT: Yes -- well, no, it's one way heading to Webster away from Cambridge Street.

DOUGLAS MYERS: So to get on -- you can't make a right turn from Cambridge Street and enter Elm Street?

TIMOTHY HUGHES: That's correct.

LAURA GUSCOTT: Yes, I can turn onto Cambridge Street from Elm Street.

DOUGLAS MYERS: But not with a right turn?

TIMOTHY HUGHES: Not going east.

LAURA GUSCOTT: It depends on which way I'm going. No, yeah. So if you're going west, you can take a right.

TIMOTHY HUGHES: But that takes you -- that's going toward -- turning towards Somerville.

DOUGLAS MYERS: My point and I'm --

TIMOTHY HUGHES: Elm's one way from Hampshire Street to Cambridge Street.

DOUGLAS MYERS: Yes, my point is it makes it hard. I mean it doesn't eliminate what you're saying, but it means that people are going to have to go around a very big block to get on to Elm Street going the right way toward Cambridge when they might find a parking space. It's -- I mean, there's a lot of parking going on and a lot of factors, but it seems to me that that is one factor that is going to tend to minimize people coming

into the restaurant from parking on Elm Street.

SERVIO GARCIA: And this is residential parking.

LAURA GUSCOTT: Yes, it is on the left hand --

SERVIO GARCIA: Somebody's going to drive pretty much from out of the city won't be able to park there.

TIMOTHY HUGHES: They can't park on Cambridge Street or the lot or there aren't a lot of other choices. My -- well, I'm sorry, were you done?

DOUGLAS MYERS: No, I'm done.

TIMOTHY HUGHES: My opinion about this is that if people can't find a place to park, they're just not going to come to your restaurant. So you are going to be dependent on a lot of foot traffic and public

transportation.

SERVIO GARCIA: That's correct.

TIMOTHY HUGHES: I mean I live in the neighborhood. I live on Norfolk Street, the next block over. If you can't park, you don't come.

LAURA GUSCOTT: That's true. And I think it's true that, you know, if it's local, then you will get a lot of foot traffic. You know, we were just concerned that we continually have more and more parking issues. But I don't want to single out, you know, just your restaurant. But we did want to voice our concern at least hoping that there was some kind of middle ground at least.

CONSTANTINE ALEXANDER: I wish I could think of one. I tried with the time limit but that doesn't work.

LAURA GUSCOTT: Yeah.

CONSTANTINE ALEXANDER: I think  
it's --

BRENDAN SULLIVAN: There's always  
this dilemma as to existing businesses go  
away for whatever reason and then spaces  
become vacant and especially in a block like  
this, in that whole stretch of Cambridge  
Street, vacant stores are like a plague and  
they tend to feed upon each other. One  
vacant store and another vacant store and  
what have you, and the worse thing is to see  
for rent/for lease signs and it could be there  
for a year, two years, three years. By  
allowing businesses in, bring vibrancy,  
brings, you know, a more life to that area  
favoring other businesses. Unfortunately  
there is no parking, there never has been any  
parking associated with any of these  
businesses, and any business that goes in

there is going to come up against the same parking requirement. And so the thing is how do you satisfy it? Well, you can't. You know, the people who wrote this book never took into account that, you know, you've got an area like Cambridge Street. I live in an area, too, where there is just no parking, but we welcome those businesses that come in. They have a parking requirement. It's like Harvard Square, there just isn't any parking. But it adds to the fabric and the vibrancy of the neighborhood. And I think that point is well taken. I mean we go down there, my wife and I, we live at the other end of the city. If we come down, we really haven't had that much of a problem. People pull out of a metered space, we pull into a metered space. And if we go around two or three times, then, well, forget it let's go in the S&S, because

we can pull into their spot. It corrects itself.

LAURA GUSCOTT: That's fair enough.

BRENDAN SULLIVAN: Anyhow, that's my --

CONSTANTINE ALEXANDER: At the end of the day if parking becomes a problem, it's their problem as much as their problem. And then a solution will try to be found or there won't be a restaurant there at the end of the day. But it will be because of the economic conditions but not because of parking.

LAURA GUSCOTT: I think that's fair enough. You know, it was good to hear, you know, your thinking and how it also works that really no one has parking. Which we don't really know -- you don't really know what happens on these things but thanks for hearing me.

CONSTANTINE ALEXANDER: Well, thank you for taking the time to come down.

KEITH POOLER: Hope to see you soon.

CONSTANTINE ALEXANDER: We do have letters to be read into the public record with regard to this petition. There's a letter from Timothy J. Toomey, Jr., City Councilor. (Reading) I am writing to lend my support to BZA case 002738. The Cambridge Street corridor continues to be a desirable place for restaurants and the new venture from the local operators of Bergamot will be a welcomed addition to the neighborhood. The applicant has already obtained necessary licenses from the License Commission, and they hope this Board will review the request just as favorably.

There's a letter from the East Cambridge Business Association from Patrick

Magee, M-a-g-e-e, the President. (Reading)  
I am writing on behalf of the East Cambridge Business Association to lend our support for the application of Sassoon & Cymrot. The applicant currently operates Bergamot and has a great reputation within the community. They also source their goods from other local businesses which has a positive impact on the local economy. Cambridge Street continues to thrive as a culinary destination, and the addition of their new venture will continue that growth and in turn support other local businesses.

And there's a letter lastly from Laura Guscott, G-u-s-c-o-t-t and Paul Guscott, 307 Elm Street, No. 2. This is -- she was here. Okay. It's a letter -- since she's already addressed us, I'll just summarize the letter. It expresses the sentiments that she

expressed here that we should not waive the requirement for parking by 10 spaces. And there are other e-mails attached to her letter which I will not read. Basically they are in agreement with her position as expressed orally today and it's expressed in writing here. And that's it.

Any last comments to make before we go into our own session?

ATTORNEY MARK BRESSLER: We, recognize that the lease that we have for the space requires that all of our permits be satisfied, so it's a very critical element for our business to go forward. We appreciate your consideration.

CONSTANTINE ALEXANDER: Thank you.  
We'll close public testimony.

Any discussion or we had it?

Okay. The Chair will move to make some

motions.

The Chair moves that we grant a Special Permit to waive the parking requirement to eliminate the requirement that there be 10 parking spaces for this proposed restaurant.

According to Section 6.35 of our Ordinance, a Special Permit shall be granted only if the Board determines and cites evidence in its decision that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses or otherwise adversely impact the neighborhood.

And then we have to consider various other things in making this determination. Mainly the availability of surplus off street parking in the vicinity, and/or the proximity of an MBA transit station. The availability

of public or commercial parking facilities in the vicinity. That's basically it.

I would move that we have heard evidence that would demonstrate that what is being proposed will not cause excessive congestion, will not endanger public safety, substantially reduce parking availability for other uses or otherwise adversely impact the neighborhood.

In this regard the Chair would note that this area is well served by public transportation. That it is a restaurant designed -- its menu is such designed not to attract people from far and wide, but more likely to attract people in the neighborhood or Cambridge residents generally.

And that the parking situation on Cambridge Street is as it is. There is not a lot of parking, but that has not prevented

other restaurants from operating successfully and not causing problems for the residents in the area. And the Petitioner has submitted evidence and support from neighbors and city officials that this will be -- there will be no adverse affect from their restaurant as well.

So, that was the first set of findings that we would make. And then we have to make the general findings for a Special Permit. And the special findings are and I so move:

That what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character. In fact, restaurant use is common on Cambridge Street in this general area, so it's not -- it won't be a change in established neighborhood character.

And that the restaurant is such that it

is not likely to cause congestion. And if it does, the result will be the restaurant will no longer exist because it will adversely affect its business.

That the continued operation of adjacent uses will not be adversely effected by what is being proposed.

And that no nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant or the citizens of the city. And for other reasons the proposed -- what is being proposed, the -- namely, the waiver of the parking requirements will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In this regard the Chair would further note that the City of Cambridge seems to in

recent years taken a policy of minimizing the requirements for parking with the view to encouraging people not to have cars or to drive their cars in the city or have other means of transportation; be it by bike or foot or public transportation. And that policy would apply, it seems to me, to the Petition being before us tonight.

So on the basis of all of this, the Chair moves that we grant the Special Permit to reduce the requirement or eliminate the requirement for parking, which would be 10 parking spaces.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Motion granted. Good luck.

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

\* \* \* \* \*

(8:10 p.m.)

(Sitting Members Case #BZA-002927-2013:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Douglas  
Myers.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 0027927, 535 Cambridge

Street.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there appears to be no one here.

The Chair would report to the Board than an inspection that I made of the premises and also subsequently by Mr. O'Grady reveals that the Petitioner failed to comply with our sign posting requirements of our Ordinance. As a result, we're unable to hear the case tonight. We cannot hear the case until the Petitioner finds it in its powers to comply with the posting requirements of our Ordinance.

So I move that we continue this case as a case not heard until seven p.m. on April 24th.

DOUGLAS MYERS: I have a question, Mr. Chair.

CONSTANTINE ALEXANDER: Sure.

DOUGLAS MYERS: Was the Applicant notified that the sign was not compliant?

CONSTANTINE ALEXANDER: That there was no compliance?

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: Yes, Mr. O'Grady reported to me that he did contact them. After I had checked and found nothing, I told Mr. O'Grady. He checked. He could find no sign. He then called up.

DOUGLAS MYERS: And did the Applicant indicate any desire to attend the meeting tonight or was he excused from it beforehand?

CONSTANTINE ALEXANDER: Do you know anything about that?

MARIA PACHECO: He sent a letter. I guess he was away.

CONSTANTINE ALEXANDER: He sent a letter?

MARIA PACHECO: Yes.

CONSTANTINE ALEXANDER: Well, it just says requesting alternative date for hearing. The next available date is preferred. I mean, there's no explanation.

DOUGLAS MYERS: That's fine. I'm satisfied.

CONSTANTINE ALEXANDER: Okay. So I'll make the motion to continue until seven p.m. on April 24th as a case not heard on the conditions that the Petitioner sign a waiver of time for decision.

That the Petitioner this time comply with the posting requirements with regard to the sign, the two weeks prior to the hearing,

with the correct date, April 24th, and the correct time, seven p.m.

And lastly to the extent that the Petitioner wants to submit, I don't think they will, but plans or dimensional requirement forms, that they must be in our files no latter than five p.m. on the Monday before April 24th.

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

(Aye.)

CONSTANTINE ALEXANDER: Case continued.

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

\* \* \* \* \*

(8:10 p.m.)

(Sitting Members Case #BZA-003232-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Douglas  
Myers.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003232, 25 Eighth Street.

Is anyone here wishing to be heard on this matter?

UNIDENTIFIED AUDIENCE MEMBER: Yes.

CONSTANTINE ALEXANDER: We have a Petitioner first.

UNIDENTIFIED AUDIENCE MEMBER:  
Right. I thought you were asking.

CONSTANTINE ALEXANDER: I'm referring to the Petitioner first.

ATTORNEY ANNE GRANT: Good evening. My name is Anne Grant. I'm with Prince Lobel on behalf of the Petitioner, Sprint.

So we actually went to the Planning Board on this last Tuesday and so a new revised plan was submitted to you on Monday based on a request that they had made.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ANNE GRANT: So, I'll give you an overview of the project and explain

that piece of it to you as well.

UNIDENTIFIED AUDIENCE MEMBER: Is there any way you can move the mic closer to you.

CONSTANTINE ALEXANDER: If you'd like, you can also move around to the side here, too, if it makes hearing easier. It's up to you.

ATTORNEY ANNE GRANT: So by way of background, this property currently -- or Sprint currently operates a wireless facility on the rooftop of this building at 25 Eighth Street. Currently the existing facility consists of seven antennas which are facade-mounted, all of them on the rooftop penthouse. And three equipment cabinets, which are on again on a rooftop equipment platform. The proposal here is to upgrade Sprint's site to the new technology.

Taking -- basically swapping out the existing seven antennas for six new antennas which represent sort of the new technology which would allow Sprint to operate on its 4G network, increase the capacity of Sprint, and improve the data speeds, the download speeds, and just allow that more -- you'd have less dropped calls I guess is the goal. But ultimately just to kind of stay with the times and upgrade the technology to what is currently used today.

So you'll see on the rooftop here we've got -- this is the penthouse right here. And we've got, there's three antennas currently on this side right here, two antennas on this corner kind of sticking out off the corner, and then another two antennas that are over on this side. We're proposing to remove all of those and it will be then two antennas

mounted on the side of the penthouse, two on this side, and two on this side.

And then, again, the photos are probably an easier way for you to be able to -- but I'll show you what the change that the Planning Board had requested.

And you'll see if you look at the photos showing the view from the west side, you've got the existing view here which shows these are antennas right there. You'll see that there's other ones on the right here. These are not ours. These are T-Mobile antennas.

So these are the existing antennas. One is in between this -- I think it's some kind of duct work or venting work here. And the second is on the side of it. When the new proposal that we had initially proposed showed the antennas all the way out to the edge of this penthouse, and the Planning

Board had asked that this one get back to where the one that's currently there is so that it's not as visible which Sprint agreed to do and has moved it back on the new plans that were submitted on Monday. But with the time, we weren't able to revise the photo sims in time for the hearing. But the plans themselves show the change.

CONSTANTINE ALEXANDER: Wait a minute, you don't have photo simulations that show the new plan --

ATTORNEY ANNE GRANT: Well, these photo simulations that were submitted with the application don't show the movement. So basically this is what it -- the new one will look like.

CONSTANTINE ALEXANDER: I'm sorry, that's not sufficient. We need to have in our files by five p.m. on the Monday before

the photo simulations showing, reflecting the plans that -- the engineering plans that you've submitted. We can't -- we always tie our approvals both to compliance with the plans and with the photo simulations. If I don't have a photo simulation in the files, I have nothing to tie the -- if we grant approval, to tie it.

ATTORNEY ANNE GRANT: Okay.

I guess we were hoping with the time crunch we were able -- the plans would be sufficient. But this is, I mean I guess that's the point.

CONSTANTINE ALEXANDER: I think we should stop here because it will become a case heard.

I'm sorry, maybe other members of the Board disagree with me, but I don't want to go forward until we have the actual photo

simulations in our files timely in our files.

DOUGLAS MYERS: Without wanting to undermine the impact of the Chair's statement because I certainly agree with his general direction, I would just want to ask, is this the only aspect of your change that is not reflected in the photo simulations?

ATTORNEY ANNE GRANT: Correct.

DOUGLAS MYERS: This is the only photo simulation that does not correspond to reality, the reality of what you propose?

ATTORNEY ANNE GRANT: Correct. And in fact actually the existing photo is more accurate as to what the proposed would look like now because we've made that change.

CONSTANTINE ALEXANDER: Well, as I said, I would propose that we don't go further and not make this a case heard and continue this case to another day when you can get the

photo simulations that reflect the plans in our files timely and in accordance with our rules.

