

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, DECEMBER 10, 2015

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Timothy Hughes, Acting Chair

Brendan Sullivan, Member

Thomas Scott, Member

Janet Green, Member

Douglas Myers, Associate Member

Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

CONSTANTINE ALEXANDER: The Chairman will call this meeting of the Zoning Board of appeals to order. As is our custom, we will start with continued cases. These are cases that we started sometime back and for some reason or another have continued until this evening.

Before I call the first case I would make a statement that after notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium, subject to reasonable requirements that the Chair may impose as to the number of placement and operation of equipment used so as to not interfere with the conduct of the meeting. At the beginning

of the meeting the Chair will inform other attendees that this meeting -- other attendees at that meeting that a recording is being made.

I would report to those in the audience that this case is being audio -- video -- audiotaped. Not audio. Yeah, audiotaped.

TIMOTHY HUGHES: And video.

CONSTANTINE ALEXANDER: And we also have a videotape.

Plus our stenographer, who also makes an audiotape of the meeting so to assist herself in preparing the transcript. Our Board has a transcript of all of our hearings which is open to the -- that transcript is open to the public at some point in time.

* * * * *

(7:00 p.m.)

(Sitting Members BZA-007258-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Douglas
Myers.)

CONSTANTINE ALEXANDER: So, the
Chair will first call case No. 007258, 69
Rindge Avenue.

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

BRETT HANSMEIER: Brett Hansmeier,
69 Rindge Avenue.

CONSTANTINE ALEXANDER: Also for
the benefit of the audience.

BRETT HANSMEIER: Okay.

HENRY MACLEAN: Yeah, so we're
here to --

CONSTANTINE ALEXANDER: Have you identified yourself to the stenographer.

HENRY MACLEAN: Oh, I'm sorry.
Henry Maclean, architect. H-e-n-r-y
M-a-c-l-e-a-n.

NANDINI MANI: I'm Nandini Mani.
It's N-a-n-d-i-n-i M-a-n-i.

CONSTANTINE ALEXANDER: Now the floor is yours, go ahead.

HENRY MACLEAN: Okay, so we're here to ask for relief for two dormers for the third floor for this house on 69 Rindge Ave. that Brett and Nandini live in. And so we have drawings with you so I don't know if they're --

CONSTANTINE ALEXANDER: One of the reasons we didn't hear the case the last time as we pointed out to you that your dormers didn't comply with the dormer

guidelines.

HENRY MACLEAN: Right.

CONSTANTINE ALEXANDER: As best I can, tell they still don't comply.

HENRY MACLEAN: Okay.

CONSTANTINE ALEXANDER: So talk to us.

HENRY MACLEAN: Sure.

CONSTANTINE ALEXANDER: Why should we grant you relief when you're not complying with the dormer guidelines?

HENRY MACLEAN: Well, we did as best we could with regard to the stair that we have in terms of getting headroom on the east side. That dormer is basically the existing, and I did bring this along and we can pass these out. These are showing the existing floor plan.

CONSTANTINE ALEXANDER: It would

be nice if you gave it to us beforehand but please pass it out.

HENRY MACLEAN: Sure. It's the section on the back side which shows the constraint on the situation there. There is basically about four feet or so to crawl up, if you look at the section in the back, that's the stair coming up on that side. We did actually send in existing drawings, but I don't know if this actually got in there, too.

CONSTANTINE ALEXANDER: This is what we have.

HENRY MACLEAN: Okay, good.

So basically on the section there's about four feet up against the wall to just get up the stair. Even though there's two bedrooms up there, it's a very, very tight squeeze. It's really

against the code.

CONSTANTINE ALEXANDER: How long is the dormer you're proposing?

HENRY MACLEAN: So there's no dormer on the back there right now.

CONSTANTINE ALEXANDER: Okay. The one you're proposing to build?

HENRY MACLEAN: Correct, for the stair.

CONSTANTINE ALEXANDER: Yes, how big is it? How long?

HENRY MACLEAN: Well, it's 15 feet -- it's actually 17 feet long, two feet longer than the requirements due to the fact that the stair starts and we're also looking to put a bathroom on the second floor to get the height in there.

CONSTANTINE ALEXANDER: So you want something larger than the dormer

guidelines permit, not simply to create headroom for stairs, but to offset the bathroom.

HENRY MACLEAN: Right. And we can shrink that down if we had to. But given that there's -- if you had the existing plan or proposed plan on the third floor -- yeah.

CONSTANTINE ALEXANDER: I guess my starting question is why don't you shrink it down?

HENRY MACLEAN: Okay, well I can, you know, we wanted to see what we could -- if it's possible, to get more. So there's the -- we were told to just submit one copy. And here is the bathroom here in question. So that's the dormer there, the 17 feet.

CONSTANTINE ALEXANDER: Right.

HENRY MACLEAN: So we can come in a little bit, but we're trying to get the whole, you know, bathroom there. We can't really go any tighter in here and keep code in terms of the stair.

CONSTANTINE ALEXANDER: It seems to me that I don't know why -- I'm only speaking one person, why you can't have a 15-foot dormer. And if you have to shrink the bathroom so be it. You know, we tend to try -- it's not a requirement, it's a guideline as they say.

HENRY MACLEAN: Sure, right.

CONSTANTINE ALEXANDER: But the state -- but we tend to be militant about it and unless there's a compelling reason to comply with the dormer guidelines, at least as to length, and I don't hear a compelling reason. I know how you'd like

to have a nice, large master bath, and that's not necessarily to me anyway a compelling reason to deviate from our dormer guidelines.

HENRY MACLEAN: Right. And, again, when we met originally with Ranjit who we went through originally on this, he said, well, you might try and see what happens. And that's his comment.

CONSTANTINE ALEXANDER: That's fine. That's fine.

BRETT HANSMEIER: We also considered this dormer is pretty much in the farthest back corner in the house and it's pretty difficult to see except, you know, from a back street between the trees and through an angle.

HENRY MACLEAN: Yeah, it's right up against the lot line. So this is

what's referring to this other building that comes right out here. It's about ten feet away maybe. So there's really no view of this from Rindge Ave. at all. And from the back it's also very tight, and this is the back view here.

CONSTANTINE ALEXANDER: And you said there's two dormers?

HENRY MACLEAN: So that's the one dormer. And then the second one, there's an existing dormer on the front that is currently there. And we are replacing it with, or proposing to replace it with a dormer that has more headroom. And if you can pull out those photographs.

CONSTANTINE ALEXANDER: And does that dormer comply with the dormer guidelines?

HENRY MACLEAN: Yes, that does.

CONSTANTINE ALEXANDER: Even to the ridge line -- it looks like it goes right to the ridge line.

HENRY MACLEAN: It's just back -- yeah, it's only back a foot. And that was the other concern or the problem we had with that dormer. Currently it's -- do you have that picture?

So this is the view of it right now. It's a very, very steep angle. And I believe you have the existing drawings?

TIMOTHY HUGHES: They're right here.

CONSTANTINE ALEXANDER: Make sure it's the current ones.

HENRY MACLEAN: Yes, this will show it.

TIMOTHY HUGHES: That's existing.

CONSTANTINE ALEXANDER: Oh,

existing. Okay.

HENRY MACLEAN: So currently there is this dormer here that is very, very steep angle. It's like the 60 degree angle. And the room is just unusable in terms of making it a master bedroom. And so what we were hoping for is, again, to get relief on that because of the fact that --

CONSTANTINE ALEXANDER: Just make it clear, what is the relief on that dormer that you need?

HENRY MACLEAN: So on the elevation, the east elevation, and I can show those both to you. This is the current. That's the current elevation.

CONSTANTINE ALEXANDER: Right.

HENRY MACLEAN: And the proposed is just a shed dormer right there.

CONSTANTINE ALEXANDER: Okay.

HENRY MACLEAN: Again, we weren't moving the location and this starts right here.

CONSTANTINE ALEXANDER: Yeah, yeah.

HENRY MACLEAN: And that's the situation there.

Again, it's really because of the hardship with the situation of that room, there's no way to make it a usable bedroom.

CONSTANTINE ALEXANDER:
Understood. It presents a much different case than needing or electing or wanting a master bath.

BRETT HANSMEIER: And you asked if this complies with the requirements. So the only -- we brought this actually a

foot from the ridge line down right
down -- it's a little close on the --

CONSTANTINE ALEXANDER: I see
that.

BRETT HANSMEIER: It's pretty much
the same as the existing dormer.

CONSTANTINE ALEXANDER: Yep.

BRETT HANSMEIER: This is actually
a 13-foot dormer.

HENRY MACLEAN: Yeah, it's 13, 12
I think.

BRETT HANSMEIER: By width it's
actually less.

CONSTANTINE ALEXANDER: I see.

TIMOTHY HUGHES: Yeah, but you
don't get to make that up on the other
side.

CONSTANTINE ALEXANDER: You don't
add them up and divide by two.

HENRY MACLEAN: Oh, okay.

Yeah it's 13.

BRETT HANSMEIER: 13, 5.

CONSTANTINE ALEXANDER: You also want to build some decks. And so a neighbor objects. I don't know if they still do.

HENRY MACLEAN: We pulled those off.

CONSTANTINE ALEXANDER: I'm sorry?

BRETT HANSMEIER: We removed the decks.

CONSTANTINE ALEXANDER: You removed the decks?

BRETT HANSMEIER: We're no longer asking for that.

CONSTANTINE ALEXANDER: It looks like the deck is still there.

BRETT HANSMEIER: We have a deck

on the roof, on the top of the second floor. There's no deck on the back. That's what the neighbors were primarily objecting to.

CONSTANTINE ALEXANDER: Right.

Have you spoken to your neighbors about this new deck?

BRETT HANSMEIER: Yeah.

CONSTANTINE ALEXANDER: And?

NANDINI MANI: And they unfortunately they gave us the letter a little bit late, and they weren't able to come -- they've actually come -- came to the last meeting when we asked for a continuance and actually voiced their support. And they weren't able to come tonight and they dropped it off this morning.

CONSTANTINE ALEXANDER: I'll read

this into the file later on in your presentation.

Okay, so basically it's just the two dormers.

HENRY MACLEAN: Right.

CONSTANTINE ALEXANDER: And the relief you technically need, I think it's a FAR?

HENRY MACLEAN: Yeah, the FAR goes up just a little bit, it's --

CONSTANTINE ALEXANDER: You're right now twice what is permitted under our ordinance.

HENRY MACLEAN: Yeah, we were sort of caught with that. That's the existing.

CONSTANTINE ALEXANDER: Yeah, you're right. You're adding about 125 feet according to my calculations?

HENRY MACLEAN: On the second

floor -- on the third floor.

CONSTANTINE ALEXANDER: Third floor, yeah, through the dormers?

HENRY MACLEAN: Correct.

Questions from Members of the Board?

DOUGLAS MYERS: What are the dimensions of the roof deck?

HENRY MACLEAN: This roof deck here is roughly -- it's about 8 by 16, 17. If I could borrow your scale right there. Sorry, I didn't bring one with me.

NANDINI MANI: It's positioned fairly well, you know, back from the border of the roof.

HENRY MACLEAN: Yeah, it's 17-by-8. And if you look at the views from the street, it's pretty unnoticeable.

CONSTANTINE ALEXANDER: Yes, show us elevation that you had before. I think

you have our copy.

NANDINI MANI: The last one.

CONSTANTINE ALEXANDER: The last page, yes.

HENRY MACLEAN: Yeah, so here it is from the back.

CONSTANTINE ALEXANDER: Where is it from the back?

NANDINI MANI: Back there, yeah.

HENRY MACLEAN: It's right here. You can't quite see it from down on the street level.

CONSTANTINE ALEXANDER: That's the elevation, yeah.

DOUGLAS MYERS: Would you pass that to me?

HENRY MACLEAN: It shows up on the elevation.

DOUGLAS MYERS: Where is the deck?

HENRY MACLEAN: The deck is right up here on the third floor. So from the elevation.

THOMAS SCOTT: Because of the perspective, you can't see it. It's kind of hidden.

DOUGLAS MYERS: I see.

BRETT HANSMEIER: So we can show --

HENRY MACLEAN: The elevation.

BRETT HANSMEIER: -- there is an elevation drawing.

HENRY MACLEAN: A-3 or A-5. There it is, there, just the top of it.

DOUGLAS MYERS: Do you have -- is there a neighbor immediately on the west side?

BRETT HANSMEIER: Well, the street is on the west side. There's a neighbor

straight behind this deck on the -- that would be the north side.

DOUGLAS MYERS: And is there -- what's on the east side?

BRETT HANSMEIER: The east side is another neighbor actually.

CONSTANTINE ALEXANDER: Is what, I'm sorry?

BRETT HANSMEIER: There is a neighbor on the east side.

CONSTANTINE ALEXANDER: That's not the neighbor that --

BRETT HANSMEIER: No, they're on the north side. So they're where the proposed deck was right over here. And there's a neighbor here and then Rindge field is here.

CONSTANTINE ALEXANDER: What Mr. -- just to -- for your benefit, what

Mr. Myers is driving at, I think, is the fact that privacy. We're very concerned about decks. We don't grant them often, but we are concerned that if it's going to impede upon the privacy of your neighbors.

NANDINI MANI: We went to a couple of the neighbors' homes who we thought would be able to actually see this deck and looked out the window with them to sort of show them where it would be. And they, you know, everyone's sort of judgment was that they weren't going to be able to see it.

The neighbors on the east side I don't think will be able to see it because there are trees and they don't have windows essentially on that side.

CONSTANTINE ALEXANDER: Off what room is that deck?

NANDINI MANI: It's off the master -- the proposed master bedroom.

CONSTANTINE ALEXANDER: Bedroom. Okay.

NANDINI MANI: The neighbors directly behind us, the north neighbors primarily had concerns about the deck. And to address those concerns we just removed it.

CONSTANTINE ALEXANDER: Because the other issue with us for decks besides privacy is a form of privacy is noise. Parties on the deck. A deck off the master bedroom, at least in my judgment, is not as likely to have big parties on it, then would be if it's off your living room or some other living area in the house.

NANDINI MANI: And our intention

was to use that just, you know, as a private deck. To grow basil and sit outside and read.

CONSTANTINE ALEXANDER: Why so big if it's only a private deck? It's a good size deck.

BRETT HANSMEIER: I don't know, we just went to the edge of the -- centered on the eave.

NANDINI MANI: For my view one of the things if you're up there, you would be looking at a lot of asphalt on the top of the roof if it wasn't at least a certain size. I think we just, we came up with something that seemed sort of small and somewhat still to main some privacy, but big enough that we could walk up there, turn around, put a few planters, that kind of thing.

HENRY MACLEAN: Still surrounded by -- and we're pitching it off the back here and it is centered on this gable here.

CONSTANTINE ALEXANDER: Yes, I see that.

Well, no more questions at this point from Members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I guess not. I will 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 there is no one wishing to be heard.

The Chair would report that we do have letters in our file. We have a

letter from Irene Money, I guess,
M-o-n-e-y, who resides at 22 Haskell
Street. (Reading) As a homeowner in the
neighborhood, in and around the 69 Rindge
Avenue property, I have met with the
applicants to discuss the proposed plans
for the property and have seen the plan
which is before the Board of Zoning
Appeals for zoning relief. The proposed
plan was explained to me and any questions
or concerns have been addressed to my
satisfaction. Please consider me in
support of the application and plan as
submitted by the applicant.

I don't have an identical letter
from a Jeffrey Hansell, H-a-n-s-e-l-l, who
resides at 79 Rindge Avenue.

Same letter from a Germane Holt,
H-o-l-t, Three Ridgefield Street.

And a letter from Maureen O'Sullivan at 67 Rindge Avenue. Her letter is different so I will read it. (Reading) I am pleased to write in support of our neighbors Brett Hansmeier and Nini Mani. Specifically my husband and I write to support the renovation that they have planned for their two-family home at 69 Rindge Avenue in North Cambridge. I would note by the way, this letter is dated October 21st, so they probably were commenting on your earlier plans presumably.

BRETT HANSMEIER: That's true.

CONSTANTINE ALEXANDER: But I don't think the view would be changed by the new plans. So I'll go ahead with the letter.

BRETT HANSMEIER: Okay.

CONSTANTINE ALEXANDER: (Reading)

Who live next-door at 67 Rindge Avenue. We have owned our home since December 1988. During that time the house at 69 Rindge Avenue has been occupied by a series of tenants, that is until the house was purchased by Brett Hansmeier and Nini Mani. They live in the upstairs unit and rent the downstairs unit. We're delighted to see this young couple wants to improve their house in order to make it a home where they can live for many years and raise a family. Brett and Nini have showed us the plans for a modest renovation which will allow them to make a more attractive and useful master bedroom on the third floor. We know that the plans will improve the standing room in the stairwell and throughout the third

floor and that it will also include a small deck. This will make the upstairs unit more family-friendly. Although our house stands only a few yards from theirs, we welcome their planned renovation and consider it a plus for our neighborhood. During the past 25 years in which we have lived in this neighborhood and raised our own family, we have seen many young families leave the neighborhood. We welcome this renovation and we welcome Brett and Nini. They're obviously prepared to invest in our neighborhood. We encourage you to approve their plans for renovation in the spirit of improving the quality of life for all the people in our neighborhood.

And then last there was a letter of opposition from Todd Harrison and Alicia,

Crothers, C-r-o-t-h-e-r-s-Harrison. They reside at Two Ridgefield Street. Their objection generally was to the decks, and as you told us and advised us and the plans reflect, the decks they objected to have been removed. And in their letter that they have written which is dated today states as follows: We are the abutters to the property at 69 Rindge Avenue for whom the new owners have applied for a Variance for renovations to their house. We have met with the applicants to discuss their proposed plans for the property and have seen the plans which are before the Board of Zoning Appeal for zoning relief on December 10th. Our concerns have been addressed to our satisfaction. Please consider us in support of the application and plans as

submitted by the applicant.

And that's it. I'm going to -- unless you have any further comments you want to make at this point, I'm going to close public testimony. All set?

BRETT HANSMEIER: I thought there was another letter, but apparently it didn't --

CONSTANTINE ALEXANDER: I'm sorry.

BRETT HANSMEIER: Was there a letter from Albert.

NANDINI MANI: That's right, there should have been one.

CONSTANTINE ALEXANDER: I may have skipped over it. Is it in support?

BRETT HANSMEIER: Yes, it was.

NANDINI MANI: It's actually the same street address as Irene Money.

BRETT HANSMEIER: And they have a

condo.

CONSTANTINE ALEXANDER: Oh, I see.

BRETT HANSMEIER: Two condos.

CONSTANTINE ALEXANDER: So, public testimony has been closed.

Discussion by members of the Board?
I've already expressed my views that I think -- I'm in favor of relief, but only on the ground that neither dormer will be more than 15 feet in length. One is clearly going to be that already, but the other one should be shrunk by a few feet. Anybody else feel otherwise?

DOUGLAS MYERS: I agree. I think the dormer that I was calling the replacement dormer is fine. The new dormer I think should conform to the dormer guidelines, and I would like to believe that by some careful effort at

redesign you can comply with the dormer guidelines and also have a satisfactory arrangement of your rooms and bathrooms on the third floor. I would also add that I remain concerned about the roof deck. I agree with the Chair's comment that the consideration is not only visibility but is noise. And to me, I agree as a general rule, the tendency toward large gatherings and creation of noise is reduced by the fact that access through a master bedroom. On the other hand, the roof deck is very large in my opinion. Eight by sixteen is a large deck, and the very presence of that type of capacity to me increases the risk that in the future the deck will be a source -- or could be a source of noise and a source of conflict in neighborhoods long after the present owners, the present

applicants, and even the present neighbors have passed away. We, at least I, on the Zoning Board would want to take those considerations in mind. So speaking for myself, I would like to see a smaller deck to minimize the risks that I've just mentioned.

CONSTANTINE ALEXANDER: Any other comments? I'm going to make a further comment, but anyone else want to speak?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: Okay.

I guess I'm going to suggest -- I respect Doug's opinion, I always do. I'm going to make a motion to approve the plans as presented subject to the condition that the dormer, neither dormer will be more than 15 feet in length, but I will go along with the deck, the deck that

you have on your plans. I guess on that basis, I don't hear any other objections from anyone about the deck, I would be willing to go along with it, particularly because of the location of the deck, both in terms of it being off a master bedroom and in terms of where it faces on neighboring properties. You can't even see it as you've seen from these elevations that are right here, but there could be a lot of noise. I would trust that you will be good neighbors and not have big wild parties on the deck.

