

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, OCTOBER 21, 2021  
6:00 p.m.

Remote Meeting  
via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair  
Brendan Sullivan, Vice Chair  
Wendy Leiserson  
Laura Wernick  
Matina Williams

City Employees  
Olivia Ratay



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2 \* \* \* \* \*

3 (6:00 p.m.)

4 Sitting Members: Constantine Alexander, Brendan Sullivan,  
5 Laura Wernick, Matina Williams

6 CONSTANTINE ALEXANDER: Welcome to the October 21,  
7 2021 meeting of the Cambridge Board of Zoning Appeals. My  
8 name is Gus Alexander, and I am the Chair.

9 This meeting is being held remotely, due to the  
10 statewide emergency orders limiting the size of public  
11 gatherings in response to COVID-19, and in accordance with  
12 Governor Charles Baker's Executive Order of March 12, 2020,  
13 temporarily amending certain requirements of the Open  
14 Meeting Law; as well as the City of Cambridge temporary  
15 emergency restrictions on city public meetings, city events,  
16 and city permitted events, due to COVID-19, dated May 27,  
17 2020.

18 This meeting is being video and audio recorded,  
19 and is broadcast on cable television Channel 22, within  
20 Cambridge. In due course, there will also be a transcript  
21 of these proceedings.

22 All Board members, applicants, and members of

1 the public will state their names before speaking. All  
2 votes will be taken by roll call.

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

7 Generally, you will have up to three minutes to  
8 speak.

9 I'll start by asking the Staff to take Board  
10 member attendance and verify that all members are audible.

11 OLIVIA RATAY: Matina Williams?

12 CONSTANTINE ALEXANDER: Matina?

13 MATINA WILLIAMS: Matina Williams present.

14 OLIVIA RATAY: Laura Wernick?

15 LAURA WERNICK: Laura Wernick present.

16 OLIVIA RATAY: Wendy Leiserson?

17 WENDY LEISERSON: [Silence]

18 OLIVIA RATAY: Brendan?

19 BRENDAN SULLIVAN: Brendan Sullivan present,  
20 audible.

21 OLIVIA RATAY: Gus Alexander?

22 CONSTANTINE ALEXANDER: And I'm present as well.

1 \* \* \* \* \*

2 (6:05 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams

5 CONSTANTINE ALEXANDER: Okay. As is our practice,  
6 we will start with continued cases. We have two of them.  
7 Continued case is a case that has started at an earlier  
8 date, but for one reason or another has been continued until  
9 this evening.

10 As you may have heard from what we took for the  
11 attendance, at this point we only have four members, which  
12 is sufficient to have the hearing, but it makes the relief  
13 the petitioner is seeking more difficult to obtain, because  
14 you need four votes by state law.

15 And if there's only four of us, we need all four.  
16 If we had five, you could have a dissenter -- someone who's  
17 opposed, and still grant relief.

18 The first case I'm going to call -- I think we can  
19 proceed with four, because it's a case that's going to both  
20 continued, once again -- the case is 1923 Massachusetts  
21 Avenue. It's a case seeking a special permit.

22 We are in receipt -- the Board is -- of a letter

1 from Jake Shappy -- S-h-a-p-p-y, the authorized agent of T-  
2 Mobile, which is a petitioner with an interest here. And he  
3 says, "I am asking for an extension regarding the T-Mobile  
4 finding to modify the existing wireless telecommunications  
5 facility located at 1923 Mass Ave in Cambridge.

6 "I have been working with T-Mobile's RF Engineers,  
7 as well as our A&E to revise the drawings and supporting  
8 documents of this project to match the recommendations  
9 provided to us by the Planning Board on August 17, 2021, to  
10 the best of our ability.

11 "To this end, we are unable to provide  
12 completed revision at this time, and request an extension so  
13 that all points can be addressed" -- I've got a typo here  
14 -- "an extension so that all points that can be addressed  
15 are."

16 Given that it's only a motion to continue the  
17 case, as I said, it's up to the petitioner, but I think --  
18 but let me see, is anyone here interested on speaking on  
19 behalf of the petitioner? Mr. Shapty or anybody else?

20 [Pause]

21 CONSTANTINE ALEXANDER: Apparently not, which is  
22 not surprising under the circumstances. I have a note in

1 our files that the petitioner wants to continue the case  
2 until January 27, 2022.

3 Our assistant has just left. I'm sure that date  
4 is available, but I want to make sure before I take a  
5 motion. Is January '22 available? Okay.

6 The Chair moves -- and let me make a statement  
7 here too, and this is for the benefit of Mr. Shappy -- the  
8 continuance, which I assume we're going to grant, will be  
9 the second one we have granted. We have a practice of not  
10 granting more than two continuances; it has to be  
11 extraordinary circumstances.

12 So the petitioner should be aware that if this  
13 January 27 is the date, we're going to vote in all  
14 likelihood yes or no or whatever. So the petitioner should  
15 have that in mind, as he tries to be prepared for January  
16 27.

17 With that I'll make a motion. The Chair moves  
18 that we continue this case as a case not heard until 6:00  
19 p.m. on January 27, subject to the following conditions:  
20 First, that the petitioner sign a waiver of time for  
21 decision, and that -- it is already done in connection with  
22 the prior continuance. And that's been taken care of.

1           Second, that a new posting sign reflecting the new  
2 date, January 27, and the -- well, same time, 6:00 p.m.  
3 That must be posted for the 14 days prior to the new hearing  
4 on January 27, just as it has been done in the past.

5           Failure to do that -- maintain a correct sign in  
6 the period of time that's identified, could mean the case  
7 will not be heard -- will mean the case will not be heard.

8           And lastly, to the extent that the petitioner will  
9 have new or revised plans, drawings, autosimulations and the  
10 like -- and it looks like they will -- they must be in our  
11 file no later than 5:00 p.m. on the Monday before January  
12 27.

13           Brendan, how do you vote?

14           BRENDAN SULLIVAN: Brendan Sullivan yes to the  
15 continuance.

16           CONSTANTINE ALEXANDER: Laura?

17           LAURA WERNICK: Yes to the continuance.

18           CONSTANTINE ALEXANDER: Matina?

19           MATINA WILLIAMS: Matina Williams yes to the  
20 continuance.

21           CONSTANTINE ALEXANDER: The Chair will vote yes  
22 for the continuance.

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[All vote YES]

CONSTANTINE ALEXANDER: If Wendy -- yeah? No?  
Okay. Anyway, we have four. The motion is passed. The  
case is continued until January 27.

1 \* \* \* \* \*

2 (6:12 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams, and Wendy  
5 Leiserson

6 The Chair will now call Case Number No. 120040 --  
7 150 Cambridge Park Drive. Anyone here wishing to be heard  
8 on this matter? Mr. Rafferty, are you there?

9 BRENDAN SULLIVAN: On mute.

10 CONSTANTINE ALEXANDER: Are you on mute? Yeah.

11 LAURA WERNICK: Can't hear you.

12 CONSTANTINE ALEXANDER: Unmute yourself, sir.

13 BRENDAN SULLIVAN: No, we can't hear you.

14 BRENDAN SULLIVAN: We cannot -- you're still on  
15 mute, Jim.

16 CONSTANTINE ALEXANDER: This is a rarity -- Mr.  
17 Rafferty on mute. Usually we -- he has much to say.

18 WENDY LEISERSON: Given that we still can't hear  
19 Mr. Rafferty, I just wanted to announce my late arrival and  
20 send my apologies to the Board. This is Wendy Leiserson  
21 joining you for tonight.

22 CONSTANTINE ALEXANDER: Thank you, Wendy. We now

1 have the full complement of five, and all we're missing is  
2 the petitioner's attorney.

3 BRENDAN SULLIVAN: We're having technical  
4 difficulties.

5 CONSTANTINE ALEXANDER: Maybe I should make a  
6 motion to deny relief. That might get him here very  
7 quickly.

8 JAMES RAFFERTY: Can I be heard now?

9 CONSTANTINE ALEXANDER: [Laughter]

10 BRENDAN SULLIVAN: Yes.

11 CONSTANTINE ALEXANDER: Yes. We can hear you now.

12 JAMES RAFFERTY: Well, that did the trick.

13 [Noise]

14 CONSTANTINE ALEXANDER: We can hear a lot.  
15 There's an echo, too.

16 JAMES RAFFERTY: Two computers here.

17 LAURA WERNICK: You have to turn off one.

18 JACOB KAIN: Jim, the other computer worked.

19 WENDY LEISERSON: Oh my gosh.

20 JAMES RAFFERTY: Can you hear me now?

21 CONSTANTINE ALEXANDER: Yes, I can.

22 BRENDAN SULLIVAN: There's quite an echo, Jim.

1           CONSTANTINE ALEXANDER: The echo's back now.

2           THE REPORTER: Mute your other computer.

3           JAMES RAFFERTY: Right, it's off. Yeah, I turned  
4 off my other computer.

5           LAURA WERNICK: That's good. You're good.

6           CONSTANTINE ALEXANDER: No, your screen is frozen.

7           WENDY LEISERSON: Now he's frozen.

8           JAMES RAFFERTY: I'm sorry. Can I be heard now?

9           BRENDAN SULLIVAN: Yes.

10          CONSTANTINE ALEXANDER: So far yes, we can.

11          JAMES RAFFERTY: All right.

12          CONSTANTINE ALEXANDER: You weren't -- we couldn't  
13 hear you previously; your screen froze. Now we can hear  
14 you.

15          JAMES RAFFERTY: Hm. My apologies. This is not  
16 my forte.

17          CONSTANTINE ALEXANDER: Before you went to law  
18 school.

19          JAMES RAFFERTY: They taught me how to use a  
20 staple gun there too, for these signs. Well, good evening,  
21 members of the Commission -- the Commission, the Board.

22          CONSTANTINE ALEXANDER: [Laughter]

1 JAMES RAFFERTY: Take a deep breath.

2 CONSTANTINE ALEXANDER: You're off to a good  
3 start, Jim.

4 BRENDAN SULLIVAN: Hang up and start over.

5 JAMES RAFFERTY: There are -- it's jarring,  
6 because I see two of me on this screen. But I think I  
7 somehow am registered twice. But thank you for your  
8 tolerance. If I should proceed, Mr. Chair, I'll do so?

9 CONSTANTINE ALEXANDER: Please.

10 JAMES RAFFERTY: Okay. So the Board may recall  
11 this case was continued about a month ago when it was on the  
12 agenda, because the Planning Board had requested to see the  
13 case, and we did so. We had an appearance before the  
14 Planning Board, and the Planning Board I know has sent a  
15 communication to the Board, which should be included in the  
16 Board file.

17 Essentially this is an application to add a --  
18 install a freight elevator in the building at 150 Cambridge  
19 Park Drive. There was some additional work being done as  
20 part of the renovations to the building, but that work  
21 including enclosing areas that are currently beneath  
22 overhangs on the building, that work was as-of-right, and

1 didn't present a DFA issue.

2           What's before the Board is the GFA associated with  
3 the new elevator shaft. It's a freight elevator shaft. And  
4 one of the reasons the Planning Board had requested to see  
5 the case; they had some reservations about the design of  
6 that.

7           The original application also included a loading  
8 dock -- an additional loading dock adjacent to the proposed  
9 freight elevator. That has since been removed from the  
10 proposal, although the notice in the application of the  
11 hearing makes reference to it. So the only remaining issue  
12 before the Board is the GFA contained in the elevator shaft.

13           On the call this evening is Jacob Klein from Elkus  
14 Manfredi, the architect for the project and Matthew Lerner  
15 of Longfellow Partners, who is the -- Longfellow Real Estate  
16 Partners -- is the property owner.

17           This is a building built pursuant to a special  
18 permit out at Cambridgepark Drive in the mid-'80s. It did  
19 not contain a freight elevator; there are only passenger  
20 elevators.

21           Some Board members may recall a few years ago, a  
22 companion building to this one on Cambridgepark Drive

1 application was applied for for a variance to install the  
2 freight elevator in that building as well. This application  
3 nearly mirrors that application, and it does present an  
4 opportunity to separate freight activity from passenger  
5 activity in the elevator, which does represent a challenge  
6 logistically for the people in the building, as well as the  
7 operation side of the activity.

8 The hardship associated with the variance: It's a  
9 modest amount of GFA. The increase in GFA, Mr. Kain can  
10 give us the exact number. Jacob, do you -- I know it's  
11 capped, based on the removal of the loading dock.

12 JACOB KAIN: I will have to take a look and see if  
13 I have that number, Jim. One moment.

14 CONSTANTINE ALEXANDER: According to your  
15 application, actually the number of feet -- gross floor area  
16 -- goes down. But the GFA, well, that goes down as well.

17 JAMES RAFFERTY: Well, thank you. That's a good  
18 point. And the only reason I hesitated is some of the GFA  
19 in the application is represented in the loading dock. But  
20 that's not there. So I was hoping Mr. Kain could give me  
21 the net new.

22 But as noted by the Chair, the reality is as a

1 result of additional work occurring in the building,  
2 including principally the inclusion of mechanical equipment  
3 into the building that currently doesn't exist: that  
4 mechanical equipment actually represents a reduction in GFA.

5 So, as noted by the Chair, the net reduction is  
6 actually about 4000 square feet below the existing  
7 condition, notwithstanding the fact that we're adding in the  
8 GFA.

9 This is a building that's over the allowed FAR.  
10 The site was rezoned many years later. The relief -- the  
11 GFA needed to construct the freight elevator is a variance  
12 matter, notwithstanding the fact that the net GFA here is  
13 below the existing.

14 CONSTANTINE ALEXANDER: The advertisement for the  
15 hearing -- you mentioned that the loading dock is going to  
16 be abandoned -- the proposed loading dock -- and you also  
17 identified, it says, "to construct a new elevator shaft for  
18 a freight elevator" -- which of course you've been talking  
19 to -- "and enclosed existing covered walkways surrounding  
20 the base of the building."

21 Is that enclosure a separate zoning relief?

22 JAMES RAFFERTY: Yeah. That's includes -- and

1 that's what I was referring to earlier, Mr. Chair. That  
2 work doesn't require the variance.

3 I did include it in the petition since I wanted to  
4 make clear that it is part of work being done at the  
5 building. But, as the Board knows, because that area is  
6 already a covered area, it is already included within the  
7 GFA.

8 So the variance application only applies to the  
9 GFA associated with the elevator shaft. The reference to it  
10 in the description with an attempt to be complete in  
11 explaining the changes to the plans.

12 So the portion of the work -- specifically that  
13 portion, the enclosure of the covered walkways -- are not  
14 part of the needed GFA contained in the application.

15 CONSTANTINE ALEXANDER: Thank you.

16 JAMES RAFFERTY: But if you notice the Planning  
17 Board comment, the Planning Board did review that, because  
18 in addition to opining on the case, as reviewing BZA cases,  
19 the project also -- because it was originally approved by a  
20 Planning Board special permit, we went to a Design Review  
21 hearing at the Planning Board, and the Planning Board  
22 Review, including the interior changes to the building.

1 All of that work is reflected in the Planning  
2 Board comments. So the vast majority of what's contained in  
3 the Planning Board comment makes reference to these  
4 enclosure areas. But, as I noted, they are not part of the  
5 variance.

6 CONSTANTINE ALEXANDER: The letter of support from  
7 the Planning Board we have received says the -- I'll go to  
8 the conclusion, "The Board approved the alteration to the  
9 site plan with continuing Design Review by CDD staff for the  
10 following" -- and identifies four items. Do you will also  
11 have ongoing dealings with the Planning Board?