BRENDAN SULLIVAN: This is in response to Planning Board a week ago, last Tuesday?

ATTORNEY ANNE GRANT: Tuesday, yes.

BRENDAN SULLIVAN: Yes, okay.

So there may have been sufficient time to bring the presentation up to -- the photo sims up to what the presentation is going to be.

Can I see the presentation on the photo sims whatever was submitted? I reviewed them once and I --

CONSTANTINE ALEXANDER: I thought I saw revise -- I was looking when you were talking, I thought I saw something in the file of revised photo simulations but I don't see

it now.

ATTORNEY ANNE GRANT: We had originally -- I can explain. When we very first filed I had revised the photo sims between that and the Planning Board hearing. And then when the Planning Board asked us to -- we changed the plans but were not able to revise because it was --

CONSTANTINE ALEXANDER: What happens in those situations, if you don't have enough time to revise, you can continue the case rather than coming down and saying well, we'll show you photo sims here and hopefully that will be sufficient. That's typically what we do.

THOMAS SCOTT: Are you saying that the photo simulation that shows the existing condition in fact won't change? It's going to remain as shown there or as seen there?

ATTORNEY ANNE GRANT: Right. So you'll see, I mean again, I was -- I don't have the exact dimensions. But, yes. So basically what was asked could you put this back to where this antenna is. And it's been agreed to do it.

THOMAS SCOTT: There's one there now?

ATTORNEY ANNE GRANT: Right. So it would be --

THOMAS SCOTT: So the photo simulation would it be that?

ATTORNEY ANNE GRANT: It should be essentially this. I haven't had them -- they haven't been done off of these plans, but yes, that's the, you know, from a practical standpoint what it would look like.

DOUGLAS MYERS: So the mounted, the antenna here that's shown in the bottom right

on this board would indeed be located in a place where it's shown in the upper right?

ATTORNEY ANNE GRANT: Yes.

DOUGLAS MYERS: And that's going to be reflected on the schematic drawings that you have that would be part of your approval?

ATTORNEY ANNE GRANT: Right, you'll see it.

DOUGLAS MYERS: The location that's in the upper right existing?

ATTORNEY ANNE GRANT: Exactly.

TIMOTHY HUGHES: Can I see the drawing of the mounts of the antennas themselves or the plans for the mounting?

How long ago was the original antennas put in, do you know?

CONSTANTINE ALEXANDER: I think those are the right plans. Let me just check.

But I think we have to be careful unless we want to have this as a case heard. We don't want to dig too much deeper unless we want to go to the merits. I'm of the view that we shouldn't.

DOUGLAS MYERS: I am mindful with regard to the continuance, not with regard to the merits of the case, apparently there is some opposition to this and it may well be that it's in everyone's interest, the Board and even possibly the Applicant's interest, that the record not have this type of a -- I won't see defect in it, but this type of a potential problem if there is possibility of serious well considered opposition.

CONSTANTINE ALEXANDER: That's a good point.

And also further, in fairness to the opposition, they should be able to see in a

couple -- that's why we have the five o'clock p.m. on the Monday before requirement. They could come down to the Zoning office and look at the photo simulations and know exactly what it is they're going to be dealing with and we're going to be dealing with. Which is another reason why for us not to hear this case.

TIMOTHY HUGHES: And since we're on that tact, because this is a replacing some rather old, you know, mounted equipment, we have, we have recently gone to a different de -- you know, going to this low profile, required low profile mounts and not just pipe mounts that exists, which is what this is showing here. If you're planning to use that same pipe mount again, you might want to rethink that and give us a plan that shows the low profile mounts that we've required from

T-Mobile and other carriers in more recent years.

ATTORNEY ANNE GRANT: I can ask them for the specs because they do tend to use the -- it's probably a standard spec that was put on there. But if you look at the, you know, the other portions of this, but I'll make sure that they do the standard specs have that as well.

BRENDAN SULLIVAN: And the other point before we get really too deep into this, is that the existing has simulated brick painting on it, whatever it is. What we've been really leaning towards and requiring is that it be a solid color.

CONSTANTINE ALEXANDER: Right.  
And not a brick.

BRENDAN SULLIVAN: And not a simulated brick so that it be the color of the

brick but a solid as opposed to a faux brick which is --

ATTORNEY ANNE GRANT: Oh, this right here? I think those are actually T-Mobile as well. But I'll look into that.

CONSTANTINE ALEXANDER: Take that into consideration.

April 24th, Maria?

You're here in opposition. We're going to continue this case in a second to April 24th. Does that date work for you?

UNIDENTIFIED AUDIENCE MEMBER: Let me check, thanks.

ATTORNEY ANNE GRANT: April 24th?

CONSTANTINE ALEXANDER: I haven't made the motion yet, but that's what the motion will be.

UNIDENTIFIED AUDIENCE MEMBER:  
Would it be possible for the Petitioner to

post a new sign with a new date in front of the building?

CONSTANTINE ALEXANDER: Well, they have to. They're required by law.

UNIDENTIFIED AUDIENCE MEMBER: Even though they don't have to send out notices to the abutters?

TIMOTHY HUGHES: That's correct.

CONSTANTINE ALEXANDER: That's right. That the sign -- that's one of the conditions we're going to propose in a second. They have to update the sign to have a new date, new time, and it will be seven p.m. If they don't do that, we won't hear the case on the 24th.

UNIDENTIFIED AUDIENCE MEMBER:  
Okay, that works for me.

BRENDAN SULLIVAN: Do you fully understand what the proposal is?

UNIDENTIFIED AUDIENCE MEMBER:

Yeah.

BRENDAN SULLIVAN: I was going to say because maybe you could have conversation.

ATTORNEY ANNE GRANT: We've had a community meeting, so yes.

BRENDAN SULLIVAN: Oh, okay.

ATTORNEY ANNE GRANT: I'm aware of the issues.

CONSTANTINE ALEXANDER: The chair moves that this case be continued as a case not heard until seven p.m. on April 24th on the conditions that the Petitioner sign a waiver of time for decision. You've done that before.

On the condition that the sign that's now there be maintained for 14 days prior to April 24th with the new date April 24th and

the new time. Make sure you change the time, too, to seven p.m.

And lastly on the condition that we now need to see new photo simulations and perhaps new drawings. They must be in our files no later than five p.m. on the Monday before April 24th.

And that means you could come down or anybody of the public after five p.m. on Monday until the time of the hearing, could go to the Zoning office and take a look at the photo simulations, you can take a look at the plans.

UNIDENTIFIED AUDIENCE MEMBER:

After that Monday?

CONSTANTINE ALEXANDER: After that Monday.

UNIDENTIFIED AUDIENCE MEMBER: And if I have written things, do I have to submit

them then?

CONSTANTINE ALEXANDER: No, they're not required in advance.

UNIDENTIFIED AUDIENCE MEMBER: Any documents that I bring, I can bring them to the hearing?

CONSTANTINE ALEXANDER: You can bring them to the hearing.

BRENDAN SULLIVAN: They're helpful if they are in the file because we review the case sometimes Tuesday morning, and it's helpful to me if I can understand maybe some of the opposition to it so that I can sort of think about it. Sometimes it takes some of us longer than others to --

DOUGLAS MYERS: Yes, if you have something, if your arguments are strong and weighty, get them in early so we can have a chance to think about them because we may not

give them the attention they deserve in the early burly of a meeting.

CONSTANTINE ALEXANDER: It's not required but the comments that you just heard are very well taken and the photo simulations they have to submit have to be in by the five p.m.

BRENDAN SULLIVAN: It's helpful to submit them and to appear.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued to April 24th.

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

ATTORNEY ANNE GRANT: Do I pick up a new sign?

CONSTANTINE ALEXANDER: Just change it with the marker. If you don't change the time, we'll have to do it eight o'clock rather than seven o'clock.

ATTORNEY ANNE GRANT: Okay.

CONSTANTINE ALEXANDER: Thank you.

\* \* \* \* \*

(8:25 p.m.)

(Sitting Member Case #BZA-003292-2014: Constantine Alexander, Timothy Hughes, Timothy Hughes, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 003292, 53 Jay Street.

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

JILL SHULMAN: I am the petitioner.

CONSTANTINE ALEXANDER: People were raising their hand in the back of the room. Please come forward.

You ready? You've seen the drill. Give your name and address to the stenographer, please.

JILL SHULMAN: Okay. Jill Shulman, 92 Pearl Street, P-e-a-r-l, Cambridge, Mass.

CONSTANTINE ALEXANDER: And you're here in what capacity? You're not the Petitioner obviously.

JILL SHULMAN: I am the Petitioner but our architect is coming in moments to present.

CONSTANTINE ALEXANDER: You're not

the occupant of the premises right now?

JILL SHULMAN: We are the owners.

CONSTANTINE ALEXANDER: You're the owners?

And you are, sir?

MERHI SATER: I am her husband, Merhi, M-e-r-h-i. Last name Sater, S-a-t-e-r.

DOUGLAS MYERS: You are the owners of 53 Jay Street?

JILL SHULMAN: Correct.

MERHI SATER: Yes, we are.

CONSTANTINE ALEXANDER: How long have you been the owner?

JILL SHULMAN: Since October of 2013.

CONSTANTINE ALEXANDER: Go ahead, you can start. I thought there were letters in the file that I don't see.

JILL SHULMAN: Okay. So I think there may be one letter. I brought another letter.

CONSTANTINE ALEXANDER: Was there a letter in opposition, wasn't there? Maybe not, maybe it's my imagination. I can't find it.

BRENDAN SULLIVAN: Can I see the file, Gus?

JILL SHULMAN: So I'm not totally prepared because I was expecting our architect who will be here any minute was going to present.

CONSTANTINE ALEXANDER: We can recess this case, do another case and --

JILL SHULMAN: What do you suggest?

DOUGLAS MYERS: Well, rather than filibuster maybe you do want to wait.

CONSTANTINE ALEXANDER: Yes, I mean

if you're not prepared. This is your chance. You know, if you lose it, you lose it. So maybe you want to wait.

JILL SHULMAN: So the possibility is that we could --

CONSTANTINE ALEXANDER: We'll take another case. Just wait we'll take another case.

DOUGLAS MYERS: Wait, we'll hear another case.

JILL SHULMAN: Sure, that would be great.

DOUGLAS MYERS: The only risk is that the case may take a long time.

TIMOTHY HUGHES: Here he is.

CONSTANTINE ALEXANDER: Rather dramatic entrance on your part.

MARK BOYES-WATSON: Sorry, I don't usually do that.

CONSTANTINE ALEXANDER: We haven't started yet. The floor is I guess yours, Mr. Boyes-Watson or unless you want your client to --

MARK BOYES-WATSON: Everybody introduced themselves?

CONSTANTINE ALEXANDER: Yes, they did.

MARK BOYES-WATSON: I'm Mark Boyes-Watson from Boyes-Watson Architects, 30 Bows Street. Sorry.

DOUGLAS MYERS: 30 Bows Street, Somerville.

MARK BOYES-WATSON: Right, Somerville. Not here. Across the border.

So, tonight we're talking about 53 Jay Street which has right now an existing two-family house, and after a long period of deliberation, the owners decided that

actually the house is in difficult condition and it would be better to remove it. So they went through the process with Cambridge Historical and were granted permission to replace it actually. And I guess I'll show you this kind of thing. There's a, this is Jay Street. This is actually the overlay. Existing building is like this. And Cambridge Historical was actually concerned to maintain the integrity of the street. So we tried to get a massing and it was very similar and was predicated on reusing -- so basically what happens is the existing house is almost exactly in this position. It's actually a little further forward. So it was an existing non-complying structure. So what they wanted us to hold the street with the new housing, a similar way to the adjacent structures. But actually we're building a

conforming building. So basically the plan for the renewal of the site is to build all conforming structures, except that existing curb cut is right on the side of the property which is allowed to be on an existing one, two, or three-family structure. And the curb cut is here. So -- but if you built -- so this is the existing and this is the proposed. So here you see the existing driveway. It goes back to an existing structure in the back. So the proposal is to -- pursuant to the Special Permit criteria granted in 6441 is if the circumstance warrant, you can be relieved of what is otherwise a duty to set back in a new condition to provide a five-foot setback of that driveway. So the relief is actually not framing of the structures, their heights and all of those things which the owners have been

talking to the neighbors about and were talked about when we went to Cambridge Historical. But in front of the Board tonight is this question of whether it's a reasonable on this lot to continue the use of this driveway in its current position. And actually there are some, it's not quite as tight as this. There are some easements to make it a little bit easier to get around here. We're not relying on those for a ten-foot driveway. We're actually providing a ten-foot driveway, but we are maintaining the ability of using the existing curb cut and not changing any of the conditions on the street. So the relief requested is really associated with that. And then actually we, we actually here are also asking for that same five-foot relief.

CONSTANTINE ALEXANDER: The purpose

of the five-foot buffer if you will, is to create a buffer and to minimize the impact on neighboring property?

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: Okay. And you're looking for the driveways. But I looked at your plans for the structure in the back, the new two units.

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: And I see a roof deck looking over on the person whose lot directly behind you which really intrudes into their privacy. So I ask myself why should I grant you relief in terms of buffers when you're not being a good neighbor in avoiding roof decks that are going to have an adverse impact on the people behind you?

MARK BOYES-WATSON: Do you want me to speak to that?

JILL SHULMAN: Sure.

MARK BOYES-WATSON: So I can speak to that.

So, I think that there's been a big effort to be sensitive to neighbors. There is the structure in behind here I think to which you may be referring.

CONSTANTINE ALEXANDER: I am referring.

MARK BOYES-WATSON: Actually the Board granted them a Variance to build a bigger structure than what is allowed. It does meet the 20-foot setback as does our structure, and they have a similar situation indeed on that property. So I think there is a lot of sensitivity of the owners to their abutters, but I think it's a good question and I should let them --

CONSTANTINE ALEXANDER: Well, can I

ask you --

MARK BOYES-WATSON: But as a reciprocal condition and it's not strictly relevant to the driveway.

CONSTANTINE ALEXANDER: Do you have the support of the neighbor, the property behind that we're talking about, with regard to -- you'll have a chance and you're the person, aren't you? Okay. You'll have a chance. You can give the answer first and she will --

MARK BOYES-WATSON: I haven't been doing that.

MERHI SATER: We tried to talk with the neighbors in the back but she refused to talk to us. We knocked on her door a few times. And we --

JILL SHULMAN: Well, but just to start we have -- we had another hearing about

two months ago, so we had a first round with the neighbors and we went around and met everyone and we did spend sometime talking to all the neighbors because we started by saying to them we're going to be changing this property. We're requesting to take it down. We want to hear what it -- what your concerns would be if any. And we just wanted you to understand that although it is possible that we may plan to live in one of the units, we're not certain that we're going to. And so we wanted people to have a chance to give their input in case we aren't going to be there in the future.

