

April 8, 2021

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, APRIL 8, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Jim Monteverde

Laura Wernick

Alison Hammer

Jason Marshall

City Employees

Sisia Daglian



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transcripts@ctran.com

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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Jim Monteverde, Andrea Hickey, Jason
Marshall

CONSTANTINE ALEXANDER: Welcome to the April 8 meeting of the Cambridge Board of Zoning Appeals. My name is Gus Alexander, and I am the Chair. This meeting is being held remotely, due to the statewide emergency orders limiting the size of public gatherings in response to COVID-19, and in accordance with Governor Charles Baker's Executive Order of March 12, 2020, temporarily amending certain requirements of the Open Meeting Law; as well as the City of Cambridge temporary emergency restrictions on city public meetings, city events, and city permitted events, due to COVID-19, dated May 27, 2020.

This meeting is being video and audio recorded, and is broadcast on the City of Cambridge online meeting portal and on cable television Channel 22, within Cambridge. There will in due course be a transcript of these proceedings.

1 All Board members, applicants, and members of the
2 public will state their names before speaking. All votes
3 will be taken by roll call.

4 Members of the public will be kept on mute until
5 it is time for public comment. I will give instructions for
6 public comment at that time, and you can also find
7 instructions on the city's webpage for remote BZA meetings.

8 You will have up to three minutes to speak. I'll
9 start by asking the Staff - Sisia - to take Board member
10 attendance and verify that all members are audible.

11 SISIA DAGLIAN: Jim Monteverde?

12 JIM MONTEVERDE: Jim Monteverde is here.

13 SISIA DAGLIAN: Andrea Hickey?

14 ANDREA HICKEY: [Andrea Hickey present.

15 SISIA DAGLIAN: Jason Marshall?

16 JASON MARSHALL: Jason Marshall here.

17 SISIA DAGLIAN: Brendan Sullivan?

18 BRENDAN SULLIVAN: Brendan Sullivan here.

19 SISIA DAGLIAN: And Gus?

20 CONSTANTINE ALEXANDER: And I'm here.

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(6:01 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

Okay. The case -- we start, as usual, with
continued cases, before getting to our regular agenda. The
continued cases are cases that have started at an earlier
date and for one reason or another were deferred until this
evening.

So the first continued case I'm going to call is
Case Number -- where's the paper? There it is. Case Number
103314. Anyone here wishing to be heard on this matter?

No one?

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: Okay. The reason why I
think there's no one is that the petitioner in this case has
requested a further continuance. The letter -- okay,
they're having problems getting some information or
something --

SISIA DAGLIAN: Oh, okay, sorry there is somebody.

1 CONSTANTINE ALEXANDER: -- are things that we have
2 requested from their -- from Mobile Oil.

3 SISIA DAGLIAN: Sorry, there is somebody.

4 CONSTANTINE ALEXANDER: I'm sorry?

5 SISIA DAGLIAN: There is somebody that raised
6 their hand.

7 CONSTANTINE ALEXANDER: Oh. I'm sorry. Someone
8 wish to speak?

9 SISIA DAGLIAN: Jesse Schomer.

10 JESSE SCHOMER: Yes, Mr. Chair, good evening. My
11 name is Attorney Jesse Schomer. I represent the applicant
12 on this matter.

13 CONSTANTINE ALEXANDER: Right.

14 JESSE SCHOMER: We had requested a continuance
15 tonight, Mr. Chair.

16 CONSTANTINE ALEXANDER: I know. I'm aware of
17 that, I had the letter. Or I have a letter requesting
18 continuance.

19 JESSE SCHOMER: Can you hear me, Mr. Chair?

20 CONSTANTINE ALEXANDER: Yes. Can you hear me?

21 JESSE SCHOMER: Okay. I can, and I apologize.
22 There was an issue -- I was just being promoted to panelist.

1 So I think my audio cut out for a moment.

2 I'm the attorney for the applicant on this, and
3 we've requested that the Board members grant us a
4 continuance of this matter because we're still in the
5 process of working on the documents that the Board had
6 requested that we provide and file with the members, and
7 specifically that the photometric light impact study and a
8 3D rendering of the proposed canopies at this site.

9 CONSTANTINE ALEXANDER: Right.

10 JESSE SCHOMER: I'm led to understand from the
11 manufacturer of these canopies that these documents should
12 be ready and ready to be filed with the Board within the
13 next few days, but unfortunately they couldn't be done by
14 this past Monday at 5:00 p.m. So we weren't able to get
15 them in time for tonight.

16 So if it pleases the members, we would request a
17 continuance to the May 20 hearing, and that would allow us
18 some time to get these documents and review them, and make
19 sure that they show exactly what we're proposing on the
20 site... and as well to show them to the neighbors and the
21 neighborhood group and go over them with the neighbors in
22 the hopes of earning their support for this proposal.

1 CONSTANTINE ALEXANDER: Thank you. Some problems
2 with continuing it to the twentieth. We are having a
3 hearing on the twentieth, but it is to hear a comprehensive
4 permit case in Cambridge that's drawn a lot of attention.

5 JESSE SCHOMER: Okay.

6 CONSTANTINE ALEXANDER: And meeting that night is
7 going to be quite protracted, I suspect. So we decided not
8 to hear any other cases on the twentieth.

9 The plot thickens. The regular meeting will be
10 the twenty-seventh of May. But I can -- I would not be able
11 to sit that night. I'm going to be out of the state.

12 So you will have a choice to continue it until May
13 27, but there will only be four members sitting that night.
14 And as you probably know, to get relief we need four votes.
15 So the odds are not in your favor, so to speak.

16 If you had a regular five-person panel, one person
17 could dissent, and you would still get your relief if the
18 other four agreed to do that. You don't have that luxury
19 for the May 27 meeting. So it's up to you to do that. If
20 not, the next meeting would be June --

21 SISIA DAGLIAN: June 10, right.

22 CONSTANTINE ALEXANDER: So either we can continue

1 to June 10, then you'll have five -- presumably five members
2 present, I'll have to check before we take a vote -- to make
th
3 sure the other members of the Board can make the 10 . Or
4 you can go for the twenty-seventh and take your chances with
5 just four members.

6 JESSE SCHOMER: Thank you, Mr. Chair. I think our
7 preference would be to continue to June the tenth.

8 CONSTANTINE ALEXANDER: That's what most people
9 do. Let me see -- Brendan, will you be available on the
10 tenth?

11 BRENDAN SULLIVAN: Brendan Sullivan yes,
12 available.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: Jim Monteverde yes.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: Yes, I'm available.

17 CONSTANTINE ALEXANDER: Okay, now --

18 JASON MARSHALL: Jason?

19 CONSTANTINE ALEXANDER: Jason didn't sit on the
20 original case --

21 BRENDAN SULLIVAN: Oh, I'm sorry.

22 CONSTANTINE ALEXANDER: So I think it's got to be

1 Laura. I don't know if Laura --

2 SISIA DAGLIAN: Yeah, Laura's here.

3 JIM MONTEVERDE: She was here.

4 CONSTANTINE ALEXANDER: She was here?

5 JIM MONTEVERDE: Yeah.

6 LAURA WERNICK: -- I wasn't asked to be on the
7 continuing case tonight, so I assume that I was not on the
8 original case.

9 JIM MONTEVERDE: Yeah. It was a case not heard,
10 so --

11 CONSTANTINE ALEXANDER: No, no, this is a case
12 heard.

13 JIM MONTEVERDE: Oh, I'm sorry. I'm looking at
14 the agenda.

15 JESSE SCHOMER: If I may, Mr. Chair, this is a
16 case not heard. We did agree to continue without being
17 opened.

18 CONSTANTINE ALEXANDER: I'm sorry, could you
19 repeat that, sir?

20 JESSE SCHOMER: This is a case not heard. We did
21 agree to a continuance.

22 CONSTANTINE ALEXANDER: It is, I'm sorry. My

1 mistake. Well, if it's a case not heard, we could do it on
2 the twenty-seventh -- presumably we'll be able to get five
3 members. Would you prefer the twenty-seventh of May or June
4 10?

5 JESSE SCHOMER: That would be fine, Mr. Chair.
6 The twenty-seventh would be fine, in that case.

7 CONSTANTINE ALEXANDER: Twenty-seventh? We have
8 room on our --

9 SISIA DAGLIAN: Yes.

10 CONSTANTINE ALEXANDER: Okay. I will continue
11 this case.

12 LAURA WERNICK: This is Laura. I definitely will
13 not be here on the twenty-seventh. But I'm sure you can get
14 others.

15 ANDREA HICKEY: And I also -- this is Andrea. I
16 also will not be here on the twenty-seventh, but I'm sure
17 there are Associate Members that can step up.

18 CONSTANTINE ALEXANDER: I assume that to be the
19 case as well. As a matter of fact, we just filled our last
20 vacancy the other day; we now have a full staff of Board
21 members. So anyway, Laura, you can't make the twenty-
22 seventh?

1 LAURA WERNICK: Sorry. It's my birthday.

2 CONSTANTINE ALEXANDER: [Laughter]

3 JIM MONTEVERDE: Write that down.

4 CONSTANTINE ALEXANDER: You might be very
5 "chattable" that night. [Laughter] Okay. Sir, do you still
6 want to have the twenty-seventh? The members will be
7 presumably Mr. Sullivan, Mr. Monteverde, and three other
8 players, to be named later.

9 JESSE SCHOMER: Either of those dates is fine with
10 us, Mr. Chair. The twenty-seventh would be fine.

11 CONSTANTINE ALEXANDER: Okay.

12 JESSE SCHOMER: Thank you very much.

13 CONSTANTINE ALEXANDER: I will make the motion.
14 The Chair moves that we continue this case as a case not
15 heard until 6:00 p.m. on May 27, subject to the following
16 conditions:

17 First -- it's already been satisfied -- the
18 petitioner will sign a waiver of time for decision and you
19 did that in connection with tonight's meeting, so that's
20 taken care of.

21 Second, a new posting sign must be put up for the
22 14 days requires by our ordinance. It should be a wholly

1 new sign. You can take the current sign and just with a
2 magic marker or what have you change the date and the time.
3 That's up to you.

4 And last, the plans and drawings or whatever it is
5 we're waiting for and you're getting from Mobile, those --
6 as you know, but I'll have to repeat it -- those must be in
7 our files no later than 5:00 p.m. on the Monday before May
8 27.

9 Brendan, how you vote on the continuance?

10 BRENDAN SULLIVAN: Brendan Sullivan yes to the
11 continuance.

12 CONSTANTINE ALEXANDER: Jim?

13 JIM MONTEVERDE: Jim Monteverde yes to the
14 continuance.

15 CONSTANTINE ALEXANDER: Laura? Nope, not Laura --
16 Jason. Sorry.

17 JASON MARSHALL: Jason Marshall yes to the
18 continuance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes to the
21 continuance.

22 CONSTANTINE ALEXANDER: And I vote yes for the

1 continuance as well.

2 [All vote YES]

3 So this case is continued until 6:30 on May 27.

4 BRENDAN SULLIVAN: 6:00.

5 CONSTANTINE ALEXANDER: 6:00. I'm sorry. Thank
6 you, Brendan. 6:00.

7 JESSE SCHOMER: Thank you very much.

8 CONSTANTINE ALEXANDER: 6:00 on May 27. Thank
9 you.

10 JESSE SCHOMER: Thank you very much.

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(6:10 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: Okay. The Chair will now
call Case Number 106913 -- 33 Gore Street. Anyone here
wishing to be heard on this matter?

SARAH RHATIGAN: Good evening. Yes, this is Sarah
Rhatigan from Trilogy Law. I am here with the petitioners -
- Chris Koskores and Peter Koskores. They're here from KRE
Realty. And our architect, Joe Strummer, is here as well
representing the development team. Thank you very much for
having us here this evening.

We are in the continued agenda, but we actually
have not presented to this Board yet, and I wanted to just
describe briefly to you how we are here to you tonight.

CONSTANTINE ALEXANDER: Yes, I was going to
request that in any event.

SARAH RHATIGAN: Yes.

CONSTANTINE ALEXANDER: Could you just summarize
the relief you're going to be seeking? You're seeking?

1 SARAH RHATIGAN: I'm sorry, did you say --

2 CONSTANTINE ALEXANDER: No, I would like you to
3 just quickly summarize for the Board and the audience what
4 relief you are seeking -- specifically, not the technical
5 part. Just tell us what you're doing, you're planning to do
6 --

7 SARAH RHATIGAN: Sure.

8 CONSTANTINE ALEXANDER: -- if we approve this.

9 SARAH RHATIGAN: Yes. Yes, I will do that. Thank
10 you. This is a project for 33 Gore Street, which is
11 currently a two-family structure that is located on a merged
12 lot.

13 And Sisia, would you mind putting up the plans
14 that -- and if you could put up the site plan for us? I'll
15 keep talking.

16 33 Gore Street is a two-family structure -- again,
17 on a merged lots. And the plans that you're being asked to
18 approve involve a plan to increase the height of that
19 structure by one and a half stories, and to square off the
20 back of the structure with an addition at the rear.

21 The result will continue to be a two-unit
22 building, but they'll be reconfigured so they're in the

1 townhouse side-by-side configuration. And --

2 CONSTANTINE ALEXANDER: And the relief for this --
3 what is the relief for this? What's the section, the legal
4 basis for this?

5 SARAH RHATIGAN: The Legal relief that we require
6 for this petition is a variance. And the variance is for
7 the increase in height of the structure. And the structure
8 is --

9 CONSTANTINE ALEXANDER: How tall will the
10 structure be if we go into the relief?

11 SARAH RHATIGAN: j structure with the revised set
12 of plans that were filed on Monday, April 5, the new height
13 of the structure is now --

14 JOE STROMER: 35 feet 2 inches.

15 SARAH RHATIGAN: I had 34.25 feet. Is that right,
16 Joe? Joe, was that your voice speaking, Joe?

17 JOE STROMER: It's 35 feet 2 inches.

18 CONSTANTINE ALEXANDER: 35 feet is generally the
19 permitted height for a residential structure. So you must
20 be more than 35 feet?

21 SARAH RHATIGAN: So --

22 JIM MONTEVERDE: Excuse me.

1 SARAH RHATIGAN: -- I apologize if --

2 JIM MONTEVERDE: This is Jim Monteverde. I'm
3 looking at your drawings and at your sheet A001, the project
4 zoning information. And I think that, Sarah, calls out
5 exactly as you just called it out. 34.25. So that number
6 comes from --

7 SARAH RHATIGAN: Exactly, that --

8 JIM MONTEVERDE: -- somewhere.

9 SARAH RHATIGAN: -- yeah, that was the information
10 that I was -- that I was running from.

11 And just to be clear, Mr. Chairman, the reason for
12 the relief is not that this height exceeds the allowable in
13 the district, but that the increase in height is within the
14 setback. And so that -- it's an extension of a preexisting
15 nonconforming setback wall.

16 JIM MONTEVERDE: Okay.

17 SARAH RHATIGAN: And there has been some
18 inconsistent guidance that we've received as to whether or
19 not this is variance relief or special permit relief. And
20 when this application was originally filed, there was
21 actually an additional height to the structure.

22 So we were applying for a variance for other

1 reasons as well. So for sure, we knew that we were
2 requiring a variance. And this was essentially a variance
3 in the alternative.

4 But we've continued to request a variance, because
5 it was unclear as to whether or not the increase in height
6 within the setback requires a variance or whether it could
7 be granted by a special permit.

8 So I'm sorry if this is a little -- you know, it's
9 not quite as clear as we'd all appreciate, but that is in
10 fact the reason for the request.

11 CONSTANTINE ALEXANDER: Okay. And the other
12 structure, it's a special permit?

13 SARAH RHATIGAN: And then the special permit
14 relief -- again, it's for the same issue, which is the
15 increase in height within the setback.

16 And then the other reason for a special permit is
17 just to allow for -- the new parking configuration would
18 allow for two cars to park in the tandem configuration in a
19 driveway.

20 Because this is a merged lot, it's not actually a
21 -- you know, just a two-family structure, which I believe
22 would allow that as of right, but it's actually -- you know,

1 for zoning purposes you look at these two, they're two
2 buildings side by side. And it would not otherwise be
3 allowed as-of-right.

4 So therefore we're requesting a special permit.
5 Thank you, Sisia, this is the plan I wanted to be able to
6 just refer to for purposes of showing the Board what this
7 looks like.

8 This would be the parking configuration. And just
9 to be clear, the two parking spaces would be for the use of
10 the two units and the Building #33.

11 Building #31 is owned by my client. It's
12 currently tenanted. There are tenants living there. That
13 building is not being changed or renovated, and it's not
14 part of this project in any way. But it is owned by them.

15 CONSTANTINE ALEXANDER: The two buildings contain
16 a total of eight dwelling units?

17 SARAH RHATIGAN: Correct, yes.

18 CONSTANTINE ALEXANDER: That's awfully dense for
19 this part of the city. I mean, these structures are on top
20 of each other, and the idea of further zoning relief,
21 further extension of the height, further use of the land I
22 have a problem with.

1 SARAH RHATIGAN: Well --

2 CONSTANTINE ALEXANDER: To be honest with you.
3 And I guess the Planning Board did as well.

4 SARAH RHATIGAN: Well, I wanted to -- if I could
5 just --

6 CONSTANTINE ALEXANDER: Go ahead.

7 SARAH RHATIGAN: -- provide a little bit of a
8 history of the zoning for this area. And I wanted to just
9 mention briefly kind of how we got to where we were.

10 When we originally were looking at the zoning for
11 the property and the proposed -- you know, and possible
12 proposals, an important thing to note: This property, if we
13 -- let's see, I'm not sure that we have a context map, I'm
14 sure that you probably know this -- I'm sorry, but I'm not
15 sure if we have a context map in the plans here.

16 This is a section of Gore Street that is right off
17 of McGrath O'Brien in a portion of an overlay district --
18 the East Cambridge Housing Overlay District. And this
19 overlay district actually expressly incentivizes dense --
20 more dense residential development.

21 And when we initially looked -- when we initially
22 looked at what to do here, the Overlay District would allow

1 for actually up to 14 units on the site.

2 If it could be done in such a way that, you know,
3 it wouldn't otherwise violate other sort of density issues.

4 The original set of plans that were filed with
5 this Board provided for 12 units. And, as you know, we
6 withdrew those plans after reviewing those with the
7 neighbors and reviewing them with the Historic Commission,
8 and after getting feedback that they were not happy with
9 that.

10 And in fact the Planning Board, you mentioned that
11 the Planning Board had weighed in -- the Planning Board
12 weighed in on the initial set of plans in which the original
13 structure was actually 45 feet. And there were going to be
14 four units at #33, not two units. And there was going to be
15 much more substantial impacts on our neighbor to the left.

16 CONSTANTINE ALEXANDER: Did you go back to the
17 Planning Board with your revised plans?

18 SARAH RHATIGAN: The project that you're seeing
19 now --

20 CONSTANTINE ALEXANDER: I'm sorry?

21 SARAH RHATIGAN: I'm sorry?

22 CONSTANTINE ALEXANDER: Did you go --

1 SARAH RHATIGAN: I'm sorry, I didn't hear what
2 your question was?

3 CONSTANTINE ALEXANDER: Yeah, I'm sorry. You
4 presented the plans to the Planning Board; the Planning
5 Board had a number of issues. You revised the plans. Did
6 you bring the revised plans back to the Planning Board to
7 get their views?

8 SARAH RHATIGAN: They -- at the time that we met
9 with the Planning Board, their comments were that they were
10 hoping that the Zoning Board would take a careful look at
11 any impacts that might be on the neighbor to the left. And
12 that they -- you know, they felt that, you know, the forum
13 for the review was essentially this Board.

14 And again, at that point the plans were
15 substantially different than what you've seen today.

16 CONSTANTINE ALEXANDER: All right.

17 SARAH RHATIGAN: If I could ask Joe Stromer, the
18 architect -- actually, I'm sorry -- Sisia, you're
19 controlling the slide show. Sisia, you have the whole set
20 of plans that we filed, correct?

21 SISIA DAGLIAN: Yeah.

22 SARAH RHATIGAN: Would you be able to -- would you

1 be able to show the renderings that were filed with the
2 initial plans February 2? I would just like to be able to
3 show you where we were -- yep, page number 9 that you're
4 showing on that would be --

5 SISIA DAGLIAN: Those were not the February ones.
6 I can bring them up from the city agenda, I think.

7 SARAH RHATIGAN: Oh, I'm sorry. Yeah. I'm having
8 trouble seeing what I'm looking at here. So 9 is the
9 current. So we essentially eliminated a whole floor of the
10 structure in this set of plans.

11 SISIA DAGLIAN: Just a second. So here's your
12 context plan.

13 SARAH RHATIGAN: Thank you.

14 BRENDAN SULLIVAN: So this is Brendan Sullivan. I
15 just have a --

16 SARAH RHATIGAN: Yeah.

17 BRENDAN SULLIVAN: -- quick question.

18 SARAH RHATIGAN: Sure.

19 BRENDAN SULLIVAN: Number 31 and 33 will contain a
20 total of eight units?

21 SARAH RHATIGAN: And -- yes, and that's what they
22 contain today, yep.

1 BRENDAN SULLIVAN: And then there will be two
2 parking spaces between the buildings, as shown?

3 SARAH RHATIGAN: That's correct, yep.

4 BRENDAN SULLIVAN: Okay.

5 SARAH RHATIGAN: And the -- just so you're aware,
6 the current conditions with parking have been that the whole
7 back yard area is paved.

8 And we believe -- I mean, we -- when we owned it
9 very recently, but we understand that there's been sort of
10 idiosyncratic situations with cars parked behind the
11 building, either one or two or potentially more.

12 But in this case, the owner will be -- you know,
13 creating a nice landscaped area behind the building, so
14 there won't be -- they'll be removing pavement and
15 eliminating the kind of, essentially crowded parking lot
16 conditions in the rear.

17 BRENDAN SULLIVAN: [Brendan Sullivan again.] The
18 current use of the building, is it rental, or is it condo?

19 SARAH RHATIGAN: Um--, the current use of the
20 building on the left I believe is -- is it vacant, Chris or
21 Peter?

22 CHRIS KOSKORES: Yes, it currently is vacant.

1 BRENDAN SULLIVAN: I'm sorry, it -- currently it
2 is rental?

3 CHRIS KOSKORES: It's currently vacant at the
4 moment.

5 BRENDAN SULLIVAN: Vacant. The proposed use of
6 the building, will it be rental or condo?

7 SARAH RHATIGAN: That is a discussion that's been
8 ongoing. I think since we moved from a four-unit.

9 BRENDAN SULLIVAN: I mean, you're going to have a
10 business plan here in going through this exercise. I would
11 think at the end of the day you've got to have determined
12 how you're going to pay for this; whether it be long-term
13 rental, or it's going to be a development of the property --
14 redevelopment of the property -- and then sell it as condos?
15 I don't --

16 SARAH RHATIGAN: Well, I think, there's certainly
17 two potential --

18 BRENDAN SULLIVAN: You know, being in the
19 business, I don't think that you'd go into this exercise and
20 not have determined at the end of the day what you're going
21 to do with the property. So --

22 CONSTANTINE ALEXANDER: And that goes to the

1 question two of the hardship that you need to establish,
2 with respect to the variance you're seeking. I haven't
3 heard what a hardship -- you haven't finished your
4 presentation.

5 SARAH RHATIGAN: Right. And I will get to that.

6 CONSTANTINE ALEXANDER: Okay.

7 SARAH RHATIGAN: Do you mind if we do -- I just
8 wanted to show you the reduction in the scope of what we've
9 done, and also, just provide a little bit more detail. We
10 also -- after -- the Planning Board saw the view of plans
11 that you're looking at now.

12 And Sisia, would you mind --

13 SISIA DAGLIAN: Which drawing do you want to look
14 at?

15 SARAH RHATIGAN: -- advancing to the renderings
16 that are approximately maybe another five pages down? It's
17 just probably the easiest way to get the --

18 SISIA DAGLIAN: Are these the ones that you're
19 referring to?

20 SARAH RHATIGAN: I'm sorry, these are not, no.
21 These are later renderings. I'm sorry. We're not able to
22 get a good view.

1 What I wanted to be able to show you was the
2 original concept -- the original renderings that were
3 showing how the original plans that the Planning Board was
4 responding to were really blocking the view from the
5 neighbors' window.

6 And what drove the change really were
7 conversations with our neighbors to the left. And I would
8 point out that the neighbor that is, you know, to the left
9 of us has reviewed these and has approved and is pleased
10 with the changes that we've made.

11 The other -- there we go.

12 SISIA DAGLIAN: Mm-hm.

13 SARAH RHATIGAN: I think that's the view that I
14 was looking for. Thank you, Sisia. I'm sorry that you've
15 had to scroll through to find it. So you can see that the
16 change from the view that you're looking at now on the
17 screen is really quite significant.

18 We built with a flat roof. The height was, you
19 know, quite significant at 45 feet; a flat front. The
20 windows were different as well. The Planning Board had some
21 concern about the look.

22 The other significant thing that we did was we

1 went through a process of Design Review with the Cambridge
2 Historic Commission, and the Cambridge Historic Commission
3 had a lot of helpful feedback.

4 And we were before the Cambridge Historic
5 Commission on Thursday, April 1 and had a very good meeting,
6 at which they approved the project -- the plans that you
7 have seen that were submitted to you on Monday, and they
8 provided a certificate of appropriateness that I'm not sure
9 if you've received.

10 I did receive a copy of that from Ms. Sarah Burke,
11 which I can provide by e-mail. She has indicated that she
12 would try to get it to the office staff this morning.