NANDINI MANI: Our goal would be, and I know it's -- I know that we have no -- we cannot predict what will happen in the future and other owners may come. The goal of us doing this renovation is to make a nice home for our family. We are

really looking forward to having some children and being able to stay in the neighborhood. Babies don't really like it when you scream on the deck.

SEAN O'GRADY: Gus, I'm going to need plans.

CONSTANTINE ALEXANDER: What's that?

SEAN O'GRADY: I'm going to need plans.

DOUGLAS MYERS: I wanted to raise that question. I think I sense which way the Board is going, and that's fine, and I will vote as I believe is correct, but is there -- I just like to mention shouldn't we see the plans of the dormer rather than just say carte blanche, but for a maximum of 15 feet?

CONSTANTINE ALEXANDER: I would

have thought, but I'm the world's worst person when it comes to plans and things of this sort, but I would have thought if we take the plans that they have and say the dormer that's 17 feet can't be any longer than 15 feet, that would be sufficient.

DOUGLAS MYERS: What about fenestration? What about setback?

SEAN O'GRADY: Who knows where it's going to sit.

CONSTANTINE ALEXANDER: Everything would still be the same, just the length would be shortened.

SEAN O'GRADY: Where though? On which end?

CONSTANTINE ALEXANDER: Does it make a difference?

TIMOTHY HUGHES: He says he can't

change one end which is where the stairwell is.

CONSTANTINE ALEXANDER: Yes, exactly.

TIMOTHY HUGHES: So it's got to get shortened by the bathroom end, but that's going to change the interior floor plan.

SEAN O'GRADY: I don't care about the interior. It's just, you know, fenestration. This is not something that we do.

CONSTANTINE ALEXANDER: What if we -- and it's up to the members of the Board. What if we want to approve this on the condition that new plans that comply with this 15 foot be submitted to the Inspectional Services Department and I will review them in another meeting. And

if they're to my satisfaction that they comply with the vote then all done. Would that work for you? You're giving me dirty looks.

SEAN O'GRADY: Why are we changing --

CONSTANTINE ALEXANDER: I hate to have them come back one more time just because we're going to shrink a dormer on one side that we know is going to be short. It strikes me as a little bit -- it's an imposition but if other --

HENRY MACLEAN: If it's useful, we can review elevation right now.

BRENDAN SULLIVAN: Well, I was going to say -- that's where I was going to go. If you want to go in the other room, mark it up, and come back for our review and then we can give it a final

vote.

CONSTANTINE ALEXANDER: Take these plans, modify it in ink or however you want to do it, we'll come back, we'll take another case in the meantime, and then we'll take a vote.

TIMOTHY HUGHES: Would you like to borrow this?

HENRY MACLEAN: Sure, thank you.

Regarding the deck I'm not sure -- I've heard one objection and I'm not sure where we're leaning here.

TIMOTHY HUGHES: It looks to me like you have four votes that would be in favor of the deck, at least, and that's all you need. But if you want to shrink the deck a little bit while you're in the back room, you might get five votes.

DOUGLAS MYERS: That's right.

CONSTANTINE ALEXANDER: It would be -- obviously, you've heard at least from one board member, and you know my leaning as a second board member. If you could think about shrinking the deck, that would be very desirable. So why don't you think about now the deck and the dormer and come back and see us before the night's out.

Thank you.

So this case is being recessed.

(Case Recessed.)

* * * * *

(7:30 p.m.)

(Sitting Members BZA-008443-2015:

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

CONSTANTINE ALEXANDER: I'm going
to call Union Street next which means that
Janet and George come forth.

The Chair will call case No. 008443,
52 Union Street.

Is there anyone here wishing to be
heard on this matter? We've seen you

folks before. Where are we now?

CAMPBELL ELLSWORTH: Well, let's see, we met three weeks ago, we met with -- shall I pick it up just from the conversation with the abutter or do I need to re-present?

CONSTANTINE ALEXANDER: Well, I think we -- we knew where exactly where you are. You had an issue with a neighbor who complained about shadow problems.

CAMPBELL ELLSWORTH: Correct.

CONSTANTINE ALEXANDER: And we asked you to go back and do a shadow study. I think you've otherwise in earlier sessions you've gone through the project and the like. I don't think you need to reiterate. I think you start with the neighbor and where you stand.

CAMPBELL ELLSWORTH: Terrific.

So last BZA hearing was three weeks ago on November 19th. By the 25th we went out, and I had sent these to Maria, I don't know if people have these. You do.

CONSTANTINE ALEXANDER: There's nothing in the file. You sent us a copy.

CAMPBELL ELLSWORTH: Yeah, terrific. Great. So we went out -- the point was that we needed to -- there are a lot of sort of scenarios. But the owner's house is this one here on Union Street. And the neighbor who had some concerns is sort of behind and to the side. But what we also noticed when we went to measure, is that there's an adjacent house, very, very close to that house that -- I can go bigger. There's an adjacent house right next to that that also in its own way casts shadows on the neighbor's house.

CONSTANTINE ALEXANDER: Yes, but that's not as a result of the relief we may be granting. So it is what it is.

CAMPBELL ELLSWORTH: That's right. No, but I wanted to understand sort of all the shadow on the neighbor's house.

CONSTANTINE ALEXANDER: Okay.

CAMPBELL ELLSWORTH: So what we did is we did test this. I mean, we got into the model with great care. It's set true north. It's set on the assessor's database plans so the relationship of the houses is correct due north and straight up on the page. And then the software allows you to test it at any time and during the year. Any month, any day, any hour. What we did is we chose the four solstices and equinoxes; March, June, etcetera, at the times when the sun would

potentially cast a shadow. And so we did this. We looked at it very carefully. We sent that to the neighbors on the 2nd of December. 2nd of December. So that was eight days ago. They had written back, and I had forwarded also to Maria to put into the record, their comments and then my comments as well in response. We felt that there was a minimal amount of affect on their house. And, again, these are the existing conditions at four o'clock, four-thirty, five o'clock on those days. These are the proposed. And, of course, you can see some change. We're raising the ridge height and we did feel it was minimal. I should point out, which I did in my letter to them, that interestingly in December when the sun is in the lowest and when we're -- I say we're all starved

for light, the shadow cast by the Medeiros's house actually doesn't ever even touch that house. So we have some effect in the June -- in the March area, none in the June, and some in the September.

CONSTANTINE ALEXANDER: And none in December?

CAMPBELL ELLSWORTH: And zero in December, that's correct.

CONSTANTINE ALEXANDER: I have trouble reading these. How would you characterize, in those two months where you do have a shadow effect, how would you characterize it in terms of significance? Maybe it's in your written comments that I'm going to read.

CAMPBELL ELLSWORTH: Well, it's -- that's the one where there's none.

You know, it's, that's a -- it's a, it's a difficult thing to quantify. Let me just -- so show you this. So this is March 21st at five p.m. Those two circles. So that one is the existing. The -- sorry. The LeMaster, the LeMaster's house, first of all, has a second floor deck that puts their first floor in some real amount of shadow, but you can see that their second floor deck is unshadowed, right. Okay. This is -- that explains sort of what the back of their house actually looks like, and we did try to measure it quite precisely. That's the existing. That's the proposed. And you can see a little bit of the shadow of the new, you know, extended Medeiros house starts to cast onto there. You know, except to say that it's modest -- I

would say it's modest. It's not towering over it. You know, I pointed out, again, sort of in a summary to the LaMasters that we're keeping with the existing footprint, we're not trying to expand that footprint or push further. I mean, we're only, we're only 13 and some feet from the back property line so we are trying to respect that. And, you know, we're not adding floors. We're simply correcting a situation on the existing second floor where there is really some pretty serious compromised head height. The ridge, the ridge of the Medeiros's house would go up three and a half feet, and the back tail comes with it. And I would say that it's a very modest set of effects. You know, when you -- and, again, I know that, this Board is trying to balance out the desires

of everybody and we feel that it's a reasonable request.

DOUGLAS MYERS: Question?

CONSTANTINE ALEXANDER: Go right ahead.

DOUGLAS MYERS: I know what your answer's going to be, but I just feel that I have to ask the question to possibly explore it a little more. Are you sure that the height of the proposed addition as shown on these simulations is properly calibrating?

CAMPBELL ELLSWORTH: Absolutely, yes, no question.

DOUGLAS MYERS: Because it's very, very difficult to discern the change in height. I mean, actually it's easier to see the very small changes in shadow that it is to discern a change in height that

seemingly is --

CAMPBELL ELLSWORTH: From one image to the next.

DOUGLAS MYERS: Yes.

CAMPBELL ELLSWORTH: Of course.

DOUGLAS MYERS: As proposed to new. Existing, excuse me, and proposed.

CAMPBELL ELLSWORTH: That's right.

DOUGLAS MYERS: Excuse me. It seems the addition itself is very hard to determine the change in height.

CAMPBELL ELLSWORTH: Right, well, there's a drawing in the drawing set here, you know, that -- so here what you're looking at, the elevation here, that's the existing. And the proposed is in the dashed lines.

DOUGLAS MYERS: And you're telling me that that was very carefully considered

when you prepared these simulations.

CAMPBELL ELLSWORTH: Oh, yes.

DOUGLAS MYERS: As between existing and proposed?

CAMPBELL ELLSWORTH: Absolutely. Sure.

DOUGLAS MYERS: Okay.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public -- well, I'll open it to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently no one is. We do have these two letters -- a letter from the neighbor we've been talking about and then

Mr. Ellsworth's response. We'll start with the letter from the neighbor it's dated December 7th. It's from Steve and Rachelle, R-a-c-h-e-l-l-e LaMaster, L-a-M-a-s-t-e-r. (Reading) Dear Mr. Ellsworth, thank you for preparing and sending the shadow study materials last week. We've reviewed them to assess the impact that the proposed height increase on the Medeiros home at 52 Union Street will have to our home. While we appreciate the effort and care which went into the study, we are disappointed by the evidence that the proposed height increase will impact the limited light our home currently receives. In our present circumstances the best light comes from our western facing windows. These are unfortunately the windows that are most

impacted by the increased height of the Medeiros's home. Further, these first floor windows are situated in our eat-in kitchen, a location in our home where we spend the majority of our time. Given this, the increased building mass will impact not only our light but also obscure our view of the sky. We fully support the benefits the proposed improvements will have on the visual improvement of the neighborhood. We also understand that the Board of Zoning will make final approval of the plans. Having lived in and raised a daughter in Cambridge in a smaller home with a similar second floor ceiling configuration as the current structure, we had similar aspirations as well as objections from neighbors and accordingly had our architect prepare alternative

plans. We wonder whether you have considered other plans which could meet the Medeiros's needs without impacting our quality of life.

A question I was about to ask myself. Let me read your response and then we can talk about, because I trust you answer or you try to respond to the question they have raised.

This is the letter from Campbell Ellsworth in reply to Steve and Rachelle LaMaster. And it's dated December 9th, yesterday. (Reading) Thank you for your note and your thoughts on the project. While we appreciate your concerns about the project, we believe that the sun studies we performed only reinforce our previous assumptions that the proposed modification to the house at 52 Union

Street are reasonable and modest in character and that they will only minimally affect your light and experience. I would clarify again the following points about the project:

Bullet point: The house has been in the same family for over 40 years and the family is trying to correct issues with the house that render some of the spaces either difficult or nearly uninhabitable. They do this in preparation for the next generation.

Bullet point: The project uses the existing footprint of the house thus maintaining the distance between your home and 52 Union. We have chosen not to expand further into the rear yard which would adversely affect you.

Bullet point: The project stays

within all bounds of the dimensional requirements of the zoning ordinance, including the project stays under the allowable GFA, gross floor area, which given the fact that this is a relatively small lot, is a modest number. 1,660 square feet. The proposed modifications are considerably under the allowable 35-foot height limitation of the C-1 Zone.

Bullet point: The project is not adding any additional floors. It is simply adding the compromised head height of an existing condition.

Bullet point: A more aggressive approach could have been to demolish the house and build a significantly taller structure as of right that would have required no zoning relief from the Board of Zoning Appeal. An as-of-right project

would have affected your light significantly more without any input from you or a requirement of any sun studies, but the owner is greatly attached to the existing house and thus the solutions we reviewed had as its goal the retention of the footprint and basic structure. We respect your concerns and we thank you for your input on this project. Your questions have in a positive way yielded greater clarity about the effect of the project on you and your neighbor to the south. After this work we feel that the proposed modifications are reasonable and create minimal effect and we will pursue the project as designed. We hope and trust that the Board of Zoning Appeals who is charged with trying to balance out the reasonableness of a project with the

impact of the abutters on the neighborhood will also find the project appropriate. If you have any other questions, please do not hesitate to contact me.

I assume you haven't been contacted since you wrote your letter?

CAMPBELL ELLSWORTH: I have not.

CONSTANTINE ALEXANDER: Do you have another neighbor, too, that also was impacted has a shadow impact.

JUDITH MEDEIROS: She did send --

CONSTANTINE ALEXANDER: Did she send a letter?

JUDITH MEDEIROS: She sent a letter a couple days ago. She sent an e-mail a couple days ago. Her name is Maria, Maria Burke.

CONSTANTINE ALEXANDER: Maybe it's buried here.

JUDITH MEDEIROS: She also saw the data of the sun study.

CONSTANTINE ALEXANDER: Let me see if I can find it. Yeah, it's Marie Burke B-u-r-k-e?

JUDITH MEDEIROS: Uh-huh.

CONSTANTINE ALEXANDER: It's an e-mail. (Reading) I am lifelong resident at 399 Windsor Street, Cambridge, Mass. I have no objection to the construction on 52 Union Street, Cambridge. So that neighbor has signed off.

So we're back to your -- the LaMasters.

CAMPBELL ELLSWORTH: And I'm sorry, you should have in your -- that was sent to Maria also by another abutter.

CONSTANTINE ALEXANDER: Okay. I'll read it. It's from Gloria Cartagena,

C-a-r-t-a-g-e-n-a. This letter is regarding the Variance of 52 Union Street. (Reading) I understand there is one resident in the neighborhood who is concerned about the renovation of the property. I have seen the plans for the modifications and the recent sun study. I personally don't see a drastic impact by the proposed modifications to any abutting property in the neighborhood. As the owner of 383-385 Windsor Street and lifelong resident of the neighborhood, I am always pleased to see improvements of homes taking place. I have no objection to the renovation at 52 Union Street.

Okay. I will open the matter up to public testimony. Is there anyone here wishing to be heard on this matter besides the letter we have?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

Any final comments you have before we close public testimony?

CAMPBELL ELLSWORTH: No, I -- I think, I think we did a lot of work. We really tried to study it hard. We really measured it carefully. I sent two of my folks out there to measure. We measured obviously the existing house, and then measured two more houses to really understand, you know, what's going on here, the overhang of that first floor. They have a small bump out which at different times of the day or year, you know, also casts its own shadow on their own house. And this is, this is a very large house, you know, with a porch. And

this has its own place in the shadow casting arena here as well. So, I think we really -- we did, we feel good about work we did, about the contact we make. Strangely enough I thought this meeting was a week ago when we -- and I --

CONSTANTINE ALEXANDER: I saw your letter in the file.

CAMPBELL ELLSWORTH: And I was rushing back from Thanksgiving trying to get this done and we got it to them the day before a week ago on the 2nd. So, no, I think, you know, all things considered, we are sensitive to the concerns of the neighbors. We looked very carefully at this and we think it's a reasonable request.

CONSTANTINE ALEXANDER: You point out that you could, you could if you

wanted to, or your client wanted to, come up with an as-of-right solution which would be to basically tear the structure down and build up because you have a lot of GFA room and that would be, have a worst shadow impact than what you're proposing. Have you considered any other alternatives, like building a one-story addition to the rear going closer to the -- maybe you still need zoning relief, but it would eliminate a shadow issue. Is there a possibility of that?

CAMPBELL ELLSWORTH: We didn't specifically look at that, and I'm not sure. This is a very small lot, and we would start to eat up, you know.

CONSTANTINE ALEXANDER: Well, you'll need zoning relief.

CAMPBELL ELLSWORTH: We'll need

zoning relief, but also, you know, where Jonathan's going to have some little kids running around there some point soon, we wanted to leave some yard. There's only 13 feet of yard, 13-and-a-half feet of yard. So in short answer to your question is no, we didn't look at that, and we felt that this was in a sense the least impactful to try to stay within the footprint.

CONSTANTINE ALEXANDER: Your neighbor doesn't agree with you on that.

CAMPBELL ELLSWORTH: Of course, of course, of course.

CONSTANTINE ALEXANDER: Okay.

I just throw that out, but it's your call.

I am going to close public testimony. Time for discussion.

Anyone want to speak about this?

DOUGLAS MYERS: I'd like to, once again explore with, Mr. Ellsworth, my understanding of the results of the simulation now.

CAMPBELL ELLSWORTH: Sure.

DOUGLAS MYERS: And I accept that the -- I have a question about March 21st and a question about September 21st simulations.

As I read the March 21st, and I'd like you to follow along and give your opinion whether my understanding is correct, at least corresponds to your reading of the simulation.

CAMPBELL ELLSWORTH: Sure.

DOUGLAS MYERS: I see on March 21st a tad of shadow under the proposed -- this is all with respect to

the proposed, on the left building, rear porch, only at five o'clock and nothing at four o'clock and four-thirty.

Do you agree?

CAMPBELL ELLSWORTH: Yes, I do.

DOUGLAS MYERS: On the September 21st exposure I see as new a tiny bit of shadow in the same place at four-thirty, nothing at four o'clock.

CAMPBELL ELLSWORTH: Uh-huh.

DOUGLAS MYERS: Do you agree? Am I reading it right?

CAMPBELL ELLSWORTH: I'm looking at the same images, so yes, I would agree.

DOUGLAS MYERS: On five o'clock on September 21st I see somewhat more shadow at five o'clock and at four-thirty. But then again looking at the existing shadow, I see some shadow already.

CAMPBELL ELLSWORTH: Correct.

DOUGLAS MYERS: At five o'clock.

CAMPBELL ELLSWORTH: Yes, indeed.

DOUGLAS MYERS: So I'm reading the simulations correctly.

CAMPBELL ELLSWORTH: Yes.

DOUGLAS MYERS: At least in the same way you read them?

CAMPBELL ELLSWORTH: Absolutely.

CONSTANTINE ALEXANDER: Does anyone else wish to speak with it or go right to a vote?

TIMOTHY HUGHES: I'm good with it.

CONSTANTINE ALEXANDER: I'm sorry, Tim?

TIMOTHY HUGHES: I'm good with it.

DOUGLAS MYERS: In view of the alternatives proposed by the Chair, I would just like to say that my colloquy

with Mr. Ellsworth has persuaded me, although there is conflict present, and conflict is unfortunate between the applicant and the abutter on this one issue, I am satisfied that the negative impact on the abutter is not of such weight or moment or significance as to cause me to want to vote against this proposal. So I would vote for it. In other words, I'm completely satisfied by the shadow study.

CAMPBELL ELLSWORTH: Thank you.

And I should just say -- may I say something?

TIMOTHY HUGHES: You may not need to say anything.

CONSTANTINE ALEXANDER: I'm trying to tell you to keep your mouth shut.

TIMOTHY HUGHES: Let's see what

happens here.

JANET GREEN: I'm about to agree with my colleague, Doug Myers. I think the shadow study shows that it really is a minimal impact and I will vote in favor of it.

CAMPBELL ELLSWORTH: Thank you.

CONSTANTINE ALEXANDER: I'm ready to take a vote. Okay.

JOHN HAWKINSON: Mr. Chair, did you hear from the public?

CONSTANTINE ALEXANDER: Say it again, please?

TIMOTHY HUGHES: Yeah, we did.

JOHN HAWKINSON: Public testimony?

CONSTANTINE ALEXANDER: Yeah, I did. I opened it to public testimony and no one wished to testify. Am I right?

TIMOTHY HUGHES: Yes.

JANET GREEN: Yes, you're right.

CONSTANTINE ALEXANDER: I know I'm getting old, but not that old I hope.