CONSTANTINE ALEXANDER: But didn't you show to the neighbors at that hearing a two-story building with no roof deck?

JILL SHULMAN: We showed them the front building that was finished. And the

back building we said to the Historic Commission we're not totally done with the design of the back building. And they said, if you make changes, check back with us. We then -- they were very concerned about the front building. We didn't change anything in the front. We did change the back because we were still trying to get it right. And in fact some of the changes we made were to try to minimize the building, because as there are some neighbors here that will speak, too, but they felt like, they felt like it was a little overwhelming. So we tried to make it smaller. We made it two stories because the neighbor in front was adamant they really didn't want it to be high. So we tried to -- we really tried to make a design that took into account the neighbors that we talked to. We knocked on everybody's door.

And in fact we, we have not met the neighbor behind, but we spoke to her husband at the time who said oh, that was, that seemed fine with him. And then we found out later at this hearing that they had a lot of concerns. But I've tried many times actually to be in touch with them.

CONSTANTINE ALEXANDER: I'm still puzzled. You had, you reached out to the neighbors. When you reached out to them --

JILL SHULMAN: Yeah.

CONSTANTINE ALEXANDER: -- you focussed on the front building. I understand that. But in the back building you were showing them something substantially different than what you're here before us tonight.

MERHI SATER: It's not substantially different.

CONSTANTINE ALEXANDER: Not different? Three stories rather than two, and a roof deck when it was not a roof deck before?

MERHI SATER: Well, I mean we are within the limits of the height of the building.

CONSTANTINE ALEXANDER: I understand that.

MERHI SATER: And we are building into our limits and we are applying to the city limits. And now we're asking for relief on the driveway and to that thing. So now if we push the driveway another five feet into the side, then we have to go to three stories and we are allowed to go that.

CONSTANTINE ALEXANDER: My point, though -- I understand that. My point is simply is that you're asking for relief from

a buffer zone that is intended to preserve privacy, and at the same time you're invading the privacy of the people behind you by building the structure in which you're building.

MERHI SATER: But I mean -- excuse me for -- to reply on that. When our neighbors in the back applied for their addition, they have also applied for a roof deck that oversee our property. So our property is exposed to their property at the same time. And they are extending all the way into our, into the limits of the line. While they were above the FAR and not -- and without their limits that within their limits.

CONSTANTINE ALEXANDER: The Variance that was granted to them apparently, I'm not familiar with it, was granted.

That's history. The property is there. The building is there however it's constructed. Our Board, however constituted at that time, allowed that.

Now we have your project. And as I said before, you're wanting us to minimize the privacy requirements of our Ordinance as it relates to the driveway. At the same time you're not doing so with regard to the neighbors. And at the same time, frankly it offends me, is that you showed the neighbors one project, a much smaller project -- let me finish. And all of a sudden I see a much bigger project. I agree, you meet the FAR requirements, and including a roof deck and it doesn't sit well with me. I'm just one person but I'm upset about it.

JILL SHULMAN: Can I respond to that?

When we were done with the plans, we said at the time that we're still working on the back unit. Because for the historic hearing we were focussed on the front, not -- I mentioned that before. But when we did finish the back, we did call the neighbors and we did say we'd like to show you the new plans, because we actually what we actually did was make a new set of plans which is what we hoped to build and keep the old set and say, if you're not okay with this, we're gonna go with the old set if you're not okay with the new set. But, but we weren't able to talk to all the neighbors. And we -- so we talked to the neighbors that were willing to talk with us. I'm not -- I can't tell you how many times I knocked on doors, called and e-mailed and wrote letters. So I mean, I didn't talk to everyone. Definitely I didn't but I did

try --

DOUGLAS MYERS: But just to respond to what you said, isn't there one neighbor here now who definitely does not want to go with the new plans and wants to go with the old plans?

CONSTANTINE ALEXANDER: And that neighbor is the one in the back. I think. We're gonna find out.

JILL SHULMAN: The neighbor in the back is not affected by the driveway. The neighbor that is -- I know.

DOUGLAS MYERS: But aren't you changing what you said?

JILL SHULMAN: Oh.

DOUGLAS MYERS: You said earlier, as I believe you said, you were going to talk to the neighbors and if they didn't like the new plans you were prepared to go to the old

plans. But you didn't hear from enough neighbors or you those you talked with, so you decided to go ahead --

JILL SHULMAN: Well, I never was able to --

DOUGLAS MYERS: Just a second.

JILL SHULMAN: Oh, yeah, sorry.

DOUGLAS MYERS: You will have a turn.

JILL SHULMAN: Yeah.

DOUGLAS MYERS: But you never talked to all the neighbors that you wanted to so you decided to go ahead with the new plans. And my question to you is: Well, you've said that. Now there's a neighbor who emphatically objects to the new plan, right?

JILL SHULMAN: I don't think -- we haven't had a chance to talk --

CONSTANTINE ALEXANDER: Well, we're

going to find out tonight.

JILL SHULMAN: -- about it. So I understand she has reservations, but --

MERHI SATER: But I mean if we --

JILL SHULMAN: One second. What I was going to say, sorry. The neighbor that's affected by the driveway is here tonight and is fine with the driveway. The what we're asking relief for, yeah.

CONSTANTINE ALEXANDER: I understand that. You made that point. And I've made the point in back is that this is all about privacy and buffers. You want your relief for privacy on one end and I'm concerned that it seems to me it would be appropriate neighborly quid pro quo that wouldn't intrude on the privacy of the neighbor in the back. And I don't see the quid pro quo, but we're going to hear from the

neighbor in a while I hope.

JILL SHULMAN: Yeah.

CONSTANTINE ALEXANDER: That's what I'm trying to say.

MERHI SATER: With all respect in here with everything and that we, we are in that limits within the limits of our lot. And the fact of the matter that we are exposed if we don't go with that roof deck and with anything, our building is exposed by our neighbors in the back roof deck. So how would that be guaranteed that we are not exposed?

CONSTANTINE ALEXANDER: Sir, when you bought the property, you knew that there was a house behind you with a roof deck. You bought it with that. You took your chances. You live with it.

MERHI SATER: Am I allowed to put

what I am within my limit? Am I allowed to put a roof deck on that building?

DOUGLAS MYERS: But you're not within your limit because you're here asking this Board to exercise its discretion to approve your plans based on apparent violations of the Ordinance for which you need a Variance. We need --

MARK BOYES-WATSON: It's not a Variance.

DOUGLAS MYERS: A Special Permit. This Board has no obligation to help you keep up with the Joneses.

TIMOTHY HUGHES: I think we're getting off track here. I mean, we're not -- we don't have an obligation for them to keep up with the Joneses, but they don't need our approval to keep up with the Joneses in terms of that back building.

CONSTANTINE ALEXANDER: They need our approval to -- to do the driveway.

TIMOTHY HUGHES: They need setback relief on the driveway.

CONSTANTINE ALEXANDER: I'm suggesting if there's neighborhood opposition, particularly by the person most directly affected, we'll get there, then I think it's an appropriate function of our Board to try to help the situation, where we'll grant you the relief but don't have -- put a roof deck that causes grief to the people behind you. That's what I'm trying to strike --

TIMOTHY HUGHES: Mark, can you elucidate on what you said that, you know, the building in back is similar to the one on the property in the back, that they're both structures with roof decks on them?

MARK BOYES-WATSON: So actually, yes, so just to go back over that point. I mean, I think that I hear that the -- and I totally agree that the, that the Board is asked by the Zoning Code in regarding the Special Permit to look for adverse impacts. But I think it's from the driveway, not so much from the entire structure. But I grant, I grant that there is a -- the applicant is coming asking for your discretion. I absolutely grant that. But it is, I think that this driveway is barely visible from the people who are having trouble with the structure proposed. So it -- in terms of the sort of strict reading of the Ordinance and the kind of like, you know, the adverse impacts, we're reusing an existing curb cut. You're -- it's always been along that driveway. It's not a huge amount of relief.

And they're not asking to make a bigger structure in the back. In fact, both of these structures, there is only one element that which they've since it was shown I totally grant you. It's held away from the rear lot line by I think about 15 feet. So it's not even a condition. In fact, their house steps a little bit back in that same manner which I think is great. They're south facing. They're south facing, this is the north side. So it's not a shadow impact. And in fact the, I think that the argument about that -- this is a design that they've taken a lot of care with, is that if you keep them low, the footprints tend to spread out. So actually they've been able to break down a little bit the massing of the back house by popping a little bit of a piece out.

I totally hear you that there is a

neighbor who's -- I'm not sure, I think they have multitude of issues. But I think in the strict, the strict thing of this application is for this driveway thing and the effect on the two abutters where I believe, Jill, there have been sort of lots of discussion including about the new plan with these two abutters, am I right about that?

JILL SHULMAN: The abutters -- we've spoken to many of the abutters, but the one on this side and a number of the ones --

MERHI SATER: In the back.

JILL SHULMAN: In the back, but not direct -- not the one that's directly behind us. Although we spoke to her husband, but we have spoken to the people across the street and a number of other people on the street.

CONSTANTINE ALEXANDER: Why is it so essential to have a roof deck on the

structure?

JILL SHULMAN: It was actually for me because I wanted to have -- it's quite small. I don't know if you saw. And I just want it -- it's the north side. That's the unit that we would keep for ourselves and it's small.

CONSTANTINE ALEXANDER: Wouldn't it be better to make peace with the neighbors just to eliminate the roof deck?

JILL SHULMAN: The truth is she never mentioned the roof deck.

CONSTANTINE ALEXANDER: You're going to hear about it tonight.

JILL SHULMAN: Yeah -- no, because it was the whole --

CONSTANTINE ALEXANDER: Now that you've heard -- now that you've heard.

TIMOTHY HUGHES: Wait a minute, I

still didn't get an answer to my question.  
Does the neighbor in the back have a roof  
deck?

MARK BOYES-WATSON: Yes.

MERHI SATER: Yes, she does have a  
roof deck.

TIMOTHY HUGHES: Would the roof  
decks be at the same level when all is said  
and done?

MERHI SATER: Yes.

MARK BOYES-WATSON: Similar.

TIMOTHY HUGHES: How much  
difference?

MERHI SATER: They are on top of the  
second story of their house and that would be  
on the top of the second story of our house.  
It's on the same level.

TIMOTHY HUGHES: And there's no  
back -- rear yard setback?

MERHI SATER: It's 20 feet.

JILL SHULMAN: We actually have a photograph --

TIMOTHY HUGHES: On your property. Is there one on that property? When we granted a Variance to their property prior to this, does this roof deck of theirs sit in the rear yard setback? Do we know the answer to this question?

MERHI SATER: What is it?

MARK BOYES-WATSON: Theirs is a compliant -- they're complying to their rear yard setback. We're complying to our rear yard setback.

TIMOTHY HUGHES: Okay.

MARK BOYES-WATSON: I can actually illustrate that.

BRENDAN SULLIVAN: Right now the existing structure has two units in it?

MERHI SATER: Excuse me?

MARK BOYES-WATSON: Yeah.

BRENDAN SULLIVAN: The existing structure has --

MERHI SATER: Two units.

MARK BOYES-WATSON: Yes, it does.

BRENDAN SULLIVAN: What you're proposing is to have a third unit?

MERHI SATER: A third unit.

BRENDAN SULLIVAN: And hence we're being asked to waive the parking dimensional requirements in order to allow for that third unit.

MERHI SATER: Right.

BRENDAN SULLIVAN: Could you do a compliant no relief requested if you went to two units?

MARK BOYES-WATSON: You could do it with the three-unit scheme. I think what

you're trying to balance --

BRENDAN SULLIVAN: Why not?

TIMOTHY HUGHES: It's not parking space that they need relief from. It's the driveway is in the setback.

BRENDAN SULLIVAN: Right, right, I understand that. But in order to have a compliant driveway and a parking space is what the encroachment is driving it basically.

MARK BOYES-WATSON: Actually I think, this is interesting unfortunate --

BRENDAN SULLIVAN: Wait a minute. My question -- I think you answered it, but can you do a compliant plan?

MARK BOYES-WATSON: You absolutely can. And you can do it as a two or a three, right? So if you do it, though, moving the driveway over, all of your structures get

higher. So you could do it entirely three-story structure at the back, but this just doesn't seem to be the good balancing of the kinds of needs of the abutters, right? So yes, because you're GFA is set by Zoning. So you could do it as a two or as a three. The volume of the building could be, could be accommodated on the lot. It would have more shadow impacts on more of the surrounding. And remembering that we have the northerly -- the neighbor to the south is the one that's sort of having some issues, and they're the least affected by the driveway. And in fact, I would submit that the massing of the project -- because if you go actually into this area, this C-1 area and Jay and actually on all of the abutting streets --

BRENDAN SULLIVAN: I would like to see a compliant plan and then you say this is

the compliant plan, but this is why it doesn't work.

MARK BOYES-WATSON: That's what would happen, though, you would see two other structures.

BRENDAN SULLIVAN: I know but that's -- I would -- I'm not enamored with the third unit. And hence the third unit drives the requirement for the space, requires the driveway and so on and so forth.

CONSTANTINE ALEXANDER: Yes.

MARK BOYES-WATSON: But it isn't per se because the GFA on the lot doesn't change with two or three units. Same volume of structure.

BRENDAN SULLIVAN: But again that's one test. That's one hurdle.

MARK BOYES-WATSON: I agree. But the issue of whether it's two or three units,

is Zoning allows for those three units. What I was going to say is on the contrary --

BRENDAN SULLIVAN: Okay, so if you could do a compliant three-unit building, I would have liked to have seen that, and then say but it doesn't work for this reason.

MERHI SATER: No, but we could do it but we have to build a third story.

CONSTANTINE ALEXANDER: Aren't you on a third story now?

MARK BOYES-WATSON: It has a room that's about, I think it's about 10-by-15?

JILL SHULMAN: 10-by-13.

TIMOTHY HUGHES: It's not a full third story.

MARK BOYES-WATSON: It's a small --

JILL SHULMAN: It's not a third story. It's a small room.

BRENDAN SULLIVAN: I think it's the

numbers that are driving the decision.

CONSTANTINE ALEXANDER: That's exactly it. You're looking to maximize your profit on the -- in developing this property.

MARK BOYES-WATSON: Well, I think that that --

BRENDAN SULLIVAN: I think that that building, the way it's presented to us now, is going to have an adverse effect. And I know that you're measuring the setbacks from the property line to the foundation, but the bays are ballooning that -- you don't see the, you don't see the dimension from the lot line to the foundation. You see the massing of that building. So it's really being creative by putting all those bay windows on there.

MARK BOYES-WATSON: It's compliant, though. I mean, the only thing that's not

compliant is the driveway.

