

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 4, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Wendy Leiserson

Jim Monteverde

Laura Wernick

City Employees

Olivia Ratay



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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Wendy Leiserson, and Jim
Monteverde

CONSTANTINE ALEXANDER: Welcome to the November 4,
2021 meeting of the Cambridge Board of Zoning Appeals. My
name is Gus Alexander, and I am the Chair.

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

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

1 course.

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

5 Members of the public will be kept on mute until
6 it is time for public comment. I will give instructions for
7 public comment at that time, and you can also find
8 instructions on the city's webpage for remote BZA meetings.
9 Generally you will have up to three minutes to speak, but
10 that may change based on the number of speakers.

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

13 OLIVIA RATAY: Jim Monteverde?

14 JIM MONTEVERDE: Jim Monteverde is here.

15 OLIVIA RATAY: Andrea Hickey?

16 ANDREA HICKEY: Andrea Hickey present.

17 OLIVIA RATAY: Laura Wernick?

18 LAURA WERNICK: Laura Wernick present.

19 OLIVIA RATAY: Wendy Leiserson?

20 WENDY LEISERSON: Wendy Leiserson present.

21 OLIVIA RATAY: Brendan Sullivan?

22 BRENDAN SULLIVAN: Brendan Sullivan present and

1 audible.

2 OLIVIA RATAY: Gus Alexander.

3 CONSTANTINE ALEXANDER: Okay. We will start the
4 hearing by dealing with continued cases. These are cases
5 that have started at an earlier date and for one reason or
6 another were continued until this evening. We have three
7 continued cases. Immediately following the continued cases,
8 we'll move into our regular agenda.

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2 (6:03 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Andrea A. Hickey, Wendy Leiserson, and Jim
5 Monteverde

6 CONSTANTINE ALEXANDER: So we'll first call our
7 continued case 106926 -- 4 Aberdeen Court. Anyone here wish
8 to be heard on this matter?

9 MARC RICHARDS: Yes, hello?

10 CONSTANTINE ALEXANDER: The floor is yours.

11 MARC RICHARDS: Thank you. Hello to the Chair and
12 the Board. I'm Marc Richards and with my wife Jen here.
13 We're the owners and residents of 4 Aberdeen Court. We live
14 here with our three preteen boys. Thanks for having us back
15 to give a little more context on the petition that we
16 presented in September.

17 So we have a slide presentation here; it looks
18 like it's coming up. Great. Thank you. I can spend a few
19 minutes just kind of reviewing where we left off in
20 September, if that would be helpful, or we can go to kind of
21 the two main concerns that were raised. Which would you
22 like?

1 [Pause]

2 MARC RICHARDS: All right. I can just kind of
3 give you a quick review, then, of where we left off. So I'm
4 here seeking retroactive relief for a shed that's used as
5 bicycle storage, primarily.

6 It was built in 2016, replacing an older
7 structure, and it was recently moved to a new location that
8 has reduced nonconformity, but it's still within the front
9 and side setbacks of my property.

10 We can go to the next slide.

11 So this was the original situation when my wife
12 and I bought the house in 2006. There was a 20 x 10-foot
13 carport and shed structure that was kind of beyond the dead-
14 end of Aberdeen Court. You can see this is the 2010 plot
15 plan that's overlaid. The shed actually straddled the --
16 the structure straddled the property line.

17 There's also a mutual right of way here between
18 the two bottom lines that's shared by all of the four
19 residents of Aberdeen Court. However, the area in question
20 where the shed is now, it's only ever been used exclusively
21 by the owners of my property, as far as we can tell going
22 back to the '40s.

1 And we can go to the next slide.

2 So we removed that structure in 2015 and replaced
3 it early 2016. It was a 10x10 shed. It was within the
4 footprint of the original structure. At the time, we were
5 aware of the property line issue, but we believed because of
6 the right of way we had some freedom to rebuild in this
7 location and the neighbor at the time was supportive of it.

8 So we can go to the next slide.

9 All right. So this is the situation now. You can
10 see the new location is -- overlaps with the old location a
11 little bit. It slid off, so it's -- you know, completely on
12 our property line.

13 So in the fall of 2020, my neighbor requested that
14 we move the shed off her land. I was more aware of the
15 zoning ordinance at that time, because we had had some other
16 work done on the property. So we were hesitant to move
17 without a variance, but she was pretty insistent about
18 having it moved quickly. We didn't expect her to challenge
19 the petition based on conversations I had had with her.

20 So we accommodated her request. We moved it in
21 early February 2021. We had a plan to get a retroactive
22 variance at that time. And that kind of brings us to

1 September, where we presented originally.

2 So we can go to the next slide.

3 So the concerns that were raised by the Board
4 primarily seemed to be were there other suitable locations
5 on the property for the shed? And were there -- there was
6 questions about the easement as well.

7 As far as other suitable locations, I'd looked
8 into this and I'd ruled it out, but I apologize. I didn't
9 really come prepared to speak to it in the level of detail
10 you all were interested in.

11 So now I have several slides that we can go over
12 that will cover that. And then I have a little more
13 information about the easement and our decision to put it in
14 there as well.

15 So I can proceed to talk you through the
16 alternative locations, or if anybody would like a little
17 more context on the history and how we got here I can
18 provide that as well.

19 [Pause]

20 MARC RICHARDS: Okay. I don't hear anybody
21 talking to me, so I'm going to proceed it's okay to proceed.

22 We can go to the next slide and thanks.

1 All right, so we'll move clockwise around the
2 yard, starting at the southeastern corner, which on the way
3 the plot plan is oriented here is the top right. You'll see
4 this drawing has the blue kind of 10 x 10 square there
5 represents what could be the shed, with a five-foot radius,
6 which is for the front and side setback and a 10-foot radius
7 for the rear setback, as well as the required distance to
8 the primary structure.

9 So -- all right. So this area, there is a small
10 area back here that would be conforming, but this is really
11 the center of our back yard area. It contains this play
12 structure here that you can see that I built in 2019. I
13 don't know if it counts as an accessory building, but I
14 assure you it's all within conforming dimensions if it does.

15 The structure is cemented into the ground for
16 stability. It's kind of modeled after an American Ninja
17 Warrior style course. So you can imagine this was -- you
18 know, a fun thing, especially during the pandemic where our
19 kids can do some of their more traditional, active
20 activities.

21 And also since this picture was taken, we've added
22 a patio back here. You can kind of see the outline where

1 the railroad tie is already there. And so this serves as an
2 outdoor living room for us in the summertime. And it would
3 be a really unfortunate reduction in our open space to
4 remove those two features, which would be required from the
5 shed back there.

6 Also, you'll see there's kind of a rectangle that
7 comes off the back of the house here. This isn't on the
8 2010 plot plan, this is a kitchen addition that we did in
9 2018 that we were here before, because it encroaches a
10 little bit into the rear setback.

11 So I just wanted to be clear, because that wasn't
12 in the original materials that I submitted. So there's a
13 little more house and a little less yard than we -- the plot
14 plan gives the impression.

15 So now kind of continuing along to the southwest
16 corner on the next slide, so this is another kind of yard
17 area. There's not any conforming location over on this side
18 of the house, so we need a variance over here as well.
19 it'll likely be disrupted. There's -- you can see the white
20 area on the right is a neighbor's fence that runs along the
21 property line. The shed could potentially maybe disrupt some
22 sunlight into their back yard.

1 Also, this picture maybe doesn't do it justice,
2 but the screened-in porch here on the left is -- there's a
3 table out there where our family eats meals -- you know,
4 ideally three seasons out of the year. And so this is kind
5 of like -- again, useable open space for us.

6 And you can see there's a bit of a dramatic slope
7 along the back of the property line. So even if we were
8 granted the variance to put the shed back here, we still
9 couldn't really get within that 10 feet on the back property
10 line. So we'd have to move the shed forward really into,
11 like, the primary yard area.

12 But again, there is no conforming location in that
13 spot.

14 All right. So we can go to the next slide, slide
15 eight, I believe. Yep.

16 So this is the front yard. There is actually a
17 barely conforming spot I believe here, because the yard --
18 the property line is actually out further than the grass
19 line there. But I think we can all agree this isn't really
20 a desirable spot for a shed, given the impacts of the open
21 yard space and the overall character of the property.

22 By the way, it's again kind of hard to see. This

1 is an older photo with the shed in the original location in
2 the left there. But in that -- along that left side of the
3 house, it's really just a utility space, where there's
4 storage. So we have our garbage, our recycling. There's an
5 air conditioning unit at the bulkhead, all that. It's not
6 really useable space in the same way the other three
7 locations around the yard are.

8 So we can go to slide nine.

9 Again, kind of bringing us back to the current
10 location; this is the view from the public street, which I
11 didn't include in the original materials. But -- so this is
12 taken from the sidewalk on Aberdeen Avenue. And you can see
13 the shed there. It's not really, you know, sort of
14 aesthetically negative in any way. And it's a lot less
15 visible than the kind of rickety carport structure that had
16 predated it for seven years or so.

17 And so that's kind of brings us to why the shed
18 ended up in that spot. Because of -- again -- the
19 trapezoidal nature of the lot and the bulkhead, that was
20 kind of the only spot on that portion of the lot, and those
21 other three areas where it could potentially go also didn't
22 seem suitable.

1 So we wanted to keep it kind of -- you know,
2 adhering to a principal of, you know, the previous building
3 had been grandfathered in and trying to just maintain the
4 nonconformity where it was rather than spreading it to the
5 other side of the yard.

6 So I can stop there for any questions about any of
7 that, or we can move on to the easement.

8 CONSTANTINE ALEXANDER: I'm sorry, it's difficult
9 to -- at least for me -- to understand you. The
10 communication is not good. But --

11 MARC RICHARDS: Oh, my goodness, I'm sorry.

12 CONSTANTINE ALEXANDER: Do I understand that what
13 you want to do, or the relief you're seeking would be to
14 locate the structure in the southeast corner back yard?

15 MARC RICHARDS: No, no, no. We want to keep it
16 where it is right now in that northeast corner.

17 CONSTANTINE ALEXANDER: The northeast corner?

18 MARC RICHARDS: Yeah. Yeah.

19 CONSTANTINE ALEXANDER: Northeast, which is the
20 current location?

21 MARC RICHARDS: That's the current location.

22 Yeah, okay. Is this better? I have a microphone here.

1 CONSTANTINE ALEXANDER: Not much. Not much,
2 unfortunately.

3 MARC RICHARDS: Oh, that's a shame. Okay. I'm
4 not sure what I can do about that. I apologize. So we want
5 to keep it where it is currently. If you need me to repeat
6 myself, just ask. I'm happy to do so.

7 CONSTANTINE ALEXANDER: So the northeast corner
8 description that you submitted, that's where you want --
9 that's what you're seeking relief for?

10 MARC RICHARDS: Correct. If we go back to -- I
11 believe it's Slide 4, let's say Slide 4, let's try that --
12 yeah, so that's where it is currently. And we're seeking
13 relief to keep it there, yes.

14 CONSTANTINE ALEXANDER: Well, the one -- the
15 petition overview shows that your property -- your car or
16 someone's care is lapsing (sic) over the property boundary.
17 Right?

18 MARC RICHARDS: In this particular photo it is,
19 although we have since that little grass triangle there
20 that's in the photo, we've since replaced that with pavers,
21 and now we're no longer parking over the line.

22 CONSTANTINE ALEXANDER: I'm struggling to

1 understand which -- if should we grant relief -- which of
2 these photos are you -- will result? What do you want to
3 have?

4 MARC RICHARDS: The one that you're looking at
5 right now.

6 CONSTANTINE ALEXANDER: I'm sorry?

7 MARC RICHARDS: The one -- this one.

8 CONSTANTINE ALEXANDER: This one.

9 MARC RICHARDS: Yep.

10 CONSTANTINE ALEXANDER: Petitioner overview, is
11 that right?

12 MARC RICHARDS: I'm sorry, can -- I'm sorry, can
13 you ask the question again?

14 CONSTANTINE ALEXANDER: Is it the petition
15 overview slide is the one you want --

16 MARC RICHARDS: Yes.

17 CONSTANTINE ALEXANDER: -- the relief for?

18 MARC RICHARDS: Yes, yep. That's correct.

19 CONSTANTINE ALEXANDER: Okay.

20 MARC RICHARDS: All right. And if we go back to
21 Slide 9, this is the same location. So this is -- the photo
22 is of the shed in the same location. This is just a photo

1 of it from the public street. So Aberdeen Court is private.
2 This is the public sidewalk.

3 CONSTANTINE ALEXANDER: Now, is there any
4 objection to if we were to grant relief that would allow you
5 to have the current location in the northeast corner, do you
6 still have neighborhood opposition?

7 MARC RICHARDS: Yes, my -- one out of the three
8 abutters.

9 CONSTANTINE ALEXANDER: And she's opposed -- I
10 think it's a she, I'm --

11 MARC RICHARDS: Yes.

12 CONSTANTINE ALEXANDER: -- she opposed because
13 you're -- this results in some of your use of your structure
14 to be on her property?

15 MARC RICHARDS: No, that's -- it's now wholly on
16 my own property. It was not, and now it is since we moved
17 it on her request.

18 CONSTANTINE ALEXANDER: What is the basis of her
19 opposition?

20 MARC RICHARDS: I mean, the way that she described
21 it to me was she told me that she felt like I needed to
22 follow the law. That's -- and I told her that, you know,

1 the Zoning Ordinance allows me to petition for a variance,
2 and that was kind of as far as we got.

3 She didn't object on any aesthetic grounds; she
4 didn't complain about the character of the neighborhood or
5 anything like that, she just -- her letter talks a bit about
6 the easement, and it talks about, you know, that she just
7 felt that it should be within the setback.

8 But she didn't address sort of the substantive
9 remarks about the hardship that I, you know, have outlined
10 or anything like that. So it's not clear to me -- we've
11 been having a disagreement about the easement.

12 And it's not really clear to me what the problem
13 with the shed is. I've asked her that and -- like I said --
14 she just said that she thinks I need to follow the law.
15 That's the most I've gotten out of her.

16 CONSTANTINE ALEXANDER: I'm trying to find her
17 correspondence in our file. For some reason, I'm not
18 tracking it down. Give me a second.

19 MARC RICHARDS: Sure.

20 CONSTANTINE ALEXANDER: Yeah. And an e-mail from
21 Ms. Donnelly -- I assume that's who it is?

22 MARC RICHARDS: Yes, that's, yeah.

1 CONSTANTINE ALEXANDER: On November 5. That's
2 tomorrow. She says, "I have attached a picture --

3 MARC RICHARDS: Ah, okay, so --

4 CONSTANTINE ALEXANDER: "-- which shows another
5 option."

6 MARC RICHARDS: So.

7 CONSTANTINE ALEXANDER: "I don't have a problem
8 with you sliding the shed into your hard."

9 MARC RICHARDS: Yeah. We can move to Slide 14,
10 please.

11 CONSTANTINE ALEXANDER: I'm sorry?

12 MARC RICHARDS: Slide 14 actually has the content
13 of this. So that was -- oh, sorry. No, not Slide 14, 11.
14 Thanks.

15 So the letter you're reading she sent to me last
16 year when -- last fall. This isn't her opposition letter;
17 this was a letter from her suggesting to me where I could
18 put the shed. As you can see, it's within the easement,
19 it's within the side setback. It's maybe within the front
20 setback, it's hard to tell from this drawing.

21 And so that was part of the reason why I moved it
22 where I did, was because it seemed consistent with her

1 wishes at the time. I was not expecting her to object, she
2 didn't tell me that she was going to object. We had
3 explicitly discussed the setbacks on several different
4 occasions. And so that's why I moved it where it is.

5 She was insistent that it be moved off her land
6 quickly, so rather than getting the variance first based on
7 the correspondence that we had had, I moved it first and
8 then applied for the variance after to a similar location to
9 what she had proposed here. And now she's objected.

10 CONSTANTINE ALEXANDER: Her comment in her e-mail,
11 which was actually a year ago, "I need -- " and she
12 emphasizes " -- I need to have my hard free of anyone else's
13 personal belongings." Well, would that be the case, if we
14 were to grant you the relief that you're seeking?

15 MARC RICHARDS: 100 percent yes. Yeah.
16 Absolutely.

17 CONSTANTINE ALEXANDER: I'm sorry?

18 MARC RICHARDS: Yes, absolutely. 100 percent.
19 The shed is no longer on her land. We're not parking on her
20 land.

21 CONSTANTINE ALEXANDER: Okay. But she -- even if
22 that's the case, she's still not supporting what you show on

1 the Petition Overview slide?

2 MARC RICHARDS: Correct. Even though it's very
3 similar to the drawing here that she gave to me a year ago.

4 CONSTANTINE ALEXANDER: Can you explain why?
5 Maybe she will on the call, I don't know. But can you
6 explain why?

7 MARC RICHARDS: Like I said, the only thing that
8 she's -- I've asked her on several occasions, as recently as
9 three weeks ago -- the only explanation she's given to me is
10 that we need to, "follow the law." That's what she said.
11 And I said, "Okay, well, the law allows me to have the
12 variance." And that didn't satisfy her. So I don't really
13 know.

14 She's mentioned the easement. As you can see from
15 some other materials that I've submitted that I showed you
16 last time and we can go over again. The right of way
17 doesn't really seem to -- she's trying to apply kind of an
18 inconsistent standard, I would say, to me than she's
19 treating the right of way herself. So.

20 CONSTANTINE ALEXANDER: Okay, thank you. Brendan,
21 do you have any questions, comments?

22 BRENDAN SULLIVAN: Yeah, this is Brendan Sullivan.

1 Marc and Jennifer, is -- I fully understand and
2 appreciate the fact that you cannot locate this shed in any
3 location that does not require relief; that it's going to
4 bump up against the dimensional requirements somewhere.

5 Also, I see that the swing play area and so on and
6 so forth -- it's funny, I was over there, but can we pull up
7 -- can Staff pull up -- Olivia, can you pull up the plot
8 plan again showing sort of the back yard area?

9 I'm just wondering if that shed cannot be sort of
10 turned, even though it's going to be within the five-yard --
11 five-foot setback, within -- can that shed be sort of put
12 down into the back yard?

13 MARC RICHARDS: Yeah. We looked at that. The
14 problem with rotating it sort of around the corner there is
15 it really does interfere with the bulkhead. Also, the
16 property line has a slope right up along what is the east
17 side, which is the top of this image. There's a fairly
18 dramatic slope that only extends a few feet out.