Okay, time for a motion. The Chair moves that this Board make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that whether the petitioner or any other occupant of the property, it is -- the house is -- needs to be upgraded and extended to provide suitable living space for whoever occupies the structure.

The hardship is owing to the, basically the shape and structure and its location of the lot. It's a non-conforming, a very tight lot.

Non-conforming. And for any relief, any modification to the structure would require zoning relief, particularly if you want to go up.

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

In this regard the Chair would note that the project does have, not unanimous but substantial neighborhood support.

That the petitioner has submitted sun studies that indicate that the impact on neighboring properties in terms of shadow is minimal, at least in the opinion of the Chair or maybe of the Board.

And that this project is -- relief being sought satisfies one of the goals of

our Zoning Ordinance; to create the -- improve the housing stock of the City of Cambridge and to make housing available for people of all income levels.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by Ellsworth Associates, Inc. I'm looking for the date. It looks like October 6, 2015. They're numbered Z1.1, Z1.2, EX.1, EX 3.1, A1.1, A3.1. All of which have been initialled by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan,

Green, Myers.)

DOUGLAS MYERS: Special Permit.

CONSTANTINE ALEXANDER: Give me a chance, guys.

DOUGLAS MYERS: We will with pleasure.

TIMOTHY HUGHES: I don't want them running away from the table.

CONSTANTINE ALEXANDER: Yes, you need a second set of relief, and it's a Special Permit which is a lesser standard, to modify the window openings in the rear facade which is currently in the required rear yard setback.

So the Chair moves that with regard to this Special Permit, the Board make the following findings:

That the requirements of the Ordinance cannot be met without the

Special Permit.

That no traffic -- the traffic generated or patterns of access or egress resulting from this window modification will not cause congestion, hazard, or substantial change in the established neighborhood character.

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

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

And that the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate

from the intent and purpose of the Ordinance.

So on the basis of these findings, the Chair moves that we grant the Special Permit requested on the condition that the work again proceed in accordance with the plans identified in connection with the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Now you're okay.

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

JONATHAN MEDEIROS: Thank you very much. Have a wonderful holiday season.

* * * * *

(7:55 p.m.)

(Sitting Members BZA-007258-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Douglas
Myers.)

CONSTANTINE ALEXANDER: The Chair
will now resume case No. 007258, 69 Rindge
Avenue.

Do you have new plans for us?
Modified plans?

HENRY MACLEAN: Modified plans.
So this is the 15 feet now. We've taken
off about two-and-a-half feet there.

CONSTANTINE ALEXANDER: Take a
look at it, Sean, and make sure you're
satisfied --

SEAN O'GRADY: Thank you.

CONSTANTINE ALEXANDER: -- in
enforcing this decision.

HENRY MACLEAN: We'll work out the inside if that's okay later.

CONSTANTINE ALEXANDER: The inside is generally not a concern of the Zoning. You can do what you want with the inside.

HENRY MACLEAN: And we reduced the deck down to 13, 3. It's actually 8, 9. But increase --

CONSTANTINE ALEXANDER: So what was it before? I'm sorry.

HENRY MACLEAN: It was 17.

CONSTANTINE ALEXANDER: So you're knocking four feet off roughly the width?

HENRY MACLEAN: Yeah.

CONSTANTINE ALEXANDER: And how much on the length?

HENRY MACLEAN: It's 8, 9. To the outside. I mean, the deck itself is inside, it's more like eight -- by the

time we get the railing, it's eight. It's usable.

CONSTANTINE ALEXANDER: So certainly usable deck.

HENRY MACLEAN: Eight by twelve. Yeah, that works.

And then we showed the windows on this elevation here. So here's the deck. The dormer is smaller. Which actually now complies with the three-and-a-half feet, too. And that way we'll re-center the windows. That's good?

SEAN O'GRADY: That's fine.

TIMOTHY HUGHES: I'm good.

CONSTANTINE ALEXANDER: I'm going to need new plans to initial.

HENRY MACLEAN: Sure.

Okay, is there a need for further discussion or are we ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Okay, the Chair proposes that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being is that the petitioner needs a dormer in order to increase the headroom for the stairwell on one side of the structure and to make a room that is very, not very easy to use or usable at all, a room that can be used more satisfactorily.

That the hardship is owing to the basically -- this is a non-conforming

structure on a small lot, and, therefore, any -- given the location of the structure in its current size, any modification to it, external modification, requires zoning relief.

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

In this regard the Chair would note that the project has now unanimous neighborhood support.

That the petitioner has been cooperative with regard to the deck and the dormers.

That the dormers comply -- both dormers in all material respects with the requirements of our dormer guidelines.

So, on the basis of all of these findings, the Chair moves that we grant the Variance being requested on the condition that the work proceed in accordance with the plans to be partially modified in hand, prepared by Timeless Architecture. They are dated, looks like 10/15.

HENRY MACLEAN: I didn't change that date I apologize. It should be today's date.

CONSTANTINE ALEXANDER: That's the date that's on the plan, that's good enough.

TIMOTHY HUGHES: It's for identification purposes.

CONSTANTINE ALEXANDER: And they are pages, there are several pages in length. There are plans numbered A-0,

A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8.

So do I have a motion to approve the Variance? All those in favor?

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Good luck.

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

HENRY MACLEAN: And that's an appeal period of?

CONSTANTINE ALEXANDER: Twenty days -- not from today. But from the day that the decision, the written decision is filed with the City Clerk's Office, which will be in a few weeks probably.

* * * * *

(8:00 p.m.)

(Sitting Members BZA-007045-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, George S. Best, Jim
Monteverde.)

CONSTANTINE ALEXANDER: Okay, the
Chair will call case No. 007045, 1 Wood
Street.

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

ATTORNEY SEAN HOPE: Good evening,
Mr. Chairman, members of the Board. For

the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight with the petitioners Ashley and Robert Wood and also project architect Maggie Booz of Smart Architecture.

This is a continued case that started back in July and we're requesting a Variance application to have a rear addition to an existing single-family. After the previous hearing we revised the plans to design a one-story, low profile addition to the rear of the home. Just briefly to remind the Board back in July we are -- the basis of our Variance is to achieve three goals:

One was for an additional bedroom that was in close proximity to the existing bedrooms. The Woods have two small children and they're a growing

family in a 900-square foot house that is extremely non-conforming.

The second goal was interior access to the basement.

And a third goal was a full bathroom above grade.

In the revised petition at one story we have abandoned the full bathroom and the bedroom is now on the first floor, so the addition is the third bedroom. And the interior access to the basement is within this addition.

Just to summarize, the reduction of the previous proposal was at 26 feet. We have reduced the height of the addition by 11 feet. So as you see on the plans, it's 14-feet, 9-inches. So it's an 11-foot reduction. Also the roof pitch is designed not to match the existing pitch.

It's pretty steep as that would have a higher addition. So we actually lowered the roof pitch sufficiently to have proper drainage, but to allow us what we felt was the minimum height.

CONSTANTINE ALEXANDER: Excuse me. Let me interrupt you. Can you hear? If not, you can come forward. I want to make sure because I know you are interested in this. And if you want Mr. Hope to repeat what he said before -- you okay? I just want to make sure they can hear you.

ATTORNEY SEAN HOPE: No, definitely.

So we adjust the roof pitch. Normally you might match the pitch of the existing roof to the rear roof, but that would have had it at a higher height. So

we adjusted the roof pitch so it would have enough pitch for adequate drainage, but lower than it may be.

And also noted in the interior floor plans we have a step down from the main house of approximately six inches into the rear addition. This was in the previous two-story plan, but we decided to keep that and sort of allowed us as well to bring down the roof ridge to the 14 feet, 9 inches. So these were all done because of the direct abutter at 5 Wood Street.

CONSTANTINE ALEXANDER: Do you have a copy?

ATTORNEY SEAN HOPE: There was an issue with the two-story addition primarily that it blocked their light and air. And so we were able to achieve two of our three goals and with the basis of

our hardship with this one-story addition. I think we relayed last time that it was unfortunate that we had to have a second hearing, but it was clear that when we addressed the Board, that if we were able to create a low profile addition and still satisfy our specific hardships, that would be, we believe, a reasonable compromise with the direct abutters. There is also a large tree that is in the rear yard. I don't know if you can see it from the front, but it's an extremely large tree and it blocks a lot of light and air. That's also going to come down as part of the proposal. So we believe between the one-story addition and taking down the large tree in the rear, that's going to mitigate any what we believe any significant block of light and air to that

second-story window which is really what the second floor -- second-story addition did.

There was correspondence in the file. There was many statements made at the last hearing from the objecting abutters, and so we had a written response to some of those. I believe a lot of those, while they were addressing concerns, weren't relevant to our hardship, so I don't want to go over those. I think that we hope what we put in the file was complete and answered those questions specifically. Those didn't, in our view, pertain to the nature of the hardship.

Prior to this hearing I did reach out to the direct abutters, the Jackmans and they gracefully came and met to -- we

discussed these plans. When we met, it was only a week ago, they only had the dimension plans that the Board has in the file. When we met, I had sent them the plans previously, but they didn't have the full dimensions, the height. It was a cordial meeting. We exchanged views about how we got to this point, but because they didn't have those plans ahead of time I'm not sure whether or not the low-profile addition which we sought to accomplish is something that they would --

CONSTANTINE ALEXANDER: Well, we'll find out.

ATTORNEY SEAN HOPE: -- approve or not approve of. Yeah, I'd like to let the Board know that every effort was made to maintain and satisfy our hardships as well as taking into account their issues about

light and air.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board at this point? I'll open it up to public testimony.

ROBERT WOOD: So thank you for hearing us again. So we have -- I just want to make it clear that we have taken great pain and great -- we feel it's our responsibility to take all of the suggestions from the neighbors, any neighbors, especially the Jackmans, very seriously and we have in the passed nine or so months of these discussions, taken everything that they've said and painstakingly gone through every detail of every suggestion that they may have in terms of, you know, consulting with our architect for feasibility, attorney Hope

for, you know, any sort of Variance or Ordinance regulations, with potential builders, with, you know, members of former producer of this house. You know, we trusted members of the community. We really sort of vetted this as thoroughly as we possible can and the result as you see in front of you, is what we've come up with as what we think is by far the most viable solution.

So, for example, you know, there's been suggestions of the Jackmans of adding to the height of the building, and it's been explained several times -- and I don't need to go over it too much. But 125-year-old foundation won't support that nor will it achieve our goals of the -- that attorney Hope had said. So we considered that. You know, we worked with

Ms. Booz to try to work the feasibility and others. In the end it would have been more feasible to knock the place down and start over, and, you know, build something else on the lot. And, you know, while it may be technically feasible to do so, you know, there's also financial constraints that come in. At that point we might as well -- you know, if we had enough money to do that, we would go out and buy a new house.

Similarly for suggestions that were made about building out to the front of the house, which is where the public, you know, obviously where the public sees the front face of the house. It's an historic house. You know, it's a nice looking house, and that would basically ruin the aesthetic and not achieve the goals that

we have. I won't go into all of these details, but basically the point I want to make cheer is that we've really taken it to heart. It's been weighing really heavy on us over the past nine months. It's, you know, both, you know, emotionally and financially, and the solution we come up with fortunately in the letter that Mr. Jackman and Janice Jackman submitted dated October 24th suggested a low profile two-story addition. And so I'm optimistic that, you know, that they will now support this since this is -- this seems to be in agreement with what they've been asking for.

So, again, we're not trying to put up a high rise. You know, we're -- we are not motivated by land grabbers of space or anything like that. We are simply, you

know, a family that loves the house, loves the neighborhood, loves to stay in Cambridge and loves the place.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

I'm going to -- unless there are questions from members of the Board, I'm going to open the matter up to public testimony.

Okay, I'm going to open the matter up to public testimony.

Is there anyone wishing to be heard on this matter?

PHILIP JACKMAN: We do. Is there anyone else?

CONSTANTINE ALEXANDER: Sir, do you want to be heard?

DOUG BROWN: Sure.

CONSTANTINE ALEXANDER: Come a

little closer if you would and give your name and address to the stenographer.

DOUG BROWN: Doug Brown, 35 Standish Street. I'm here tonight to speak in favor of the application. Firstly because Ashley and Rob are good friends and also good people. Exactly the type of folks that we should encourage to stay in Cambridge. I realize that has little bearing on the details of the Variance application. Regardless it's worth noting that Cambridge clearing has a problem retaining young families, one on the one hand can't afford to trade up to a larger home in a nice neighborhood, but have also have clearly outgrown the confines of luxury studio and one-bedroom microunits that are currently being constructed. Even if the Woods wanted to

move, which they don't, there are simply no appropriate homes available to buy. At last check there were 10 single-family homes available for sale in Cambridge with three or more bedrooms, those have an average list price of \$2.48 million and an average size much 3400 square feet, twice the size of Woods' proposal.

Only three homes in the city are listed as less than 2,000 feet. One is a 500-foot home, one is a condo, and one is in East Cambridge, well away from their current home.

Secondly, I'm also here as a former owner of this house as well as the person who restored it after 40 years of neglect by the prior owners. As such, I believe I can speak to the issue what is and isn't appropriate for it as well as provide a

better understanding of what it's like to actually live in a house this small.

Regarding the proposed design, I find it well in keeping with the home's historic nature. It's the smallest house on the street, and afterwards it will still remain the smallest house on the street.

But having lived in the house for seven years and painstakingly restored each and every feature of the home, from its stained glass windows, to the dry walled over and to its mahogany roof, from its pine floors located under carpet and asbestos tile and mantle piece buried in the backyard, even after all that work, I harbor no illusions about just how difficult it is to live in such a small home. A house that has never been expanded in 120 years. The history that

predates modern heating and even modern plumbing. As you know, the Woods have previously cited some of the liveability issues. No interior access to the basement, for example. With the laundry located in the basement and two young children to keep clothed, there's no question that it represents a hardship to go outside to open a hatch and go in the basement. As an aside, people ask can why no interior access? Simple, because I had to choose between a heating system and a set of stairs. There wasn't enough room in the building to do both. It's that small.

Getting back, this house is so small it doesn't even have a full size refrigerator. It has a half bath on the first floor that measures 12 square feet.

And it has a master bedroom smaller than most master walk-in closets. To solve some of these problems and still remain in keeping with the home's historic nature, the proposed addition is extremely modest. For perspective, the current LEED standards award bonus points for three-bedroom houses measuring less than 1950 square feet, significantly more than this design. The FHA HUD standard doesn't even include basement space in measurements even though the City of Cambridge does. In the latest design a significant portion of the planned space is located in the basement. When basement space is excluded, the final proposal is only 1458 square feet, and 90 square feet is an unheated porch that has no foundation. In fact, if you're ruling on

this application two weeks from now, it's unlikely we would even be discussing basement space, because the City Council is currently considering a zoning update that will exclude finished basements from FAR calculations. This is good public policy as many other homes in the neighborhood already make use of the basement spaces whether legally or illegally.

CONSTANTINE ALEXANDER: I would just point out that the FAR is not an issue in this case.

DOUG BROWN: Agreed.

CONSTANTINE ALEXANDER: So it doesn't make any difference whether the City Council passes it or not. It will impact a lot of other cases and structures but not this one.

DOUG BROWN: Another thing I'd like to point out is that when I purchased the house, it had two existing additions attached to the rear totalling 50 square feet. One was a covered back stair that didn't meet egress requirements, and the other was an unheated pantry. The measurements for the house found in the assessment database, actually still show those two rear additions. Nevertheless I removed those additions due to their extremely deteriorated condition and because of the time, I did not have enough money to restore them, but it was always assumed these would eventually be replaced. Indeed in 2009 when the Jackmans were seeking to take a neighborhood piece of land by adverse possession, they orally agreed to allow me

access across their property in case of just such an eventuality. It seems convenient having secured that agreement that they might object to this addition now.

By approving the Woods' request you would simply be restoring those rear additions though admittedly with a slightly larger footprint in keeping with modern standards.

Next I'm here as a citizen, which is concerned about the way this process has gone. In truth I find it somewhat incomprehensible why a homeowner must endure such an ordeal. The Woods are not seeking a Variance for FAR, they have plenty available. They're not seeking a Variance for height, their design is well under the limit. I'm sure that they're

saddled with two problems which represent a hardship neither of which is their own doing.

First their lot is 28 feet wide, well below the 50-foot minimum.

The result is that they have been forced to fit their available FAR, which is significant, into an incredibly narrow buildable area. With modern two-by-six construction, at some point there are only so many feet and so many inches that can be extracted out of a house before its design becomes awkward and bizarre.

Second, because the original builder of the home built a modest house and subsequent owners never enlarged it, the Woods are forced to limited their plans to 25 percent of the home's original size or else seek a Variance to utilize their

permitted FAR. Conversely, the much larger homes abutting the Woods' all have much higher FAR numbers, are allowed to add more space without triggering this requirement. In effect the 25 percent rule is a penalty on small houses when we should instead be encouraging just this type of reasonable expansion.

In conclusion, I hope that you see fit to grant their application. I support their proposal both because they're friends, but more importantly because I believe it's the right thing to do.

Thank you for your time.

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

DOUG BROWN: You want that submitted in paper?

CONSTANTINE ALEXANDER: Not

necessarily. We have it by the transcript.

Anyone else besides the Jackmans, anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. The floor is yours.

PHILIP JACKMAN: We know Doug, he's been our neighbor for several years. He does excellent work and we've had a very good relationship with all of the neighbors on the street. We've been there for 68 years. After reviewing the reading that Rob and Ashley Wood's letter of rebuttal to the BRA Board dated December 4, 2015, in response to my letter addressed to the Chairman Alexander stating my concerns and clarifications

about this case dated October 24, 2015, one glaring point came to mind is -- into focus for me, based on the Massachusetts General Laws, the Zoning Section 10 and several Land Court results, for example, Sadona (phonetic) owe versus Winthrop Board of Appeals, April 17, 2012, the filings -- in their filings the Woods have not demonstrated a basis for a factual hardship. Key reasons that the Woods are claiming a substantial hardship is related to a change in their family, change in and expansion of their family. According to the Variance results, the granting of Variances must be based upon circumstances which directly affect the real estate not the circumstances of personal hardships. Criteria for hardship relates to the land not to the applicant. Many rationale's

stated in the Woods's application for Variances could have been achieved without a Variance.

For example, Doug had mentioned, you know, there were choices whether or not to have the stairs inside or outside. There were choices in terms of putting a bathroom into the -- all of these were choices. The fact that they need another bedroom is also precipitated by a change in their personal circumstances, and the increase in size of the family is not a factual hardship. The mere fact that they cannot purchase a larger house is not a severe hardship. It relates to the land, but is a statement of personal circumstances. I believe that there are several statements of sympathetic hardship and I can understand that, and I can

appreciate that, but personal circumstances is not a justification of a factual hardship. You're asking us to make a decision on plans which still have negative impacts on our property, but our opinion is not justified by a factual hardship. Based on the supporting statements for a Variance submitted by the Woods on May 21st, it would be helpful to us if we could hear, articulated from the Board, factual justifications of the hardship. That would be helpful.

CONSTANTINE ALEXANDER: I plan to do that, sir, once you finish your remarks.

PHILIP JACKMAN: Would you like to do that now?

CONSTANTINE ALEXANDER: Whatever your pleasure is. I would be happy to do

it now.

You raised the question as to what is a definition, a legal definition of substantial hardship in your correspondence. And I'll try my best to get there.

The requirement that a substantial hardship be demonstrated is a requirement of state law, as you know, Chapter 40-A, Section 10 I guess it is. It's not -- so that if you were, if this case were arising in Somerville or Weston or -- we'd have the same issues, same standard to be met, substantial hardship. So and hardship is not measured by simply mechanical standards. It's basically contextual in nature and relates to the property at hand. Every -- what constitutes a substantial hardship or not

is on a case-by-case basis. Looking at the property and the issues involved. The issue here, seems to me, is not and you're absolutely also right, if the person -- the people who currently occupy the property can't afford to buy another house or want another living, more living space, that's not enough to demonstrate a substantial hardship. The courts have been very clear on that.