13 CONSTANTINE ALEXANDER: We don't have a copy of
14 that.

15 SARAH RHATIGAN: You don't? Okay.

16 CONSTANTINE ALEXANDER: I know you stored it in
17 your file, I guess.

18 SARAH RHATIGAN: I could read that to you into the
19 record. I'd be happy to read that into the record to you.
20 One of the comments from the Historic Commission were that
21 they wanted to see the project proceed with an effort to try
22 to lift the existing house, and to put the addition under,

1 which is going to take some work with -- you know,
2 structural engineering work.

3 But we're going to engage in that process with the
4 Cambridge Historic Commission staff and some ongoing review
5 with their design.

6 But it was a -- you know, it was a healthy
7 discussion. And again, they did issue the certificate of
8 appropriateness. And if you'd like, I can -- you know, I
9 can make sure that I get that entered into the record in one
10 way.

11 In terms of hardship, the elements of hardship
12 really relate to -- there are a number of things about this
13 lot and about the house itself that are both unique and make
14 for a very difficult situation in terms of being able to
15 improve the property and be able to use it or, you know, to
16 use it or for residential use for, you know, for essentially
17 for --

18 CONSTANTINE ALEXANDER: Let me go back --

19 SARAH RHATIGAN: -- to modernize it.

20 CONSTANTINE ALEXANDER: You know, are you going to
21 condominiumize this, or are you going to rent it? Are you
22 going to condominiumize it, you're going to -- you're just

1 looking to increase the value of the property, you got a
2 higher sale price?

3 If you've got to rent it, it's something else.
4 You haven't given us that information. And that's to me
5 very important.

6 SARAH RHATIGAN: So I'm not -- I'm sorry, I'm just
7 having trouble following the logic as to the use of the -- a
8 rental versus an ownership --

9 CONSTANTINE ALEXANDER: It goes to the question of
10 hardship.

11 SARAH RHATIGAN: -- the financial pro forma, or?

12 CONSTANTINE ALEXANDER: No. If you're going to
13 condominiumize this property, there's no hardship here,
14 other than the hardship is you can't get as much money for
15 the property as you would like.

16 Because you're not going to be using the property,
17 the current owners. You're going to be selling it off.

18 SARAH RHATIGAN: Okay. Well, I mean I think that
19 the intention is not to condominiumize it. I mean, the
20 owners tend not to. I mean, they own the building on the
21 right as a rental. It's not -- 31 Gore Street is not
22 conducive to a condominium ownership. It is a rental

1 project. And 33 Gore Street, as you mentioned, is in close
2 proximity.

3 I mean, I guess you're not suggesting, like, some
4 kind of condition on an approval that would prohibit a
5 condominium conversion? I mean, I don't think I've ever --

6 CONSTANTINE ALEXANDER: No, we wouldn't do that.
7 I don't think we can do that legally.

8 SARAH RHATIGAN: Okay. Okay, that -- I'm sorry.
9 I think that's probably why I'm having a little trouble
10 answering your question. I think --

11 ANDREA HICKEY: Councillor, could I ask a
12 question, please?

13 SARAH RHATIGAN: Yes.

14 ANDREA HICKEY: So how long have your clients
15 owned building #31?

16 SARAH RHATIGAN: Let's see. Chris and Peter
17 remind me; you purchased this summer?

18 CHRIS KOSKORES: It was in May 2020.

19 ANDREA HICKEY: And then 33 was purchased
20 subsequent?

21 CHRIS KOSKORES: Yes.

22 ANDREA HICKEY: Okay. And Councillor, with

1 respect to the parking that you're proposing in the
2 driveway, this tandem space, does that parking conform, or
3 are you asking for relief for parking?

4 SARAH RHATIGAN: We're asking for relief from
5 parking because I think that it is noncompliant as to the
6 distance from the side building. I --

7 ANDREA HICKEY: Yeah, I agree.

8 SARAH RHATIGAN: -- excuse me, so there's special
9 permit relief.

10 ANDREA HICKEY: Yeah.

11 SARAH RHATIGAN: There's special permit relief in
12 that regard.

13 ANDREA HICKEY: All right. I --

14 SARAH RHATIGAN: The way we've looked at this is
15 that the anticipation is that this is going to remain a
16 rental. This is going to remain a rental property. And
17 that's the most realistic. That's the most realistic, you
18 know, use of this property.

19 Is there a possibility that in the future, perhaps
20 they could condoize and create -- you know, two condos where
21 the left side becomes -- you know, two private owners and
22 the right side is owned by Chris and Peter as a rental

1 project? Perhaps? But, you know, again that's a practical
2 matter. I don't know that that's really in the cards.

3 But for, you know, for purposes of being able to -
4 - stepping back to the zoning case, #33 Gore Street is a
5 very, very old property that needs really significant work.

6 And I think that it's very much like a lot of
7 projects that you see people come to you for, where it may -
8 - you know, it's been used as a two-unit, you know, home,
9 but under very substandard conditions.

10 And in order to create -- in order to be able to
11 spend the money that needs to be spent, in order to -- for
12 example work with Historic in order to do some very
13 expensive construction, they need to be able to expand the
14 building in order to be able to pay for that construction.

15 You know, one could rent this out to people in a
16 substandard way and make tons of money. I mean, people do
17 that across the city of Cambridge. But that's not their
18 business model, and that's not their hope.

19 BRENDAN SULLIVAN: This is Brendan Sullivan. I
20 think, Sarah, this is where we part company, because I think
21 when they bought this a year ago, they obviously bought it
22 in the condition that it was in and supposedly paid fair

1 market value for the condition that it was in, and didn't
2 have to require zoning relief in order to either justify
3 that expenditure and the added renovations.

4 And that should have been a business decision at
5 that time that -- you know, the purchase price, the
6 renovation is going to come up to a sum, and then how are we
7 going to recoup those expenses?

8 And it's either going to be rental, which would be
9 higher rents -- so here's a vacant building -- or we're
10 going to do it in such a way that we are going to condo it,
11 and then recoup the money quicker.

12 And the only way to enhance that investment is by
13 making more attractive units and by putting on an addition
14 to the building, which then it becomes -- you know, fairly
15 nice units to sell.

16 And then I think eventually after Building #33 is
17 condoed, then they turn their attention to #31, so that the
18 two buildings together become a development package. That's
19 my thought on it.

20 SARAH RHATIGAN: I think one of the things I'm
21 having a little difficulty with is that the changes that are
22 being made -- it's hard to imagine --

1 BRENDAN SULLIVAN: And again -- [Brendan Sullivan]
2 -- I'm not saying that they're not necessary.

3 SARAH RHATIGAN: Yes.

4 BRENDAN SULLIVAN: And I'm not saying that they're
5 not expensive, it's just that that's a business decision at
6 the time. And, again, operating in that sphere of business
7 --

8 SARAH RHATIGAN: Mm-hm.

9 BRENDAN SULLIVAN: -- I know that you have to sit
10 down basically with pen and paper or a calculator, and you
11 have to make that assessment. "We are paying X number of
12 dollars for it, we need to put X number of dollars into it,
13 and consequently, how do we recoup that investment?"

14 So I'm not denying your saying that it's going to
15 require an awful lot of money. But again, that should have
16 been factored into the purchase price.

17 SARAH RHATIGAN: So the -- you know, another --

18 BRENDAN SULLIVAN: So anyway, I guess the bottom
19 line is this is a tough sell for me, so.

20 SARAH RHATIGAN: Another question that I might ask
21 is, you know, are you -- does this Board -- does this Board
22 find that extending the height of the building within a

1 setback is a special permit, in other cases? And if you
2 have been determining that, then we would like to request
3 that relief as a special permit.

4 And if we request it by special permit, then I'd
5 like to be able to argue, you know, very strongly that we do
6 meet special permit provisions, in terms of, you know, no
7 substantial detriment and, you know, meeting those -- you
8 know, those provisions.

9 And I'd also be happy to talk more about, you
10 know, the variance as well.

11 ANDREA HICKEY: Councillor, was it the Building
12 Department's direction that caused you to file this as a
13 special permit? I mean, as a variance -- my mistake.

14 SARAH RHATIGAN: It was not. It was a -- the
15 reason that this was ultimately filed as a variance was
16 because the time that we -- when we originally filed with
17 the original set of plans, the building height to #33 was 45
18 feet.

19 And the vast majority of this lot is in a C2B
20 residence -- it's a Business A district, so for residential
21 construction a C2B.

22 And the distance between buildings is based on a

1 calculation. And the calculation is based on height of
2 buildings. And, as you can see, the distance between these
3 two buildings is -- you know, it is what it is. But it's 11
4 feet I think one inch. And you see that we're adding an
5 addition here in the rear.

6 And although our project was not actually making
7 buildings closer together, by increasing the height of the
8 building on the left, the Commissioner felt that
9 technically, because we were increasing the height of the
10 building, because the formula was changing, we were
11 therefore increasing the nonconformity of the distance
12 between the buildings. I'm sorry, this is very confusing.
13 It took me --

14 ANDREA HICKEY: No I --

15 SARAH RHATIGAN: -- like sitting there mulling
16 this over. It sounds very academic, but it was that that
17 drove us to file this as a variance. If it were not --

18 ANDREA HICKEY: Yeah.

19 SARAH RHATIGAN: -- that distance between
20 buildings technical calculation, I would have filed this as
21 a special permit. Because in all other respects, I thought
22 this was a special permit case.

1 JIM MONTEVERDE: Yeah. I'm sorry, this is Jim
2 Monteverde.

3 SARAH RHATIGAN: Yes.

4 JIM MONTEVERDE: I'm looking at the dimensional
5 information and your revised dimensional information.

6 SARAH RHATIGAN: Yes.

7 JIM MONTEVERDE: And the bottom line is the
8 distance to nearest building on same lot?

9 SARAH RHATIGAN: Yep.

10 JIM MONTEVERDE: And it says the existing
11 condition is 11 foot 1, and the requested condition is 11
12 foot 1. And the ordinance is 10 foot 2. So in other words,
13 it has --

14 SARAH RHATIGAN: Yes.

15 JIM MONTEVERDE: -- nothing changes?

16 SARAH RHATIGAN: Correct. And so what happens is
17 now with the revised plans, because the building height for
18 33 is now less, we are now no longer changing the building -
19 - the calculation such that we're out of compliance with the
20 building, the distance between buildings.

21 JIM MONTEVERDE: Oh, because of the height?

22 SARAH RHATIGAN: Exactly. We used to be.

1 JIM MONTEVERDE: Yeah.

2 SARAH RHATIGAN: We used to be --

3 JIM MONTEVERDE: Right.

4 SARAH RHATIGAN: -- tipping it such that we were
5 further out of compliance. But now we're no longer out of
6 compliance.

7 JIM MONTEVERDE: Okay.

8 ANDREA HICKEY: Did you go back to the
9 commissioner and ask him whether a special permit filing now
10 was appropriate, given the reduction in height?

11 SARAH RHATIGAN: No. It's been difficult to --
12 you know, to be able to book meetings these days. You know,
13 so we were not able to make an appointment to make that kind
14 of a determination.

15 BRENDAN SULLIVAN: [Brendan Sullivan again.]
16 Andrea, I think you're on the right track. I think that I'm
17 unprepared to decide whether or not you need a variance or a
18 special permit.

19 I think that it really needs to go back to the
20 Commissioner to decide what the -- in light of the new
21 submissions, and have him rule and then come back to us with
22 a clean document that you -- this is the relief that you

1 really need.

2 SARAH RHATIGAN: And that's because we just --
3 there's no way I can persuade you how incredibly difficult
4 this would be for any petitioner to be able to make
5 renovations to a building such as this to modernize it to --
6 I mean, you're working within a setback that's incredibly
7 tight on a merged lot with multiple overlay districts -- you
8 know, tight constraints.

9 You know, it has all the elements of hardship that
10 we've seen this Board grant in other cases. And it has so
11 many of the elements that feel like it should -- you know,
12 it should pass muster. I mean, we'll -- you know, the --

13 CONSTANTINE ALEXANDER: What Brendan is suggesting
14 is that --

15 SARAH RHATIGAN: The uniqueness is -- the
16 uniqueness we certainly -- I certainly have never seen a lot
17 that is quite as encumbered by layers of complexity as this
18 one for a small project.

19 CONSTANTINE ALEXANDER: I would agree with that,
20 and my experience as well. The fact of the matter is you've
21 got a complicated, messy case here. You're going to -- you
22 force the vote tonight; you may not get the relief you want.

1 And why not go back to the Commissioner? It may
2 take some time, but that's how it is in this day of the
3 pandemic -- and get some clarification, based on the new
4 plan, and maybe minimize the zoning relief you need to
5 obtain.

6 ANDREA HICKEY: I think --

7 CONSTANTINE ALEXANDER: I think you're asking for
8 trouble, in short.

9 ANDREA HICKEY: Yeah, I --

10 CONSTANTINE ALEXANDER: -- in forcing a vote
11 tonight on this.

12 ANDREA HICKEY: I would second that. I think in
13 terms of the threshold for a variance, personally I'm not
14 there. Perhaps with the threshold for a special permit, you
15 could be persuasive. But my advice as well would be to go
16 back and see if this is now appropriately filed under a
17 special permit.

18 CONSTANTINE ALEXANDER: And I would just judge
19 second what Andrea said. And I'm not there for the variance
20 either, not yet anyway. But -- so you're rowing against the
21 wind here.

22 I think you should go back and repeat what Andrea

1 said. Go back to the Commissioner, whatever it takes to get
2 there, and however long it takes to get there and try to get
3 more clarity about the current situation, and then take it -
4 - and then come back before this Board.

5 But it's your call.

6 SARAH RHATIGAN: We will take that advice, for
7 sure. We would definitely like to have a continuance to be
8 able to get some clarity around that.

9 CONSTANTINE ALEXANDER: Okay. And this is being
10 obviously a case heard. And part of the problem is to what
11 date do we continue? Because you're dependent upon when you
12 can get to meet with the commissioner and get some feedback
13 from him.

14 I would suggest -- just off the top of my head --
15 a meeting in June, in early June. June 10 is available... if
16 we continue the case to June 10, assuming the other members
17 of the Board can be available that day, because this is a
18 case heard obviously. What's your pleasure?

19 SARAH RHATIGAN: Is there an earlier date when
20 you're all available that we might be able to try for?

21 CONSTANTINE ALEXANDER: Not -- you may not have
22 heard the other case. We're not -- we have a meeting on the

1 twentieth, but there's no openings in that meeting.

2 SARAH RHATIGAN: Oh, okay. I was -- yeah.

3 CONSTANTINE ALEXANDER: Yeah, and the twenty-
4 seventh I won't be here. So you only have four members.
5 And I don't know if you want to go forward with four
6 members. We could. It's up to you.

7 ANDREA HICKEY: And I won't be here on that date
8 either.

9 CONSTANTINE ALEXANDER: Oh.

10 SARAH RHATIGAN: Okay, so Jim can --

11 CONSTANTINE ALEXANDER: June 10 is a date. I
12 assume Jim, Andrea and Jason, you're all available on the
13 tenth?

14 JIM MONTEVERDE: Yes. [Jim Monteverde], I'm
15 available.

16 JASON MARSHALL: Yep.

17 ANDREA HICKEY: [Andrea Hickey], I'm available.

18 BRENDAN SULLIVAN: Brendan Sullivan yes.

19 CONSTANTINE ALEXANDER: And Brendan just said yes.
20 I want to make sure you heard him. So should I make a
21 motion to continue this case as a case heard --

22 SARAH RHATIGAN: Yes.

1 CONSTANTINE ALEXANDER: -- until --

2 JIM MONTEVERDE: Yeah.

3 CONSTANTINE ALEXANDER: Okay. The Chair moves
4 that we continue this case as a case heard until 6:00 p.m.
5 on January 10 -- I'm sorry, June 10, I got the wrong month -
6 - subject to the following condition:

7 That the petitioner sign a waiver of time for
8 decision, and that waiver must be signed and returned to the
9 Building Department no later than a week from today. And
10 that's not done, the case will be dismissed.

11 Second of all -- and then that shouldn't be a
12 problem, because it's a routine matter for the Building
13 Department -- second, that a new posting sign must be put
14 up, or the current one modified, to reflecting the new time
15 and the new date -- I got it backwards -- the new date and
16 the new time.

17 And you can either, as I said, get a new sign or
18 you can with a magic marker or what have you mark up the
19 current sign, so long as the current sign is legible.

20 And I've noticed this is a problem with
21 maintaining signs on that structure. And it's not your
22 fault, but it seems to me every time I go by that area, the

1 sign is in tatters, or has been partially ripped down. So
2 you have to police it a little bit better this time around.

3 And lastly, that any new plans or new
4 developments, plans, specs, what have you, must -- as you
5 know, Sarah -- must be in our file no later than 5:00 p.m.
6 on the Monday before June 10.

7 Brendan, how do you vote?

8 BRENDAN SULLIVAN: Yes to the continuance.

9 CONSTANTINE ALEXANDER: Jason?

10 JASON MARSHALL: Jason Marshall yes to the
11 continuance.

12 CONSTANTINE ALEXANDER: Jim?

13 JIM MONTEVERDE: Jim Monteverde yes to the
14 continuance.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: Andrea Hickey yes to the
17 continuance.

18 CONSTANTINE ALEXANDER: And the Chair votes yes as
19 well.

20 [All vote YES]

21 So the case will be continued until June 10.

22 Thank you.

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SARAH RHATIGAN: Thank you.

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(6:47 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 107 421 -- 11 Grey Gardens East.

BRENDAN SULLIVAN: No, that's at 7:00.

CONSTANTINE ALEXANDER: Oh, that's at 7:00, you're
right. Sorry. We'll go to our regular agenda now, and
we'll -- come 7:00, which is not too far away, we will call
the Grey Gardens case -- Grey Gardens East case. So we'll
now call Case Number 106563 -- 8 Sacramento Street. Anyone
here wishing to be heard on this matter?

EDRICK VAN BEUZEKOM: Yes, we do.

CONSTANTINE ALEXANDER: Hello? Edrick, are you on
the phone?

EDRICK VAN BEUZEKOM: Hello? I'm sorry, I was
having trouble getting my --

CONSTANTINE ALEXANDER: It's okay.

EDRICK VAN BEUZEKOM: -- thing to work here. And
hold on a second. See if it's here. Okay, here we go.

1 Okay. My name is Edrick Van Beuzekom. I'm the architect
2 for this project. My company is EVB Design. Do you want me
3 to spell my name for the record?

4 CONSTANTINE ALEXANDER: You've been here before,
5 so I don't think you have to.

6 EDRICK VAN BEUZEKOM: And also on the call here
7 are my clients, the owners of the property, Jack Cunha and
8 Catherine Rondeau.

9 So we are basically requesting a variance to
10 construct a -- essentially an accessory apartment -- a two-
11 story accessory apartment on their property at 8 Sacramento
12 Street. The goal here was -- here we go.

13 So if we can scroll down to the second page site
14 plan.

15 Okay, so here you see the existing site plan. The
16 main house is a very stately mansard roofed house, and the
17 owners have lived here for a long time. They raised their
18 three children in Cambridge here.

19 And next to it is a one-story, what was originally
20 a garage structure, but for a number of years now has
21 actually been used as an art studio. And it is currently
22 vacant.

1 But Jack and Catherine approached me about their
2 need for an accessory apartment as a sort of long-term plan
3 to be able to stay in Cambridge so that they could have a
4 smaller place to live in.

5 The house is quite large and it's two units. And
6 the goal is to be able to rent out the house to provide
7 income for them in their retirement and be able to live in
8 this smaller, accessory unit.

9 If you can go to the next page?

10 We looked at a number of options. First was to
11 look at the basement of the existing house, which was
12 determined to really not be feasible. There were a number
13 of issues with the foundation with this, and it was
14 virtually impossible to get much light down there, and
15 really it did not suit their needs very well.

16 So the next was to look at this garage structure
17 and see if we could convert that. It's a very small
18 structure, as you can see, and so the goal was to basically
19 try to see how we could make this livable for them, and also
20 to have at least one additional room for their children to
21 come visit or for the potential of a future caretaker to
22 live in with them as well.

1 The goal was to try to stick to the footprint of
2 the existing garage, but we decided to make one change,
3 which was there's a shed on the right side of the garage
4 close to the property line, and we sort of moved that piece
5 of the footprint around to the back to be where we could get
6 a stair that connects the floors.

7 If we can go to the next plan? This is just the
8 basement layout.

9 Go to the next plan?

10 So here -- this would be the entrance level, the
11 main living lovely. There's basically -- it's a very small
12 living space, very small kitchen, a little half bath. The
13 entrance is shown on the left-hand side. That faces the
14 street.

15 The house is set back -- or this structure is set
16 back pretty far from the street. And currently you can
17 barely see the current structure there. This, obviously,
18 would be a little more visible if we go two stories.

19 And let's go to the next please?

20 So -- and this would be the bedroom for them on
21 the second floor here with the bathroom and a little bit of
22 a study area. So the existing house being a mansard roof,

1 we thought we wanted to try to do something that fits in
2 with the character of the neighborhood and the character of
3 the existing house, make it feel like it belong here. So if
4 we can go to the next page?

5 Basically, what we're showing is, you know, we
6 talked about different roof forms, we talked about doing
7 something that's more of a modern structure. If you can
8 scroll to the next page, please? Thank you.

9 And we chose to go with the mansard roof approach
10 so that we would sort of carry on the aesthetic of the
11 existing house and make it feel like it's part of the same
12 group there and, you know, be sympathetic with the
13 neighborhood.

14 The, you know, it's a little more expensive to do
15 the mansard roof, but we felt that that was the right way to
16 go in this case. Here you're looking at the -- on the
17 right-hand side is the front street-facing elevation. On
18 the left-hand side is the elevation that faces the yard.

19 So you have a lot of glass there, and we have sort
20 of a large window well for the egress from the basement
21 shown on the left there as well.

22 And then the stair portion is the projection on

1 the left-hand side of that elevation.

2 The current lot is a fairly good-sized lot. It's
3 conforming to the required area that's 7830 square feet and
4 it's in the Residence B zone that's a 5000-square-foot
5 minimum lot size.

6 Our existing floor area, if you count the entire
7 existing house plus the existing garage comes to 3719 square
8 feet, which is an FAR of 0.48, which is just below the
9 ordinance requirements of 0.5.

10 What we're proposing bumps this up slightly up
11 over the allowable to 0.535. So we would be noncompliant
12 with the FAR, a little bit over, but we are staying within
13 the total square footage of accessory apartments and staying
14 under the 900 square-foot threshold. And I -- the lot has
15 parking, enough parking for three cars as it is.

16 So we think we're compliant in -- I mean, there's
17 currently two spaces there, but we could fit a third car. I
18 think we're only required to have two with the accessory
19 apartment.

20 So the other issue is, office, the setbacks. And
21 if we can scroll back up to the site plan -- right there,
22 yeah. Thank you. Here you can see there's sort of light

1 dashed lines, and it's a little hard to read on the screen
2 here. But you can see the dimensions -- the side yard
3 setbacks of the 12 feet and 7 foot 6. Both the existing
4 house and the existing garage were noncompliant to that.

5 It's -- and so, you know, we're basically
6 proposing if we build on the footprint of the garage, the
7 house will be 6 feet 2 from the lot line, which gets us a
8 little farther away than it is currently with the shed on
9 the side there, and complies with the 5-foot setback for
10 accessory structures.

11 The owners have spoken with all of their neighbors
12 -- you know, both the immediate abutters and beyond. And I
13 believe there are a number of letters on record in support
14 of this project. We did shadow studies, which we shared
15 with everybody. It shows minimal impact overall -- I would
16 say among

17 -- we can scroll down to that. Here we go. --

18 So here we're looking -- basically an aerial view
19 looking down from above. We're basically looking from the
20 south toward the north. So you're seeing at different times
21 of the year. This is at the summer solstice. On the left
22 is the existing condition. And on the right is the

1 proposed.

2 So the multifamily building that is to the side is
3 pretty much the only structure that's much affected by
4 shadows. At this time of day, it's not really getting --
5 that side of the building is already in shadow.

6 We can scroll to the next view.

7 Here you see it later in the afternoon. Now the
8 shadows are projected more toward the existing house. And
9 then go to the next.

10 Here we are at the equinox. And you can see here
11 that there's a little bit of shadow cast onto the
12 multifamily building next door. On the left is the
13 existing, on the right is the proposed.

14 You can also -- in this view, you can see that
15 there's parking lots behind here. One is -- belongs to
16 Lesley College, the other one belongs to the Cambridge
17 Common and Lizard Lounge. So, you know, I think they're
18 much impacted by this.

19 We can scroll to the next view.

20 So here by midday the shadows -- basically that
21 side of the multifamily next to us is in shadow already. So
22 it's not really impacting it.

1 Next view?

2 And here we are late afternoon. The shadows are
3 going across the back yard of the owner's property.

4 Next view?

5 Okay. Here we are at winter solstice, where the
6 sun is the lowest of the year. So at 9:00 a.m., there is
7 some shadow that's cast over the first-floor windows, as you
8 can see on the adjacent property.

9 And then the next view?

10 Here by noon: Again, that side of the multifamily
11 is in shadow. So it's not really casting any shadows on
12 that.

13 And then the next view:

14 Obviously end of the day, everything's in shadow
15 back there, mostly cast by the taller buildings on Mass Ave.
16 We can go to the photos, and we just do a quick run-through
17 here. This is the existing mansard roofed house.

18 Next photo?

19 And this is as seen from the street. On the lower
20 photo here, you're looking down the driveway and you see the
21 multifamily next door, which I believe is still owned by
22 Lesley College.

1 Next photo?

2 Noh, we're looking -- we're in the driveway. You
3 can see the garage structure in the bottom view there. And
4 then the next few photos give you some close-ups of the
5 garage.

6 It's hard to get any pictures from a distance,
7 because of all the vegetation back there. But this gives
8 you an idea of some of the yard space around it.