BRENDAN SULLIVAN: But the driveway is not.

MARK BOYES-WATSON: Right. The driveway is not and it needs relief to stay in the position.

CONSTANTINE ALEXANDER: Yes. But, but, as I've said before, you want relief from us and it often is a functional quid pro quo and I haven't heard it yet.

MARK BOYES-WATSON: Well, I'm hearing that. And I think that -- I mean what I'm trying to do here from the owners is whether -- because I think that it is a sensitive massing. It is a lot. What I was going to say you go in this neighborhood, there is a much, much bigger structures than the ones that are being proposed here. I also did a development across the street and

there are ways of holding down that and making it less intense while still complying with Zoning and maximizing -- which I think you can expect owners to maximize what they're allowed to do by Zoning. I don't think that's terribly sinful. So I think there is something here, and I think unfortunately with all the care that's gone into it, that we've sort of hit this point. So -- and I don't know if the deck it -- if the element is the third-story element which does help erode the building forms a little bit, it's kind of helpful. I mean I'm trying to see if, you know, you are adamant about this deck or whether this deck is causing an irritation is something that you don't have to have.

DOUGLAS MYERS: One little question.

TIMOTHY HUGHES: It's causing him

irritation. It doesn't cause me any irritation especially since there's another building right behind it with a deck at the same height. Which -- maybe it wasn't us -- but which our Board provided them a Variance for.

MERHI SATER: That's right.

TIMOTHY HUGHES: And they're asking for less relief. Now that's quid pro quo to me. Because that's like to like. It's not like to not like. You know?

MERHI SATER: I agree with the gentleman because what he's saying --

CONSTANTINE ALEXANDER: I'm the Chairman.

MERHI SATER: I'm sorry.

CONSTANTINE ALEXANDER: Why don't we hear from the neighbor in the back.

TIMOTHY HUGHES: Yeah, let's.

Let's hear from all the neighbors.

UNIDENTIFIED AUDIENCE MEMBER: They never talked to us. Okay?

CONSTANTINE ALEXANDER: Okay, good, I'm glad you're hear, and I want to hear from you.

BRENDAN SULLIVAN: You're going to open it to public comment.

CONSTANTINE ALEXANDER: Yeah, I'll open it up to pubic comment. Give your name and address to the stenographer.

CAROL MOSES: Will I be able to sit at the table?

TIMOTHY HUGHES: Will you show me the house behind?

MARK BOYES-WATSON: Yes.

CAROL MOSES: My name is Carol Moses and I live at 62 Howard Street. And I own that building that's 62-64-66 Howard Street.

And I'd like to say a couple of things which I wasn't planning to but some inaccurate things were said.

When they say that we have a deck, it's about as big as this table. It's about four feet deep.

DOUGLAS MYERS: Which table? The one immediately in front of you?

CAROL MOSES: Yes, sir.

DOUGLAS MYERS: So that's three by --

CAROL MOSES: It's about as big as when the door opens.

CONSTANTINE ALEXANDER: Wait a minute, it's not a deck.

DOUGLAS MYERS: Three by five?

CAROL MOSES: No, it's probably ten feet long and four feet deep.

DOUGLAS MYERS: Okay.

CAROL MOSES: And I've probably been on it about three times since 2007 when we built it. That's one thing.

The thing is our deck is on the second floor, and the deck that they're proposing is on the third floor. And it's 24 feet deep. And I didn't measure how wide it is.

Another thing I'd like to say is that I did send a letter of protest on the general concept of the plans that they submitted. I'm just going to get my water.

CONSTANTINE ALEXANDER: Sure.

CAROL MOSES: When the letter came from the Historic Commission about them wanting to raise the house, I submitted -- and at that time they did already have plans which were for -- so currently there are two units, each of which have two floors of living space, and I haven't

been in the house. I know there the Rizzos who owned it before for a long time and we were neighborly and, you know, talked about our gardens and stuff. And in fact, Macrena did come to this Board when I asked for a Variance and said, she was wondering if that would affect her property by sticking out those four feet. And then, you know, everybody talked about it and they thought it was okay. So that was two of the things.

We are also to the west of them, so when I look out my window to the east, that's the building that's in front of me. I'm not to the south of them. I'm to the west of them.

I wrote a statement and I'd also like to give you a copy. But I'd like to read my statement.

Oh, so the thing I started to say was when they went to the Historic Commission to

ask to raise this building and they submitted their plans, I wrote a letter then, and that was quite a while ago, that said I thought that their plans were way too huge and would take away a big -- so their house, the existing house and the two houses on either side of it, they all have nice big backyards. Much bigger than anything on Howard Street. But they're planning to put a two-unit house in the backyard, like entirely behind the house that's there now. So that backyard that's in the middle of three backyards would now be gone and we'd have this two-story house. So that was the kind of thing that I wrote to the Historic Commission why I thought it would be really detrimental and I wish they would just fix up the existing house and improve that.

I think they're on, that I have seen,

the fourth set of plans and the earlier three I initially wrote my letter based on the third plan, and then I called the Zoning Board on Mon -- on Tuesday to see if they had submitted anything and they submitted a new plan dated on the 20th which had an additional new level with a room and then this 24-foot deep deck. So I additionally object to that, but I already very much was against the proposal. And as you all know, what they're asking about is about the driveway. But I'm just coming to speak my piece about how that I feel that it affects me. So, if that's okay I'd like to read my letter. Is that okay?

Thank you.

(Reading) I am an abutter who lives on Howard Street. My house, 62 Howard, is directly behind the building at 53 and 51 Jay Street which is scheduled to be torn down and

replaced. I have lived in my building since 1971, and after more than 25 years as a renter I bought it in 1998. It is my home and the requested and proposed changes for the 53 Jay Street lot have an enormous effect on my quality of life and my enjoyment of my home.

And as I think I was trying to say I live in the back unit. And we have, you know, like a sort of 30-by-30 yard which we're now sticking into 10 feet, but the yard behind me is currently 50 feet. All the ones on Jay Street are like that. So definitely the ones on Howard Street are much denser. So I'm just sad the ones that aren't dense that I'm facing are now going to be super dense. But anyway....

(Reading) I feel that the new plans for the three units that the developers want to put on that property are way too big for the

neighborhood and would significantly impair the existing open space and the comfortable distances that currently exist around the Jay Street property. The Petition by the developer at this time asks for permission to make a driveway for the proposed three units; a driveway that will be wider than it is now. And it's right on the property line with their neighbors at 55 and 57 Jay Street. As I understand it, the law requires there to be a five-foot space between a driveway and the edge of the property. The developers made a plan that shows that they will be building a new two-unit building in the current backyard and a driveway and parking space in the backyard and then a new one-unit building in the front of the property with a wider driveway and paved parking spaces in the backyard. As a part of this plan, they

propose to greatly increase the amount of driving and parking space and to receive permission to not have the required five-foot clearance between their driveway and the adjoining property of the next-door neighbors. I strongly oppose granting this Variance because I feel that the overall plan is entirely too much of an increase in living space on the lot, too much of a loss of open space, and an enormous loss of open air to the neighbors abutting the lot if a new larger building is built on the current open space. I request that the persons who have bought the existing house either renovate it or if they're determined to raise it and build a new building, that they greatly scale down the plans for the new living space to be more in keeping with the current tone and style of the neighborhood. And in particular to the

adjacent houses on its right and left whose style it was a part of. The current building which the Rizzo family had owned is a typical two-family house, each side is on two floors and I assume each had a typical two-bedrooms and one bath as do most of the housing in this neighborhood and our house.

So currently with two units they have living space on four floors, that would be a total of four bedrooms, two baths. The plans that the developer has submitted show an additional living floor for all three units. So a set of two units on two floors, there's three units on three floors, fully developed in the basement with rec rooms, bedrooms, and bathrooms on the basement level and then two floors above them all shown on their plans. With those three units there would then be living space on nine floors where now there's

living space on four floors. They're proposing eleven bedrooms and nine bathrooms or half bathrooms which now there's four bedrooms and two bathrooms. And actually they've added another bedroom and bathroom since I wrote this.

To me this is too much of an increase and seems way out of scale for the other buildings around them, not to mention building a new two-unit building in what is now quiet and spacious backyard. I live behind this house and the existing house at 53 and 51 Jay, there is now a 49-and-a-half-foot deep space from their house back to the rear fence. And in fact, their second floor is more set back than that. So it's just the first floor that has that space.

The plans show that they want to build

a two-unit house in the backyard making the space between -- behind their house cut down to 20 feet. And in fact, bay windows on two floors sticking out a few feet more. Right now from my house I can see four windows on their house. The new plan shows their intention to have seven windows and three glass doors and another five small windows on the roof on each -- oh, the roof is on each of the four sides. For the neighbors at 55 and 57 Jay Street the plan shows they're putting in five windows in the front house and ten windows in the back house. For the neighbors on -- whoops, that was that one. 47 and 49 Jay their plans show five windows and a glass door and eight windows, two basement windows, and a glass door on the back house. But that's at -- that's 15 facing, 15 windows facing 55 Jay Street and 15 facing 47.

For me the huge increase in floor space going from four floors of living space to nine floors of living space, but now it's ten, the huge increase in windows facing into everyone's houses and backyards. The fact of having the living capacity of eleven bedrooms and nine baths to replace the current four bedrooms and two baths, the fact of having more parking in the backyard, and creating a large two-family house in the backyard 30 feet closer to my house is a really, really big change. For me it's very intrusive and it stands to greatly take away from the present quality of life when that open space is taken away and the density of the living space is more than doubled.

I feel it's really unfortunate to take away that open space of their backyard which is in between the backyards of all of our

houses and to replace it with the very dense two-unit building there and yet another three-floor single unit in front.

New information. Since the time I saw the previous plans, new plans were submitted on the 20th of March with more windows on every floor and an additional floor above the previously planned three floors with living space and the new top floor with a roof deck.

I would also like to mention that I wrote a letter with my concerns about the density to 18 different abutters and tenants and owners. Ms. Shulman somehow was given a copy of that and subsequent to that a new layer and deck and so forth appeared and more windows on the side that faces me. And so I just want to say that it can't be the case that they did not know of my feelings since I said to them from the time they went to the

historic society to raise the building. But I know that at least some of the neighbors that she talked to, someone gave her a copy of my letter, which is fine. I mean, it just said my feelings. But she knew that and then after that they added more after I wrote the letter.

So they submitted that on the 20th of March with more windows on every floor, an additional floor above the previously planned three floors of living space, and a new top floor also has a large roof deck. Just to mention the changes only in the west elevation of the rear building, the one that faces me, the drawings before showed 10 windows or glass doors with five half windows on a little thing they've put up on the roof. The new design, instead of 10 has 17 glass doors or windows just on the rear unit just

on the side that faces my house. Three of these windows and glass doors are on a new fourth level above the previously suggested three with a deck 24 feet out, out to the edge of the rear building overlooking my house. This is extremely intrusive and an even more egregiously invasive proposal than the earlier ones. They want to move the house 30 feet closer to me, quadruple the window exposure, add a large deck, add another level to an already excessively large plan.

Thank you for the time to speak my opinions for this change. I'm sorry to see the old house get torn down rather than refurbished. And I know things change, but I feel very strongly that this is not a positive change for the neighbors and not for the neighborhood and that it stands to grievously damage my enjoyment and use of my

home and yard.

Respectfully submitted.

And thank you for listening. I know that was long.

CONSTANTINE ALEXANDER: Thank you. And is there anything else you want to add to what you've said?

CAROL MOSES: I think that's about it.

CONSTANTINE ALEXANDER: We want to hear from other neighbors that's the only reason I ask.

CAROL MOSES: The only reason I say I think is if hear something that isn't accurate, I would like to speak up later.

CONSTANTINE ALEXANDER: You won't be precluded.

CAROL MOSES: Thank you.

Would you like me to move for the other

neighbors?

CONSTANTINE ALEXANDER: If another neighbor wants to sit there, that's fine.

CAROL MOSES: Whatever you want me to do.

CONSTANTINE ALEXANDER: Sir, I know you wanted to speak next. You can speak from there or you can come up here. As long as we can hear you.

HENRY ARCHIBALD: I can come closer.

CONSTANTINE ALEXANDER: Name and address for the stenographer, please.

HENRY ARCHIBALD: Henry Archibald (phonetic), and I'm representing -- we're direct abutters.

CONSTANTINE ALEXANDER: On which side? The driveway side?

HENRY ARCHIBALD: On the opposite side.

CONSTANTINE ALEXANDER: On the other side?

HENRY ARCHIBALD: Yes, but we are direct abutters.

CONSTANTINE ALEXANDER: Yes.

HENRY ARCHIBALD: And my wife -- I'm representing actually my wife and my sister-in-law who are the owners of the building right, you know, right beside them. And 43 Jay. So -- and I'm a contractor and I'm the handyman working on the house. But the problem -- and I used to take these cases to the Board in Boston so I know about it pretty good. And I'm really not trying to, you know -- I never oppose a case. If I'm here, they've got a big problem because I won't show up because I say hey, look, they've got their right to do what they want to do. So they're asking for relief on the driveway,

but what they have done they have three buildings -- the first building, I don't care. If they tear it down, that's what they got to do, you know, to make it come out right. And it's a little tall but I'm still not really griping about the fact that the building is tall. And it's a nice layout. But the other two buildings in the back, when you put it all together, they have a recreation room that's going to be a bedroom. Put a scale on it and put a partition down and it works out real quick, so they're going to have 10 bedrooms in these three units. And that's, that's a big increase. And what that does, 10 bedrooms they're going to probably have eight cars. And the Code says I guess one car per unit, I think, to satisfy the code. So the big problem we have is the fact that where are all these cars gonna park?

They're gonna have a lot of cars all of a sudden. They're parking three. They need that -- and then the density is too much. I mean, it's too much density. You know. They have a total of 10 bedrooms coming in now. That's a lot of bedrooms on that lot. And I'm not really harping on the fact that they're taking away our back, you know, the privacy for the tenants. We lose that. We're not really trying to holler about that. They've got too much density. And they should realize it themselves. You know, try to be reasonable. I mean, you know, I'm not, you know, trying to come down on them in any way, shape or form. But we are there and we do have tenants who are paying a lot of rent. And they're going to get a lot of rent to pay for this stuff, but they're not parking enough people. There's a building across

the street, they did a renovation and then they increased, you know, a good amount, but they have a good amount of parking. The parking is going to be a big problem. But the people who are for it, okay, wait until all these cars show up and that's going to be a big problem. So I don't want to give them the relief. I want them to change their plan, take off two bedrooms. In other words, within that back house, that shouldn't be two. That should be a one unit instead of two units. And if they could, well, at least take that off. But if they could, if they could make the marking to five. We need to park some more cars. I know I'd not gold, and we're abutters and we have to be faced with all these cars in front of us and everybody fighting for a space. You know, right now it looks pretty good. And like I said, I'm not

really against the plan, it's a very nice plan, it really is. It's a little tall, like I said, but it's a nice layout, you know, very nice. The other two, they're jammed up.