19 But already we had to regrade it quite a bit, and
20 it's because there's trees and the roots and the way the
21 topography is. We can't really get it any closer to that
22 side setback than it already is.

1 BRENDAN SULLIVAN: Between the bulkhead and the
2 front corner of the house --

3 MARC RICHARDS: Yes.

4 BRENDAN SULLIVAN: -- do you have windows there?

5 MARC RICHARDS: We do, yeah. Yeah. It's my son's
6 bedroom.

7 BRENDAN SULLIVAN: And even if the shed would go
8 right up against your property line down across --
9 diagonally across from the bulkhead, that doesn't give you
10 enough room there or something to back and forth?

11 MARC RICHARDS: I mean --

12 BRENDAN SULLIVAN: It's nice.

13 MARC RICHARDS: -- we could look into that. I was
14 also trying to minimize -- again, I was looking at it from,
15 you know, where the nonconformity had been historically with
16 the 200 square foot structure that had been there.

17 And I was trying to minimize, you know, the
18 nearness to the house conformity along with the front
19 setback and the side setback. And this was the place that -
20 - where it ended up.

21 There may be an opportunity to move it a little
22 closer, but I -- there's a circulation issue of getting

1 around the shed into the back yard with the bulkhead there
2 and getting the bulkhead open and closed. So I don't know
3 how feasible it is possibly. We would like to keep it over
4 in this area of the yard. So if that's an option we can
5 look at it a bit closer.

6 BRENDAN SULLIVAN: I guess what I'm looking for is
7 some resolution to get the shed further toward the back
8 yard.

9 MARC RICHARDS: Yeah. But we -- it can't go any
10 further east, really.

11 BRENDAN SULLIVAN: Oh, wait a minute. Let me
12 finish. Let me finish my sentence.

13 MARC RICHARDS: Sure, sure, sorry.

14 BRENDAN SULLIVAN: Have the shed further toward
15 the back yard and get your car sort of more onto your
16 property and off of the right of way altogether, so that the
17 -- where you park your car, you know, I guess maybe you're
18 saying that you can do it on your side of the right of way,
19 is that right? Or --

20 MARC RICHARDS: Correct, yeah. Yeah. And I would
21 contend that I'm allowed to park my car on my own property
22 within the right of way, based on the way that the --

1 BRENDAN SULLIVAN: Okay.

2 MARC RICHARDS: -- the right is worded, which has
3 never been an issue for my property for 70 years.

4 BRENDAN SULLIVAN: And if we could get this shed
5 more to the right towards your back yard -- again, I
6 understand and, you know, forgetting dimensional infractions
7 we're going to have a dimensional infraction anyhow.

8 MARC RICHARDS: Yeah.

9 BRENDAN SULLIVAN: I will accept that the location
10 of the house on the lot is an unusual shape lot. It's --

11 MARC RICHARDS: Absolutely, yeah.

12 BRENDAN SULLIVAN: -- it is encumbered by all of
13 that. But I think that visually and functionally it could
14 shift towards the back yard a bit, and not necessarily in
15 the same location as these.

16 MARC RICHARDS: Again, based on the topography, we
17 looked at that. And it didn't feel feasible. But I mean
18 I'd be willing to take another look and take some more
19 extensive photographs over there and talk to my landscaper a
20 little more on what more they could do.

21 This felt like the best we could do at the time,
22 but, you know, that's something we could take a deeper look

1 at. I don't know if we're going to get there or not, but we
2 can try.

3 CONSTANTINE ALEXANDER: Brendan, let me ask you a
4 question. If they were to not shift as you are suggesting
5 the location of the structure, would you be in favor of the
6 -- you don't have to answer this -- relief? In other words,
7 accept what he's proposing on this alternative option for a
8 smaller shed?

9 BRENDAN SULLIVAN: I'm not there yet to be honest
10 with you.

11 CONSTANTINE ALEXANDER: Okay.

12 LAURA WERNICK: I would -- this is Laura Wernick -
13 - I would really like to hear from the neighbor. It appears
14 that there are concerns that we can't understand unless she
15 -- the person, this individual is allowed to speak.

16 The way this is being presented, it seemed that
17 this location was adequate, and now it doesn't seem to be
18 adequate. So I think we need to understand what the
19 concerns are before we can make any judgment.

20 CONSTANTINE ALEXANDER: Well, in the file, is the
21 opposition -- the opposing party from "Kat.Don.5", is that
22 the right --

1 MARC RICHARDS: Yes, that's correct, yeah.

2 CONSTANTINE ALEXANDER: Okay.

3 MARC RICHARDS: Kathleen Donnelly is her name.

4 CONSTANTINE ALEXANDER: Yesterday, an e-mail. She
5 says, "I'm writing to express my opposition to this case. I
6 don't see any information that would justify a zoning
7 variance, and the adjustment of the deeds, titles for the
8 four-lot subdivision.

9 For the avoidance of doubt, I've attached three
10 documents indicating my position that the abutters abide by
11 the City of Cambridge Zoning Ordinance."

12 And then there's an e-mail sent to the petitioner,
13 Mr. Richards. She says, "An indemnity agreement would not
14 be acceptable. Sliding the shed over five feet to be 100
15 percent on my property is not acceptable. And we both need
16 to retain access over the way. You can park your car on the
17 east side of your house, as long as it doesn't violate the
18 Cambridge zoning laws and property line setback requirements
19 and right of way privileges, as deeded and titled to my
20 property."

21 And then there is a letter from Ms. Donnelly --
22 I'm just trying to read the letter. She says, "In the

1 interest of cooperation, I will agree to the shed removal on
2 December 19, 2020, should they -- " this is the letter that
3 was written in December 11, 2020, so it's old. Oh.

4 And -- the fact of the matter is is that any
5 relief is going to require zoning. Anything that the
6 petitioner is proposing, if he wants another shed, is going
7 to require zoning relief. This is an unusual piece of land,
8 with structures scattered about, if you will, in a very
9 small area. And it's just hard to satisfy setback
10 requirements, given the situation.

11 And that's what Zoning's about. We do grant
12 variances from what the zoning requires, if the legal
13 standard is satisfied, which I will get to in due course.

14 What I'm trying to get to the bottom of is what
15 the petitioner wants. And what he wants, I gather, is
16 what's now on the sheet; alternate option for the smaller
17 shed. And he says he cannot remove the shed, as Mr.
18 Sullivan is suggesting, or does not want to, and I'm not
19 sure it would solve the zoning problems anyway.

20 And that's where we're at.

21 MARC RICHARDS: Excuse me -- Excuse me, Mr.
22 Chairman. So everything you said I would agree with, with

1 the exception that I'm proposing this as sort of a last-
2 ditch option, the one we're looking at right now. I would
3 prefer for it to remain exactly where it is. This produces
4 an additional hardship. And, like you said, it doesn't
5 really solve the problem necessarily. But it does reduce
6 the nonconformity a little bit.

7 But we would, you know, our position is that it's
8 a hardship to really remove it, it's a hardship to put it
9 elsewhere on the lot. And so we would really just sort of
10 prefer to keep it where it is right now, and where it's been
11 for almost a year. And again that's -- yeah, slide probably
12 3. No, I'm sorry, Slide 4, Slide 4.

13 So this is the current state of things, and this
14 is the way that we would like it to remain, if at all
15 possible.

16 BRENDAN SULLIVAN: Yeah. Marc, this is Brendan
17 Sullivan. Regarding hardship -- and we always hear the
18 word, "hardship" -- but the hardship has to run with the
19 land for the house structure thereon, and how it may be
20 encumbered by the existing zoning ordinance.

21 You're, I think -- and again, no disrespect, I
22 mean what you're saying is that your word of hardship is

1 that it's going to cost additional money to, you know,
2 relocate this and so on and so forth. However, that doesn't
3 have any bearing as far as the relief that we are allowed to
4 grant.

5 Can't be a personal financial hardship, it has to
6 run with the land or the structure they're on, and how it is
7 encumbered by the ordinance and the difficulty it is of
8 locating a reasonable structure thereon within the
9 constraints of the ordinance.

10 MARC RICHARDS: Understood. Thank you.

11 BRENDAN SULLIVAN: The financial is going to cost
12 money, again, you know --

13 CONSTANTINE ALEXANDER: Let me second what Brendan
14 is saying. That is absolutely correct. It's not a matter -
15 - this has to be something that is a hardship to anybody who
16 owns your property, and the inability and compliance with
17 the zoning ordinance to satisfy all of the setback
18 requirements. So the fact that it's going to cost you money
19 because you want to build a shed is not enough to grant
20 relief.

21 MARC RICHARDS: Correct. Understood. I've --
22 we've covered that. It sounds like we're all in agreement

1 around the topography and the orientation of the house and
2 things of that nature.

3 BRENDAN SULLIVAN: Brendan Sullivan again. I'd
4 like to hear from the other members of the Board.

5 CONSTANTINE ALEXANDER: Jim? Jim Monteverde? Do
6 you have any comments, thoughts?

7 JIM MONTEVERDE: Sorry. I was muted. I agree
8 with Brendan's comments, you know, searching for an
9 alternate -- even rotating it slightly to make it less
10 obtrusive. I don't think I see the hardship case at all.

11 So I'm really -- and I see the attempt to show us
12 alternate locations, but it basically shows that yes, there
13 are alternate locations. They are, they just happened to be
14 filled with something else that you'd like to keep there.

15 So at the moment, I'm just not feeling favorably
16 toward the relief being sought.

17 CONSTANTINE ALEXANDER: And I would add to that is
18 that having a shed is not essential to the enjoyment of the
19 property. It may be desirable for the current occupants,
20 but it's nothing that's going to run -- as Brendan has said
21 earlier -- it's not going to run with the land. People have
22 lived in here without that shed -- without a shed -- in this

1 location for a long time.

2 MARC RICHARDS: Excuse me, that's not 100 percent
3 -- I completely hear what you're saying, but that's not 100
4 percent correct. The carport structure had a shed structure
5 on it that was used for bicycle storage prior.

6 And we downgraded to one car from two cars. Our
7 kids got bigger; we needed a bigger space to keep the
8 bicycles. So that was why we put the larger shed that was
9 smaller than the original structure. The shed piece of it
10 is bigger, but it's half the size of the carport that had
11 been there prior.

12 So there had been a structure on the property for
13 70+ years. But I appreciate what you're saying, though.

14 CONSTANTINE ALEXANDER: Andrea, do you have any
15 thoughts you want to express?

16 ANDREA HICKEY: I do. So could we go back to the
17 slide that shows the alternate location for a moment?

18 [Pause]

19 ANDREA HICKEY: Okay. So if I could ask Mr.
20 Richards, the blue sort of square on this, is that where the
21 -- where it is now?

22 MARC RICHARDS: Correct.

1 ANDREA HICKEY: Does that sort of match the prior,
2 so that's your ideal location where you'd like to keep it?

3 MARC RICHARDS: That's where it is currently,
4 where --

5 ANDREA HICKEY: Okay.

6 MARC RICHARDS: -- I would like it to remain, yes.

7 ANDREA HICKEY: Understood. And then the
8 yellowish-green is just a smaller option in a location
9 that's sort of more into your lot, away from the centerline
10 of the easement, correct?

11 MARC RICHARDS: Correct. Yes.

12 ANDREA HICKEY: All right.

13 MARC RICHARDS: So that could be a place where an
14 8 x 8 shed would not encumber the front easement, the front
15 setback.

16 ANDREA HICKEY: Right. So the smaller one, the
17 yellow-green is 8 x 8 and the one that's in blue, what are
18 the dimensions of that?

19 MARC RICHARDS: That's the 10x10. That's the
20 current one.

21 ANDREA HICKEY: Yeah. All right. That does help
22 me to kind of get oriented. Can you -- and I know this has

1 been asked before -- with either of these locations, where
2 do you park your car or cars?

3 MARC RICHARDS: So the car is -- you can see sort
4 of where the end of the word, "Aberdeen Court" is there, and
5 the landing at the house. Sort of between that and the
6 horizontal line above it.

7 And we used to pull it up further, although
8 currently because of the way that the other side of the way
9 is being blocked, we can't. So we've been parking it sort
10 of to the front left of our house, but completely on our
11 land now since last November.

12 ANDREA HICKEY: Okay. But when you say, "on your
13 land" part of that is the easement area, correct?

14 MARC RICHARDS: Correct, yes, yeah.

15 ANDREA HICKEY: All right. So we talked about
16 this a little bit before, about how this easement is strange
17 that it sort of runs around the back of your house and --

18 MARC RICHARDS: Yeah.

19 ANDREA HICKEY: -- through the other side, which
20 is strange to me. But you really can't block an easement.
21 So if for you to park, you're parking in part of that
22 easement, I just -- personally that's not something I would

1 want to sort of pass judgment on. You're not seeking any
2 parking relief, is that correct?

3 MARC RICHARDS: No, no, no. We're not. Can we --
4 if we go to Slide, I believe it's Slide 10 -- so the
5 historical use of the way here had been that, you know,
6 obviously the carport and shed structure had been there
7 since we believe the house was built, but since at least
8 1963. So that parking area had been used exclusively by my
9 property that was over the property line.

10 Since Ms. Donnelly requested, we've ceased parking
11 on her side of the property line. But it is still within
12 the right of way. But the way the right of way is worded,
13 it's not at all clear that we don't have the right to do
14 that. So I would contend that we do and we're -- you know,
15 pursuing legal clarification on that right now.

16 But as you can see, this left side is Ms.
17 Donnelly's side. And she's fully obstructed the way, while
18 writing a letter to you all saying that, you know, it's not
19 appropriate for us to have -- to obstruct it.

20 So the way we are using it currently, including
21 our parking -- you can see where we repaved over our yard
22 here to accommodate her request as well -- the way we're

1 parking and the way the shed is now is consistent with the
2 historical use of the property.

3 It's not -- the other residents of Aberdeen Court
4 share this right of way as well. They haven't raised any
5 objections to it either. So it -- we've really just been
6 having this difficult disagreement with her. And this is
7 where we're at right now.

8 But she's fully obstructing side of the way.
9 We're parked -- you know, we've reduced the amount of
10 obstruction that we have in our side on her request, and,
11 you know, consistent with the proposal that shed given us a
12 year ago. And it still seems to be problematic, for reasons
13 that we don't understand.

14 ANDREA HICKEY: Right. That's really helpful to
15 me. As between sort of the larger and smaller structure, in
16 terms of size and location, if I was to vote in favor, I
17 prefer the smaller one, because it makes the nonconformity
18 less.

19 I'm not decided yet, but I would lean toward the
20 smaller one if I'm leaning toward any at all. And I would
21 want it very clear in our decision should we elect to allow
22 your petition, that we're in no way passing judgment on

1 anything having to do with parking or the right of way.

2 MARC RICHARDS: Yep.

3 ANDREA HICKEY: Because I think those two issues
4 are still very problematic, but they're not before us
5 tonight. So I would just want any decision of our Board to
6 expressly sort of exclude passing judgment on parking or use
7 of that right of way. That's all I have, Mr. Chair.

8 CONSTANTINE ALEXANDER: Thank you, Andrea. Laura,
9 do you have anything you want to say at this point?

10 BRENDAN SULLIVAN: Laura's not on this one. Wendy
11 is.

12 CONSTANTINE ALEXANDER: Wendy? I'm sorry. Wendy?

13 WENDY LEISERSON: I think Andrea was very
14 articulate about the issues for me. I think that the issue
15 of the right of way and the issue of the dimensional
16 nonconformities of the variance are very separate. And I
17 think this right of way is problematic in a lot of ways for
18 both neighbors.

19 So if we her just -- if I'm just to look, which is
20 what's before me -- at the nonconformity -- dimensional
21 nonconformities of where the shed is to be located on the
22 petitioner's property, I agree with Andrea.

1 And I would be comfortable with granting the
2 relief sought here with the clarification that we're not
3 determining what the right of way entails.

4 Because when I look at the -- when I looked at the
5 property assessment database for the city and it says that
6 his property has two parking spaces. So I'm assuming that
7 that was interpreted by the city to be in that right of way,
8 because I see no other place that that -- the two parking
9 spaces could have been.

10 MARC RICHARDS: That's correct, yeah.

11 WENDY LEISERSON: Yeah. I haven't seen the
12 wording of the right of way in full, but it seems to me when
13 you look at the City's map plan of the four houses in that
14 Aberdeen Court together, I don't know why the right of way
15 is drawn so that it's not only behind your house, but also
16 behind your neighbor's -- the opposing neighbor's house --
17 but it seems clear that the way the properties have been
18 used don't accord with what's drawn on the right of way
19 diagram.

20 And it seems like it's really just for the purpose
21 of access to each other's driveways. At least that's how
22 it's been intended to be used. So I just don't feel

1 comfortable declaring -- you know, making a decision based
2 on that. But as for the shed on your property, I would be
3 willing to grant your relief, subject to the clarification
4 of the right of way, as Andrea --

5 MARC RICHARDS: Yeah. I can give you the distinct
6 wording that's on my deed as well. Although I agree that
7 the -- I wasn't expecting to come here and ask anyone to
8 pass any judgment on how the right of way is being used.
9 That's for -- like I said, we're kind of dealing with that
10 in a separate legal way that we're hoping to get resolved
11 amicably, but it's been a struggle.

12 The actual word from the deed is, "The premises
13 are conveyed subject to, and with the benefit of a right of
14 way as set forth in the plan and common with others entitled
15 thereto." That's it. That's the full, written extent of the
16 right of way. It's never been an issue among anyone on our
17 street.

18 My lawyer and I have joked it's a right of way to
19 nowhere. It goes around the corner and then stops on both -
20 - you know, the number 3 and the number 4 properties. And
21 just the historical use of it has been exclusive. I've
22 never accessed the right of way around on the three side

1 around the corner there. Nobody has ever accessed the
2 parking area on our side, aside from people who have gone to
3 our property.

4 And our previous neighbor at 3 Aberdeen Court
5 lived there since 1963, and she confirmed all of that with
6 us that it's never been an issue, and that's just the way
7 things were until 2020.

8 CONSTANTINE ALEXANDER: Let me --

9 BRENDAN SULLIVAN: Brendan Sullivan again. I would
10 support relocating the structure so that it is off the right
11 of way.