On the other hand, what I'm hearing tonight and -- tonight and the nights before, is a claim of hardship that would run to whoever owns this property, be it these folks here or their successors. And that is the fact that we have a structure that's over 100-years-old, that it is sited on the lot long before zoning, and it is a result of -- it is now

non-conforming to our zoning in terms of the setback, which is the issue before you. That the house itself is very small relative to typical one-family homes. So it makes, it makes it very hard for people to -- families or even individuals to occupy the structure particularly in this day and age when people are moving toward larger, these larger homes. So this -- the claim of hardship, it seems to me, is not just we need more space, whoever owns this property will need more space. And if you don't allow more space to be created, this property's going to deteriorate and that's not in the best interest of the City of Cambridge. So I think that's the basis for this hardship. Now, whether we find that they've met that, is another question. We haven't

decided that yet. But that's the hardship. That's how the hardship works under our Zoning Ordinance, be it for this case or any other case that we hear.

PHILIP JACKMAN: Thank you very much. That's helpful for us understanding. Like I said, it's been -- I'm trying to comprehend that over this entire case based on what law --

CONSTANTINE ALEXANDER: As I said, we tend to, and this Board is guilty as anyone, to focus on the specifics -- when speaking a Variance on the specific needs of the people in the property right then and there. And we have to take, and I think we mostly take the longer look at this thing and look at it better -- whoever owns the house do they need some modification, some zoning relief

to permit continued occupation of the house and not to let it deteriorate.

PHILIP JACKMAN: Okay. We did meet with Sean.

CONSTANTINE ALEXANDER: This Sean not this Sean.

PHILIP JACKMAN: Attorney Hope. We had a cordial meeting. We talked about several issues. We did get a chance to see the actual dimensional heights which was obviously also our main concern.

CONSTANTINE ALEXANDER: Right.

PHILIP JACKMAN: And in general we like the design. It's, it does go towards mitigating some of the issues that we have, not all. The length of the addition has expanded by four feet. The height of the addition is approximately one-and-a-half stories versus my request

of a single story. We would have liked -- seen the roof line be a little bit lower than it is, perhaps matching roof line of the breezeway that they have already incorporated into the addition. And in meeting that would be very favorable for us to give an acceptance for this.

CONSTANTINE ALEXANDER: So I'm sorry --

PHILIP JACKMAN: It would be favorable for us to accept.

CONSTANTINE ALEXANDER: You accept it?

PHILIP JACKMAN: Accept it if some of these -- if the Woods would consider having a roof line, a lower profile roof line.

CONSTANTINE ALEXANDER: Got it.

PHILIP JACKMAN: And that's based on their drawings and it's based upon how it still impacts our house.

CONSTANTINE ALEXANDER: Do you think, just my question, dumb question as usual, a lower -- changing the pitch of the roof or lowering the roof level will make a significant impact on your property?

PHILIP JACKMAN: It's that -- it's just -- not only just the line, it's the visual. Right now, I can give you -- show you exactly what I'm talking about. The new addition, and this is a picture of the Woods' house. The roof line right now hits just below these windows which is much higher than the first floor.

CONSTANTINE ALEXANDER: Right.

PHILIP JACKMAN: And this would

also impact our house by -- this would be the sight line, all of the first floor is still going to be blocked and up to the big point of the big windows on the second floor are still going to be blocked that does not currently exist and that is a concern of ours. If something could be done to slightly improve on that that would be greatly appreciated.

JANIS JACKMAN: And I want to make clear you're saying that part of the hardship is because of the age of the house and the size of the house and so if the Woods didn't get this Variance, then somebody else in the future, is that what's being based on?

CONSTANTINE ALEXANDER: Well, the problems that they're having with the house would be problems with whoever owns

the house. And the question is whether we should perpetuate these problems by not granting relief or whether we should allow some modifications of the structure to get it going forward.

PHILIP JACKMAN: But do we have to deal with them now for future?

CONSTANTINE ALEXANDER: Well, I mean obviously the impact, should we grant relief based on these plans, the impact to you is immediate.

PHILIP JACKMAN: Right.

CONSTANTINE ALEXANDER: But we have to take a little bit of a longer view and we certainly, you know, from the earlier case on Union Street, we take neighbors' objections and concerns very seriously. But at the end of the day it's not a matter of a vote by the neighborhood

as to whether we will allow it or not. We have to determine that the legal standard has been met. And that's what we try to do. We don't always succeed but we try to do.

JANISE JACKMAN: And my concern I believe when I was reading your notes, you had a similar situation? Is that okay to ask him?

CONSTANTINE ALEXANDER: If he wants to answer. Mr. Sullivan you're talking to?

JANISE JACKMAN: Yes.

You said you had a similar situation that you regret signing off on?

BRENDAN SULLIVAN: It was a two-story addition and I regret the second story.

CONSTANTINE ALEXANDER: And that

was not done in the context of zoning relief, too, right, it was just a matter of --

BRENDAN SULLIVAN: It did not require zoning relief actually.

CONSTANTINE ALEXANDER: It's a little bit different than this situation here.

BRENDAN SULLIVAN: We don't think, anyhow. Didn't get -- didn't dig too deeply into it is really what I agreed not to -- so anyhow, but that was a two-story addition.

CONSTANTINE ALEXANDER: I think the ball's been tossed back into your lap. You heard what they have requested.

ATTORNEY SEAN HOPE: So, a couple of factors, so -- and as the Board knows, hardship is a three-part test. I -- we

focussed on the fact that there's a substantial hardship to the petitioner --

CONSTANTINE ALEXANDER: You mean the Variance is a three-part test.

ATTORNEY SEAN HOPE: Yeah, yeah, the Variance is a three-part test.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SEAN HOPE: We've expressed in writing and to the Board the Woods' specific personal hardship, that's substantial, and I think that is part of the requirement and that is that they're a growing family in a house that's extremely non-conforming, and that without relief they would not be able to -- that's just one part. That's not the whole part.

CONSTANTINE ALEXANDER: I would be careful where you're going with this.

ATTORNEY SEAN HOPE: No, I'm just

clarifying because I do think the idea is that it's not solely just their unique hardship, it's also the fact that this is an extremely non-conforming lot. It's non-conforming on three sides. There is the availability for the square footage to build, but for the fact that it's non-conforming on all three sides the only place you can build -- the only place with severe -- a major Variance is to the rear yard. So I think we pointed out that it is the size and the shape of the lot and it's the fact that there was a pre-existing non-conforming structure thereon is the basis for one, the location of where we're posing --

CONSTANTINE ALEXANDER: That's the second condition. That's right you'll meet that condition I think pretty

clearly.

ATTORNEY SEAN HOPE: Right. I felt like it was characterized that our hardship is solely because of their personal circumstances and not also to do with the actual size and shape of the lot which is part of the statute.

CONSTANTINE ALEXANDER: I am -- I don't mean to debate with you, but the hardship's got to stand on its own. And the hardship's got to run to the property. It's got to be a hardship not only to you folks or whoever owns the property now, but for whoever owns the property.

ATTORNEY SEAN HOPE: Right.

CONSTANTINE ALEXANDER: And it's a separate distinction, separate -- once you get by that, if you get by that, then you go to the second condition which is the

hardship results from the location of the lot.

ATTORNEY SEAN HOPE: I 100 percent agree with you. All I'm saying if they didn't have a substantial hardship to the petitioner itself, then we wouldn't get to the second part.

CONSTANTINE ALEXANDER: That's right.

ATTORNEY SEAN HOPE: We've brought that out, but that's not what we're standing on. It is also the size and the shape of the lot. I think you've heard several times we have extremely narrow width which is distinct from that from other single-family lots. I just didn't want it to be characterized that our sole basis for the hardship was their personal circumstances.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: The lot and the structure do meet with what we believe to satisfy the hardship.

And the third element is also a detriment to the public good. I think we've been focusing on the one vocal abutter who is opposing, but we actually have overwhelming neighborhood support who've supported this addition, and they've also said, too, some of the other options that they wouldn't support. So I think we meet all of the three-part test. I think the comments seem to focus on just the Woods' situation, and I think it's more than just that, it's that plus the other two that we've satisfied.

CONSTANTINE ALEXANDER: You haven't answered my question.

ATTORNEY SEAN HOPE: Sure.

CONSTANTINE ALEXANDER: What's your response to -- Ms. Booz or you --

ATTORNEY SEAN HOPE: I like to take the second piece. So one, when we met with them there was an opportunity between now and even on Monday --

CONSTANTINE ALEXANDER: I'm sorry, I don't mean to --

TIMOTHY HUGHES: Just cut to the chase.

CONSTANTINE ALEXANDER: Exactly.

TIMOTHY HUGHES: Can you lower the piece that, you know, request so it's midway out the second floor windows or not?

CONSTANTINE ALEXANDER: Exactly what I was going to say.

ATTORNEY SEAN HOPE: I don't think

so. I don't think it would make an appreciable difference. Part of the reason why we can lower the roof height, there's a series of windows, existing windows there. In this little breezeway we were able to lower this height because it's not functional living area. It could be lower than the part that is the main bedroom area. We also dropped it six inches lower and recessed it so that we could have a functional living space.

The --

CONSTANTINE ALEXANDER: The answer is no?

ATTORNEY SEAN HOPE: The answer is no. I'm not saying -- and I'm not saying that it's impossible. I don't think that it's an appreciable difference. I don't, to me they haven't said what would the

difference between the lowest roof height and the addition. I also want to say, too, we've shown several pictures where Mr. Jackman has shown a photo and said this is where it's gonna show. We, there is no way to validate whether or not -- where the addition -- where this addition now that's been reduced to low profile, what's it's going to impact, how much light and air. I feel it's very hard to contest when someone shows a photo without having any of our building super imposed and making representations to the Board that we actually can't argue with. So the idea that we would lower the addition any lower that would make an appreciable difference, I can't see that and I don't believe it. And we didn't look at that and I think Ms. Booz -- we

actually lowered that piece in between because that's where we could.

CONSTANTINE ALEXANDER: All right. Any questions from members of the Board at this point?

Anybody else wants to speak before I close public testimony?

(No Response.)

CONSTANTINE ALEXANDER: I think we're ready to close public testimony. Okay.

Now the fun part comes. Discussion or I can make a motion. We always make our motions to grant the relief and therefore it's up or down. If people want to express any views or you want to make a motion.

TIMOTHY HUGHES: I think that, I could vote in favor of this project. I

think efforts have been made to, you know, accommodate some of the objections of the neighbors and they've had to sacrifice, you know, some parts of what they wanted to accomplish in their renovation. So I think it's a good compromise.

JAMES MONTEVERDE: I would agree.

CONSTANTINE ALEXANDER: Hearing nothing else, I'm going to make a motion. Is that okay? I don't want to cut anybody off if they wish to go on the record.

JAMES MONTEVERDE: It's good.

CONSTANTINE ALEXANDER: Okay. The Chair moves that this Board make the --

GEORGE BEST: Yes, I do. I just, I'm concerned. And this is not a technical concern, it's a neighborly concern. Prior to all of this, you guys were friendly and so on and it's

stressful. I know having everything go back and forth. Is three feet really worth ruining a friendship? Or a neighborly friendship? And on the other hand, I'm curious as to what it would look like for you inside after you lower that roof.

CONSTANTINE ALEXANDER: You want to address?

MAGGIE BOOZ: What's the three feet you're talking about?

CONSTANTINE ALEXANDER: That's the length.

GEORGE BEST: No, I'm actually looking from the window, top of the second floor window down, how much ceiling height would you have if you lowered the roof line?

MAGGIE BOOZ: It's about a foot.

GEORGE BEST: It's a foot? Is it really?

MAGGIE BOOZ: Yeah.

GEORGE BEST: Okay.

MAGGIE BOOZ: So we didn't design an addition with a matching roof pitch which from the architectural point of view would be both aesthetically desirable and practical. So we designed something with a lower, quite a lot lower half the roof pitch. You know, 6 and 12 instead of a 12 and 12 roof pitch. And in my opinion that is what -- about the limit of what you can do to really effectively drain and let snow fall off of a roof. I mean every, every half inch of pitch helps, helps to do that. So we brought it down substantially from what one might normally do, especially on the -- this sort of

context of an old building. And we feel that we've come to a compromise that's, that is a compromise both practically and aesthetically. And that's where we landed.

GEORGE BEST: Okay, so this is all over 12 inches?

MAGGIE BOOZ: Yeah, that's right.

CONSTANTINE ALEXANDER: Okay. I am going to make the motion. Before I do, I want to make comments.

I really want to say this sincerely, I want to congratulate you folks and I want to congratulate you. You've made every effort to deal with your neighbor's objections, modified your plans several times. It's not what you wanted to do at the outset, and I think you've been reasonable and you've been trying your

best. By the same token, I applaud your courage. It's not easy to fight your neighbor on something like this particularly if we grant relief, you're going to have to live with it. And I think throughout your presentation was very cogent, it was very, I mean rational, it was not -- sometimes we get people come down here and I don't want this because I don't want this. And that's not what you've been doing. And I appreciate that as well. But, now the rubber hits the road at this point. We've got to make a vote because obviously you haven't got a solution that everybody can buy into. I'm going to make a motion, as I said, as we always do to grant a Variance and take a vote and see how it goes.

The Chair moves that with respect to

the Variances being sought we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise to the petitioner. Such hardship being that the structure involved in -- the structure in question is over 100-years-old, is non-conforming as to its location on the lot, is quite small by contemporary standards for single-family homes, and that for occupants of the structure, be that current petitioners or otherwise, a reconfiguration of the interior face permitting access to the basement without having to go outside and an additional ground floor bedroom is necessary and desirable and cannot be achieved if the provisions of the

ordinance are literally enforced.

Second finding is that the hardship is owing to the shape of the lot and the location of the structure on the lot.

That the hardship is hardship is owing to -- that this requirement is owing to the very narrow shape of the lot and the location of the structure on the lot which effectively prohibits any modification to the external dimensions of the structure without zoning relief.

And lastly that relief may be -- with regard to -- that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purposes of the Ordinance.

In this regard the Chair would note that the proposal -- the proposed relief

has overwhelming, though not unanimous, support of neighbors.

That the relief is modest in nature, involving setback relief on one side the structure only, but will not violate our Ordinance's FAR and density limits. And that it will satisfy the -- one of the purposes -- stated purposes of our Zoning Ordinance; namely, to encourage housing for persons of all income levels and to encourage the most rational use of land throughout the city.

So on the basis of these findings, the Chair moves that we grant the Variance being requested, there's a second relief being sought after this, on the condition that the work proceed in accordance with plans submitted by the petitioner prepared by Smart Architecture. There are 1, 2, 3,

4, 5, five pages in length, each page of which has been initialed by the Chair.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor? The Variance has been granted.

(Alexander, Hughes, Sullivan, Best, Monteverde.)

ROBERT WOOD: There's a Special Permit.

CONSTANTINE ALEXANDER: Give me a chance.

TIMOTHY HUGHES: There's a Special Permit, Gus.

CONSTANTINE ALEXANDER: Okay, with regard to the Special Permit that's being requested by the petitioner, such Special Permit relates to the installation of

windows in a setback that this Board make the following findings:

That relief cannot be granted -- that the location of the windows cannot be done without the Special Permit as required.

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

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by the nature of what is proposed.

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

the citizens of the city.

And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate the intent and purpose of the Ordinance.

In this regard -- so based on these findings, the Chair moves that we grant the Special Permit requested on the condition that the work proceed in accordance with the plans identified in connection with the Variance we have just granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Hughes, Sullivan, Best, Monteverde.)

CONSTANTINE ALEXANDER: Thank you.

* * * * *

(8:40 p.m.)

(Sitting Members Case BZA-008287-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008287, 269-2773 Putnam
Avenue.

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

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chair. For the record, my
name is James Rafferty. I'm here on
behalf of the applicant Louis Mastrangelo.

Mr. Mastrangelo's seated to my right. My co-counsel, attorney Odin Anderson is seated to Mr. Mastrangelo's right.

CONSTANTINE ALEXANDER:

Mr. Rafferty, before you start, I want to make some comments.

This case of course is a continued case. We've spent a lot of time on this case, on the merits of this case at the last hearing and then we closed public testimony, that's important I think, the reason I'll get to in a second, and we started to discuss the merits of the case. I indicated at the time that I was not in favor of granting relief, but my sense, may be right or wrong, the other members of the Board seem to be in favor of granting relief provided sufficient conditions were imposed. And we spent a

bit of time talking about those conditions. I will point out that in connection with the original hearing, Mr. Rafferty on behalf of his client, submitted a -- suggested four conditions. But he agreed to go back and revisit the conditions and in response to the comments that we had. And in fact he has done so. I don't know if members of the audience who were interested in this case have gone to the zoning office. But a new set of proposed conditions, nine in number, were proposed by Mr. Rafferty. Tonight we're going to talk about the conditions. I have not going to -- because we closed public testimony on the merits of case. We heard what we're going to hear on the merits. I'm going to restrict the commentary to the conditions. I have some

comments on the proposed conditions. I suspect other members of the Board may as well. I'm going to go one by one, read the conditions as been suggested. Any comment Board members have, I'll take comments from the audience if people have things they want to say about the conditions. But, again, if it lapses over you can't do this because use variance is not appropriate, we've been there and done that, and we'll have a vote on it. But it's not -- I don't want to go start from scratch and go back to the beginning. So that's how I propose, subject to my Board members feeling otherwise, that's how I propose to proceed.

Mr. Rafferty, do you have any problem with that?

ATTORNEY JAMES RAFFERTY: No, none

at all, Mr. Chair.

CONSTANTINE ALEXANDER: Okay. Let me go through the conditions one by one. I'll give you my thoughts on some of them. And by the way, I'm going to suggest two additional conditions which you'll see before we finish.

The first condition is as follows: The use of the property as a restaurant with retail sales shall be limited to the ground floor of the accessory structure and the paved area surrounding it.

And I would add to that, as of the date of this decision. I'm going to tie it, we want to be specific. It's a paved area as of today effectively.

Anybody have any questions, problems with that? I guess starting with you, Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: No.

CONSTANTINE ALEXANDER: No one wishes to have any questions on that.

The second condition is: The rear yard of 269 Putnam Avenue shall not be used --

GEORGE BEST: There's someone.

CONSTANTINE ALEXANDER: Oh, I'm sorry. I missed you.

ATTORNEY NEIL HARTZELL: Are you inviting comments as you go through each condition?

CONSTANTINE ALEXANDER: Condition by condition.

ATTORNEY NEIL HARTZELL: Oh, I'm sorry, Neil Hartzell. I'm a lawyer in Boston on behalf of one of the abutters, Ms. Smith.

In connection with that first

condition that the restaurant area is to be limited to the paved area, there is a structure abutting the house next-door which they use for dining, and is that not part of the condition?

CONSTANTINE ALEXANDER: That would not be part of the condition. They cannot use it any longer for dining because -- they can't because it doesn't say it.

ATTORNEY NEIL HARTZELL: Okay.

CONSTANTINE ALEXANDER: That's how I read it.

ATTORNEY NEIL HARTZELL: I just wanted clarification on that.

CONSTANTINE ALEXANDER: Sorry?

ATTORNEY NEIL HARTZELL: I just wanted clarification on that and I thank you.

CONSTANTINE ALEXANDER: That's fine. That's fine.

Second condition, the rear yard of 269 Putnam Avenue shall not be used as part of the restaurant/retail use. Picnic tables will be removed and access will be restricted by a fence with a gate.

Seems fine to me. Anybody else have comments? Anyone in the audience have -- oh, Mr. Brandon.

MICHAEL BRANDON: I'm Michael Brandon, 27 Seven Pines Avenue. I wonder what the purpose of the gate is? If the intention of the fence is to keep the commercial activities and customers from --

CONSTANTINE ALEXANDER: You want to address that, Mr. Rafferty? I think I have an answer, but do you want to address

why having a gate?

ATTORNEY JAMES RAFFERTY: No. I mean if the Board wishes me to, I would be happy to. I mean, it's rather obvious. I mean it's a single property. For no other reason Mr. Mastrangelo lives in that house, it provides him access there. He parks there. I mean, it's an absurd comment, but --

CONSTANTINE ALEXANDER: No, strike that.

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: It's not absurd. All comments are well received some better than others, but that's --

ATTORNEY JAMES RAFFERTY: Oh, I didn't mean that as pejorative. I just meant that as an observation, but I understand. No, yeah, it has a gate and

that's --

CONSTANTINE ALEXANDER: It has a gate. Okay, let's move on.