CONSTANTINE ALEXANDER: Thank you. Let me just make one observation and it applies to you as well, is that at the end of the day you're going to have a more dense use of this property than is there today. You're going to have to live with that.

HENRY ARCHIBALD: Yeah, I know.

CONSTANTINE ALEXANDER: It's not a question of what it's going to be but not whether.

HENRY ARCHIBALD: It's going to increase. I mean, they've got the -- they can meet the square footage and, you know, the ground area ratio and all that stuff. They can make it. But it's jammed up. They're

jamming it, you know, as much as they can. So why should we give them relief when they're jamming us up real tight? They need to be thinking like they're an abutter. Like hey I'm an abutter, what am I going to do? That's appropriate.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and speak to us. I appreciate that.

HENRY ARCHIBALD: Okay.

CONSTANTINE ALEXANDER: Anyone else? Ma'am.

AMY THOMPSON: Amy Thompson, 55-57 Jay Street. Direct abutter. Driveway's abutting my property.

A few things: I do believe that these developers have been very respectful and that they have made themselves incredibly accessible and have discussed the process

every step of the way. The problem that I'm having is I've taken the approach that it could be worse. Because I know change is going to worse. I prefer that nothing happen, but I know that's not reality. So I don't know that much about the Zoning, but from what I do know, is that they could make it bigger. They could go up higher. And I do think that they're below what they could build. Correct me if I'm wrong. And so I'm afraid that it could be in fact, they could go higher and wider. And as far as my sunlight, I think, I spoke here once before. I'm a gardener. I spent a lot of time out in the garden, and I don't really have a problem with the driveway, and I would approve that. I was surprised recently when I found that they were now going on the third story because that does directly impact me. Because the

way the sun goes, it will impact me. There's no way that it can't. But I go back to the question it's not as bad as it could be. And it's one little room on the third floor with a deck. And they could basically build it all out. So I guess I would like to hear from the Board how big could they make it and still, you know, and still get approval? Because I think all the neighbors should really understand that.

CONSTANTINE ALEXANDER: That's what Mr. Sullivan was driving at by saying you should show us a plan that doesn't need any relief, that will be completely Zoning compliant, and then the neighbors and our Board can see the difference between what they want to do with relief and what they could do without relief. So we don't have that. So it's a fair request and

Mr. Sullivan's already made it.

AMY THOMPSON: Because I think what's there now is pretty ugly and it actually could enhance the neighborhood. The size is a concern, the height is a concern, but operating from that modality of it could be worse, I've generally gone along with it and have been in support.

CONSTANTINE ALEXANDER: Thank you. Thank you also for taking the time to come down.

Anyone else wishes to be heard?

(No Response.)

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

I don't think I can close public testimony unless I cut you short, Mr. Boyes-Watson, on your presentation.

AHAD CHOUDHURY: Excuse me. I'm

Ahad Choudhury. First name A-h-a-d. Last name is C-h-o-u-d-h-u-r-y. I currently live at 39 Jay Street. I'm not a direct abutter but I'm on the street. Jill and Merhi have stopped by a couple of times and discussed their plans, and though I understand I'm not directly affected by the other individuals who have spoken, I think the design is beautiful. I think it's far better than what is there right now. I think it will enhance the value of the neighborhood and especially Jay Street. And the developers have been very friendly and getting the thoughts of the neighbors and what will look better and what will please others. And I think they've made concessions to please everyone. So that's all I have. I think the property's going to look beautiful and they have a good team working on it.

CONSTANTINE ALEXANDER: Okay.

Thank you as well for coming down.

Ma'am.

KAREN GRIFFITH: I'm Karen Griffith and Henry Archibald spoke on behalf of me. I live at 43 Jay Street and so I'm a little closer to where this development is going to be, and I would just like to say that I had never spoken to these people. They and I am -- I do not live across the street. I'm not a person who is a distance away. I'm very close to the property and directly next to the 47-49 Jay Street. And as a matter of fact, I never knew that it was going to be -- the thought was to totally get rid of the property at 40 -- 51-53 Jay Street. The Historical Committee I never heard from. Because had I been there, I would have spoken on behalf of restoring that property as I did, because I

have attended several of these meetings, as I did with the development that was most recently done. I think it's about 30 Jay Street, 30, because they wanted to tear that down and I wasn't in favor of that.

So my point is if people are concerned about abutters and the neighborhood and doing things in a respectful manner, I think what you must do is speak to people who are directly -- and that wasn't the case with 47-49 Jay Street. It may have been with the, with you and may have been with 48 Jay Street across the street, but those are not direct abutters. And so that's what I would say. It's important, if you want the support of people, you must speak with the people and not just certain individuals that you think will go along with you.

CONSTANTINE ALEXANDER: Thank you.

KAREN GRIFFITH: Thank you.

CHRIS JOHNSON: My name is Chris Johnson. I'm a renter at 47 Jay Street and my bedroom window directly faces --

UNIDENTIFIED AUDIENCE MEMBER:

Could you speak up?

CHRIS JOHNSON: Oh. My name is Chris Johnson and my bedroom window directly faces the property under discussion. I also was completely unaware until Ms. Moses' letter showed up at my apartment that there was even a meeting at this place which suggests to me that like, there wasn't a particularly strong attempt to get the input of the neighbors. I -- did -- so we're -- renters, possibly they were sending letters to the homeowners, I'm not sure.

CONSTANTINE ALEXANDER: By law the letters, at least the letters that the city

sends out goes to the owners of the property.

CHRIS JOHNSON: So I guess my primary concern would be if they're not particularly taken into account the interests of the neighbors, I don't see any particular reason to give them leniency on things that don't matter. And the other thing is if they're going to have as many cars in this backyard, that's going to be a light issue in our bedroom. And so I would like to have at least some notion of what to expect because right now at night I can sleep.

CONSTANTINE ALEXANDER: Just so you know and for the benefit of the neighbors as well as Mr. Boyes-Watson has already alluded to, the Zoning requirement for parking, not parking spaces, not the driveway, one parking space per unit. So if there's going to be three units on the property, they only have

to provide three parking spaces on the lot. And if there are more cars, there are more cars. There's no violation of the Zoning Ordinance. If you have two units, parking spaces for two cars. So that's -- I mean whenever you have a development of property and you run the risk of parking problems are going to be exacerbated particularly in an area like yours which is densely populated and probably a lot of use of on street parking. Just so you understand that's how it works. I'm sorry, you're all set? Thank you.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: No one else.

JILL SHULMAN: This is a neighbor's letter.

CONSTANTINE ALEXANDER:

Mr. Boyes-Watson, you can continue with the presentation? You get the drift then.

MARK BOYES-WATSON: Yeah, yeah, before.

CONSTANTINE ALEXANDER: Do you want to still pursue the case now or do you want to think about what you've heard and come back another day?

MARK BOYES-WATSON: Is that a question? Can you give us two seconds?

CONSTANTINE ALEXANDER: What is that?

MARK BOYES-WATSON: Can you give us two seconds?

CONSTANTINE ALEXANDER: Of course.

JILL SHULMAN: This is from another neighbor.

CONSTANTINE ALEXANDER: If you'd

like to step out, you could have more privacy  
you could step out.

MERHI SATER: Can I --

CONSTANTINE ALEXANDER: One at a  
time.

MARK BOYES-WATSON: Let's step out.

DOUGLAS MYERS: Can I ask one really  
simple question before you step out? If you  
were to submit a new compliant plan, would  
that require you to go back to the Historical  
Commission?

MARK BOYES-WATSON: Depends on what  
it is. I mean, I think one of the things  
that's interesting here -- there are many  
things that are interesting, right? And as  
you know, we don't go about this business  
looking to do poor plans, right? So one of  
the things I didn't dwell a lot on the  
elevations of these buildings, but we are

holding the eave lines -- there is a 35-foot in Res C-1. We have buildings -- and I didn't know that this was so controversial, but we -- so and there are different strategies for developing in C-1. And you can walk down -- you can walk down Howard and you can walk down Jay and it's extraordinary how dense some -- even the new developments that are Zoning compliant are incredibly big buildings.

What is proposed here are these buildings where the eave lines, that's the upper, the lower eave is down at whatever that height is, 25 feet. And this is the front building. And at the back building only, that's the predominant, predominant line of this building is this eave line here. Again, I think that says 19, 2.

And indeed you could put a two-family,

build on top of that existing structure, put all the parking littered around the backyard. All those things you could do as of right; existing, non-conforming driveway, knock down the garage, parking in the back, no garden, no -- you could do bad development very easily. So -- and compliant bad development is easier still.

So, what we are doing here is trying to keep the buildings low. It is, meaning the footprint, as we're going back, you know, as big as they can be, the cars are like hidden away between the buildings, so they don't have those kinds of, wow, there's now a parking lot where there was a green lot.

CONSTANTINE ALEXANDER: There's two there and one on the side.

MARK BOYES-WATSON: There's two here and one here. So break them up.

Visually behaves very similar. On the street behaves very similar to how it was before. Preserves a -- because there's 20 feet on our lot per Zoning, 20 feet -- 40 feet between this building and this building behind. These are all the things that Zoning in its wisdom sort of says. But I actually -- the -- if this is what's called a narrow lot, so it's less than 50 feet wide. If you do a five-foot driveway and a five-foot offset. A ten-foot driveway, you absolutely are building up to the 35 feet height limit. It's the single most detrimental thing to do to this lot.

So I know there's always another design, but this was very carefully calibrated not to be as aggressive as it could be. Volumetrically as you know, Zoning doesn't control volume. This is trying to

keep it tight, trying to keep it down, down, down. That was our instructions throughout. So, that -- I'm fairly sure that there isn't -- there are other plans. There are other plans. And sure it could be two. Single and a single. Or as of right, and you could say well, go ahead, do it as of right because you haven't made your case. I'm trying to make the case that we haven't impacted -- the abutters that are complaining are not the direct abutters affected by this driveway, they're impacted by the development. But the bottom line is allowed. So you could take this building either extend it, modify it and extend it and use that existing driveway. It would still be right on the property line. You could have a much taller building and it could have much more impact on the everybody. I submit

that this is a better way of doing things with the lower structures in this neighborhood. And we actually did it with the development that the lady referred to as Historic did have us save the house, we moved it over and we built a similarly scaled house. Actually it's fundamentally a two-story building with some three-story elements that I actually have decks on them. But it's very low compared with many, many of the structures that have gone up in the last 30 years under compliant Zoning. That 30 Jay Street development is way gentler than -- this is not the same and I'm not arguing that it's the same.

But, anyway, I'm just trying to say that all of the elements of construction here are compliant. The driveway is non-compliant but exists and we are, we do have to meet

the -- they don't actually really specify for you very accurately in the code what your Special Permit granted criteria would be, but, but the standard ones are the adverse impacts. Which I understand, I understand that if I -- this structure here has a GFA of -- FAR 1.21 -- 1.17. This is 0.75. So I understand that there are adverse affects. We always have them when we build. And we're building up to the compliant Zoning, but it seems to me that here the Special Permit project up here does not to have negative impacts by the driveway.

DOUGLAS MYERS: What are the dimensions the deck?

MARK BOYES-WATSON: The deck. It's bigger than it needs to be.

DOUGLAS MYERS: Well, that --

MARK BOYES-WATSON: Bigger than it

needs to be.

DOUGLAS MYERS: That's as tactfully as -- what are the dimensions of the deck?

MARK BOYES-WATSON: They are, they are --

DOUGLAS MYERS: I want to create -- I want to establish a sense of proportionality --

MARK BOYES-WATSON: Yes, I hear you.

DOUGLAS MYERS: -- because the comparison of these two properties seems to be implicit. And I'm hoping that we might, that maybe people could be accommodated on this one very salient point without offending anyone's ultimate results.

MARK BOYES-WATSON: So, yes, I hear you. And of course I haven't answered your question.

DOUGLAS MYERS: That's all right.

MARK BOYES-WATSON: 14.6 by 11.10.  
Which is a big deck.

CONSTANTINE ALEXANDER: That's as  
big as a room.

DOUGLAS MYERS: Twice as big as the  
neighbor's deck broadly speaking.

MARK BOYES-WATSON: Right. And so  
one of the things that I -- if we could  
discuss. There is no reason that that deck  
be that large, right? So we could be  
discussing that over this side of the table.  
And indeed if we were -- so -- and as  
accommodation, and I totally understand.  
When you're coming to this Board to ask for  
relief, you should be as sensitive as you know  
how to be to everybody. And, you know,  
that's the philosophy. And so, if we could  
step out, we could discuss the deck.

CONSTANTINE ALEXANDER: You have my

permission.

MARK BOYES-WATSON: That would be great. Because I am, I am -- I've said all I've said.

BRENDAN SULLIVAN: That's one facet but there are a whole lot of other as opposed to going back to your question of whether or not it behooves you to step back and address a whole bunch of issues. Has those two buildings been -- gone through a Zoning analysis from the city's standpoint.

MARK BOYES-WATSON: They don't until they get to the Building Permit unfortunately. But they do meet. They meet certain Zoning. You see something suspicious, you're welcome to tell me.

BRENDAN SULLIVAN: Well, anyhow, okay. I think you need to go have a conversation and whether or not you want to

regroup for another day.

CONSTANTINE ALEXANDER: Yes. I'm going to recess this case. We'll hear the next case so take your time and then come back.

MARK BOYES-WATSON: Sounds great. Thank you.

CAROL MOSES: Does that mean tonight?

DOUGLAS MYERS: It's temporary.

CONSTANTINE ALEXANDER: Ten or 15 minutes and then we'll see what we're going to do next. It's going to take about 10 or 15 minutes is my guess.

You'll have to step away from the table now.

CAROL MOSES: Yes, okay.

CONSTANTINE ALEXANDER: Okay. The Chair moves that that case be recessed until

immediately following the next case that we're going to hear.

(Case Recessed.)

\* \* \* \* \*

(9:30 p.m.)

(Sitting Members Case #BZA-003296-2014: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 03296, 28 Fayerweather Street.

Is anyone here wishing to be heard on this matter?

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman, and members of the Board. For the record, attorney Sean Hope, Hope Legal Offices in Cambridge. I'm here with the project architect Mr. Doug Okun, O-k-u-n on behalf of the owner Mr. Vartan Keshishian.

This is an application requesting Variance relief to construct a mudroom that is located within a side yard setback. And also we were requesting Special Permit relief to add a window to that mudroom. It's within the setback not facing the street, so pursuant to Article A is also going to need Special Permit relief.