12 JAMES RAFFERTY: Well, is the --

13 CONSTANTINE ALEXANDER: -- Not from the zoning  
14 point, not from the zoning point of view.

15 JAMES RAFFERTY: No. So the design issues, the --  
16 some of the landscape features and the like, it was agreed  
17 particularly the coloration on the freight elevator -- the  
18 panels that Mr. Kain has selected and the colored part.

19 There's been a request that the coloration and  
20 other items -- design related items -- continue to be  
21 reviewed at CDD before the work begins. So there's dual  
22 jurisdiction here. The Planning Board has jurisdiction by

1 virtue of the fact that it is a change to a building that  
2 they approved many years ago, and then the jurisdiction of  
3 the BZA relates to the GFA associated with the freight  
4 elevator. That's the only part of the work that represents  
5 additional GFA.

6 CONSTANTINE ALEXANDER: Thank you. That's now  
7 clear. Any further comments you want to make at this point,  
8 Mr. Rafferty?

9 JAMES RAFFERTY: I think I'm good. As I said, Mr.  
10 Kain's available if there are questions about any of the  
11 design. And we'd be happy to answer any further questions.

12 CONSTANTINE ALEXANDER: Okay. Well, let's see  
13 what the Board members -- if they have any questions.  
14 Brendan?

15 BRENDAN SULLIVAN: No. I have no questions at  
16 this time.

17 CONSTANTINE ALEXANDER: Okay. Laura?

18 LAURA WERNICK: I have no questions at this time.

19 CONSTANTINE ALEXANDER: Matina?

20 MATINA WILLIAMS: I have no questions at this  
21 time.

22 CONSTANTINE ALEXANDER: Wendy?

1           WENDY LEISERSON: Yes. one question, Mr.  
2 Rafferty. The change in the table -- the dimensional  
3 requirements that you made between your original filing and  
4 the July filing, I assume that the dimensional table that  
5 you filed in July is the one that the Planning Board  
6 reviewed, and there have been no more changes, is that  
7 correct?

8           JAMES RAFFERTY: No, no. The planning -- well, I  
9 shouldn't say that. So we did file an amended dimensional  
10 form with the application. But that's a reflection of the  
11 freight -- the loading dock coming out.

12           So we did submit a complete update to the Planning  
13 Board and shared with them the new information. So they  
14 were not as focused on the BZA dimensional form, but we did  
15 note in our presentation that the requested -- as a result  
16 of the modification, which candidly were driven by review by  
17 CDD Staff in an exploration of its impact on the site.

18           So the Planning Board was mindful of the fact that  
19 in addition to their review, we needed this GFA variance to  
20 construct the elevator shaft.

21           WENDY LEISERSON: Well, for our purposes tonight,  
22 the Table that you submitted in July is the Table of

1 Dimensions that we should be deciding on?

2 JAMES RAFFERTY: No. The dimensional form has a  
3 date stamp that I'm looking at from your files -- has an ISD  
4 stamp of September 20.

5 WENDY LEISERSON: Let me just see. I might be --  
6 oh, you're right. September 20.

7 JAMES RAFFERTY: Yeah.

8 WENDY LEISERSON: I think you have many matters on  
9 the docket tonight. So I might be thinking of another one;  
10 I'm not sure.

11 JAMES RAFFERTY: Oh, yes. I don't like clients to  
12 know that, so I'd appreciate if we didn't mention it. They  
13 think I'm -- they think they're the only case I have.

14 WENDY LEISERSON: Well, you certainly have the  
15 most interesting ones so far.

16 JAMES RAFFERTY: Oh, thank you.

17 WENDY LEISERSON: Okay. So it's the September 20  
18 dimensions that we're looking at?

19 JAMES RAFFERTY: Yeah.

20 WENDY LEISERSON: Okay. And then I guess my only  
21 question is, just as you -- I think you've answered this  
22 already, but the dramatic difference in the numbers between

1 the two tables is because you realized that portions --  
2 because your existing conditions changed, as well the  
3 requested conditions? And that was because of changes in  
4 your calculations?

5 JAMES RAFFERTY: No, that's principally -- the  
6 changes in the numbers are related to two things: One, the  
7 elimination of the loading dock, which wasn't a lot, but  
8 frankly the introduction of mechanical equipment into areas  
9 of the building that previously were included within the  
10 definition of gross floor area.

11 WENDY LEISERSON: Okay. Thank you. I have no  
12 further questions.

13 JAMES RAFFERTY: Thank you.

14 CONSTANTINE ALEXANDER: Thank you, Wendy. I have  
15 no questions as long -- not only as well as Wendy, but as  
16 well as the other members of the Board. So with that, I'm  
17 going to open the matter up to public testimony. Any  
18 members of the public who wish to speak should now click the  
19 icon at the bottom of your Zoom screen that says, "Raise  
20 hand."

21 If you're calling in by phone, you can raise your  
22 hand by pressing \*9 and unmute or mute by pressing \*6.

1 We'll take a moment or two to see if anyone's calling in.

2 [Pause]

3 CONSTANTINE ALEXANDER: Nope. No one wishes to  
4 call in, so I will close public testimony. I think the way  
5 we've been doing it -- and I would propose to do it now is  
6 I'll make a motion to grant the relief. And then we can  
7 have any further discussion off that motion -- in favor or  
8 not in favor, or to modify.

9 So, on that basis, the Chair moves that we make  
10 the following findings with regard to the relief being  
11 sought:

12 That a literal enforcement of the provisions of  
13 the ordinance would involve a substantial hardship, such  
14 hardship being that the need for a larger freight elevator  
15 and that requires a variance that's being sought.

16 The hardship is owing to the soil conditions and  
17 the like and the property and the shape of the structure,  
18 that's particular to the structure and not to the zoning  
19 district in which it's located.

20 And that desirable relief may be granted without  
21 substantial detriment to the public good, or nullifying or  
22 substantially derogating from the intent or purpose of this

1 ordinance.

2           The Chair would note in this regard that this  
3 proposal has the support of the Planning Board. It is in a  
4 part of the city and an area where the visual impact of this  
5 proposed relief is nil -- or as close to nil as possible.

6           And generally it's just another matter of  
7 improving a business use in an area of the city where it's  
8 no harm no foul.

9           So on the basis of all these findings, the Chair  
10 moves that we grant the relief requested on the condition  
11 that the work proceed in accordance with plans prepared by  
12 Elkus Manfredi Architects dated September 23, 2021, the  
13 first page of which has been initialed by the Chair.

14           Brendan?

15           BRENDAN SULLIVAN: I would support that motion,  
16 and I would vote to grant the requested relief.

17           CONSTANTINE ALEXANDER: Matina?

18           [Pause]

19           CONSTANTINE ALEXANDER: Matina?

20           MATINA WILLIAMS: Oh, I'm sorry. You said,  
21 "Tina." I support the motion.

22           CONSTANTINE ALEXANDER: Okay. And you're -- I'm

1 sorry, did you say you were in favor?

2 MATINA WILLIAMS: Yes. Mm-hm.

3 CONSTANTINE ALEXANDER: Laura.

4 LAURA WERNICK: I'm in support of the motion. I  
5 vote in favor.

6 CONSTANTINE ALEXANDER: Wendy?

7 WENDY LEISERSON: Wendy Leiserson in support of  
8 the motion.

9 CONSTANTINE ALEXANDER: Okay. And the Chair votes  
10 that way as well. So it's unanimous.

11 [All vote YES]

12 CONSTANTINE ALEXANDER: Variance granted.

13 JAMES RAFFERTY: Thank you very much. My  
14 apologies for the confusion in the beginning.

15 CONSTANTINE ALEXANDER: No problem at all.

16 JAMES RAFFERTY: Yeah. I find these elevator  
17 cases have their ups and downs, so --

18 CONSTANTINE ALEXANDER: [Laughter]

19 JAMES RAFFERTY: -- hopefully the next case won't  
20 have the same problem.

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\* \* \* \* \*

(6:32 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Laura Wernick, Matina Williams and Wendy  
Leiserson

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number No. 140148 -- 48 Pearl Street. Anyone here  
wishing to be heard on this matter?

JONATHAN MILLER: Hi. Yes, my name is Jonathan  
Miller. I'm an architect for the project. Let me turn on  
my video real quick. There we go.

CONSTANTINE ALEXANDER: Let me ask you a question  
at the outset. Is this property being occupied by the  
petitioners right now? I mean, are they living there?

JONATHAN MILLER: They are not currently living  
there, no.

CONSTANTINE ALEXANDER: I'm sorry?

JONATHAN MILLER: No, they're not currently living  
there.

CONSTANTINE ALEXANDER: Are they planning to move  
in, I assume after the work?

JONATHAN MILLER: Yes. Precisely, precisely. So

1 I'm Jonathan Miller. I'm the architect for the project,  
2 with Frank Shirley Architects. Good evening to you all.

3 Also here are Lauren Resnick and Eric Neilsen, the  
4 property owners. Lauren is going to walk you through why  
5 we're here, and then I'll do a brief presentation on the  
6 design component.

7 CONSTANTINE ALEXANDER: Okay.

8 LAUREN RESNICK: Thank you, Mr. Chairman. May I  
9 be recognized?

10 CONSTANTINE ALEXANDER: We can hear you.

11 LAUREN RESNICK: Okay, great. Thank you. Thank  
12 you for the opportunity to all the members of the Board to  
13 speak today. My name is Lauren Resnick. This is Eric  
14 Neilsen, my partner.

15 We are longtime Massachusetts residents who both  
16 went to college in the area. And when we first met, we both  
17 lived in Cambridge and have long loved this city. We have  
18 more recently resided in Boston, but last year we had the  
19 opportunity to buy a home in Cambridge. And we're thrilled  
20 to return to the area.

21 Our Cambridge home is on 48 Pearl Street. It's a  
22 single-family rowhouse on the corner of Pearl and Franklin

1 Streets in Central Square. We're restoring the home, and it  
2 will remain a single-family home for our use.

3 The home has three stories. The third floor has a  
4 spiral staircase that ascends to a head house structure,  
5 which opens onto an existing group deck.

6 Our petition today is about that head house  
7 structure on the roof. The staircase that leads to the roof  
8 deck and the existing head house do not meet today's building  
9 code and safety standards. The stair is too narrow, and the  
10 head house is not tall enough to accommodate a code-  
11 compliant clearance.

12 This requires us to seek relief from this Board  
13 today. So the head house may be built 1.1 feet taller than  
14 its existing height. This reconstruction will not increase  
15 the size of the roof deck. In fact, the roof deck area will  
16 be slightly decreased.

17 So I wanted to give you a background of how we got  
18 here today. 40 Pearl Street is in the C-2A Residential  
19 Zoning District, which has a permitted building height of 60  
20 feet.

21 The building also falls within the Central Square  
22 Overlay District. That Overlay District has an as-of-right

1 height limit of 55 feet, and also allows heights up to 80  
2 feet by special permit. However, for the Central Square  
3 Overlay District, a special rule applies only to C-2A base  
4 zoning districts, which sets a maximum height of 45 feet and  
5 removes the ability to seek a special permit.

6 We originally sought all the zoning relief  
7 required for this project from the Planning Board, including  
8 the request for additional height in the form of special  
9 permits.

10 We had a community meeting in which the two direct  
11 abutters to the property expressed support for the project.  
12 We had meeting with the Central Square Advisory Committee,  
13 which unanimously supported the project as well.

14 And at the hearing before the Planning Board,  
15 however, doubt was raised about the Board's authority to  
16 grant a special permit just as to the height question. That  
17 question was referred to the Law Department, which concluded  
18 that the Planning Board would not have that authority.

19 So the legal opinion stated that we would have to  
20 instead apply for a variance before the Board of Zoning  
21 Appeals. And that's why we're here today. The Planning  
22 Board voted to grant the remaining special permits regarding

1 setbacks and open space, and allowed us leave to withdraw  
2 the request for the height special permit without prejudice  
3 to seeking that relief here today before this Board.

4 The Planning Board issued its written decision,  
5 which was filed with the City Clerk on October 5. And you  
6 can find that decision in Case PB#380.

7 So why should relief be granted today? Well,  
8 we're asking the Board to grant the zoning relief we need to  
9 reconstruct the stair and head house in a safe and code-  
10 compliant manner.

11 As we have stated, there's a hardship here quite  
12 simply because keeping the stair and head house as it is in  
13 its current condition is less safe than the code-compliant,  
14 reconstructed stair and head house would be under the new  
15 design.

16 Allowing the extra foot of height will have a  
17 minimum impact on the community, but substantial impact on  
18 the interior construction of this home and how it will be  
19 used by us.

20 The current hardship is related to the shape of  
21 the structure. That current structure is not wide enough or  
22 tall enough to safely accommodate a building code-compliant

1 stair, the head clearance needed and the door opening. This  
2 hardship is also unique to this very small subset of  
3 rowhouses.

4 As I mentioned above, in the C-2A Residential  
5 District, buildings are allowed to be 60 feet tall by right.  
6 And in the Central Square Overlay District, almost all the  
7 other buildings may be 50 feet tall by right, or even up to  
8 80 feet tall by special permit.

9 The height limit of 45 feet is only applying to  
10 the 10 rowhouses on this block that fall within the Overlay  
11 District. And this is the only one that has a preexisting  
12 roof deck. This project will not negatively affect the  
13 neighborhood. Our experience before the Planning Board  
14 speaks to this issue.

15 We've had community support throughout the  
16 process. We've been in touch regularly with our direct  
17 abutters, both at 46 Pearl Street and at 203 Franklin Street  
18 -- who are supportive of our restoration plans.

19 Neighbors have spoken in support at the community  
20 meeting we held, and again at our Planning Board hearing.  
21 The Central Square Advisory Committee found, in their words,  
22 -- "that the project does not affect adjacent neighbors, nor

1 does it interfere with the public realm or pedestrian  
2 views."

3           And the Planning Board concluded in its decision  
4 that assuming we get the relief necessary from the Board of  
5 Zoning Appeals, the project in their words, "Would not  
6 adversely affect adjacent uses," and that, "the proposal is  
7 consistent with the pattern of development in the area, and  
8 will have minimal impact on abutters and city  
9 infrastructure."

10           We reiterate that the redesign head house will not  
11 detract in any way from the neighborhood character  
12 aesthetic. The height increase we're asking for is minimal,  
13 only being 1.1 feet, and it will be minimally visible from  
14 adjacent streets.

15           The architectural design is consistent with the  
16 existing structure and those in the neighborhood, and the  
17 reconstructed head house will markedly improve the exterior  
18 condition of the property.

19           We ask today that you grant the zoning relief  
20 necessary for us to move forward on this restoration  
21 project. And we're available for any questions you might  
22 have for us.

1           But now we'd like to turn it over to Jonathan  
2 Miller for the remaining presentation.

3           CONSTANTINE ALEXANDER: Thank you for a very  
4 thorough presentation. I would just comment that we rarely  
5 grant variances for height. But this is an unusual case.  
6 You're not raising the roof -- the whole structure beyond  
7 where -- beyond the 35 feet, 45 feet that's permitted by --  
8 required by our ordinance.

9           You have your compelling reason why you need to do  
10 it, it seems to me, to create a code-compliant stair.  
11 That's just my personal observation. At this point,  
12 Brendan, do you have any questions?

13           BRENDAN SULLIVAN: [Brendan Sullivan] the question  
14 I had when I first reviewed the case was a head house to a  
15 deck on the roof, and then obviously pulling down all of the  
16 submittals and noticing that it was a very large house, and  
17 the deck was above the third floor, which is counted as FAR  
18 -- floor area ratio.