9 There you can see where the front of the garage is
10 basically in the top photo here, you see the edge -- the
11 back corner of the multifamily. So we're not building
12 directly in front of the windows, we're actually just right
13 at the corner of that building, and sort of building past
14 beyond this.

15 So you can scroll down to the next photo. Here
16 you see the existing house with the garage structure behind
17 it. And next photo? And a shot of the garage structure.
18 And, yeah, I think that gives you a pretty good sense of it.

19 I'd like to ask my clients to just say a few words
20 to talk their reasons for wanting to do this, and reasons
21 for wanting to stay in Cambridge. Okay.

22 CATHERINE RONDEAU: Good evening. I have been

1 living in Cambridge for 36 years. And I would like to stay
2 in Cambridge. My children are American, they are going to
3 stay in the U.S. And I really don't want to live somewhere
4 else than in Cambridge. And it's the way -- it's the only
5 way I think to stay, to remain. That's it.

6 JOHN CUNHA: Good evening. My name is John Cunha.
7 Everybody calls me Jack. My -- three of my four
8 grandparents were born and raised in Cambridge. I was born
9 in Cambridge. I've lived more than half of my life in
10 Cambridge. I also don't want to go anywhere else.

11 We both have had far too many friends who left
12 because they couldn't afford to stay here, and we see this
13 as a way, quite frankly, of being able to stay where we are,
14 stay in the neighborhood, where we've been since 1986. We
15 know our neighbors. We know our neighbors' kids.

16 And if you have any questions, we'd be more than
17 happy to answer them.

18 CONSTANTINE ALEXANDER: Thank you. And just to be
19 clear about this: The relief you're seeking is the height
20 for an accessory structure. Our ordinance is 15 -- no more
21 than 15 feet?

22 JOHN CUNHA: Yes.

1 CONSTANTINE ALEXANDER: I think the plans you
2 showed -- you submitted -- show it'll go to 24 feet. Is
3 that correct?

4 JOHN CUNHA: That's correct, yeah.

5 CONSTANTINE ALEXANDER: Is there any other zoning
6 relief you need for what you want to do?

7 JOHN CUNHA: Yes, there's FAR -- total FAR.

8 CONSTANTINE ALEXANDER: Yes, that's right. You're
9 right. You're slightly compliant now -- not slightly,
10 you're close to the edge, but you are compliant.

11 JOHN CUNHA: Right.

12 CONSTANTINE ALEXANDER: Then with this change to
13 the accessory structure, you'll go over the top. You do
14 need FAR relief, that's correct.

15 JOHN CUNHA: Yeah. And then there's the -- you
16 know, there's existing setback issues which we're trying to
17 make a little bit better, and I think we're --

18 CONSTANTINE ALEXANDER: What's going to happen
19 down the road? You know, your clients move into -- we grant
20 you the relief you're seeking --

21 JOHN CUNHA: Mm-hm.

22 CONSTANTINE ALEXANDER: -- you create this

1 smaller, residential structure, the clients move into it,
2 what happens to the main house?

3 JOHN CUNHA: It's rented.

4 CONSTANTINE ALEXANDER: I'm sorry?

5 JOHN CUNHA: I'm sorry, sir. What we'd like to do
6 is to rent it.

7 CONSTANTINE ALEXANDER: To rent it, okay.

8 JOHN CUNHA: And quite frankly, neither one of us
9 have pensions. So the home, which is quite large and too
10 large already -- not so much when there were three children
11 here, but we're near Harvard, and we see this as a way of --
12 frankly as kind of a pension or annuity to rent the home.

13 And that's part of the notion. It's not just the
14 accessory structure to live in, but it's also, frankly, a
15 means of funding staying here in Cambridge.

16 CONSTANTINE ALEXANDER: Okay. Thank you.

17 BRENDAN SULLIVAN: This is Brendan Sullivan.

18 Jack, the existing -- do you occupy the entire house now?

19 JOHN CUNHA: No, sir. There's a third-floor, one-
20 bedroom apartment that was there when we bought the house in
21 1986. So --

22 BRENDAN SULLIVAN: So you occupy the basement --

1 JOHN CUNHA: There's two floors -- I'm sorry, sir?

2 BRENDAN SULLIVAN: No, it's okay. Go ahead, I'm
3 sorry. I'm interrupting you. Go ahead.

4 JOHN CUNHA: So the house as we live in it is the
5 first and second floor.

6 BRENDAN SULLIVAN: Okay.

7 JOHN CUNHA: It's got four bedrooms. You know, it
8 was great when there were three kids, but not anymore.

9 EDRICK VAN BEUZEKOM: And the third floor is
10 rented. That's a rental unit.

11 BRENDAN SULLIVAN: Okay.

12 JIM MONTEVERDE: This is Jim Monteverde. Can I
13 ask a question, please?

14 CONSTANTINE ALEXANDER: Go right ahead.

15 JIM MONTEVERDE: For either the proponents or
16 Edrick: In the proposed accessory building, it's unique in
17 terms of what we have seen other times for a structure where
18 someone's proposing to age in place and either, you know,
19 building an accessory unit or reusing adaptively or using
20 something else that exists on their site.

21 And it's really the staircase that has me
22 scratching my head. Because I'm old enough that I'm

1 thinking that my two-story -- I really want a one-story.

2 EDRICK VAN BEUZEKOM: Yeah.

3 JIM MONTEVERDE: -- when I age in place.

4 EDRICK VAN BEUZEKOM: Yeah.

5 JIM MONTEVERDE: So I just have a question for the
6 proponents, because you're really considering a basement
7 down and a basement up.

8 And it almost seems like, you know, there are
9 opportunities within the existing building to -- since it
10 only takes what, three steps up to the front door -- to use
11 that ground floor for your -- more reasonably as you're
12 aging in place, without having to negotiate stairs. But --

13 JOHN CUNHA: I would say several things. Before
14 Catherine moved here, before I somehow persuaded her to come
15 here, she lived in a five-story walkup in France. So
16 walking up and down stairs is not unknown. That's one
17 thing.

18 The second is that, frankly walking up and down
19 stairs it at some point maybe the only exercise we get. And
20 we would like to be able to do that.

21 And third, just being confined to that space on
22 the first floor in order to stay within the footprint of a

1 20x20 building, it just wouldn't be livable. So --

2 JIM MONTEVERDE: Yeah, no, I'm not arguing that.

3 I can see that.

4 JOHN CUNHA: Then perhaps I didn't understand your
5 question.

6 JIM MONTEVERDE: No, no, you got it. I was
7 looking at the first floor of the existing dwelling --

8 JOHN CUNHA: Right.

9 JIM MONTEVERDE: -- and seeing that as having --
10 you know, a generous amount of space or almost the same
11 amount of space as what you're building in the -- proposing
12 to build in the accessory.

13 JOHN CUNHA: There's much --

14 JIM MONTEVERDE: And in fact there's no stairs to
15 negotiate. But that's just me.

16 JOHN CUNHA: I'm sorry, there's more stairs in the
17 -- well, there's stairs in both. But there's much more room
18 right here where we are now.

19 JIM MONTEVERDE: Yep.

20 EDRICK VAN BEUZEKOM: Yeah. But I think -- I get
21 your point, Jim, but I think the issue is that in order to
22 get the sort of rental income that they will need to

1 continue to live here, they need to be able to rent out the
2 whole existing house rather than just the upper two floors
3 and --

4 JIM MONTEVERDE: Piece of it. Yep.

5 EDRICK VAN BEUZEKOM: So.

6 JIM MONTEVERDE: Okay. Thank you.

7 EDRICK VAN BEUZEKOM: You're welcome.

8 JOHN CUNHA: I'm sorry, I didn't understand the
9 question, sir.

10 JIM MONTEVERDE: No, no, we got it. It's okay.

11 JOHN CUNHA: Okay.

12 CONSTANTINE ALEXANDER: Andrea, do you have any
13 questions at this point?

14 ANDREA HICKEY: Yes. So as a two-unit building,
15 can you tell me a little bit more about the smaller unit
16 that you're renting out now, in terms of size and --

17 EDRICK VAN BEUZEKOM: Sure. Actually, if we -- I
18 believe the floor plan is in the drawings, if we can scroll
19 down to the existing plant at the bottom. No, well actually
20 scroll back up? Maybe I didn't include it. Oh, I'm sorry,
21 I guess I don't have it in there.

22 Yeah. It's basically it's a one-bedroom unit.

1 It's in the main mansard roofed portion of the house up
2 there. It does have a roof deck out the back of it. And it
3 has a couple skylights I think, Jack? Maybe you can
4 describe it a little more.

5 JOHN CUNHA: it's -- I'd be guessing, but I
6 suspect that it's probably about 400 or 500 square feet.
7 And when you say it has a deck, the -- I suspect that the
8 original house was just the mansard part.

9 And off the back of the house there is a two-story
10 addition. I'm sure it was an addition. And that's got a
11 flat roof.

12 So the -- so if this is the main house, there is a
13 flat roof that comes off going to the back. And in one of
14 the pictures that Edrick showed you, there's like a porch or
15 a deck out there, and that's the back of the flat part. Let
16 me just see if -- can you see it there? Maybe you can see
17 it there, Edward.

18 EDRICK VAN BEUZEKOM: Yes.

19 JIM MONTEVERDE: Yep.

20 JOHN CUNHA: So if you look at the top, the two
21 windows at the top are pretty much contain the space.
22 There's about as much space on the window to the left --

1 there's about as much wall space. On the window to the
2 right, there's about five feet. There's the same amount on
3 the window to the left.

4 And then below that is a flat roof. It is a
5 rubber roof. In fact, we really don't want people to use it
6 as a deck because it's not designed to be a deck. And so
7 it's a small apartment.

8 And access is gained, as you can probably see, by
9 the outside stairway to the third -- to the -- so the entry
10 is on the second floor, which just enters into a very small
11 little vestibule, and then it goes up to the third floor.
12 So it is 98 percent on the third floor, and just the entry
13 on the second floor.

14 CONSTANTINE ALEXANDER: Where is the kitchen for
15 this apartment?

16 JOHN CUNHA: In the back.

17 EDRICK VAN BEUZEKOM: The kitchen is in the back
18 on the rear corner that's closest toward the proposed
19 structure.

20 CONSTANTINE ALEXANDER: Can you show me on the
21 plans or the photographs?

22 JOHN CUNHA: Sure. If we can go to the site plan,

1 I can show you sort of where that is. On the -- yeah, so
2 basically -- let's see, the -- if you're looking at the main
3 house here, the -- where the -- on the bottom part of the
4 plan, that box is basically the box of where the mansard is
5 above.

6 The total apartment floor area is 616 square feet;
7 I just looked that up. And it's -- the kitchen is in that
8 corner, basically -- that bumped out corner on the side
9 there, above the existing dining room of the first floor.

10 EDRICK VAN BEUZEKOM: So yeah, it's right -- it's
11 right where it says, "family resi -- " to the d; that's
12 where the kitchen is on the third floor, above that.

13 CONSTANTINE ALEXANDER: On what floor is the
14 kitchen?

15 COLLECTIVE: Third.

16 EDRICK VAN BEUZEKOM: The kitchen to the
17 apartment, sir, or the kitchen to the house?

18 CONSTANTINE ALEXANDER: No, I'm talking about the
19 kitchen for the apartment.

20 COLLECTIVE: Yes.

21 EDRICK VAN BEUZEKOM: Yeah, it's on the third
22 floor. It's -- yeah, so there's a kitchen, there's a

1 bathroom, there's a small bedroom and there's a living room.
2 There's four rooms, basically, up there. It's -- you know,
3 it's practically a square.

4 CONSTANTINE ALEXANDER: Okay. Jason, do you have
5 any questions?

6 JASON MARSHALL: Yeah, Mr. Chair. I have one
7 question. The case we had right before this, we had a
8 little bit of back and forth with respect to the question of
9 hardship. So this question goes to that prong of our
10 standard of review.

11 The pictures that you had of the -- I don't know,
12 do you call it the art studio or the garage in the back?

13 EDRICK VAN BEUZEKOM: Whatever you want to call
14 it.

15 JASON MARSHALL: For reference. Well, let's call
16 it the structure in the back. I thought the pictures were
17 really helpful in seeing the condition of that.

18 EDRICK VAN BEUZEKOM: Yeah.

19 JASON MARSHALL: And then the application I think
20 you described it as being in a deteriorated state. I just
21 want to confirm is that in fact the case, is it a
22 deteriorated structure?

1 EDRICK VAN BEUZEKOM: Yes, it is. It's -- you
2 know, it's concrete block.

3 JASON MARSHALL: Yep.

4 EDRICK VAN BEUZEKOM: It's never been properly
5 insulated. It has a concrete slab inside which is cracked
6 and not level. There are cracks in the concrete block walls
7 that you can see on the inside that, you know, show some
8 structural instability.

9 So it's -- you know, it's not in good shape. And
10 it doesn't have a proper foundation as far as we can tell
11 to. So --

12 JASON MARSHALL: All right, yeah. I mean that's
13 helpful to me. Because hardship, it doesn't go to the
14 current owners of the property. It's really to -- the
15 hardship would have to go to any owner of the property. \

16 So understanding the condition of that structure,
17 it would seem to me based on what you described that really
18 any use of an accessory structure there, whether it would be
19 to construct the development that you're talking about or
20 something else would require probably demolition in order to
21 do that.

22 EDRICK VAN BEUZEKOM: Yeah. I think that's

1 according to.

2 JASON MARSHALL: Okay. All right. That's all I
3 have. Thank you.

4 CONSTANTINE ALEXANDER: Thank you. And now I'll
5 open the matter up to public testimony.

6 BRENDAN SULLIVAN: If I could have just one
7 comment -- [yeah, Brendan Sullivan] -- the, what I'm
8 wrestling at (sic) is that you have an accessory building
9 that you would like us to consider for residential use at
10 that site.

11 The proposed residential building you're asking us
12 to consider an accessory building. What I see in the
13 proposal to me is not, as Jim sort of alluded to, an
14 accessory building. It is a full-blown house.

15 JIM MONTEVERDE: Right. Correct.

16 BRENDAN SULLIVAN: And that's what sort of tips
17 the scales for me. Because an accessory building -- and I
18 think the intent of the ordinance at the time was that say
19 the main structure of your house -- if it was built as a
20 single-family to allow for an accessory unit to be able to
21 rent other space, because it became too big for those of us
22 up in years, or that there may have been a carriage house in

1 back for a two-car garage or something like that that --
2 again, could be used.

3 And that's why the height limit of 15 feet was put
4 in. It was never -- that whole accessory ordinance section,
5 Edrick, was never intended for a structure like this, in my
6 way of thinking.

7 EDRICK VAN BEUZEKOM: Mm-hm.

8 BRENDAN SULLIVAN: So that my thought.

9 EDRICK VAN BEUZEKOM: Yeah, well, yeah. I mean, I
10 would say -- and that --

11 BRENDAN SULLIVAN: You can't consider that an
12 accessory building at this point, what you're -- and again,
13 and I asked -- you know, for the schematics of the existing
14 building and the proposed. And again, what you're --

15 EDRICK VAN BEUZEKOM: Right.

16 BRENDAN SULLIVAN: -- proposing is a full-blown
17 house in the back yard.

18 CONSTANTINE ALEXANDER: To reformulate what
19 Brendan just said, or to say it a different way, today that
20 art studio that's falling down is an accessory structure.

21 EDRICK VAN BEUZEKOM: Yep.

22 CONSTANTINE ALEXANDER: It's accessory to the

1 people who live in the main building. With the relief
2 you're trying to -- what you want to accomplish now is not
3 to -- is to stop it from being an accessory building, and
4 from being a separate residential structure.

5 And I query whether you can satisfy the
6 requirements to do that. You're really dividing up the lot,
7 although you're not doing it in back, because you've got to
8 keep the main structure as a rental unit. But that's what
9 you're doing.

10 But at the end of the day, as I see it, the relief
11 you're seeking with regard to this formerly accessory
12 structure and now a new residential structure is rather
13 modest. And there's no height issue if it's residential
14 structure. We can go as high as 35 feet, and you're not
15 proposing to do that. The rest is just little, small issues
16 about near the lot line and the like.

17 To me, I don't see that as a major problem as to
18 why we should deny zoning relief. But I do agree with the
19 point that Brendan's making.

20 EDRICK VAN BEUZEKOM: Yeah.

21 CONSTANTINE ALEXANDER: This is not any longer a
22 residential -- will not be any longer a residential -- and

1 accessory structure. You're talking about building a new
2 residential structure.

3 EDRICK VAN BEUZEKOM: Okay.

4 BRENDAN SULLIVAN: And this is Brendan Sullivan
5 again. And I think that the -- the people, and I read the
6 comments from the neighbors, "They're wonderful people and
7 leave them in Cambridge," but I think the other option is to
8 reconfigure the big house. There's plenty of room there
9 that they could reconfigure a smaller apartment for
10 themselves.

11 Now, it may not be financially what they want to
12 do intermediate and long-term, but, you know, zoning is not
13 intended to become a vehicle to -- you know, enhance,
14 enrich, -- you know, homeowners.

15 It's a vehicle to sidestep or to set aside certain
16 encumbrances to a property to make it a little bit more
17 livable, to add a room or bedroom, whatever it may be,
18 whatever we hear here on Thursday nights.

19 EDRICK VAN BEUZEKOM: Yeah.

20 BRENDAN SULLIVAN: But the plan here I think is to
21 put up this building, live in it, and if cannot rent the big
22 house for I think a good sum, then they would sell it.

1 But I think that there are options here that they
2 could reconfigure the big house to accommodate their aging
3 in place and also having a rental portion of that building.

4 EDRICK VAN BEUZEKOM: I understand what you're
5 saying. And I will say, you know, initially when I filed
6 the application, I filed the special permit for an accessory
7 unit as well. And Ranjit called me up and said, "No, this
8 is just a variance. It's not -- it doesn't quite qualify."
9 So --

10 But I will point out that I know that, you know,
11 there has been cases of two-story accessory structures that
12 have been approved by the Board -- I believe 17 Clay Street
13 was one.

14 And the -- you know, although it does not meet the
15 dimensional requirements of an accessory structure, we --
16 you know, the use that we're looking for here is really as
17 an accessory structure. It's for the owners of the property
18 to have additional living space here.

19 There is no intention of theirs to sell the other
20 house and continue living here; they want it as rental. And
21 it's not -- you know, we're not looking at turning this into
22 condominiums or something like that.

1 So -- but, you know, we -- I think there's, you
2 know, there's a good rental market in this area. And a
3 large unit is certainly much more valuable for them in terms
4 of making it financially feasible to stay here and live with
5 the -- you know, after taking on the costs of construction
6 and, you know, just but also just -- you know, having a
7 steady stream of income for both of them.

8 So anyways. But I -- you know, I -- it is --

9 BRENDAN SULLIVAN: And again, that is contrary to
10 what the zoning and relief is meant to do. So anyhow.

11 EDRICK VAN BEUZEKOM: Could I say that --

12 CONSTANTINE ALEXANDER: I'm going to open this
13 matter up to public testimony.

14 Any members of the public who wish to speak should
15 now click the icon at the bottom of your Zoom screen that
16 says, "Raise hand."

17 If you're calling in by phone, you can raise your
18 hand by pressing *9 and unmute or mute by pressing *6. So
19 we'll wait a few minutes to see if anyone wishes to speak.

20 [Pause]

21 SISIA DAGLIAN: I'm not seeing anyone, no.

22 CONSTANTINE ALEXANDER: Apparently not. So I will

1 report that we are in receipt of written communications, all
2 of which are supportive of the relief being sought, and I
3 should say laudatory of the owners -- the petitioners
4 themselves.

5 With that, I'm going to now close public
6 testimony. Discussion or are we ready for a vote? Brendan
7 is shrugging his shoulders. So we've had a lot of
8 discussion already. I would suggest we're ready for a vote.

9 BRENDAN SULLIVAN: Yeah.

10 CONSTANTINE ALEXANDER: Not hearing any contrary.

11 BRENDAN SULLIVAN: Brendan Sullivan ready for a
12 vote.

13 CONSTANTINE ALEXANDER: Okay. Brendan, how do you
14 vote?

15 BRENDAN SULLIVAN: You want to make a motion?

16 CONSTANTINE ALEXANDER: Oh, I've got to make the
17 motion. I always do this, I forget this. Thank you.

18 BRENDAN SULLIVAN: Mm-hm.

19 CONSTANTINE ALEXANDER: The Chair moves that we
20 make the following findings with regard to the relief being
21 sought:

22 That a literal enforcement of the provisions of

1 the ordinance would involve a substantial hardship, such
2 hardship being as that there is now located on the site a
3 former art studio, which is in very dilapidated condition
4 and needs to be -- it's not going to be used for anything;
5 needs to be taken down.

6 That the hardship is owing to circumstances
7 relating to the shape and topography of the lot, with the
8 studio being -- located where it is.

9 And that relief may be granted without substantial
10 detriment to the public good, or nullifying or substantially
11 derogating from the intent or purpose of this ordinance. In
12 this regard, the relief being sought is modest.

13 The height of the -- which is the main relief
14 being sought, the height of the new structure, the accessory
15 -- so-called accessory structure -- will still be only 24
16 feet; far below what is permitted in this district.

17 And that there's unanimous neighborhood -- It
18 would appear -- neighborhood support in favor of the
19 project. And it is one way of allowing the petitioners --
20 the current owners or whoever owns the property -- to age in
21 place by giving them -- creating an alternative living
22 arrangement that is manageable for people who are on in the

1 years.

2 So on the basis of all of these findings, the
3 Chair moves that we grant the variance being sought on the
4 condition that the work proceed in accordance with plans
5 prepared by EVD Design, revised as of February 19, 2021, the
6 first page of which has been initialed by the Chair.

7 Brendan, how do you vote?

8 BRENDAN SULLIVAN: I would vote no to granting the
9 relief requested.

10 CONSTANTINE ALEXANDER: Who wants to go next? Jim
11 Monteverde?

12 JIM MONTEVERDE: Jim Monteverde -- I would also
13 vote no to granting the relief. The way the case is stated.

14 Again, and just to reiterate I think what Brendan
15 said, where I was kind of nosing around before, there would
16 seem to be a way to, with the size of the lot and the size
17 of the house -- I can't believe there isn't a scheme here to
18 do what your clients, Edrick, are looking to do.

19 It's just presented as an accessory structure,
20 when in fact it really reads as a new building, new
21 residence. That's the part I can't accept the variance for.

22 CONSTANTINE ALEXANDER: You vote no?

1 JIM MONTEVERDE: So I vote no.

2 CONSTANTINE ALEXANDER: Okay. Andrea?

3 ANDREA HICKEY: I vote no as well, my reasoning
4 being that I didn't see substantial hardship here. I think
5 there are other options in terms of reconfiguring the main
6 house that could meet both their needs for smaller space and
7 still give rental income. So I am opposed.

8 CONSTANTINE ALEXANDER: Jason?

9 JASON MARSHALL: [Jason Marshall], I vote yes for
10 the reasons stated in the Chair's motion.

11 CONSTANTINE ALEXANDER: And the Chair would vote
12 yes as well, for the reasons stated in the motion that I
13 just made.

14 [THREE VOTES NO, TWO VOTES NO = DENIED]

15 But, four votes are necessary to get the relief
16 being sought, and only two have been obtained. So the
17 request for a variance is denied.

18 And now we need a second vote to memorialize the
19 reasons why we've denied the variance. I'll try my hand at
20 it, even though I was not -- I was in the minority.

21 The Chair would move that we deny the variance on
22 the grounds that what is proposed here is not a restoration

1 of an accessory structure, but the creation of a new
2 residential structure on the lot.

3 And that there's not -- there has not been
4 demonstrated a need for being able to stay on the -- age in
5 place and needing to have a new structure.

6 There are other solutions involving the main house
7 itself, that could accommodate the very same goal. That's
8 my suggestion.

9 BRENDAN SULLIVAN: Yeah, additional language I
10 would -- [Brendan Sullivan] -- additional language I would
11 say that the petitioner has not demonstrated that a -- they
12 have met the statutory requirement of hardship; that the
13 hardship is not owing to the circumstances relating to the
14 shape of the lot or topography of the land or such
15 structures.

16 And that desirable relief cannot be granted
17 without nullifying or substantially derogating from the
18 intent and purpose of the ordinance. Is that right, cannot
19 be granted?

20 CONSTANTINE ALEXANDER: Say it again?

21 BRENDAN SULLIVAN: Does that sound right?

22 CONSTANTINE ALEXANDER: That's good.

1 BRENDAN SULLIVAN: Okay, yeah.

2 CONSTANTINE ALEXANDER: And we need to vote --

3 BRENDAN SULLIVAN: I don't have a grammar check.
4 Anyhow, so that would be my additional language.

5 CONSTANTINE ALEXANDER: Jim and Andrea, do you
6 want any further changes, or are you in favor of what I
7 proposed as amended by Brendan?

8 JIM MONTEVERDE: I am fine with what you proposed,
9 and/or has been amended.

10 CONSTANTINE ALEXANDER: Andrea?

11 ANDREA HICKEY: As am I. I have nothing to add.
12 Thank you.

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2 (7:28 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, Laura
5 Wernick

6 CONSTANTINE ALEXANDER: Okay. The case is over.
7 We'll now turn to our last continued case for the evening,
8 and that case is Case Number 107421 -- 11 Grey Gardens East.
9 Anyone here wish to be heard on this matter?

10 JAMES RAFFERTY: Good evening Mr. Chair, members
11 of the Board. James Rafferty on behalf of the applicants
12 Thad and Lulu Davis [all names phonetic]. Mr. and Mrs.
13 Davis I believe are also present on the call.