This is a property cited on the corner lot in the Residence A-1 district. The lot is approximately 20,000 square feet. This

property is on the National Register. So that any changes to the exterior have to be approved by the Cambridge Historic Commission issuing a Certificate of Appropriateness. In March of this year, the actual mudroom, including the materials used, fenestration, also the sides and dimension was approved by the Cambridge Historic Commission staff.

So there was a significant level of review. There was no opposition at the --

CONSTANTINE ALEXANDER: We have no letter from the Historical. Do you have that?

ATTORNEY SEAN HOPE: I have a letter.

CONSTANTINE ALEXANDER: It's not in our files.

ATTORNEY SEAN HOPE: There was

also -- in 2013 there was a series of more significant renovations that were also approved, but this was the most recent approval along the side yard setback. The Cambridge Historic Commission was also aware that would require a Zoning Variance from the Board when they approved it. So the approval conditioned along with getting relief tonight.

Just a few aspects of the mudroom. So there is an existing deck, and it would be helpful to show the first.

So there's an existing deck on the east elevation.

CONSTANTINE ALEXANDER: That the cross hatched on the top left?

DOUGLAS OKUN: This is the existing deck.

CONSTANTINE ALEXANDER: Right,

right.

ATTORNEY SEAN HOPE: So there's an existing deck up there now if you go visit the site. The proposed mudroom is actually going to be further away from the side yard setback so it's actually going to decrease that non-conformity.

There's an open deck right now so it's not included in the gross floor area, but the covered mudroom will add GFA to the lot. Because of the size of the lot, it's not going to violate the 0.5.

CONSTANTINE ALEXANDER: My question to you is -- the issue you use I think in your supporting statement or your clients, you indicate that you're here before us because of a setback, left side setback.

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Issue.

And yet in your dimensional form I don't see it. It shows that currently there are 16 --

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: Okay, you're now compliant with the Zoning. Did you say your left side setback is 16 feet, 4 inches? And you want to go to 11 feet, 6 inches and you have to have 15 feet. You're compliant now and you want to go to non-compliant. Your form simply said you're non-compliant now and you're going to be left non-compliant. That's where I got confused.

DOUGLAS OKUN: Okay. It was advised by the Building Department to get the Building Permit. And not wait for the Variance to get the Building Permit. So we got the Building Permit without the mudroom.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS OKUN: So that's why it's

conforming.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS OKUN: There was non-conforming with the deck. If the deck was above, above the four or five feet above the ground because it's non-conforming so that's what we think.

CONSTANTINE ALEXANDER: Thank you. I couldn't figure it out from the file. Okay.

ATTORNEY SEAN HOPE: So in addition to adding the mudroom, mudrooms are determined to be congruent with the neighborhood in terms of the district. But also part of the mudroom is to reorient the interior layout of the structure. So currently the open deck leads into a mudroom and then into other rooms. They're going to -- part of this redesign is actually going

to have the kitchen off the mudroom. This is on the driveway side. So this is a large house and it has an interior garage underneath. But if you're coming along the driveway, you want to access the kitchen with groceries or dropping off children, and it's much more logical to stop in the middle of the driveway and access this covered mudroom. Mudrooms also have the benefit of having safety and energy efficiency as you enter into the home.

Regarding the Special Permit, close to a similar rationale, the window that's there, one of the issues with windows is always privacy in terms of its effect on the neighboring property. There's a series of hedges that go along that driveway so that this window is not going to negatively affect the side abutter for privacy. Also you have

an open deck which is a lot more noise and congestion than you would have a mudroom. So I don't think it's going to detrimentally impact the neighbor. But, again, the size of the mudroom was done in keeping with what was appropriate for the neighborhood. The design was already approved by the Cambridge Historic Commission. I think it's important that we actually are removing actual massing away from the side yard setback.

I have Mr. Okun here if you have any questions about the design. I think it's a straight forward request.

CONSTANTINE ALEXANDER: I notice there are no letters at all in the file. Have you talked to neighbors, abutters?

DOUGLAS OKUN: No opposition.

ATTORNEY SEAN HOPE: No opposition. And this -- there's a resident next-door not

as much as what we're proposing, but because of the driveway and there are other things, there was a conversation which is not really the purview because it was about the driveway, but there is a tree that was at issue and they are working with the arborist to make sure that -- but that wasn't part of the mudroom, it was really part of the driveway that decreases elevation in terms of the interior garage.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: Open it up to public testimony.

Is there anyone here wishing to be heard on this matter, 28 Fayerweather Street?

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes that there appears to be no one wishing to be heard.

As I mentioned, there is nothing in the files, no letters for or against from abutters.

Any final comments or I'll close public testimony?

ATTORNEY SEAN HOPE: No.

CONSTANTINE ALEXANDER: You're all set?

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: Comments or ready for a motion?

I'll take first we'll do the Variance. The Chair moves that this Board make the following findings with regard to the Variance being requested:

That a literal enforcement of the provisions would involve a substantial

hardship. Such hardship being is that the structure historically significant, and architecturally significant suffers from the lack of a mudroom which the -- which affects the ability to use the house.

That the hardship is owing to the shape of the structure. The lot where the house is being sited on the lot is such that there are setback issues if we don't -- that require relief for a mudroom.

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

In this regard that the Chair would note that there is no neighborhood opposition. But this project has the support of the Historical Commission.

That the project, in terms of its impact

on the structure itself, is quite modest.

So, on the basis of these findings, the Chair moves that we grant a Variance to the Petitioner on the condition that the work proceed in accordance with the plans -- or plot plan and plans submitted by the Petitioner the first page of which being the plot plan being initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

CONSTANTINE ALEXANDER: Turning to the Special Permit. Do these plans include, show -- yeah, where the window is to the mudroom?

ATTORNEY SEAN HOPE: That's right.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with respect to the window that's going to be located in the mudroom:

That traffic generated or patterns of access or egress resulting from this mudroom -- the window in the mudroom will not cause congestion, hazard, or substantial change in established neighborhood character.

It's obvious that that would be the case when adding one window. No congestion, hazard, or substantial change.

That the continued operation of or development of adjacent uses will not be adversely affected by the nature of what is proposed. This window -- this is a large lot, the window will have no impact on the

abutting properties.

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

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

In this regard the Chair would note again the findings that we made with regard to the Variance relating to the lack of neighborhood opposition and the approval of the Historical Commission.

So the Chair moves that we grant the Special Permit to allow the window as proposed on the condition that the work proceed, again, in accordance with the plans that are referred to and initialed with the

Variance.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor.

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

\* \* \* \* \*

(9:40 p.m.)

(Sitting Members Case #BZA-003303-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Douglas  
Myers.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 003303, 109 Avon Hill Street.

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

ATTORNEY MICHAEL WIGGINS: Good evening, Mr. Chairman. I'm Michael Wiggins from the law firm of Weston Patrick, 84 State Street in Boston. I'm here with Charles Weed and Louise Eastman Weed to present their petition for a Variance.

They've lived at Avon Street for 35 years now and wish to live there a lot longer. And so --

CONSTANTINE ALEXANDER: We can't give you Zoning relief for that.

LOUISE WEED: Are you sure?

ATTORNEY MICHAEL WIGGINS: But they have a problem of habitability in their house. They use the third floor as their

master bedroom, and the stairway to that master bedroom is like being on a destroyer and climbing up and down a ladder. And we'll present that to you in detail. We have the pictures just briefly to show you. They're in the files. And Dave Powers is with us from S&H, he's going to go into detail about that. But these are pretty hazardous stairs. And the only way to fix them, really, is to do a reconfiguration on the second floor which would involve a slight build out on the second floor. It wouldn't affect the footprint of the house or the open space at all, and it's a very slight Variance. It's all about 100 square feet. And so it's basically -- it's a hardship arising out of unfortunately the structure which they can solve and make it safe. It's a prior non-conforming condition that really is a hazard.

And so, Dave, I'd like you to just describe the project, the problem and how you resolved it.

DAVID POWERS: Well, sure. Well, given the stair is much steeper than it should be to be Code compliant, a compliant stair takes up considerably more room. And the access to that stair has to change because it is taking up more room. So, it necessarily would require removing some space from the back bedroom. And in order to maintain that back bedroom, we are hoping to expand it out over the existing first floor on A-2 to maintain the bedroom at approximately the size it is now.

CONSTANTINE ALEXANDER: And Zoning relief is rather technical in nature. I mean, it's a FAR issue.

ATTORNEY MICHAEL WIGGINS: Yes, it

is.

CONSTANTINE ALEXANDER: And you're currently at 0.508 in a 0.5 district. You're very, very slightly over.

ATTORNEY MICHAEL WIGGINS: Right.

CONSTANTINE ALEXANDER: And you want to go just a little bit more over to 0.526. It's not a dramatic change in FAR.

ATTORNEY MICHAEL WIGGINS: That's right.

CONSTANTINE ALEXANDER: And the reasons, to my mind, compelling reasons to why you need to do this and why we should grant you the relief.

ATTORNEY MICHAEL WIGGINS: Right.

CONSTANTINE ALEXANDER: Keep going.

ATTORNEY MICHAEL WIGGINS: And we've -- certainly we've gone, we've gone to the neighbors. I don't think any neighbors

are here tonight, but several neighbors have written strong letters of support.

CONSTANTINE ALEXANDER: Yes. I'll read them into the record at the appropriate time.

ATTORNEY MICHAEL WIGGINS: Okay.

And the Avon Hill Historic Commission has looked over this -- the Conservation Commission has looked at it carefully. They did -- they've agreed to maintain the windows exactly as they are. This house is well known in the neighborhood. Its backyard garden is celebrated in the neighborhood. The neighbors are all very strongly in support of it. So with respect to any detriment to the neighborhood, I think it's precisely the opposite. The view of the back, the existing view has sort of a hanging, not very attractive deck up here. And that,

and not very aesthetically balanced. And this new, I think will enhance it and everybody has complimented Louise about it. So certainly that's --

CONSTANTINE ALEXANDER: Do you have anything in writing from the Avon Hill Historical Commission? We don't have anything in the file.

Thank you.

DAVID POWERS: It hasn't been recorded yet I think is probably why you may not have gotten it.

DOUGLAS MYERS: While the Chair is reading that, functionally what would be the use of the master bedroom after -- if these revisions -- the improvement on these revisions are made?

ATTORNEY MICHAEL WIGGINS: It would be basically the same. It's not changing at

all. The dimensions are slightly changing. But no additional bedrooms are being added, just a slight reconfiguration. So, and of course the other aspect is that derogating from the intent of the Zoning Code, I would submit it isn't at all. In fact, it actually makes more reasonable use of the property with only a very de minimus effect on the FAR.

THOMAS SCOTT: Are you in fact losing a window on the second floor level?

CONSTANTINE ALEXANDER: One is being closed in.

DAVID POWERS: Yes. It's on the Bellevue side this window -- the new stair overlaps that window elevation. And so we are in-filling, living the casing there as historic.

THOMAS SCOTT: You can't keep the window?

DAVID POWERS: The dimensions to allow for the stair are really tight between the existing structure and a chimney. So I did try very hard to keep that window because I didn't want to lose the window.

THOMAS SCOTT: Okay.

CONSTANTINE ALEXANDER: Questions from members of the Board before I open it to public testimony?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER:  
Unless -- I'm sorry, I didn't mean to cut you off.

ATTORNEY MICHAEL WIGGINS: I don't have anything further.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes that there is no one wishing to be heard.

The Chair would note that we are in receipt of written communications. We have an e-mail from a Sari, S-a-r-i Edelstein, E-d-e-l-s-t-e-i-n and Holly Jackson who reside at 117 Avon Hill Street. (Reading) We want to express our approval for the renovation plans that our next-door neighbors Chuck and Louise Weed will be presenting to the commission on Monday, March 27th. Not Monday, Thursday.

We feel that they have been sensitive to preserving the existing character of the neighborhood, and hope that these renovations will allow them to remain in our community for many years to come.

There's also a letter from Sally Peterson, P-e-t-e-r-s-o-n, and John Stone,

S-t-o-n-e, who reside at 23 Bellevue Avenue.

(Reading) We are writing in support of Charles and Louise Weed's application to construct an addition on their house to accommodate new safer stairs and a larger bedroom. We directly abut the back of the Weeds' property where the majority of the exterior work will take place. We fully support the changes they seek because they will now significantly alter the look of their house or their property. The Weeds are well regarded, highly active members of the community. They wish to stay in their home as they age and these changes to their house will make it possible for them to age there safely. As the Weeds immediate neighbors, we believe the changes they desire will only add to their home's appeal and value so we hope that you will support this proposal.

And that's it.

Maria, there wasn't a handwritten memo in the file also in support?

ATTORNEY MICHAEL WIGGINS: I did see that.

CONSTANTINE ALEXANDER: It's not in here anymore.

MARIA PACHECO: Is it in the back maybe?

CONSTANTINE ALEXANDER: I went through the whole file. It was a loose sheet. It may have gotten misplaced.

LOUISE WEED: It was from Ned Handy and he wrote also for a neighbor next to him.

CHARLES WEED: And he also wrote for a neighbor Martha Stasa.

CONSTANTINE ALEXANDER: The Chair will report that there was a memo as he characterized it in the files in support as

stated by the Petitioner.

Final comments? Any --

ATTORNEY MICHAEL WIGGINS: No.

CONSTANTINE ALEXANDER: I'll close public testimony.

Ready for a vote or ready for a discussion? Okay.

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

That a literal enforcement of the provisions the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is that it will be forced to have to live with non-Building Code compliant stairs that are far too steep and prevent the full use of the home.

And that the circumstances, the hardship is owing to the circumstances

relating to the fact that this is a non-conforming structure currently being over the FAR requirements of our Ordinance. And, therefore, any additions or modifications require Zoning relief.

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

In this regard the Chair would note that there appears to be unanimous neighborhood support for the Petition.

That the Petition has been vetted and approved by the Avon Hill Neighborhood Conservation District Commission. And that the result of the relief if we grant it, will be to take non-compliant stairs and make them compliant in terms of our Building Code.

So on the basis of these findings, the

Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans submitted by the Petitioner. There are many pages in length. The first page of which has been initialed by the Chair.

Before we take a vote, this is it. You can't change them. If you change them, you're going to have to come back before us. You're satisfied? Okay.

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

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Five in favor.

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

\* \* \* \* \*

(9:55 p.m.)

(Sitting Members Case #BZA-003203-2014:  
Constantine Alexander, Timothy Hughes,  
Brendan Sullivan, Thomas Scott, Douglas  
Myers.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 003203, 172 Richdale

Avenue.

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

PETER MARTIN: Hi.

DOUGLAS MYERS: Hello.

PETER MARTIN: I'm Peter Martin the architect on behalf of the Petitioner on the project. And this brief outline -- this is Tavia Mead, one of the owners and Jim Ward. They're married.

And the house is currently a two-family, three-story house. It's divided unusually into two units. The first floor and the third floor are one unit and the second floor is the other unit.