19           Went to your dimensional form and noticed that  
20 you're really just under the requirement for the ordinance.  
21 And who was it that made out the dimensional form?

22           And I'm just wondering how the 2856, which was the

1 existing conditions, how was that calculated? Was it Mr.  
2 Miller, or is it Lawrence?

3 JONATHAN MILLER: Hi. Mr. Miller speaking. I did  
4 make that calculation. The existing head house is about 28  
5 square feet, and the -- I'm sorry, about 26 -- and the  
6 proposed is 28. However, due to the location of the  
7 reconstructed head house, we actually slightly cut off a  
8 corner of the roof deck. So that took a little bit of our  
9 GFA away.

10 The roof deck was, of course, included in the GFA  
11 calculations, as you point out. It is required to be, due  
12 to its location up on the -- above the third floor. So our  
13 net was actually a little bit less -- negative 2 from the  
14 original.

15 BRENDAN SULLIVAN: All right, but -- and I guess  
16 the question I had was, what compiled the 2854 square feet,  
17 starting from the basement? So that FAR was included?  
18 First floor, second floor, third floor and the deck?

19 JONATHAN MILLER: First floor, second floor, third  
20 floor, the deck and I believe half of the garage was  
21 calculated, because one spot was required.

22 BRENDAN SULLIVAN: Okay. How long has the deck

1     been up there?

2                   JONATHAN MILLER:    Laura?

3                   LAUREN RESNICK:    Yes.    I can speak to that.    So  
4     the homeowner we purchased from before we -- the seller that  
5     we bought from -- has had the property for over 25 years,  
6     and it was in place when she bought the property.

7                   I don't know the exact date that the roof deck  
8     might have been installed; however, there are aerial  
9     photographs available on the Cambridge GIS website that  
10    we've looked at, and I believe I saw one from the 1996 or  
11    '97 time frame that showed the roof deck installed, or  
12    installed on the roof in that timeframe.

13                  BRENDAN SULLIVAN:   Right.   Well, I checked the --  
14    I asked the Building Department to check their records, and  
15    there was never a building permit issued for the  
16    construction of that deck.    So it was just all of a sudden,  
17    you were asking to allow for the reconstruction or  
18    construction of the bigger head house or the deck that all  
19    of a sudden just appeared someday.

20                  So there is no record in the file of it ever  
21    receiving a building permit and/or potential zoning relief,  
22    if it was over the FAR, which apparently according to your

1 dimensional forms is still under the required FAR, which  
2 I've found a little bit hard to believe because it's a big  
3 house. But that's okay. If that's your submittal, that's  
4 your testimony, that's fine. I have no other further  
5 comments at this time.

6 CONSTANTINE ALEXANDER: Thanks, Brendan. Laura,  
7 any questions or comments at this point?

8 LAURA WERNICK: No. I don't have any comments. I  
9 was concerned that this might set a precedent, but I don't  
10 think that it can. There are so many existing -- such  
11 specific existing constraints and conditions that it is  
12 unique and would not set any precedent. So I have no  
13 questions.

14 CONSTANTINE ALEXANDER: Thank you. Matina?

15 MATINA WILLIAMS: I have no questions at this  
16 time.

17 CONSTANTINE ALEXANDER: Okay. Wendy?

18 WENDY LEISERSON: I do have questions, but they're  
19 mostly questions of constructing the ordinance. And that  
20 is, given -- as you testified very well -- the complications  
21 of where your house is located, in the Overlay District, it  
22 does say, "No additional height shall be permitted."

1           And I also -- I think -- this is a clarification  
2 question, from what you said, you gave notice of requiring  
3 or requesting this relief as a special permit, but did you  
4 go back, did you give the required notice that you were  
5 seeking a variance now?

6           [Pause]

7           WENDY LEISERSON: You did?

8           LAUREN RESNICK: Yes.

9           WENDY LEISERSON: Okay. Because I didn't see that  
10 in the file. So have they -- has the Advisory Committee  
11 addressed it? Did they confirm that they would approve this  
12 as a variance?

13           LAUREN RESNICK: So I don't believe the Central  
14 Square Advisory Committee speaks to variances. But I defer  
15 to others on the question.

16           The project that we are presenting today is in no  
17 way changed in terms of the dimensions shown, the plans  
18 shown, all of that to what was presented to the Central  
19 Square Advisory Committee.

20           And the Central Square Advisory Committee reviewed  
21 all of the requested relief -- all four at the time listed  
22 as special permits when they found a project -- when they

1 expressed unanimous support for the project, in terms of how  
2 it would be built. So I don't believe there was a  
3 requirement to go back to them.

4 The Planning Board took the position based on the  
5 legal opinion that it was not their jurisdiction to consider  
6 a variance.

7 WENDY LEISERSON: Yes. I think I'm referring to  
8 Section 20.304.12 -- just, it's a technical matter. And I  
9 know it's being hyper technical, but that's kind of my job  
10 to, you know, look at the language of the ordinance. And it  
11 does say that notice of applications for variances has to go  
12 to the Committee.

13 So that -- but I'm not -- it's not a dealbreaker  
14 for me, but I just wanted to note that and get my  
15 colleague's interpretation of that.

16 And then also, like I said, I sort of wonder --  
17 and I'd also like to hear from my colleagues on this about  
18 the impact of 20.304.2 1b, where it does say, you know,  
19 "Notwithstanding the other provisions" -- "yadayada," -- no  
20 additional height shall be allowed," even though this is  
21 very minimal -- and I hate to be, you know, you have very  
22 good reasons for wanting to seek this.

1           But then as Brendan pointed out, the reason why  
2 you want the staircase in the first place is to get your  
3 roof deck that was never authorized, apparently.

4           And as you yourself said, it is not -- you have  
5 the only roof deck in that neighborhood, in that Overlay  
6 District. So I just want to raise those issues and say --

7           LAUREN RESNICK: May I?

8           WENDY LEISERSON: Yes. Please, go ahead.

9           LAUREN RESNICK: I'm sorry. I was only speaking  
10 to the row of houses we have there. The Central Square  
11 Overlay District is very, very broad -- covers a lot of the  
12 area of Mass Ave. So I actually cannot speak to whether  
13 there are roof decks elsewhere in the Central Square Overlay  
14 District. I'm speaking solely to the 10 rowhouses that line  
15 the small block between Green Street and Franklin Street on  
16 Pearl. There's no roof deck on any of those other  
17 rowhouses.

18           WENDY LEISERSON: And -- I'm sorry, did you say,  
19 though, that those 10 houses were the only ones in C-2A?

20           LAUREN RESNICK: No, there are two -- yes, the  
21 only ones I --

22           JONATHAN MILLER: That is --

1           LAUREN RESNICK: -- sorry, go ahead Jonathan.

2           JONATHAN MILLER: So there's a kind of miniature  
3 C-2A district that I believe is the only C-2A within the  
4 Central Square Overlay District. There are other C-2A in  
5 the -- elsewhere in the city, but this particular district  
6 is very small and only for this particular block of  
7 rowhouses.

8           WENDY LEISERSON: Right. And that's sort of the  
9 crux of the issue before us is how to -- I think -- is how,  
10 given that Overlay Districts require us to have, you know,  
11 greater scrutiny not lesser scrutiny, and this particular  
12 row of houses -- you know, does lie within that Overlay  
13 District... my question is more -- like I said, a technical  
14 matter of interpreting what we can do for you, given this  
15 very small request, and in lieu of Brendan's comment about  
16 the roof deck, which is concerning to me.

17           LAUREN RESNICK: May I submit one response to  
18 that?

19           WENDY LEISERSON: Please.

20           LAUREN RESNICK: Okay. The legal opinion that was  
21 submitted by the Law Department explicitly stated that we  
22 would have to seek this relief before the BZA as a variance,

1 instead of pursuant to this -- we originally the cited the  
2 provision you're talking about when we sought relief  
3 initially before the be Planning Board. And they said that  
4 provision meant that we couldn't seek it there; we had to  
5 instead seek our relief before the BZA, in the form of a  
6 variance.

7 WENDY LEISERSON: And I'm not looking at my  
8 electronic file right now, but is that legal opinion in the  
9 packet that you submitted?

10 LAUREN RESNICK: I don't know whether it's in the  
11 packet here, but it is in the packet for PB#380. I'll ask  
12 Jonathan if it was part of this packet.

13 JONATHAN MILLER: I don't believe it was submitted  
14 as part of this packet.

15 LAUREN RESNICK: I think it's quoted also --  
16 there's a direct quote from the legal opinion on this  
17 subject in the PB#380 decision.

18 WENDY LEISERSON: Okay, thank you. That's my only  
19 questions for now.

20 CONSTANTINE ALEXANDER: I have no questions at  
21 this point beyond the ones I've already asked. So I will  
22 close public testimony -- no, I haven't opened it yet. We

1 will now open the matter up to public testimony.

2 JONATHAN MILLER: Sorry, I do have -- we do have  
3 drawings that we can present if the Board would like to see  
4 them. I know you have them in front of you, but I can run  
5 through them, if that would be useful to the Board.

6 LAURA WERNICK: I think the presentation -- the  
7 drawings are great, but I think the presentation's been  
8 pretty clear. So I'm not sure that I need to see additional  
9 graphic --

10 JONATHAN MILLER: Great.

11 LAURA WERNICK: -- graphic information.

12 JONATHAN MILLER: Great. That's fine by me.

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

16 If you're calling in by phone, you can raise your  
17 hand by pressing \*9 and unmute or mute by pressing \*6.

18 We'll take a few moments to see if anyone wishes to call in.

19 [Pause]

20 CONSTANTINE ALEXANDER: Apparently not. We will  
21 close public testimony and move on to the decision part of  
22 our hearing with regard to this case. As I did before, and

1 have done in the past, I will make a motion to grant the  
2 relief, and then we'll have a further discussion off that  
3 motion to see if that's acceptable to the other members of  
4 the Board.

5 I propose we make the following findings with  
6 regard to the relief being sought that: A literal  
7 enforcement of the provisions of the Ordinance would involve  
8 a substantial hardship, such hardship being that there is a  
9 need for a code-compliant stair to the head house on the  
10 roof that in turn requires modification of the house on the  
11 roof.

12 And that -- where there's the variance comes from  
13 -- the hardship is owing to the shape of the structure and  
14 the -- well, the shape of the structure and it's unique to  
15 the structure, not to the neighborhood generally -- and that  
16 desirable relief may be granted without substantial  
17 detriment to the public good, or nullifying or substantially  
18 derogating from the intent or purpose of this Ordinance.

19 So on the basis of these findings, the Chair moves  
20 that we grant the variance requested on the condition that  
21 the work proceeds submitted by the petitioner, the first  
22 page of which has been initialed by the Chair -- these are

1 the plans that are in our files as of tonight.

2 Brendan, how do you vote?

3 BRENDAN SULLIVAN: [Brendan Sullivan] if this were  
4 a de novo case -- and I think the Chair has said a request  
5 for a deck and a -- with the higher head house, I think it  
6 would have difficulty. There are some issues that I still  
7 feel surround this and cloud this old application.

8 However, the deck is there, it appeared, the head  
9 house is there. And I think the raising of the head house  
10 to one foot, which allows for a safer entry and exit to the  
11 deck is probably fair and reasonable at this time. So I  
12 would vote to split the motion to grant the relief  
13 requested.

14 CONSTANTINE ALEXANDER: Thank you, Brendan.

15 Laura?

16 LAURA WERNICK: I would vote in favor as well. I  
17 appreciate Brendan and Wendy's concerns about the existing  
18 deck, but it is -- the appellant has very carefully tried to  
19 follow procedures and reach out to neighbors, and the deck  
20 seems to have little impact and is in fact supported by  
21 neighbors.

22 So for us to either leave that as an unsafe

1 situation or take it away seems to be a draconian solution.

2 So I'm totally in favor of --

3 CONSTANTINE ALEXANDER: Thank you.

4 LAURA WERNICK: -- granting it.

5 CONSTANTINE ALEXANDER: Matina?

6 MATINA WILLIAMS: Hi. [Matina Williams] -- I do  
7 agree with Brendan, but I am in favor of supporting the  
8 motion.

9 CONSTANTINE ALEXANDER: Thank you, Matina. Wendy?

10 WENDY LEISERSON: For the reasons that Brendan and  
11 Laura articulated, I will also vote in favor of the motion,  
12 despite my concerns.

13 CONSTANTINE ALEXANDER: Thank you. The Chair will  
14 also vote in favor of the motion.

15 [All vote YES]

16 CONSTANTINE ALEXANDER: Again, if this was being a  
17 de novo situation where you're coming before us to build the  
18 deck and a head house of the height that you're proposing,  
19 you would not get my vote. But this is a different  
20 situation. And so I will vote in favor. It makes the vote  
21 unanimous. Variance granted. Thank you.

22 COLLECTIVE: Thank you very much.

1                   BRENDAN SULLIVAN: And I must say, Lauren, you  
2 came prepared.

3                   WENDY LEISERSON: Yep.

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(6:55 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Laura Wernick, Matina Williams and Wendy  
Leiserson

CONSTANTINE ALEXANDER: Okay. The Chair will now  
call Case Number No. 140631 -- 8 Greenough Avenue. Anyone  
here wish to be heard on this matter? I can see someone,  
but I can't hear her.

CATHERINE TRUMAN: Not sure how this works; yes.

CONSTANTINE ALEXANDER: Yes, just -- you're  
speaking -- we hear you.

CATHERINE TRUMAN: Okay, great. I also have my  
hand raised digitally.

CONSTANTINE ALEXANDER: I'm sorry? Do you want to  
make your presentation?

CATHERINE TRUMAN: Oh, okay. Great. Sorry. Hi.  
My name is Catherine Truman, with Catherine Truman  
Architects. We are the architect for the project at 8  
Greenough. I know that the owners, Orly and Tomer Ullman,  
are also here.

I believe -- so we -- the proposal that we have in

1 place is to expand a dormer on one side of the building. It  
2 is a preexisting, nonconforming building for a side yard  
3 setback. It is, I believe 5.1 feet from the property line,  
4 where the zoning has required 7.5.

5 There is a small dormer on that side of the house  
6 right now that allows the very, very tight, very small non  
7 code-compliant stair to access a third floor.

8 Our proposal, we are renovating the house to  
9 create a new single-family home, and in doing so, we want to  
10 create a useable stair to access the living space on the  
11 third floor.

12 We studied numerous ways to try and incorporate a  
13 stair into the house, and the best solution was to look at  
14 expanding the location of the current stair and coming up  
15 along that side of the property, expanding the dormer to  
16 create adequate head height, or a stairway with proper rise  
17 and run.

18 As a part of the remodel, we've also looked at  
19 moving around some windows on the east façade as well, which  
20 I believe is a part of this application. But the major  
21 element is expanding the existing dormer and, which then is  
22 partly because it's a preexisting, nonconforming for setback

1 that the work does require the variance.

2 It also triggers a -- I don't actually have the  
3 specifications right in front of me, I should, I'm sorry --  
4 that there is a requirement that dormer expansions not be  
5 more than 15 feet total in length. We have another dormer  
6 on the other side of the building that is also existing.  
7 And the total of that existing dormer and this new one is  
8 over 15 feet total.

9 The other dormer on the other side is quite  
10 visible, and the building is meant for our district. And so  
11 we did not want to look at, you know, removing or minimizing  
12 that other dormer.