14 The Board may recall we were before you a month
15 ago with an application also involving an accessory
16 structure -- or at least as I understand it an accessory
17 structure and in that case, or in this case, it is a
18 proposed spa. It's an in-ground pool-type structure, very
19 modest-sized. And we were seeking relief from the accessory
20 setback requirement of five feet.

21 During discussion at the Board hearing on the
22 application, it was suggested that the applicants consider

1 reorienting the spa in a way that would actually allow it to
2 comply with the rear setback for an accessory structure.

3 And we submitted a plan that demonstrates that on March 19,
4 into the file.

5 And so as a result of that, one portion of the --
6 that's it right there. You'll see at its narrowest it's at
7 five feet. It's actually at seven feet as the lot extends.

8 So the consequence of this is the application
9 involves two forms of dimensional relief. The relocation or
10 the reorientation of the spa in this manner no longer
11 necessitates the setback relief from the rear setback for an
12 accessory structure. So we're not asking the Board to grant
13 relief under that provision.

14 What is the remaining aspect of the application,
15 however, is the separation -- the 10-foot building
16 separation between accessory structures and principle
17 dwellings? In this case, the spa that is four feet six
18 inches from the main house.

19 To be noted, I think that the 10-foot separation,
20 where it is elsewhere in the zoning ordinance, where it is
21 elsewhere in the zoning ordinance specifically says 10 feet
22 between buildings. In this case, there's no question this

1 isn't a building. But it is being deemed as an accessory
2 structure.

3 So it is within 10 feet, but as noted, it's -- it
4 has a small profile coming out of the ground, and it is now
5 compliant in terms of the rear setback requirements. And
6 now we simply are looking for relief from the 10-foot
7 separation requirement between the principle structure and
8 this spa.

9 CONSTANTINE ALEXANDER: Okay. Thank you.
10 Questions? Brendan, do you have any questions?

11 BRENDAN SULLIVAN: [Brendan Sullivan] I have no
12 questions.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: [Jim Monteverde] No questions.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: No questions.

17 CONSTANTINE ALEXANDER: Jason?

18 LAURA WERNICK: It's me. I'm on this one.

19 JASON MARSHALL: Oh, you're on this one, Laura?
20 Okay.

21 LAURA WERNICK: Yeah, yeah. And I have no
22 questions.

1 CONSTANTINE ALEXANDER: Okay, the Chair has no
2 questions either. I'll open the matter up to public
3 testimony. Let me find the instructions. Here we go.

4 Any members of the public who wish to speak should
5 now click the icon at the bottom of your Zoom screen that
6 says, "Raise hand."

7 If you're calling in by phone, you can raise your
8 hand by pressing *9 and unmute or mute by pressing *6. I'll
9 wait a few moments to see if anyone wishes to speak.

10 CONSTANTINE ALEXANDER: Okay. Apparently there is
11 no one who wishes to speak. There are letters in our file
12 going back to the original -- I believe the original
13 application, not any comments on the new plans, if you want
14 to call them that.

15 So I will close public testimony in its entirety.
16 Ready for a vote? And I'll make a motion this time, if I
17 remember. Or do people want to discuss?

18 JIM MONTEVERDE: Ready.

19 CONSTANTINE ALEXANDER: Okay. The Chair moves
20 that we make the following findings with regard to the
21 variance that's being sought:

22 That a literal enforcement of the provisions of

1 the ordinance would involve a substantial hardship, such
2 hardship being that the petitioner will not be able to
3 locate its spa pool where it wants to locate it, even though
4 there are areas on the lot where it's going to be put
5 without any zoning relief.

6 That the hardship is owing to the -- oh, I guess
7 the topography of the land, and the shape of the lot, that
8 makes in the petitioners' eyes it desirable to locate the
9 spa pool where it's being proposed to locate.

10 And that desirable relief may be granted without
11 substantial detriment to the public good, or nullifying or
12 substantially derogating from the intent or purpose of this
13 ordinance.

14 In this regard, there is some neighborhood
15 support, or at least some letters of support that the relief
16 being sought is modest; it has little impact on the
17 neighborhood, given its location, tucked away behind the
18 building; and that it's an amenity that the petitioner and
19 other residents of the city would like to have. Not
20 everyone can do it, but this lot is available to do it.

21 So on the basis of all these findings, The Chair
22 would move that we grant the variance being sought on the

1 condition that the spa pool be located as set forth on a
2 one-page plan that's in our files, and which has been
3 initialed by the Chair.

4 Brendan?

5 BRENDAN SULLIVAN: Brendan Sullivan yes to
6 granting the variance, and I was silent on the original
7 hearing. I would say that the unusual shape of the salon
8 does qualify for an exception to the ordinance in this
9 instance, that locating the spa in its location would have
10 the absolute least effect on surrounding neighbors. And I
11 think it's -- myself, I think it's an ideal spot to put it.

12 So I would say yes to granting the relief.

13 CONSTANTINE ALEXANDER: Jason? Oh, not Jason.
14 I'm sorry -- Jim.

15 JIM MONTEVERDE: Jim Monteverde yes to granting
16 the relief.

17 CONSTANTINE ALEXANDER: Okay, Andrea?

18 ANDREA HICKEY: Andrea Hickey yes; I'm in favor of
19 granting the relief.

20 CONSTANTINE ALEXANDER: Laura?

21 LAURA WERNICK: Laura Wernick yes to granting the
22 relief.

1 CONSTANTINE ALEXANDER: Okay. The Chair will vote
2 no on granting relief -- not that it makes a difference, as
3 the four votes are enough to grant the variance.

4 [FOUR VOTES YES, ONE VOTE NO; APPROVED.]

5 But simply, this just doesn't meet the -- I would
6 acknowledge that this is a minor impact on the neighborhood.
7 But it just doesn't satisfy the legal requirement for a
8 variance. There are places on the lot where the spa pool
9 can be located. Not where the petitioner would like, but it
10 can be done. So there goes the hardship.

11 Anyway, the vote is 4:1 in favor of granting the
12 variance. The variance is granted. Thank you.

13 JAMES RAFFERTY: Thank you, Mr. Chair and members
14 of the Board. And thank you to the Board; the suggestions
15 at the last hearing were very helpful and led to a solution
16 here that reduced the requested amount of relief. We very
17 much appreciate the collaboration of the Board and the
18 outcome here. Thank you.

19 CONSTANTINE ALEXANDER: That's why we get paid the
20 big bucks, Mr. Rafferty.

21 JAMES RAFFERTY: No comment, Mr. Chair. Thank
22 you.

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CONSTANTINE ALEXANDER: Thank you.

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(7:36 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: All right. The Chair will
now call Case Number 109178 -- I'm sorry, 66 Clifton Street.

LAURA WERNICK: Gus, it's Laura. I'm out for the
rest of the evening. That was my last --

CONSTANTINE ALEXANDER: Okay, so Jason's back in?

LAURA WERNICK: -- this evening.

BRENDAN SULLIVAN: We have Jim.

CONSTANTINE ALEXANDER: Jim?

JIM MONTEVERDE: Yeah, and Jason's back.

CONSTANTINE ALEXANDER: Okay, good. All right.
Anyone wishing to be heard on this matter for 66 Clifton
Street?

EDRICK VAN BEUZEKOM: Hi. Edrick van Beuzekom
again from EVD Design. And I believe my clients, Aaron
Rubin and Julia Hallman are also on the Zoom?

JULIA HALLMAN: Yep, hi.

AARON RUBIN: Hello.

1 CONSTANTINE ALEXANDER: Hello.

2 EDRICK VAN BEUZEKOM: All right. Aaron and Julia
3 live in a small house on Clifton Street, and we -- they
4 approached me basically looking for ideas about how to make
5 the house a little bit more livable for them.

6 It's -- you know, currently they have two very
7 small bedrooms on the second floor, and there's no bathroom
8 on the second floor.

9 And so if we can get the drawings up, maybe I can
10 walk you through what we're considering here. This is a 3D
11 view showing the existing house with the proposed addition
12 that's on the right-hand side of the house.

13 And one of the issues here, which we can talk
14 about from this view, is there's a house directly behind
15 them, a little bit offset to the left, and you can see here.
16 And they also have a small yard on the left-hand side of the
17 house. And so the --

18 CONSTANTINE ALEXANDER: What is the distance,
19 roughly, between that house -- in front of that house, and
20 the addition -- the edge of the addition you're proposing to
21 build?

22 EDRICK VAN BEUZEKOM: Hang on a second. Let me

1 get my site client on to view it, as you mentioned.

2 [Pause]

3 So their -- well, to the property line we have
4 just over four and a half -- almost four and a half feet,
5 and then the house itself is about another six feet back
6 there, I think? I'm not sure exactly. Aaron and Julia,
7 maybe you can give us a sense of how far back it is from --

8 JULIA HALLMAN: It's a bit more than -- definitely
9 a bit more than six feet back.

10 JIM MONTEVERDE: Yeah.

11 EDRICK VAN BEUZEKOM: Okay.

12 JIM MONTEVERDE: Edrick, I'm looking at your sheet
13 C1.1.

14 EDRICK VAN BEUZEKOM: Yep.

15 JIM MONTEVERDE: Isn't there a 10-foot right of
16 way behind there?

17 EDRICK VAN BEUZEKOM: There is, yeah.

18 JIM MONTEVERDE: So --

19 EDRICK VAN BEUZEKOM: Yes, that's correct. Oh, so
20 front of that house, I guess that must be -- yeah.

21 JIM MONTEVERDE: It can't be more than 13, 14 feet
22 if -- even if it sits right on the right of way, right?

1 You're at least --

2 EDRICK VAN BEUZEKOM: Right.

3 JIM MONTEVERDE: -- 14, 15 feet away?

4 EDRICK VAN BEUZEKOM: You're right. Good point.

5 JIM MONTEVERDE: From your back wall, right?

6 EDRICK VAN BEUZEKOM: Yep.

7 JIM MONTEVERDE: Okay.

8 CONSTANTINE ALEXANDER: Have these -- the owners
9 of that property -- expressed any views about what you want
10 to do?

11 EDRICK VAN BEUZEKOM: Yes. So my clients have
12 spoken to all the neighbors. And the people -- so before
13 they started the project, they spoke to the people behind
14 them and the people to the right.

15 The people behind were basically pretty clear that
16 they didn't want anything built that would obstruct their
17 view to the street, and that -- you know, they wouldn't have
18 a problem with something on the other side but, you know,
19 and the little yard that's there is sort of a nice thing for
20 everybody. So they made it pretty clear that they would
21 oppose anything that projected in front of their house.

22 The neighbors to the right did a very large

1 addition that they got a zoning variance for a few years
2 ago, and they basically told my clients that they would be
3 supportive of an addition close to their house, as it was in
4 here.

5 And I think both of them have submitted letters of
6 support.

7 CONSTANTINE ALEXANDER: Thank you. Anything
8 further, Edrick?

9 EDRICK VAN BEUZEKOM: Well, maybe Julia and Aaron,
10 do you want to add anything to that?

11 JULIA HALLMAN: Sure. I mean, I would love to --
12 we've lived in this house now since 2010, and we absolutely
13 love it. It's an 1850s -- one of the cottages, the
14 Bricklayer Yard cottages. And it was kind of perfect for us
15 when we moved in. It's very small, and we love that. And
16 we love our little yard, because I have a garden.

17 I've been at Formaggio Kitchen as the Manager for
18 13 years now, and I don't plan on leaving. We really want
19 to stay in Cambridge for the long haul.

20 And it became kind of apparent -- both of us have
21 parents in our 70s. And they visit a lot, and it became
22 pretty apparent that it just made me nervous having my Mom

1 stay upstairs and have to go downstairs in the middle of the
2 night to go to the bathroom. And we know we'll eventually
3 have that issue as well.

4 But we just really wanted to kind of think ahead
5 to the future. It's something that we -- you know, we don't
6 want to move to a different house. We really love where we
7 are, we love our neighbors, and we love kind of the little
8 space that we've created and learning a lot about the
9 history of the house from our neighbors and our neighbor
10 across the street who -- you know, was 98. He passed away
11 recently, but he taught me all about the history of all of
12 our houses in the neighborhood.

13 And I don't know, it's just special, it means a
14 lot to us to be able to make it something that we can stand
15 for many years. So that's really it. And the bathroom is
16 really the -- you know, we don't want to expand over, you
17 know, our existing. We're just kind of building up a little
18 bit.

19 And our neighbors are great. And they've been
20 fantastic. You know, the neighbors to the right of the
21 house when you're looking at the houses did that -- they
22 turned it from a two-family to a single-family, which I know

1 is super rare in Cambridge. And they've been great and
2 supportive, because that was a huge and massive ordeal --
3 bigger than the intended, because there was fire damage when
4 they tore apart the house a bit more.

5 But yeah. So we're just -- that's our main goal,
6 is to just make this sustainable for the long haul.

7 CONSTANTINE ALEXANDER: Thank you.

8 EDRICK VAN BEUZEKOM: Yeah.

9 JULIA HALLMAN: Yeah.

10 EDRICK VAN BEUZEKOM: And I can walk you through
11 the floor plans if you want, so you can understand what
12 we're proposing here. Let's go to the -- yeah. So if we
13 can -- what -- so here you see the site plans.

14 The shaded area there shows you what the second-
15 floor addition is that we're proposing.

16 And then if we go to the next drawing, this is the
17 -- showing the change in floor area between the existing and
18 the proposed. So on the left are the first-floor plans.
19 You see at the bottom is the existing first floor; at the
20 top is the proposed. That's not really changing. On the
21 right you see the second floor.

22 So the bedrooms on the second floor currently are

1 -- you know, have a low pitched roof, so there's knee wall
2 basically on both sides. The ceiling height at the exterior
3 walls is about five feet -- or no, it's less than five feet.
4 So that's why you see the shaded area is where we have the
5 full five feet headroom.

6 The -- that little closet that you see on the
7 right is really just space under the eaves of the roof, and
8 then there's a small gable roof over the kitchen on the
9 first floor there.

10 If we go to the next plan, that's the first floor.
11 Let's go to the next one.

12 Okay so here's the proposed addition. And what
13 we're wanting to do here is basically build a master bedroom
14 with real closets, because there's very little useable
15 closet space in this house. And then a -- you know, pretty
16 basic bathroom with just enough to serve the bedrooms up
17 here.

18 Part of the work here would also raise the -- by
19 doing the new roof over the addition, which is a flat roof,
20 you would extend that over to meet the peak of the gable of
21 the existing house.

22 So if we can scroll down to the elevation -- that

1 one right there, yep? Thank you.

2 So you see on the right-hand side would be the
3 proposed addition on top of the kitchen. There's a -- it
4 extends over the existing entry ports that goes up to the
5 kitchen on the right there. You see the door on the first
6 floor that goes in there, and that would have an overhang
7 for this proposed addition.

8 And then by extending across to the gable of the -
9 - to the peak of the existing roof, we're basically able to
10 create enough headroom at the top of the stairs, which
11 actually currently does not have the adequate headroom.
12 They had to actually put an extra step in the floor to get
13 under the roof to get up onto the second floor.

14 So this would solve that problem, and of course
15 create the space where we are proposing the bathroom to have
16 full headroom in that area. We're proposing -- basically
17 the way we delineated the design was to try to make this as
18 a different sort of structure that's set back from the
19 street and is a couple different volumes. So it keeps the
20 scale of it relatively modest.

21 The elevation at the bottom here is the side that
22 faces the neighbors very close to the lot line, so there's

1 no new windows shown there.

2 And if we can go to the next plan?

3 On this one, you see at the top is the side of the
4 house that faces the little garden and the driveway there.
5 And on the bottom is the proposed rear addition, where you
6 see the addition on the left, which would include residing
7 the portion of the kitchen on the first floor.

8 And we added a -- sort of a false window, even
9 though that's closet area on the second floor. Just to
10 breakup the façade we added the false window panel there
11 that will give it the -- you know, just to sort of lighten
12 up that façade a little bit.

13 So that -- basically that's the scope of what
14 we're proposing here. We did do some shadow studies, which
15 I think are up at the top. Oh no, there they are. Yeah, so
16 these basically what you see here is -- you know, this is at
17 the spring and fall equinox, sort of the middle of the
18 passing shadows here.

19 And you can see, you know, when you look at the
20 difference between the proposed and the existing, the
21 proposed are at the bottom, existing is at the top.

22 It's not impacting -- you know, basically the

1 house behind is in shadow by the time any of our shadows
2 would be cast in that direction. And the house next door is
3 mostly the side that's going to be facing -- you know,
4 that's up close to this that gets affected by the shadows.

5 If we can scroll to the next one?

6 Here you see it at summer solstice where there's
7 the -- sort of the least amount of shadows. And it's really
8 -- there's not much hitting anybody around.

9 And then if we go to the next one.

10 So this is sort of the most extreme, at the winter
11 solstice when the shadows are the longest. And, you know,
12 by 3:00 p.m. everything's in the shadow, and the shadows are
13 cast into the street from this project.

14 At 9:00 a.m., it's casting a little bit more
15 shadow; you can see on the lower portion of the house to the
16 right. And not really making much of a difference for the
17 house directly behind it. So yeah.

18 So, you know, we tried to keep the addition pretty
19 modest. The -- we're looking for relief on FAR. It's --
20 you know, the hardship is owing to it being a really tiny
21 lot, and the house is close to the lot lines.

22 We're going from what's currently an FAR of 0.547

1 -- we're actually bumping up to 0.73.

2 And part of that is not just the added bedroom and
3 bathroom, but it's also where we're adding a little bit --
4 you know, the areas of the existing bedroom and over the
5 stairs where the roof comes down low and we had less than
6 five feet of headroom. So, you know, that increases the FAR
7 a little bit.

8 And then, of course, we're looking for relief on
9 the setbacks, because this -- you know, we're going straight
10 up over existing space, so it's not -- you know, if we were
11 okay with FAR, I think this would be permissible under
12 Article 8. But it's -- because we're over the FAR, you
13 know, we do have a setback issue as well.

14 But we pretty much have that around most of the
15 house.

16 CONSTANTINE ALEXANDER: Thank you. Brendan, do
17 you have any questions?

18 BRENDAN SULLIVAN: Well, the only -- what is the
19 distance -- [Brendan Sullivan] what is the distance between
20 the house where the addition is going and the house on the
21 right?

22 EDRICK VAN BEUZEKOM: You end up with about five

1 feet between the two houses.

2 BRENDAN SULLIVAN: Yesterday afternoon I measured
3 it; it was 34 inches.

4 EDRICK VAN BEUZEKOM: Is that right? Okay. I'm
5 sorry, I was not -- the 34, okay, let me look at my floor
6 plan here. 30 -- okay, according to the surveyor, it's 37
7 inches.

8 BRENDAN SULLIVAN: Yeah. I taped it yesterday; 34
9 inches.

10 EDRICK VAN BEUZEKOM: Okay. I just think that it
11 would have an absolutely adverse, negative effect on the
12 wall of that house, which has I think five windows in it,
13 which on the second floor they will just be looking at a
14 blank wall less than three feet away from them.

15 I just -- you know, I understand the need for
16 potentially more bedrooms, and then I look down in the
17 basement, and Thursday nights we're asked to put accessory
18 apartments in basements; more room down in basements.

19 And I see the proposed shows an exercise room.

20 And I'm wondering if that basement area could not be

21 converted into potentially needed bedrooms, and that

22 something else can be done on the second floor to rearrange

1 the layout up there. That's my thought, anyhow.

2 EDRICK VAN BEUZEKOM: Yeah. So the basement
3 basically has about six and -- in one area of it where the
4 exercise room is, it actually only has 6 feet 2 of headroom.
5 And in the front renovation I think we've got to have 6 foot
6 7 and a half. So it's really -- there's not enough headroom
7 down there.

8 There's also -- groundwater is not great in this
9 area. So going deeper with the basement is not really a
10 very feasible option. And it just -- it's really, you know,
11 it's not great space.

12 And the foundation -- you know, we would have to
13 lift the house and pour a new foundation in order to try to
14 do anything with that.

15 JULIA HALLMAN: And I guess just for context, I
16 don't know if it's okay for me to pop in -- we, the main
17 part of the house, the original part of the cottage --
18 because I know the kitchen was an addition probably around
19 the '20s or '30s -- 1920 or 1930 or so -- it goes up fairly
20 high.

21 So right now the view -- you know, I talk with the
22 neighbors quite a bit about this, and we kind of discussed

1 everything and went through what would happen. And right
2 now, they basically look into our wall as it is. It's
3 basically our roof slope.

4 So that -- it wouldn't change. You know,
5 basically they were like, "That's not a big deal, that's not
6 a very -- that's not a room that it's something we -- you
7 know, use that often or care that much about; that's not a
8 big deal."

9 It was that one that was fully blocked. And then
10 the other ones were partial. And so yeah. So that's, I
11 guess, something to consider that the other part of the
12 house is high -- is at the height that we are hoping to go
13 to. So it's -- that's sort of their current view as it is
14 right now.

15 And I think they took that in mind when they were
16 doing their construction. We talked to them about -- you
17 know, we've been, you know, kind of dreaming about this for
18 about five or six years.

19 And so we talked to them about what we were hoping
20 to do. And so they talked to us about what they were
21 planning to do, which they eventually did.

22 And so we were able to kind of coordinate

1 together. And that was our goal.

2 And we came to the point now financially where we
3 can do what we're hoping to do. And so yeah. So we do have
4 -- if it matters, we do have their blessing and their
5 understanding of what kind of the layout would look like.

6 EDRICK VAN BEUZEKOM:

7 BRENDAN SULLIVAN: Okay. And I would add the -- I
8 know, you know, I understand your concerns there. But I
9 mean the windows on that side of the house are in rooms that
10 also have windows that face to the street or to the rear
11 yard. So it's not -- those aren't the only windows in those
12 rooms.

13 BRENDAN SULLIVAN: Yeah, except that will have a
14 southeast exposure -- sun, air.

15 EDRICK VAN BEUZEKOM: Yeah, I mean obviously you
16 can see the difference it makes in the shadows that we've
17 shown. But yeah. The -- you know, those neighbors are
18 supportive of what we're proposing here.

19 BRENDAN SULLIVAN: No, they're being kind.

20 CONSTANTINE ALEXANDER: Jim, do you have any
21 questions or comments?

22 JIM MONTEVERDE: No questions or comments, thank

1 you.

2 CONSTANTINE ALEXANDER: Okay. Andrea?

3 ANDREA HICKEY: Nothing for me, thank you.

4 CONSTANTINE ALEXANDER: Jason?

5 JASON MARSHALL: Jason Marshall no questions.

6 CONSTANTINE ALEXANDER: None for the Chair as
7 well. I'll open the matter up to public testimony, if I can
8 find my instructions. Oh, here it is.

9 Any members of the public who wish to speak should
10 now click the icon at the bottom of your Zoom screen that
11 says, "Raise hand."

12 If you're calling in by phone, you can raise your
13 hand by pressing *9 and unmute or mute by pressing *6.
14 We'll take a moment to see if anyone wishes call in.

15 [Pause]

16 SISIA DAGLIAN: I'm not seeing anyone.

17 CONSTANTINE ALEXANDER: Okay. Apparently no one
18 wishes to speak. We are in receipt of letters of support
19 from the neighbors, and I do not propose to read them into
20 the file, but they are supportive.

21 With that, I will close public testimony.

22 Discussion, or are we ready for a vote?

1 JIM MONTEVERDE: Ready.

2 CONSTANTINE ALEXANDER: Everybody else ready?

3 Okay. The Chair moves that we make the following findings:

4 That a literal enforcement of the provisions of
5 the ordinance would involve a substantial hardship, such
6 hardship being that this is a rather small structure and in
7 need for additional living space, and -- well, the
8 additional living space.

9 That the hardship is owing to the fact that this
10 structure is already legally nonconforming. And so any
11 modification requires zoning relief.

12 And that relief may be granted without substantial
13 detriment to the public good, or nullifying or substantially
14 derogating from the intent or purpose of the ordinance.

15 In this regard, the relief being sought is
16 relatively modest. It has unanimous neighborhood support.
17 It allows another generation of people -- or the family that
18 owns the house -- to have room in the house to stay.

19 And that generally, what is being proposed will
20 improve the housing stock for the city of Cambridge.

21 So on the basis of all of these findings, the
22 Chair moves that we grant the variance requested on the

1 condition that the work proceed in accordance with plans
2 prepared by EVD Design dated January 27,2021 and revised
3 April 2, 2021, the cover page of which has been initialed by
4 the Chair. Brendan, how do you vote?

5 BRENDAN SULLIVAN: Oh, this is a tough one. I
6 really don't like it. I think it's going to have an adverse
7 effect on the house to the right. The people have expressed
8 no objection to it. I was hoping that there may have been
9 an alternative to this, but I don't see one. I just really
10 do not know. I would ask that you go around the Board.

11 CONSTANTINE ALEXANDER: Do what?

12 BRENDAN SULLIVAN: I would ask that you go around
13 to the Board.

14 CONSTANTINE ALEXANDER: Oh, you want to hear the
15 rest of the Board members first?

16 BRENDAN SULLIVAN: Yes.

17 CONSTANTINE ALEXANDER: Okay. Jim?

18 JIM MONTEVERDE: Jim Monteverde, I would vote to
19 approve.

20 CONSTANTINE ALEXANDER: Okay. Andrea?

21 ANDREA HICKEY: I'm sort of squarely where Brendan
22 is. I wish there were other feasible options. I do know

1 there are issues with the water cable, in that area. I'm
2 sympathetic to that I don't see digging down as a great
3 alternative.

4 On the other hand, sort of windows facing a wall
5 is troubling to me. But if the current neighbors don't have
6 an issue with it, who am I to say? So I think I would
7 reluctantly vote in favor of granting the petition.