12 CONSTANTINE ALEXANDER: You're requiring to get it
13 off the right of way?

14 BRENDAN SULLIVAN: And if that means a smaller
15 structure, then it's a smaller structure.

16 CONSTANTINE ALEXANDER: I was going to make
17 basically the same point, going back to your original point,
18 Brendan. I mean, I don't see how you meet the requirements
19 for a variance with regard to a hardship.

20 First of all, this structure is not essential to
21 the use of the property. It may be essential to your family
22 and its use of the property.

1 And we have to get the shed off the right of way.
2 And to me, as Brendan has said, if it means a smaller shed,
3 so be it. If you can't live with a smaller shed, then you
4 can't do it. I think it's as simple as that. That's where
5 I come out.

6 MARC RICHARDS: Can I -- I'm sorry, can I just ask
7 for clarification? So you said that you would -- the
8 smaller shed would be acceptable? The right of way is -- it
9 goes around the corner and to the rear of the property. So
10 there is no location on this sort of -- in this corner of
11 the lot that would allow it to be outside the right of way
12 as it currently exists. So I --

13 ANDREA HICKEY: This is Andrea Hickey. That's my
14 understanding too, which is why I felt it important for us
15 to say that if we're allowing the shed in any location,
16 we're not making any determination relative to the right of
17 way.

18 Because I agree with Mr. Richards; I don't think
19 there's a place you could put it that it wouldn't interfere
20 with the right of way. So that really was the purpose of my
21 sort of carveout as to what it is we're deciding. Thank
22 you.

1 MARC RICHARDS: Thank you.

2 CONSTANTINE ALEXANDER: Okay. I'm going to open
3 the matter up to public testimony. As I've indicated, there
4 is a -- it should be obvious -- there is a neighbor who has
5 objected in writing, and perhaps shall even speak tonight.
6 So there's no -- we have one letter of support or a letter
7 of nonobjection in our files from Corinna Bianchi at 18 Old
8 Dee Road. Would she --

9 BRENDAN SULLIVAN: Yes.

10 CONSTANTINE ALEXANDER: -- where she says, "abuts
11 Aberdeen Court to the east. I have no objection to the shed
12 on 4 Aberdeen Court in its current location within the side
13 yard -- side and front setback." Of course, it doesn't
14 address the issue of the right of way, which is --

15 MARC RICHARDS: Correct.

16 CONSTANTINE ALEXANDER: -- obviously a problem, at
17 least for a number of us on the Board. But anyway, we'll
18 open the matter up to public testimony. Any members of the
19 public who wish to speak should now click the icon at the
20 bottom of your Zoom screen that says, "Raise 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. Take

1 a moment to see if anyone wishes to speak

2 OLIVIA RATAY: Kathleen Donnelly?

3 KATHLEEN DONNELLY: Can you hear me?

4 CONSTANTINE ALEXANDER: Ms. Donnelly? Yes, now we
5 can.

6 KATHLEEN DONNELLY: So I would just like to take a
7 few minutes to explain so I would just like to explain my
8 position on this. I don't necessarily agree with everything
9 that's been said. The e-mails that I sent yesterday, the
10 record that I sent yesterday, was just three documents.

11 One was an e-mail exchange with Marc and Jen
12 Richards. The second one was letter I sent to the Richards'
13 attorney. And the third one was a text conversation that I
14 had with Marc. And that was from -- that's why the dates
15 are in the past. But in each of those documents, I've let
16 Marc and Jen know that I was not in favor of this. So I
17 just want to clarify that.

18 The reason I'm objecting to this is that the right
19 of way, as you saw it, it comes down in Aberdeen Court and
20 then it takes a right and a left. I don't mind if the
21 Richards move their shed and it's still in the right of way,
22 but it's not -- if you're looking at this slide, it's not in

1 the dotted lines. Because I think that right of way has to
2 be clear. It's for my property value for emergency
3 vehicles.

4 There's -- there does not seem to be a reason that
5 they can't put the shed somewhere else in their yard or move
6 it over to meet the five-foot requirement. And that's
7 always been my position.

8 It gets a little more complicated if you want to
9 talk about the parking, because it started that I've asked
10 them to move their car, because I don't think they should be
11 parking their car there. And they're not -- which is why I
12 put my planters there -- but I think that is a whole 'nother
13 discussion.

14 I think tonight we're here to talk about the shed.
15 And I think the City of Cambridge has zoning laws for good
16 reason, and I don't think -- and they have variances for a
17 good reason, and I just don't think this meets the standard
18 of a variance because that is where they want to put the
19 shed so that they can put other things in their back yard.

20 So that's my perspective on it.

21 CONSTANTINE ALEXANDER: Thank you. We appreciate
22 you taking the time. This is a difficult situation, what I

1 hear, for the neighborhood. But we're going to bring it to
2 a close I think tonight. Anyone else wish to speak?

3 UNIDENTIFIED SPEAKER: We're allowed to talk?

4 CONSTANTINE ALEXANDER: Apparently not. There's
5 no other indication. And as I've indicated, the written
6 communication we have is Ms. Donnelly's comments, and one
7 letter in support from someone who is a neighbor on the
8 street.

9 MARC RICHARDS: There's also -- ah, excuse me --
10 there's two other letters of support from the other two
11 neighbors on Aberdeen Court as well.

12 CONSTANTINE ALEXANDER: Where are they?

13 MARC RICHARDS: They're in the file. They were
14 submitted back before September. So they're just saying
15 that they don't object to the current location of the shed,
16 although they -- one of them also specifically wanted it
17 noted that he's speaking with respect to the setbacks and
18 not the right of way, because that's -- like we said --
19 another issue that we're trying to have settled.

20 CONSTANTINE ALEXANDER: Okay. Thank you for
21 bringing that to our attention. I think it's time for us to
22 take a vote. Brendan, how do you vote?

1 BRENDAN SULLIVAN: On the current location, is
2 that the motion?

3 CONSTANTINE ALEXANDER: Yeah. That's what they're
4 putting forth.

5 BRENDAN SULLIVAN: I would say no. I would not --

6 CONSTANTINE ALEXANDER: You vote no. Jim?

7 JIM MONTEVERDE: Jim Monteverde. I would vote no.

8 CONSTANTINE ALEXANDER: I'm sorry, Jim. I didn't
9 catch that.

10 JIM MONTEVERDE: I would say no.

11 CONSTANTINE ALEXANDER: Okay. Andrea?

12 ANDREA HICKEY: I would vote no.

13 CONSTANTINE ALEXANDER: Okay, you know I haven't
14 made a motion yet, but see if we can do it in this fashion.
15 Wendy?

16 WENDY LEISERSON: I -- yes, sorry. I would
17 actually vote in favor.

18 CONSTANTINE ALEXANDER: Let me point out that at
19 this point, the vote -- your vote and my vote are the two
20 that haven't been cast yet or irrelevant. To get the
21 variance you need four votes in support. Even if you and I
22 were to vote in support, it would only be two out of the

1 five of us. So I just want to point that out.

2 But obviously you're entitled to cast your vote.

3 So how do you vote?

4 WENDY LEISERSON: I said I would vote in favor.

5 CONSTANTINE ALEXANDER: You would vote in favor.

6 Thank you.

7 CONSTANTINE ALEXANDER: And the Chair, as I've --
8 I think I've indicated so far -- would vote -- votes no, for
9 the reason that I've expressed, and others have expressed
10 during the course of this hearing.

11 [FOUR VOTES NO, ONE VOTE YES]

12 CONSTANTINE ALEXANDER: So since I started without
13 a motion to grant the relief, I think we have -- well, let
14 me just phrase the vote to grant the relief, and then I'll
15 read into the votes that have already been taken.

16 ANDREA HICKEY: Mr. Chair? If I could interrupt
17 just for a second.

18 CONSTANTINE ALEXANDER: Sure, sure.

19 ANDREA HICKEY: My apologies. This is Andrea
20 Hickey. I would ask the petitioner and the neighbor, if she
21 is still on the call, whether there is any hope of their
22 resolving this?

1 CONSTANTINE ALEXANDER: That's a very good
2 comment, but I would think from the history of this case, up
3 until tonight, there doesn't seem much hope for that.

4 ANDREA HICKEY: No. I mean, it was the neighbor's
5 comments that I take extremely to be very important with
6 respect to this petition, because she is really the most
7 impacted.

8 And, you know, based -- if she hadn't given her
9 testimony the other night, I was leaning the other way. But
10 it seems to me that there's no location that's proposed that
11 she'd be okay with the shed. But I'm just wondering does it
12 make sense for them to give it another discussion before we
13 make a final decision?

14 CONSTANTINE ALEXANDER: Well, I'll turn it to the
15 --

16 MARC RICHARDS: So --

17 CONSTANTINE ALEXANDER: -- and the neighbor.
18 Because I heard tonight -- and I've seen in the file for a
19 good while -- is that there seems to be -- they're at
20 loggerheads. And they don't seem to be able to raise a --
21 get a -- mutually satisfactory result. The petitioner wants
22 this shed where he wants it, and the neighbor doesn't want

1 it where he wants it. And that's where we are.

2 WENDY LEISERSON: Mr. Chairman?

3 CONSTANTINE ALEXANDER: Wants it; doesn't comply
4 with the zoning ordinance.

5 WENDY LEISERSON: Mr. Chairman?

6 CONSTANTINE ALEXANDER: Yes.

7 WENDY LEISERSON: This is Wendy Leiserson. I also
8 wonder if the right of way is currently being adjudicated
9 elsewhere; whether it makes sense for the petitioner to, you
10 know, either continue or withdraw this until the right of
11 way matter.

12 Because that is I think going to -- it would
13 affect, it seems to me, it would affect how others would
14 vote. If I'm wrong about that, then let me know.

15 ANDREA HICKEY: This is Andrea Hickey again. What
16 impacted my sort of final decision -- and I realize we
17 haven't voted yet -- really is the neighbor's testimony that
18 she would not support the shed anywhere within the right of
19 way. So I think Ms. Leiserson's comment is probably a good
20 one.

21 If there's a chance that that right of way will be
22 interpreted by other Boards or parties such that you can

1 sort of be within it, then the comments of the neighbor
2 would -- I would view those differently. But once we
3 decide, the petitioner -- it's decided.

4 So I think Ms. Leiserson's comment that perhaps
5 the petitioner might want to withdraw, and wait for further
6 decisions with respect to the right of way might be
7 something you'd want to consider.

8 MARC RICHARDS: Yeah. And if I may just ask for
9 Slide 11 to be shown one more time. I know we've spent a
10 lot of time on this, and I really appreciate the
11 thoughtfulness that you all are applying here.

12 Again, this was the proposal that she gave to me,
13 where it shows the shed clearly within the bounds of the
14 way. This was sort of foundational to my decision to move
15 it without the variance in the first place.

16 So I just want to remind folks of that aspect of
17 it when we're talking about what, you know, is or isn't
18 acceptable to her; that it was proposed to me that this
19 would be more or less an acceptable location.

20 I moved it, and now it isn't. And now, you know,
21 there's a -- it's a tough situation for me, as you can tell.
22 I appreciate it.

1 ANDREA HICKEY: Right. Respectfully, her
2 testimony tonight was something to the contrary. And that
3 sort of is what moved me. If she testified tonight that
4 this drawing and location was acceptable, I might be in a
5 different place. Thank you.

6 CONSTANTINE ALEXANDER: Okay. I'm going to ex
7 post facto make the motion, and then I'll recite the votes
8 that have already been taken. But if anybody wants to
9 change their mind at that time, please do so.

10 So the Chair moves that we make the following
11 findings with regard to the variance being sought: That a
12 literal enforcement of the provisions of the ordinance would
13 involve a substantial hardship to the petitioner.

14 That the hardship is owing to circumstances
15 relating to shape of the land of the area, and that relief
16 may be granted without substantial detriment to the public
17 good, or nullifying or substantially derogating from the
18 intent and 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 in accordance with the plans that were
22 submitted by the petitioner -- it's actually a sheet of

1 paper -- and initialed by the Chair. And that is the relief
2 we'd be considering.

3 And we have so far at least taken a vote: Four
4 against granting relief, and one in favor. Any of those in
5 the four who voted against want a change of vote, now's the
6 time to do it.

7 MARC RICHARDS: Excuse me, I have a procedural
8 question, if I could ask?

9 CONSTANTINE ALEXANDER: Yeah.

10 MARC RICHARDS: So the suggestion was made to
11 withdraw. Would we need to do that prior to the final vote
12 being tallied, or can the vote be tallied and then that
13 would still be --

14 CONSTANTINE ALEXANDER: We can do one of two
15 things. We can -- if we thought there was a basis, and you
16 and your neighbor thought there was a basis for reaching
17 some accommodation, we can continue this case one more time,
18 and then see what comes from that.

19 Or there is an -- if we turn down the relief, you
20 will have -- you can't come back for two years, unless what
21 you will come back with is -- I'm going to paraphrase it --
22 substantially different than what you have proposed tonight.

1 That's where we're at.

2 MARC RICHARDS: Okay. Understood.

3 ANDREA HICKEY: Okay. Mr. Chair, if I could say
4 too, I also think that the Building Department could perhaps
5 compel the shed to be removed if it's there and it's not in
6 compliance. So it puts the petitioner in kind of a pickle.
7 If he -- if he sort of withdraws, he's got a shed that's in
8 violation. So I just wanted to put that in the record.

9 CONSTANTINE ALEXANDER: Okay. That's what the
10 facts are. Anyway, anybody -- I don't hear anybody changing
11 their vote. So I would say that the motion -- relief is
12 denied. And we need to take a second motion, those of us
13 who voted against for the record.

14 And the Chair moves that we -- the Board has found
15 the four members have voted against; that what is being
16 proposed is not a literal enforcement, is not a substantial
17 hardship. It's got to be a hardship, as Mr. Sullivan
18 pointed out earlier, it runs with the land -- that would
19 apply to anybody who occupies or owns the property.

20 And in fact, it's really -- this shed is really an
21 accommodation and a useful benefit to those, the family that
22 occupies the property, but it doesn't necessarily follow

1 that everybody who would by the property would suffer a
2 substantial hardship. And in fact, it may be that the
3 structure will have to be removed. But right now, it is not
4 compliant with our zoning bylaws.

5 And as the Board has voted, not entitled -- the
6 petitioners are not entitled to a variance.

7 Brendan, how do you vote?

8 BRENDAN SULLIVAN: Yes, I would support your
9 explanation for denial.

10 CONSTANTINE ALEXANDER: Jim?

11 JIM MONTEVERDE: [Jim Monteverde.] I also support
12 your explanation.

13 CONSTANTINE ALEXANDER: Andrea?

14 ANDREA HICKEY: [Andrea Hickey.] Yes, I am in
15 support of the Chair's explanation for the denial.

16 CONSTANTINE ALEXANDER: Okay, and I -- having made
17 it, I support it as well. Wendy, since you voted in favor,
18 you don't get a vote on this one. So the vote has been
19 taken. The variance has been denied.

20 MARC RICHARDS: May I-- I appreciate your time,
21 all of you. I know this was a very long one, and thank
22 you. I would just like for my own understanding for the

1 future, there are -- you know, I've referenced in my
2 petition several petitions that have been approved for
3 rebuilt sheds that, you know, were, you know, sort of in a
4 similar location from the previous ones.

5 And I just -- I guess I'm -- I don't understand
6 how this differs from those cases. I listened to you all
7 very carefully, I'm sorry I just -- I'm not the expert here
8 and I would like to know.

9 CONSTANTINE ALEXANDER: Okay. I'll try to do my
10 best.

11 MARC RICHARDS: Thank you.

12 CONSTANTINE ALEXANDER: Because most of the cases
13 we don't have active opposition -- we do this time -- and we
14 don't have a right of way that has been, at least has
15 historically been "trespassed" applies of all words, but an
16 impact by the shed. And that's what it is. But that's the
17 best I can tell you. We've taken our vote; we've got to
18 move on.

19 MARC RICHARDS: Okay.

20 CONSTANTINE ALEXANDER: Thank you very much.

21 MARC RICHARDS: Thank you.

22 LAURA WERNICK: Gus? Gus?

1 CONSTANTINE ALEXANDER: Yes. Yes.

2 LAURA WERNICK: This is Laura. And I'm not sure I
3 need to be here this evening. Maria had asked me to sit in,
4 but you have five members now. And I don't know if all five
5 are intending to be here the rest of the evening or not?

6 WENDY LEISERSON: [This is Wendy Leiserson.] I was
7 not intending to be here for the rest of the evening. I was
8 only on this case because it was continued.

9 LAURA WERNICK: Okay. So are you staying for the
10 other two continued cases, or are you leaving at this point,
11 Wendy?

12 WENDY LEISERSON: The other cases were not heard
13 yet, so I was planning to leave now.

14 LAURA WERNICK: Okay, thank you. That's what I
15 needed to know.

16 WENDY LEISERSON: Thank you.

17 CONSTANTINE ALEXANDER: Moving on to our next
18 continued case -- and who's sitting on this case now? Not
19 Wendy.

20 BRENDAN SULLIVAN: Laura.

21 CONSTANTINE ALEXANDER: Laura, in place of Wendy.
22 Thank you.

1 * * * * *

2 (7:00 p.m.)

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

6 The Chair will call Case Number 134123 -- 13
7 Kirkland Place. Anyone here wishing to be heard on this
8 matter?

9 ALEXANDRA OFFIONG: Good evening. I am here
10 [Alexandra Offiong.]

11 CONSTANTINE ALEXANDER: Okay. And we have a
12 letter from you saying you want to continue this case a
13 second time. Am I right?

14 ALEXANDRA OFFIONG: Yes, yes indeed.

15 CONSTANTINE ALEXANDER: Kind of. There will be --
16 as I mention -- a second continuance. I just would point
17 out that we generally do not continue cases more than twice.

18 So if we continue tonight, which I assume we will,
19 we'll pick a date, and that will be the date. There will be
20 no further continuances. Is there a date you want to
21 suggest you want to continue the case to?

22 ALEXANDRA OFFIONG: I would suggest December 16,

1 if that's possible?