13 The elevations, which are on page 4 I believe,  
14 should show -- oh, no, I'm sorry. Those are the other two  
15 sides. The house in the north is the street-facing side.  
16 The west is the -- oh, sorry, these are the existing ones.  
17 The west is the one that has an existing dormer we are not  
18 touching. It is more visible and less historic. The east  
19 elevation, where you can see on the bottom right is the  
20 existing small dormer that just allows a little bit of head  
21 height into the third floor.

22 The next page shows -- those are not reproducing

1 well on the screen at the moment; my apologies. They're  
2 very -- there's a lot of line (sic) weight going on there.  
3 Perhaps the resolution will improve. The -- maybe if you  
4 zoom in on the east elevation, that will be a little more  
5 visible?

6 [Pause]

7 CATHERINE TRUMAN: Hm. Yeah, the graphics seem to  
8 be a very small file. A lot of pixilations; my apologies.  
9 So what this shows is actually the locations of the existing  
10 windows, the new proposed windows, but most importantly the  
11 expansion of the dormer, which you can see in the dashed  
12 lines at the existing -- and then the expanded dormer at 14  
13 foot nine. I'm happy to describe more, but I think that  
14 summarizes the case.

15 Are there any questions, or is there anything that  
16 I should elaborate on that I have not?

17 CONSTANTINE ALEXANDER: Questions from members of  
18 the Board? Brendan?

19 BRENDAN SULLIVAN: NO questions at this time, no.

20 CONSTANTINE ALEXANDER: Matina? Matina, do you  
21 have any questions?

22 MATINA WILLIAMS: Sorry. No questions at this

1 time.

2 CONSTANTINE ALEXANDER: Okay. Wendy?

3 WENDY LEISERSON: No questions.

4 CONSTANTINE ALEXANDER: Laura?

5 LAURA WERNICK: No questions.

6 CONSTANTINE ALEXANDER: And the Chair has no  
7 questions as well. With that, I will now open -- well,  
8 before I open the matter up to public testimony, I would --  
9 for the record, I would state that there are a number of  
10 letters of support from neighbors in the area; strong  
11 support, no letters of opposition.

12 And again, we're looking at a special permit that  
13 meets the requirements of -- looking for the statute:  
14 8.22.2(4).

15 So because of that, the finding -- we have to make  
16 a finding that the -- what are being proposed is not more  
17 detrimental than the existing structure to the neighborhood.  
18 We've got testimony I suppose already from the neighbors  
19 that say, "No it's not, because we have no objection to it."  
20 But we also have to make further findings regarding two  
21 special permits generally, which I'll get to in a second.

22 So, but before we go there, I'll open the matter

1 up to public testimony. Any members of the public who wish  
2 to speak should now click the icon at the bottom of your  
3 Zoom screen that 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 We'll I'll take a moment to see if anyone wishes to speak.

7 [Pause]

8 CONSTANTINE ALEXANDER: No indication that there  
9 is, so I will close public testimony, and we can move on to  
10 the decision part of the case. So, as I said, I'll make the  
11 following motion:

12 First of all, in the specific requirements of  
13 8.22.2(d), which says that the Chair moves that we make the  
14 finding that what is being proposed is not more detrimental  
15 than the existing structure to the neighborhood. And  
16 evidence of that I think is the fact that the neighborhood  
17 is all in active support of the relief being sought.

18 Going on further now to 10.43, and the criteria  
19 under that section, I move that the requirements of the  
20 ordinance cannot be met unless we grant the special permit  
21 being requested.

22 That traffic generated or patterns of access or

1 egress resulting from what is being proposed will not cause  
2 congestion, hazard, or substantial change in established  
3 neighborhood character.

4 Let the facts speak for themselves; it is a modest  
5 change to the structure, and has no impact on our -- no  
6 creation of a hazard of creating congestion or substantial  
7 change in established neighborhood character.

8 That the continued operation of or development of  
9 adjacent uses, as permitted in the zoning ordinance, will  
10 not be adversely affected by the nature of what is proposed.  
11 And again, the support from the neighborhood speaks to that.

12 No nuisance or hazard will be created to the  
13 detriment of the health, safety and/or welfare of the  
14 occupant of the structure, or the citizens of the city.

15 And generally, what is being proposed will not  
16 impair the integrity of the district or adjoining district,  
17 or otherwise derogate from the intent and purpose of this  
18 ordinance.

19 So on the basis of all of these findings, the  
20 Chair moves that we grant the special permit requested by  
21 the petitioner on the condition -- if I can find the file --  
22 on the condition that the work proceed in accordance with

1 plans prepared by Margaret Truman and Catherine and have  
2 been initialed by the Chair.

3 Brendan?

4 BRENDAN SULLIVAN: Brendan Sullivan yes to  
5 granting the special permit.

6 CONSTANTINE ALEXANDER: Matina?

7 MATINA WILLIAMS: Matina yes to granting the  
8 special permit.

9 CONSTANTINE ALEXANDER: Wendy?

10 WENDY LEISERSON: Wendy yes to granting the  
11 special permit.

12 CONSTANTINE ALEXANDER: Laura?

13 LAURA WERNICK: Laura yes to granting the special  
14 permit.

15 CONSTANTINE ALEXANDER: And the Chair will make it  
16 unanimous. I vote yes as well.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: The relief is granted.  
19 Good luck.

20 BRENDAN SULLIVAN: Catherine, you had mentioned  
21 the dormer -- the addition to the -- well, the existing one  
22 to expand it to 14 foot 9, which results in a combined

1 length of all dormers to exceed 15 feet. Was that sort of a  
2 reading of the dormer guidelines?

3 CATHERINE TRUMAN: Yes.

4 BRENDAN SULLIVAN: Yeah. Just so that -- for your  
5 information and edification, that 15 feet actually applies  
6 to each side.

7 CATHERINE TRUMAN: Oh.

8 BRENDAN SULLIVAN: Not cumulatively. So going  
9 forward.

10 CATHERINE TRUMAN: Okay, great. That's a little  
11 unclear in the writing of -- great to know. And just for  
12 the record, you mentioned plans in accordance with Margaret  
13 Truman; it's Catherine Truman, not Margaret.

14 BRENDAN SULLIVAN: Catherine, right, yeah. Thank  
15 you.

16 CONSTANTINE ALEXANDER: Thank you.

17 CATHERINE TRUMAN: Thank you very much, Madam  
18 Chair.

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2 (7:06 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: Moving onto the next case,  
7 the Chair will call Case Number No. 141587 -- 7 Malcolm  
8 Road. Anyone here wishing to be heard on this matter?

9 [Pause]

10 CONSTANTINE ALEXANDER: I think you're on mute,  
11 Jim.

12 JAMES RAFFERTY: Good evening, Mr. Chair.

13 CONSTANTINE ALEXANDER: Now we can hear you, yes.

14 JAMES RAFFERTY: I apologize. I attempted to use  
15 the computer that I always do this on. So I'm back to my  
16 laptop. Thank you very much. I'm here representing the  
17 applicant, George Finn and Christine Waite, W-a-i-t-e and  
18 you can see them on the screen there, Mr. Finn and Ms.  
19 Waite.

20 This is a two-family home on Malcolm Road in West  
21 Cambridge. It has been the home of Mr. Finn and Ms. Waite  
22 for 20 years now. They live there with their two -- well,

1 teenagers, one 15-year-old daughter and another soon-to-be  
2 11-year-old daughter.

3 And the application is to allow for some  
4 additional GFA to construct a dormer.

5 The appellant seeks a special permit authorized by  
6 the recent amendment to Article 8, Section 8.22.2(d), and I  
7 would suggest that this is just the type of case that that  
8 amendment is intended to address, since the finding  
9 associated with that is that the proposed work would not  
10 have a detrimental effect upon the neighborhood. This  
11 represents an increase of only 75 square feet of gross floor  
12 area. But it has a significant impact on the quality of  
13 life of the Finn family.

14 They live on the second floor of a traditional,  
15 laid-out two-family. It has two bedrooms. The introduction  
16 of the dormer will allow them to bring a bedroom and a  
17 bathroom upstairs that the parents will enjoy and an  
18 additional sitting room upstairs.

19 Mr. Finn is a 20-year teacher at Cambridge Rindge  
20 and Latin, but they're a growing family. They're looking to  
21 stay in the neighborhood, and they have done extensive  
22 outreach with their neighbors and abutters.

1           And the letters of support are in the file that  
2 reflect that. Of significance, even Mr. Finn's mother, who  
3 lives downstairs, wrote a letter of support in this case.

4           So the added relief here really is addressed in  
5 the context of 8.22. The remaining criteria under the  
6 special permit in Section 10 I think is also quite obvious  
7 in terms of compatibility with other uses, impacts on  
8 traffic, and the like. There will be no change in the  
9 intensity of use of this.

10           And, as I said, this is the very case I think that  
11 this new amendment was intended to address by special  
12 permit, rather than having to go through the burden of  
13 proving a hardship to obtain a variance.

14           We are happy to walk you through -- any of the  
15 members -- the dormer, it's a single dormer. It's 15 feet  
16 in length and it is set back considerably from the ends of  
17 the house.

18           CONSTANTINE ALEXANDER: Okay. I'm looking at this  
19 right now for the statu -- the errata, and then the -- to  
20 our zoning ordinance, if I can properly identify it. But in  
21 the meantime while I'm doing that, Brendan, do you have any  
22 questions?

1           JAMES RAFFERTY: It appears in Section 8 -- I'm  
2 sorry --

3           BRENDAN SULLIVAN: So you're claiming collection  
4 (sic) under Bellalta because there are no new  
5 nonconformities?

6           CONSTANTINE ALEXANDER: Right.

7           JAMES RAFFERTY: Well, correct. The expansion of  
8 the GFA, the house already exceeds GFA, right.

9           BRENDAN SULLIVAN: Right.

10          JAMES RAFFERTY: But the statutory reference in  
11 our ordinance is 8.22.2(d). Right. So, but to correct --  
12 to Mr. Sullivan's point, yes, the case qualifies under that  
13 provision that emanated from the Brookline case, the  
14 Bellalta case that this house already exceeds the allowable  
15 GFA, so this represents an additional 75 square feet of GFA;  
16 it doesn't introduce any other new nonconformities.

17          CONSTANTINE ALEXANDER: Okay. An interesting  
18 question from my mind -- it's not a legal question, I guess  
19 it is, it's not relative to the merits here -- is that if a  
20 property is entitled to the benefits of the Bellalta  
21 Amendment, you otherwise have to get -- do you have to go  
22 through the procedures for a general -- for special permits

1 generally?

2 JAMES RAFFERTY: Yes.

3 CONSTANTINE ALEXANDER: Because as I read it, I  
4 don't think you do. But I'm not sure. It's got to be safe  
5 for both the --

6 JAMES RAFFERTY: It's my understanding that the  
7 way the amendment has been applied, and it's referred to in  
8 8.22.2(d) -- it does make a reference to Section -- the  
9 10.43 criteria as well, though. It does say --

10 CONSTANTINE ALEXANDER: I looked for that and I  
11 couldn't find it.

12 JAMES RAFFERTY: You know, part of the problem is  
13 the amendment, although passed and codified, doesn't appear  
14 in many versions. You have to go --

15 CONSTANTINE ALEXANDER: It has no movement,  
16 because it's not crucial to this case.

17 JAMES RAFFERTY: -- 2(d) --

18 CONSTANTINE ALEXANDER: There's no mention -- I  
19 have it in front of me. The 8.22.2(d), and there's no  
20 reference at all to the rest of the requirements for a  
21 special permit under 10.43.

22 WENDY LEISERSON: Mr. Chair?

1           CONSTANTINE ALEXANDER: Yes.

2           WENDY LEISERSON: The last few words of that  
3 provision, is that not what you were looking for?

4           CONSTANTINE ALEXANDER: No, the last few words are  
5 that, "In order to approve the special permit, the Board of  
6 Zoning Appeal must find that the additional alteration is  
7 not more detrimental than the existing structure to the  
8 neighborhood."

9           Actually, I'm not reading from the statute, I'm  
10 reading from the summary of it from the Legal Department.

11           WENDY LEISERSON: Yes. I'm looking at the  
12 ordinance itself, and the last phrase says that, "The  
13 alteration and enlargement satisfies the criteria" in  
14 Section 10.43.

15           JAMES RAFFERTY: Yes.

16           CONSTANTINE ALEXANDER: Okay.

17           JAMES RAFFERTY: Yes. Ms. Leiserson is correct.  
18 It is -- it is -- that language appears in the text of the  
19 ordained amendment.

20           CONSTANTINE ALEXANDER: Okay. Anyway, we'll go  
21 through it with that. We'll cover that area as well.

22           JAMES RAFFERTY: Right. And the application

1 contains supporting statements covering that provision.

2 CONSTANTINE ALEXANDER: Brendan, do you have any  
3 other questions?

4 BRENDAN SULLIVAN: I have no questions at this  
5 time.

6 CONSTANTINE ALEXANDER: Wendy?

7 WENDY LEISERSON: I have no questions. I think,  
8 Mr. Rafferty, you already represented that there was no new  
9 dimensional nonconformity introduced by the creation of a  
10 dormer, correct?

11 JAMES RAFFERTY: That's correct. It's strictly  
12 the GFA; the height and open space and setbacks are  
13 unchanged.

14 WENDY LEISERSON: I'd have a question for you,  
15 since I have the benefit of your expertise here. For  
16 dormers in general on a nonconforming structure, would we  
17 have any other heightened scrutiny for that?

18 Like, do dormers trigger any other heightened  
19 scrutiny? It's just a question for you, it's not going to  
20 the merit bed.

21 JAMES RAFFERTY: Well, I know the Board pays close  
22 attention to the dormer, the Design Guidelines of the

1 dormers. So perhaps that does represent heightened scrutiny  
2 in the sense that a 75-square-foot addition to a  
3 nonconforming structure that wasn't contained in the dormer  
4 wouldn't go through the same scrutiny as a dormer would,  
5 based on the existence of the guidelines.

6 WENDY LEISERSON: Okay, thank you.

7 CONSTANTINE ALEXANDER: My view, maybe it's wrong,  
8 is that if the petitioner is entitled to the benefit of the  
9 Bellalta amendment, that we don't -- the dormer guidelines  
10 are sort of superseded, if you will. Because new dormer  
11 guidelines are not a zoning requirement.

12 And I don't think we can turn something down that  
13 satisfies the Bellalta amendment on the basis of the dormer  
14 guidelines. I think now the dormer guidelines only apply to  
15 non 2. -- whatever the section is -- cases. That's my  
16 personal view. I've not heard from the Legal Department as  
17 to what their views are.

18 But again, for this case it's not meeting it. So  
19 with that, can we go all the way around? I'm not sure.  
20 Laura, did you have a chance to -- do you have any  
21 questions?

22 LAURA WERNICK: I have no questions.

1           CONSTANTINE ALEXANDER: Okay. I have none more  
2 beyond what I've already asked. So, as Mr. Rafferty's  
3 pointed out, there are a number of letters from neighbors  
4 all in support of the petition, no letters in opposition.

5           I will open the matter up to public testimony.  
6 Any members of the public who wish to speak should now click  
7 the icon at the bottom of your Zoom screen that says, "Raise  
8 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. Take  
11 a moment to see if anyone's calling in.

12           [Pause]

13           CONSTANTINE ALEXANDER: No one is, so we will  
14 close public testimony. And as we've been doing tonight  
15 already, I'm going to make a motion to grant the relief and  
16 also discuss the case off that motion.