8 CONSTANTINE ALEXANDER: Okay. Jason?

9 JASON MARSHALL: Jason Marshall yes in favor of
10 the relief.

11 CONSTANTINE ALEXANDER: The Chair would vote yes
12 in favor of the relief as well. I think this is an example
13 of a relatively innocuous modification to a structure that
14 allows a young family to continue to stay in the city of
15 Cambridge. Brendan, do you want to vote?

16 BRENDAN SULLIVAN: I will vote present on this
17 one. So they've got four affirmative votes and a nay, so.

18 [FOUR VOTES YES, ONE ABSTAINS]

19 CONSTANTINE ALEXANDER: So we have four votes
20 affirmative one abstention, if you will. The variance is
21 granted. Congratulations.

22 AARON RUBIN: Thank you very much. Appreciate it.

1 JULIA HALLMAN: Thank you so much. I'm like --

2 AARON RUBIN: Thank you.

3 JULIA HALLMAN: -- beyond excited. I really
4 appreciate everything. Thank you.

5 ANDREA HICKEY: Good luck with your project.

6 AARON RUBIN: Goodnight.

7 JULIA HALLMAN: Thank you very, very much.

8 CONSTANTINE ALEXANDER: Thank you, too.

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(8:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: Okay. The Chair will now
call Case Number 109443. Anyone here wishing to be heard on
this matter?

SHANNON FINLEY: Hello?

CONSTANTINE ALEXANDER: Hello.

SHANNON FINLEY: Thank you, Chair and members of
the Board. I am Shannon Finley, and I'm with Tiny Desk
Designs, and I am representing TED Lund and Norah Haas at --

CONSTANTINE ALEXANDER: Excuse me, ma'am, can I
interrupt you for a second. Because I don't want to let
this case go too far down the road and create a case heard,
which causes problems. Are you familiar with our dormer
guidelines?

SHANNON FINLEY: I am.

CONSTANTINE ALEXANDER: Okay. Then you know that
the main dormer guideline is on each side of the house the
dormer or dormers in the aggregate cannot exceed 15 feet.

1 The plans we have before us, on one side the
2 dormers will be 20 feet long -- substantially in excess of
3 what our ordinance -- our guidelines -- would allow, and the
4 other side is 16 feet; not as much, but still over.

5 I got to tell you; we took these dormer guidelines
6 very seriously. And I -- the odds of getting zoning relief
7 based upon the plans that have been submitted are not great,
8 in my personal opinion. You could proceed, and you will
9 find out whether I'm right or wrong.

10 The alternative -- and people have done this in
11 the past -- is to continue this case, go back to the drawing
12 board and come back with a dormer proposal that's much --
13 that hopefully complies with the dormer guidelines.

14 But if not they're much closer to what is now
15 proposed, and that there are adequate reasons why you cannot
16 do better than what you've been proposing.

17 So that's my question to you, do you want to
18 proceed, or do you want to continue the case?

19 SHANNON FINLEY: I'd like to continue.

20 CONSTANTINE ALEXANDER: Okay. What's the
21 available date, Sisia?

22 SHANNON FINLEY: No, I mean, I'd like to present

1 my case now.

2 CONSTANTINE ALEXANDER: You want to present the
3 case now?

4 SHANNON FINLEY: Yes, I'm sorry. I mean continue
5 like --

6 CONSTANTINE ALEXANDER: But you understand if you
7 get turned down, you can't bring the case before us for two
8 more years, unless it's substantially different and you go
9 through a whole procedure with us and the Planning Board.

10 SHANNON FINLEY: Well --

11 CONSTANTINE ALEXANDER: If you want to proceed,
12 it's your call.

13 SHANNON FINLEY: -- there's, I can't imagine any
14 other alternative to these dormers for this project.

15 CONSTANTINE ALEXANDER: Okay proceed with your
16 first presentation.

17 SHANNON FINLEY: Okay. This -- the current owners
18 live on the second floor and the attic space of a two and a
19 half story structure, and the middle bedroom has a skylight,
20 but there is no window that is operable for egress, and for
21 view or even better airflow.

22 And the glare from that -- so yes, on this photo

1 here, the dormer you see there currently is in a bathroom.
2 It's right where there's a toilet under that dormer.

3 And then next to that but not attached to it would
4 be another dormer that allows for windows that allow the
5 bedroom to have means of egress and better ventilation. It
6 currently has a skylight, but that's -- you can't block
7 glare from it, and it doesn't make it a very good space to
8 be a bedroom.

9 Otherwise, it would be a good -- it's a great
10 sized bedroom. It's got a closet and everything, but it is
11 just not a nice space to be in.

12 This particular dormer we are seeking a variance
13 on because it adds 48 additional square feet onto a
14 structure that already is above the allowable FAR.

15 The other dormer on the other room is set back.
16 It's not in the setback. It is -- doesn't add any
17 additional square feet. That bedroom also currently has a
18 skylight that they would like to omit and put in windows
19 that they could open for ventilation. That happens to be
20 right where their bed is.

21 So, you know, the middle bedroom I can't imagine
22 another alternative other than a skylight for the bedroom

1 that has -- can you scroll down to the plans? Maybe the
2 newer plan.

3 So this middle bedroom has the two additional --
4 has two windows in it now, rather than a skylight. And the
5 main bedroom has just kind of narrow, short awning windows
6 just to be able to open up. It's about -- you know, if
7 you're standing in the room, it's about eye height.

8 So these windows aren't purely for ventilation in
9 the main bedroom, but for egress and making the bedroom an
10 actual bedroom for all purposes -- you know, for life safety
11 purposes.

12 I don't know if Ted and Norah, if you want to add
13 anything?

14 THEODORE LUND: Sure. So we live in this house.
15 We've lived in it for 18 years. We're raising two young
16 daughters who are reaching the age where they would like to
17 have separate rooms.

18 Our average temperature in the summer upstairs is
19 90 to 94 degrees. You can put an air conditioner in the
20 front bedroom, because there is a window that is accessible.
21 In the main bedroom, you can't really put an air conditioner
22 anywhere.

1 So we have ceiling fans, and we let whatever heat
2 out we can through the one skylight. And the middle room is
3 pretty much unusable during the summer, just because it gets
4 so hot, and there's no way to adequately ventilate it.

5 So we're -- we don't think we're asking much. The
6 -- I understand what you're saying about the dormer
7 guidelines. But if we've got the longer, or more violative
8 sides, if you make that dormer much smaller, it's not going
9 to provide much better ventilation than the existing
10 skylight does.

11 And so we're hoping that having more ventilation
12 up there will make the upper floors more livable during the
13 summer but -- well, late spring through early fall. It's
14 about four months where it's, you know, 85 to 95 degrees in
15 there. And it doesn't cool off at night.

16 NORAH HAAS: And you can see that the other
17 dormers they have -- the existing dormers, so one existing
18 dormer on the stair side basically accommodates the stairs
19 and a small bathroom. And the other smaller dormer on the
20 side where the bedroom is that we're adding the two windows
21 just accommodates essentially head height space for the
22 toilet.

1 And the front room that the girls both share has
2 low -- you know, the slopes under the eaves, that was
3 actually not that big a space. It's got enough room for two
4 beds to basically go up against the main wall and, you know,
5 a dresser right under the window. And that's about it.

6 CONSTANTINE ALEXANDER: Thank you. Anything else
7 you wish to add?

8 NORAH HAAS: No.

9 CONSTANTINE ALEXANDER: Well, I'll ask members of
10 our board if they have any questions. Brendan?

11 BRENDAN SULLIVAN: Brendan Sullivan no questions
12 at this time, no.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: No questions, thank you.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: No questions, thank you.

17 CONSTANTINE ALEXANDER: Jason?

18 [Pause]

19 CONSTANTINE ALEXANDER: Jason?

20 JASON MARSHALL: I'm sorry, I was coming off mute.
21 Just one question is on the application for the variance, it
22 looks like there wasn't an explanation for justifying the

1 variance in the second prong of our review. I think it
2 said, "N/A" and just wanted to know what the rationale of
3 their -- by law, there would need to be an explanation
4 there, and it's -- the burden is on the applicant.

5 SHANNON FINLEY: Which one is -- for the variance,
6 is that what you're saying?

7 JASON MARSHALL: Yeah. Let me try to pull it up
8 as well. That's what I was trying to do.

9 SHANNON FINLEY: Um--

10 JIM MONTEVERDE: On the dimensional information,
11 Jason?

12 SHANNON FINLEY: You're talking about the
13 hardships due to soil conditions?

14 JASON MARSHALL: Correct, yeah.

15 SHANNON FINLEY: I mean, we don't have hardships
16 due to soil conditions, because we're on the second and
17 attic floors. So I don't -- I guess I don't see how
18 topography and soil I guess relate to this request?

19 JASON MARSHALL: Yeah, or it could be structure.
20 I just wanted to know what your response is. Because we
21 can't grant -- we could not even grant the variance if there
22 wasn't a justification for the hardship relating to the

1 topography or land or structure. So as the applicant, it's
2 your burden to provide that. That's why I wanted to give
3 the opportunity to you to --

4 SHANNON FINLEY: Oh, okay. I --

5 JASON MARSHALL: -- given an explanation.

6 SHANNON FINLEY: I would say that the hardship is
7 the structure, the structure of the house; the fact that
8 this room is somewhat, you know, landlocked. It doesn't
9 start either end of the gable, due to the roof structure.

10 CONSTANTINE ALEXANDER: But the requirements of
11 the ordinance, there's going to be circumstances relating to
12 the soil conditions, shape or topography of the structure.

13 SHANNON FINLEY: Okay. So the reason I was filing
14 for a variance is because it was over the FAR.

15 CONSTANTINE ALEXANDER: I know. But to get the
16 variance -- I understand that, it's obvious from your file -
17 - but to get the variance, this is one of the standards you
18 have to satisfy.

19 SHANNON FINLEY: Well, I suppose the lot is
20 undersized. It's a nonconforming lot. And so perhaps we
21 wouldn't be over the FAR if it was a conforming lot.

22 CONSTANTINE ALEXANDER: Okay, thank you. I have

1 no questions. So I will open the matter up to public
2 testimony.

3 Any members of the public who wish to speak should
4 now click the icon at the bottom of your Zoom screen that
5 says, "Raise hand."

6 If you're calling in by phone, you can raise your
7 hand by pressing *9 and unmute or mute by pressing *6. I'll
8 wait a few moments to see if anyone wishes to speak.

9 SISIA DAGLIAN: I'm not seeing anyone.

10 CONSTANTINE ALEXANDER: Apparently not, so I will
11 now close public testimony. I would report that we are in
12 receipt of letters; one, two -- two letters of support for
13 the relief being sought.

14 SHANNON FINLEY: There should be three letters
15 that you received.

16 CONSTANTINE ALEXANDER: Three? Did I miss one?
17 I'm sorry. Let me just --

18 SHANNON FINLEY: Neighbors on both sides of the
19 structure.

20 CONSTANTINE ALEXANDER: I'm sorry, I just -- I
21 missed it. Three, there are three letters. Thank you.
22 Okay, with that I will -- we now will close public

1 testimony. Should I make a motion, do we vote or do you
2 want to have further discussion?

3 BRENDAN SULLIVAN: This is Brendan Sullivan. One
4 question I have, Ms. Finley, is if you take the proposed
5 dormer and we're looking at the third-floor attic, so that
6 the bottom dormer -- the smaller one -- can the new dormer
7 be incorporated into that, so that it does not exceed 15
8 feet, and rather than having the space in between? So
9 that's the dormer for the bathroom.

10 SHANNON FINLEY: So are you talking about the
11 space that has the label --

12 BRENDAN SULLIVAN: Well, yeah, it says, "crawl
13 space" but I'm just wondering why you couldn't combine the -
14 - build a new dormer and add it onto the existing 10-foot-6
15 dormer?

16 SHANNON FINLEY: The 10-foot-6 dormer is the new
17 one.

18 JIM MONTEVERDE: The new one.

19 BRENDAN SULLIVAN: The new one?

20 SHANNON FINLEY: And so I left the two dormers
21 separated from each other so it wouldn't read as a massive
22 dormer.

1 BRENDAN SULLIVAN: Right, I --

2 SHANNON FINLEY: They're actually separated in
3 elevation.

4 BRENDAN SULLIVAN: All right. Okay. I think as
5 far as the issue that you brought up about the excessive
6 heat in the summertime, that is an issue that can be
7 resolved without having to build dormers and add windows and
8 what have you by -- you know, proper insulation and
9 ventilation -- insulation and ventilation outside of
10 building dormers and trying to add windows and air
11 conditioning, so.

12 I have no other comments.

13 CONSTANTINE ALEXANDER: Everybody else ready for a
14 vote, or -- do you want to have further discussion? You've
15 asked your question.

16 BRENDAN SULLIVAN: I'm --

17 CONSTANTINE ALEXANDER: You're all set?

18 CONSTANTINE ALEXANDER: Brendan, are you all set
19 for a vote?

20 BRENDAN SULLIVAN: Yeah. I'm all set, yes, for a
21 vote, yes.

22 CONSTANTINE ALEXANDER: Anybody else? Well, one

1 at a time. Jim?

2 JIM MONTEVERDE: All set.

3 CONSTANTINE ALEXANDER: Ready for a vote?

4 JIM MONTEVERDE: Yeah, [Jim Monteverde], I'm
5 ready.

6 CONSTANTINE ALEXANDER: Andrea?

7 ANDREA HICKEY: Yes, I'm ready.

8 CONSTANTINE ALEXANDER: Jason?

9 JASON MARSHALL: Jason Marshall ready.

10 CONSTANTINE ALEXANDER: And the Chair is ready as
11 well. So I will make -- the Chair makes the following
12 motion, or propose we make the following findings:

13 That a literal enforcement of the provisions of
14 the ordinance would involve a substantial hardship, such
15 hardship being that this is an older structure that is not
16 as livable as the current owners would like, and would like
17 to expand by adding the dormers.

18 That a hardship is owing to -- I suppose you say
19 the -- it's got to be not the soil conditions but the shape
20 of the structure and where it's located on the lot.

21 And that desirable relief may be granted without
22 substantial detriment to the public good, or nullifying or

1 substantially derogating from the intent or purposes of the
2 ordinance.

3 So on the basis of these findings, the Chair moves
4 that we grant the requested variance on the condition that
5 the work proceed in accordance with the plans prepared by
6 Tiny Desk Designs dated January 29, 2021, and the first page
7 of which has been initialed by the Chair. Brendan?

8 BRENDAN SULLIVAN: No to granting the relief.

9 CONSTANTINE ALEXANDER: Jason? I mean Jim, sorry.

10 JIM MONTEVERDE: Jim Monteverde no to granting the
11 relief.

12 CONSTANTINE ALEXANDER: Andrea?

13 ANDREA HICKEY: Andrea Hickey no to granting the
14 relief.

15 CONSTANTINE ALEXANDER: Jason?

16 JASON MARSHALL: Jason Marshall no to granting the
17 relief.

18 CONSTANTINE ALEXANDER: The Chair votes no for
19 granting the relief as well.

20 [All vote NO]

21 So it's unanimous that the relief will be denied.

22 We need to take a second vote to recite why we

1 reached this conclusion. And I will make a stab at it, and
2 I welcome suggestions from the other members of the
3 Committee, of the Board.

4 That what is being proposed does not comply with
5 our dormer guidelines. These dormer guidelines, so they are
6 guidelines that are taken very seriously by this Board, and
7 the departure from the dormer guidelines is significant.

8 We're talking about dormers that would, on one
9 side, extend 20 feet, when the guidelines say no more than
10 15 feet. That there is no hardship relating to soil
11 conditions, shape or topography that would justify the
12 granting of a variance.

13 And that relief cannot be granted without
14 substantial detriment to the public good, or nullifying or
15 substantially derogating from the intent and purpose of this
16 ordinance.

17 And again, I would refer back to the dormer
18 guidelines and the fact that what is being proposed is a
19 substantial departure from the dormer guidelines, is a
20 substantial detriment to the public good, and will nullify
21 or substantially derogate from the intent or purpose of this
22 ordinance.

1 BRENDAN SULLIVAN: Brendan Sullivan yes to the
2 language codifying the denial of relief.

3 CONSTANTINE ALEXANDER: Jim?

4 JIM MONTEVERDE: And Jim Monteverde yes to the
5 language proposed.

6 CONSTANTINE ALEXANDER: Andrea?

7 ANDREA HICKEY: [Andrea Hickey], yes I assent (sic)
8 to the language proposed.

9 CONSTANTINE ALEXANDER: And Jason?

10 JASON MARSHALL: [Jason Marshall], yes I consent to
11 the language proposed.

12 CONSTANTINE ALEXANDER: And I consent to my own
13 language. So I vote as well.

14 [All vote YES]

15 We do have a proposal for a special permit.

16 SHANNON FINLEY: That was for -- sorry.

17 CONSTANTINE ALEXANDER: Do you want to proceed
18 with that? No, I'm looking at the wrong -- I'm sorry,
19 special permit to build a second conforming -- well, that's,
20 we're all -- I'm asking to vote, these are both dormers.
21 The case is over. Thank you very much.

22

1 * * * * *

2 (8:20 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, Jason
5 Marshall

6 CONSTANTINE ALEXANDER: One second while we're
7 getting our new files.

8 JIM MONTEVERDE: How is it that I end up on the
9 Jumbotron, Brendan, above your head? It's a little
10 disconcerting.

11 BRENDAN SULLIVAN: Nothing personal.

12 CONSTANTINE ALEXANDER: That's right.

13 JIM MONTEVERDE: I should have worn a tie.

14 BRENDAN SULLIVAN: Nothing (sic) business,
15 strictly personal -- strictly business.

16 JIM MONTEVERDE: I guess so.

17 CONSTANTINE ALEXANDER: One second, I just -- I
18 need to get the relevant section out, and then we can hear
19 the next case.

20 [Pause]

21 Getting there, I'm almost there. Okay, we're
22 ready to go. The Chair will now call Case Number 109493 --

1 343 ½ Broadway. Anyone here wishing to speak on this
2 matter?

3 ANGELIKA O'CONNOR: Yes.

4 CONSTANTINE ALEXANDER: I take it you are the
5 petitioner?

6 ANGELIKA O'CONNOR: Yes. I'm Angelika O'Connor.
7 Am I being seen and heard?

8 CONSTANTINE ALEXANDER: Can I -- before we start
9 the case, let me -- I think these are substantial -- I don't
10 want to say problems, but you're obviously not a lawyer, or,
11 like, you're not versed in the niceties of our zoning
12 ordinance.

13 ANGELIKA O'CONNOR: Okay.

14 CONSTANTINE ALEXANDER: But the ordinance says
15 that you can convert a single-family unit dwelling to a two-
16 family dwelling, provided that four conditions are met.
17 We're talking about Section 5.26. Your application doesn't
18 deal with that at all.

19 Matter of fact, you didn't fill out -- I can pull
20 out the dimensional form -- you didn't fill out all of the
21 information that is called for.

22 I don't see how -- yeah, you see if you go to the

1 page where you have the existing conditions, the requested
2 conditions, and then what the ordinance requires.

3 And what you should do in this is you've got to
4 fill out the whole page and let us know which of the four
5 requirements are not being satisfied that require a
6 variance.

7 Based upon what I have heard, I don't feel I can
8 make a meaningful decision about this case. I think you
9 have to continue the case.

10 You need to get the advice of an -- I know it may
11 be a little bit expensive -- of a lawyer, an architect --
12 someone who's knowledgeable with our -- to some extent -- to
13 our ordinance, and could come back with a new -- and you
14 could file a new form, which would give the information that
15 is not --

16 ANGELIKA O'CONNOR: I do have -- you're not
17 referring to the dimensional information, are you?

18 CONSTANTINE ALEXANDER: I'm referring to the --
19 yeah, I don't have the -- we've got to be told -- I'm
20 reading from 5.26 --

21 ANGELIKA O'CONNOR: Mm-hm.

22 CONSTANTINE ALEXANDER: -- "shall be permitted --

1 unless the requirements of minimum lot area for each
2 dwelling unit, maximum ratio of floor area to lot area,
3 private open space and off-street parking are satisfied for
4 all dwelling units. I don't see -- if that information is
5 here I've missed it, and I'd welcome --

6 ANGELIKA O'CONNOR: Well --

7 CONSTANTINE ALEXANDER: I welcome it, but I don't
8 see it.

9 ANGELIKA O'CONNOR: Well, there are two parking
10 spaces and the house --

11 CONSTANTINE ALEXANDER: Yeah, I understand that.
12 I saw that, and I concluded that --

13 ANGELIKA O'CONNOR: Yes.

14 CONSTANTINE ALEXANDER: -- you meet that
15 requirement. That's one of the four.

16 ANGELIKA O'CONNOR: And the house is a
17 nonconforming house with a nonconforming lot size. And it
18 exists as it did in 1872. There are absolutely no changes
19 to the house. So --

20 CONSTANTINE ALEXANDER: It's not a matter of
21 changes to the house, it's a matter of the size of the
22 dwelling units.

1 ANGELIKA O'CONNOR: Well, there are no changes to
2 the size of the dwelling itself. It's 2744 square feet in
3 its living space, and the footprint is 1202.5 as a footprint
4 of the first floor, and the footprint of the second floor.

5 CONSTANTINE ALEXANDER: Need something in writing
6 or some presentation that shows each of the two dwelling
7 units that you wish to create are the ones that you'll keep
8 and the one that you'll be splitting off -- satisfy the
9 minimum lot area. That the max ratio of -- let me finish
10 please --

11 ANGELIKA O'CONNOR: Yep.

12 CONSTANTINE ALEXANDER: -- maximum ratio of floor
13 area to lot area; private open space I assume is not a
14 problem, because you're not modifying the structure. So I
15 think you're going to -- that's okay.

16 And off-street parking you pointed out there are
17 two off-street parking and for two units that's okay, if you
18 only have one parking space, but that satisfies the
19 requirement of our ordinance.

20 But the other two I don't know how to answer, and
21 how we can make an analysis to see whether one -- whether
22 there's a problem. There must be a problem, because you

1 applied for a variance. So you must not be satisfying at
2 least one of the four requirements in Section 5.26.

3 ANGELIKA O'CONNOR: I do have my architect here,
4 who has the plans. Maybe he can speak on that.

5 CONSTANTINE ALEXANDER: Why didn't that architect
6 help you put together the application? We wouldn't be
7 having this conversation.

8 ANGELIKA O'CONNOR: The numbers of the dimensional
9 forms were his numbers.

10 CONSTANTINE ALEXANDER: I'm just venting a little
11 bit. Does the architect want to speak to these? Is he
12 familiar with the structure enough to talk to the 5.26, and
13 in particular which one of those four are not going to be
14 satisfied, and -- because if everything's being satisfied,
15 there's no need for zoning relief?

16 So if something was not going to be satisfied,
17 then I don't know what that is.

18 ALEX VAN PRAAGH: Hi. This is Alex Van Praagh.
19 I'm the architect who did the drawings for Angelika. And
20 you may note that the drawings that were submitted were
21 drawn in 2015.

22 And Angelika recently approached me and said that

1 she was going to be applying for the change of use from a
2 single-family to a two-family, and could I be present at the
3 meeting in case there was questions of the plans?

4 The application had already been submitted, and I
5 told her I could make myself available. But I'm not
6 prepared to talk through the application at this point. I
7 can talk to the plans, and the architectural changes are
8 strictly on the interior that would change the residence
9 from a single to a two-family.

10 CONSTANTINE ALEXANDER: I just need -- and I think
11 this Board just needs to know if you can do, you can satisfy
12 5.26 without any zoning relief, the case is over. No case
13 should have been brought in the first place.

14 If you can't, I'd like to know which ones you
15 can't -- cannot, and why you cannot and what's the
16 justification for us to grant the variance for this.

17 We pay a lot of attention to Section 5.26. The
18 people are forever wanting to convert single-family
19 dwellings into two-families, for obvious reasons.

20 ALEX VAN PRAAGH: Yes.

21 CONSTANTINE ALEXANDER: And there's nothing wrong
22 with that, if they can meet the requirements of the

1 ordinance, or if they can obtain a variance. Again, I'm --
2 maybe I'm just me. I'm just wandering around the dark,
3 because I don't have the information.

4 ANGELIKA O'CONNOR: I guess I didn't direct -- you
5 know, naively so, I didn't direct my interest in that.

6 Because the house is a duplex, and the duplex -- the other
7 side 343 exists and has existed as a two-family.

8 And my house also prior to my owning it, the two
9 prior owners had it as -- rented it as a two-family. So it
10 was in existence as a two-family, not on both sides, since
11 at least --

12 CONSTANTINE ALEXANDER: If it is, if it was -- and
13 I assume it was -- you should know the dimensions that we
14 need to answer our -- to make a decision.

15 I'm going to stop right here, and I'll defer to
16 other members of the Board and if they're not as frustrated
17 as I am about wanting to put this case together, fine; we'll
18 go forward. But I think we do need more information than
19 you've given us.

20 ALEX VAN PRAAGH: I would ask if we could continue
21 and I can put together -- or Angelika -- can seek a lawyer
22 to put together a more complete request, if indeed a

1 variance is needed. I can't speak to 526 at this moment,
2 and I apologize.

3 CONSTANTINE ALEXANDER: Okay, that's fine. That's
4 what I started with. We can -- the case needs to be
5 continued, so more information can be supplied to us, where
6 we can make an informed decision. How much time do you
7 think you need sir, to help Angelika get the information she
8 needs, and to file a new -- to file that with the Building
9 Department?

10 ALEX VAN PRAAGH: I could -- I can abide by the
11 time of the next meeting. I -- this will not take long to
12 look into to understand what's required.