2 CONSTANTINE ALEXANDER: December 16?

3 ALEXANDRA OFFIONG: Yes.

4 CONSTANTINE ALEXANDER: Did I hear that right?

5 ALEXANDRA OFFIONG: Sixteenth, yes.

6 CONSTANTINE ALEXANDER: Okay. The sixteenth works
7 for our agenda for that night. So I will make a motion that
8 we continue this case as a case not heard until 6:00 p.m. on
9 December 16, subject to the following conditions -- and
10 these are the conditions you've followed already, so should
11 not be novel to you:

12 The first is that the case will -- you'll have to
13 sign a notice, a waiver of time for decision and you've done
14 that already, for the earlier continuance. That's all taken
15 care of.

16 Second, that a new posting sign must be erected
17 and maintained for the 14 days prior to December 16
18 disclosing the date, December 16 and the new time -- [or
19 not/new tonight] -- the time will be 6:00 p.m.

20 And then lastly to the extent that you've already
21 submitted any plans, drawings, specs or the like and you're
22 going to modify those or submit additional ones, they must

1 be in our files no later than 5:00 p.m. on the Monday before
2 December 16.

3 If we -- if that's not done, we won't hear the
4 case on that night. We have to have everything before us,
5 and with some time if necessary.

6 Brendan, how do you vote?

7 BRENDAN SULLIVAN: Yes to the continuance.

8 CONSTANTINE ALEXANDER: Jim?

9 JIM MONTEVERDE: Jim Monteverde yes to the
10 continuance.

11 CONSTANTINE ALEXANDER: Laura?

12 [Pause]

13 CONSTANTINE ALEXANDER: Laura? Maybe she's on
14 mute?

15 JIM MONTEVERDE: Laura, you're on mute.

16 LAURA WERNICK: Yeah, I just couldn't get off of
17 mute. Yes to the continuance. Sorry.

18 CONSTANTINE ALEXANDER: You vote yes for the
19 continuance? I guess she has. And the Chair votes yes as
20 well. And -- oh Andrea, I'm sorry.

21 ANDREA HICKEY: Yes. I vote yes for the
22 continuance. Thank you.

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[All vote YES]

CONSTANTINE ALEXANDER: Okay. Case continued
until December 16. Thank you.

ALEXANDRA OFFIONG: Thank you very much.

1 * * * * *

2 (7:03 p.m.)

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

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

9 JAMES RAFFERTY: Good evening, Mr. Chair, members
10 of the Board. I trust I can be heard this evening?

11 CONSTANTINE ALEXANDER: I'm sorry?

12 JAMES RAFFERTY: I said I hope I can be heard?

13 JIM MONTEVERDE: You can.

14 LAURA WERNICK: Yes, you can be heard.

15 JAMES RAFFERTY: Thank you. For the record, James
16 Rafferty, appearing on behalf of the applicant, Carpenter &
17 Company. Appearing with me this evening is Alex Attia. Mr.
18 Attia is the General Manager of the Charles Hotel.

19 Also present are the two architects from
20 CambridgeSeven that are involved in the project -- a Gary
21 Johnson, who is the architect for the original design of the
22 complex in 1981; and his associate, Robert Bander.

1 The Board may recall that this case was before you
2 two weeks ago, but was continued because the report of the
3 Harvard Square Advisory Committee had not yet been received.

4 I would note that it was received at the end of
5 last week, and it's contained in the file. And the Advisory
6 Committee, as you hopefully have learned, voted unanimously
7 to support this application.

8 This is a somewhat unique --

9 CONSTANTINE ALEXANDER: Mr. Rafferty, we continued
10 the case last time because Community Development Department
11 requested that we continue the case.

12 JAMES RAFFERTY: Yes. They requested it because -
13 - right, I agree.

14 CONSTANTINE ALEXANDER: Okay. Now they've had
15 their meeting, and as you pointed out, they are in support
16 of the --

17 JAMES RAFFERTY: Right.

18 CONSTANTINE ALEXANDER: No objections. Fine.

19 JAMES RAFFERTY: Right. They actually had the
20 meeting -- they had the meeting, but they hadn't prepared
21 the report. But at any rate, that's correct. That -- so
22 the case was continued, and now the report is present.

1 The case is a somewhat unique case involving an
2 increase -- a requested increase in gross floor area of 1973
3 square feet -- one thousand nine hundred seventy-three
4 square feet. I would characterize it as unique because all
5 of the additional square footage associated with the
6 variance request is already located within the volume of the
7 hotel.

8 If you've had an opportunity to review the filing,
9 the requested GFA is the result of the effort to place an
10 interim floor in the area currently, or previously
11 containing a swimming pool. We submitted some images for
12 Ms. Ratay to allow me to quickly orient the Board to the
13 area we're speaking of. Thank you, Olivia.

14 So I suspect most Board members are familiar with
15 the complex. The hotel -- the entire complex was permitted
16 by a PUD special permit by the Planning Board in 1981. It
17 consists of a hotel and condominiums facing onto JFK park
18 and an office building adjacent to the hotel.

19 This request involves a modification to the
20 swimming pool, which you see circled in red, if we could go
21 to the next image.

22 The swimming pool is in the back corner of the

1 hotel, and fronts onto the pathway that goes from the plaza
2 of the hotel out to JFK Park.

3 This is an image where you can see the existing
4 conditions -- the glazing on the top portion of the building
5 there on the left is the -- looks into the pool. What's
6 proposed here, both in photograph and in plan is to really
7 change those windows to operable windows, and to put a floor
8 in between the volume here.

9 Mr. Johnson would be happy to go through the
10 specifics of what's involved, but we have one or two more
11 images that I think make the proposed work more
12 understandable.

13 I don't know if Olivia, you could go to the next
14 image? Thanks.

15 Same thing here. This is looking at the pool from
16 a slightly different corner. This is the portion of the
17 pool that faces towards the Charles River -- more
18 specifically faces towards the condominium complex.

19 Again, the proportion of the openings in the
20 glazing is unchanged. All that's happening is replacement
21 glazing and the introduction of spandrels to support the
22 floor.

1 The GFA of the pool is already in place, but
2 because we're adding the second floor, this interim floor,
3 we need to seek a variance. The complex is close to at its
4 3.0 FAR. It's actually at 2.9. This 1900 square feet will
5 result in an FAR of 3.01.

6 I think this application is supported or
7 consistent with one of the objectives of the ordinance,
8 which is to make the most rationale use of land and
9 property. The pool has been closed now for over a year
10 since the COVID pandemic.

11 And Mr. Attia can describe to you the efforts
12 they've made to try to operate the pool. But suffice it to
13 say, it required a lot of maintenance. The pool was
14 operated by a third party, Star Operator, and has been
15 closed now for a year and a half. It is unused space.

16 The space can be put to a more efficient use by
17 making it hotel rooms. The impact here would be eight
18 additional hotel rooms into the hotel. The current hotel
19 room count is at 295; this would bring it to 303.

20 There is ample parking in the hotel; the below-
21 grade garage accommodates not just hotel and office uses,
22 but also has ample parking for commercial uses. This is one

1 of the few commercial parking garages in the Harvard Square
2 area. There's not accessory parking, like other garages;
3 one can just simply get a ticket and park here and go
4 anywhere. And so there's ample parking. The impact here is
5 really one of providing an appropriate or useful use of this
6 space.

7 As noted by the Advisory Committee in its report,
8 it will contribute to the life of Harvard Square. The hotel
9 has been a vibrant presence in the Square. Board members
10 may be aware that they operate a farmers' market in the
11 courtyard, they have historically had an ice-skating rink
12 out there.

13 Mr. Attia and the hotel ownership are active,
14 valued members of the Harvard Square community. This is a
15 request to allow for an interior change that will make this
16 space usable and functional.

17 Happy to answer any questions related to the
18 design of the space or the operation of the hotel. Thank
19 you.

20 CONSTANTINE ALEXANDER: I'll ask the members of
21 the Board if they have any. Brendan?

22 BRENDAN SULLIVAN: Brendan Sullivan no questions or

1 comments at this time.

2 CONSTANTINE ALEXANDER: Jim?

3 JIM MONTEVERDE: Jim Monteverde no questions.

4 CONSTANTINE ALEXANDER: Andrea?

5 ANDREA HICKEY: Yes, I have a question, if I could
6 ask Counsel? So the petition just relates to the pool
7 portion of what was previously sort of a gym/pool
8 combination? It's just the pool portion that they're asking
9 for relief?

10 JAMES RAFFERTY: Yes, that's -- I'll stand to be
11 corrected by Mr. Attia, but the pool was adjacent to what
12 was the health club. But this area involves just the two-
13 story volume that was the pool area.

14 ANDREA HICKEY: And is there any intention to also
15 come back to us with the request to make the gym area rooms
16 as well?

17 JAMES RAFFERTY: I'm not certain, but were that to
18 be the case, I'm not sure it would require a visit to the
19 Zoning Board. It would involve the introduction of any
20 additional GFA.

21 ANDREA HICKEY: Mm-hm. Okay. Thank you.

22 CONSTANTINE ALEXANDER: Thank you, Andrea. Laura?

1 Questions?

2 LAURA WERNICK: No questions.

3 CONSTANTINE ALEXANDER: Thank you. I have none as
4 well. So I will now open the matter up to public testimony.
5 There is nothing in our files other than the letter from the
6 Community Development, as I mentioned earlier, in support of
7 the relief being sought.

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

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

14 [Pause]

15 CONSTANTINE ALEXANDER: No. No one does, so I
16 will close public testimony, and we'll turn to the merits of
17 the case. As we've done in the past, which I forgot to do
18 in an earlier continued case, I will make a motion to grant
19 the relief, and then we can discuss and ultimately vote yes
20 or no on that motion.

21 The Chair moves that we make the following
22 findings with regard to the variance being sought:

1 That a literal enforcement of the provisions of
2 the ordinance would involve a substantial hardship, such
3 hardship being is that this pool is no longer used in any
4 active form, and there is a better use of the space than a
5 pool that's just sitting there.

6 That the hardship is owing to the shape of the
7 structure.

8 And that the relief may be granted without
9 substantial detriment to the public good, or nullifying or
10 substantially derogating from the intent or purpose of this
11 ordinance. The relief would in fact create additional
12 occupant space -- or hotel occupancy space, which is always
13 desirable in the Harvard Square area. And again, there has
14 been no objection either from City officials or the public
15 to what is being sought.

16 So on the basis of all these findings, the Chair
17 moves that we grant the variance requested on the condition
18 that the work proceeds in accordance with drawings and plans
19 prepared by CambridgeSeven. They're dated October 20, 2021
20 and the cover page of which has been initialed by the Chair.

21 Brendan, how do you vote?

22 BRENDAN SULLIVAN: [Brendan Sullivan] I would

1 support the motion to grant the variance as requested.

2 CONSTANTINE ALEXANDER: Okay. Jim?

3 JIM MONTEVERDE: [Jim Monteverde] I vote in favor
4 of the variance.

5 CONSTANTINE ALEXANDER: Andrea?

6 ANDREA HICKEY: I vote in favor.

7 CONSTANTINE ALEXANDER: Laura?

8 LAURA WERNICK: I vote -- Laura Wernick voting in
9 favor.

10 CONSTANTINE ALEXANDER: And the Chair will vote in
11 favor -- votes in favor as well, making it unanimous.

12 [All vote YES]

13 CONSTANTINE ALEXANDER: Relief granted.

14 JAMES RAFFERTY: Thank you very much. Good
15 evening.

16 CONSTANTINE ALEXANDER: Thank you, Mr. Rafferty.

17 Now moving on to our regular agenda, a little bit late, but
18 moving on in any event.

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2 (7:14 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number No. 148452 -- 1350 Massachusetts Avenue.
8 Anyone here wishing to be heard on this matter?

9 DAN KLASNICK: Yes. Good evening, Mr. Chairman.
10 Dan Klasnick representing Verizon Wireless in its proposal
11 to modify the existing rooftop facility that's installed at
12 1350 Mass Ave.

13 Just by way of background, this is, as I said, an
14 existing facility approved by special permit and recently
15 modified. The building also contains the equipment of
16 another wireless service provider.

17 As in prior applications, I think what Verizon
18 Wireless is doing by proposing to modify an existing
19 facility is really use an approach that allows it to
20 increase and enhance its network performance while
21 maintaining a current location.

22 For this qualified 6409(a) eligible facilities

1 request, we did include all your special permit forms, a
2 detailed narrative, plans, photo simulations, and FCC
3 licenses in the narrative. We outlined compliance not only
4 with your ordinance requirements, but also the Standards of
5 6409.

6 We currently, as I said, operate a facility here
7 that consists of three different sectors of antennas mounted
8 to the existing building penthouses for a total of 15
9 antennas.

10 What we're proposing to do with this modification
11 is just remove three of the existing antennas; install three
12 new antennas. There will also be some reconfiguration and
13 repositioning of the antennas to accommodate the necessary
14 separation and network optimization.

15 We included, as I said photo simulations with four
16 separate views. And I think if the Board has had an
17 opportunity to review those, what it really illustrates is
18 that there won't be any physical visual change to the
19 facility. In fact, everything's going to be installed in
20 the same location on those penthouse walls.

21 And as I said, it's the modification that's really
22 an important part of Verizon Wireless's network. It will

1 improve voice and data reliability to the city of Cambridge
2 residents and businesses of course.

3 And I think it's really highly advantageous to
4 both communities. So we would just respectfully request
5 that this Board grant the requested special permit. Thank
6 you very much.

7 CONSTANTINE ALEXANDER: And I will say I did take
8 a look at the photo simulations. And I concur with your
9 characterization of them. I think the change is virtually
10 unnoticeable in terms of visual impact and the impact on the
11 Harvard Square area. But Brendan, any questions?

12 BRENDAN SULLIVAN: Brendan Sullivan, no questions.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: Jim Monteverde no questions.

15 CONSTANTINE ALEXANDER: Laura?

16 LAURA WERNICK: Laura Wernick no questions.

17 CONSTANTINE ALEXANDER: Andrea?

18 ANDREA HICKEY: Andrea Hickey no questions.

19 CONSTANTINE ALEXANDER: Okay. And the Chair has
20 already made his comments. So I think it's time for I'll
21 make a motion. The motion -- it'll be, it's long but
22 familiar to the petitioner's Counsel. Well, I've got to --

1 yeah, open it up to public comment. Let me -- I'm sorry, I
2 jumped the gun.

3 I'll now open the matter up to public comment.
4 Any members of the public who wish to speak should now click
5 the icon at the bottom of your Zoom screen that says, "Raise
6 hand."

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

10 [Pause]

11 CONSTANTINE ALEXANDER: Nope. No one wishes to
12 speak. So we're now ready to move into discussion of the
13 merits of the case. And as we've done before, I will make
14 the motion to grant the relief, and then we can discuss it
15 if necessary and take whatever votes are necessary.

16 So the Board -- the Chair moves that this Board
17 make the following findings:

18 That the requirements of the ordinance -- our
19 ordinance -- cannot be met unless we grant the relief being
20 sought.

21 That traffic generated or patterns of access or
22 egress resulting from what is proposed will not cause

1 congestion, hazard, or substantial change in established
2 neighborhood character.

3 As indicated, it has no impact on the business
4 that goes on in the building or on the city streets nearby,
5 and it certainly will not make a substantial change in the
6 established Harvard Square neighborhood.

7 That the continued operation of or development of
8 adjacent uses, as permitted in the zoning ordinance, will
9 not be adversely affected by what is proposed. Again, for
10 the reasons just expressed about the visual impact of the
11 changes that speaks well to why there will be no adverse
12 impact.

13 No nuisance or hazard will be created to the
14 detriment of the health, safety and/or welfare of the
15 occupant of the proposed use, or the citizens of the city.
16 And generally, what is being proposed will not impair the
17 integrity of the district or adjoining district, or
18 otherwise derogate from the intent and purpose of this
19 ordinance.

20 Indeed, I'm not sure anything can impair the
21 integrity of the Harvard Square district. But be that as it
22 may.

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

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

11 One, that the work proceed in accordance with the
12 plans submitted by the petitioner, and initialed by the
13 Chair, which I've done.

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

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

22 Four, that should the petitioner cease to utilize

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

6 And five, that the petitioner is in compliance
7 with and will continue to comply with in all respects, the
8 conditions imposed by this board with regard to previous
9 special permits granted to the petitioner with regard to the
10 site in question.

11 Continuing, in as much as the health effects of
12 the transmission of electromagnetic energy waves is a matter
13 of ongoing societal concern and scientific study, the
14 special permit is also subject to the following conditions:

15 a) That the petitioner shall file with the
16 Inspectional Services Department each report it files with
17 the federal authorities regarding electromagnetic energy
18 waves emissions emanating from all of the petitioner's
19 equipment on the site.

20 Each such report shall be filed with the
21 Inspectional Services Department no later than 10 business
22 days after the report has been filed with the federal

1 authorities.

2 Failure to timely file any such report with the
3 Inspectional Services Department shall ipso facto terminate
4 the special permit granted tonight.

5 b) That in the event that at any time federal
6 authorities notify the petitioner that its equipment on the
7 site, including but not limited to the special permit
8 granted tonight, fails to comply with the requirements of
9 law, or governmental regulations -- whether with regard to
10 the emissions of electromagnetic energy waves or otherwise -
11 - the petitioner, within 10 business days of receipt of such
12 notification of such failure, shall file with the
13 Inspectional Services Department a report disclosing in
14 reasonable detail that such failure has occurred, and the
15 basis for such claimed failure.

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

19 c) That to the extent that a special permit has
20 terminated, pursuant to the foregoing a) and b), the
21 petitioner may apply through this Board for a new special
22 permit, provided that the public notice concerning such

1 application discloses in reasonable detail that the
2 application has been filed because of a termination of the
3 special permit pursuant to a) and b).

4 Any such new application shall not be deemed a
5 repetitive petition, and therefore will not be subject to
6 the two-year period during which repetitive petitions may
7 not be filed.

8 d) That within 10 business days after the receipt
9 of a building permit for the installation of the equipment
10 subject to this petition, the petitioner shall file with the
11 Inspectional Services Department a sworn affidavit of the
12 person in charge of the installation of equipment by the
13 petitioner with a geographical area that includes Cambridge
14 stating that:

15 a) he or she has such responsibility, and

16 b) that the equipment being installed pursuant to
17 the special permit we are granting tonight will comply with
18 all federal safety rules, and will be situated and
19 maintained in locations with appropriate barricades and
20 other protections, such that individuals, including nearby
21 residents and occupants of nearby structures, will be
22 sufficiently protected from excessive radiofrequency

1 radiation under federal law.