17           So the Chair moves that we make the following  
18 findings: That what is being proposed is not more  
19 detrimental than the existing structure to the neighborhood  
20 -- a modest, as Mr. Rafferty's pointed out -- a modest  
21 dormer addition.

22           That the requirements of the ordinance cannot be

1 met unless we grant the special permit -- excuse me, that's  
2 being sought.

3 That traffic generated or patterns of access or  
4 egress resulting from what is proposed will not cause  
5 congestion, hazard, or substantial change in established  
6 neighborhood character. The change in fact is not going to  
7 impact traffic or patterns of access and egress, and it  
8 won't make a substantial change in established neighborhood  
9 character.

10 The facts speak for themselves in that regard, and  
11 particularly relating to the substantial and unanimous  
12 neighborhood support for what is being proposed.

13 That continued operation of or development of  
14 adjacent uses, as permitted in the zoning ordinance, will  
15 not be adversely affected by the nature of the proposed use.  
16 Letters of support speak to that very clearly. The  
17 neighborhood does not believe it will be an adverse effect  
18 not neighborhood.

19 No nuisance or hazard will be created to the  
20 detriment of the health, safety and/or welfare of the  
21 occupant of the proposed use, or the citizens of the city.

22 And generally, what is being proposed will not

1     impair the integrity of the district or adjoining district,  
2     or otherwise derogate from the intent and purpose of this  
3     ordinance.

4             So on the basis of all these findings, the Chair  
5     moves that we grant the special permit being requested on  
6     the condition that the work proceed in accordance with plans  
7     prepared by Architecture Design Planning dated February  
8     17,2021.

9             Brendan?

10            BRENDAN SULLIVAN:  Brendan Sullivan yes to  
11     granting the special permit.

12            CONSTANTINE ALEXANDER:  Wendy?

13            WENDY LEISERSON:  For the record, I will vote in  
14     favor.  However, I'm not sure that I agree with the  
15     construction of Bellalta meaning that it supersedes the  
16     dormer guidelines.  However, in this case, Attorney Rafferty  
17     has presented that he has been -- his design has been  
18     informed by those guidelines.  And therefore, I'm in favor.

19            CONSTANTINE ALEXANDER:  Thank you.  Laura?

20            LAURA WERNICK:  I'm voting in favor.

21            CONSTANTINE ALEXANDER:  Matina?

22            MATINA WILLIAMS:  Matina Williams in favor of the

1 petition.

2                   CONSTANTINE ALEXANDER: The Chair votes in favor  
3 as well.

4                   [All vote YES]

5                   Relief granted. Thank you.

6                   JAMES RAFFERTY: Thank you very much.

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2 (7:20 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The Chair will next call  
7 Case Number No. 143864 -- 5 Bennett Street. Anyone here  
8 wishing to be heard on this matter? Mr. Rafferty?

9 JAMES RAFFERTY: Thank you again, Mr. Chair. Good  
10 evening.

11 CONSTANTINE ALEXANDER: Before you start, before  
12 you proceed, though --

13 JAMES RAFFERTY: Yeah.

14 CONSTANTINE ALEXANDER: I did get the letter that  
15 you sent, and the plans that were delivered to me by Maria  
16 Pacheco this afternoon, with regard to the hearing that was  
17 held at the Harvard Square Association.

18 JAMES RAFFERTY: Excuse me. I believe that's the  
19 next case, Mr. Chair.

20 CONSTANTINE ALEXANDER: No. It's 5 Bennett  
21 Street, isn't it? No?

22 JAMES RAFFERTY: Yeah. I thought -- I'm sorry,

1 are we -- I thought we were doing -- is this 5 Bennett? I  
2 thought it was 11 Berkeley.

3 CONSTANTINE ALEXANDER: No, no. 11 Berkeley has  
4 windows on nonconforming walls.

5 JAMES RAFFERTY: I apologize. I apologize.  
6 Right. That's the next one. Okay. Yes.

7 CONSTANTINE ALEXANDER: My question is, originally  
8 -- as you probably know -- the Harvard Square Association,  
9 get the exact name, asked that we continue this case,  
10 because they had not had a chance to review the plans and  
11 the like, and they wanted that.

12 And I gather you had -- someone created a meeting  
13 that happened yesterday, or -- right? In the last day or  
14 two. But the result is that the Harvard Square Committee  
15 did vote in favor of the relief you're seeking? Am I  
16 correct?

17 JAMES RAFFERTY: Well, you are correct in the  
18 second part; there was a duly noticed hearing in the -- of  
19 the Harvard Square Advisory Committee. We sent a copy of  
20 the application to the Advisory Committee after it was filed  
21 with the BZA.

22 We were assigned the date last evening. The date

1 was only one day before this hearing. But the Committee saw  
2 the case.

3 I did summarize the activity, because I was  
4 present for it and we included in the letter for Ms. Pacheco  
5 because it didn't -- it wasn't clear to me that there was  
6 sufficient time for the Staff perhaps to provide the Board  
7 with that information.

8 So I did include it, including the most notable  
9 inclusion was the Board -- the Advisory Committee voted  
10 unanimously in favor of supporting the variance.

11 CONSTANTINE ALEXANDER: Okay, that's where I'm a  
12 little confused a bit. They've had their hearing now. When  
13 they first wrote to our Board, they said they recommend that  
14 the BZA continue our hearing tonight until they can receive  
15 a report from the Harvard Square Advisory Committee. This  
16 is from Sarah --

17 JAMES RAFFERTY: Right.

18 CONSTANTINE ALEXANDER: -- Sarah Scott.

19 JAMES RAFFERTY: So I learned of the existence of  
20 that request today. What the request, as I understood it  
21 from reading it, was Ms. Scott of the CDD staff --

22 CONSTANTINE ALEXANDER: Right.

1           JAMES RAFFERTY: -- did not feel there would be  
2 adequate time between last night's hearing and today's  
3 hearing to prepare a report. And I think it's for that  
4 reason she suggests in her e-mail to Ms. Pacheco that the  
5 BZA might consider continuing the case. The hearing did  
6 take place as scheduled. No members of the public attended.

7           I took the liberty of summarizing what was said.  
8 I included both of the staff people from Community  
9 Development on my e-mail today, so that if there was any  
10 chance that anything contained in the e-mail was found not  
11 to be consistent with their experience at the hearing, they  
12 would be able to do so.

13           But I -- we have met before the Advisory  
14 Committee, and they voted unanimously last night to support  
15 the variance.

16           CONSTANTINE ALEXANDER: Okay. But my concern is  
17 that I think we do need to hear a formal recommendation or  
18 comment from the Community Development, and we don't have  
19 that. It seems to me we should wait until we receive that  
20 before hearing this case. I appreciate what you've said,  
21 and -- well, the indications are that there will be no  
22 objection or problems from the Community Development

1 Department, but we don't know that.

2 JAMES RAFFERTY: Well, with all due respect, there  
3 is my representation, and I would hope that there isn't a I  
4 would hope that there isn't a suggestion that there's a lack  
5 of veracity in what I'm representing?

6 CONSTANTINE ALEXANDER: No, no, no, no. There's  
7 none of that. Don't suggest that. I just want something  
8 from Sarah Scott or someone from the Community Development  
9 telling me that. That's the way -- I mean, she requested a  
10 continuance until they can receive a report from the Harvard  
11 Square Advisory Committee.

12 And we -- I don't know if -- they must have  
13 received the report that you referred to, which was  
14 discussed last night, but I don't know that.

15 JAMES RAFFERTY: Huh.

16 CONSTANTINE ALEXANDER: I don't think we need to  
17 rush this case for a decision, until I hear from community  
18 Department, or this Board hears from Community Development.  
19 So I'm going to propose that we continue this case as a case  
20 not heard since we didn't get into the merits of the case in  
21 any way.

22 I don't think tonight's the night. Other than --

1 well, I'll open it to the other members of the Board.

2 BRENDAN SULLIVAN: Yeah. This is Brendan  
3 Sullivan. I think that the petitioner has probably done  
4 what was requested of them. I think the crucial cog in this  
5 thing was to go before the Harvard Square Advisory  
6 Committee, get a report from them.

7 I think the onus was on Community Development to  
8 be up to speed on this particular case, and that they could  
9 have been, should have been aware that they were going  
10 before Harvard Square advisory, and they could have gotten  
11 that report in our file today, reviewed it. And I think  
12 that their comments could have been that, "We have received  
13 it, however, we maybe would like more time" or something.

14 But I think that the petitioner has done what they  
15 were supposed to do. And I think it would be onerous on us,  
16 I think, to delay it. I'm not sure what CDC could add to  
17 it. But, you know, we will always welcome their comments,  
18 their input.

19 CONSTANTINE ALEXANDER: We can hear the case.

20 BRENDAN SULLIVAN: I would go forward.

21 CONSTANTINE ALEXANDER: Okay. Other members of  
22 the Board? Wendy, what do you think?

1           WENDY LEISERSON: I wonder if we can hear it on  
2 the merits. I don't have any reason to doubt Mr. Rafferty's  
3 veracity on this, but --

4           CONSTANTINE ALEXANDER: No, no.

5           WENDY LEISERSON: -- perhaps --

6           CONSTANTINE ALEXANDER: Nobody's suggesting Mr.  
7 Rafferty --

8           WENDY LEISERSON: Right. Right. But perhaps we  
9 could include a condition that says, you know, "provided  
10 that we receive confirmation from whichever entity we want  
11 to hear from" to the outcome of the hearing last night. I  
12 wonder if that would be a way to solve this?

13           CONSTANTINE ALEXANDER: I'm sorry? I didn't catch  
14 the last part of what you just said.

15           WENDY LEISERSON: I just wonder if imposing some  
16 kind of condition that we get, you know, some written  
17 confirmation from the Advisory Committee or the CDD,  
18 whichever we're wanting to hear from.

19           CONSTANTINE ALEXANDER: But you suggest we hear  
20 the case, and then not make a decision tied to receiving the  
21 report from CDD?

22           WENDY LEISERSON: I just wondering if that would

1 be a way to satisfy your concern.

2           CONSTANTINE ALEXANDER: I don't think that's a  
3 good idea, personally. Again, I'm only one of five -- I  
4 don't think that's a good idea. Let's hear from the CDC  
5 (sic), hear their words directly, and if there's something  
6 in there we don't like to or suggests we should deny relief,  
7 we'll discuss it. But I think we're taking it out of order  
8 if we wait.

9           We have in our file a letter from the CDC asking  
10 that this case be continued. And tonight -- and I think as  
11 a matter of comity to our other fellow Boards in the city,  
12 we should accede to that request.

13           LAURA WERNICK: What was the dating of that --

14           CONSTANTINE ALEXANDER: The letter from --

15           LAURA WERNICK: -- Gus?

16           CONSTANTINE ALEXANDER: -- I'll tell you in a  
17 second. October 4, Monday.

18           JAMES RAFFERTY: So Mr. Chair? Mr. Chair, I would  
19 just note in terms of comity, I would have appreciated being  
20 informed by the staff person that they were seeking such a  
21 request. There is no report to come from CDD. There is a  
22 report of what transpired at last night's hearing, and CDD

1 is to report it.

2           So the request said there isn't enough time to  
3 prepare the report. That request was made before the  
4 hearing was ever held. So the hearing was held last night.  
5 Frankly, it feels a bit like form over substance. It was  
6 the unanimous decision, it's a rather modest request. It  
7 has no -- literally no visible impact upon the building.

8           And I did include in the -- my accounting of what  
9 took place the fact that there was some disappointment  
10 expressed at the loss of the swimming pool.

11           But the report, I don't see how the report would  
12 contain anything beyond what's contained in my  
13 communication, which was a discussion, a presentation by the  
14 architects -- the same presentation you'll be receiving this  
15 evening -- and the unanimous vote to support.

16           LAURA WERNICK: So, Gus, what might be --

17           CONSTANTINE ALEXANDER: Let me -- since you didn't  
18 see the letter from Sarah Scott, Mr. Rafferty, I have it in  
19 front of me.

20           JAMES RAFFERTY: No, excuse me. I saw it today  
21 for the first time. I wasn't given the courtesy of being  
22 informed that she intended -- that she had on Monday put a

1 request before the Board to continue the case. It was only  
2 when I was at the office today reviewing the file that I  
3 learned that that request had been made without any  
4 notification to the applicant.

5           CONSTANTINE ALEXANDER: Well, I'm sorry as to how  
6 this all proceeded, but those are the facts. I mean, maybe  
7 Ms. Scott can be criticized for how she's proceeded. But  
8 she did say -- let me read from her letter to our Board --  
9 "We only got materials last week." This is October -- right?  
10 This e-mail, as I indicated, is dated October 4. "Given the  
11 timing of the two meetings" -- she refers to, I think she's  
12 referring to our meeting and the meeting with the Harvard  
13 Square Advisory Committee" -- we won't -- "we," has got to  
14 be Community Development - "we won't be able to turn around  
15 a report before your October 21 meeting.

16           So I'd recommend that the BZA continue the hearing  
17 until they can receive a report from the Harvard Square  
18 Advisory Committee. We don't have a report, we have your  
19 report of what happened, which I'm sure --

20           JAMES RAFFERTY: I don't dispute that there is not  
21 a report from the Advisory Committee.

22           CONSTANTINE ALEXANDER: Right.

1           JAMES RAFFERTY: I agree with that.

2           CONSTANTINE ALEXANDER: So I just think given  
3 where we are in this thing, I don't think it's a terribly  
4 controversial case, but given -- you know, I think we have a  
5 -- we have to accommodate fellow Boards and other Advisory  
6 Committees, and they're squeezed. And so they feel they  
7 need more time to prepare a report from the Advisory  
8 Committee.

9           I very much appreciate your report of what  
10 happened there, but I -- that's how I feel. And I'm one of  
11 five. I'll ask -- I'll make a motion.

12          WENDY LEISERSON: Mr. Chair? This is Wendy again.  
13 I actually will just say before you ask for a vote that I  
14 think you have made a persuasive point regarding  
15 accommodating fellow Boards. So I would also agree with the  
16 continuance.

17          CONSTANTINE ALEXANDER: Okay. Laura?

18          LAURA WERNICK: I'm not sure that I do -- I'm not  
19 sure that I do agree. I think as I understood that letter,  
20 that they were asking for -- not to write a report  
21 themselves, but until there was a decision made by the  
22 Advisory Board; the Advisory Board had made a decision?

1           CONSTANTINE ALEXANDER: Well I think they --

2           LAURA WERNICK: So I'm not sure what else there is  
3 to do; a decision's been made.

4           CONSTANTINE ALEXANDER: She anticipates that --  
5 according to, "she" being Sarah Scott, in the letters that  
6 I've been reading, is that they want to continue the case  
7 until they can receive a report from the Harvard Square  
8 Advisory Committee. There has been no --

9           JAMES RAFFERTY: No, no, no. Excuse me, excuse  
10 me, Mr. Chair. "They" don't receive anything. "They" being  
11 CDD, and there were two CDD staff people at the hearing --  
12 they prepared the report. And then that report goes to the  
13 BZA.

14           So, like I said, when I learned of that today, my  
15 first reaction was, "Gee, it wasn't the most complex case, I  
16 don't think the report would take that much time to  
17 prepare." Ms. Scott actually didn't attend the hearing,  
18 because she indicated she wasn't available. So another  
19 staff person from CDD was there, and ran the hearing. For  
20 years, Ms. Paden ran these hearings. She would turn the  
21 report around in about six hours the next day.