Third condition: The business shall not be open to customers prior to eleven o'clock a.m. and shall close at six o'clock p.m. with the exception of Sunday when the business will close at four o'clock p.m.

I have no comments. Anybody have any comments on this?

(No Response.)

CONSTANTINE ALEXANDER: None.

Next condition, No. 4: Deliveries to the business will not occur before seven o'clock a.m.

Problems? Questions?

ATTORNEY NEIL HARTZELL: Is that restricted to certain days of the week?

That's my question.

CONSTANTINE ALEXANDER: No, I think every day of the week. It can't be before seven a.m.

ATTORNEY NEIL HARTZELL: Even on Sundays?

CONSTANTINE ALEXANDER: Even on Sundays deliveries cannot be made before seven a.m. There's no exception. The exception with the prior condition, a change of times for Sundays rather than others. Not being so on this one, I read it to be every day of the week no deliveries before seven a.m.

ATTORNEY NEIL HARTZELL: I mean, I just know it's a residential neighborhood and I don't know why they would need to have -- let's pick Sunday morning. I don't know why they would need to have

deliveries at seven a.m. on a Sunday morning.

CONSTANTINE ALEXANDER: Let me ask you a question: If we change it so there's no deliveries on Sundays?

LOUIS MASTRANGELO: I don't get them anyway.

CONSTANTINE ALEXANDER: Okay, then why don't we do it. Okay, so the condition will be modified, thank you, sir, to say that deliveries to the business will not occur before seven o'clock a.m. and will no event occur on Sundays.

Mr. Brandon.

MICHAEL BRANDON: Mr. Chairman, is that different from city regulations?

CONSTANTINE ALEXANDER: I have no idea, sir, and I'm not sure it's at all

relevant so I'm going to move on.

ATTORNEY JAMES RAFFERTY: Could I just say one thing about deliveries? So the business is open on Sundays and I just hesitate to say that if -- they have bread that they make their sandwiches with. If they run out of bread at noontime on a Sunday and someone delivers bread, I would say could we ask that the hours of -- the delivery hours on Sunday not occur before ten a.m. and then or even eleven a.m.? I just want to avoid a scenario where we're putting in a condition forever that's slightly impractical. He was very honest, he said he doesn't get deliveries so we're talking exceptions to the rule. So deliveries of this business do not occur on Sundays. There's no expectation they would, but whether we could just

acknowledge that, you know --

CONSTANTINE ALEXANDER: Let me try and again, please other members of the Board can chime in. That the business -- deliveries to the business will not occur before seven a.m. or on Sundays except for occasional deliveries to deal with emergencies.

BRENDAN SULLIVAN: Sunday prior to noon.

CONSTANTINE ALEXANDER: Sunday prior to noon?

ATTORNEY JAMES RAFFERTY: Okay, thank you.

TIMOTHY HUGHES: Sunday hours of operation.

ATTORNEY JAMES RAFFERTY: Yes, I was thinking one or the other.

LOUIS MASTRANGELO: I usually pick

up lobster from the boats sometimes on Sunday around eleven or twelve o'clock. I pick it up, not delivered to me.

TIMOTHY HUGHES: We're talking about a restaurant here that requires fresh product every day, so I mean there has to be some provision provided for delivery on a Sunday. Just a question of when.

CONSTANTINE ALEXANDER: He picks it up, it's not a delivery. It's -- I mean I think the idea is they don't want trucks --

TIMOTHY HUGHES: That's semantics, isn't it?

CONSTANTINE ALEXANDER: No, no really.

ATTORNEY JAMES RAFFERTY: Well, I mean if he goes to the fish pier with his

truck on a Sunday and gets lobsters and arrives at noontime --

CONSTANTINE ALEXANDER: To me delivery is a third party which increases the traffic to the property. That's to me.

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: I may be wrong. That's how I interpret the word delivery.

ATTORNEY JAMES RAFFERTY: You're not retiring any time soon, are you?

CONSTANTINE ALEXANDER: This poor person over here is going to have to enforce it if we get that far.

Okay, let's try again. Deliveries to the business will not occur before seven a.m. or I guess except that on Sundays it can occur before noon, is that

what you're suggesting?

BRENDAN SULLIVAN: What I'm saying is deliveries to the business will not occur before seven a.m. Monday through Saturday, no deliveries Sunday prior to twelve noon.

CONSTANTINE ALEXANDER: I think it's the same thing I said. But anyway, it's put the same way.

TIMOTHY HUGHES: Did you get it both ways, Cathy?

MICHAEL BRANDON: Mr. Chair, should we clarify that it means no deliveries after closing or will that be possible? In other words, don't you use it to define both ends of the window?

CONSTANTINE ALEXANDER: I don't think it's necessary. There comes a point where you've got to be, what's the word I

want to use? A little bit practical about this. We're not going to have people standing outside watching at seven a.m. if trucks are driving in in the evening time. As Tim has pointed out, it is a business, he sells live produce, fish for Pescatarians as Legal Seafood would say, and therefore the deliveries are not likely to happen at night. Fish is delivered in the morning and it includes lobsters, and you pick them up.

LOUIS MASTRANGELO: Sometimes I pick them up in the afternoon when the boat comes in.

CONSTANTINE ALEXANDER: You'll do it --

LOUIS MASTRANGELO: No.

CONSTANTINE ALEXANDER: You're not going to come in at ten o'clock at night.

LOUIS MASTRANGELO: No. They're out there early in the morning.

CONSTANTINE ALEXANDER: I'm sorry?

LOUIS MASTRANGELO: They're out there early in the morning.

CONSTANTINE ALEXANDER: I'm satisfied with this condition's okay. Other members of the Board?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Okay.

Next one is use of the loud speaker informing customers that their order is ready will cease. I would like to change that to say: Use of the loud speaker informing customers that their order is ready or for other retail or restaurant purposes, will cease. No loud speakers.

LOUIS MASTRANGELO: We don't use it anymore.

ATTORNEY JAMES RAFFERTY: After the last hearing he terminated the use of it based on the concern.

CONSTANTINE ALEXANDER: Okay. Any comments from that? Ready, moving on.

Mr. Brandon?

MICHAEL BRANDON: No, not on that.

CONSTANTINE ALEXANDER: Okay.

Next condition: The existing exhaust fan mounted on the side of the building facing the rear abutters will be removed and replaced with a new roof mounted exhaust fan. I would guild it by adding a second sentence: The operation of this new fan shall comply with the noise ordinances of the City of Cambridge as from time to time in effect.

Comments?

BRENDAN SULLIVAN: No. There is

some language in there suggesting you're hiring a particular company to do this and I think you sort of elucidated somewhat the type of fan or something like that. So that's somewhat in the public record now.

ATTORNEY JAMES RAFFERTY: Yes, we have and we provided the -- this was an issue we discussed with the Blackstone Street abutters and we provided -- and one of their representatives, owners is here. We provided them with the spec sheet on the fan itself.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: And I learned as a result of being on-site when the gentleman came, given the age of the fan, the way you quiet it is you slow it down and you make it bigger and higher and

all that. And he thinks it's a very strong candidate for mitigation based on the new fan itself. So we do have the specs on it. So I think that's fine.

BRENDAN SULLIVAN: That can be incorporated into item 6.

CONSTANTINE ALEXANDER: Well, we have to be clear how we incorporate it into item 6. How would you propose? I think you don't need to modify what I just read.

ATTORNEY JAMES RAFFERTY:
Compliant with the noise ordinance.

CONSTANTINE ALEXANDER: Yes, it's going to comply with the noise ordinance.

ATTORNEY JAMES RAFFERTY: I think the -- Sean might know, I think ISD -- I know on rooftop mechanicals they require some type of a certification from an

engineer. I don't know if restaurants if you have the same requirement, that the installer has to acknowledge that?

SEAN O'GRADY: I believe so, yes.

CONSTANTINE ALEXANDER: Okay.

Moving on.

MICHAEL BRANDON: Could you just read that one again, then? As is stands?

CONSTANTINE ALEXANDER: Sure. Do you have Mr. Rafferty's --

MICHAEL BRANDON: No. I know --

CONSTANTINE ALEXANDER: I'm trying to save sometime.

MICHAEL BRANDON: Sorry, and I understand some references --

CONSTANTINE ALEXANDER: Okay. The condition reads: The existing exhaust fan mounted on the side of the building facing the rear abutters will be removed and

replaced with a new roof mounted exhaust fan. The operation of this new fan shall comply with the noise ordinances of the City of Cambridge as from time to time in effect.

Okay, next moving on to No. 7.

MICHAEL BRANDON: Question about that. The roof mounted fan will that then spew out above all the adjacent -- I understand it will remove it from people who have specifically complained because it's going out on the ground floor as I understand it.

CONSTANTINE ALEXANDER: The fan will -- we're talking right now the noise that the fan generates. If it complies or doesn't comply with the noise ordinances of the city. If it complies, end of story. If it doesn't comply, then there's

a violation of -- not a zoning violation but a noise ordinance violation. We're going to get into the odor issue next.

MICHAEL BRANDON: Okay, thank you. That's where I was going.

CONSTANTINE ALEXANDER: If that's what you were going to. Okay?

Next condition, an odor control system will be installed as part of the exhaust system servicing the business. And I'm going to modify it to say -- I'm going to read it from the beginning.

An odor control system will be installed as part of the exhaust system servicing the business for the purpose of avoiding offensive odors detectible by the occupants of neighboring properties.

Questions? Problems? You have a problem?

ATTORNEY JAMES RAFFERTY: It feels slightly subjective.

CONSTANTINE ALEXANDER: A lot of these are subjective.

ATTORNEY JAMES RAFFERTY: Well, the standard detectable by a neighbor is -- I mean, the noise ordinance has specific ones.

CONSTANTINE ALEXANDER: This has got to be offensive. Got to be an offensive odor. We're going to have to deal with odors.

ATTORNEY JAMES RAFFERTY: I agree. But one could -- but I mean it's, I'm just saying it feels subjective. If one feels there's a complaint, they should be able to have an inspector come down and they should the arbiter in saying I mean --

CONSTANTINE ALEXANDER: They will.

The inspector will come down and say this odor is not detectable, it's not offensive or will say it is, and in which case you have a problem.

ATTORNEY JAMES RAFFERTY: Okay, fine. As long as it's someone a little more neutral.

CONSTANTINE ALEXANDER: At the end of the day this guy is the neutral person is going to have the lovely task -- he's giving me dirty looks.

SEAN O'GRADY: I mean, we can ensure that there's an odor controlled exhaust fan. But we're not going down to stand there and sniff odors.

CONSTANTINE ALEXANDER: No. Somebody's got to come down and demonstrate to you that -- come down to the property and you'll smell, you'll

smell this terrible odor that's coming out.

ATTORNEY JAMES RAFFERTY: Right, but I mean we would be happy to attach that. But we specifically selected a system, and there isn't one now in the, we could also live with limitation. The only cooking that goes on is boiling and steaming.

CONSTANTINE ALEXANDER: We're going to get to that in a second.

ATTORNEY JAMES RAFFERTY: There's no frying, there's no grills, there's no smoke.

CONSTANTINE ALEXANDER: I don't want to attach it because I have no idea what, you know, whether it's right or wrong, good or bad, or whatever. At least I don't. Maybe other members of the

Board.

Next one: The freestanding shed at the rear of the property will be removed.

Questions? Comments? Problems?

MICHAEL BRANDON: Mr. Chair?

CONSTANTINE ALEXANDER: Yes, sir.

MICHAEL BRANDON: My understanding is that it's not legal anyway. So I'm not sure imposing that as a condition is --

CONSTANTINE ALEXANDER: Since you're not sure, this will make it sure, right? It will be removed.

MICHAEL BRANDON: By when? Before the operation continues?

CONSTANTINE ALEXANDER: You want to give me a time frame?

ATTORNEY JAMES RAFFERTY: I've discussed with the rear abutters that the installation of the system and the shed

could all be done within 60 days of the issuance of the Special Permit. And also No. 9 -- the Variance rather.

CONSTANTINE ALEXANDER: Okay, on the condition that it will be removed within 90 days from the time of the special -- the granting of the -- the final decision if we grant the Variance.

Sir.

ATTORNEY NEIL HARTZELL: Just a follow-up comment on that. There are other Building Code violations at the property. There's the --

CONSTANTINE ALEXANDER: That's not before us tonight.

ATTORNEY NEIL HARTZELL: I understand that. But if this is one of them, and if one of the conditions being proposed is to remove that shed, terrific.

But I think all Building Code violations should be remedied.

CONSTANTINE ALEXANDER: That's for another day. Okay. I hear you. You can file a separate complaint on this and we can have a separate proceeding.

Mr. Brandon, we're trying to finish this tonight, okay?

MICHAEL BRANDON: I'm sorry. I was prepared -- I didn't know you were going to handle it this way, Mr. Chairman. And I apologize if you don't want public testimony, you know --

CONSTANTINE ALEXANDER: Give me your public testimony. What's your latest comment?

MICHAEL BRANDON: That's your prerogative.

CONSTANTINE ALEXANDER: What's

your latest comment?

MICHAEL BRANDON: Now I forgot what one are we on?

ATTORNEY NEIL HARTZELL: Odors.

MICHAEL BRANDON: Oh, the shed. Why 90 days? Why not before the Variance takes, can be acted on?

CONSTANTINE ALEXANDER: First of all, we can't -- this is a condition and it goes into effect the day the Variance is granted. So we can't require him to do something before.

MICHAEL BRANDON: Why not as a condition -- you don't have to grant the Variance until he comes into compliance --

CONSTANTINE ALEXANDER: 90 days -- I'm not going to argue with you. I recommended 90 days. Do other board members feel differently? Is that okay

with everybody?

BRENDAN SULLIVAN: Yes.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: I would note that the group that we negotiated this with, and the gentleman from that is here, was very comfortable with -- he proposed actually a longer time period. And I said no, I talked to Mr. Mastrangelo. We can do this within 60 days. So I mean, these didn't, these didn't create in the ether. This was a result of a good faith exchange between abutters --

CONSTANTINE ALEXANDER: And I've added 30 just, things happen.

ATTORNEY JAMES RAFFERTY: My point is --

CONSTANTINE ALEXANDER: Stuff happens.

ATTORNEY JAMES RAFFERTY: These are affected abutters that have an interest in this, and have worked with us. And they haven't chosen to editorialize on each condition, but perhaps I could encourage --

MICHAEL BRANDON: Mr. Chairman, the public has an interest in this, too, a big, you know --

CONSTANTINE ALEXANDER: Sir, I would hope that you would think that the five of us up here are looking after the public interest. I don't need to be lectured by you as to whether or not --

MICHAEL BRANDON: I'm not trying to lecture you --

CONSTANTINE ALEXANDER: Moving on.

MICHAEL BRANDON: I'm trying to make a point --

CONSTANTINE ALEXANDER: Moving on.

MICHAEL BRANDON: -- that I think you're overlooking.

CONSTANTINE ALEXANDER: Moving on.

No. 9: The petitioner -- I'm going to change applicant to petitioner. The petitioner will replace two sections of the existing six-foot fence along the rear of the property with a new six-foot fence containing an additional two feet of lattice. Such -- and I would add, such new fence to be maintained at all times.

Any comments from members of the Board on this?

BRENDAN SULLIVAN: That was per the request of the abutters?

ATTORNEY JAMES RAFFERTY: It was.

But we did acknowledge that given the ground conditions and the like, that this one in my letter to the abutters, we said we could have that done by May 1st because February -- maybe in February or March we couldn't. But we, we met on-site, we have identified the two sections, so we know where it is. If it could happen sooner, Mr. Mastrangelo said it could happen sooner.

CONSTANTINE ALEXANDER: Is there a sense we put a date on this within so many days of the Variance is granted? I would be happen to do that.

BRENDAN SULLIVAN: Yeah, that's fine.

ATTORNEY JAMES RAFFERTY: We suggested and agreed -- we've been asked for May 30th or 31st, and I said we would

live with May 1st.

CONSTANTINE ALEXANDER: And I'm going to add that to the condition, that the work be done by May 1st, a replacement of the section the fence with the new six-foot fence must be completed by May 1st.

And then two new conditions or other conditions I think we should consider, and I would propose. One is: No fried foods shall be prepared on the property for sale to the public. That has offensive odors as you know. And I think you said you don't fry foods, no fried clams or the like. Okay with you?

LOUIS MASTRANGELO: What if I want to cook one for myself in the frying pan?

CONSTANTINE ALEXANDER: For sale to the public.

LOUIS MASTRANGELO: For sale to the public?

CONSTANTINE ALEXANDER: For sale to the public.

LOUIS MASTRANGELO: We don't do that anyway.

CONSTANTINE ALEXANDER:
Mr. Brandon.

MICHAEL BRANDON: What about other noise from cooking methods such as barbecue? I don't know if you're aware of the problems that occurred over the years. The License Commission where -- which is where I believe this sort of condition should be occurring, has dealt with that in a lot of ways. But, you know, Fryolators are not the only problem, so are grills if it's blowing into your bedroom.

CONSTANTINE ALEXANDER: Well, that goes back to offensive odors restriction. Beyond that, if we grant relief tonight and let's face it, it's going to be a restaurant in this area, and that relief is upheld by the courts could be challenged.

MICHAEL BRANDON: You could limit the negative repercussions, also as I pointed out earlier, the Variance goes with the property, so Mr. Mastrangelo could retire.

CONSTANTINE ALEXANDER: He will retire at some point.

MICHAEL BRANDON: And a whole different kind of restaurant could come in with a whole different set of problems. That's why this is, this just doesn't work for me. Plus, Ranjit --

CONSTANTINE ALEXANDER: Wait, I said we're not going to get into the merits. We're going to get into the conditions.

MICHAEL BRANDON: You didn't announce that last time.

CONSTANTINE ALEXANDER: Your comment is we shouldn't grant the use variance. You made that point before. Others have made it. That's not tonight. We cut off public testimony on whether or not to grant the variance. The question tonight is if we are, what are the appropriate conditions that we should impose?

MICHAEL BRANDON: Okay. And I would argue that these are not adequate, and there are issues that not even have been considered or covered.

CONSTANTINE ALEXANDER: Your objection --

MICHAEL BRANDON: And as far as I know, they were negotiated with all the abutters. You know, there may have been with some of them, but not just the abutters who are affected. It's an entire city.

CONSTANTINE ALEXANDER: Your objection is noted.

Thank you.

MICHAEL BRANDON: Thank you.

CONSTANTINE ALEXANDER: And the last one is: There shall be no increase in exterior signage on the premises identifying or advertising a restaurant or retail business on the premises other than that as of the date of this decision.

As Mr. Rafferty well knows, signage

is a big issue at least for some people in the city, and particularly because it's residential I don't want neon signs going on.

LOUIS MASTRANGELO: I have one sign on the building, and that's it.

CONSTANTINE ALEXANDER: Whatever you got now.

LOUIS MASTRANGELO: And my truck, the truck's got signs on it.

CONSTANTINE ALEXANDER: Your truck is a wonderful -- I love the signage from your truck. Where you have it parked, I have to digress, is a very effective sign. You don't need a sign with that truck Alive and Licking sitting just where you have it sited on the lot. You could be congratulated I guess on that. But that's not before us tonight. That's not a sign.

BRENDAN SULLIVAN: What was 10 again? I'm sorry.

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY JAMES RAFFERTY: No fried foods for sale to the public.

CONSTANTINE ALEXANDER: Yes, no fried foods for sale to the public.

And eleven there should be no increase in exterior signage on the premises. Basically other than what's there now can't be new signs up, particularly additional signs.

ATTORNEY JAMES RAFFERTY: And I don't know if you want to note to say the current -- what do you have currently, a single sign on the building?

LOUIS MASTRANGELO: That's it. And a couple others.

CONSTANTINE ALEXANDER: Yeah,

there's one that's -- and it's pretty obscured because of the overhang of the deck above as I see it.

SEAN O'GRADY: Could I just look at your --

CONSTANTINE ALEXANDER: If you can read my handwriting, sure.

Those are the conditions that I think I would propose when I make the motion to grant the Variance. And we'll see whether the Variance is going to be granted. It's not a foregone conclusion, but we'll find out the answer. It's not a foregone conclusion we're going to grant the Variance. As I said before, I'll say one more time, we beat this to death the last time around as to whether or not to grant the use variance. And tonight is an attempt to, if we do grant it, to make

sure that the proper safeguards are in place as best we can do it.