13 CONSTANTINE ALEXANDER: Well, you've got to get --
14 okay, if we did the next meeting, it would be what? Sisia?

15 SISIA DAGLIAN: Sorry. We could do May 27.

16 CONSTANTINE ALEXANDER: May what?

17 SISIA DAGLIAN: May 27 would be the next one.

18 CONSTANTINE ALEXANDER: May 27, okay. We could
19 continue the case until May 27. That should give you more
20 than enough time to do what -- you know, get the information
21 you need to get. Is that okay with you, sir?

22 ALEX VAN PRAAGH: It's okay with me. I --

1 Angelika, I think it's to you to --

2 ANGELIKA O'CONNOR: Yes, I think that would be
3 fine.

4 ALEX VAN PRAAGH: -- as the applicant --

5 ANGELIKA O'CONNOR: I think that would be fine. I
6 just assumed because it's a historical structure that has
7 been in use as a two-family and has not changed in its
8 exterior or interior that the variance would have been
9 looked at in that way.

10 CONSTANTINE ALEXANDER: Okay. So I'm going to
11 make a motion now to continue this case as -- well, I guess
12 it's -- well --

13 BRENDAN SULLIVAN: Case not heard.

14 CONSTANTINE ALEXANDER: I guess it's a case not
15 heard. We never got to the merits.

16 ALEX VAN PRAAGH: Thank you.

17 CONSTANTINE ALEXANDER: It is a case not heard.

18 So the Chair moves that we continue this case as a case not
19 heard until 6:00 p.m. on May 27, subject to the following
20 conditions:

21 One, that the petitioner must sign a waiver of
22 time for decision. That's because by state law we need to

1 reach a decision within a certain timeframe, or relief is
2 automatically granted. So you need to sign a waiver.

3 This waiver is a standard, simple document that
4 everybody signs if they wish or need to continue a case.

5 But this waiver must be signed and returned to the
6 Inspectional Services Department no later than 5:00 p.m. on
7 a week from Monday. If we don't do that the case will be
8 automatically dismissed.

9 So it's a very simple document. Just get in touch
10 with Maria Pacheco and make arrangements to get that sign
11 and satisfy that condition.

12 Second, the sign for this hearing needs to be
13 changed to reflect the new date and the new time; May 27 at
14 6:00 p.m. That modified -- you can either to get a new sign
15 from Maria, or you can take a magic marker and change on the
16 existing sign change the date and time. You must do it in a
17 fashion that's legible, and you must maintain it for the 14
18 days -- as I said, before May 27.

19 And lastly, you must -- any new, well the new
20 information that you're going to get demonstrates that
21 you're entitled to zoning relief under 5 -- with regard to
22 5.26 -- must be in our file no later than 5:00 p.m. on the

1 Monday before May 27. If you don't do that, the case will
2 be further continued.

3 Brendan, how do you vote?

4 BRENDAN SULLIVAN: Yes to the continuance.

5 CONSTANTINE ALEXANDER: Jim?

6 JIM MONTEVERDE: Jim Monteverde yes to the
7 continuance.

8 CONSTANTINE ALEXANDER: Andrea?

9 ANDREA HICKEY: Andrea Hickey yes to the
10 continuance.

11 CONSTANTINE ALEXANDER: Jason?

12 JASON MARSHALL: Jason Marshall yes to the
13 continuance.

14 CONSTANTINE ALEXANDER: And the Chair votes yes as
15 well for the continuance.

16 [All vote YES]

17 The case is continued until May 27. Thank you.

18 COLLECTIVE: Thank you.

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(8:35 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: Next case is Spring Street.

SISIA DAGLIAN: Spring Street.

CONSTANTINE ALEXANDER: Another one. The Chair
will now call Case Number 109394 -- 118 Spring Street.

Anyone wishing to be heard on this matter?

SIDDARTH GEHLOT: Good evening, everyone. This is
Sid Gehlot from Treetop Group. I'm the owner, and I have
also here Morris Schopf, the architect. We are renovating
legal --

CONSTANTINE ALEXANDER: Excuse me, sir, excuse me
Let me interrupt you. I apologize for doing that. Your
application is not complete. It seems to be our night for
noncompletes. You're supposed -- you have to have a
supporting statement for a variance. And the variance
relates to the decks, the proposed decks.

Nothing is -- blank! -- nothing's here. How can
you not -- you can't have a panel analyze this case unless

1 that information is provided. That's why it's in the file.

2 So I think we've got to continue this case as
3 well. Do you have a date?

4 MORRIS SCHOPF: Can you tell us what is missing?

5 THE REPORTER: Could you state your name for the
6 record, please?

7 CONSTANTINE ALEXANDER: I have a page in front of
8 me that is just our standard form for zoning cases:
9 "Supporting Statements for a Variance." To grant a
10 variance, we need to make three basic, important, essential
11 findings. The page is left blank. Never been filled in.

12 There's some of that information, I will point out
13 on the plans, but not all of the information that's
14 required, and not enough information. So I don't see how we
15 can consider this a variance case. You just haven't
16 complied with the ordinance.

17 MORRIS SCHOPF: Would you be so kind as to
18 continue us to the next meeting?

19 CONSTANTINE ALEXANDER: Say it again, please?

20 THE REPORTER: Could you state your name for the
21 record, please?

22 CONSTANTINE ALEXANDER: I'm sorry, I didn't catch

1 that.

2 THE REPORTER: Could you -- could he state his
3 name for the record, please?

4 MORRIS SCHOPF: Oh, Morris Schopf.

5 THE REPORTER: Could you spell your last name?

6 MORRIS SCHOPF: Morris Schopf, S-c-h-o-p-f.

7 you've got Siddarth twice, but I am not Siddarth, I am the
8 architect. So we will figure out what we are missing, and
9 we would be pleased to return at your next regular meeting.

10 CONSTANTINE ALEXANDER: I don't think we have room
11 on our agenda for the next meeting. Let me find out.

12 SISIA DAGLIAN: No, it would be June 10.

13 CONSTANTINE ALEXANDER: June 10 is the earliest we
14 can hear it.

15 MORRIS SCHOPF: We will take June 10.

16 CONSTANTINE ALEXANDER: Okay. I'm sorry -- okay.

17 The Chair moves that we continue this case as a case not
18 heard until 6:00 p.m. on June 10, subject to the following
19 conditions:

20 One, that the petitioner must sign a waiver of
21 time for a decision, which is required to continue the case.
22 That signed waiver must be signed and delivered to the

1 Building Department no later than 5:00 p.m. on a week from
2 Monday. If that is not done, if we still have a form that's
3 not been completed, we will dismiss the case.

4 Second, that the posting sign that's up there now
5 must be modified to reflect the new dates and the new time.
6 And that new sign must be maintained for the 14 days
7 required by our ordinance.

8 You can do that in one of two ways. You can get a
9 new sign from the Building Department, or you can take the
10 existing sign, so long as it is still in legible condition,
11 and with a magic marker or some other instrument, change the
12 date and time on that sign.

13 But it's got to be done in a fashion that the sign
14 is now legible as to the new date and time.

15 And lastly, that the form that I referred to that
16 needs to be completed and any other proposed changes you
17 want to make to the specifications, dimensional requirements
18 or the like -- any of that must be in our file no later than
19 5:00 p.m. on the Monday before June 10.

20 Brendan, how do you vote?

21 BRENDAN SULLIVAN: Brendan Sullivan yes to the
22 continuance.

1 CONSTANTINE ALEXANDER: Jim?

2 JIM MONTEVERDE: And Jim Monteverde yes to the
3 continuance.

4 CONSTANTINE ALEXANDER: Andrea?

5 ANDREA HICKEY: Andrea Hickey yes to the
6 continuance.

7 CONSTANTINE ALEXANDER: Jason?

8 JASON MARSHALL: Jason Marshall yes to the
9 continuance.

10 CONSTANTINE ALEXANDER: And the Chair votes yes as
11 well.

12 [All vote YES]

13 This case will be continued until June 10. Thank
14 you.

15 COLLECTIVE: Thank you.

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2 (8:40 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Jim Monteverde, Jason
5 Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number 109464 -- 800 Memorial Drive. Anyone here
8 wishing to be heard on this matter?

9 JAMES RAFFERTY: Good evening Mr. Chair. For the
10 record, James Rafferty on behalf of the applicant, Cricone
11 (phonetic) Cambridge, LLC. Also present on the call is the
12 proprietor of the proposed establishment, Rita McCabe -- M-
13 c-C-a-b-e.

14 This is an application, Mr. Chair, that's seeking
15 a variance -- a use variance to allow for a fast food use in
16 an office district.

17 For reasons that have always eluded me, retail
18 uses -- including fast food -- are not allowed in an office
19 district. So the as-of-right uses here are limited to
20 offices in residential.

21 11 years ago, this Board granted a variance for
22 this building. It's at the base of a residential building.

1 It was formerly a gas station for the offices of the gas
2 station, and the Board granted a fast food variance to allow
3 for a Dunkin Donuts, which has operated in this location
4 along with a dry cleaner.

5 The dry cleaner is no later than present. What
6 the applicant is proposing to operate here is a very unique
7 ice cream shop. It involves a process known as liquid
8 nitrogen ice cream.

9 CONSTANTINE ALEXANDER: [Laughter]

10 JAMES RAFFERTY: And it's extremely unique and
11 popular. And Ms. McCabe has operated -- her and her husband
12 operate one of these successfully in Nashua, New Hampshire.
13 They also have one in western Mass, and they also have
14 activities from time to time at MIT, and in parts of Boston.

15 But the process involves the customers going in,
16 selecting what might be considered toppings and flavors, and
17 then you go through the line and the liquid nitrogen, which
18 is stored at a temperature of 321 degrees below zero gets
19 blasted into the container, and the ice cream is literally
20 made before your eyes.

21 And the applicants have done extensive outreach so
22 the Board may realize the building -- the use would be

1 located in the ground-floor or a large, multifamily
2 residential complex. They've met with the Tenants' Council.
3 They have met with neighbors. Their petition was over 100
4 signatures, as included in the file.

5 And I think it's fair to say there's a great level
6 of interest and enthusiasm for this use in this location.
7 It meets all the criteria I would suggest for a variance,
8 which have been dutifully noted in the supporting
9 statements, which are attached with the application.

10 And I think the Board's findings in 2010 are
11 equally applicable here in 2021, with regard to what other
12 use would be practical in this location?

13 I know we're oftentimes in [2:47:01 audio unclear] cases
14 talking about Special Permit Criteria, and we always seem to
15 focus on whether there is a need for such a service in the
16 area.

17 CONSTANTINE ALEXANDER: [Laughter]

18 JAMES RAFFERTY: Unfortunately -- I shouldn't say
19 "unfortunately" but -- that criteria isn't present here.
20 But if it were, the Board could take note that there is very
21 little in the way of ice cream. I believe one would have to
22 go to Central Square to find the nearest ice cream location.

1 And I scour the neighborhood closely for such things. I can
2 assure you; ice cream is a limited commodity in this
3 neighborhood, and I think that's the testimony for why it
4 has been so well received.

5 And I'd like to learn a little bit about it. Ms. McCabe
6 would be happy to tell you a little about it, but they've
7 enjoyed great success in Nashua. And they are eager to
8 operate and bring this service, this product, to the
9 neighborhood.

10 CONSTANTINE ALEXANDER: That's it?

11 RITA MCCABE: Thank you to the Chair and to the
12 Board today for allowing us to --

13 JAMES RAFFERTY: Rita, Rita why don't you wait --
14 excuse me, Rita, why don't you wait and see -- I mean, the
15 Board may wish to hear from you, but --

16 RITA MCCABE: Oh, okay, sorry.

17 CONSTANTINE ALEXANDER: [Laughter] I don't wish --
18 I don't need -- no offense, ma'am. I don't need to hear
19 from you. I think Mr. Rafferty gave a very succinct and
20 certainly effective presentation. But -- after all, this is
21 not the most difficult case this Board has ever faced.

22 In any event, I personally think I would be in

1 favor of granting the variance, and I think we can
2 incorporate the findings we made the last time around when
3 we granted a variance for this location. Nothing has
4 basically changed.

5 And I can avoid having to reconstruct --

6 JAMES RAFFERTY: Right.

7 CONSTANTINE ALEXANDER: -- motions that we had the
8 last time.

9 JAMES RAFFERTY: Right. It's actually the case,
10 Mr. Chair and members of the Board, that the -- the uses
11 will tend to complement each other. The Dunkin Donuts has
12 its most intense activity in the early morning.

13 This use doesn't even open until 11:00 or 11:30.
14 So the parking spaces that are there and the level of
15 activity complement one another, that they have different
16 times. So they'll be open afternoons and evenings.

17 The Dunkin establishment, while it's open during
18 those hours, doesn't have a heavy amount of traffic, as you
19 would anticipate during those hours.

20 CONSTANTINE ALEXANDER: Okay. Brendan, any
21 questions?

22 BRENDAN SULLIVAN: No. I have no questions.

1 Actually, I have signed the application. I did do a little
2 reading on the very unique concept here, and found it
3 interesting.

4 And I think probably that with the added emphasis
5 of the Riverway there, or the Walkway as someone called it,
6 it may be a very interesting added attraction. So anyhow,
7 that's my only comment.

8 CONSTANTINE ALEXANDER: [Laughter] Thank you.
9 Jim?

10 JIM MONTEVERDE: Jim Monteverde no questions, no
11 comments.

12 CONSTANTINE ALEXANDER: Andrea?

13 ANDREA HICKEY: I have no questions or comments.

14 CONSTANTINE ALEXANDER: Jim? I mean Jason, I'm
15 sorry. Jason.

16 JASON MARSHALL: [Jason Marshall] -- I was going to
17 ask about ice flavors, but I think I'll just hold off.

18 CONSTANTINE ALEXANDER: [Laughter] Well, you know,
19 in the old days when we met in person, we would require that
20 the petitioner bring some samples --

21 COLLECTIVE: [Laughter]

22 CONSTANTINE ALEXANDER: -- so the Board can taste

1 them and decide whether we really want this product in our
2 city. They can't do that these days, so.

3 JAMES RAFFERTY: I thought Ms. Glowa ruled that's
4 no longer acceptable?

5 CONSTANTINE ALEXANDER: I have no questions as
6 well. Ready for a vote?

7 BRENDAN SULLIVAN: Yes.

8 CONSTANTINE ALEXANDER: Okay. I -- and does
9 anyone have a problem with what I'm proposing, which is
10 basically I'm trying to reconstruct ancient history. But
11 it's basically the findings we made the last time around for
12 the Dunkin Donuts should apply here as well.

13 Because the impact is the same on the
14 neighborhood, and the nature of what is being proposed is
15 similar -- not identical, but similar to the Dunkin Donuts.

16 So I don't see -- I personally don't see a need to
17 reinvent the wheel. But I will if people want me to.

18 Brendan's nodding no.

19 JIM MONTEVERDE: No, sir.

20 CONSTANTINE ALEXANDER: Okay. Let's start. So
21 the Chair moves --

22 SARAH RHATIGAN: Oh, Mr. Chair excuse me. I hate

1 to snatch victory from the jobs. I believe there may be
2 members of the public who are present this evening?

3 CONSTANTINE ALEXANDER: There are. I'm sorry,
4 it's been a long night. We do need to open this up to
5 public testimony.

6 Any members of the public who wish to speak should
7 now click the icon at the bottom of your Zoom screen that
8 says, "Raise hand."

9 If you're calling in by phone, you can raise your
10 hand by pressing *9 and unmute or mute by pressing *6. I'll
11 wait a few moments to see if there are any callers, as Mr.
12 Rafferty promises.

13 [Pause]

14 SISIA DAGLIAN: I don't see anyone.

15 CONSTANTINE ALEXANDER: I'm sorry?

16 SISIA DAGLIAN: I don't see anyone.

17 CONSTANTINE ALEXANDER: Okay. Apparently there is
18 no one that wishes to speak.

19 JAMES RAFFERTY: Okay.

20 CONSTANTINE ALEXANDER: So I will now close public
21 testimony. As Mr. Rafferty has pointed out, we have a very
22 substantial -- mind-boggling to my mind -- petition in

1 support of the relief being sought. I wouldn't have
2 thought, given the location, you would get this kind of
3 support, but you do -- you being the petitioner. You do,
4 and it's all to your credit.

5 Okay. The Chair moves that we make the following
6 findings with regard to the variance being sought. And the
7 findings would be the same that were made when we granted
8 the variance for the previous variance, Case Number 9967 in
9 2010 to operate a dry cleaning establishment.

10 So on the basis of all these findings, the Chair
11 moves that we grant the variance being sought. We don't
12 need to tie it to the plans that were submitted with the
13 application. So simply that -- that we grant the variance
14 to operate the dry cleaning establishment at 800 Memorial
15 Drive.

16 BRENDAN SULLIVAN: 808. Yeah, 808 --

17 CONSTANTINE ALEXANDER: I'm sorry, 808, correct.

18 BRENDAN SULLIVAN: Brendan Sullivan yes to
19 granting the variance.

20 CONSTANTINE ALEXANDER: Jim?

21 JIM MONTEVERDE: Jim Monteverde yes to granting
22 the variance.

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Andrea Hickey yes in favor of the
3 variance.

4 CONSTANTINE ALEXANDER: Jim? Jason. I know keep
5 getting you two mixed up.

6 JIM MONTEVERDE: I get to vote twice, yeah.

7 JASON MARSHALL: I'm going to vote the same way as
8 Jim, so Jason Marshall in favor of the variance.

9 CONSTANTINE ALEXANDER: And the Chair will vote in
10 favor as well.

11 [All vote YES]

12 Variance granted.

13 JAMES RAFFERTY: Thank you very much, folks. Have
14 a nice evening.

15 CONSTANTINE ALEXANDER: Thank you.

16 RITA MCCABE: Thank you so much, we appreciate it.

17 COLLECTIVE: Thank you.

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(8:50 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea Hickey, Jim Monteverde, Jason
Marshall

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 110472 -- 123 Huron Avenue. Anyone wishing to
be heard on this matter?

CHRISTOPHER LADD: Yes, hello. Good evening,
everyone. It's Chris Ladd. I am the homeowner for 123
Huron Avenue. So this is a multifamily unit. So we have
three units -- 119, 121 and 123.

And 123 we would like to build an accessory
structure on our existing deck, which is for one thing a
gazebo in the summertime.

And the other thing would be a sauna shed, which
is 7 x 5, so it's 35 square feet, and we would build it on
the -- yeah, on the deck, which is actually in the back of
the building.

I'm not sure if you can pull up -- maybe Sisia, if
you could pull up the slides, because I cannot see them
right now?

1 Yeah, here you can see the unit. So you can see
2 actually on the left side you can see in the back that
3 there's a privacy fence, and that's the place where we would
4 like to put the sauna shed.

5 And then the front where you see the furniture
6 area, that's where we want to have a little bit more shade.
7 Our son was just born during the summertime, there's a lot
8 of sun over there, so we would like to have a little bit
9 more shade for him. So we would like to build a 10 x 10
10 gazebo there.

11 The sauna is actually on the picture that's on the
12 slide before -- yeah, exactly. So this is how the structure
13 would look like. It's a prefabricated one from New England
14 Spas in Natick. They will deliver it, install it, and they
15 work with a certified electrician, who will build a 240 volt
16 circuit-breaker.

17 The electrician is Brian Bradley, and below is
18 then like an example just for the gazebo. We haven't
19 decided exactly on the model, but it will be a 9 x 9
20 structure, actually. I just measured it.

21 And I think there's also a structural plan. We
22 can look at that one. This is the plan of the sauna shed,

1 so it also has kind of like a rooftop. And it's an electric
2 sauna, so not a wood stove or anything or no gas. So no
3 fire hazard in that sense. And it's produced and
4 manufactured in the U.S. in Minnesota.

5 And you can see on slide 7 -- yeah, here you can
6 see the plan from the architect. So this is the existing
7 deck with the sauna, and this has a weight of 1700 pounds.
8 So this is why the deck will need to be reinforced. And the
9 gazebo will be in the corner as a 10x10.

10 Yeah, and I think that sums it up. I mean, the
11 filing really for the variances, because, as you can see,
12 the structure -- both accessory structures access the
13 building. So that affects I think they call it the 421,
14 which means that the accessory structure should not be
15 closer than I think 10 feet to the main -- to the principle
16 building and this will be the case here.

17 So both of them, the sauna shed, would be five
18 feet away. And the gazebo would be directly next to the
19 building.

20 The other piece is then the Article 523, which
21 states that the GSA -- I think the cross area, the ratio
22 should be smaller than 50 percent of our living area and the

1 lot area.

2 And currently I think one of the slides I think
3 its shows that it should be currently around 75 percent, and
4 it would increase to 35 square feet -- just the area of the
5 sauna shed.

6 CONSTANTINE ALEXANDER: Have you gotten approval
7 from your Condominium Association to do this?

8 CHRISTOPHER LADD: Yes, we have. There is also
9 the support of letters, which we see --

10 CONSTANTINE ALEXANDER: We've got it.

11 CHRISTOPHER LADD: Yeah.

12 CONSTANTINE ALEXANDER: It wasn't filed -- we
13 would usually see that filed with your application or in
14 support of the application. I didn't see it in the file.

15 JIM MONTEVERDE: I think --

16 CONSTANTINE ALEXANDER: You do have it?

17 JIM MONTEVERDE: Mr. Chair, I think it's at the
18 end of the application. I was just reading it, yeah.

19 CONSTANTINE ALEXANDER: Okay.

20 CHRISTOPHER LADD: Yeah, it should be there.

21 There are two there.

22 JIM MONTEVERDE: There were two separate ones; one

1 for the gazebo --

2 CHRISTOPHER LADD: Yeah.

3 JIM MONTEVERDE: -- one for the sauna.

4 CONSTANTINE ALEXANDER: Thank you. I missed that.

5 CHRISTOPHER LADD: Yep, yeah. We talked to all
6 our neighbors. And also, not only here at the condominium
7 but also the other neighbors. And we don't have letters
8 there, but we talked to them just to make them aware.

9 But no one will really see the sauna or the
10 gazebo, just because you could see that on the first
11 picture. There are three, and then there's also a privacy
12 fence. So no one will actually notice that we built
13 anything there later on. Yeah. But we've got, we have the
14 --

15 CONSTANTINE ALEXANDER: No, I did find the
16 letters, Jim, thank you. They got buried in the back.

17 JIM MONTEVERDE: Yeah, exactly. Way in the back.

18 CHRISTOPHER LADD: Okay.

19 CONSTANTINE ALEXANDER: Okay. Anything further
20 you wish to add to your presentation, sir?

21 CHRISTOPHER LADD: No, no. I think there's an
22 overview just of the different units, there's another of

1 them. But I think that sums it up already for these two
2 accessory structures.

3 CONSTANTINE ALEXANDER: Okay. Questions?
4 Brendan?

5 BRENDAN SULLIVAN: Brendan Sullivan no questions.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: Just one. I'm reading the --
8 looking at the Supporting Statement for a Variance.

9 CONSTANTINE ALEXANDER: Yep.

10 JIM MONTEVERDE: And this is asking about the
11 hardship. And the description really doesn't talk about a
12 hardship. It just really says why you want it. And, you
13 know, either Category A -- substantial hardship or Be where
14 it says, "a hardship owing to circumstances." Neither one of
15 them really are kind of direct answer to the question.

16 CONSTANTINE ALEXANDER: You want to elaborate,
17 sir?

18 CHRISTOPHER LADD: Yeah. Well, I don't know
19 exactly which paragraph that he was referring to. But I
20 mean the reason why we thought, okay, we could apply for a
21 variance was that there's no impact on any -- on the public
22 on any -- on the topography, on the soil or anything on our

1 neighbors. That's why we thought that there would be
2 rationale in filing for the variance here.

3 CONSTANTINE ALEXANDER: I might add I noticed this
4 with -- Jim has pointed out, and my reaction was, "What can
5 you say?"

6 JIM MONTEVERDE: Yeah, right.

7 CONSTANTINE ALEXANDER: I mean --

8 JIM MONTEVERDE: There is no hardship.

9 CHRISTOPHER LADD: Yeah.

10 CONSTANTINE ALEXANDER: But --

11 CHRISTOPHER LADD: Yeah.

12 CONSTANTINE ALEXANDER: -- it's a technical zoning
13 issue.

14 JIM MONTEVERDE: Right.

15 CONSTANTINE ALEXANDER: But the purpose is
16 obviously recreational and health wise, and there we are.

17 JIM MONTEVERDE: Yep. I'm good.

18 CONSTANTINE ALEXANDER: Anyway, thank you for
19 pointing that out, Jim.

20 JIM MONTEVERDE: Yep.

21 CONSTANTINE ALEXANDER: Andrea?

22 ANDREA HICKEY: I have nothing. No questions.

1 CONSTANTINE ALEXANDER: Jason?

2 JASON MARSHALL: Jason Marshall, no questions. I
3 think I struggle with the technicality that Jim raised, and
4 I've been a little bit of a stickler on that even tonight.
5 So -- but I have the luxury of waiting to see how the Chair
6 might react on any motion. So I think I will wait for that.

7 CONSTANTINE ALEXANDER: The Chair is pretty blasé
8 tonight. Too many difficult cases by people that don't
9 comply with the zoning ordinance, and then expect us to hear
10 the case. But this is just not one of those cases. Anyway,
11 I'll now open the matter up to public testimony.

12 Any members of the public who wish to speak should
13 now click the icon at the bottom of your Zoom screen that
14 says, "Raise hand."

15 If you're calling in by phone, you can raise your
16 hand by pressing *9 and unmute or mute by pressing *6. I'll
17 take a few moments to see if anyone wishes to call in.