2 That's the motion.

3 Brendan, how do you vote?

4 BRENDAN SULLIVAN: Yes, I would support the motion
5 to grant the special permit.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: I vote in favor of the special
8 permit.

9 CONSTANTINE ALEXANDER: Laura?

10 [Pause]

11 CONSTANTINE ALEXANDER: Laura?

12 LAURA WERNICK: I vote in favor. I vote in favor
13 of the special permit.

14 CONSTANTINE ALEXANDER: Thank you. And Andrea?

15 ANDREA HICKEY: Yes. [Andrea Hickey] I am voting
16 in favor of the application.

17 CONSTANTINE ALEXANDER: Okay. And the Chair votes
18 in favor as well.

19 [All vote YES]

20 CONSTANTINE ALEXANDER: So relief granted. Thank
21 you.

22 DAN KLASNICK: Thank you very much. Have a great

1 evening.

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2 (7:26 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number No. 141576. And we are in receipt of a letter
8 from Mr. Rafferty, Counsel for the petitioner, requesting a
9 continuance. Mr. Rafferty, anything you want to add to
10 that, or you have a date you want to continue the case to?

11 JAMES RAFFERTY: It's a -- I think it's a quite
12 manageable issue that arose. So as soon as the Board's
13 schedule would permit us to return, we would ask to be able
14 to do so.

15 CONSTANTINE ALEXANDER: I'm sorry, you have no
16 specific date? Whatever date works for us -- sooner rather
17 than later, obviously.

18 JAMES RAFFERTY: Yes, correct. Sooner rather than
19 later.

20 CONSTANTINE ALEXANDER: Okay. We can continue
21 this case until November 18, which is about two weeks from
22 now. Of course you're going to have -- as you know, we're

1 going to have to get a file -- a new posting sign up ASAP to
2 meet that date. Is that okay with you?

3 JAMES RAFFERTY: Yes. That would be done shortly
4 after the sun rises in the morning, if the Board were to
5 authorize that.

6 CONSTANTINE ALEXANDER: Okay. The Chair makes the
7 following motion: To continue this case until 6:00 p.m. on
8 November 18 as a case not heard, subject to the following
9 conditions:

10 One, that the petitioner sign a waiver of time for
11 decision, something which you're most very familiar with,
12 Mr. Rafferty, so that's -- you know, the drill on that. If
13 that waiver of -- that I referred to is not signed by a week
14 from today, right, by a week from Monday coming up, the case
15 will be further continued. So just make sure you sign the
16 waiver of time for decision.

17 Second, that the new posting sign or a modified
18 posting sign reflecting the new date and the new time must
19 be erected if it's not night and day maintained for the 14
20 days before November 18.

21 And lastly, to the extent that there are new or
22 plan, drawings, specifications or the like, they're not in

1 our files right now. They must be in our files no later
2 than 5:00 p.m. on the Monday prior to November 18.

3 Brendan, how do you vote?

4 BRENDAN SULLIVAN: Brendan Sullivan yes to the
5 continuance.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: Jim Monteverde yes for a
8 continuance.

9 CONSTANTINE ALEXANDER: Laura?

10 LAURA WERNICK: Laura Wernick yes for the
11 continuance.

12 CONSTANTINE ALEXANDER: Andrea?

13 ANDREA HICKEY: Andrea Hickey yes for the
14 continuance.

15 CONSTANTINE ALEXANDER: And the Chair votes yes as
16 well.

17 [All vote YES]

18 CONSTANTINE ALEXANDER: See you November 18.

19 JAMES RAFFERTY: Thank you very much.
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2 (7:29 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number No. 145092 -- 700 Huron Avenue, Unit 06G.

8 Anyone here wishing to be heard on this matter?

9 JAMES RAFFERTY: Good evening, Mr. Chair. James
10 Rafferty for the applicant. Like the prior case, we've also
11 filed a request for a continuance in this case.

12 CONSTANTINE ALEXANDER: Oh, okay. I wasn't aware
13 that you were going to make that request. All right. We'll
14 go through the same drill. The Chair moves that we continue
15 this case as a case not heard until 6:00 p.m. on December 16
16 -- we're all filled up for the November 18 -- subject to the
17 following conditions:

18 That the petitioner sign a waiver of time for
19 decision, the usual. And if that's not done by 5:00 p.m. on
20 a week from this coming Monday, the case will not be heard.

21 Second, that the new or modified posting sign must
22 be erected and maintained for the 14 days prior to December

1 16, reflecting the new date and the new time.

2 And lastly, to the extent that there are new or
3 revised plans, specifications, data or the like, if they're
4 not in our files right now, they must be in our files no
5 later than 5:00 p.m. on the Monday before December 16.

6 JAMES RAFFERTY: Understood. Mr. Chair, is it the
7 case that there would be no date available prior to December
8 16? I know November 18 you indicated was full.

9 CONSTANTINE ALEXANDER: No, that's the next date
10 on our -- I'm told anyway -- yeah, the next hearing after
11 the November 18 is December 16. We're only going to have
12 one hearing in the month of December.

13 JAMES RAFFERTY: Understood. Thank you.

14 CONSTANTINE ALEXANDER:

15 Brendan, how do you vote?

16 BRENDAN SULLIVAN: Brendan Sullivan yes to
17 granting the continuance.

18 CONSTANTINE ALEXANDER: Jim?

19 JIM MONTEVERDE: Jim Monteverde yes to granting
20 the continuance.

21 CONSTANTINE ALEXANDER: Andrea?

22 ANDREA HICKEY: Andrea Hickey yes in favor of

1 granting the continuance.

2 CONSTANTINE ALEXANDER: Laura?

3 LAURA WERNICK: Laura Wernick yes in favor of
4 granting the continuance.

5 CONSTANTINE ALEXANDER: The Chair votes yes as
6 well.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: So the case is continued
9 until the December 16.

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2 (7:31 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call
7 Case Number No. 1457977 -- 600 Main Street. I will not be
8 sitting on this case; Mr. Sullivan will chair this case. So
9 anyone here wishing to be heard on this matter?

10 JAMES RAFFERTY: Good evening, Mr. Chair, Mr. Vice
11 Chair. James Rafferty on behalf of the applicant. Also
12 present this evening as part of our presentation is James
13 Koningisor -- K-o-n-i-n-g-i-s-o-r. He's the Project Manager
14 on this project.

15 And from the architectural firm of Payette, our
16 Architect Stuart Bauer, B-a-u-e-r; Michael Hinchcliffe,
17 Hinch-- H-i-n-c-h-l-i-f-f-e and Kevin Sullivan. All three
18 of these architects worked for more than a year on the
19 design of this building.

20 This is an application for a variance, and I would
21 say it's a rather unique case, with a bit of a history and
22 background I'd like to share with the Board. The building

1 itself, if it's possible to go to the images that we
2 provided earlier to the Olivia, it would help the Board
3 understand. I want to quickly familiarize the Board.

4 This is the corner of Main Street and Portland
5 Street across from Tech Square on the edge of Kendall
6 Square. This building that you see before you underwent
7 months and months of scrutiny and collaboration with the
8 Community Development and the larger neighborhood community
9 that resulted --

10 Could we just see a couple of more images? We
11 might be able to -- it received a Planning Board special
12 permit.

13 And I included in our application some of the
14 exuberant comments that were expressed by the Planning Board
15 over the unique nature of this design. The case is -- the
16 issue that's before this Board is depicted in this site
17 plan.

18 And the issue comes down to that as the building
19 was going through the design process and the permitting
20 process, the applicant was encouraged to see how the
21 building might best comply with the Urban Design Guidelines
22 in the City Zoning Ordinance to create active uses.

1 BRENDAN SULLIVAN: Mr. Rafferty, let me just
2 interject here for a minute.

3 JAMES RAFFERTY: Sure.

4 BRENDAN SULLIVAN: There was only four members
5 sitting on this particular case that -- and as such, you
6 would need four affirmative votes. So it's your option or
7 to continue it until we have a five-member Board. Mr.
8 Alexander has recused himself from this case.

9 So I'm sorry, I should have interjected before you
10 even started it. So just to throw that out there; if there
11 are only four members sitting on this, just so you're aware
12 of the necessity to get all four votes, or the option to
13 continue this for a five-member Board.

14 JAMES RAFFERTY: Right. And thank you for
15 pointing that out. And I will let -- my client is on the
16 call, I believe. There are such time pressures associated
17 with this project that I think they would be prepared to
18 move forward. But might I be permitted just a second to see
19 if anyone on the -- is --

20 BRENDAN SULLIVAN: Absolutely, yep.

21 JAMES RAFFERTY: -- if Mr. Koningisor feels
22 differently, we could request to hold this case, and we

1 could have a private conversation and return.

2 BRENDAN SULLIVAN: Sure, yep.

3 JAMES RAFFERTY: But I think -- I'm receiving a
4 text that the applicant is comfortable deferring to my
5 counsel. So with that weight on my shoulders, I'm going to
6 recommend that we proceed, understanding the requirement
7 that imposes on us that all four members hearing the case
8 would have to vote in the affirmative.

9 BRENDAN SULLIVAN: That's fine. Okay.

10 JAMES RAFFERTY: Thank you.

11 BRENDAN SULLIVAN: You can go ahead and complete
12 your sentence or your paragraph.

13 JAMES RAFFERTY: Thank you. I'll do my best to
14 keep it brief. But as I was indicating, the design of the
15 building emerged over many months of collaboration. And one
16 of the focus points was how can this building become more
17 engaged with street life.

18 Can it have an active use in it? Well, it's a
19 very unique building, but it's not simply a unique building;
20 it's a very unique use that occurs in this building. The
21 Ragon Institute is a non-profit research -- scientific
22 research center devoted to curing diseases, particularly

1 affecting the immune system. It is funded entirely by
2 philanthropy.

3 The philanthropy provided here is for two
4 Cambridge residents -- Terry and Susan Ragon. They have
5 operated the Ragon Institute has operated across the street
6 in Tech Square for nearly a decade.

7 This, after many years of effort -- this will
8 represent the home to the Ragon Institute; a new home, where
9 they can expand their research. They are the leading
10 research institute related to the HIV vaccine, and their
11 input has been global throughout Africa and other parts of
12 the world.

13 Similarly, they have taken a lead position in
14 COVID-19 research. It is a -- it is a very unique
15 institution. It is a collaboration between MIT and
16 Massachusetts General Hospital. And all the researchers and
17 all the activity and the construction here is funded by
18 philanthropy.

19 As I was noting, as the building was going through
20 the development and permitting process, it became clear that
21 because the space was in such demand with the building,
22 there really wasn't an opportunity to have active ground-

1 floor uses that would -- typically might get a building like
2 this to be deferred, such as across the street where there's
3 ground-floor retail.

4 The design conclusion, with the encouragement of
5 the Design Staff at Community Development was to create
6 areas on the site that would be open and publicly
7 accessible.

8 So there are three such areas in the three corners
9 of the site. Here is one image as you're looking down in
10 the area along Main Street at the corner of Portland. This
11 building -- this portion of the building overhangs that
12 area.

13 There are two other images that show these
14 overhangs -- cantilevered sections of the building, if you
15 will. And these sections are referenced extensively in the
16 Planning Board decision. And they are required to be
17 publicly accessible. And they will be publicly accessible.

18 The other image that we could go to probably shows
19 what's envisioned under this. This is the corner as the --
20 along Main Street at Albany Street. This area is also
21 underneath the building. And it's open. It's partially
22 shaded, and the rest is open to the sky.

1 And the idea here is to have a series of active
2 uses. There was much discussion, both with the Board -- the
3 Planning Board -- and with neighborhood groups about
4 creating activities that would make the public feel welcome
5 and encourage them to occupy the space.

6 The entire design was well-received. The Planning
7 Board granted the special permit and the project was on its
8 way.

9 As the project wound its way through the building
10 permit process, it was discovered that these portions for
11 the overhang of the building is occurring. Outside the
12 building required to be publicly accessible, it was -- the
13 applicant was informed that the interpretation under Section
14 2 of the ordinance regarding the Definition of Gross Floor
15 Area -- that this was interpreted to fall under the category
16 that includes roof, porches and balconies.

17 And candidly, that was not -- that was not fully
18 appreciated by the applicant at the time. The result is
19 that these covered areas -- these three areas that are
20 publicly accessible, and for which activities would be
21 provided for the entire neighborhood -- not just during
22 business hours but evenings and weekends as well --

1 approximates about 15,000 square feet. And it is square
2 footage that exceeds what the allowed FAR is. It's a -- it
3 is a significant problem. It's a significant design
4 challenge.

5 The applicant returned to the Planning Board and
6 asked that they provide some commentary to the Board -- this
7 Board -- as to the appropriateness of this variance, because
8 we're mindful of the standards associated with the variance,
9 and the fact that the amount of square footage here is not
10 insignificant.

11 So I would hope that the Board has had a chance to
12 read the recommendation of the Planning Board. As they say
13 in their recommendation, they very strongly support the
14 request. And they provide an account of what took place
15 here.

16 I think it's also worth noting that there's a very
17 supportive letter from Councillor Denise Simmons, who was
18 actively involved in the community participation, the
19 community collaboration here, particularly with the
20 residents of Newtowne Court and Washington Elms.

21 This project is going to have a day care facility.
22 And early on, they were asked whether they would set aside

1 spaces for area residents -- particularly residents of
2 Newtowne Court and Washington Elms.

3 This, in my experience, is something
4 unprecedented. This is not a zoning change. These are not
5 the type of community benefits that are typically asked of
6 applicants in special permit cases. But it was very
7 consistent with what the Ragon Institute's mission is.

8 They already have an education program. They have
9 internships and programs with high school students, both in
10 Cambridge and in Greater Boston. So engaging with the
11 community was something they were eager to do.

12 I offer you all of this merely as a way to explain
13 that this is a very unique situation. But this hardship is
14 related to the unique aspect of the lot. The lot has
15 frontages on three streets; it's triangular. And those
16 three streets are all active public ways, or they will be as
17 a result of this building.

18 So to create that type of activity to maintain a
19 consistency with the goals and objective of the city's Urban
20 Design Guidelines, this building reached an accommodation.
21 And it's regrettable that in doing so, now the square
22 footage of this area is treated as GFA.

1 I would share with the Board an observation
2 provided by one of the Planning Board members in reviewing
3 this case a few weeks ago in preparing this opinion... Mr.
4 Sieniewicz served for many years on the Zoning Board and has
5 been long-time member of the Planning Board. He offered
6 some context to his fellow Planning Board members explaining
7 why it is that such an interpretation of roof porches would
8 apply to a situation such as this.

9 His explanation was that the origins of this
10 interpretation had more to do with the fact that roof
11 porches and areas like that can later be enclosed without
12 getting a GFA variance. So the interpretation has been to
13 avoid such enclosures.

14 In this case, he pointed out, there could never be
15 an enclosure of this space -- first of all, because the
16 design of the building is a condition of the special permit
17 in the same way this Board conditions zoning relief to the
18 set of plans.

19 But even more significantly, a condition and
20 requirement that these areas under the overhang must be
21 publicly accessible and have signage to that effect.

22 So it's for that reason I would suggest the

1 Planning Board was as enthusiastic as they were in their
2 recommendation. The architects could go on at great length
3 about the building and its contribution to the city. Mr.
4 Koningisor could go on at even greater length about what
5 the Ragon Institute means not only to this city, but to the
6 much larger community.

7 It was noted during the hearing process that it's
8 fortunate that Cambridge is going to be the home of this
9 world-class institution, and that we are the beneficiaries
10 of an enlightened benefactor, who has hired a very
11 experienced design team and created a building that is being
12 recognized as truly outstanding.

13 With all of that in mind, we would suggest that
14 there are unique, sufficient circumstances related to the
15 shape of the lot, it's excessive amount of street frontage,
16 and the desire to comply with the city's Urban Design
17 guidelines, that granting this variance would be appropriate
18 and consistent the intent of the ordinance.

19 I would be happy to provide any additional
20 information, but at this point I would make simply -- await
21 your comments.

22 BRENDAN SULLIVAN: Any members of the Board,

1 Laura, any questions or comments at this point?

2 [Pause]

3 BRENDAN SULLIVAN: Laura?

4 JIM MONTEVERDE: She's on mute.

5 LAURA WERNICK: Sorry. I thought it was a very
6 clear presentation. Thank you.

7 BRENDAN SULLIVAN: Andrea, any comments or
8 questions at this point?

9 ANDREA HICKEY: No. I have nothing at the moment.
10 Thank you, Mr. Chair, Vice-Chair.

11 BRENDAN SULLIVAN: Jim?

12 JIM MONTEVERDE: Jim Monteverde no questions,
13 thank you.

14 BRENDAN SULLIVAN: Let me open it, then -- and I
15 have no questions. Let me open it to public comment. Any
16 member of the public who wishes to speak should now click
17 the button that says "Participants" and then click the
18 button that says, "Raise hand."

19 If you are calling in by phone, you can raise your
20 hand by pressing *9 and unmute or mute by pressing *6.

21 We'll wait a few minutes to see if anybody calls in, and
22 we'll give you up to three minutes to make comments.

1 OLIVIA RATAY: Phone number ending in 8311?

2 BRENDAN SULLIVAN: 8311, you're on.

3 HEATHER HOFFMAN: Hello. Heather Hoffman, 213

4 Hurley Street. And I would like to speak about the legal

5 aspect of this, because I believe that I am the reason for

6 this interpretation of the zoning ordinance, and I think it

7 has gone way too far.

8 So in --

9 BRENDAN SULLIVAN: You started it, is that what
10 you're saying, Heather, you started it?

11 HEATHER HOFFMAN: What? I believe I did.

12 BRENDAN SULLIVAN: Okay. Sorry.

13 HEATHER HOFFMAN: And I will explain the case that
14 -- where I brought it up, and it seemed to me at the time,
15 since it was at the very beginning of my becoming a pain in
16 everyone's neck that I did this.

17 I was opposing a variance, and part of the
18 building under consideration had stacked porches. And,
19 well, stacked -- like, porch-sized balconies, shall we say.
20 They have walls around them, and they aren't just cute
21 little things that you can stick your toenail out on before
22 you hit the wall.

1 And so I was looking through the zoning ordinance,
2 and I thought that this looked to me like a roofed porch.
3 And they were not counting the square footage. And since
4 the requested variance had to do with quite a large increase
5 in FAR over what the law permitted, I brought this up.