22           So I learned of this, I thought it was relevant

1 that the Board -- I mean, the Board, it was not a close  
2 vote; it was -- there were no contentious issues -- it was  
3 unanimous.

4 But I certainly -- I'm respectful of this Board's  
5 time and the Advisory Committee. I know my client is  
6 eager. We've put a lot of time into what frankly is a  
7 rather modest change. But if I have complete understanding,  
8 I guess my question would be, if given the views expressed  
9 by the Chair and some others, might this be a case that  
10 could return in two weeks to this Board?

11 CONSTANTINE ALEXANDER: All right. Let me find  
12 out what our schedules like two weeks from now. Do we have  
13 any room?

14 [Pause]

15 CONSTANTINE ALEXANDER: Do we have room? So we  
16 can continue this case to two weeks. And that will give --  
17 and contact Ms. Scott, and tell her we do need a report from  
18 whomever in our files, or the Harvard Square Advisory  
19 Committee, in advance of two weeks from tonight, so we can  
20 have a proceeding on that basis.

21 So two weeks work? Can we continue this case for  
22 two weeks, Mr. Rafferty?

1           JAMES RAFFERTY: I'm looking at Mr. Attia, and I  
2 see his disappointment. But I understand the position the  
3 Board is in, and I'm respectful of needing to allow the  
4 Advisory Committee to be a part of this process. So yes,  
5 two weeks is appreciated.

6           CONSTANTINE ALEXANDER: Okay. The Chair moves  
7 that we continue this case as a case heard until 6:00 p.m.  
8 on November 4. Brendan?

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

11          CONSTANTINE ALEXANDER: Matina?

12          MATINA WILLIAMS: Matina Williams yes to the  
13 continuance.

14          CONSTANTINE ALEXANDER: Wendy?

15          WENDY LEISERSON: Wendy Leiserson yes to the  
16 continuance.

17          CONSTANTINE ALEXANDER: Laura?

18          LAURA WERNICK: Laura no to the continuance.

19          CONSTANTINE ALEXANDER: The Chair votes for the  
20 continuance. We'll see you in two weeks.

21                 [Four vote YES, one vote NO]

22          JAMES RAFFERTY: Thank you very much.

1           BRENDAN SULLIVAN: They should change the sign  
2 immediately.

3           JAMES RAFFERTY: Yep.

4           BRENDAN SULLIVAN: -- to reflect the new date and  
5 time, because the clock is still ticking for two weeks. So  
6 --

7           JAMES RAFFERTY: Appreciate it. I'll review that  
8 with Mr. Attia later tonight.

9           BRENDAN SULLIVAN: Yep.

10          CONSTANTINE ALEXANDER: I also need to sign the  
11 agreement to -- consent to the continuance; the waiver of  
12 time for a decision and it refers to the three conditions we  
13 imposed.

14          JAMES RAFFERTY: Right. So I will go by the  
15 office and --

16          CONSTANTINE ALEXANDER: Yeah.

17          JAMES RAFFERTY: -- sign, yeah, yeah, yeah.

18          CONSTANTINE ALEXANDER: See if we can get that  
19 done as well.

20          JAMES RAFFERTY: Yeah.

21          CONSTANTINE ALEXANDER: And obviously, if there  
22 are any -- if you're going to decide to modify -- not you,

1 your client -- the plans, specs, what have you, they have to  
2 be in our office by 5:00 p.m. on the Monday before November  
3 4.

4 JAMES RAFFERTY: Understood. And I don't mean to  
5 anticipate, but would it be a fair assumption that if in two  
6 weeks' time a report has not been produced by the Advisory  
7 Committee, that would not preclude the Board from going  
8 forward at that time?

9 CONSTANTINE ALEXANDER: Generally that's right.  
10 If we wanted to hear why we need that report, in any event,  
11 I'll get a good reason; you're right. We would hear the  
12 case in two weeks.

13 JAMES RAFFERTY: Thank you.

14 CONSTANTINE ALEXANDER: Moving on.  
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1 \* \* \* \* \*

2 (7:37 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number No. 142402 -- 11 Berkeley Street. Anyone here  
8 wishing to be heard on this matter?

9 JAMES RAFFERTY: Thank you, Mr. Chair. Good  
10 evening. Again, James Rafferty on behalf of the applicants.  
11 There's also -- Project Architect, I believe is also  
12 present.

13 This is a rather simple, straightforward case. 11  
14 Berkeley Street is a single-family home in a Residence A-2  
15 Zone. The property contains a carriage house that was  
16 approved by a variance in 2007, and I would like to check  
17 and see how many of the Board members of this case were  
18 sitting on that case.

19 But I recognize two names. I also see a member by  
20 the name of "Hope" and I don't believe he does this anymore.

21 CONSTANTINE ALEXANDER: He's not here.

22 JAMES RAFFERTY: But at any rate, the carriage

1 house has improved, and as constructed contains a living  
2 area in the second floor.

3 And the living area has a bathroom; it has a  
4 sitting area, and it has a kitchenette. But it doesn't have  
5 what distinguishes a kitchenette from a kitchen or a  
6 dwelling unit is if it had a cooking facility; if it had a  
7 stove.

8 So the owners of the property are -- have  
9 relocated here from California. They have some young  
10 children and parents visit. Those parents would be staying  
11 over this area. This is a use request for an accessory  
12 apartment to allow for the apartment to -- for the area over  
13 the carriage house to be used as an accessory unit.

14 As I said, there's no dimensional impact to what's  
15 being asked here. If you look at the floor plan, you'll see  
16 the only alteration would be the introduction of the cooking  
17 facility; the change to the kitchen.

18 So that's what's here by -- so the request is to  
19 allow by special permit as the Article 4 allows, for an  
20 accessory unit in this carriage house -- in this previously  
21 approved carriage house.

22 There's also a special permit request associated

1 with windows on a nonconforming wall in the main structure.

2 But --

3 CONSTANTINE ALEXANDER: Why don't we go through  
4 the requirements that have to be satisfied to get the  
5 accessory apartment in -- what is it, Section 4.22?

6 JAMES RAFFERTY: Happy to do so, right. And --

7 CONSTANTINE ALEXANDER: For the record. We should  
8 have it; I want to have a complete record.

9 JAMES RAFFERTY: Understood. So, as noted by the  
10 Chair, Section 4.22 places certain parameters and  
11 limitations upon these accessory apartments, largely related  
12 to the size of the accessory apartment and the size of the  
13 principal dwelling.

14 So the -- it says, "Prior to any alteration, the  
15 dwelling contained at least 1800 square feet." Well, that  
16 is certainly the case with the current home.

17 Another requirement is the lot contain at least  
18 5000 square feet. This lot is considerably in consistence  
19 of that.

20 The dwelling has not been substantially enlarged  
21 since it was built -- that is also the case.

22 The owner of the residence must continue to occupy

1 at least one dwelling unit as their primary residence. They  
2 will occupy the main house as their principal primary  
3 residence.

4 And then the third criteria applies to two-family  
5 homes, which isn't applicable.

6 CONSTANTINE ALEXANDER: Thank you. Any further  
7 comments in your presentation, Mr. Rafferty, or should --

8 JAMES RAFFERTY: No, but this image is helpful to  
9 the point I was trying to make. This is furnished space,  
10 GFA approved in the prior variance. You can see the second  
11 floor of the carriage house; it currently contains a  
12 bathroom and a sitting area.

13 What this alteration principally involves is the  
14 introduction a small kitchen within the already approved GFA  
15 in the second floor of their carriage house.

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

18 BRENDAN SULLIVAN: [Brendan Sullivan] I have no  
19 questions at this time.

20 CONSTANTINE ALEXANDER: Matina? Any questions?

21 MATINA WILLIAMS: Matina Williams no questions.

22 CONSTANTINE ALEXANDER: Laura?

1 LAURA WERNICK: Laura Wernick no questions.

2 CONSTANTINE ALEXANDER: Wendy?

3 WENDY LEISERSON: Mr. Rafferty, I do have a  
4 question, which is what is the square footage of the  
5 apartment?

6 JAMES RAFFERTY: I apologize.

7 HART ASSOCIATE ARCHITECT: It's 577 square feet.

8 JAMES RAFFERTY: Thank you.

9 WENDY LEISERSON: Thank you. And what in the  
10 prior case were -- can you represent, since I don't have the  
11 transcript of that prior case in front of me, were there any  
12 concerns raised by the Board at that time regarding the  
13 granting of the variance and future uses?

14 JAMES RAFFERTY: No. I have the decision right  
15 here. There's no reference to it. The issue at that time  
16 had to do -- frankly, the dimensional relief had to do with  
17 the height of the carriage house.

18 The carriage house is located in -- this property  
19 is located in the most regulated of historic districts; the  
20 Old Cambridge Historic District. And this was a replacement  
21 structure for a derelict, tin garage.

22 The relief was related to the height of the

1 structure, with the thinking being that carriage houses on  
2 this street associated with properties of this vintage and  
3 era tend to have carriage houses that are higher than 15  
4 feet.

5 So the Historical Commission found that to be the  
6 case and granted a Certificate of Appropriateness and  
7 communicated their support to the BZA.

8 So this was a case where the BZA approved a larger  
9 height structure, because of the unique conditions in the  
10 area. There was no reference in the decision about later  
11 uses.

12 And the floor plans associated with the variance  
13 are essentially what you see here. There's no change in  
14 dimension of the area of the second floor.

15 WENDY LEISERSON: Okay, thank you.

16 CONSTANTINE ALEXANDER: Okay. Sure. Did I ask,  
17 Laura, do you have any comments -- or questions, I should  
18 say?

19 LAURA WERNICK: You had asked; I do not.

20 CONSTANTINE ALEXANDER: Well said.

21 LAURA WERNICK: I'm set.

22 CONSTANTINE ALEXANDER: Matina?

1           MATINA WILLIAMS: No questions. You had asked.  
2 Thank you.

3           CONSTANTINE ALEXANDER: Okay. We will now open  
4 the matter up to public testimony. Let me just look to see  
5 if there's any letters. I think there are letters -- yeah,  
6 there are letters of support in the file. And there are no  
7 -- I believe no letters of opposition.

8           I'm just going to check the file for one quick  
9 second. That is correct. Okay. So the matter is open to  
10 public testimony.

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

14           If you're calling in by phone, you can raise your  
15 hand by pressing \*9 and unmute or mute by pressing \*6. Take  
16 a moment to see if there's anyone from the public who wishes  
17 to speak.

18           [Pause]

19           CONSTANTINE ALEXANDER: Apparently not. So we  
20 will now close public testimony and move on to the decision  
21 part of the case. As we've done in the past -- well, the  
22 past tonight anyway -- I will make a motion to grant the

1 relief, and then we can discuss that motion -- prove it,  
2 reject it, what have you.

3 So, the Chair moves that we make the following  
4 findings with regard to the window construction and the  
5 conversion, the creation of an accessory department: That  
6 the requirements of this ordinance cannot be met, unless we  
7 grant that special permit.

8 That traffic generated or patterns of access or  
9 egress resulting from what is being proposed will not cause  
10 congestion, hazard, or substantial change in established  
11 neighborhood character. The facts speak for themselves.  
12 The window on the nonconforming wall does not impact the  
13 neighborhood. The conversion to the accessory apartment  
14 meets the requirements of such a conversion.

15 The continued operation of or development of  
16 adjacent uses, as permitted in the zoning ordinance, will  
17 not be adversely affected by what is being proposed. And  
18 again, the facts speak for themselves. The relief is  
19 modest; it's almost with regard to the accessory apartment,  
20 it's all internal in any event. And the window change has  
21 no impact on the neighborhood.

22 That no nuisance or hazard will be created to the

1 detriment of the health, safety and/or welfare of the  
2 occupant of the proposed use, or the citizens of the city.

3 And generally, what is being proposed will not  
4 impair the integrity of the district or adjoining district,  
5 or otherwise derogate from the intent and purpose of this  
6 ordinance.

7 In this regard, the use of large structure, or  
8 conversion of portions of large structures for accessory  
9 apartments is desirable. All the conditions for that are  
10 met, because it does increase the housing stock in the city.

11 So on the basis of all of these findings, the  
12 Chair moves that we grant the relief sought on the condition  
13 that the work proceed in accordance with the plans prepared  
14 by Hart, H-a-r-t Associates, Inc. that appear to be dated  
15 April 9, 2021.

16 Brendan, how do you vote?

17 BRENDAN SULLIVAN: Brendan Sullivan yes to  
18 granting the special permit.

19 CONSTANTINE ALEXANDER: Matina?

20 MATINA WILLIAMS: Matina Williams yes to granting  
21 the special permit.

22 CONSTANTINE ALEXANDER: Wendy?

1           WENDY LEISERSON: Wendy Leiserson yes to granting  
2 the special permit.

3           CONSTANTINE ALEXANDER: Laura?

4           LAURA WERNICK: Laura Wernick yes to granting the  
5 special permit.

6           CONSTANTINE ALEXANDER: And the Chair votes yes as  
7 well.

8           [All vote YES]

9           CONSTANTINE ALEXANDER: Relief granted. Thank  
10 you.

11          JAMES RAFFERTY: Thank you very much. Good  
12 evening.

13          CONSTANTINE ALEXANDER: Good evening.

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2 (7:49 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number No. 142835 -- 11 Magnolia Avenue. Anyone here  
8 wishing to be heard on this matter?

9 MICHAEL DRISCOLL: Yes. My name is Michael  
10 Driscoll.

11 CONSTANTINE ALEXANDER: Okay.

12 MICHAEL DRISCOLL: Can you hear me?

13 CONSTANTINE ALEXANDER: As I understand it --  
14 correct me if I'm wrong -- we had this case before. Or, we  
15 had an application for a variance and a special permit, and  
16 we granted that relief on the condition that the work  
17 proceed in accordance with plans specified in the decision.

18 Then it turns out when you went to get your  
19 building permit, the plans that you've proposed then did not  
20 comply; the plans that we had approved. Is that correct?

21 MICHAEL DRISCOLL: No. So -- again, my name is  
22 Mike Driscoll, and I do have Nick Harney on as well, who was

1 part of the construction crew that did this project. So  
2 basically, what happened was we went in front of the BZA.  
3 We did get approval for the two dormers, and as part of the  
4 approval, both dormers were slated to be exactly one foot  
5 below the ridgeline of the property.

6 Basically, in doing that, once construction began  
7 and we cut the roof open, we ran into structural  
8 difficulties. And our only option was to essentially bring  
9 the dormers 12 inches higher, and -- which was different  
10 than essentially what we had been approved for with the BZA.

11 CONSTANTINE ALEXANDER: Why did you not come back  
12 before the BZA?

13 MICHAEL DRISCOLL: So I want to apologize.  
14 Because 100 percent I will just say it was pure lack of -- I  
15 don't even know the right word; just lack of knowledge from  
16 the respect that yes -- I mean, we ran into a situation. We  
17 were moving along.

18 The height requirement -- interior height  
19 requirement of 7 feet was never going to be met, but the  
20 long and short of it is yes, we should have come back to the  
21 BZA and, for whatever reason, we did not. And it was my  
22 mistake. And my sincere apologies for that.

1 I don't -- you know, I can't really say much more  
2 than the fact that we were moving, and the process was  
3 going. I had come to an agreement with a couple that has  
4 since purchased the home that is also part of this this  
5 evening, and very simply put, as we were doing the dormers,  
6 like I said we ran into structural difficulties.

7 The interior bedrooms -- the dormers -- were only  
8 going to be six feet in height, and we knew that that could  
9 not work, and that by code it needed to be seven feet. So  
10 we proceeded.