18 [Pause]

19 I am told no one has called in. So I will close
20 public testimony. Discussion, or are we ready for a vote?
21 I'd like to --

22 BRENDAN SULLIVAN: Ready.

1 CONSTANTINE ALEXANDER: We're ready for a vote?

2 ANDREA HICKEY: Ready.

3 JIM MONTEVERDE: Ready.

4 CONSTANTINE ALEXANDER: Okay.

5 JASON MARSHALL: Ready.

6 CONSTANTINE ALEXANDER: The Chair moves that we
7 make the following findings with regard to the variance
8 being sought:

9 That a literal enforcement would involve a
10 substantial hardship; that hardship being is that the
11 petitioner will be unable to have a useful recreational and
12 health-inducing facility in his back yard.

13 That the hardship is owing to the -- basically the
14 location of the condo unit, and that location actually works
15 in favor, because the sauna will be largely hidden from
16 public view.

17 And that desirable relief may be granted without
18 substantial detriment to the public good, or nullifying or
19 substantially derogating from the intent and purpose of this
20 ordinance.

21 In this regard, the Chair would note that the
22 people most -- the organization most affected by what is

1 being proposed is the Condominium complex, and that the
2 governing body is supportive of the relief being sought;
3 that otherwise there is very little impact on the city or
4 the neighborhood. What we have here is a real technicality.
5 But it's nevertheless a technicality that has to be dealt
6 with.

7 So on the basis of all of these findings, the
8 Chair moves that we grant the variance requested on the
9 condition that the work proceeds in accordance with plans
10 prepared by Dennis Colwell, C-o-l-w-e-l-l, revised as of
11 March 25, 2021 and the first page of which has been
12 initialed by the Chair.

13 Brendan?

14 BRENDAN SULLIVAN: I would vote yes to grant the
15 variance.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: Jim Monteverde yes to the
18 variance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes in favor of the
21 variance.

22 CONSTANTINE ALEXANDER: Jason?

1 JASON MARSHALL: You did it again, Mr. Chair.

2 Jason yes in favor of the variance.

3 CONSTANTINE ALEXANDER: [Laughter] it's long night.

4 And the Chair votes yes as well.

5 [All vote YES]

6 Variance granted.

7 CHRISTOPHER LADD: Okay, thank you.

8 CONSTANTINE ALEXANDER: Okay. Now we're down to
9 our last case. Jim, am I right you're not sitting on this
10 case?

11 JIM MONTEVERDE: Yes.

12 CONSTANTINE ALEXANDER: This is a --

13 JIM MONTEVERDE: Yes.

14 CONSTANTINE ALEXANDER: I know.

15 JIM MONTEVERDE: Allison, thank you for stepping
16 in.

17 ALISON HAMMER: My pleasure.

18 [Jim Monteverde leaves; Alison Hammer replaces.]

19

20

21

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1 * * * * *

2 (9:02 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea Hickey, Alison Hammer, Jason
5 Marshall

6 CONSTANTINE ALEXANDER: Okay. The Chair will now
7 call Case Number 110939 -- 9 Oak Street. Anyone here
8 wishing to be heard on this matter?

9 DR. DANIEL PALLIN: Yes, hello, Mr. Chairman. Am
10 I coming through on the audio and the video?

11 CONSTANTINE ALEXANDER: Yes, you are.

12 DR. DANIEL PALLIN: Thank you. My name is Dr.
13 Danny Pallin. And I am the owner of the property that we
14 will discuss at 9 Oak Street. I'm accompanied tonight by my
15 architect, Chelsea Blanchard. I thank her for her guidance.

16 And I also want to thank the engineer, Harzem
17 Maleke (phonetic) who could not be present tonight, but who
18 has produced the engineering drawings necessary to bring the
19 old structure up to modern standards of safety and
20 aesthetics and what not.

21 I also want to thank Maria Pacheco, who has been
22 super helpful in, you know, getting -- helping me put

1 together the application, and I want to thank the Board for
2 allowing me to present and for being here so late at night.

3 So I prepared some remarks. In your hands, you
4 have the application that includes many photographs as well
5 as floor plans. My remarks will not refer to that, but I
6 will welcome any questions, and with the assistance of the
7 administration present, we can refer on the computers to
8 those materials.

9 CONSTANTINE ALEXANDER: Can I ask a question at
10 the outset? I'm a little bit confused by at least the
11 public advertisement. You're seeking a special permit to
12 legalize a preexisting basement accessory dwelling.

13 But then the only section you cite is Section
14 2.16, which just deals with whether basement living space
15 counts toward GFA. So if we -- and then it does not, if we
16 make the finding that's specified in 2.16.

17 But if we have done that, and let's say we vote
18 yes -- I don't know whether we can legalize the accessory
19 dwelling. That's a whole set of other issues that are not
20 addressed by this. So I'm just wondering whether you
21 realize what you're getting or not getting, should you get
22 the relief you're seeking.

1 DR. DANIEL PALLIN: Yes, Mr. Chairman. I also
2 refer to the zoning ordinance Section 4.22. And in my
3 prepared presentation, I'll detail --

4 CONSTANTINE ALEXANDER: But it's not in your
5 advertisements. That's my point. Your advertisement says -
6 - well, I'm sorry, it does say, "accessory apartment." But
7 there's nothing in your presentation that deals with that,
8 that I could see.

9 DR. DANIEL PALLIN: I'm sorry. Mr. Chairman, what
10 presentation are you referring to?

11 CONSTANTINE ALEXANDER: Your advertisement says to
12 legalize a preexisting, accessory dwelling. And then I have
13 -- I'm pulling up a file, and I have the architect's plans -
14 - and you have your back and forth with at least some of
15 your neighbors who are opposed to the relief you're seeking.

16 When you -- when this was -- is this now a legal
17 two-family? Your position is this is now a legal two-
18 family? You want to get that legalized?

19 DR. DANIEL PALLIN: I do.

20 CONSTANTINE ALEXANDER: But I don't know what you
21 submitted that supports that, other than the fact that you
22 can -- when you bought the building, there were two families

1 there. Like, you don't deal with parking and the like.

2 You don't deal with parking, other than the fact
3 that you've got these side by sides, which is not favored by
4 our Zoning Board. But it's typical in that neighborhood,
5 given that it's a very tight space.

6 DR. DANIEL PALLIN: Yes, Mr. Chairman, the purpose
7 of my appearance tonight is not to request any variance. It
8 is to request a special permit.

9 CONSTANTINE ALEXANDER: No, I understand that.

10 DR. DANIEL PALLIN: -- pursuant to Section 4.22.

11 CONSTANTINE ALEXANDER: Okay. Let's pull out
12 4.22.

13 DR. DANIEL PALLIN: And I have -- I've prepared to
14 go through the details of that in the presentation. I'd
15 like to --

16 CONSTANTINE ALEXANDER: I don't know that I want
17 you to go through the details. You want to -- you're
18 referring to 4.22.1?

19 DR. DANIEL PALLIN: Yes, and other parts of that
20 section of the ordinance, which I'll get into.

21 CATHERINE PRESTON CONNOLLY: Okay. Why don't you
22 go through those right now to justify or to support the

1 point of view that you're seeking? The special permit?

2 DR. DANIEL PALLIN: Yes, thank you. Just to make
3 sure that I'm complying with your instruction, are you
4 asking me to divert from the presentation that I had
5 prepared and go straight to the zoning ordinance?

6 Or is it okay if I introduce the project quickly,
7 and then directly go into the language of the zoning
8 ordinance?

9 CONSTANTINE ALEXANDER: You can do that. That's
10 fine. That's fine.

11 DR. DANIEL PALLIN: Okay. Thank you. So, again,
12 with thanks to everyone. I purchased the 9 Oak Street this
13 past December. It is registered with the city as a two-
14 family building.

15 However, for at least 30 years it has had a full
16 accessory dwelling in the basement, which includes a kitchen
17 with a gas stove. But this accessory dwelling has not been
18 brought before the Board or registered to the city.

19 The reason for my appearance tonight is to request
20 a special permit pursuant to Ordinance 4.22 to register the
21 space as an accessory apartment. I am not requesting any
22 change to the existing structure or use, and I have no plans

1 to alter the exterior of the building or the lot.

2 My overall goal is to take this substantially
3 dilapidated structure and make it structurally sound and
4 beautiful, and to continue to rent it out to the same number
5 of renters that have been occupying it for at least 30
6 years, but at a much higher level of quality in terms of the
7 construction, safety and structure.

8 But none of this is in any way requesting new
9 space, new use or any variant.

10 From a personal standpoint, I'm not a real estate
11 developer, I'm a doctor. I have a 6-year-old child who is
12 in public school in Cambridge, and my goal is to make a
13 really nice place that can be a source of income that will
14 help me finance her education, and provide great
15 relationships with tenants.

16 My wife is -- and I have lived in Cambridge for
17 about 20 years. She's the Curator of Academic and Public
18 Programs for the Harvard Art Museum. And as such, her
19 primary responsibility is to make the collection and the
20 programming available to members of the community as well as
21 to the academic community at Harvard.

22 So we're very committed Cambridge residents. We

1 plan to keep this property for our entire lives, and
2 bequeath it to our daughter. So this is not any kind of
3 quick fix type of thing.

4 CONSTANTINE ALEXANDER: Excuse me, could I ask you
5 -- you said that on the city rolls -- 30 years this property
6 has been listed as a two-family. Is that second family the
7 basement apartment --

8 DR. DANIEL PALLIN: No.

9 CONSTANTINE ALEXANDER: -- that's now subject to
10 tonight?

11 DR. DANIEL PALLIN: No. Thank you for the
12 question. The 30 years refers to the basement accessory
13 apartment, which was never brought to the city's attention.
14 The uncontroversial part is that there is aboveground a two-
15 unit, two dwelling unit building that is known to the city.
16 And I'm not requesting anything regarding that.

17 What I'm here to request is that the basement
18 accessory apartment, which constitutes a third dwelling, be
19 registered pursuant to zoning ordinance 4.22. Nobody ever
20 told the Board that they had this apartment. And when I
21 bought the place, I wanted to keep using it the way it's been
22 for at least 30 years, meaning --

1 CONSTANTINE ALEXANDER: But if --

2 DR. DANIEL PALLIN: -- not only the registered
3 legal two units --

4 CONSTANTINE ALEXANDER: But if we grant you the
5 relief, and they now have legally three apartments in the
6 structure, you need three off-street parking spaces. You
7 don't have them.

8 DR. DANIEL PALLIN: If I may kindly just wrap up
9 my introductory remarks, and I'll address your point in my
10 discussion about the zoning ordinance?

11 CONSTANTINE ALEXANDER: Go ahead. Go ahead, yes.

12 DR. DANIEL PALLIN: Okay, thank you. So anyway,
13 just to wrap that up, you know, I'm not some kind of
14 developer. And the only reason that I brought this to the
15 Zoning Board is because I want to do the right thing and
16 this apartment's been there for a long time.

17 I actually got the idea to create a nice basement
18 apartment from the zoning ordinance itself, because I was
19 considering doing that at our house, which is on the small
20 side. That didn't work out.

21 But in the process I learned this to the zoning
22 ordinance was updated in recent years, and now encourages

1 development of accessory apartments with authorization from
2 this Board in the form of a special permit.

3 The relevant parts of the zoning ordinance are as
4 follows: So first of all, Section 2 defines an accessory
5 apartment as, "An accessory use with one or more rooms with
6 separate kitchen and bathroom facilities, constituting a
7 dwelling unit located within and under the same ownership as
8 a single or two-family detached dwelling, and designed for
9 occupancy of a single-family."

10 Which is exactly what I'm talking about here.
11 This is a two-family dwelling under my ownership, and I seek
12 to register the accessory apartment in accordance with that
13 language.

14 This same section, Section 2, also states that,
15 "Gross floor area shall not include any basement or cellar
16 living space in any single-family or two-family home."

17 Now, moving onto Section 4.22, this section
18 states, "The purpose of this subsection 4.22 is to allow for
19 the creation of accessory apartments in all districts.

20 Alteration of these buildings to provide one additional
21 dwelling unit on the lot would be prohibited in most cases,
22 due to the existing floor area ratio and/or lot area per

1 dwelling unit requirements of subsection 5.31, among other
2 zoning limitations.

3 "Given contemporary lifestyles, housing needs, and
4 the energy and maintenance costs, it is beneficial to the
5 city to allow greater flexibility in the use of such
6 buildings to add new dwelling units without substantially
7 altering the environmental quality of their surrounding
8 neighborhoods." This -- again, is an exact description of
9 my goal.

10 Section 4.22 also lists four prerequisites for a
11 granting of a special permit to register an accessory
12 apartment. Out of respect for the Board's time and the
13 lateness of the hour, I won't list them unless you ask me
14 to, in which case I'm happy to read them into the record,
15 but all four are met by my application.

16 Section 4. --

17 CONSTANTINE ALEXANDER: Can you read into the
18 record the Number 2 and 3, the numbers that meet this, to
19 why you satisfy those under 4.22.1?

20 DR. DANIEL PALLIN: Absolutely. And thank you for
21 asking. I was nervous about how much detail to present. So
22 4.22.1, Clause 2, "In the case of an accessory apartment

1 within a single-family or two-family dwelling, prior to
2 alteration the dwelling contains at least 1800 square feet
3 of gross floor area."

4 I will refer the Board to the architectural
5 drawing, which show the floor area exclusive of the basement
6 of the preexisting property at 2176 square feet, which meets
7 the criterion of greater than 1800 square feet.

8 CONSTANTINE ALEXANDER: Thank you.

9 DR. DANIEL PALLIN: Now, regarding the third --
10 bullet point 3 that you asked me to address, am I correct
11 did you ask me to look at 2 and 3?

12 CONSTANTINE ALEXANDER: Yes, yes.

13 DR. DANIEL PALLIN: Okay. In the case of an
14 accessory apartment within a single-family or two-family
15 dwelling, such accessory apartments shall not occupancy more
16 than 900 square feet or 35 percent of the gross floor area
17 of the principal dwelling, whichever is less. An accessory
18 apartment created within an accessory building, et cetera
19 does not apply here.

20 So this accessory apartment is about 600 square
21 feet or so, and does not contravene. So -- and again, thank
22 you for asking me to do that. I tried to kind of thread the

1 needle of not belaboring points, but also being thorough.

2 So moving on in the interest of time, back to my
3 prepared request. Section 4.23 is relevant. And this
4 addresses your question previously. I quote, "Accessory
5 apartments shall not be counted in apparently the lot area
6 per dwelling unit limitations of the Zoning District."

7 And here is another quotation that directly
8 address what you said before. "No off-street parking shall
9 be required for an accessory apartment."

10 And in that regard, I will point out that the
11 zoning ordinance does require that the two units other than
12 the basement each have one parking space, which the property
13 does have, and in fact as you pointed out, in fact the
14 property has four parking spaces. It has the two that are
15 legally required, and it has an additional two that must be
16 used in tandem.

17 But pertinently, in terms of respect for the
18 neighborhood, when four vehicles are parked in that lot,
19 they do not come close to encroaching upon the sidewalk.

20 So before I proceed with my remarks, I want to
21 pause here and make sure that I've adequately addressed the
22 Chairman's questions.

1 CONSTANTINE ALEXANDER: As far as I'm concerned,
2 you have. But other members? Brendan's nodding yes, you
3 have. I don't know if any other member feels differently?
4 Apparently not. So --

5 DR. DANIEL PALLIN: Okay.

6 CONSTANTINE ALEXANDER: -- you got the answer to
7 your question.

8 DR. DANIEL PALLIN: Okay. Thank you so much. So
9 in summary, my request is simply to register the basement
10 accessory apartment that has been present and in use for at
11 least 30 years, and that this request is perfectly
12 consistent the letter and the spirit of the zoning
13 ordinance.

14 I now would like to respectfully address the input
15 from the community, which is very important to me. I am
16 thankful that people are so caring of their neighborhood and
17 took the energy to write.

18 I also want to say that I am completely
19 sympathetic with the kind of aversive feeling that we have
20 about development.

21 And I want to reassure the members of the
22 community that I'm just a doctor with a family, and I do

1 have a financial interest, but that financial interest will
2 not bear fruit for many years, as this constitutes a major
3 investment for me.

4 And I plan to personally manage this property and
5 have it in my family until I die. So I really value the
6 community input.

7 With that introduction, I'd like to begin by
8 thanking Molly Wolf and Patrick Mascai for their strong
9 support. I know that they -- their place is at 9 Oakland
10 Street. I know they recently went through an approval
11 process with this Board, and were granted permission to
12 build a brand-new house, a whole new structure -- not an
13 addition to an existing structure, but an entirely new
14 building -- right next door to my property.

15 I supported them in their petition, and I was very
16 happy for them that it was granted.

17 I also want to thank -- and they have provided to
18 you a letter of support that is in my file, thanks to Maria
19 Pacheco's help in uploading it.

20 I also want to thank Giovanni Berlanda Scorza for
21 his support. Giovanni's property -- and also the one I
22 mentioned before, Molly and Patrick's -- are the only two

1 properties that directly border my property.

2 The only other direct abutter is the U.S. Post
3 Office to the south of my property, which fronts on the very
4 busy Cambridge Street right in the heart of Inman Square.

5 My property is touched only by those three
6 properties. And all of the other letters are from people
7 who are either across the street or down the street or
8 around the corner.

9 I would next like to thank Corrinne Bigley, a
10 resident of Somerville but a member of the neighborhood
11 community. Corinne submitted a letter in opposition, and I
12 reached her by phone and I explained that I was not
13 proposing to build a new dwelling, but instead just wanted
14 to register the basement accessory apartment that had
15 already been there without registration for at least 30
16 years.

17 She was glad to hear the clarification, and she
18 was kind enough to submit another letter withdrawing her
19 initial opposition. And both of those letters are there.
20 And I'm happy to help sift through it if it's confusing,
21 because there's more than one letter from the same person.

22 One brief letter of opposition came from someone

1 who did not identify himself or herself and did not provide
2 an address. This letter was signed simply with the name,
3 "Youbin" -- Y-o-u-b-i-n, and the e-mail address included the
4 name of Benjamin Wright (phonetic).

5 I'm not clear on the relationship between the name
6 "Benjamin Wright" and the name, "Youbin." I don't know who
7 is utilizing whose e-mail account, and I was unable to
8 identify any such person in extensive searching among the
9 neighborhood ownership records on file with the city and
10 simply using everything I could muster to search through the
11 Internet.

12 I did reach out by e-mail, because this was sent
13 to Maria Pacheco by e-mail by the person identified as
14 Youbin, and I did not receive a response.

15 Pursuant to the rules of procedure for the Board
16 of Zoning Appeals, this particular letter is not admissible
17 to these proceedings, because any member of the public is
18 welcome and authorized to submit their views. But as a
19 prerequisite, they must provide their full name and their
20 address, and this letter did not satisfy that, so.

21 CONSTANTINE ALEXANDER: Excuse me, sir. Excuse
22 me. We'll decide what our rules say and where we might want

1 to waive the rules. I object to the notion that we should
2 disregard this letter. Someone took the time to write it.
3 They didn't give an address, but that's not crucial to what
4 was said in the letter.

5 So I -- thank you very much for your views, but I
6 for one do not agree with you. I do not.

7 DR. DANIEL PALLIN: Thank you, Mr. Chairman. I
8 accept that, and I meant no disrespect. I don't pretend to
9 be any kind of scholar on these matters, that's simply what
10 I read in the published rules of procedure, and I just
11 wanted to be thorough. But I accept your statement.

12 The other letters of opposition came from
13 residents who I understand are cornerstones of the
14 neighborhood community. One later was from Janet Slamenda,
15 a registered architect, and I believe the spouse of Jim
16 Monteverde, a member of this Board.

17 The other letters were from Seth Goldfein and Lisa
18 White. I was able to reach Ms. Slamenda by phone, and we
19 were able to chat, and she didn't have any questions for me.
20 She courteously reiterated her opposition to my request.

21 I also reached Mr. Monteverde by accident when I
22 called the number that was listed for Ms. (sic) Slamenda. I

1 had not known they were spouses, so it was confusing. But
2 it was fortunate that I was able to speak with him.

3 Of note, I was in tune with Mr. Monteverde two
4 months ago or so. He was aware that I had bought the place
5 and planned to renovate it, and neither he nor his spouse
6 contacted me with any questions or concerns until within 24
7 hours of this hearing. And this was somewhat surprising,
8 since I'm not requesting any change to the use or the
9 external structure of the footprint.

10 I also reached Mr. Seth Goldfine, who wrote a
11 letter of opposition. Mr. Goldfine did not wish to speak
12 with me. I do know that he attended a funeral today, and I
13 offered my condolences and I am very sorry for his loss, and
14 I imagine he's probably not going to be able to participate
15 tonight, but I respect his concerns and will address the
16 substance in a moment.

17 And then finally, Ms. Lisa White was kind enough
18 to phone me, but I missed the call, unfortunately, and when
19 I called back, we were not able to connect.

20 So with that introduction, I'm going to
21 respectfully avoid going through the actual text of the
22 letters because it's late, and I don't want to waste the

1 Board's time.

2 But just as we did with the zoning ordinance, I
3 just want you to know that I would welcome any examination
4 of exactly what was written. The only reason I'm not going
5 through the letters line by line is because, again, I wanted
6 to thread the needle and respect your time, while also being
7 thorough.

8 So what I'm going to do is talk about the issues
9 that were raised, but without reference to the specific
10 language of the letters.

11 So to begin with, I want to acknowledge the
12 concerns of these members of the community. Nobody wants
13 more crowding, including myself. I have a family. I'm an
14 avid gardener. My house is already covered with flowers
15 this early in the spring, and I really value the outdoors
16 and people having a good quality of life.

17 On the other hand, I do want to emphasize that I
18 am not seeking to put any more people or cars into the
19 neighborhood than have been there for at least 30 years. I
20 am -- I do not approve of the fact that the basement
21 accessory apartment was not registered with the city, and
22 that's why I have approach the Board.

1 But I want to emphasize that if my request is
2 granted, the number of people living on the property would
3 be the same as have been living there for the past 30 years.
4 So my goal is just to follow the rules by registering this
5 space.

6 My other goal, as I mentioned before, is to make
7 the building really nice and safe, and I'm completely
8 committed to attracting respectable tenants and to begin
9 immediately available to anyone in the community who has a
10 concern about the property or its residents. I live very
11 nearby.

12 I'll be managing the property myself without any
13 third-party management agency, and I do have experience
14 doing this, because I own one other two-unit rental property
15 nearby, where I have terrific relationships with the
16 tenants, and also with the neighbors. And I look forward to
17 similarly warm relations with the future tenants at Oak
18 Street and the surrounding community.

19 I have neither the desire nor the financial
20 resources to acquire any more investment properties, and as
21 I mentioned, I'm a doctor not a real estate developer. My
22 intent is to keep the property for the rest of my life, use

1 it to finance my daughter's education and hopefully bequeath
2 it to her on my death.

3 So with that general setting, I want to address
4 the specific concerns in the letters. One recurring concern
5 was the definition of, "accessory apartment" and the related
6 question of how the floor area of a basement accessory
7 apartment should be treated by the Zoning Board.

8 I have covered this at the beginning of my
9 remarks, and I think it was clear from the zoning ordinance
10 that what I'm doing is entirely compliant with the letter
11 and the spirit of the ordinance -- specifically development
12 of accessory apartments is encouraged for one- and two-
13 family buildings. Basement space is exempt from all far
14 calculations, and accessory apartments are exempt from
15 parking requirements.

16 Another thing concern raised in the letters
17 related to parking. We've already addressed this, so I'll
18 be brief.

19 If I am able to register the basement accessory
20 apartment, the zoning ordinance would require the property
21 to have two parking spaces, and in fact it has four. These
22 accommodate four cars without any intrusion into the

1 sidewalk.

2 And so I'm reassured that the property does and
3 will comply with all applicable parking regulations, and
4 putting regulations aside, I think it highly unlikely that
5 the residents of such a property would collectively own more
6 than four cars.

7 So the property provides double the required
8 parking, and I am sure that's more than enough.

9 Finally, two of the letters expressed concern that
10 there might be a, "potential financial incentive." I had
11 trouble understanding why this would be relevant. I
12 certainly do have a financial incentive. I want to create
13 great dwellings and rent them out to nice tenants, and it'll
14 take years or decades for me to recoup my initial
15 investment. My hope is that with careful financial
16 planning, this will help to support my family.

17 So I certainly do have a financial incentive, and
18 not doing this for any -- I don't know, charitable reason.
19 So that's all I have to present to the substance contained
20 in the letters.

21 There's just one other thing I want to mention. I
22 understand that the people who wrote the letters of

1 opposition are influential in the community and with the
2 Zoning Board.

3 And I just want to remind everyone that the Board
4 recently granted Molly and Patrick the right to build an
5 entirely new house right next door to my house, while I am
6 not asking for any increase in the size or occupancy of the
7 building I purchased just a couple months ago.

8 I didn't think my request would generate
9 controversy, and all I want to do is register what was
10 already there, and what complies quite perfectly with the
11 zoning ordinance.

12 So while I do sympathize deeply with the feelings
13 of the community members who oppose my request, I hope the
14 Board will consider my application on the basis of the
15 zoning ordinance and the actual characteristics of the
16 property.

17 In summary, the letters of opposition represent a
18 strong, visceral aversion to legalization of a preexisting,
19 basement accessory apartment that complies with the zoning
20 ordinance. I sympathize with the general sense of aversion
21 to crowding and development, and I feel it too.

22 It is my hope that community members in attendance

1 tonight will see that I am not a greedy real estate
2 developer, but rather a father who seeks to do well by doing
3 good in the improvement and careful management of three nice
4 dwellings in a community with a strong need for more rental
5 units.

6 Regarding the substantive concerns raised in the
7 letters, I've been careful to keep my comments brief, but as
8 I said before, I am more than receptive to parsing the text
9 of the letters. The only reason I didn't do that was
10 because I didn't want to drag this out too long. My initial
11 impulse was to do so. So I truly would welcome in-depth
12 discussion of the exact language of the letters.