6 And in fact, Mr. Sieniewicz was the Chair of the
7 BZA at the time. I believe that Mr. Sullivan was sitting on
8 the panel; that this had to do with the development across
9 the street from me.

10 And so I think that what I was talking about at
11 the time does seem to fit into the idea of roofed porches
12 and balconies. But it seems to me that it has now become
13 interpreted to mean if you have a roof, anything under it
14 counts. And I do not think that that is reasonably within
15 the concept of roofed porches and balconies.

16 I would also add that when Mr. Sieniewicz at the -
17 - actually, I think it may have been Ted Cohen at the
18 Planning Board meeting, who brought up the question of
19 whether you could enclose this? And I think that people are
20 putting the cart before the horse in how they're thinking
21 about it.

22 If you enclose it, it's very clearly GFA. I don't

1 think anyone would question that. However, if it isn't
2 counted as GFA to start with, then enclosing it will add to
3 your GFA, and you'll have to deal with the consequences of
4 that.

5 So what I think is that this Board could
6 reconsider the galloping craziness of how this provision has
7 been interpreted, and draw what it might consider a better
8 line at how far it should go, and not lose any control over
9 things that are perfectly reasonable to care about.

10 So I would suggest that the Board rule that this
11 does not constitute gross floor area, and it is not a roofed
12 porch or balcony.

13 And then I think everybody will go away happy, and
14 we will lose some of the architectural problems that people
15 are running into when they're trying to do something
16 perfectly reasonable that they would not reasonably consider
17 gross floor area, and probably no other municipality in the
18 Commonwealth considers gross floor area. So thank you.

19 BRENDAN SULLIVAN: Thank you, Heather, for calling
20 in. Any other calls?

21 [Pause]

22 BRENDAN SULLIVAN: There are no other calls coming

1 in. I will close public comment at this time. The Board is
2 in receipt of correspondence from Councillor E. Denise
3 Simmons.

4 She writes, "I wish to express my enthusiastic
5 support for the variance application being sought by the
6 Ragon Institute for their new research facility at 600 Main
7 Street." It goes on to describe their contribution in the
8 fight against HIV and other diseases that attack the body's
9 immune system.

10 She has watched very closely as this building went
11 through a public permitting process. The Ragon Institute
12 met with a wide range of neighborhood groups and pledged to
13 become an active community participant.

14 It is worthy to note that the area on the site for
15 which this variance is being sought will provide publicly
16 beneficial open space, and as noted by the Planning Board,
17 is a significant component of the building's impressive
18 design submitted by E. Denise Simmons.

19 Correspondence from the Planning Board: Planning
20 Board dated October 20. On October 19, 2021, the Planning
21 Board discussed the above-referenced Board of Zoning Appeal
22 case seeking an increase to the approved gross floor area

1 and floor area ratio of the Ragon Institute project at 600
2 Main Street.

3 The Board voted to forward a favorable
4 recommendation on this variance request. The Planning Board
5 very strongly supports the request. The Planning Board
6 thoroughly reviewed and granted a special permit -- Planning
7 Board #375 for this building -- following community
8 engagement efforts and a rigorous, iterative design process
9 that resulted in the present design -- publicly accessible
10 open space area, beneath the cantilevered portion of the
11 building are a key design and component of the project.

12 And the Planning Board pushed the applicant to
13 consult with the community, and to enhance the overall
14 design and accessibility of the site.

15 These cantilevered areas serve a dual purpose of
16 increasing the quality of the open space provided around the
17 building and offering shaded area for the public during
18 warmer weather.

19 Because the applicant has committed to making
20 these open spaces publicly accessible, and the conditions of
21 the Planning Board special permit require ongoing
22 accessibility by the public, the granting of this request

1 will not result in any future enclosure of the area that
2 would increase the building size or reduce building --
3 sorry, the open space.

4 Sum and substance of any comments and
5 correspondence. Mr. Rafferty, anything else before I turn
6 it back to the Board at all?

7 JAMES RAFFERTY: No, thank you. I think we've
8 covered it, unless there are questions of us.

9 BRENDAN SULLIVAN: Okay. I guess my only comment
10 is that I think Heather's point is probably well-taken if,
11 Heather, this were an appeal of a decision from the
12 Commissioner that they were subject to Article 2.5(a) under
13 the roof, porches and balconies.

14 However, they have decided not to appeal that
15 decision and so procedurally we could voice our opinion on
16 that fact. However, the issue before us is the request for
17 a variance, which the petitioner has pursued.

18 Jim, any comments at all? Or --

19 JIM MONTEVERDE: No, sir. [Jim Monteverde]

20 BRENDAN SULLIVAN: Andrea, any comments for a
21 motion?

22 ANDREA HICKEY: No, thank you.

1 BRENDAN SULLIVAN: Laura?

2 LAURA WERNICK: No. I have no comments, thanks.

3 BRENDAN SULLIVAN: Let me make a motion. The
4 Board grants -- let me make a motion to grant the relief
5 requested to increase the allowable gross floor area at --
6 the application at 600-624 Main Street.

7 The Board finds that a literal enforcement of the
8 provisions of the ordinance would involve a substantial
9 hardship to the petitioner, because it would preclude the
10 petitioner from providing covered area beneath the building
11 overhang that will create a unique, publicly accessible open
12 space amenity that will benefit surrounding residents and
13 works.

14 The Board finds that the hardship is owing to the
15 irregular triangular shape of the site, all sides fronting
16 on a public way.

17 The building design had extensive community input
18 and comments from the Community Development Department as
19 well as the Planning Board enthusiastically supports the
20 request for the variance.

21 The Board finds that desirable relief may be
22 granted without either a substantial detriment to the public

1 good -- as a matter of fact, the Board finds that the
2 granting of the variance will allow for the creation of
3 publicly accessible plazas, courtyards and landscaped areas.

4 And that none of the additional square footage
5 being requested contained in this variance application will
6 be located within the interior of the building, nor result
7 in any increase in the size of the building.

8 The Board finds that desirable relief may be
9 granted without substantial detriment to the public good, or
10 nullifying or substantially derogating from the intent and
11 purpose of the ordinance.

12 The Board finds that the requested relief is
13 consistent with the citywide Urban Design Objective as set
14 forth in Article 19.30 and recognized by the Planning Board
15 in a special permit decision as -- and I quote, "sensitively
16 designed to better meet the existing neighborhood context."

17 Similarly, the Planning Board decision notes that
18 the proposed project incorporates a significant open space
19 along the Main Street frontage, which will be 100 percent
20 publicly accessible and contain passive recreational areas,
21 natural features and opportunities for popup programming,
22 small-scale events and display of public artwork.

1 Moreover, the building overhang extends more than
2 20 feet high above the publicly accessible open space, and
3 are only included in the gross floor area of the building
4 based on the interpretation of gross floor area as in the
5 definition under Section 2, and includes roofs, porches and
6 balconies.

7 On the motion, then, to grant the variance, Jim
8 Monteverde?

9 JIM MONTEVERDE: Jim Monteverde votes in favor of
10 the variance.

11 BRENDAN SULLIVAN: Andrea Hickey?

12 ANDREA HICKEY: Andrea Hickey yes in favor of the
13 variance.

14 BRENDAN SULLIVAN: Laura?

15 LAURA WERNICK: Laura Wernick yes in favor of the
16 variance.

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

19 [All vote YES]

20 JAMES RAFFERTY: Thank you very much.

21 BRENDAN SULLIVAN: Granted, this variance.

22 JAMES RAFFERTY: Thank you. Have a good evening.

1 Thank you for your time.

2 CONSTANTINE ALEXANDER: Thank you, Brendan.

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2 (7:59 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call Case
7 Number No. 144641 -- 4 Wyman Road. Anyone here wishing to
8 be heard on this matter?

9 [Pause]

10 CONSTANTINE ALEXANDER: I guess so.

11 KATIE FLYNN: Hi. I'm Katie Flynn. I am here
12 with my partner, Dan Hisel. We're architects speaking on
13 behalf of Liza Oliver and Josh Resnick at 4 Wyman Road in
14 Cambridge.

15 CONSTANTINE ALEXANDER: Okay.

16 KATIE FLYNN: Thanks. We're here seeking relief
17 on two components associated with an already permitted by
18 right renovation of their home. If Olivia could pull up the
19 site plan that we submitted, I can orient you.

20 [Pause]

21 KATIE FLYNN: Thanks. 4 Wyman Road is a
22 triangular lot along Huron Ave and Wyman Road. And that

1 presents front yard setbacks on two sides.

2 And we're renovating the existing home, which is
3 an existing nonconforming structure. And the bulk of the
4 renovations, as I said, are by right and already permitted
5 and in fact under construction.

6 But we're hoping to amend the permit application
7 with two relatively modest components. One is a small
8 landing at the kitchen door, and that's on the right-hand
9 side of the property, the proposed stoop and steps.

10 And the other is a roof overhang at the front
11 door; a three-foot deep roof overhang at the front door.

12 If you can please go down to the plan, if that
13 will zoom in to the areas of interest?

14 And these really -- the kitchen landing is just to
15 provide direct access from the kitchen to the kind of most
16 substantial area of the garden. And the front roof overhang
17 is to provide weather protection at the front door.

18 If you go down, please, we can see the footprint
19 of the overhang there. And then down again to the
20 elevation.

21 We can see the overhang at the front door and the
22 stoop at the kitchen door on the right-hand side. The stoop

1 is 18 inches off the ground. The landing is three feet
2 deep. And there are two steps. So the whole assembly is
3 five feet and as wide as the door, 12.5 feet.

4 We've tried to make both of these components
5 really just as modest as can possibly be to achieve the
6 desired functionality. So if you go down one more time, we
7 can see, again, the other side of the kitchen deck and the
8 front overhang.

9 We have renderings of the exterior of the house.
10 So that's the front canopy. And then the -- if you swing
11 around to the side, the next slide, please? You can see the
12 small stoop, the steps to the kitchen.

13 This portion of the yard is fenced in. So this
14 kitchen landing won't be visible from a public way. It's
15 behind a six-foot-tall fence, an existing fence.

16 You can go down again.

17 These are existing photographs of the house and
18 pictures -- the renovation and the second-floor additions
19 that are already permitted haven't happened yet; they're
20 underway. But this just gives you a sense for the context.

21 We can keep going down. I can be very brief; we
22 can just kind of scroll through the pictures to see what

1 you'll see from the street. That's the front of the house.

2 This is -- the next slide is inside the garden,
3 looking at where the kitchen door will be, and where we're
4 hoping to put the landing.

5 Uh-huh, down again.

6 This is the view from the corner of Huron Ave and
7 Wyman Road. This is the back of the house, and the kind of
8 low volume; that's where the kitchen landing will be.

9 Down again?

10 Another interesting aspect of this site is that
11 there's a pedestrian kind of island adjoining the parcel.
12 So that kind of pinches the actual property line into a
13 pretty tight corner of this intersection.

14 And that's what's causing our setback troubles.
15 And that's that. Perhaps we can land on the site plan as a
16 place to field any questions. We've received two letters of
17 support from the neighbors across the street who are in
18 favor of these components.

19 CONSTANTINE ALEXANDER: Thank you. Thank you for
20 your concise presentation, and your reference to the --
21 there are two letters of support in our files with regard to
22 the relief being sought. Brendan, any questions you have?

1 BRENDAN SULLIVAN: No. No questions at this time.

2 CONSTANTINE ALEXANDER: Jim?

3 JIM MONTEVERDE: Jim Monteverde no questions,
4 thank you.

5 CONSTANTINE ALEXANDER: Andrea?

6 ANDREA HICKEY: I have no questions, thank you.

7 CONSTANTINE ALEXANDER: Laura?

8 LAURA WERNICK: Just out of curiosity --

9 KATIE FLYNN: Sure.

10 LAURA WERNICK: How come the stairs from the
11 kitchen were not part of the original permitting process?

12 KATIE FLYNN: Oh, you know, they were. It was a
13 gray area to us if that was a by right element or not?

14 LAURA WERNICK: Okay.

15 KATIE FLYNN: It's very low to the ground, and so
16 our interpretation was that it was below the 30-inch
17 threshold for an uncovered deck that can encroach on a
18 setback area.

19 But my understanding is that because that
20 particular side of the house is already nonconforming, that
21 that complicates the interpretation of the orientation.

22 LAURA WERNICK: Okay, thank you. That's very

1 helpful.

2 CONSTANTINE ALEXANDER: Thank you. I have no
3 questions at this point. I'll open the matter up to public
4 testimony. Any members of the public who wish to speak
5 should now click the icon at the bottom of your Zoom screen
6 that says, "Raise hand."

7 If you're calling in by phone, you can raise your
8 hand by pressing *9 and unmute or mute by pressing *6. If
9 you're calling in by phone, you can raise your hand by
10 pressing *9 and unmute or mute by pressing *6.

11 I'll take a moment to see if anyone wishes to
12 speak.

13 [Pause]

14 CONSTANTINE ALEXANDER: No. Apparently, there's
15 no one that has indicated a desire to speak, so I will close
16 public testimony. And as is our practice, I will make a
17 motion to grant the relief, and then we can discuss that
18 motion and go up or down or modify it as the Board desires.

19 So the Chair moves that we make the following
20 findings with regard to the special permit that's being
21 sought:

22 That the requirements of the ordinance cannot be

1 met without the special permit.

2 That traffic generated or patterns of access or
3 egress resulting from the relief being sought would not
4 cause congestion, hazard, or substantial change in
5 established neighborhood character.

6 And that the nature of what is being proposed and
7 the plans that are being submitted I think demonstrate that
8 there is no resulting congestion, hazard or substantial
9 change in established neighborhood character.

10 That the continued operation of or development of
11 adjacent uses, as permitted in our ordinance, will not be
12 adversely affected by what is proposed.

13 And in this regard, we have two letters of
14 support, so they demonstrate this neighborhood relief. No
15 letters of opposition or adverse public comment that
16 demonstrate I think that this criteria for a special permit
17 is being satisfied.

18 No nuisance or hazard will be created to the
19 detriment of the health, safety and/or welfare of the
20 occupant of the proposed use, or the citizens of the city.
21 And again, the nature of what is being proposed I think
22 amply demonstrate that this is so.

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

5 So on the basis of all these findings, the Chair
6 moves that we grant the special permit requested on the
7 condition that the work proceed in accordance with plans
8 prepared by -- the print is small -- prepared by Hise, H-i-
9 s-e Flynn Architects, dated -- well the final BZA
10 application date is September 9, 2021.

11 Brendan, how do you vote?

12 BRENDAN SULLIVAN: Yes to granting the special
13 permit.

14 CONSTANTINE ALEXANDER: Jim?

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

17 CONSTANTINE ALEXANDER: Andrea?

18 ANDREA HICKEY: Andrea Hickey yes in favor of
19 granting the special permit.

20 LAURA WERNICK: Laura.

21 CONSTANTINE ALEXANDER: Laura?

22 LAURA WERNICK: Laura Wernick yes. Laura Wernick

1 in favor of granting the special permit.

2 CONSTANTINE ALEXANDER: Okay. And the Chair votes
3 yes as well.

4 [All vote YES]

5 CONSTANTINE ALEXANDER: Special permit granted.
6 Good luck.

7 KATIE FLYNN: Thank you very much for your time.

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(8:09 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Laura Wernick, and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now call
Case Number No. 147193 -- 24 Locke Street. Anyone here
wishing to be heard on this matter?

[Pause]

CONSTANTINE ALEXANDER: Anyone out there?

MATTHEW JESSI: Good evening, Mr. Chair and
members of the Board. Can you hear me okay?

CONSTANTINE ALEXANDER: I'm sorry. I'm having
trouble understanding you.

MATTHEW JESSI: Can you hear me?

CONSTANTINE ALEXANDER: We can hear you.

MATTHEW JESSI: Oh, awesome. Great. So good
evening, Mr. Chair and members of the Board. Thank you for
taking the time to hear our request. I'm Matt Jessi, I'm
the Architect.

And before we get into the items requesting
relief, I'd like to quickly turn it over to the homeowner,

1 Rackham, to introduce himself and just kind of give you a
2 general idea of why they're trying to take on this project.

3 RACKHAM KARLSSON: Good evening. Thank you for
4 your time tonight. Adria, you want to go ahead?

5 ADRIA KARLSSON: Yeah, sure. We are requesting to
6 be able to do this project mostly because we've lived in
7 Cambridge for a really long time. I moved here in 2006. I
8 met my husband here. We had five kids here, and we don't
9 ever want to really live.

10 But finding enough space in our household, which
11 have been growing -- seven people, five of whom will keep
12 getting bigger is an ongoing challenge. I mean, we're
13 hoping this will resolve that.

14 RACKHAM KARLSSON: So yeah, if I can add to that,
15 I've lived in Cambridge for 13 years now. Fell in love with
16 Cambridge the day I stepped foot in the town. Adria has
17 been here for 15 years. All of our kids have grown up,
18 spent their entire lives in Cambridge.

19 ADRIA KARLSSON: Yeah. It's our community. It's
20 all our families. It's the people we went to day care with
21 and raised our kids with, and we just don't want to leave.

22 RACKHAM KARLSSON: Yeah.

1 ADRIA KARLSSON: We want to be embedded in this
2 community for as long as possible.

3 RACKHAM KARLSSON: We have looked at alternatives.
4 But, you know, that would mean being farther away from
5 friends and colleagues and all of the stuff that enriches
6 our life and enriches our children's lives.

7 So we are hoping that by being able to expand the
8 children's living space a little bit that we can continue
9 living here and being part of this wonderful community.

10 I do want to note that we were considering a
11 smaller version of this project last year. We spoke with
12 some neighbors and chose to not even apply for it, based on
13 the circumstances. It would have been too disruptive;
14 everybody having their kids home, working from home. But
15 for this year, I went around, I spoke with the neighbors.

16 The signed statement, a number of them signed a
17 statement in favor. Nobody expressed any misgivings about
18 it. And it is on the record -- I believe the last page of
19 the .PDF of file.

20 CONSTANTINE ALEXANDER: Okay. And we are in
21 receipt --

22 RACKHAM KARLSSON: That's it from us.

1 ADRIA KARLSSON: -- in our files of a petition in
2 support of what you're seeking from six different neighbors.
3 So I want to make sure --

4 RACKHAM KARLSSON: Sure, thank you.

5 MATTHEW JESSI: Thank you guys. So based on our
6 design, we're trying to fit a bathroom and a bedroom on the
7 third floor. So we're requesting relief for three reasons,
8 in order to maximize the efficiency of this space and to
9 make it work for the growing family.