ATTORNEY NEIL HARTZELL:

Mr. Chairman, just one overall comment.

CONSTANTINE ALEXANDER: Sure, go ahead.

ATTORNEY NEIL HARTZELL: We don't believe that a Variance should be granted when there's outstanding Building Code violations. I understand that's a step, I just want to note that for the record as well as the variance shouldn't be granted for the reasons previously articulated at the last hearing.

CONSTANTINE ALEXANDER: My response to that is, that's a fair point. I think Building Code violations are one thing. Licensing issues are another thing. Zoning is a third one. We're just

dealing with Zoning, and if we should grant the relief, we haven't done that yet. Then the Building Code violations will still stand and be dealt with however they'll be dealt with.

Mr. Brandon.

MICHAEL BRANDON: Are there limits on or is there a seating plan or are there limits on the number of people that can --

CONSTANTINE ALEXANDER: The answer is no.

MICHAEL BRANDON: -- do this?

CONSTANTINE ALEXANDER: The answer is no.

MICHAEL BRANDON: And --

CONSTANTINE ALEXANDER: We've restricted the area where there can be a restaurant, that was the first condition.

MICHAEL BRANDON: And you

mentioned zoning violates -- as I understand it, there are already lines at certain times and people converse --

CONSTANTINE ALEXANDER: That goes to the merits of whether we should grant relief. I mean, that's one of the reasons why if we decide not to grant relief, the residential area, they got lines of people out in the street coming to get their wonderful lobsters. And our Board is going to say either yes, it's okay, we're going to grant the use variance anyway or we're going to say no.

MICHAEL BRANDON: Right, except you're a trying to impose conditions that address potential problems.

CONSTANTINE ALEXANDER: We can't micromanage, Mr. Brandon. We can't have every condition -- we're doing the best I

can, and this Board is hopefully doing the best it can to strike a fair balance.

MICHAEL BRANDON: Right. And what Mr. Sullivan said last time is he wanted to try to have this be a comprehensive set so the petitioner can proceed and not have things coming up, and I'm telling you that this is not gonna resolve the situation if the Board decides to grant the Variance. You know? Obviously there are going to be appeals. There are other -- there's no victualer's license. I think you're just prolonging the agony of what's inevitably going to happen, and it's just unfortunate for us who pay taxes to have the Law Department, you know, going to court to defend a Variance that I believe is indefensible.

Thank you.

CONSTANTINE ALEXANDER: Thank you.
Sir, you wanted to speak?

RICHARD HARDING: Sure, I do.

CONSTANTINE ALEXANDER: Give your
name.

RICHARD HARDING: Richard Harding,
189 Winter Street. I just don't want the
Board to be skewed by one individual who
seems to at every point has decided that
he wants to sort of fight this. There are
many people in the community who are very
grateful that the Board, through its
wisdom, and Mr. Mastrangelo have come to
some compromise. I think the 11 points
have shown that he's compromising
essentially his family business that he's
run over a certain way over a certain set
of time. I don't want the Board to be
skewed over the constant abrupt notion

every single point around what may happen in the future in terms of people having preemptive strikes to variances or other things you may grant. The true truth is that Mr. Mastrangelo has run a business and this is heart aching to him that he even has to compromise --

CONSTANTINE ALEXANDER: Okay, but you're going into the merits, sir --

RICHARD HARDING: Well, listen, I'm going to as far as I'm going, but I mean the gentleman over here has gone as far as almost running the meeting. So I can simply say thank you for walking us through this and I think the Board has shown in its wisdom and moved expeditiously to a resolve this matter.

CONSTANTINE ALEXANDER: Thank you. All compliments are very welcome. Thank

you.

FROM THE AUDIENCE: I second that gentleman's opinion.

Thank you.

CONSTANTINE ALEXANDER: Ma'am, I'm sorry?

CAROLYN MEADE: I second that gentleman's opinion.

CONSTANTINE ALEXANDER: Your name, please.

CAROLYN MEADE: I know Mr. Mastrangelo for years.

CONSTANTINE ALEXANDER: Your name, please?

CAROLYN MEADE: Carolyn Meade. I used to live over the Pearl Supermarket in Central Square.

MICHAEL BRANDON: This is on the merits.

FROM THE AUDIENCE: Why is this being allowed?

CONSTANTINE ALEXANDER: You know, I've been trying to be lenient. Many people have been lapsing over into the merits. You know, I'm trying to strike a balance between not covering ground we covered at length the last time. You're right. The comment is right. We're not going to get into the merits.

ATTORNEY JAMES RAFFERTY: But, Mr. Chair, the prior speaker said he supported the conditions and this speaker says she supports his position. That's consistent with your restriction.

MICHAEL BRANDON: That's not what they said.

CONSTANTINE ALEXANDER: We got the message the first time. Okay? Let's move

on.

All right. Brendan.

BRENDAN SULLIVAN: Going back to 10. Going back to 10 and I understand it, no frying or grilling of foods for sale to the public. Is that what it is?

CONSTANTINE ALEXANDER: Right now, no, it's just the frying. You want to add grilling?

BRENDAN SULLIVAN: Does grilling also -- I mean....

CONSTANTINE ALEXANDER: I have no problem with that.

ATTORNEY JAMES RAFFERTY: Personal use. But you don't sell grilled?

LOUIS MASTRANGELO: My own personal use.

CONSTANTINE ALEXANDER: Nothing to sale for the public.

BRENDAN SULLIVAN: So no frying, grilling of foods for selling to the public.

CONSTANTINE ALEXANDER: You have all this?

BRENDAN SULLIVAN: You want to have a barbecue, I have a barbecue. We all have barbecues.

ATTORNEY JAMES RAFFERTY: Formaggios has a very public.

CONSTANTINE ALEXANDER: They don't have public situation.

ATTORNEY JAMES RAFFERTY: It's in a residential district. Drive by a house in that neighborhood.

CONSTANTINE ALEXANDER: Okay, I think we're ready for discussion on the conditions or on the -- no, actually the merits among the Board members, not among

the public.

I expressed my views the last time. I don't support the granting of a use variance. I do acknowledge that there are substantial equities in your favor, sir, given the length of time you've been running it.

Your claimed verbal approval at some point or at least assurance that there's no zoning issues.

And I do think that with these conditions, despite what Mr. Brandon thinks, I think we do -- should we grant the Variance, we do minimize to a great extent the adverse impact that could result from the continued operation of this restaurant. But as I said, I -- as I said the last time, from a legal matter, which is at the end of the day I've got to

apply, I don't think you meet the requirements of a Variance. That's one person's opinion.

Anybody else want to express an opinion or we can go to a vote?

BRENDAN SULLIVAN: Take it to a vote.

TIMOTHY HUGHES: I'm ready to vote.

THOMAS SCOTT: I'm ready to vote.

CONSTANTINE ALEXANDER: Okay.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. The hardship being that the petitioner in good faith has conducted a restaurant business in

this area for 20 years and would be forced to abruptly shut the business down.

That the hardship is owing to the -- basically the nature of the structure on the lot, the shape of such land on the lot that lends itself to a restaurant or some other retail use, not just simply residential use.

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

In this regard the Chair would note that this area, though zoned residential, is a practical matter of almost mixed use, there are a number of business uses in or near or near the property at hand.

That there is mostly -- well, there

is a substantial support for the relief being sought. Although there are objections. Relief I think, the yays far out number the nays.

And that what this will do is to allow the very iconic restaurant in the city to continue to operate which is to the benefit of the city as a whole.

So on the basis of these findings the Chair moves that we grant --

ATTORNEY JAMES RAFFERTY:

Mr. Chair, I apologize. May I offer a suggestion for consideration by the Board?

CONSTANTINE ALEXANDER: Go right ahead.

ATTORNEY JAMES RAFFERTY: For the record, you may recall the record would reflect here, that at the time the business began operating, it was not zoned

residential, it was zoned an office district. In fact, the record also reflects that this particular lot has a history of a commercial use. It was a commercial parking lot before it became the restaurant, and I think that has some relevance in terms of the issue about the structure being built at the time. I recognize the issue, but the record does show that Mr. Mastrangelo's understanding was that the change to residential grandfathered commercial uses. And his testimony has not been contradicted. And I just want the Board to recognize that at the time of the -- the history, that this is a somewhat recent residentially zoned district, and that for at least the first ten years of this operation it was occurring in an office district.

CONSTANTINE ALEXANDER: Okay. I don't think I need to modify the conditions or that I have for the Variance, but that certainly is noted to be part of the record in this case.

So on the basis of these findings the Chair moves that we grant the Variance requested on the condition, or subject to the conditions that we've spent sometime enumerating and delineating, I think there are ten in number -- eleven in number.

So on the basis of this, the Chair moves that we grant the Variance, as I said, subject to these conditions.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Scott, Best.)

CONSTANTINE ALEXANDER: I abstain for the reasons I've indicated before. I think there are substantial equities running in Mr. Mastrangelo's favor and with the conditions I think we've gone a long way toward minimizing any adverse impact and I'm not ready to vote for it.

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(9:20 p.m.)

(Sitting Members Case BZA-008696-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, George S.
Best.)

CONSTANTINE ALEXANDER: We're going to resume. A request from our stenographer, when people talk in the audience, that really distracts her ability to record. So I would ask if you want to have conversations, step outside. It would just make life for her ultimately much easier.

The Chair is next going to call case No. 008696, 205 Brattle Street.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently no one wishes to be heard. We have a letter in the file from the petitioner. (Reading) I would like to request a continuance for a hearing of BZA case No. 008696 due to the fact that the sign was not posted in accordance with regulations. We request to be heard at the next hearing date.

Sean, when's the next hearing date that they can be heard?

SEAN O'GRADY: 1/28.

CONSTANTINE ALEXANDER: January 28th?

SEAN O'GRADY: January 28th, yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard until seven p.m. on January 28th subject to the

following conditions:

That the petitioner sign a waiver of time for a decision, and the petitioner has done that.

That the sign, a new sign or a modified sign be posted on the property for the 14 days required by our Ordinance and located, which was a problem right now, located in accordance with our Ordinance. I would suggest to the petitioner that the sign be posted on the picket fence that sits on the property line on the street side. That would certainly satisfy our requirements of our Ordinance.

And lastly, to the extent that if the petitioner decides to modify the plans that already in our files, that these modified plans must be in our files no

later than five p.m. on the Monday before January 28th, and such modified plans, if they are filed, be accompanied by a new dimensional -- a table of dimensional requirements.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

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

* * * * *

(9:25 p.m.)

(Sitting Members Case BZA-008744-2015:

Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green, George S. Best.)

TIMOTHY HUGHES: The Acting Chair will call case No. 008744, 32 Mill Street.

ALEXANDRA OFFIONG: I brought copies of the plans. Would anybody like them?

TIMOTHY HUGHES: Whenever you're ready.

ALEXANDRA OFFIONG: Great. Good evening. My name is Alexandra Offiong. I'm here on behalf of Harvard University.

I'm joined by Aaron Lamport of Beyer, Blinder, Belle, our architect, and David Armitage also of Harvard University.

We're here to seek zoning relief to allow the renewal and expansion of Gore Hall which is an undergraduate dormitory located along Memorial Drive. It's in a historic district and it's deep within Harvard core campus, very far away from any non-Harvard abutter.

So Gore Hall is actually one building that is part of the larger Winthrop House which is one of 12 Harvard undergraduate houses. And our house system is one that was established in the 1930s and it allows us today to house nearly all of our undergraduate students. So unfortunately because many of these Harvard houses were built about 100 years

ago, they have never been substantially rehabilitated, so Harvard is in the process of undertaking a program of renewing these houses. So this project is actually a fourth project. A few years ago we came here with another one of these projects. So the goal of the project is to take Gore Hall, to bring it up to current code compliance, to make it work for 21st century undergraduate living, and to address a lot of deferred maintenance. This project, also, because it actually has, unlike many of the other houses, it actually has a site that was formerly a parking garage next-door, it provides us a rare opportunity to expand one of our dormitories. So that is part of our proposal, and that is the nature, that is what is driving us to seek zoning relief

on a few, in a few areas.

So the new east addition, just in a nutshell, and we're happy to walk through the design plans. It will allow us to add about 40 student beds. Those students are currently part of the Winthrop House but they live in overflow housing. So this will allow us to bring the students back to the house. And it will also allow us to provide common spaces that are equitable to the other houses and it also provides building infrastructure that is necessary.

The zoning relief is really necessary because we want to maintain two historic adjacent wood frame buildings that are part of the lot, and according to the Cambridge Historical Commission are the last vestiges of the 19th century

working waterfront, workers' housing. So we have our plan prioritizes preservation, and we are maintaining those, but it also impacts our ability to build at that site.

So the zoning relief is related to both maintaining the houses and building something that's appropriate within this historic context. As part of our process, we did host three community meetings, we worked with the Riverside Neighborhood Association to contact members of the neighborhood. We advertised in the Cambridge Chronicle. And I hope you've seen in the file that we do have two letters of support, one from the Planning Board and one from the Cambridge Historical Commission.

So we are happy to walk through the design proposal or we are happy to explain

the nature of zoning requests.

BRENDAN SULLIVAN: Alexandra, you mentioned about the two houses that are obviously preferably preserved and will be preserved. If you could take those down, would you still need zoning relief? Could you accomplish what you need to do and capture that space and not get any zoning relief from us at all or do those two houses you said encumbers your project?

ALEXANDRA OFFIONG: Well, the two houses definitely, they impact the ability to build out closer to the Memorial Drive part of the site.

BRENDAN SULLIVAN: Right.

ALEXANDRA OFFIONG: But the other piece that I didn't mention is that Gore Hall is a non-conforming building for setbacks, for the setbacks to Mill Street

which is actually a Harvard owned street that bisects this large lot.

BRENDAN SULLIVAN: And the distance between buildings is that already existing, distance between building?

ALEXANDRA OFFIONG: So the distance between the one, the small wood frame and the garage is non-conforming. It's -- the pre-existing garage, that was only about an eight-foot between building setback. That garage doesn't exist today. It was removed recently.

BRENDAN SULLIVAN: Yes.

ALEXANDRA OFFIONG: But we're improving upon that situation.

BRENDAN SULLIVAN: Right. Okay.

ALEXANDRA OFFIONG: But the -- so the point I was trying to make is that because it's a non-conforming building for

setbacks we would, any time you add to that, we need to take that long width of the building into the formula, so we would be pushed back into the site. We could probably develop a much larger building if we didn't have those two, though, it would not necessarily be historically appropriate massing and proportions. So there are -- it would certainly free up the site.

BRENDAN SULLIVAN: Take those two buildings away, there's really nothing you could have done as of right anyhow. You would have needed some relief from us.

DAVID ARMITAGE: Well, we would need relief no matter what just because it is a non-conforming building and we need the permission to --

BRENDAN SULLIVAN: So the very

nature of the building is encumbered by itself in a sense?

DAVID ARMITAGE: Right. But if we were to comply, for example, with the Mill Street setback, you can see from the diagrams, is so far deep it would push you 70 feet, it would probably be even further as we went down. There is a buildable building perhaps that one could reach all the way down at that end, but it would be of such a I guess different nature to the context of how buildings are built in this area. And I think as part of our fundamental concern about how the zoning's affecting the massing of the building because it requires such extreme setbacks in a neighborhood and district where the buildings have much more proximity to the street.

BRENDAN SULLIVAN: Yes, okay.

TIMOTHY HUGHES: Any other questions from Board members?

(No Response.)

TIMOTHY HUGHES: I'm going to open this up to public testimony.

Does anyone want to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: I see no one.

I do have a letter from the Planning Board that says: The Planning Board reviewed the proposal to construct a building addition and alterations for Gore Hall and Winthrop House. The Planning Board recommends the Board of Zoning Appeal grant the dimension variances that are required because the formula setback requirements apply to historical

non-conforming buildings. Harvard University is upgrading and renewing their student housing which is a positive institutional goal housing their students on campus.

And that is the sum total of my correspondence. Oh, I think -- wait a minute, there's a Historical Commission letter, too. Just says no local jurisdiction.

ALEXANDRA OFFIONG: Actually there was a letter sent from the Historical Commission. I have a copy of it.

TIMOTHY HUGHES: I have a form kind of thing sent from the Historical Commission and they checked off --

ALEXANDRA OFFIONG: This is a copy of it.

TIMOTHY HUGHES: (Reading) No

local jurisdiction, but the property is listed on the national register of historic places.

CHC staff has been consulted and supports the proposal.

And I imagine this says more of the same. So I don't -- I have that here already anyway. Do you want me to read this whole thing into the record?

ALEXANDRA OFFIONG: It's not....

BRENDAN SULLIVAN: I think it's duly noted.

TIMOTHY HUGHES: Okay.

JANET GREEN: Duly noted.

TIMOTHY HUGHES: All right, so that's the correspondence. I'm going to close public testimony.

Any comments?

BRENDAN SULLIVAN: I guess the

point I was trying to get, there isn't an as-of-right development that you could do which would accomplish your needs, however, very undesirable to do it --

ALEXANDRA OFFIONG: Yes.

BRENDAN SULLIVAN: It would totally denigrate from the historical aspects of the existing buildings and also I think the streetscape.

ALEXANDRA OFFIONG: Uh-huh.

BRENDAN SULLIVAN: Which would be my take on it.

ALEXANDRA OFFIONG: Yeah, on page 9 of the booklet we do demonstrate what an as-of-right development would look like and it would be --

JANET GREEN: Right.

ALEXANDRA OFFIONG: -- very much out of proportion and height from the

prevailing district.

TIMOTHY HUGHES: Any other comments from the Board or we ready for a motion?

JANET GREEN: Ready.

THOMAS SCOTT: There's one setback noted that you've exceeded. Can you just explain, where is it? It's page 27.

ALEXANDRA OFFIONG: Sure.

So that is actually -- it relates to multiple buildings on a lot. And so you can see that the Ordinance would require us to provide 15-foot, 7-inch setback between the existing 101 Plympton and the new wing of Gore Hall. We are proposing a ten-foot, three-inch setback. That does meet the Building Code ten-foot minimum and it does improve upon the pre-existing eight-foot, three setback that was to the

garage, but it does -- we're proposing it just to allow us to have a building, a buildable lot.

DAVID ARMITAGE: It's also associated with the Historic Commission's desire for these two buildings to stay in place in close proximity to their current location. One could move the building five feet and solve that, but there is a desire on their part to, you know, maintain the relationship of the buildings approximately where they are now.

AARON LAMPART: Okay. And the dimensions of the addition require that you exceed that setback in order to make the geometry of the building and interior spaces work properly.

DAVID ARMITAGE: To be able to -- because otherwise you would have to

go much higher. You wouldn't get enough beds down low and to make a much taller building which would be out of scale.

THOMAS SCOTT: Okay, thank you.

TIMOTHY HUGHES: Anyone else?

(No Response.)

TIMOTHY HUGHES: We ready for a motion?

The Chair would move that a Variance be granted for the setback necessities and the enlargement of the legally non-conforming Gore Hall by 28 percent.

A literal enforcement of the provisions of this Ordinance would involve a substantial hardship financial or otherwise to the petitioner.

A literal enforcement of the Ordinance would require a structure that would be highly incompatible to its

historical context in terms of proportions, height, and massing. Harvard has made historic preservation a priority in this project and has worked closely with the Cambridge Historical Commission to ensure a sensitive design. Gore Hall and two wood frame buildings are contributing buildings to the Harvard Houses National Registry District and, therefore, the Cambridge Historical Commission has emphasized the importance of preserving all of them in place.

The hardship's owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it was located for the following

reasons:

The existing structure was built in a Residence 2 District and predates the later adoption of the Residence C-3 Zoning District regulations in 1943 that call for front yard setbacks. The current front yard setback formula in the Residence C-3 District is a function of the sum of the height of the building plus its length. The proposed new building constitutes a significant structure on its own, however, it will be treated as an addition to the original building resulting in a combined building with a combined width of 329 feet. The addition's maximum height of 70 is well below the allowable maximum of 120. The substantial length of the building is a determining factor in the large setback requirement of 77 feet at

Mill Street. If the proposed addition were considered to be a building on its own, the required setback would only be 31 feet because of this it's a situation of the building on its lot.