11 CONSTANTINE ALEXANDER: Have you done other  
12 construction in the city of Cambridge?

13 MICHAEL DRISCOLL: I've done one other project,  
14 but not where I've been in a situation like this.

15 CONSTANTINE ALEXANDER: In other words, the  
16 project -- it didn't involve a variance or a special permit  
17 at the outset?

18 MICHAEL DRISCOLL: So I did one other project, and  
19 the project that we did already had existing dormers. So we  
20 were not in a situation where we had to go ahead and go in  
21 front of the -- to the best of my knowledge go in front of  
22 the Board.

1           CONSTANTINE ALEXANDER: Okay.

2           MICHAEL DRISCOLL: But, like I said, I mean I  
3 apologize. And I'm sorry that I put the Board through this.  
4 I'm sorry -- you know, I've had multiple conversations with  
5 Ranjit and Sisia before -- you know, she's no longer part of  
6 this, but I apologize for the fact that we're in the  
7 situation.

8           I can tell you that -- like I said, the home has  
9 been sold. There's a young family living there. They're  
10 utilizing both bedrooms.

11           I did provide Maria, which -- I believe she  
12 forwarded as part of this application -- a picture that  
13 shows the interior dimensions that we just meet the seven-  
14 foot requirement as far as the interior on the bedrooms.  
15 And that's sort of the long and short of it.

16           Like I said, Nick Harney is on as well if you have  
17 any questions specifically for him. But that's really sort  
18 of what it comes down to.

19           CONSTANTINE ALEXANDER: Okay. any questions or  
20 comments from members of the Board? Brendan?

21           BRENDAN SULLIVAN: [Brendan Sullivan] No, I have no  
22 questions or comments at this point.

1           CONSTANTINE ALEXANDER: Wendy?

2           WENDY LEISERSON: Well, I guess I share the  
3 concerns you raised about -- Mr. Chairman -- about the  
4 asking forgiveness rather than permission. I do know we're  
5 all human and this happens, but I don't like the -- I don't  
6 like that as a precedent.

7           And I haven't -- I don't have the transcript of  
8 the prior cases that were cited in the original Zoning Board  
9 cases to verify what exactly was approved or not approved in  
10 any discussions therein about the dormers. But I don't have  
11 a specific question -- oh, wait. One question: Did the Mid  
12 Cambridge Conversation District review the changes?

13          MICHAEL DRISCOLL: Yes.

14          WENDY LEISERSON: Did they do so before you made  
15 them?

16          MICHAEL DRISCOLL: They did not. So they did not.  
17 So the changes were made -- and again, I want to stress 100  
18 percent it was not by any means deliberate. But after the  
19 changes were made, I did go to -- I did go to the Board, and  
20 they did approve it.

21          WENDY LEISERSON: To the Conservation District?

22          MICHAEL DRISCOLL: Yes.

1 WENDY LEISERSON: Is that part of our record?

2 MICHAEL DRISCOLL: Um-- should be. Part of the --  
3 part of process in applying for this modification was to  
4 essentially go in front of -- I believe, don't hold me to  
5 this, but I believe it's Alison. And Alison did approve it.

6 WENDY LEISERSON: I'll check the file, but I don't  
7 remember seeing it. I don't know if my fellow Board members  
8 did.

9 CONSTANTINE ALEXANDER: I don't remember seeing it  
10 either.

11 MICHAEL DRISCOLL: I can -- again, I don't know if  
12 -- I don't know if Ranjit is on this, but I know that he is  
13 aware, because I've sat down with him, that -- you know,  
14 we've gone through that process and that Alison did approve  
15 -- which was part of the process to get to this point to ask  
16 for the modification -- she had to go ahead and approve it.

17 BRENDAN SULLIVAN: This is Brendan Sullivan. Just  
18 to -- well, Wendy, I don't want to, you have the floor, but  
19 -- was Alison's approval in writing, or was it verbal?

20 MICHAEL DRISCOLL: No, it was -- it was in  
21 writing. As a matter of fact --

22 BRENDAN SULLIVAN: Well, that should have been

1 part of your application here. Wendy, you -- again, you  
2 have the floor. So.

3 MICHAEL DRISCOLL: Yeah, no, I -- again, I can  
4 only -- I can only speak for the fact that part of the  
5 process, unless I'm misunderstanding what you're asking,  
6 part of the process in applying for this modification being  
7 where the home is located was that Alison approve. And she  
8 did approve.

9 As a matter of fact, I believe -- I don't want to  
10 say 100 percent, but I believe I even have an e-mail from  
11 her.

12 WENDY LEISERSON: Yeah, no I think Brendan's --  
13 Brendan, I can defer to you to continue this line of  
14 questioning. But I would like to have seen that, especially  
15 in this case where the precedent we're being asked to set is  
16 to allow people to not adhere to the terms of the relief  
17 that we grant, and then come back to us and say, "oops."

18 And then now we also don't have the approval of  
19 the other body that should also be informed of these  
20 changes.

21 But now I cede my line of questioning.

22 MICHAEL DRISCOLL: Yeah.

1           CONSTANTINE ALEXANDER: The problem is, sir, you  
2 should have, when you ran across the problems --  
3 difficulties that you had to face, you should have gone to  
4 the Building Department and raised that with them in  
5 advance.

6           What happened was, as I understand it, is you  
7 didn't do that. You did what you had to do, and then you  
8 applied for your final approvals. And it was only because  
9 the Building Department discovered it that we have the case  
10 tonight, which doesn't put you in a very favorable light.

11           I'm sure your intentions were well-founded. That  
12 was not the way to proceed. And I hope you wouldn't do that  
13 again if you have other cases that involve our Board and the  
14 Building Department.

15           MICHAEL DRISCOLL: If I can quickly speak, I can  
16 100 percent -- and Wendy, you are right, what I would like  
17 to say is I can 100 percent guarantee you that if this  
18 scenario ever comes about again, that we would 100 percent -  
19 - or I will 100 percent -- halt what we're doing and go  
20 through the process.

21           Like I said, it was -- very simply put -- it was a  
22 mistake and it was lack of understanding the scenario. And

1 I do apologize to the Board. And I apologize, like I said,  
2 to Ranjit, because I've taken a lot of his time as well.

3 So I do apologize, and I can --

4 CONSTANTINE ALEXANDER: Okay. You've made it  
5 clear, and I take it that you're sincere in your apology,  
6 and I'm sure you are. But the fact of the matter is, it's  
7 done now. I only -- frankly tell you that I was thinking  
8 about what kind of penalties we could impose upon you or  
9 your client. But there was none that made any sense.

10 The client is completely -- as far as I can tell --  
11 - blameless. You made a decision that in retrospect has  
12 proven to be not the right way of handling it, but so be it.

13 At the end of the day, what is -- what you've  
14 finished -- the work that you did do, is in all material  
15 respects compliant with the decision that we made when we  
16 granted the special permit and the variance at an earlier  
17 case; an earlier time.

18 But I will open the matter up to public testimony.  
19 Any members of the public who wish to speak should now click  
20 the icon at the bottom of your Zoom screen that says, "Raise  
21 hand."

22 If you're calling in by phone, you can raise your

1 hand by pressing \*9 and unmute or mute by pressing \*6. Take  
2 a moment to see if has anything they wish to say.

3 [Pause]

4 CONSTANTINE ALEXANDER: Nothing. Okay. I'm just  
5 looking through our files for a second to see what we have.  
6 Some of the stuff is new. I was there this morning in the  
7 zoning office and didn't see it. But it looks like you have  
8 neighborhood support. This goes back to the original case,  
9 not the case before us tonight.

10 So we'll try to move this along in a quick way.  
11 The Chair moves that based upon the findings we made when we  
12 granted the original variance, in case BZA 017318 -- 2020,  
13 and 013 -- 017318 -- 2020, it's a variance case and special  
14 permit, that all of the findings we made there apply equally  
15 tonight, and there's no need to make any additional  
16 findings.

17 So on the basis -- and the work has already  
18 proceeded. I don't think there are any plans we can tie the  
19 new work to be done; they've already been done. So I think  
20 we can just take a vote. Brendan?

21 BRENDAN SULLIVAN: [Brendan Sullivan] Yes, I would  
22 support the granting of relief.

1           CONSTANTINE ALEXANDER:  Laura?

2           LAURA WERNICK:  Yes, I would vote for granting the  
3 relief.

4           CONSTANTINE ALEXANDER:  Matina?

5           MATINA WILLIAMS:  [Matina Williams] Yes, I vote in  
6 support of granting the relief.

7           CONSTANTINE ALEXANDER:  Wendy?

8           WENDY LEISERSON:  [Wendy Leiserson] I'm voting no,  
9 only for the reason that I would have voted yes if we had  
10 heard from the Mid Cambridge Conversation District with  
11 approval of these changes that were made.  And otherwise,  
12 that's my position.

13           CONSTANTINE ALEXANDER:  The Chair will -- I've  
14 already expressed my views -- my exasperation, really.  But  
15 I will vote.  I think it's an honest mistake, and I think it  
16 was not -- I've always been concerned about people get our  
17 approvals and do what they want to do and pay no attention  
18 to it and hope they can slip it by the Building Department,  
19 which rarely happens.

20           But based on all this, I will vote for granting  
21 the relief being sought.

22           [Four vote YES, one vote NO]

1           CONSTANTINE ALEXANDER: That's four in favor, one  
2 opposed. The vote/motion carries. Relief is granted.  
3 Thank you.

4           BRENDAN SULLIVAN: The special permit? Just --

5           CONSTANTINE ALEXANDER: It's for both.

6           BRENDAN SULLIVAN: Yeah.

7           CONSTANTINE ALEXANDER: My motion covers both the  
8 variance and the special permit.

9           BRENDAN SULLIVAN: Yep, good.

10          CONSTANTINE ALEXANDER: And the reasons we granted  
11 those before are incorporated in this decision. Okay.

12          MICHAEL DRISCOLL: Thank you.

13          CONSTANTINE ALEXANDER: Moving on. Okay. We have  
14 two more cases.

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1 \* \* \* \* \*

2 (8:03 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The Chair will call Case  
7 Number 140275 -- 198 Broadway. Anyone here wishing to be  
8 heard on this matter?

9 DANIEL KLASNICK: Yes. Good evening, Mr.  
10 Chairman. Dan Klasnick here on behalf of Verizon Wireless  
11 concerning this proposal to modify that existing rooftop  
12 facility at the 198 Broadway.

13 Just by way of a little background, the facility  
14 was installed back in 1998. There was a recent modification  
15 approved back in 2020. The building also contains the  
16 wireless equipment of a couple other wireless service  
17 providers.

18 So what we're proposing to do and by modifying  
19 this particular facility is utilizing an existing location  
20 to improve Verizon Wireless's overall network performance  
21 for the residents of Cambridge. For this qualified 6409(a)  
22 filing, we included all the necessary special permit

1 applications forms, a detailed narrative, plans, photo  
2 simulations and FCC licensing.

3 I don't know if plans need to be brought up or the  
4 photo simulations need to be brought up, but I can certainly  
5 go through and describe the modification. It's minor in  
6 nature.

7 CONSTANTINE ALEXANDER: Let me just discuss with  
8 my fellow Board members; I have gone through the files, so I  
9 don't need to see -- have you bring them up.

10 DANIEL KLASNICK: Okay, that's --

11 CONSTANTINE ALEXANDER: But Brendan, or any  
12 members of the Board, would you like to see them on the  
13 screen?

14 BRENDAN SULLIVAN: No, I have reviewed them. So  
15 no, Brendan Sullivan.

16 CONSTANTINE ALEXANDER: Okay, Wendy?

17 WENDY LEISERSON: No. I don't need to see them on  
18 the screen.

19 CONSTANTINE ALEXANDER: Okay. Matina?

20 MATINA WILLIAMS: No. I don't need to see them on  
21 the screen.

22 CONSTANTINE ALEXANDER: Okay. And Laura?

1           LAURA WERNICK: No, thank you.

2           CONSTANTINE ALEXANDER: [Laughter] Okay. So your  
3 offer has been rejected.

4           DANIEL KLASNICK: Okay, great. Thank you. I'll  
5 just give a quick overview then. I mean, currently, Verizon  
6 Wireless has 12 antennas. They're ballast mounted on the  
7 roof.

8                   And what's being proposed is just to remove two of  
9 those antennas; install four antennas, bringing the total  
10 number of antennas up to 14. They will be installed on the  
11 same ballast mounts at the same height.

12                   We also included with our filing photo simulations  
13 that I think illustrate that there will be really no visible  
14 change to the facility itself from ground level or  
15 otherwise.

16                   And I guess I would just once again emphasize that  
17 this modification is something that is really integral to  
18 Verizon Wireless's continuing efforts to improve wireless  
19 service here in the city of Cambridge.

20                   And as I mentioned, in addition to complying with  
21 all your special permit requirements as stated in the  
22 ordinances outlined in the narrative, we do believe that

1 this qualifies as an Eligible Facilities Request. And we  
2 just respectfully request that the Board vote to support  
3 Verizon Wireless and this modification. Thank you.

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

6 BRENDAN SULLIVAN: [Brendan Sullivan] I have no  
7 questions.

8 CONSTANTINE ALEXANDER: Any other members have any  
9 questions you want to ask at this point?

10 [Pause]

11 CONSTANTINE ALEXANDER: Apparently not.

12 LAURA WERNICK: I would not.

13 CONSTANTINE ALEXANDER: I'll open the matter up to  
14 public testimony. Any members of the public who wish to  
15 speak should now click the icon at the bottom of your Zoom  
16 screen that 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. Take  
19 a moment to see.

20 [Pause]

21 CONSTANTINE ALEXANDER: Nothing? Okay. Let me go  
22 through this, because we have -- sir, have you been before

1 us before for a Telecom case?

2 DANIEL KLASNICK: Yes, I have, Mr. Chairman.

3 CONSTANTINE ALEXANDER: I thought you had. Then  
4 you know we have a long list of stuff. Just bear with us as  
5 we go through it.

6 DANIEL KLASNICK: Yes, of course. Thank you.

7 CONSTANTINE ALEXANDER: Let me get out the  
8 sections of the code that we have to deal with. Okay.  
9 First of all, we have to deal with the general requirements  
10 for a special permit -- be it a telecom case or otherwise.

11 That the requirements of the ordinance cannot be  
12 met unless we grant the special permit.

13 That traffic generated or patterns of access or  
14 egress would cause -- if we grant -- resulting from the  
15 relief that's being sought, will not cause congestion,  
16 hazard, or substantial change in established neighborhood  
17 character.

18 I mean, the facts quite clearly speak for  
19 themselves. The modification is modest. You have the top  
20 of a building with no real impact on the neighborhood. And  
21 it's almost not distinguishable from what's there right now.

22 That the addition -- the continued operation of or

1 development of adjacent uses, as permitted in the zoning  
2 ordinance, will not be adversely affected by what is  
3 proposed.

4 No nuisance or hazard will be created to the  
5 detriment of the health, safety and/or welfare of the  
6 occupant of the proposed use, or the citizens of the city.

7 And generally, what is being proposed with regard  
8 to these modifications will not impair the integrity of the  
9 district or adjoining district, or otherwise derogate from  
10 the intent and purpose of this ordinance.

11 And lastly, the Board also finds that the  
12 modification of its existing telecommunications facility at  
13 the site proposed by the petitioner does not change -- does  
14 not substantially change the physical dimensions of the  
15 existing wireless tower or base station at such facility  
16 within the meaning of Section 6409(a) of the Middle Class  
17 Tax Relief and Job Creation Act of 2012, also known as the  
18 Spectrum Act.