10 So the first one is we're extending the third-
11 floor nonconforming dormer wall that falls within the side
12 back, the side yard setbacks. So this is already a
13 nonconforming dormer. And it's -- the dormer extension is
14 not making the existing condition worse.

15 The second issue is the addition of this dormer is
16 going to increase the nonconforming FAR. So we're in a B
17 zone, which they allow 0.5 FAR. So we're going to be going
18 from a 0.62 to a 0.66. So it's a 0.04 increase. And this
19 will give us an additional 165 square feet in order to fit
20 this bedroom and the bathroom on the third floor.

21 And then the final issue is the addition of the
22 dormer is increasing the already nonconforming total dormer

1 length on the back, if you can see on this image here.

2 To the left is the existing condition and to the
3 right is the proposed addition to get this bedroom and
4 bathroom in there. So we really needed all of this space in
5 this area in order to make the program space required by the
6 owners to stay in this house work for them.

7 CONSTANTINE ALEXANDER: Thank you. I would point
8 out that the relief being sought here is being sought
9 pursuant to Section 8.22.2.d of our ordinance. That is a
10 relatively recent change to our zoning ordinance. It is
11 occasioned by a Supreme Judicial Court decision, which talks
12 about modifications to nonconforming structure when there is
13 no new nonconformance being created.

14 And under that Section 8 -- I haven't got the name
15 here -- 8.22.24(d), we only have to make one finding to
16 grant the special permit. And that finding is that what is
17 being proposed is not more detrimental than the existing
18 structure to the neighborhood. That's what's before us
19 tonight.

20 And we do have letters of support from the
21 neighborhood, which would suggest that that requirement's
22 been satisfied.

1 But I will open the matter up to -- well, I'm
2 going to open the matter up to public testimony first. Any
3 members of the public who wish to speak should now click the
4 icon at the bottom of your Zoom screen that says, "Raise
5 hand."

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

9 [Pause]

10 CONSTANTINE ALEXANDER: Apparently not. So we can
11 close public testimony. The Chair will make a motion, and
12 then we'll discuss that and then take our vote. The Chair
13 moves that we grant the special permit being sought on the
14 grounds that what is being proposed is not more detrimental
15 than the existing structure to the neighborhood.

16 In support of that, there is the neighborhood
17 support, there's no opposition. And I think just the facts
18 of the nature of what is being proposed.

19 So on the basis of all of this finding, the Chair
20 moves that we grant the special permit on the condition that
21 the work proceed in accordance with voluminous plans
22 prepared by Morse Constructions -- I don't know if I have a

1 date on here? Yes, we do. No, there's no date. Yes, we
2 do.

3 LAURA WERNICK: 07/06/21.

4 JIM MONTEVERDE: Yeah.

5 CONSTANTINE ALEXANDER: I just got it. Thank you,
6 Laura; 07/06/21.

7 Brendan, how do you vote?

8 BRENDAN SULLIVAN: Yeah, I would support the
9 special permit. Actually, I think it's a very novel and a
10 very attractive design and transformation of the front of
11 that house, and will obviously add much needed interior
12 space, and I sort of like the design.

13 So yes, I would support the granting of the
14 special permit.

15 CONSTANTINE ALEXANDER: Thank you. Jim?

16 JIM MONTEVERDE: Jim Monteverde I would support
17 the special permit.

18 CONSTANTINE ALEXANDER: Laura?

19 LAURA WERNICK: I support the special permit as
20 well, but I don't think it's fair to have two kids looking
21 through the Zoom screen at us putting pressure on us.

22 COLLECTIVE: [Laughter]

1 CONSTANTINE ALEXANDER: Okay. And Andrea?

2 ANDREA HICKEY: Yes. Andrea Hickey yes in favor
3 of the petition.

4 CONSTANTINE ALEXANDER: The Chairman votes in
5 favor as well, so the relief is granted.

6 [All vote YES]

7 CONSTANTINE ALEXANDER: Thank you. Good luck!

8 RACKHAM KARLSSON: Thank you.

9 CONSTANTINE ALEXANDER: And send your kids to bed
10 now, too.

11 RACKHAM KARLSSON: Thank you so much, yes.

12 ADRIA KARLSSON: Thank you.

13 CONSTANTINE ALEXANDER: You'll do anything to
14 appeal to our soft spots in our heart.

15 RACKHAM KARLSSON and ADRIA KARLSSON: [Laughter]
16 Sorry about that.

17 CONSTANTINE ALEXANDER: Thank you.

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2 (8:18 p.m.)

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

6 CONSTANTINE ALEXANDER: The Chair will now call Case Number
7 No. 143405 -- 6 Porter Circle. Anyone here wishing to be
8 heard on this matter?

9 SCOTT VAUGHN: Good evening, Mr. Chair. This is
10 Scott Vaughn. Can everyone hear me?

11 LAURA WERNICK: Yes.

12 CONSTANTINE ALEXANDER: You want to build a
13 carport?

14 SCOTT VAUGHN: Again, this is Scott -- pardon?

15 CONSTANTINE ALEXANDER: Do you want to build a --
16 you're seeking zoning relief to build a carport attached to
17 your house?

18 SCOTT VAUGHN: Yes. Again, this is Scott Vaughn.
19 I'm the architect --

20 CONSTANTINE ALEXANDER: Oh, I'm sorry. You're
21 right. You're the architect, not the --

22 SCOTT VAUGHN: And I represent Jeffrey and Abigail

1 Gordon, the homeowners. They are 44-year residents of
2 Cambridge, and their hope is to stay in Cambridge in this
3 house. And they've joined us.

4 As you said, this is a request to construct a
5 carport, which would be a covering over an existing off-
6 street parking space.

7 And the basis of the request -- and if we can see
8 one of the illustrations of the front elevation, please? --
9 what you'll see is approximately a 45-degree roof, which has
10 been shedding ice and snow onto the cars parked in the off-
11 street parking space, with the result that on three
12 occasions the cars have sustained significant damage. This
13 is by its nature an unsafe and dangerous condition.

14 And the hope here is that relief can be granted to
15 construct a carport.

16 It's our belief that the relief requested is the
17 minimum necessary. The footprint of the carport is 10 feet
18 8 inches across the front. It's 18 feet deep. So it's not
19 -- it's basically large enough to cover an average car.
20 Given the way that the site tapers from the front to the
21 back, it does get slightly wider at the rear.

22 But as you can see from the photograph, this is

1 still a relatively narrow space. It's constrained on one
2 side by the house, and constrained on the other side by an
3 existing adjacent first-floor garage and porches above.

4 Porter Circle itself, if you have the opportunity
5 to go visit the site, is a very constrained location.

6 CONSTANTINE ALEXANDER: That is true.

7 SCOTT VAUGHN: So it's an advantage to everyone to
8 be able to have this off-street parking. There are some
9 other amenities associated with this in terms of
10 reconstructing the rear garden for the Gordons.

11 This is going to eliminate a number of curbs and
12 height changes -- basically eliminating trip hazards as part
13 of the work. But the primary focus of this is to get
14 permission to construct a carport.

15 As you can see in the upper left-hand corner,
16 there's a very thin profile on this. The roof of the
17 carport is only a foot deep. It is supported on two
18 columns, which are themselves supported on helical piles.

19 The edge of the roof of the carport is three
20 inches off of the side yard line, but that's what's
21 necessary to be able to get the 10-foot-8-inch throat so
22 that a car can get in and out of the space.

1 And if either Jeff or Abby would like to chime in,
2 they can describe some of the damage they've suffered to
3 their vehicles.

4 CONSTANTINE ALEXANDER: Okay. Anything further?

5 JIM MONTEVERDE: You're muted.

6 CONSTANTINE ALEXANDER: Oh, okay, I'm sorry.

7 JIM MONTEVERDE: The Gordons are muted.

8 JEFFREY GORDON: Yeah, okay. Here. Okay. Can
9 you hear me now?

10 COLLECTIVE: Yes.

11 CONSTANTINE ALEXANDER: Yes, I can hear you.

12 JEFFREY GORDON: Yeah. Okay. So we had the
13 solar panels put in, and we were very happy with the
14 electrical, you know, merits of it. But then a couple years
15 after, our tenants used to park in that space, and the first
16 time this happened it was I think January 30, and then we
17 had a big snowstorm, and ice just avalanched off of the
18 roof.

19 And, you know, we came home and our tenant was
20 just crying because her car roof had been significantly
21 dented. You know, thank goodness she wasn't in it.

22 And then another time she had some damage, but it

1 was a little milder than the time the roof got dented in.
2 After that, I had our tenants park in front of the house. I
3 started taking that, and, you know, increased my insurance
4 just in case.

5 And then this past year it happened again to my
6 car -- you know, whatever it was, \$6000 worth of damage.
7 The roof had to be replaced -- the roof of the car. And
8 that's when I just decided that I wanted to go ahead and
9 have some protection for the cars and just people, because
10 we do shovel, we go out there, it's a dangerous situation.
11 And if we're going to keep the solar panels, we need some
12 protection.

13 And we've been there for 44 years, we want to
14 continue to be there. You know, my wife's retired. I'm 72.
15 We don't have any plans of moving out. And so we'd like to
16 have this protection so that we can keep the solar panels.
17 The other option is to get rid of the solar panels. But we
18 don't want to do that if possible.

19 CONSTANTINE ALEXANDER: Thank you. Well, let me
20 make some comments. As you point out, this is a very dense
21 area -- neighborhood, and will become more dense, should we
22 grant the relief you're seeking tonight.

1 We have several letters from the neighborhood.
2 All are in support, with one exception. And I'm going to
3 read the letter from that person who does not support the
4 relief you're seeking. It's from Caron -- C-a-r-o-n and
5 Bill Courier, C-o-u-r-i-e-r, who reside at 70 Porter Road.

6 "The purpose to this letter is to further review
7 Case Number -- " [our case.] "The petition -- " it says;
8 that should be "petitioner" "-- is requesting the
9 construction of a carport at 6 Porter Circle, to which we
10 are direct abutters, and to request the Board of Zoning
11 Appeal, that we are formally opposed to the petition."

12 [They (sic) are concerned for the following
13 reasons:]

14 "1) Accessibility to my property for maintenance
15 to the carport in the latter zone."

16 [Not sure what that means, but obviously it means
17 that access to their property is going to be adversely
18 affected by the carport that is being proposed.]

19 "2) -- " [And I think this is important] "-- The
20 proposed carport will prevent us from being able to maintain
21 our wood balconies and fire escape." [Stress fire escape.]

22 "3) The carport is proposed up to the property lot

1 line," [and we know that. That's the reason why you're
2 before us.

3 The next one is:]

4 "4) We did not receive a boundary service."

5 CONSTANTINE ALEXANDER: Okay. So be it. A plot
6 plan is not sufficient evidence of actual property division,
7 perhaps -- and we did not see any survey markers showing a
8 carport or other proposed structure.

9 So I think -- to my mind, at least, this petition
10 -- these petitioners raise some serious questions, safety
11 being the main question.

12 THE REPORTER: Gus, can you speak into the mic,
13 please?

14 CONSTANTINE ALEXANDER: Say it again?

15 THE REPORTER: Could you speak into the mic
16 please?

17 CONSTANTINE ALEXANDER: Could I speak what?

18 THE REPORTER: Into the microphone, please. Thank
19 you.

20 CONSTANTINE ALEXANDER: Okay. I moved the
21 microphone down, I'm sorry.

22 THE REPORTER: Thank you.

1 CONSTANTINE ALEXANDER: And there's my concerns.
2 I'm only one of five, obviously. But I think I worry about
3 the safety issues.

4 I worry about the further congestion of this tight
5 neighborhood, and I worry about the impact upon an abutter,
6 who will be -- beside yourselves -- the person most directly
7 affected by the relief here being sought.

8 Do you have any comments in response to that? Do
9 you have challenges, as to what these folks have written in
10 their letter -- do you believe to be incorrect?

11 SCOTT VAUGHN: If I may, Mr. Chair?

12 CONSTANTINE ALEXANDER: Go ahead.

13 SCOTT VAUGHN: Again, this is Scott Vaughn.

14 CONSTANTINE ALEXANDER: Yep.

15 SCOTT VAUGHN: What I would suggest is that the
16 Gordons and the abutter have an opportunity to chat.
17 Because most of what the abutter cited as concerns, I
18 believe we can at least make offers; obviously, an offer of
19 an easement.

20 And I would suggest that having a carport there
21 would in fact make it easier to maintain the side of their
22 building, but one of the things that we can discuss with

1 them is giving them a permanent easement. There's really no
2 impediment to them getting around their house, if they were
3 offered an easement through the area under the carport. For
4 that reason --

5 CONSTANTINE ALEXANDER: Carport always welcomes
6 discussions between neighbors if there is neighbor -- the
7 neighbor has concerns or objections to relief being sought.
8 I'm disappointed that you didn't reach out to them before
9 tonight's hearing.

10 JEFEREY GORDON: Well, we had reached out to
11 them, and Billy told me, "Whatever you need, Jeff, you know,
12 we're behind you." So this is the first I'm hearing of it.

13 CONSTANTINE ALEXANDER: Okay.

14 SCOTT VAUGHN: So what I would request, Mr. Chair
15 --

16 CONSTANTINE ALEXANDER: Let me make a suggestion -
17 -

18 SCOTT VAUGHN: -- is that we can continue this to
19 a further date?

20 CONSTANTINE ALEXANDER: -- I suggest we continue
21 this case.

22 SCOTT VAUGHN: Yes.

1 CONSTANTINE ALEXANDER: -- and give you the chance
2 to, now that you have the letters in our files, or in the
3 Department's files, and sit down and talk and see if they
4 don't have any objection. To me, that would go a long way
5 to supporting your case.

6 Or if they do have objection, I'd like to know
7 about it, if the objection continues even after you have sat
8 down with your neighbors.

9 Do other members of the Board feel differently?

10 MRS. GORDON: We did reach out to them.

11 BRENDAN SULLIVAN: Yeah. This is Brendan
12 Sullivan. Yeah. I would sort of encourage that you should
13 have had conversation before now, and encourage that you
14 have conversation after tonight.

15 One question that I have is when were the solar
16 panels installed?

17 JEFFREY GORDON: Could you speak up? It's hard
18 to hear.

19 CONSTANTINE ALEXANDER: The question was, when we
20 were the solar panels installed?

21 JEFFREY GORDON: About 10 years ago.

22 BRENDAN SULLIVAN: All right. Have you

1 investigated -- or Mr. Vaughn have you investigated the
2 possibility of snow guards, snow and ice guards along that
3 edge of the roof?

4 ABBY GORDON: They do have a ring around it.

5 JEFFREY GORDON: There are snow and ice guards --
6 the company Sungevity put it in when we had the first
7 incident. Because I told them to just remove the solar
8 panels. And they -- you know, in a way to kind of appease
9 me, they said, "Well, we'll put in snow guards."

10 They put them in, but as, you know, this past
11 whatever it was February, you know, the incident happened
12 again where it damaged my car and I had to -- you know,
13 whatever it was about \$5000 worth of damage to the car, and
14 that's what, you know, brought me to this point.

15 And I'm just surprised because Billy and Caron, I
16 talked to them, they were supportive in the beginning, we
17 had the plot plan done showing that, you know, where their
18 property line was.

19 And she and he never mentioned anything to me, you
20 know, saying that they opposed it. So this is really the
21 first that we're hearing of this. And I'm going to speak to
22 them.

1 CONSTANTINE ALEXANDER: Nobody's blaming you for
2 anything.

3 JEFFREY GORDON: Yeah.

4 CONSTANTINE ALEXANDER: But the fact of the matter
5 is, these folks have now spoken out, they've spoken out in
6 opposition to the relief here being sought, and I think --
7 we think -- I think -- it's necessary for you to sit down
8 with them and either come to some agreement or not.

9 SCOTT VAUGHN: Right. And --

10 CONSTANTINE ALEXANDER: But if, --

11 SCOTT VAUGHN: And --

12 CONSTANTINE ALEXANDER: -- you know, if you sat
13 down with them --

14 SCOTT VAUGHN: -- and again --

15 CONSTANTINE ALEXANDER: -- and they said, or we --
16 you convinced them that, "Don't worry about it, it's not a
17 problem, we'll withdraw our letter," that will go a long way
18 to the likelihood you'll be granted relief.

19 ABBY GORDON: We're not going to.

20 CONSTANTINE ALEXANDER: But I -- it doesn't do any
21 good to say, "We reached out to them and they never said
22 anything." They now have said something.

1 SCOTT VAUGHN: Right.

2 CONSTANTINE ALEXANDER: They wrote a letter, in
3 writing. And I think you really should -- unless you think
4 it's a useless exercise -- you really should speak to them
5 and see if you can reach some kind of accommodation.

6 SCOTT VAUGHN: Right. So --

7 CONSTANTINE ALEXANDER: Or you can go to a vote
8 tonight and we will see how the vote goes.

9 SCOTT VAUGHN: No.

10 CONSTANTINE ALEXANDER: We need to get four out of
11 five votes --

12 SCOTT VAUGHN: Mr. Chair?

13 CONSTANTINE ALEXANDER: -- to get the relief
14 you're seeking.

15 SCOTT VAUGHN: Right. Mr. Chair?

16 CONSTANTINE ALEXANDER: Yes.

17 SCOTT VAUGHN: I believe we've requested a
18 continuance, so that the Gordons and the abutters can have a
19 chance to talk. When might we be able to get a hearing in
20 the future?

21 CONSTANTINE ALEXANDER: And let me just point out
22 that the continuance -- this is what's called in the zoning

1 parlance -- is a "case heard." We've gotten into the merits
2 of the case.

3 So if we continue it, we have to continue with the
4 same five members that are here tonight. And so we got to
5 find out what dates all five are available, what date you
6 think you want to have, and we're running up against -- I'll
7 point out the next available time is December? January 6?

8 January 6 will be the next opening on our -- so
9 nothing will happen. You have from now -- assuming we vote
10 to continue the case -- until January 6 to meet with your
11 neighbors, to reach accommodation to whatever, to modify
12 your plans, or we can take a vote tonight.

13 But I would not -- I don't think it's a wise idea,
14 unless there's some real time pressure. I don't think it's
15 a wise idea to continue -- to push this to a vote tonight.