It is unusual. And this -- the plan, the basic plan for the project is to rectify that and have one unit on the first floor and then the other unit will be the second and

third floor. And Jim and Tavia will be residing on the first floor. And I suppose you're nearing retirement, right?

JIM WARD: Very close.

TAVIA MEAD: Very close.

CONSTANTINE ALEXANDER: And I had a lot of trouble with -- and I visited the site. And it's sort of an odd configuration in my opinion. For what you want to do, the one unit -- both units are accessible from Richdale Avenue, they're side by side front doors basically?

PETER MARTIN: That's right, and they still enter through the doors.

CONSTANTINE ALEXANDER: Okay. And so the unit that you will not be occupying, the second and third floor unit that I assume you rent it out to someone?

PETER MARTIN: Family members.

CONSTANTINE ALEXANDER: They're not going to be the beneficiaries of this addition that you're proposing?

PETER MARTIN: No.

CONSTANTINE ALEXANDER: Solely for them.

What's their second means of egress out of the building?

PETER MARTIN: There's a fire star going out the back.

CONSTANTINE ALEXANDER: On the side.

PETER MARTIN: In the proposed plan there's a stair designed on the west elevation.

CONSTANTINE ALEXANDER: Okay. I want to be sure that's still there.

PETER MARTIN: Yeah, yeah.

And so as you pointed out, the plan is

to extend the first floor. And the two extensions plus a covered porch between those two extensions. One extension is really an extension on the bedroom. And we'll get to that. And then the other extension on the right side I suppose from the street is just an addition to an existing two-story porch that we're closing in. The bedroom extension we're finding is where we're asking -- that's on the left side, we're asking for relief on the setback to the side.

The other relief we're asking for is the fact that we're over the ten percent FAR because it's a non-conforming building. If we add up the additional space, we're providing including the covered porch. We're thinking 12.5 percent. So I think we'll require a Special Permit for that.

CONSTANTINE ALEXANDER: I don't

recall that. According to your dimensional form 0.75 is the max, the FAR. And you're not at 0.52 and you're going to go to 0.57.

PETER MARTIN: My understanding is if it's a non-conforming structure, then if you're adding more than 10 percent, you need a Special Permit, no?

CONSTANTINE ALEXANDER: Yeah, that's -- and but you --

PETER MARTIN: We're adding more --

CONSTANTINE ALEXANDER: -- and that's because of the setback. You're non-conforming. You're going to be further non-conforming because you're adding more building.

PETER MARTIN: Yeah, that's right.

CONSTANTINE ALEXANDER: And that additional space is more than 10 percent or the --

PETER MARTIN: That's --

CONSTANTINE ALEXANDER: -- that's why you're before us. It's not a density issue is what I'm trying get away from.

PETER MARTIN: No, I think actually the density -- Jim and Tavia want to retire here. They love their family lives around and they want to stay here, and I think it's a fairly modest, you know, addition. And I think in the documents I point out that we're retaining most of the rear yard as open space. The surrounding properties, that being developed over the years to --

JIM WARD: Quite a bit.

PETER MARTIN: -- quite a bit of density on either side. I think I even supplied --

CONSTANTINE ALEXANDER: You were going to speak to the bedroom issue.

PETER MARTIN: The bedroom issue, the reason we extended the bedroom is Jim, I think I call it a sleep --

CONSTANTINE ALEXANDER: Disorder.

PETER MARTIN: Disorder.

Essentially he has trouble sleeping. And he didn't want to be under the upper level of an apartment, and we also wanted to make sure that the disturbance from the property on the left which is a multi-family, I think it's seven units over there; there's noise, there are people working on cars, there are lights, that they -- we would create a buffered kind of windowless facade to that side. So the idea is to create a soundproof space as we could for Jim to sleep in, that's why. And it's a single story.

CONSTANTINE ALEXANDER: Are you adding a bathroom as well?

PETER MARTIN: We're adding a bathroom. That's the other thing.

CONSTANTINE ALEXANDER: It's more than just to sleep issue.

PETER MARTIN: Yeah, yeah, yeah, yeah. We have a bath, yeah, the bedroom -- the reason we're extending the bedroom is that we're adding a small bath into the existing bedroom that's on that corner, and then we're kind of going out with a space for a bed and the closet to make a closet space.

CONSTANTINE ALEXANDER: Okay, that's all she wrote.

Questions from members of the Board?

TIMOTHY HUGHES: No.

DOUGLAS MYERS: How was that, is the new fire escape you're adding going to be on the west side of the building?

PETER MARTIN: Yes.

DOUGLAS MYERS: How is that going to work in the available space which seems to be very limited on that side of the building?

PETER MARTIN: How do you mean? In the --

DOUGLAS MYERS: How much -- in the design it looks very kind of fire escape, very kind of ragged and aggressive.

PETER MARTIN: Aggressive?

DOUGLAS MYERS: Well, in terms of a lot of motion and parts.

PETER MARTIN: It's actually a single, a single rung --

DOUGLAS MYERS: Irregular.

PETER MARTIN: -- down. It comes out to the extent of the bay that's already existing on that side. So it's within the limit of the existing building.

DOUGLAS MYERS: It's not going to extend any further than the bay?

PETER MARTIN: No, no.

DOUGLAS MYERS: Toward the side line?

PETER MARTIN: No, no.

DOUGLAS MYERS: Okay.

PETER MARTIN: And in fact the addition on the other side is inside of the existing line of the building, and I think the determination was that we are in the setback because of the multiple planes.

DOUGLAS MYERS: Nothing further.

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

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

WILSON BROWN: Yes. Wilson Brown. 43 Hubbard Ave. I'm directly behind Jim and

how are you? Good to see you. I'm a little hard of hearing and I couldn't quite hear what the violations were as noted in the letter.

CONSTANTINE ALEXANDER: Setbacks basically.

WILSON BROWN: Setbacks. Okay.

So how, how is the setback -- what is existing and what is planned is really all I really want -- this is my neighbor Naveed from 41.

CONSTANTINE ALEXANDER: I'll tell you what the form says to be accurate.

WILSON BROWN: Yeah.

CONSTANTINE ALEXANDER: They're currently non-conforming as to the front yard but they're not changing that. The rear, they're going to be conforming.

WILSON BROWN: Oh, okay.

CONSTANTINE ALEXANDER: On the left

side they are non-conforming and now will continue to be non-conforming. And on the right side they're non-conforming now and they will be conforming? That's what it says.

WILSON BROWN: So the right side is coming in?

PETER MARTIN: Well, it's non-conforming. They're not really altering the right side, we're putting in a fire escape in. So on this side --

WILSON BROWN: So the stairs from the second floor still going to be in the back, are they moving back?

CONSTANTINE ALEXANDER: Show him on the plans.

PETER MARTIN: They're coming down. This is the backyard. This is Richdale and the stairs can coming down there.

CONSTANTINE ALEXANDER: And the next page shows it.

WILSON BROWN: Oh, I see, so instead of coming down this way, right? I see, I see.

CONSTANTINE ALEXANDER: It may show it a little better on the next page.

PETER MARTIN: You're on this street?

WILSON BROWN: Yeah, we're 41-43 so it's probably this one right here, because Joe's property goes out.

PETER MARTIN: And I would say that we're just coming a bit out. There's already a deck out here.

WILSON BROWN: Yeah.

PETER MARTIN: And we're just coming out a little bit further than the deck and we have 36 foot, 6 setback. I think --

WILSON BROWN: Yeah.

PETER MARTIN: -- I think the requirement's about 20 feet and we're keeping this.

WILSON BROWN: Okay. So I'm unfamiliar with how to read this stuff. So in terms of the backyard, it's really not your -- your proportion is really not coming out more than --

PETER MARTIN: What we're saying is, I think here we're saying that we're altering it and we're not within Code on this side with this property here.

WILSON BROWN: I see. And it doesn't affect your parking?

PETER MARTIN: The parking stays the same.

WILSON BROWN: The parking stays the same. Okay. All right. So there's nothing really -- there's nothing really

changing because this is the existing porch,  
right?

PETER MARTIN: Yeah.

WILSON BROWN: And then you  
just -- and this is where the deck is --

PETER MARTIN: We're closing in the  
porch.

WILSON BROWN: You're closing in the  
porch.

PETER MARTIN: It's going to be much  
more -- I hope it's much more attractive.

JIM WARD: Cleaned.

PETER MARTIN: Cleaned up. Windows  
and windows.

WILSON BROWN: I see. I see.

PETER MARTIN: And then the porch  
that's part of FAR and it has the roof and  
that's the bedroom.

WILSON BROWN: Right.

PETER MARTIN: And those are the existing. So that's the new --

WILSON BROWN: Oh, that's the --

PETER MARTIN: -- that's the new closet there. And that's the bay.

WILSON BROWN: Yeah, yeah.

PETER MARTIN: We're in the same line. We're just a bit of that existing bay.

WILSON BROWN: Right. I'm glad I saw the drawings. I really -- I couldn't tell from this what was going on. But --

CONSTANTINE ALEXANDER: Did you have any questions?

NAVEED RAHMAN: No, we were really here wanting to make sure that the setback --

WILSON BROWN: Once you see --

NAVEED RAHMAN: -- didn't come back.

WILSON BROWN: Yeah, once you see violation, you're thinking oh, my God. But,

you know, I didn't know what it meant.

CONSTANTINE ALEXANDER: That's why we have public hearings and papers are filed in the city and in the office the Building Department which you can inspect as well.

WILSON BROWN: Yes.

CONSTANTINE ALEXANDER: You're okay?

WILSON BROWN: Fine. Great to hear. Thank you.

THE STENOGRAPHER: Can you please give me your name?

NAVEED RAHMAN: Sure. First name is Naveed, N-a-v-e-e-d. Last name is Rahman, R-a-h-m-a-n 41 Hubbard Ave.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair

notes no one else wishes to be heard. We appear to have no letters pro or con in the files.

Any final comments?

PETER MARTIN: We spoke to the neighbors on the left -- right?

JIM WARD: I spoke to the neighbors that would be most impacted. They're friends of ours. That's a transient building.

CONSTANTINE ALEXANDER: I'll close public testimony.

DOUGLAS MYERS: When you spoke to the neighbors, no objections?

JIM WARD: He's very happy. Looking forward to the house warming.

CONSTANTINE ALEXANDER: I will close public testimony.

Discussion or ready for a vote? I'm

ready for a vote.

TIMOTHY HUGHES: I'm ready for a vote.

BRENDAN SULLIVAN: As the calendar moves along, this is necessary adjustments to one's life and one's house.

DOUGLAS MYERS: Yes. It is the big calendar.

CONSTANTINE ALEXANDER: With respect to the Variance being sought the Chair moves that this Board make the following findings:

That a literal enforcement the provisions of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship is being that as Petitioners move on in life, they need additional living space, particularly one that deals with the health issues of one of the occupants. And

which this proposal seeks to cure -- not the health issue but the impact of living in the structure now.

That the hardship is owing to the fact that this is already a non-conforming structure and that any change requires Zoning relief.

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.

The Chair notes in this regard that the relief being sought is modest. There appears to be no neighborhood opposition. And the net effect, if we grant relief, would be to improve the quality of the housing stock of the city of Cambridge.

Therefore, the Chair moves that we grant the Variance on the condition that the

work proceed in accordance with three pages of plans prepared by Peter Martin, architect, submitted with this Petition, all of which have been initialed by the Chair.

Before we take the vote, this is it. If you modify these plans, you have to come back. You understand that?

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

\* \* \* \* \*

(10:05 p.m.)

(Sitting Members Case #BZA-003292-2014:  
Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will reconvene 53 Jay Street.

CAROL MOSES: May I also be at the table?

CONSTANTINE ALEXANDER: Of course.

CAROL MOSES: Could you slide down a bit so I could have a table?

And I would like to say a statement about the size of the porch -- I mean about the deck that they're proposing? May I?

CONSTANTINE ALEXANDER: Yes, but not right now.

CAROL MOSES: Okay.

CONSTANTINE ALEXANDER: You'll have an opportunity before we go forward.

Mr. Boyes-Watson, what's your pleasure?

MARK BOYES-WATSON: What we'd like to do is try to -- we'd like to resolve this project. So I just wanted to -- we reviewed some things as a group. And I just wanted to very quickly just rehearse in the provision it says that the Board may grant a Special Permit for modifications for requirements in 644.1 which is the five-foot setback if site specific --

CONSTANTINE ALEXANDER: Factors.

MARK BOYES-WATSON: And I don't know that I made it completely clear, one, two, three. Factors that they are and then talk about trying to make some of these accommodations that you're talking about.

So beside specific factors, when we were in front of historic, one of the things that they were really interested in is keeping this rhythmic massing of these three

structures that are sort of evenly spaced down the street. One of the things that that leads to is -- in order to do that, we actually pushing this house slightly back from its property line. But if you were to come over 15, we would be losing something that historic was asking us to do. We could wait the six months and we could go back to them and try to argue that we could curtail that a bit more, and get the five feet. First site specific circumstance is the Historic's interest in keeping this massing, this rhythmic massing down the street. We went over that in detail with them at the Board and I think we got a, I think everybody voted for it, right? Yeah.

So that's first site specific factor.

The second site specific factor is that this is a narrow lot under the definition of

the Ordinance. The Ordinance kind of recognizes in Zoning that narrow lots that come with special challenges and they alter the setback requirement, etcetera, etcetera.

So I think we are a narrow lot. We have this Historical issue at the front of the thing. We're a narrow lot. And the third one of course is the curb cut exists, the parking on the street works, and it's already here. So I just wanted to go back over that because I was probably mumbling before.

The -- so Jill and Merhi are aware that there's -- so I said we struggled really hard to keep this project alive and I think we succeeded in a large part. The reason that there's that third floor element is that that there's really a good chance that Jill and Merhi will move in here and that is on the north side. And I apologize for having

represented to the neighbors as being on the south side. It is indeed on the west side, she is absolutely right. But the north side unit, just being able to get up there and get that south light with that little third floor pop up, and we did try to keep it as tiny as we could, but there's no need for that great big deck. And all it is is like one of those who -- we all live in the city know what that's like to get your face in the sun especially now, you know, what that feels like to have that idea. So that's why it's there. But there's no reason for it to be more than a step out deck. So we'd be very happy to curtail that deck. We didn't contend -- nothing about this is an intentional kind of infringement upon any of the neighbors which is why we're being careful to be compliant and not seeking any relief of setbacks or --

BRENDAN SULLIVAN: So we're continuing with the case, is that --

MARK BOYES-WATSON: Like the Board's, you know, impression of that that's what we'd like to do since we'd like to get, you know, this vote. Of course, I mean we could say, you know, we could take that third floor off entirely. That was what -- the things we submitted. There really is an issue. If you can go back and change the design of this thing, it will very quickly become a 35-foot building of many of which there are down on Jay Street which I think we know for a fact because we went and worked very hard with the neighbor -- we, Jill and Merhi worked very hard with the neighbor across the street, and Historic wants to the keep that front structure low. So, you know, still staying Zoning compliant you have

impact issues. So what we're saying is we think we have a very good plan. We'd like you to grant the relief. We would like -- I mean, I think that there are some things that we can't reconcile all of this. And what's going to happen here with this development if we push in one place, it's going to pop up in another place.