Desirable relief may be granted without either substantial detriment to the public good for the following reasons:

The project directly responds to the Cambridge growth policy 52 which states that major educational institutions should be encouraged to provide housing for their students through effective use of existing land holdings in the core campus. Gore Hall is located in the heart of the Harvard Houses National Historical Registry and is surrounded by Harvard dormitories on three sides and the Charles River on the south.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of this Ordinance for the following reasons -- actually, I think prior reason actually fits this one, too.

Both the Massachusetts Zoning Act and the Cambridge Zoning Ordinance allow non-conforming buildings to remain in place and even be expanded as long as the change, extension, and alteration more not substantially more detrimental to the neighborhood. And I would suggest that's the case in this situation.

The Variance would be granted on the grounds that the work be done in conformance with the plans submitted. These aren't building documents. But this is it, right? This plan right here?

ALEXANDRA OFFIONG: Yes.

TIMOTHY HUGHES: The plans submitted identified as Gore Hall, Winthrop House, 32 Mill Street, by Beyer, Blinder, and Belle and initialled and dated by the Chair.

All those in favor of granting the Variance on those grounds?

(Show of hands.)

TIMOTHY HUGHES: That's five in favor.

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

* * * * *

(9:40 p.m.)

(Sitting Members Case BZA-008772-2015:
Timothy Hughes, Brendan Sullivan, Thomas
Scott, Janet Green, George S. Best.)

TIMOTHY HUGHES: The Chair will
call case No. 008772, 345 Vassar Street.

Please identify yourself for the
record.

KELLEY BROWN: Sure. My name is
Kelley Brown, K-e-l-l-e-y Brown,
B-r-o-w-n. I'm a senior campus planner
for the office of campus planning at MIT.
I'm joined by a number of colleagues
tonight: Thayer Donham, who is also a

senior campus planner, office campus planning; Sarah Gallop who is co-director of the office of Government, Community Relations; Jason Van Yparan, who is the architect from design lab. He is the designer of this proposed renovation; and Chris Twomey from McCarter and English that provides counsel to MIT on land use matters and so they'll be happy to help answer any questions the Board may have.

Just a little bit of background on the building. It was purchased in 1991 from Baxter Healthcare Corporation and it was leased to biotech firms for many years, Biogen first and then almost a decade with Hyperdon, and MIT decided that we wanted to convert this to an academic use, the one proposed tonight.

Just to orient everybody. We look

at -- take a look at the context map.
It's actually in your packet. But as you can see it here, this is 345 Vassar and it's down right near the end of Vassar Street right kind of at the jug 14 Memorial Drive. And this is Mass. Ave. You come down here and right next to us, our direct abutter is 325 Vassar, which is a biomed realty, biotech building with a couple of biotech tenants. The Hyatt Regency Hotel is here. It's really their garage that faces us on the back across the street. And MIT owns a small building directly adjacent to 345 that Airgas is a tenant in. And then if you keep going down, there's a commercial building owned by MIT that has biotech tenants in it, and an administrative building on the left, used to be the Modern Continental building

if you remember that. That one -- 600 Memorial, it's alumni relations office of resource development. And so to the rear we have the grand junction railroad of course. This is an industrial building owned by MIT, California Paint. Cambridge commons Condominium Association, some MIT land, and then another biotech building at Sanofi and some other biotech tenants are in.

Just to describe the program for a second, we want to convert 345 Vassar into a new home for the MIT program in theatre arts. They're currently operating in several different locations around the campus, and this will be an opportunity to really consolidate them in one place for theatre arts and actually give them some great new facilities. It also introduces

some artistic programming to our west campus, and we think will enliven the area. The renovation, we call it now as we do, we number these buildings, W-97. That will have rehearsal spaces, design, in fact studio, costume and studios, scene design shops, dressing rooms, offices, and a two-story performance space that can seat 150 to 180 people. That's actually the that reason we're here tonight, about the performance space.

It's in some pretty good proximity to student residences. There's graduate west gate, graduate housing, Simmons undergraduate housing, the Hyatt Regency Hotel as I mentioned, and then the neighboring community. We think that makes an ideal place for teaching and delivering performances for the wider

community. The facilities slated to achieve Gold Certification under LEED. It will be served by a nearby Hubway station. MIT shuttle stops right there. And then there's several MIT parking lots within about a five minute walk.

MIT actually paved that end of Vassar Street and did the street markings including a bicycle lane. Because there's no lot with this building, it's an industrial building built right to the lot line, we're going to be -- pending, you know, your approvals, talking to the city about possibly converting one of the parking spaces into some bicycle parking. You could get six racks, 12 spaces in a single parking space. So they're not heavily -- down that end they're not heavily used, the parking spaces.

So, the change in the Zoning as obviously very old building, but the change in the Zoning in 1991 that brought the special districts to Cambridgeport, specifically SC-11 where this 345 Vassar has changed the property to a legal non-conforming building. It has excessive FAR and it's built beyond the required setbacks. Just the very fact that there were some setbacks, whereas in the old zoning there had not been. The proposed addition which maybe -- yeah, that one. Which is this grey bit here, it -- what it does is it adds the necessary headroom for the black box theatre and the new entry. A portion of this construction is in the setback area, and obviously this -- the entry is in the setback area. And so we also have a screen back here that's, you

know, right on the edge of the building but it's, it's in the setback area as well. So all of these things require Variances to be constructed. There is in fact a small reduction in gross floor area. There's no floor, and it's really just a head height that we're talking about, about 2400 square feet, bringing FAR down a little bit.

There is a volume increase here, about 19 percent, and we do put some windows and move some windows on the west and you can see on the other, this is from the rear there that was a view from Vassar. And this is a view kind of from across the tracks.

The windows there require a Special Permit to change for the legal non-conforming building. So we're here

both for the Variances and the Special Permit granted by this Board.

So as a practical matter, we think the addition -- this one's fine I think. We think it fits well between the neighboring two-story structures. It's about a foot above the roof. This isn't the full -- this is 325 which extends on. It's just cut off in this diagram, but it's about a foot above that roof and about three feet above this adjacent two-story structure which is part of 345.

The renovations can provide a great opportunity to clear off, although we don't show it in the diagram, a bunch of steel dunnage, some very large rooftop HVAC units that are up there now. We'll be able to put everything back behind this roof to the rear and behind the acoustical

and visual screen.

We have done an analysis with an acoustical engineering firm to confirm that with the equipment that we have and this kind of screening that we'll meet the Cambridge -- City of Cambridge noise ordinance.

So, just to quickly try and step through the requirements why we think we meet the requirements for a Variance.

The literal enforcement is indeed a hardship for us because the academic uses is allowed, but without this expansion of the one-story portion of the building, we can't accommodate the black box theatre, it just won't work otherwise, and it can't be built without encroaching in these setback areas. And disallowing the teaching theatre would hinder the

educational purpose of the university and cause a substantial hardship for MIT nullifying its educational use of the property.

And the hardship is owing really to the shape of the lot. The lot's only 91 feet deep and the setback sharply limit what can be built on a narrow lot like that. SD-11 allows a height of 85 feet, but the building's on this side of the street of Vassar Street are really only one and two stories. And even with our expansion here, we're only about 35 feet, 50 feet shy of the limit in the district. And really these, these setbacks appear to be more appropriate for the portion of SD-11 that's along Memorial Drive that has deeper lots, taller buildings, where it those kind of setbacks do make more sense.

We think there will be no detriment to the public good. The vertical expansion is set back from the street. As you can see, it's about 22 feet back, and that as we say, it's a similar height to the adjacent two-story structures and it won't really dominate or feel overly dense which would be really the purpose of the Ordinance.

We think the strict compliance with the Ordinance limiting the expansion of the lawfully non-conforming building would substantially diminish the usefulness of the building in preparing the mission of MIT without appreciably advancing the City's legitimate concerns.

This is what it really looks like, and you can see that it's -- even though it's a little higher than the roof of 325,

they have a very substantial mechanical systems on top that are screened but, you know, it's lower than that. And that the, you know, the expansion there is set back pretty well from the street.

So I'll go on and just finish up with the requirements of the Special Permit. We think that the essential requirements of the Ordinance are met. The windows on the rear and side will bring light into the building and conserve natural resources consistent with the purposes of the Ordinance.

That traffic should not be a hazard or a change to the neighborhood character. All the building users will be able to use the nearby MIT parking lots that I mentioned; west lot, west gate, W-98, or around each side. And as I mentioned,

there is the shuttle stop and the Hubway station. And, you know, pending our, you know, good work with the City, we'll end up with some bike racks in front as well. So we think that that will well accommodate any traffic in the area.

We think it is fine for adjacent uses. The windows on the west and rear facades really they align with the new program, and I don't -- they will not have any adverse effect, really no impact as far as we can tell for the nearby biotech parking, industrial, or residential uses which are 125 feet on the other side of the tracks.

We think there will be no nuisance to health and safety. This was a biotech research site as I said for many years. It's now going to be faculty offices,

studios, and the teaching space. I think all benign uses from the point of view of public health, safety, and welfare.

There should be no derogation of the intent or purpose of the district or the Ordinance as a whole. That diverse uses are already in place in the neighborhood, which is largely non-residential. We, as I noted, own substantial property adjacent to the subject property and it's separated from the Cambridgeport residential area by the rail line. The Zoning itself, SD-11 encourages a wide range of uses and we feel that this is going to be consistent with that diversity of uses that's part of the zoning. Just, we think that the theatre arts use will be great for this end of Vassar Street honestly, and it's going to bring students and faculty to an

area that frankly they don't typically don't get down here. You know, we just don't bring those folks down. And in the evening from time to time, and we honestly we can't, we don't know exactly how often, there will be performances and they will be open to the public, and that will also help to enliven the street. It will certainly be, you know, rehearsals and that kind of thing and have people on the street on a lot of evenings. So we think that will be a real kind of a boom to what's a little bit of a grim stretch of Vassar Street. We think it will be really great.

So, happy to answer any questions and all my colleagues here as well.

THOMAS SCOTT: Can you just point out the parking facilities that are

adjacent?

KELLEY BROWN: Sure. This west lot here. The west gate lot here and the W-98 lot right there and right here. It's about 500 spaces I'd said.

THOMAS SCOTT: Okay.

JANET GREEN: I was going to say those are MIT spaces, right?

KELLEY BROWN: Yes.

JANET GREEN: Is that for MIT permitted parking?

KELLEY BROWN: During the day, yes. But typically when we open things for the public, we allow parking in our lots. That's -- you know, when we -- when there's athletic events and there's a lot of visitors and so forth, people use this garage down here and we would make this available to people.

JANET GREEN: And if there were a public performance, how big is that? I mean, how many people is that?

KELLEY BROWN: Well, there's 150 to -- I hope I said this, 150 to 180 seats in the theatre, yeah.

TIMOTHY HUGHES: Other questions from the Board?

THOMAS SCOTT: Is there on street parking on Vassar?

KELLEY BROWN: There is.

THOMAS SCOTT: There is. Is it metered?

KELLEY BROWN: You know, they don't even bother to meter it because they can't be bothered to get down there. It's not that well used. It's two hour parking.

The -- yeah, it's not. As I say, we

feel that we're likely to be successful on this bicycle proposition.

BRENDAN SULLIVAN: It's like the DMZ down there in a couple of years.

KELLEY BROWN: A little bit, yeah.

TIMOTHY HUGHES: Any other questions?

THOMAS SCOTT: We need more of these uses down there.

KELLEY BROWN: Yeah, well we think so.

TIMOTHY HUGHES: I'm going to open this up to public testimony.

Is there anyone who wants to be heard on this?

(No Response.)

TIMOTHY HUGHES: I don't see anyone. There is a letter from the Planning Board. (Reading) The Planning

Board reviewed the proposed Special Permit and Variance request to expand the existing non-conforming building for theatre arts uses. The alterations are modest Variances and a reasonable reuse of an existing structure on the MIT campus. The building is on the lot line so the installation of windows requiring a Special Permit will have minimal impact as the facade is along the railroad right of way.

I guess that you would have to say that's a favorable review from the Planning Board.

KELLEY BROWN: We found it so, yeah.

TIMOTHY HUGHES: And the Historical Commission only weighed in on the demo permit and that's irrelevant.

So discussion? Any other questions?

BRENDAN SULLIVAN: No. Just you never associated MIT with theatre arts. And I think that anything we could do to foster that.

TIMOTHY HUGHES: I read an article recently that their liberal arts program was like top ten in the country.

KELLEY BROWN: Frankly it was top three, and it was globally issued by the Times Higher Education Rankings.

BRENDAN SULLIVAN: Instead of schlepping to ART now we'll just go down to Vassar Street.

JANET GREEN: I know it. The parking is there.

BRENDAN SULLIVAN: It will be a new experience. Right.

TIMOTHY HUGHES: Anyway. Any more

good time in here or can we make a motion?

BRENDAN SULLIVAN: That's it.

We're done.

TIMOTHY HUGHES: All right. The Chair would move that if -- I'm going to do this in two parts, the Variance first and then the Special Permit.

The Chair would move that a Variance be granted for the repurposing of a building at 345 Vassar Street into a theatre arts center.

The literal enforcement of the provisions -- you already said all of this stuff. I got to say it again which I think is kind of ridiculous, but I'm going to do it.

A literal enforcement of the provisions of this Ordinance would involve a substantial hardship financial or

otherwise to the petitioner.

The existing building at 345 Vassar Street has no front, side, or rear setbacks due to the rezoning of the property in 1992.

Compliance with the current setback requirements for the vertical expansion of the one-story portion of the building would create a substantial hardship and would significantly limit the reuse of the existing building as an academic theatre.

The hardship's owing to the following circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

The area -- this area of the SD-11 district is almost completely built out.

The special district was created in 1992 replacing the Industry B District on this end of Vassar Street. The prior zoning had no setback requirements and allowed for an FAR of 4.0.

This portion of the SD-11 abuts the grand junction railroad track, MIT academic buildings, MIT investment property, and is across the street from the Hyatt Hotel.

There are no residences nearby and the SD-11 zoning allows a height of 85 feet, but the buildings on this side of Vassar Street are currently one to two stories.

The proposed vertical expansion of the one-story portion of the building will

result height of 35, 6, well below the maximum height.

So I guess it would be the shape of the building and its position on the lot.

Desirable relief may be granted without either substantial detriment to the public good for the following reasons:

The vertical expansion of the one-story portion of the building does not change the street level condition on Vassar Street except where the entrance has been set back from the sidewalk to make it more welcoming, and to allow visibility into the interior teaching space.

Relief may be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance for the following reasons or

reason:

The required setback is in the setbacks in the SD-11 Zoning District are designed to allow spatial and visual relief from the impact of an 85-foot high building on a relatively small site. Since the existing site has already fully built out and a portion of the existing building is already two stories, a small addition at a similar height is well under the allowable building height will not dominate or feel overly dense.

The pedestrian experience will be enhanced as the vertical on the Vassar Street side will be set back from the lot line.

The Variance would be granted on the condition that the work proceed consistent with the plans submitted and identified as

BZA application plans 345 Vassar Street, Design Lab Architects, initialled by the Chair and dated today's date.

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

(Aye.)

TIMOTHY HUGHES: That's five.

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

TIMOTHY HUGHES: That's your Variance.

All right, Special Permit. Requirements for the Special Permit can and will be met for the following reasons:

The addition of windows on facades of the building not facing Vassar Street will bring light into the building consistent with the purposes of Zoning Ordinance with respect to providing

adequate light and conserving natural resources.

Traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in established neighborhood character for the following reasons:

345 Vassar Street will be used for institutional purposes and parking will be provided using MIT's institutional parking inventory. MIT manages all parking spaces as one inventory: Commuting, faculty, staff, students, or patrons would park in the west lot or west gate lot. In addition MIT has a shuttle stop across the street. There's a Hubway station at west gate. If any performances are open to the public, they are likely to be held on nights and weekends during which time

faculty and staff use of such parking lots is minimized and special events are held, the event parking would be at established campus parking facilities.

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

The existing windows do not align with the new uses within the -- do not allow the new uses within the building and the design team wishes to maximize daylighting by relocating the existing openings in the rear and west walls. Oh, okay.

The relocation of these openings requires a Special Permit. Yes.

The new window openings do not

affect the neighboring uses as they are similar in scale to the existing openings.

Nuisance or hazard would not be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city for the following reason:

The building was formerly used for commercial laboratory uses for a biotech company. MIT is proposing the use of the building to house faculty offices, studios, and a large teaching space for the theatre department.

The proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance for the following reason:

The district is a non-residential

area with a diverse set of uses including commercial, laboratory, industrial, institutional, and hotel uses. MIT owns the adjacent properties and the property across the street is used for MIT's resource development department and alumni association.

The district abuts the MIT campus and is separated from Cambridgeport by the grand junction rail corridor, and the zoning for SD-11 encourages a variety of uses including office, manufacturing, packaging, retail, consumer services, etcetera.

All those in favor of -- or once again the Special Permit would be granted on the condition that the work proceed consistent with the aforementioned plans for the Variance.

All those in favor of granting the
Special Permit.

(Show of hands.)

TIMOTHY HUGHES: That's five in
favor.

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

* * * * *

(10:05 p.m.)

(Sitting Members Case BZA-008734-2015:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008734, 281 Rindge
Avenue.

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

DAVID FREED: Hello.

CONSTANTINE ALEXANDER: Hello.
Identify yourself for the record.

DAVID FREED: My name is David
Freed. I'm an architect at Choo and
Company, and I'm here representing the
owner of the property John Pinto. We're
here seeking a Special Permit for a
conforming addition to a non-conforming
structure and then adding 25 percent of

gross area. 559 square feet total.

CONSTANTINE ALEXANDER: Why don't you talk a little bit about what you're going to do.

DAVID FREED: Yeah, this is an existing house that -- front of the existing house. And what we'd like to do is remove the porches on the front and the porches that are in the rear and renovate the interior and add an addition into the back of the property at seven-and-a-half feet from the side lot line, 28 feet from the rear lot line. We like to make a ceiling height in the dormer to the seven feet high that's presently six, eight and look to raise the dormer. And we like to unify the roof line of the house -- the addition allows us to have two, three-bedroom units.

CONSTANTINE ALEXANDER: It's a two-family house now?

DAVID FREED: It's a two-family house.

CONSTANTINE ALEXANDER: And it will continue to be a two-family house?

DAVID FREED: Yeah.

CONSTANTINE ALEXANDER: And it's going to be condominiumized or rental?

JOHN PINTO: My son is going to live there.

CONSTANTINE ALEXANDER: Okay.

JOHN PINTO: Because he works in the fire department and he lives close to New Hampshire and has four kids.

CONSTANTINE ALEXANDER: Okay. And you're going to live there, too?

JOHN PINTO: No, me probably my daughter.

CONSTANTINE ALEXANDER: Your family members are going do live there?

JOHN PINTO: Correct.

CONSTANTINE ALEXANDER: Okay.

DAVID FREED: And we're seeking to go rebuild the garage in the same place that it presently was.

So the existing garage is there. We're just replacing what's there on the existing pad.

THOMAS SCOTT: Are you tearing it down and rebuilding it?

DAVID FREED: It's gone. Just the pad's there.

THOMAS SCOTT: It's gone?

DAVID FREED: Yeah.

THOMAS SCOTT: Just the pad's there.

DAVID FREED: Yeah. This will be

the front elevation. That's the rear elevation. And then --

CONSTANTINE ALEXANDER: So are you just taking off the porch?

JANET GREEN: Taking off the porches?

DAVID FREED: Yeah, we're just doing a simple, just a simple open deck and stairs in the same location. And then --

CONSTANTINE ALEXANDER: The third floor, I guess, dormer is going to stay the way it is, or at least it is dimensionally.

DAVID FREED: It will be a shed dormer. We're just raising it four inches. But we're adding a gabled roof and to stay under that five foot height so we don't increase the area, it's a low

pitch. It's six and twelve.

CONSTANTINE ALEXANDER: And the point being that if you were building this thing from scratch, you would not be complying with the dormer guidelines. But what you're telling me, I think is that you're basically not replacing the dormer. You're making a slight change to it --

DAVID FREED: Correct.

CONSTANTINE ALEXANDER: -- but it's sort of like continuing a non-conforming dormer guideline structure.