19 So based on these findings, the Chair moves that  
20 the petitioner be granted the special permit it is seeking,  
21 subject to the following conditions:

22 One, that the work proceed in accordance with the

1 plans submitted by the petitioner, and which I have  
2 initialed.

3 Two, upon completion of the work, the physical  
4 appearance and visual impact of the proposed work will be  
5 consistent with the photo simulations submitted by the  
6 petitioner, and which have been initialed by the Chair.

7 Three, that the petitioner shall at all times  
8 maintain the proposed work, so that its physical appearance  
9 and visual impact will remain consistent with the photo  
10 simulations previously referred to.

11 Four, that should the petitioner cease to utilize  
12 the equipment approved tonight for a continuous period of  
13 six months or more, it shall promptly thereafter remove such  
14 equipment and restore the building on which it is located to  
15 its prior condition and appearance, to the extent reasonably  
16 practicable.

17 And five, that the petitioner is in compliance  
18 with, and will continue to be in compliance with in all  
19 respects, the conditions imposed by this Board with regard  
20 to previous special permits granted to the petitioner with  
21 regard to the site in question.

22 And then continuing, in as much as the health

1 effects of the transmission of electromagnetic energy waves  
2 is a matter of ongoing societal concern and scientific  
3 study, the special permit is also subject to the following  
4 conditions:

5 A) That the petitioner shall file with the  
6 Inspectional Services Department each report it files with  
7 the federal authorities regarding electromagnetic energy  
8 waves emissions emanating from all of the petitioner's  
9 equipment on the site.

10 Each such report shall be filed with the  
11 Inspectional Services Department no later than 10 business  
12 days after the report has been filed with the federal  
13 authorities.

14 Failure to timely file any such report with the  
15 Inspectional Services Department shall ipso facto terminate  
16 the special permit granted tonight.

17 B) That in the event that at any time federal  
18 authorities notify the petitioner that its equipment on the  
19 site, including but not limited to the special permit  
20 granted tonight, fails to comply with the requirements of  
21 law or governmental regulation -- whether with regard to the  
22 emissions of electromagnetic energy waves or otherwise --

1 the petitioner, within 10 business days of receipt of such  
2 notification of such failure, shall file with the  
3 Inspectional Services Department a report disclosing in  
4 reasonable detail that such a failure has occurred, and the  
5 basis for such claimed failure.

6 The special permit tonight granted shall ipso  
7 facto terminate if any of the petitioner's federal licenses  
8 is or are suspended, revoked or terminated.

9 C) That in the event that to the extent that a  
10 special permit has terminated, pursuant to the foregoing  
11 paragraphs a) and b), the petitioner may apply to this Board  
12 for a new special permit, provided that the public notice  
13 concerning such application discloses in reasonable detail  
14 that the application has been filed because of a termination  
15 of the special permit pursuant to the paragraphs I've  
16 already referred to.

17 Any such new application shall not be deemed a  
18 repetitive petition, and therefore will not be subject to  
19 the two-year period during which such repetitive petitions  
20 may not be filed.

21 D) And lastly, that within 10 business days after  
22 receipt of a building permit for the installation of the

1 equipment subject to this petition, the petitioner shall  
2 file with the Inspectional Services Department a sworn  
3 affidavit of the person in charge of the installation of  
4 equipment by the petitioner of the geographical area that  
5 includes Cambridge stating that:

6 a) he or she has such responsibility, and

7 b) that the equipment being installed pursuant to  
8 the special permit we are granting tonight will comply with  
9 all federal safety rules, and will be situated and  
10 maintained in locations with appropriate barricades and  
11 other protections, such that individuals, including nearby  
12 residents and occupants of nearby structures, will be  
13 sufficiently protected from excessive radiofrequency  
14 radiation under federal law.

15 That's it.

16 Brendan, how do you vote?

17 BRENDAN SULLIVAN: Brendan Sullivan yes to  
18 granting the relief.

19 CONSTANTINE ALEXANDER: Laura?

20 [Pause]

21 CONSTANTINE ALEXANDER: Laura?

22 LAURA WERNICK: Yes. Laura votes in favor of

1 granting the relief.

2 CONSTANTINE ALEXANDER: Wendy?

3 WENDY LEISERSON: Wendy votes in favor of granting  
4 the relief.

5 CONSTANTINE ALEXANDER: Okay. Matina?

6 MATINA WILLIAMS: Matina. I vote in favor for  
7 granting the relief.

8 CONSTANTINE ALEXANDER: Okay. And the Chair votes  
9 in favor as well.

10 [All vote YES]

11 CONSTANTINE ALEXANDER: Relief granted. We'll  
12 move on to the next and last case. What time is it? I'm  
13 just trying to see if where -- we're not calling the case  
14 until --

15 BRENDAN SULLIVAN: 8:15, it's on the paper.

16 CONSTANTINE ALEXANDER: Right on schedule.

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2 (8:15 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Laura Wernick, Matina Williams and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: Okay. The Chair will now  
7 call Case Number No. 142993 -- 700-704 Huron Avenue. Anyone  
8 wishing to be heard?

9 DANIEL KLASNICK: Yes, Mr. Chairman. I'm also  
10 addressing this request for special permit on behalf of  
11 Verizon Wireless to once again modify an existing wireless  
12 telecommunications facility at 700-704 Huron Avenue. This,  
13 similarly, was originally installed back in 2008 and there's  
14 an additional wireless service provider at this location as  
15 well.

16 As with the other application, under the Section  
17 6409(a), we did undertake to install the application forms  
18 as required for a special permit narrative: Detailed set of  
19 plans, photo simulations and the FCC licensing.

20 As with the other ones, those documents I guess  
21 are available for display, but if the Board's comfortable, I  
22 can just quickly describe the nature of the installation

1 modification.

2           CONSTANTINE ALEXANDER: I must say, I looked at  
3 the photo simulations, and it's almost impossible to see the  
4 difference. I mean, talk about a modest -- at least from  
5 the photo sims -- a modest change, but one nevertheless our  
6 zoning ordinance requires you to be here tonight and us to  
7 be here tonight.

8           DANIEL KLASNICK: Yes. In regard to it, as you've  
9 noted from your review, the antennas themselves are  
10 completely enclosed by stealth material that is designed to  
11 match the façade of the building. They're attached to the  
12 wall.

13           And what we're doing is, and what currently exists  
14 there's just three sectors that are similarly stealth  
15 mounted on the side of the building; each one of those  
16 contains four antennas.

17           We're not proposing to increase the total number  
18 of antennas, but because of system network requirements and  
19 efforts to continually improve wireless service to the  
20 residents of the city of Cambridge, Verizon Wireless is  
21 proposing to replace nine of the antennas inside of replaced  
22 fiberglass enclosures.

1           Because of the nature of the antennas, the  
2 equipment and the frequencies that are being utilized, there  
3 will be a slight increase in the overall size of the  
4 enclosures. But as you had seen by looking at the photo  
5 simulations that we provided, it's not something that would  
6 be really visible or noticeable to anyone.

7           So I think what we've tried to do is keep the  
8 overall installation compatible with the original approved  
9 design, and will result in really no visible change.

10           Once again, this is an important part of Verizon  
11 Wireless's network design requirements. They are continuing  
12 needing to update its equipment to deal with capacity,  
13 coverage and other issues. So it really is an effort to  
14 provide the best quality wireless service to the city of  
15 Cambridge, and we would respectfully request that the Board  
16 agree to vote to approve the requested special permit to  
17 modify this facility. Thank you.

18           CONSTANTINE ALEXANDER: Thank you. Before I turn  
19 to the -- there's a difference between this case and your  
20 previous case that you first represented to your client, in  
21 that this is not in a residentially zoned district -- not in  
22 a business district.

1           And so our ordinance says the Board of Zoning  
2 Appeals shall grant the special permit to erect such a  
3 facility in a residential zoned district only upon a finding  
4 that nonresidential uses predominate in the vicinity of the  
5 proposed facility's location. And that's a  
6 telecommunication facility; not inconsistent with the  
7 character that does prevail in the surrounding neighborhood.  
8 So sir, you want to speak a little bit to that?

9           DANIEL KLASNICK: Yes. Most certainly. If you're  
10 familiar with this location, it's primarily surrounded by a  
11 cemetery. And then there are some recreational, commercial  
12 uses nearby.

13           So I think that the installation of this -- or  
14 rather, the modification of this facility, you know, is  
15 consistent with that aspect of the bylaws, in that it's an  
16 existing facility modification. This Board has already  
17 found it to be compatible with the surrounding residential  
18 uses.

19           CONSTANTINE ALEXANDER: Thank you. You mentioned  
20 the golf course, too.

21           DANIEL KLASNICK: That's true.

22           CONSTANTINE ALEXANDER: Golf course as well as a

1 cemetery.

2 DANIEL KLASNICK: Yeah. There's a golf course  
3 across the street as well. that's right. It's actually a  
4 beautiful area.

5 CONSTANTINE ALEXANDER: It is. Okay. Questions  
6 from members of the Board?

7 BRENDAN SULLIVAN: [Brendan Sullivan] no questions,  
8 no comments.

9 CONSTANTINE ALEXANDER: Wendy?

10 WENDY LEISERSON: Wendy Leiserson no questions.

11 CONSTANTINE ALEXANDER: Matina?

12 MATINA WILLIAMS: Matina Williams no questions.

13 CONSTANTINE ALEXANDER: Laura?

14 LAURA WERNICK: Laura Wernick no questions.

15 CONSTANTINE ALEXANDER: I've asked what questions  
16 I'm going to ask. So I will open the matter up to -- well,  
17 we have no letters in the file.

18 So I'll open the matter up to public testimony.  
19 Any members of the public who wish to speak should now click  
20 the icon at the bottom of your Zoom screen that says, "Raise  
21 hand." If you are calling in by phone, you can raise your  
22 hand by pressing \*9 and unmute or mute by pressing \*6.

1           We'll take a moment to see if anyone is awake and  
2           wants to talk about this telecommunications modification.

3           [Pause]

4           CONSTANTINE ALEXANDER: No. No one wants to  
5           speak. Okay. I'll make a motion, and then we can take a  
6           vote on that or discuss it. The Chair moves that we make  
7           the following findings:

8           That the first finding is that residential uses --  
9           I lost my page where I had it -- the residential uses do not  
10          predominate in the area. [I got to get it for a second.  
11          Just give me a second. It's shooting across the page!]

12          [Pause]

13          UNIDENTIFIED SPEAKERS: Ready? Yep.

14          CONSTANTINE ALEXANDER: Well anyway, I'm not going  
15          to waste more time on this. That the requirement with  
16          regard to telecommunications facilities and modifications in  
17          residential areas --

18          [UNIDENTIFIED SPEAKERS crosstalk]

19          -- have been satisfied. The petitioner has  
20          demonstrated that he meets that the requirement.

21          That the requirements of our ordinance cannot be  
22          met unless we grant the special permit being sought tonight.

1           That traffic generated or patterns of access or  
2 egress resulting from what is being proposed will not cause  
3 congestion, hazard, or substantial change in established  
4 neighborhood character.

5           As the petitioner's Council has demonstrated,  
6 modifications to the facility are very modest in nature;  
7 almost not accessible or -- what's the word I'm looking for?  
8 It's been a long night -- it's not inappropriate to the  
9 residential area.

10           That the continued operation of or development of  
11 adjacent uses, as permitted in the Zoning Ordinance, from  
12 what is being proposed, will not be adversely affected by  
13 the nature of the proposed use. As I mentioned, we have  
14 mostly in the area a golf course and a cemetery. And  
15 certainly their operation will not be adversely affected by  
16 this telecommunication modification.

17           That no nuisance or hazard will be created to the  
18 detriment of the health, safety and/or welfare of the  
19 occupant of the proposed use, or the citizens of the city.  
20 And generally, what is being proposed will not impair the  
21 integrity of the district or adjoining district, or  
22 otherwise derogate from the intent and purpose of this

1 ordinance.

2 Continuing, the Board also finds that the  
3 modification of its existing telecommunication facility at  
4 the site proposed by the petitioner does not substantially  
5 change the physical dimensions of the existing wireless  
6 tower or base station at such facility within the meaning of  
7 Section 6409(a) of the Middle Class Tax Relief and Job  
8 Creation Act of 2012.

9 So based on these findings, the Chair moves that  
10 the petitioner be granted the special permit it is seeking,  
11 subject to the following conditions:

12 One, that the work proceed in accordance with the  
13 plans submitted by the petitioner, and which has been  
14 initialed by the Chair.

15 Two, that upon completion of the work, the  
16 physical appearance and visual impact of the proposed work  
17 will be consistent with the photo simulations submitted by  
18 the petitioner, and initialed by the Chair.

19 Three, that the petitioner shall at all times  
20 maintain the proposed work, so that its physical appearance  
21 and visual impact will remain consistent with the photo  
22 simulations previously referred to.

1           Four, that should the petitioner cease to utilize  
2 the equipment approved tonight for a continuous period of  
3 six months or more, it shall promptly thereafter remove such  
4 equipment and restore the building on which it is located to  
5 its prior condition and appearance, to the extent reasonably  
6 practicable.

7           Five, that the petitioner is in compliance with,  
8 and will continue to be in compliance with in all respects,  
9 the conditions imposed by this Board with regard to previous  
10 special permits granted to the petitioner with regard to the  
11 site in question.

12           And then there is the long spiel about the health  
13 effects of the transmission of electromagnetic energy waves.  
14 Since I just read it through for the prior case, I don't see  
15 a need to reread it again. With your permission, sir, I'm  
16 going to -- those words will be incorporated into our final  
17 decision.

18           DANIEL KLASNICK: Yes. Thank you very much.

19           CONSTANTINE ALEXANDER: Okay. Wait, because we're  
20 going to take our vote. Brendan?

21           BRENDAN SULLIVAN: Brendan Sullivan yes to  
22 granting the special permit.

1           CONSTANTINE ALEXANDER:  Matina.

2           MATINA WILLIAMS:  Matina Williams yes to granting  
3 the special permit.

4           CONSTANTINE ALEXANDER:  Wendy?

5           WENDY LEISERSON:  Wendy Leiserson yes to granting  
6 the special permit.

7           CONSTANTINE ALEXANDER:  Laura?

8           LAURA WERNICK:  Laura Wernick yes to granting the  
9 special permit.

10          CONSTANTINE ALEXANDER:  Okay.  And the Chair votes  
11 yes as well.

12          [All vote YES]

13          CONSTANTINE ALEXANDER:  The special permit is  
14 granted.

15          DANIEL KLASNICK:  Thank you very much.  Have a  
16 great evening.

17          LAURA WERNICK:  Thank you.

18          CONSTANTINE ALEXANDER:  Have a good evening.  
19 That's all she wrote.

20          BRENDAN SULLIVAN:  Goodnight, all.

21          MATINA WILLIAMS:  Goodnight.

22          LAURA WERNICK:  Goodnight.  Thanks.

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WENDY LEISERSON: Thank you.

COLLECTIVE: Goodbye.

[8:23 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.

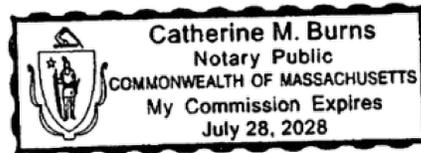
In witness whereof, I have hereunto set my hand this 27th day of October, 2021.



Notary Public

My commission expires:

July 28, 2028



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