CONSTANTINE ALEXANDER: I'm sorry, I thought you said you were amenable to reducing the size of the deck and then you just said you want us to approve the plans that you have now.

MARK BOYES-WATSON: We would like -- we are asking that if you would allow us to curtail that deck to a little tiny step out deck to prove the revised plans as submitted.

CONSTANTINE ALEXANDER: Well, tell

what dimensions are?

MARK BOYES-WATSON: Let's say four by eight.

CONSTANTINE ALEXANDER: So the deck --

MARK BOYES-WATSON: No bigger than --

CONSTANTINE ALEXANDER: I just don't understand what you're asking.

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: You're asking us to approve the plans as -- except for the fact that the deck that is now shown on the plans will be reduced to a deck that is no greater than four feet by eight feet? Did I get it right?

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: Okay. Let me ask the neighbors and abutters who have

taken the time to come down tonight to see what their reaction to this is. And if you have -- don't quite understand, we'll go over it again.

Sir, you go first.

HENRY ARCHIBALD: Well, I'm not really -- and I told them I don't care about the height. I just told them, you know, that the -- what I'm looking at is the bedrooms. I told them that. They're not listening, you know.

CONSTANTINE ALEXANDER: Okay.

HENRY ARCHIBALD: The bedrooms, you know, that's the -- you know, the concern. I mean, you know, whoever is going to build it, they're going to, you know, you know, the ratio of house to the lot and all that and it will probably settle fine. They still have 10 bedrooms.

CONSTANTINE ALEXANDER: So you're still in opposition to the relief being sought?

HENRY ARCHIBALD: Yeah, I am. I'm in opposition to all those bedrooms, you know.

CONSTANTINE ALEXANDER: I understand.

HENRY ARCHIBALD: You know, they could do, whatever, you know. I don't blame them. They could tear the house down. The house is beat up. Nice house, nice plan. The front building. The back building is my concern. And I think that they need two less bedrooms, you know. Two less bedrooms, and if they could -- I know they're satisfying the parking, but if they could do one or two cars more, that would be very helpful. Okay? But two less bedrooms that's what I'm

protesting.

CONSTANTINE ALEXANDER: What they're saying to you tonight, and you can correct me if I'm wrong, what they're saying to you tonight, we're not going to reduce the number of bedrooms and we don't have to as a matter of Zoning. We can redesign this property so that it needs no Zoning relief and still have the same number of bedrooms.

HENRY ARCHIBALD: Yeah, I know they can do that. And he'll have a narrower building all the way down because it will have a ten-foot setback. Five feet off the wall. Five feet -- and so -- that may be what he has to do. Because I'm not gonna give him relief on it, you know.

CONSTANTINE ALEXANDER: Okay. But I'm trying to say that might the cure might be worse than the disease. In other words,

what they do --

HENRY ARCHIBALD: They'd go up.

CONSTANTINE ALEXANDER: And that doesn't bother you?

HENRY ARCHIBALD: Doesn't bother me. They could go to the moon.

CONSTANTINE ALEXANDER: Okay. Okay. I just want to make sure I understand you. You understand?

MERHI SATER: They could go up.

CONSTANTINE ALEXANDER: Thank you, again, for taking the time to come down tonight.

Ma'am, you want to speak on it?

CAROL MOSES: I just want to say -- may I point to this picture?

CONSTANTINE ALEXANDER: Of course you can.

CAROL MOSES: This is just a little

bit different than what was shown before. Before they were showing one tiny thing, now they're showing four trees. That's currently my fence and it's six feet. So, again, a three-story building moved 30 feet back from where there's a two-story building now, a three-story building moved 30 feet closer to me and my entire fence blocked by trees. And of course, I can't control what they build even if they say one thing, they could build trees later. I'm just saying that that has a huge impact on me.

And before I would like to explain why I said that I perceived the thing to be 24 feet. This does measure feet, right? And I think they said something like 10-by-14. But if you can see on either side of this, this 16-foot thing, this is way, way larger than 16. And I got out a ruler and measured it and

it was 24. So that's why I said 24. If there's something I don't understand about drawings, it might be 10-by-14 or whatever they said. But I feel like they're saying a lot of things but the reality of what I see them doing doesn't reflect that. And it's true, they did knock on our door. They sent us an e-mail. They telephoned on a mobile and they telephoned at the house. But I don't see what benefit it is for me to talk to them because they know what they want to do. They want to build, you know, 12 bedrooms where there's now four. Ten bathrooms where there's now two. And they can say they want to live there. They can say all these things, who knows about those things? And I felt that the original plan was too huge, and in the last week they added another floor. So -- and I feel like well,

just to take back that floor now we're still left with something that's really horrendous. And I understand laws are laws, but I just feel like it's sort of a little contradictory to say we're doing everything to be sensitive to the neighbors.

And the other statement oh, if we take this away, we have to do something else. You don't have to do anything. You could build -- there's right now two floors on each of the two units, and if you added the basement that they're so interested, you know, a basement which is shown in their plans with several bedrooms, several bathrooms, rec rooms, etcetera, there's tons of ways they could use that space without having to put three housing units on it and without having to put a three-story housing or even a two-story housing unit 30 feet back in the

backyard. And so I just can't say that I would approve it even if they shortened their deck. It's still a flight above my deck and it's still 30 feet closer to me and it's still a deck where there wasn't one. And so I just, for me it's really, really adverse and it's a massive loss of privacy. And I do garden a lot and I don't want, you know, a three-story house 30 feet closer or all the trees they'll put up to give them something nice to look at. So it's, you know, it's for me really, really a drastic negative impact.

CONSTANTINE ALEXANDER: Two questions, and I'm sorry I didn't mean interrupt you. Two questions for you:

One, the trees that are shown on the plans --

MARK BOYES-WATSON: They were to mitigate not to be adverse.

CONSTANTINE ALEXANDER: No, no, but is it a commitment on your client's part to put the trees up?

MARK BOYES-WATSON: No.

CONSTANTINE ALEXANDER: No. So you understand that there's no --

CAROL MOSES: But there's nothing stopping the condominium owners who will live there in the future from growing anything they want and block any amount of my light.

CONSTANTINE ALEXANDER: The other question is just out of curiosity, if you're going to reduce deck to four feet, eight inches, why --

DOUGLAS MYERS: Four-by-eight.

CONSTANTINE  
ALEXANDER: -- four-by-eight.

MARK BOYES-WATSON: Just to step out and put a chair out there.

TIMOTHY HUGHES: It's to preserve the roof because you know somebody's going to step out.

CONSTANTINE ALEXANDER: Right.  
Okay.

TIMOTHY HUGHES: I have a follow-up question, too. I mean, basically your objections to this is for them to building any kind of building in the backyard? You would like to see this lot remain as a one building lot, but that's not going to happen. In fact, what's going to happen is that building that's moving 30 feet closer to you is going to be taller if they don't get the relief on the driveway.

CAROL MOSES: They don't have to do that. That's their decision. If they want to make ten floors where there is --

TIMOTHY HUGHES: But they can do

that. As a matter of right, they don't need any help from us, any approval from us.

CAROL MOSES: But I still can't say I like it.

TIMOTHY HUGHES: No, no. I understand that you don't like it. I'm just wondering if you understand that it could be worse for you if we don't give them the driveway relief?

MERHI SATER: And I just want to --

DOUGLAS MYERS: That was addressed to her.

CONSTANTINE ALEXANDER: That was addressed to her.

CAROL MOSES: I understand that they have a --

TIMOTHY HUGHES: If in fact they preserve the front building and preserve the streetscape, that back building is going to

get taller. And if it's going to get taller, it's going to go to 35 feet. And that's going to be more looming, deck or no deck, that's going for more looming over your property.

CAROL MOSES: May I say something?

TIMOTHY HUGHES: I want to make sure you understood this.

CAROL MOSES: They don't have to make that building larger, that's their choice.

CONSTANTINE ALEXANDER: Yes.

TIMOTHY HUGHES: But it is their right.

CAROL MOSES: I understand that.

TIMOTHY HUGHES: It's a matter of right.

CONSTANTINE ALEXANDER: It's a choice.

CAROL MOSES: When they say if they

do this, then they have to do that. They don't have to do that. They choose to do that. And I'm just saying, gosh, that's really regrettable. And I understand that they have the legal right to do lots of things, and I just find it a terrible impact for me.

TIMOTHY HUGHES: I can see that, you know, and I understand that. But I think, you know, the design as it exists is more beneficial to the neighborhood and the city as a whole because it's not as looming as it could be if they have to squeeze things together and go up.

CONSTANTINE ALEXANDER: Anyone else wish be to be heard?

AMY THOMPSON: Amy Thompson. I completely understand where you're coming from. I don't want this to happen either,

but I know that they're within their rights. So I mean I really -- I'm where you are. I don't want this, but it's coming our way and I do think that -- while I'm not, like, cheerleading for it, but I do think that they have put tremendous amount of effort into considering the neighbors for what they could do which they're not doing. I do -- I don't have a problem with the Variance for the driveway because I realize that it will make it less of a bulky building. Have I figured that out right? Okay?

I -- there is also a little balcony overlooking over my yard which no one has mentioned, but it's on the second story and it's small. And as you said, you don't sit out on your balcony very often.

CAROL MOSES: Your balcony is used a lot but because it's much bigger.

AMY THOMPSON: So, I'm disappointed it went up to three floors. You know that on my side. I am disappointed, but again, I know it's within your right. So with the care that they've put into designing this and knowing it could be bigger, I give my approval if that matters at all.

CONSTANTINE ALEXANDER: Thank you very much.

Anyone else wishing to be heard?

HENRY ARCHIBALD: They took that four-by-eight balcony off, they save themselves a whole lot of money. That's a very costly item. Get rid of that back building and you know what I mean, their budget would balance up.

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

Any final words, Mr. Boyes-Watson?

MARK BOYES-WATSON: No.

CONSTANTINE ALEXANDER: Okay, time for decision time.

Anyone wish to be heard? Doug, would you like to speak first?

DOUGLAS MYERS: I'll just say briefly that, I mean, this is not the usual case about what you can do of right. Often applicants come in here and tell us, well, if you don't grant this, we can do this and this of right. And here we have a different situation which is -- I really am persuaded by Mr. Boyes-Watson that they have made efforts to produce a building here that is in keeping with the neighborhood and that avoids many of the problems that come if they build out this lot to the maximum, and they could, as people I think understand now, they could put a building that's much taller, much more

dense, much more offensive to the neighborhood.

This, we got off, we started the night because the Board was concerned about the deck. That was the lead in and we've gone on to a lot of other issues and I really do believe the applicant has accommodated the Board very substantially on the deck. And it's my opinion that that will remove what -- probably what could be the major irritant for the property behind the applicant's property. So I approve of that. And having said that, I really must think if that -- if the deck issue is taken away, the other real issue, original issue before the Board is the driveway setback prescinding from all other issues, I think the driveway setback is very straight forward and the equities weigh strongly in favor of granting

a Special Permit to permit the existing driveway setback.

So having said all of that, I would approve the application with the modifications of the deck that the applicant has placed on the record.

CONSTANTINE ALEXANDER: Anyone else wish be to be heard or we can go for a vote?

Ready for a vote? Or you want to speak?

TIMOTHY HUGHES: I'd like to hear what the Board's going to do. I don't want to see this go down in flames when we -- if the offer is the continuance to do more stuff. I don't want to blindsides these people and have them sit back for two years. You don't have to say what you're going to do but why not? Why not be upfront here?

BRENDAN SULLIVAN: We offered them to option to continue it. I cannot support

the petition. I think that there's no compelling reason to waive the requirement for the parking. I think -- and they also -- the presentation is that there is a compliant solution which we have, I have not seen. So I cannot support the -- I think by allowing the driveway and the subsequent chain reaction of the development, is going to have an adverse impact. So I would not support this.

CONSTANTINE ALEXANDER: Tom, do you have any observations? Nobody's forced to talk. And just by what Tim says.

THOMAS SCOTT: I'm inclined to vote for it. I mean, you know, the -- I think the applicant has made some efforts, you know, to reduce the scale of the project. And like it's been said, it could be a much taller project, a bigger project. So in light of

that, I think the issue before us is relatively minor and I'd be inclined to vote for it.

CONSTANTINE ALEXANDER: Tim?

TIMOTHY HUGHES: I agree, yeah.

CONSTANTINE ALEXANDER: Well, in my case I'm also -- have some reluctance but will vote in favor of it. I think it's a little bit of unreality among the neighbors that you really don't want any change and that's not going to happen. And I think the change is going to happen if we allow this project to go forward but the deck modification is better than what you would see. At the end of the day, although you don't realize it, the neighborhood is better off.

Anyway, so I think we're ready for a vote. Everybody has spoken.

TIMOTHY HUGHES: Thanks.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that a Special Permit be granted to the Petitioner to eliminate the requirement of a five-foot driveway setback based on the following findings:

That the traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not adversely affected by this driveway modification that's being sought.

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

And that the proposed relief will not impair the integrity of the district or

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

So on the basis of these findings, the Chair moves that the Special Permit be granted on the condition that the work proceed in accordance with plans submitted by the Petitioner prepared by Boyes-Watson Architects, dated March 18, 2014, the first page of which has been initialled by the Chair. Except that the deck that's shown on the plans for the third floor of the rear structure will not be greater than four feet by eight feet.

MARK BOYES-WATSON: If I may?

CONSTANTINE ALEXANDER: Sure.

MARK BOYES-WATSON: There's a revision date on the drawing in the top right-hand corner of the ones that were

resubmitted. If you flip to the top of the page, if you could cite that.

CONSTANTINE ALEXANDER: Oh, I should do that.

The plans dated March 18, 2014, and as revised as of March 20, 2014.

And so, again, and the one thing that will change is the size of the deck on the third floor as I've already indicated.

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

(Aye.)

CONSTANTINE ALEXANDER: Four in favor?

(Alexander, Hughes, Scott, Myers.)

CONSTANTINE ALEXANDER: Opposed?

(Sullivan.)

CONSTANTINE ALEXANDER: One opposed. The Special Permit has been

granted.

(Whereupon, at 10:30 p.m., the  
Zoning Board of Appeals  
Adjourned.)

\* \* \* \* \*

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

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

**IN WITNESS WHEREOF**, I have hereunto set my hand this 14th day of April, 2014.

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