DAVID FREED: Yes. Thank you.

BRENDAN SULLIVAN: Gus, could I see that drawing there for a minute?

CONSTANTINE ALEXANDER: Sure.

Have you spoken to neighbors? Have the neighbors expressed any views about this?

JOHN PINTO: No problem. Yeah.
Got a lot of space on the other side.

CONSTANTINE ALEXANDER: Do you
live there now?

JOHN PINTO: No, I don't live
there.

CONSTANTINE ALEXANDER: There are
no letters in the file from anyone.

THOMAS SCOTT: What is the garage
going to look like? And does that exceed
any of the setback?

DAVID FREED: No, it's conforming.

THOMAS SCOTT: It is?

DAVID FREED: Yeah.

CONSTANTINE ALEXANDER: It's a
rather large lot for that area.

JOHN PINTO: Almost 8,000 square
feet.

CONSTANTINE ALEXANDER: It's

amazing.

JANET GREEN: So you're sort of moving it off of ridge and more towards the back, the living part of it.

DAVID FREED: Yes, we want to keep as much open space as possible and the side.

CONSTANTINE ALEXANDER: Any other questions? Anything further you want to add to what you said?

DAVID FREED: We feel that the addition provides more adequate living space for --

CONSTANTINE ALEXANDER: And as you pointed out, it is a Special Permit which is a much lower standard to be satisfied, legal standard than a Variance.

DAVID FREED: Yes.

CONSTANTINE ALEXANDER: I'll open

the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one seems to be interested in speaking on this. We have no letters in the file one way or another. So, I'm going to -- any questions from members of the Board before I close public testimony?

JANET GREEN: No.

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

Do we want to discuss this or are we ready for a vote?

GEORGE BEST: Vote.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay, I think we're ready for a vote.

Okay, the Chair moves that we make the following finding with regard to the Special Permit being sought:

That you cannot do any -- the requirements of the Ordinance require that you have a Special Permit.

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

That the continued operation or development of adjacent uses will not be adversely affected by the nature of what you are proposing.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed structure or the citizens of

the city.

And that what is being proposed 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 what will be done will be a significant upgrade to the quality of the structure on that property. It fulfills housing needs for the City which are desirable.

So on the basis of all of these findings the Chair moves that we grant the Special Permit you're speaking on the condition that the work proceed in accordance with plans prepared by Choo Architects and Mr. Sullivan is looking at and initialed by the Chair.

By the way, these are the final

plans, because if you have to modify them as you go through it with your construction, you're going to have to come back before us. This is it as far as you're concerned?

DAVID FREED: Yes. Thank you.

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

(Aye.)

CONSTANTINE ALEXANDER: Special Permit granted. Good luck.

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

* * * * *

(10:15 p.m.)

(Sitting Members Case BZA-008643-2015:

Constantine Alexander, Brendan Sullivan,

Thomas Scott, Janet Green, George S.

Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 008643, 7 Suffolk
Street.

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

HANK REISEN: Hello.

CONSTANTINE ALEXANDER: Hello.

HANK REISEN: I'm Hank Reisen, 20 Farrar Street, Cambridge. I'm an architect with Reisen Design Associates. This is....

ANNE-FLO DUBOULOZ: A-n-n-e-F-l-o D-u-b-o-u-l-o-z.

HANK REISEN: And, Dan, please say your last name.

DAN BENJAKUL: I'm Dan Benjakul. Last name spelled B-e-n-j-a-k-u-l.

HANK REISEN: And the petitioner Stephan Dubouloz is out of town. His wife Anne-Flo is here instead. They own a small single-family house on Suffolk Street that is non-conforming in the rear

setback and they wish to build a very modest addition on the -- towards the side yard. This addition conforms to the side yard setback but because the existing rear yard setback is -- of the house is only 8.8 feet, the setback, the rear setback, a little corner of this addition is non-conforming to the rear setback.

CONSTANTINE ALEXANDER: And the house in the back, that's, is that nine and 9 1/2 Suffolk, 9.5 Suffolk?

FROM THE AUDIENCE: Yes, it is.

HANK REISEN: This is the site plan. This is No. 7. This must be 9 1/2. This is 11. And there's another house almost on property line on that side.

CONSTANTINE ALEXANDER: And the purpose of the addition you're wishing to build?

HANK REISEN: The existing footprint is so small each floor plate is about 524 square feet. Just in order to get a reasonable circulation and add a second means of egress, the current house has no second means of egress. So it's, it's a very small addition, three-and-a-half feet by 15-and-a-half feet. It's just enough to let us have the reasonable circulation in the house and get our second means of egress.

CONSTANTINE ALEXANDER: Right now, your dimensional form, the gross floor area of the house is -- in the single-family house is 1,112 feet?

HANK REISEN: That sounds about right.

CONSTANTINE ALEXANDER: Obviously quite a small structure and you want to

increase it by roughly 100 feet more, 1,228. 116 feet to be exact.

HANK REISEN: Yes, we did the calculations.

CONSTANTINE ALEXANDER: Okay. Because there's a letter of opposition in the file suggesting that you're going to add 1800 square feet and I don't know where that comes from.

HANK REISEN: I don't know where that comes from either.

CONSTANTINE ALEXANDER: Maybe we'll find out.

HANK REISEN: The petitioner has knocked on doors and spoke to a couple of neighbors who voiced support and then --

CONSTANTINE ALEXANDER: We have some letters of support as well as the one opposed.

HANK REISEN: So everybody they talked to, were able to talk to and explain what they were doing were supportive. I did hear today that there was a letter against.

CONSTANTINE ALEXANDER: Okay.

And the second -- help me, the architects on our Board, the lack of a second means of egress right now is that in violation of the Building Code?

HANK REISEN: That would be a violation.

CONSTANTINE ALEXANDER: So one of the purposes of the addition is to correct a Building Code violation and obviously increase the safety.

HANK REISEN: Correct. We needed just a little bit more square feet to make the circulation work, to make the living

spaces work. And because the owners are -- families are overseas, they also wanted a bedroom on the first floor for elderly visitors.

THOMAS SCOTT: Is that why the second egress door was added from that bedroom? What's the need for that door? That one --

HANK REISEN: There's no need for this door they just wanted it to have more direct access to the little bit of side yard they have. But this is the, this is the now, the official.

THOMAS SCOTT: Second means of egress.

HANK REISEN: Egress.

CONSTANTINE ALEXANDER: Anything else?

HANK REISEN: Well, if anybody has

questions.

CONSTANTINE ALEXANDER: Well, I'm going to ask the Board members if they have any questions you want to ask at this point?

THOMAS SCOTT: The addition on the side meets the side yard setback?

HANK REISEN: It meets the side yard.

THOMAS SCOTT: But encroaches on the rear setback?

HANK REISEN: The house is.

CONSTANTINE ALEXANDER: The FAR, they have sufficient FAR.

HANK REISEN: There's a red line I just sort of sketched on here. This much of the house is already encroaching.

THOMAS SCOTT: Is in the rear yard setback.

HANK REISEN: There's an square with about three-and-a-half feet by five feet that's in the rear yard setback.

CONSTANTINE ALEXANDER: Any further questions?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony. Does anyone here wishing to be heard?

BARRY GREEN: I do. Good evening, my name is Barry Green. And 9 1/2 Suffolk Street is owned by a limited liability company called 9 1/2 half Suffolk Street, LLC and I'm the manager of that company. The property is set -- my property is set back and any -- and it's cramped as is. When you look at the view is not terribly great from the property itself or even to the property, any kind of an addition that

would be added to the -- this building is going to obstruct our vision that much more.

CONSTANTINE ALEXANDER: Well, what vision is it going to obstruct? You're just looking towards the street, right?

BARRY GREEN: We're looking towards the street.

CONSTANTINE ALEXANDER: It wouldn't block light for you?

BARRY GREEN: I think it would block the light, too.

CONSTANTINE ALEXANDER: It's just a small addition 100 feet.

Now, we have a structure here that is woefully small, it's in poor condition, and it needs to be upgraded. And it might be said true of other buildings in close to theirs. And I'm troubled by why you

would want to -- particularly since the -- you're not residing in the property, you're just a property manager or your clients.

BARRY GREEN: I'm not residing in the property, no.

CONSTANTINE ALEXANDER: No, so your clients -- you're looking to basically, what you perceive to be the diminution of the value of your property, is that what --

BARRY GREEN: That's correct.

CONSTANTINE ALEXANDER: And we're going to have to balance that on the desire or the need for upgrading of the structure.

BARRY GREEN: The property is a small house.

CONSTANTINE ALEXANDER: That's

four sure.

BARRY GREEN: Yeah. But there are many small houses but they're not, you know, unusable. This is not an unusable house. And, you know, just to increase the size and to change the zoning or grant a Variance just to increase the size is per se not a reason to grant a Variance.

CONSTANTINE ALEXANDER: That's true. Okay.

You have a letter in the file.

BARRY GREEN: It's not 1800 feet. That was my mistake.

CONSTANTINE ALEXANDER: Okay. I just wanted to make sure we were all on the same page.

BARRY GREEN: Right.

CONSTANTINE ALEXANDER: Ma'am, did you say you wanted to speak?

HEIDI SOKOL: I'm Heidi Sokol, I live at 5 Suffolk Street. I'm really excited that there's a new family moving into the neighborhood and that the property will be improved and so I support their plans completely.

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

And the same for you, sir.
Appreciate you coming down. Thank you.

Ma'am?

REBECCA O'STRYKER: I'm Rebecca O'Stryker. We live at 11 Suffolk Street, my husband and I. And we've lived there since we bought the house in 1993. The house is -- was built in 1854, I believe the same date as your new house. And they are pretty much the same size and shape.

I think probably once upon the time they were the same internal configuration. So I can only imagine how much work you have to do because we've been doing it very gradually since we bought our house bit by bit by bit and it looks from what I can tell, I haven't had a chance to speak with any of you really at any length, as if it will probably be a beautiful renovation and probably an improvement, a great improvement for the street. The reason I'm here is maybe a selfish one, partly to support your ultimate results, but partly because we have questions a little bit about the timing and the scope of the addition. We have recently discovered that our own house has some weakness in the support of the first floor and we've got a structural engineer, like, looking

and telling us we need to reinforce the joists and stuff like that. There's a substantial amount of work to be done to support our foundation and our first floor, and so I don't know what kind of heavy equipment, what kind of digging, what the soil situation is like for the addition which I just learned is three-and-a-half by 15-and-a-half feet which I absolutely understand why you would want more space, believe me, we live in the same size house just the two of us. But because -- and I would imagine you have to dig a substantial foundation. I don't know how deep. It's coming in the direction of our house. Just so you understand, if you are Suffolk Street and this is 7 Suffolk Street and here is the walkway leading to this property, we are

right here on the other side of this narrow walkway parallel. It's three houses very, very close. And so it's, I don't know -- our lots are very close with just the walkway between, and so the addition will bring their home closer to ours. Howdy neighbors. But it's just, we're just because we're trying to do our own work as quickly as possible, we haven't filed yet for it. We're still working out the plans. I don't know, and I've asked our structural engineer whether digging a new foundation, shaking the ground will undermine our own support for our house and so I'm trying to find out a little bit more about the scope and the timing.

HANK REISEN: Well, part of the timing depends on the outcome tonight.

But in any case, the foundation does need work. It's an old brick foundation probably from the same year as yours, so we were in the space with the structural engineer and have a concept to repair sections, and most of that repair would be done from the interior with a pouring, a slurry of concrete to fill in the gaps. It's a rough stone foundation and then brick above grade.

REBECCA O'STRYKER: Same thing, yeah.

HANK REISEN: There will be sections that will have to be repaired.

CONSTANTINE ALEXANDER: I think her basic question, though, is will your repairs any way jeopardize her ability to do the repair work they want to do?

REBECCA O'STRYKER: It's not so

much about the repairs, it's about the addition.

JANET GREEN: And do you expend the foundation --

CONSTANTINE ALEXANDER: Speak one at a time, please.

JANET GREEN: I'm sorry.

CONSTANTINE ALEXANDER: One second. Let Janet talk.

JANET GREEN: I was just going to ask if there's a new piece of foundation that needs to go in? And I think that was what her concern was.

HANK REISEN: Under this three-and-a-half feet by 15-and-a-half feet position.

REBECCA O'STRYKER: You have to dig I presume a certain depth to create the foundation for the addition.

HANK REISEN: Correct. We're planning to put a new fully new concrete foundation in that area.

REBECCA O'STRYKER: Right. And so presumably there's heavy machinery that has to come in and dig.

HANK REISEN: Well, it's such a small area and it's such limited space, I don't think there will be a giant machine there. But I think it might be a Bobcat. And I met the contractor who said they might even dig it by hand because we're not --

REBECCA O'STRYKER: In the middle of winter?

HANK REISEN: Right now it's a dirt floor in the basement. We're going to maintain the six-foot, eleven basement height, and the first floor's probably

three feet out of the ground. So we only have to go down another, well, we have to go to frost line which is four feet and maybe a little more to get to 6, 11. So it's not a very big hall. So it will be probably a Bobcat. A very small digging machine or hand.

REBECCA O'STRYKER: And what, I'm sorry, to monopolize there.

CONSTANTINE ALEXANDER: Go ahead.

REBECCA O'STRYKER: What would be your ideal timing for moving forward on the digging?

HANK REISEN: Well, there is an appeals period and then a filing period. So we wouldn't be allowed to do this until --

JANET GREEN: 60 days at least?

HANK REISEN: Approximately 60

days. If January this year is like January last year, I suspect that digging, if the ground's frozen, the digging wouldn't happen until the spring. If the ground's not frozen, they might try and --

REBECCA O'STRYKER: If we continue like this, it may never freeze, right?

HANK REISEN: If that's the case, they would dig it as soon as they have the permit.

REBECCA O'STRYKER: Okay. Thank you.

HANK REISEN: You're welcome.

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

Is there anyone else wish to be heard?

BARRY GREEN: Just one other thing. I think that under Chapter 40-A,

Section 10 I don't think this qualifies.

CONSTANTINE ALEXANDER: Okay.

HANK REISEN: Can I make one more comment?

CONSTANTINE ALEXANDER: By all means.

HANK REISEN: We do -- we could do an as-of-right addition that would go further out and would further -- and not be -- it would not be as graceful, it would not look as like the rest of the houses in the neighborhood. But as-of-right we could build an extension that could further block your view quite a bit more than this. Just for the record.

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

Any questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: We do have some correspondence which I will read into the record. We have one from Barry Green, and you've already spoken and we've corrected the misunderstanding about the size of the addition.

There's a letter from Rachel Ross.
(Reading) I live at 14 Suffolk Street, across the street from Seven Suffolk Street, the property for which Stephan Dubouloz has requested zoning relief. I have no objection to Mr. Dubouloz's plans. My primary concern with respect to this property is that the dumpster that would be required during the time of renovation work be kept on the property and not take up parking space on the street. Mr. Dubouloz has assured me that this is

feasible, and with that assurance I support the planned renovation.

A letter from Alec Wysoker, W-y-s-o-k-e-r, 12 Suffolk Street, No. 3. (Reading) I live at 12 Suffolk Street across the street from 7 Suffolk Street, the property for which Stephan Dubouloz has requested zoning relief. I have no objection to Mr. Dubouloz's plans. My primary concern with respect to this property is that the tree on the sidewalk in front of the property be preserved as we have few trees on the street. Mr. Dubouloz has assured me that he has no intention to request that the tree be removed.

Is that still your view?

HANK REISEN: We weren't planning to take the tree down.

CONSTANTINE ALEXANDER: And then another letter from, I guess it's from you or you're responding to go someone. To Alec Wysoker regarding the tree. More about the tree.

And your response to Alec if I may use his first name. (Reading) I agree with preserving the tree on the sidewalk. I spoke with Kathy at the City of Cambridge inquiring for the City to plant more trees along the sidewalk of Suffolk Street. I'm waiting for David Levkor (phonetic) to call me back to discuss the procedure.

DAN BENJAKUL: I was the person who wrote that. I was in the contact with the city arborist and we were requesting the City to plant more trees on the street.

CONSTANTINE ALEXANDER: Good.

And that's if for our written record, I'm going to close public testimony.

Discussion by members of the Board or we can make a motion? It looks like I can make a motion.

Okay. The Chair moves -- and by the way, we need two motions because you're seeking a Special Permit as well as a Variance. A Special Permit relates to the installation of windows on the facade facing the street.

The Chair moves that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. This hardship being is that this structure is quite old, it is undersized in terms of its contemporary

living space.

That the -- and petitioner and any occu -- not just the petitioner, any occupant of the structure would require additional living space and that cannot be achieved in a rational way except through the granting of a Variance. Any as-of-right solution, in fact, would be more detrimental to the neighborhood than what is being proposed.

That the hardship is owing to the shape of the lot and the location -- and the location of the structure and the lot. It's a non-conforming structure that requires -- so, therefore, any modification requires relief.

And the 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 what is being proposed will be to upgrade the quality of housing in the City which is a stated purpose of our Zoning Ordinance.

That the relief in terms of impact on the neighboring properties is in the opinion of the Board modest in nature.

And we would note, too, that the project, with one exception, seems to have unanimous neighborhood support, at least from those neighbors who are willing -- who have taken the time to comment on this case.

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 plans

prepared by Reisen Design Associates each page of which has been initialled by the Chair.

And, sir, I wanted to point out, are these the final plans? Because if you modify them going forward, you're going to have to come back here.

HANK REISEN: We won't modify them.

CONSTANTINE ALEXANDER: You may have to.

HANK REISEN: We'll do construction drawings.

CONSTANTINE ALEXANDER: Yes, yes. The point being that sometimes people are not familiar with our procedures, come in with basic preliminary drawings and get approval and then they find out when they go to the final ones, that it's not good

enough and they have to come back. I just don't want that to happen to you.

HANK REISEN: I understand.

THOMAS SCOTT: I have a questions. The Variance request contains a bulkhead. Can you show us that? I don't think you showed us that.

CONSTANTINE ALEXANDER: That's a good point. I've seen that.

SEAN O'GRADY: Just as a point, he wouldn't need any relief for a bulkhead.

HANK REISEN: I talked to Sean about that because it's subterranean. We thought because it was -- there's an existing bulkhead on the corner, closest to their house we're moving it. It's an old-fashioned bulkhead. It's very high. So we're proposing -- it's currently in this corner. We're proposing to move it

away from the our yard and everybody's yard to be --

THOMAS SCOTT: Okay.

GEORGE BEST: Safety issue with the second egress.

CONSTANTINE ALEXANDER: What about it? Make it -- yeah.

Mr. Best made a very good suggestion. That with regard to the findings that I have proposed, an additional finding is that work being proposed would create a second means of egress to the structure which in that regard would bring the structure in compliance with our Building Code, state Building Code. So and, therefore, will obviously increase the safety of the occupant of the structure which is what it's all about.

So, as I said before, the motion is to grant the Variance on the condition that work proceed in accordance with these plans that I've identified.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

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

HANK REISEN: Thank you.

CONSTANTINE ALEXANDER: Now to the Special Permit. This relates to the windows. Special Permit is a lesser standard that needs to be satisfied.

With regard to the Special Permit being requested, the chair moves that we make the following findings:

That you cannot proceed with the work without granting a -- without obtaining a Special Permit.

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

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed. And, again, the windows on the facade not facing the street.

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

And that what is being proposed 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 reasons justified in our review, the granting of the Variance apply equally here as well.

That it will increase the safety of the structure for occupants, and that we will otherwise improve the housing stock of the City of Cambridge.

So on the basis of these findings, the Chair moves that we grant the Special Permit on the condition that the work proceed, again, with the plans that we referred to in regard to the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Special Permit granted.

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

HANK REISEN: Thank you for your
time and be willing to stay here to all
hours.

CONSTANTINE ALEXANDER: You had to
stay, too.

(Whereupon, at 10:40 p.m., the
Zoning Board of Appeals
Adjourned.) **ERRATA SHEET AND SIGNATURE**

INSTRUCTIONS

The original transcript and
Errata Sheet has been delivered to
Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the
Zoning Board of Appeals transcript, note
any change or correction and the reason

therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

That the hearing herein before set
forth is a true and accurate record of the
proceedings.

IN WITNESS WHEREOF, I have
hereunto set my hand this 21st day of
December, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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