13 And if there are remaining concerns about the
14 letters, I would request that we do indeed specifically
15 address their language and the factual content of the
16 letters.

17 It is granted that there's a sense of kind of
18 visceral aversion to legalizing this unit, but my
19 understanding of the ordinance is that there isn't any
20 objection based on the regulations.

21 And I also want to emphasize that the neighbors
22 who are right next to the property are supportive, and have

1 full knowledge of what's going on.

2 The bottom line is the only reason that I'm here
3 tonight is because I want to do the right thing and register
4 the accessory apartment that's been there for at least 30
5 years.

6 I have submitted, and you have before you,
7 documentation of that in the form of transactions and a
8 letter from the people who sold it to me that attest to the
9 age of the accessory apartment.

10 Also the letters of opposition provide further
11 support. While they're not backed up by any evidence, their
12 suggestion is that it was around 1989 when this apartment
13 was put into use.

14 And the bottom line is I want to make the building
15 safe and beautiful. I want it to be registered legally out
16 of respect for the city and the Board, and I want to attract
17 wonderful tenants who will be great neighbors and assets to
18 the community.

19 So thank you for bearing with me, and thanks again
20 for being here so late.

21 CONSTANTINE ALEXANDER: Ready to come up for air?
22 You've been talking for 20 minutes, covering everything but

1 -- most of which is not relevant to the case before us.
2 Thank you anyway. Can you tell me which section of the
3 ordinance you're seeking a special permit pursuant to or
4 under?

5 DR. DANIEL PALLIN: Yes, I'm happy to return to
6 that. Section 4.22 states, "the purpose of this subsection
7 4.22 is to allow for the creation of accessory apartments in
8 all districts," et cetera.

9 CONSTANTINE ALEXANDER: Yeah, but the accessory
10 apartment you're talking about will create a three-family
11 house. I don't think that was the intention.

12 DR. DANIEL PALLIN: Well, Mr. Chairman,
13 respectfully the zoning ordinance has been modified in
14 recent years, and that is explicitly the intention.

15 The zoning ordinance as I read into the record,
16 and I'm happy to return to, explicitly states that the
17 reason for the language that I read is to encourage owners
18 of one and two-family houses to add an accessory apartment,
19 which would create the -- result in the creation of a two-
20 family building with an accessory dwelling.

21 So it's not the same as a three-family building.
22 It is a special permit to create an accessory dwelling in a

1 two-family building. That's why this language was written.
2 That's what it's about.

3 CONSTANTINE ALEXANDER: Thank you for the lecture
4 on the zoning history. We're well aware as Board members --
5 well aware of what you're referring to. But generally,
6 special permits are governed by Section 10.43. And I don't
7 see anything in your material that addressed that.

8 I'm not saying that you're not entitled to the
9 special permit, I just don't -- you're all over the lot, in
10 my opinion, with regard to what special permit you want, and
11 why you should obtain it, be that as it may.

12 DR. DANIEL PALLIN: Well, the special permit that
13 I'm requesting is a special permit to register an accessory
14 apartment pursuant to 4.22 and all of the requisites in 10.
15 43, which I'm happy to go through, but I didn't take bring
16 up again, because I don't want to --

17 CONSTANTINE ALEXANDER: I think you have to --
18 well, you don't have to go through them, we'll -- it's just
19 --

20 BRENDAN SULLIVAN: [Brendan Sullivan], let me just
21 jump in here a little bit. Under Section 4.224, I think the
22 pertinent language is, "In granting a special permit for an

1 accessory apartment, the Board shall determine that the
2 general Special Permit Criteria set forth in Section 10.43

3 --

4 CONSTANTINE ALEXANDER: Yeah.

5 BRENDAN SULLIVAN: -- are met." So we can grant
6 the special permit for an accessory apartment, but we should
7 also incorporate some of the language in 10.4.

8 CONSTANTINE ALEXANDER: That's exactly what I was
9 trying to get at. Draw that out of this gentleman.

10 BECCA SCHOFIELD: -- Yeah.

11 CONSTANTINE ALEXANDER: But I've been getting
12 there. Yes, exactly.

13 DR. DANIEL PALLIN: Mr. Chairman, I was about to
14 say that this application fulfills everything in 10.43, I
15 just didn't read it into the record because I didn't want to
16 keep everyone too late.

17 CONSTANTINE ALEXANDER: Thank you very much for
18 your solicitude.

19 BRENDAN SULLIVAN: [Brendan Sullivan again.] Could
20 I -- Sisia, is there language -- specific language that if a
21 zoning violation occurs on a piece of property, that it
22 self-corrects after 10 years?

1 CONSTANTINE ALEXANDER: There is a 10-year
2 provision, you're right.

3 SISIA DAGLIAN: Yes, there is.

4 BRENDAN SULLIVAN: Okay. So that if it can be
5 determined that there was at least an apartment here, even
6 though it was created at the time illegally, that it could
7 be grandfathered in; self-correct after 10 years? Subsequent
8 to that, even if we were to find that 10-year has lapsed,
9 the new ordinance as created by the City Council is allowing
10 accessory apartments anyhow.

11 DR. DANIEL PALLIN: Yes, Mr. Sullivan. There is a
12 statute of limitation on these regulations. It is 10
13 years. I've had lengthy conversations with Mr. Rafferty
14 about this.

15 The only reason I didn't bring that up here is
16 because, exactly as you point out, it's moot. Because in
17 the subsequent years, the city has made it not only
18 allowable but encouraged to --

19 BRENDAN SULLIVAN: Yeah, I guess my point is that
20 -- I guess my point is that either one would apply.

21 DR. DANIEL PALLIN: Correct, I agree.

22 BRENDAN SULLIVAN: Yeah. Okay. I just want to

1 get that out.

2 CONSTANTINE ALEXANDER: Okay. Any further
3 questions or comments from members of the Board before I
4 open the matter up to public testimony?

5 ANDREA HICKEY: Could I ask Sisia to bring up the
6 floor plan for the basement unit for a moment?

7 [Pause]

8 Thank you. I'm all set with that.

9 BRENDAN SULLIVAN: Okay. Where are we, public
10 comment?

11 CONSTANTINE ALEXANDER: Yeah. So I'll see if
12 anybody else has any questions.

13 ALISON HAMMER: This is Alison Hammer. I have a
14 quick question.

15 CONSTANTINE ALEXANDER: Go ahead. Sure, Allison.

16 ALISON HAMMER: Sisia, maybe even as a -- I don't
17 know if this is a question for the petitioner or for my
18 other fellow Board members, just to pick up on what Brendan
19 was just saying -- I guess I'm just not totally clear why is
20 this would have self-corrected, what the need is for a
21 special permit? Shouldn't this already be essentially
22 allowable?

1 BRENDAN SULLIVAN: I share that sentiment
2 completely. But it is my sense is that that it is more
3 proper to have a dwelling registered with the city than not
4 registered.

5 The only reason I'm coming here is just because I
6 think I want to do -- I just want to do the right thing and
7 be aboveboard. I think that it is by right what I'm
8 proposing.

9 BRENDAN SULLIVAN: [Brendan Sullivan again.]
10 Allison, I think I can probably answer your question, I
11 think, that Dr. Pallin is correct in the route he's going,
12 only because should he need some financing down the road or
13 what have you and that those people tend to look at the
14 property and any encumbrances or any legality to make sure
15 that you are 100 percent legal before they will extend any
16 kind of financing on the project.

17 And that I don't think Dr. Pallin would want to go
18 in and say, "Well, it is self-correcting." I'm not sure if
19 he's going to be able to get a document from the city. They
20 may say that there is no enforcement necessary, yadaya.
21 It's a lot cleaner, it's a lot faster if he had a document
22 that codifies or legalizes the use of that basement.

1 ANDREA HICKEY: And I would -- excuse me -- I
2 would also add that sort of formally legalizing this unit
3 would allow the Assessor's Office to capture its value with
4 respect to real estate taxes being collected for the benefit
5 of the city.

6 DR. DANIEL PALLIN: Yeah, if I may -- you may be
7 surprised to hear this, but the second comment is the reason
8 I did it, not the first comment. We are in a climate of
9 unbelievably low interest rates, and got the most incredible
10 loan, and this is going to be great for my family.

11 I don't need help with financing. I'll never
12 refinance this building. The bank didn't give me a hard
13 time -- well, they did but they were okay ultimately.

14 And the reason I'm doing this is because I was not
15 this dwelling to be on the city's books. I want to pay my
16 taxes. I just don't feel good having this thing that
17 somebody stuck in there 50 years ago and never declared.

18 ANDREA HICKEY: I also think for insurance
19 purposes, to legalize this unit would probably be
20 beneficial. I think it's hard to ensure an illegal unit.
21 So that's all I've got.

22 DR. DANIEL PALLIN: Yeah, you know, I thought of

1 that too. And I spoke with my insurance company, and they
2 surprised me by saying, "No, no, it doesn't matter. We'll
3 make a site visit, we'll look at the value of the property
4 and -- " You know, so it wasn't for that either. I just
5 want to be aboveboard and have everything labeled
6 appropriately under the law.

7 ANDREA HICKEY: Thank you. There's nothing
8 further I need. Thank you.

9 ALISON HAMMER: Thank you all.

10 BRENDAN SULLIVAN: There is a -- it is a three-
11 headed monster. Finance is one. Liability is another one,
12 and insurance would be the third one. If you have a good
13 document, those things are much easier to obtain anyhow.

14 DR. DANIEL PALLIN: I couldn't agree I couldn't
15 agree more.

16 BRENDAN SULLIVAN: My ability would be to avoid.

17 DR. DANIEL PALLIN: I couldn't agree more, but for
18 me I just can't imagine --

19 BRENDAN SULLIVAN: Okay.

20 DR. DANIEL PALLIN: -- that we want to live in
21 cities where people are --

22 BRENDAN SULLIVAN: We're good, Doctor, we're good.

1 ANDREA HICKEY: We're fine.

2 BRENDAN SULLIVAN: Okay.

3 JASON MARSHALL: Mr. Chairman, [Jason Marshall], I
4 don't have any questions at this time.

5 CONSTANTINE ALEXANDER: Okay. I will open the
6 matter up to public testimony.

7 Any member of the public who wishes to speak
8 should now click the icon at the bottom of your Zoom screen
9 that says, "Raise hand."

10 If you're calling in by phone, you can raise your
11 hand by pressing *9 and unmute or mute by pressing *6.
12 We'll take a second to see if anyone wishes to speak.

13 SISIA DAGLIAN: Jim?

14 JIM MONTEVERDE: Yep, hi. This is Jim Monteverde.
15 Can you hear me?

16 CONSTANTINE ALEXANDER: Yes.

17 JIM MONTEVERDE: Thank you.

18 CONSTANTINE ALEXANDER: Yes, Jim.

19 JIM MONTEVERDE: Just one point. Just not to
20 muddy the water, but in terms of the -- in our resistance to
21 the proposal, having lived across the street for 35 years
22 now, we saw the building renovated. It was -- to 1989 there

1 was a single old woman who lived there, who passed away.

2 The building was sold.

3 Two cousins bought it. They renovated the
4 building top to bottom for their own use. They occupied it
5 as the basement and the first floor as one apartment, and
6 the second floor and third floor as a second apartment --
7 two-family.

8 That's the configuration that you see on the plans
9 that are part of the submittal that I think are from the MLS
10 listing, which basically shows you get to the basement space
11 through a staircase from the first floor. There is no
12 independent way out, or egress from it.

13 And it's basically -- as curious a configuration
14 as it is, that's what it was -- part of the first floor. So
15 as a two-family.

16 And we read the letter that's part of the
17 submittal. When the house -- and my wife and I toured the
18 building when it was for sale in 2001. And that's exactly
19 the way it was set up; not as a separate apartment in the
20 basement, but as a part of the second floor to the first
21 floor basically, as one apartment.

22 The letter -- that's one point. The second is the

1 letter that was submitted by the previous owners, Marissa
2 and Brent Nigro -- as I read this without trying to parse
3 words, it definitely says the basement was furnished, but I
4 don't -- I can't from this determine that they actually
5 rented it as three apartments. I don't have that now. So
6 that's just one mystery to me.

7 And my concern is really the changing this from a
8 two-family to potentially a three. It's a residential
9 building.

10 So if the ordinance allows that basement space to
11 be considered an accessory apartment, even though the
12 building's total use is accessory, is residential, and that
13 this was previously used as a residential apartment with the
14 ground-floor, that's the part I really get stuck on.

15 Because then I see that was -- I don't follow the
16 logic as a definition for the accessory use. But that's all
17 I have to say. I'll leave it to the Board. Thank you.

18 CONSTANTINE ALEXANDER: Thank you, Jim.

19 DR. DANIEL PALLIN: Mr. Chairman, may I have an
20 opportunity to respond to Mr. Monteverde?

21 CONSTANTINE ALEXANDER: Yes, you may.

22 DR. DANIEL PALLIN: You know, a picture's worth a

1 thousand words. Sisia, can you please show the many
2 pictures that I submitted of the accessory basement? Mr.
3 Monteverde has a concept of a dwelling or an accessory
4 apartment that is different from the concept defined in the
5 zoning ordinance, which I've already read into the record.
6 I'm happy to read it into the record again.

7 "A dwelling is defined by the zoning ordinance in
8 the city of Cambridge as a space where people live that has
9 a kitchen and cooking facilities and a bathroom." What you
10 see here is a 1980s range, which has been there for who
11 knows how long. My only guess at the date comes from Mr.
12 Monteverde's wife, whose letter said 1989, and he has
13 repeated that.

14 You can see that this was a completely habited and
15 used dwelling. It is true that it was accessed from the
16 common area, where the first-floor dwelling was also
17 accessed, but it is not true that this was not a separate
18 dwelling.

19 In fact, this basement apartment has kind of a
20 weird stairway, and it is able to be locked independently
21 and entered from the front door of the building and can be
22 locked against entry by the people who reside in the first-

1 floor unit.

2 Furthermore, as you can see from the architect's
3 plans, there is a rear egress from the accessory apartment.
4 So the statement that there was no independent egress is not
5 correct.

6 If I could ask Sisia to please scroll through a
7 few more of those pictures, you will see that not just the
8 kitchen, but this place was completely nested in. This in
9 every way shape, form and fashion this is what I wanted to
10 show. This is a dwelling.

11 It is true that it was part of a building that was
12 registered with the city as a two-family. But that is not
13 informative regarding the definition of the dwelling. These
14 pictures are the definition of a dwelling. And it had two
15 independent egresses.

16 And as Mr. Sullivan has stated, I can lease this
17 place out as in tenant -- independent dwelling by right
18 because of the statute of limitations. I am not trying to
19 use that mechanism. I'm trying to respond to the zoning
20 ordinance's encouragement of people like me to create
21 apartments like this.

22 This is not being created, it was already there.

1 I just want to register it because I think it's wrong to dig
2 out dwellings in a city without registering it.

3 JASON MARSHALL: I want to interject for a second,
4 because I want to make sure Brendan heard that. I don't
5 think Brendan represented you. I don't think he made a
6 legal representation that you can do this as-of-right. I
7 just want to be careful there. I think he asked the
8 question. So just want to make sure the record reflects
9 that.

10 DR. DANIEL PALLIN: I may have misunderstood, but
11 I did think that's what he said. Maybe we could hear from
12 him.

13 JASON MARSHALL: Again, I don't think it was a
14 representation in that way, so.

15 DR. DANIEL PALLIN: Mr. Sullivan?

16 BRENDAN SULLIVAN: I'm sorry, I was reading the
17 ordinance. I'm sorry, what was the question?

18 JASON MARSHALL: It wasn't a question, Brendan.
19 Dr. Pallin had said that you had -- I thought I understood
20 him saying that you had made a representation that head
21 count as-of-right rent this out. I don't think that you had
22 characterized it that way. I understood that you were

1 asking questions. It was more of a line of questioning.

2 So just given your role on this Board, I wanted to
3 make sure that the record was corrected.

4 BRENDAN SULLIVAN: Yeah. I did not make a
5 statement of fact -- well, characterization of basically
6 what I -- the question I asked is was there not a 10-year
7 limit on violations, and that after the 10 years they became
8 -- they were grandfathered in, basically. So however you
9 want to characterize that or read into it, that's basically
10 what I had said.

11 But, what I did say also was that that being the
12 case would allow for this unit in the basement, but also
13 that the new ordinance allowing accessory apartments would
14 allow this unit in the basement; that either one of those
15 two scenarios seems to allow for this unit and accessory
16 apartment in the basement. And he has chosen to go --

17 JASON MARSHALL: And just to clarify --

18 BRENDAN SULLIVAN: He has chosen to go with the
19 special permit route.

20 JASON MARSHALL: Dr. Pallin, that's up to you to
21 engage this Councillor to make your own legal representation
22 along the fact of whether it's grandfathered or not. That's

1 not before the Board, so I just want it separate.

2 DR. DANIEL PALLIN: Yes, and I think I understand
3 the question.

4 JASON MARSHALL: I want to separate that from the
5 discussion. We're not weighing in on whether or not it's
6 grandfathered or not.

7 DR. DANIEL PALLIN: Yes. I understand now, and it
8 is true, Mr. Sullivan did not say -- we're not talking about
9 grandfathering. There is a statute of limitations by which
10 the jurisdiction, the jurisdictional authority ceases to
11 have weight after 10 years. Mr. Sullivan asked about that,
12 and he did not use the term, "by right."

13 I asserted that in my reading of the law, I have
14 it by right, but then I went on to say that I did not intend
15 to use that, because I think there's a much easier
16 mechanism, as Mr. Sullivan stated.

17 CONSTANTINE ALEXANDER: Brendan, any?

18 BRENDAN SULLIVAN: No, no, thank you.

19 CONSTANTINE ALEXANDER: We -- before we got off on
20 this tangent, we were ready to open this matter up to public
21 testimony. So let me repeat the instructions and see if we
22 do have anyone who wishes to speak.

1 Any members of the public who wish to speak should
2 now click the icon at the bottom of your Zoom screen that
3 says, "Raise hand."

4 If you're calling in by phone, you can raise your
5 hand by pressing *9 and unmute or mute by pressing *6.

6 SISIA DAGLIAN: Yes, Janet Slamenda.

7 CONSTANTINE ALEXANDER: Who?

8 SISIA DAGLIAN: Janet Slamenda.

9 CONSTANTINE ALEXANDER: Okay.

10 SISIA DAGLIAN: Please speak.

11 JANET SLAMENDA: Good evening. This is Janet
12 Slamenda from 12 Oak Street, a neighbor. I wrote a letter.
13 I heard a lot of testimony tonight about whether this really
14 is an accessory apartment, grandfathered, or whatever.

15 I would like to make the one point that is very
16 disappointing is that for someone who is approaching as a
17 community person and feeling very strongly being part of the
18 community, Dr. Pallin didn't manage to reach out to the
19 community to have a conversation with us.

20 And it would have been really helpful to hear his
21 point of view and to hear all of the comments that he's made
22 tonight, and it would have been helpful to him to not make

1 it, you know, this stand tonight but to reach out. That's
2 all I wanted to say. Thank you very much.

3 CONSTANTINE ALEXANDER: Thank you. Anyone else,
4 Sisia?

5 SISIA DAGLIAN: Yes. Giovanni Scorza?

6 GIOVANNI BERLANDA SCORZA: Hello, can you hear me?

7 CONSTANTINE ALEXANDER: Yes.

8 GIOVANNI BERLANDA SCORZA: Can we move the
9 presentation to the proposed floor plan, please?

10 SISIA DAGLIAN: Yeah.

11 [Pause]

12 Sorry.

13 GIOVANNI BERLANDA SCORZA: Yeah. So my name is
14 Giovanni Berlanda Scorza. I am the owner of the property on
15 7 Oakland Street that faces the other property on the east
16 side, so on the upper side of this drawing. I brought a
17 letter of support for this request of a variance.

18 But tonight is the first time I see the proposed
19 first-floor plan which depicts AC condensers on the north
20 side of the building, and also, a water heater in the
21 mechanical room in the basement on the north side.

22 And even if I still support the thought that

1 legalizing this basement apartment will not create any more
2 people living in the space, I want to make my support
3 contingent of not having a new AC condensers facing my
4 property right -- the space between the building and the
5 property line is about two feet wide.

6 An AC condenser takes at least one foot and a
7 half. So those condensers will blow air straight into my
8 rear garden, when I enjoy my time with my 5-years-old and 2-
9 years-old child.

10 So I want to support it because of the pollen, but
11 I want to make my support contingent on not having an AC
12 facing my property or water heaters blowing discharge right
13 into my face when I'm in my garden. Thank you.

14 CONSTANTINE ALEXANDER: Thank you. I trust the
15 petitioner's taken note of that support, or the condition
16 through the support and will not have a problem -- will not
17 create problems for the person who just spoke?

18 DR. DANIEL PALLIN: Forgive me for my ignorance of
19 procedure, but am I expected or allowed to respond to the
20 comments?

21 CONSTANTINE ALEXANDER: Yes, you are.

22 DR. DANIEL PALLIN: Okay.

1 CONSTANTINE ALEXANDER: Well, you've got to ask
2 permission from the Chair, which you've just done, so yes.
3 You have a right to respond.

4 DR. DANIEL PALLIN: Okay. Thank you very much.
5 So Giovanni and I have good access to each other. For
6 example, recently Giovanni told me that the ivy plant whose
7 roots are on my property are bothersome and could he remove
8 it? And I said absolutely.

9 With respect to the air conditioning things, I am
10 more than happy to talk to him about this. And I see no
11 reason why we can't find a gajillion (sic) other places to
12 put them. They were stuck on the drawing without any worry,
13 and I think Giovanni's concern is a very reasonable one.

14 However, those units have nothing to do with the
15 matter before the Board tonight. And the contingency would
16 not be legally relevant.

17 With respect to the comments of the -- forgive me,
18 the professional architect who's married to Mr. Monteverde,
19 she has an unfamiliar name, forgive me. Slamenda -- Ms.
20 Slamenda: I would like to respond to your comments that I
21 failed to engage with the community by expressing my hurt.
22 I have been closely networked with the people who are

1 neighbors, and Mr. Monteverde, your spouse, was aware and we
2 were in touch about two months ago.

3 And so when you submitted this destructive letter
4 and I tried to telephone you and he picked up the phone, I
5 have to say this was very intimidating and a strange
6 experience. And I take issue with any doubt that it has
7 cast on the importance I place on community.

8 CONSTANTINE ALEXANDER: Moving on? Anyone else,
9 Sisia?

10 SISIA DAGLIAN: Jim, you still have your hand up.
11 I don't know if you wanted to speak again?

12 JIM MONTEVERDE: No, I'm all done. How do I take
13 it down?

14 SISIA DAGLIAN: I'll lower it.

15 JIM MONTEVERDE: Thank you.

16 SISIA DAGLIAN: And Janet, the same. Did you want
17 to speak again or no?

18 JANET SLAMENDA: I guess not. No, we're all set.
19 Yep.

20 CONSTANTINE ALEXANDER: Okay. The Chair will now
21 close public testimony. Discussion, or are we ready for a
22 vote?

1 BRENDAN SULLIVAN: I'm ready for a vote.

2 ANDREA HICKEY: Ready.

3 CONSTANTINE ALEXANDER: I'm ready for a vote as
4 well. How about the others? Yeah, Allison?

5 ALISON HAMMER: Ready for a vote [Alison Hammer].

6 CONSTANTINE ALEXANDER: Okay, Andrea?

7 ANDREA HICKEY: Yes, ready.

8 CONSTANTINE ALEXANDER: Okay. All right. And
9 Jason?

10 JASON MARSHALL: I'm ready for a vote.

11 CONSTANTINE ALEXANDER: Okay the Chair will move
12 that we make the following findings with regard to the
13 special permit being sought?

14 That the petitioner has demonstrated that he
15 satisfies, or has testified or demonstrated -- however you
16 want to phrase it -- that he satisfies all the requirements
17 of Section 4.22.1 -- namely the four items that are
18 specified in that section.

19 And since under Section 4.22.4 the special -- the
20 General Special Permit Criteria set forth in Section 10.43
21 are met. Wait, in granting a special permit for an
22 accessory apartment, the Board shall determine that the

1 General Special Permit Criteria set forth in 10.43 are met.
2 And I think -- what I've heard is that they are met. And
3 therefore I don't think there's any need to go through the
4 10.43 criteria.

5 So on the basis of that determination, if the
6 Board agrees, I believe we should grant that the special
7 permit that the petitioner is seeking shall be granted.

8 BRENDAN SULLIVAN: Brendan Sullivan yes to
9 granting the special permit.

10 ALISON HAMMER: Alison Hammer yes to granting the
11 special permit.

12 CONSTANTINE ALEXANDER: Al -- I mean, Andrea?

13 ANDREA HICKEY: Andrea Hickey yes in favor of the
14 special permit.

15 CONSTANTINE ALEXANDER: Jason?

16 JASON MARSHALL: Jason Marshall yes in favor of
17 the special permit.

18 CONSTANTINE ALEXANDER: The Chairman votes yes as
19 well.

20 [All vote YES]

21 The special permit is granted. Thank you. Case
22 over. Evening hearing is over. [Anticlimactic]

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BRENDAN SULLIVAN: Goodnight, all.

ANDREA HICKEY: Goodnight, everyone.

[10:02 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts
Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

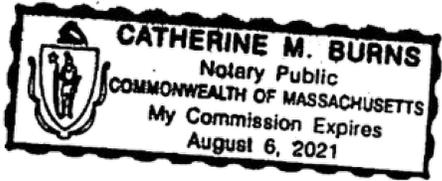
I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this 16th day of April, 2021.



Notary Public

My commission expires:
August 6, 2021



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