16 SCOTT VAUGHN: Right. We are not requesting a
17 vote this evening. We are requesting a continuance, please.

18 CONSTANTINE ALEXANDER: Okay. All right. Do -- I
19 haven't heard from Laura or Jim or Andrea. Do you have any
20 problems with what Mr. Vaughn's been proposing?

21 JIM MONTEVERDE: [Jim Monteverde,] I have no
22 objection to a continuance.

1 ANDREA HICKEY: Andrea Hickey. I have no
2 objection either.

3 CONSTANTINE ALEXANDER: Okay. All right.

4 LAURA WERNICK: I have no objection.

5 CONSTANTINE ALEXANDER: Oh, I'm sorry, Laura. I
6 did this to you before, I apologize. All right. I'm going
7 to make a motion.

8 The Chair moves that we continue this case as a
9 case heard until 6:00 p.m. on January 6, subject to the
10 following conditions, and these are important. First, that
11 the petitioner must sign a waiver of time for decision.

12 That's because under the state law for zoning
13 variances, variances are automatically granted within a
14 certain period of time, unless a case is continued. So we
15 need you to continue the case.

16 The case will be continued -- give me a second --
17 under the following conditions: You have to sign a waiver
18 of time for decision to January 6. That waiver must be
19 signed -- it's very simple document that every continued
20 case has -- must be signed no later than 5:00 p.m. on a week
21 from Monday.

22 If that is not done to avoid a -- or relief being

1 granted automatically, we will dismiss this case. I don't
2 think you want that, and it's not a big deal. You have to
3 go down to the Building Department's offices and Maria will
4 have a form ready for you. It's a single, simple, one-page
5 form. That's the first condition.

6 The second condition is that the waiver of -- the
7 posting sign must be either a new one posted or a
8 modification to what is up there now, the modification being
9 changed -- the date and time -- by magic marker or what have
10 you. But that new sign must be maintained for the 14 days
11 before January 6.

12 And lastly, to the extent that as a result of your
13 discussions or otherwise you wish to modify the plans,
14 supplement the plans, new data or other information -- that
15 must be in our files no later than 5:00 p.m. on the Monday
16 before January 6.

17 That's the purpose of allowing us, Board members
18 and neighbors, including your neighbor who is objecting, to
19 see what is in the files and to reach a decision that they
20 want to reach.

21 So Brendan, how do you vote?

22 BRENDAN SULLIVAN: Yes to the continuance. But I

1 would also have a comment.

2 And Mr. Vaughn, I would ask you to -- you're
3 probably going to have to do some more work here, because I
4 find that the plan is quite lacking that if we even were to
5 approve this -- and this has to be handed out to the
6 Building Department -- they're going to say, "Well, what are
7 we approving?" And, you know, a couple of lines on a piece
8 of paper showing a roof and obviously supports aren't going
9 to do it.

10 There's -- you know, as I'm looking at this, so
11 you're proposing that when the roof comes down the -- when
12 the snow comes off the roof, and it's going to land on the
13 roof of this carport, and I would submit that it's probably
14 going to come down with a great amount of force -- and so I
15 don't know structurally that's for the Building Department
16 to determine.

17 But I think we need some dimensions as to the
18 dimension of the carport, the width, the length and also the
19 depth of it and some detail -- cross section through it, so
20 that we can pass these drawings, should they get approved,
21 off to the Building Inspector to issue a permit.

22 Also, when the snow comes down off of that roof

1 and lands on top of the cardboard roof, where does the
2 melting water go eventually? Or the melting snow, which
3 turns into water? Where does that go eventually? And is
4 there any provision for that, or does it just sort of sit on
5 top of that and turn into ice? Which, again, is just -- you
6 know, an awful lot of weight.

7 And subsequent snowstorms on top of that are just
8 going to pile on top of that and add more weight to it.
9 Something to consider.

10 But I think for my point of view, we need some
11 more dimensions. We need some numbers on that, to show
12 exactly the size of the carport and again maybe a cross-
13 section through it so that you have a depth of that also.
14 And the support columns, whether they 4x4s, 6x6s. We may do
15 steel lally columns, schedule 40 or whatever. But we need
16 some more detail, other than what's presented.

17 CONSTANTINE ALEXANDER: Let me endorse Mr.
18 Sullivan --

19 BRENDAN SULLIVAN: Other than that, I will support
20 the continuance.

21 CONSTANTINE ALEXANDER: -- just said, which I
22 think he made some very important points. I think they also

1 may be important to your discussions with your neighbor, who
2 may have similar concerns, based on the plans that at least
3 we have. They frankly are too -- they're skeletal. They're
4 not what we need. They're not with the detail that we
5 expect for construction projects, or projects to modify
6 construction.

7 So I think you do need to do some more work.
8 Whether you do it before you speak with your neighbor or
9 after, that's up to you.

10 But I would expect on January 6, assuming the case
11 is still going forward, that we're going to get a different
12 -- we're going to have more detailed plans than what has
13 been submitted tonight.

14 SCOTT VAUGHN: We --

15 CONSTANTINE ALEXANDER: Jim Monteverde, do you
16 have any comments?

17 JIM MONTEVERDE: I know I support Brendan's
18 concerns.

19 CONSTANTINE ALEXANDER: I'm sorry?

20 JIM MONTEVERDE: I support Brendan's concerns.

21 CONSTANTINE ALEXANDER: Okay.

22 JIM MONTEVERDE: I agree.

1 CONSTANTINE ALEXANDER: Thank you. Andrea?

2 ANDREA HICKEY: Yes. I support the continuance of
3 the case.

4 CONSTANTINE ALEXANDER: Laura?

5 LAURA WERNICK: Laura Wernick supports the
6 continuation of the case.

7 CONSTANTINE ALEXANDER: Okay. And the Chair votes
8 yes to the continuance.

9 [All vote YES]

10 CONSTANTINE ALEXANDER: So this case is now going
11 to be continued until January 6. And you know the rules of
12 what has to be done between now and then in terms of
13 speaking to your neighbor and getting more detailed plans
14 before us, so we can make a more informed decision than we
15 would have had to make tonight. Thank you.

16 SCOTT VAUGHN: Okay. Thank you, Mr. Chair and
17 members of the Board.

18 JEFFREY GORDON: Thank you.

19 MRS. GORDON: Thank you.

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(8:40 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Laura Wernick, and Jim
Monteverde

CONSTANTINE ALEXANDER: The Chair will now call
Case Number No. 140869 -- 82 Larch Road. Anyone here
wishing to be heard on this matter? Sir?

FAWWAZ HABBAL: Yes. I'm Fawwaz Habbal.

CONSTANTINE ALEXANDER: Okay. I just want to
know, you're on our screen, so you know.

FAWWAZ HABBAL: Can you see me?

CONSTANTINE ALEXANDER: The floor is yours.

FAWWAZ HABBAL: Okay. Just a second.

CONSTANTINE ALEXANDER: Okay. Take your time.

FAWWAZ HABBAL: I'm a go-to guy. So I always get
confused. Do we need to close our screen, you said? I
think it's --

CONSTANTINE ALEXANDER: I'm sorry, say it again,
please?

FAWWAZ HABBAL: I cannot close it. Okay. Can you
see us?

1 CONSTANTINE ALEXANDER: We can see you, yes.

2 JIM MONTEVERDE: Yes. We can see you; we can hear
3 you.

4 CONSTANTINE ALEXANDER: All right. Very good.
5 Okay. So I'm Fawwaz Habbal. I am the owner of 82 Larch
6 Street. I bought this property in September 2019, and there
7 were some major issues in the house.

8 The house has an attached car garage to it. But
9 there were major issues in the house, and we needed to
10 renovate it. And we've been on this renovation since we
11 bought it.

12 Most of the reasons for that was really the COVID
13 situation, not getting material and not getting an
14 inspection permit and small supports. So it's almost now --
15 the house is almost gone, and we are now looking to see we
16 can build for a car garage.

17 The car garage that used to be there is -- I can
18 show you some diagrams of that, let me see if I can Share
19 Screen here. Can I Share Screen? You need to allow me to
20 Share Screen.

21 CONSTANTINE ALEXANDER: I'm trying to pull it up
22 right now.

1 FAWWAZ HABBAL: Okay, thank you. Oh, I see.
2 Okay. If I could -- I have a simple PowerPoint slide with
3 three pictures in it. Can I do that, or you have to stay
4 within -- it's the same slide that you have already
5 submitted.

6 LAURA WERNICK: Can we just use the drawings that
7 are up on the screen?

8 FAWWAZ HABBAL: Sure. Can you see my screen or
9 not?

10 LAURA WERNICK: Yes.

11 FAWWAZ HABBAL: Okay. So this picture here is the
12 picture of the house when we bought it. Let's see -- yeah.

13 LAURA WERNICK: We're looking at the drawings that
14 the Board has --

15 FAWWAZ HABBAL: Oh, I'm sorry, you're looking at
16 the drawings. Okay. All right. Very good. [So we have to
17 go to the drawings.]

18 BILL HAMMER: Okay. I don't think they can see
19 that, yeah.

20 FAWWAZ HABBAL: All right. So you could see now
21 this is the structure that we're proposing building. And it
22 is a structure without a second floor. The other garage had

1 the room on top of it, which made it much bigger size wise.
2 And this is height wise shorter and slightly wider. It's
3 wider by about two and a half feet. And it used to be 11.5.
4 Now it's 13, so I guess --

5 BILL HAMMER: Two and a half.

6 FAWWAZ HABBAL: Yeah. So it was 13, it was 11.5
7 feet wide, and now we're proposing it's 13. And by doing
8 that, we are closer to being able by about -- we used to be
9 about six feet; now it's about four feet. And the back also
10 extended a little closer to the side of the neighbor.

11 I talked with Doug and Judy Weinstein, who the
12 garage will be closer to their fence -- to our fence with
13 them -- and they had no difficulty with that.

14 We promised that we were going to have a garage
15 that has similar quality and will have also the right way of
16 removing the water -- so sorry, the rain and so on, so we
17 will have gutters and so on.

18 So that's -- so what we'd like to have permission
19 is to build the house the way we are proposing it. With me
20 is Bill Hammer. He is the architect, so he can answer also
21 some questions.

22 CONSTANTINE ALEXANDER: I have a question. The

1 garage will be very close to the residential structure, but
2 not attached to it, is that right?

3 BILL HAMMER: No, it is attached. There's a small
4 roof covering between the garage and the house. And that's
5 the way it was before.

6 CONSTANTINE ALEXANDER: Is that going to be used
7 for residential purposes?

8 FAWWAZ HABBAL: Yeah. Oh, yeah. We'll be walking
9 under it, yes.

10 JIM MONTEVERDE: It's a breezeway; it's open to
11 the -- it's not enclosed on the side, on the vertical sides?

12 BILL HAMMER: No.

13 JIM MONTEVERDE: Correct?

14 BILL HAMMER: No, no, no.

15 JIM MONTEVERDE: No? Right.

16 BILL HAMMER: It's open. It's open.

17 JIM MONTEVERDE: Yeah.

18 FAWWAZ HABBAL: Just helps me to go in and out of
19 the garage, that's all.

20 JIM MONTEVERDE: Okay.

21 FAWWAZ HABBAL: And the garage, when we bought the
22 house there was no car in the garage. And I really tried to

1 put my car inside it. And the distance between the door
2 size and the distance between the size of the car and the
3 walls were no more than about four or five inches, so it was
4 really, really tight. And I don't think -- anyway that
5 structure is gone right now, so.

6 CONSTANTINE ALEXANDER: Okay. We do have a letter
7 from a -- someone in the neighborhood, and I want to read it
8 into the file. It's a she. She raises some questions that
9 I think need to be dealt with.

10 But first -- well, let me do that first and before
11 I see if other Board members have further comments or
12 questions. The letter is from a Sandra Gail Caldwell, who
13 resides at 89 Larch Road. She says:

14 "I live across the street from the house in
15 question, and I understand petitioners need to construct a
16 new garage.

17 "While this is not an opposition to the request, I
18 would hope the petitioner would make the garage as
19 unobtrusive as possible, as it edges so close to the
20 property line. The house has been built out on the second
21 floor, and is now a much more imposing structure than the
22 original property.

1 "Given the density of Cambridge, and a tendency to
2 build out old, existing properties, I request that the
3 garage be as innocuous as possible and be landscaped with
4 greenery to provide some visual relief and protection for
5 the house next door."

6 CONSTANTINE ALEXANDER: Comments?

7 FAWWAZ HABBAL: This is 89 Face -- it's across the
8 street, correct?

9 CONSTANTINE ALEXANDER: That's what she says in
10 her letter -- yes, e-mail.

11 FAWWAZ HABBAL: Okay, thank you, thank you. So
12 maybe -- yeah.

13 CONSTANTINE ALEXANDER: 89, yeah. 89 Larch Road.

14 FAWWAZ HABBAL: 89. I got it.

15 CONSTANTINE ALEXANDER: She says, "I live across
16 the street."

17 FAWWAZ HABBAL: Okay, thank you. Thank you. Yes.

18 BILL HAMMER: My name is Bill Hammer. I'm the
19 Architect for the Habbals, and I'd like to respond to that.
20 For one thing, the original garage was a two-story structure
21 with a bridge covering the breezeway, and you actually had
22 to climb -- there was a door put in the bedroom to get

1 across this bridge to the old garage.

2 We took that upper floor off. We reduced the
3 actual height of it. The structure is just a simple
4 rectangle with a pitched roof. We tried to make it as
5 innocuous as possible, and to really keep it in the same
6 spirit as the house.

7 I don't believe this is more -- I'm not sure of
8 the right adjective -- "bulky" or "oversized" but it is
9 slightly closer to the property line.

10 FAWWAZ HABBAL: That's not the closest to the
11 street?

12 BILL HAMMER: No. In fact, it's not. It's set
13 back exactly where the original was.

14 FAWWAZ HABBAL: So I mean we are planning to make
15 it as attractive as it can be anyway. I plan to have some
16 vegetation around it, and plant some small trees and so on.
17 We definitely don't want to show just a garage standing in
18 front of people's places.

19 So we will be definitely taking care of that. The
20 material we are using is the same as the material of the
21 house, and it's going to look very, very nice. It should
22 look very nice.

1 CONSTANTINE ALEXANDER: Have you spoken to the
2 neighbor, or has she spoken to you about her --

3 FAWWAZ HABBAL: No, she -- no, you know, one -- I
4 mean I put the announcement outside, and several times I
5 would be walking there. It didn't occur to me to knock on
6 her door.

7 I talked to the people around the house, who --
8 none of them really were concerned. I didn't really talk
9 with her, unfortunately. No, I did not. But I'm -- of
10 course, I will walk with her.

11 CONSTANTINE ALEXANDER: Okay. Other members of
12 the Board, do you have any further comments on this
13 discussion or any other questions? Brendan?

14 BRENDAN SULLIVAN: No questions. No comments at
15 this time.

16 CONSTANTINE ALEXANDER: I'm sorry?

17 BRENDAN SULLIVAN: [Brendan Sullivan] no questions,
18 no comments.

19 CONSTANTINE ALEXANDER: Okay, thank you. Jim?

20 JIM MONTEVERDE: Jim Monteverde no questions.

21 CONSTANTINE ALEXANDER: Andrea?

22 ANDREA HICKEY: Andrea Hickey no questions, thank

1 you.

2 CONSTANTINE ALEXANDER: Laura?

3 LAURA WERNICK: No questions.

4 CONSTANTINE ALEXANDER: Okay, and I have shot off
5 my mouth already, so I have nothing more to add. As I
6 mentioned, the only commentary we got in our files is that
7 there's a -- I'm sorry, I found the second letter in the
8 file; I'm just taking a quick look at it.

9 Again, it's from Kate Cleary, who lives at 83
10 Larch Road. And she expresses a lot of unease, if that's
11 the word I can use about this structure, because of the
12 impact on the neighborhood. And basically, this is a
13 neighborhood -- I'm reading from the letter.

14 "In a neighborhood that is as dense as it is,
15 granting variances like these, and the one you recently
16 granted in the six past months -- the past six months -- two
17 doors down is unfortunately changing the character of the
18 neighborhood. When people purchase homes-- " this is
19 underscored "-- they know what they're buying, property
20 lines and all."

21 Anyway, so we've got two letters that are --

22 FAWWAZ HABBAL: Mr. Chairman, I just want to

1 mention something, Mr. Chairman and Committee. The place of
2 -- the size is smaller; the place is the same.

3 Had we left the same structure, there would be
4 very similar -- except it's a very inconvenient structure
5 and ugly structure, frankly. It's an old, built in 1928 or
6 so, and it's not in a good, healthy condition. I mean, it
7 really needed some improvement, and there was no way we can
8 keep it the way it was.

9 So I mean, we are very sensitive to that. It's
10 not like we are adding structure that didn't exist before.
11 And we are not trying to make it bigger and bulkier.

12 And we removed, like I said, the architect
13 mentioned that we did remove the room that was on top of the
14 garage. And that room was attached to the house too. And
15 it should be -- I think it's going to look much, much nicer.

16 And location wise it's the same. So if somebody
17 is walking in the neighborhood, he will not see anything but
18 the similar structure, and much nicer.

19 CONSTANTINE ALEXANDER: Okay. I should also
20 mention that there's a -- just to show the balance here --
21 we have a third letter in our files from a Judith Weinstock,
22 who resides at 88 Larch Road -- obviously a neighbor.

1 And she says, "There is no concern from my side at
2 having the garage at this new location, and I do not
3 anticipate any hardship for me and my family. This letter
4 should serve as an indication for my consent." So there's
5 at least one letter -- one person supporting what you want
6 to do.

7 FAWWAZ HABBAL: Yeah. Those people who are the
8 closest, and they are the ones, they could have been
9 affected by the --

10 CONSTANTINE ALEXANDER: That would have seem --
11 that had [occurred] to me as well.

12 FAWWAZ HABBAL: Yeah.

13 CONSTANTINE ALEXANDER: And then you've got a
14 letter of support.

15 FAWWAZ HABBAL: Thank you.

16 CONSTANTINE ALEXANDER: I'm going to open the
17 matter up to public testimony at this point. Any members of
18 the public who wish to speak should now click the icon at
19 the bottom of your Zoom screen that says, "Raise hand."

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

1 comment.

2 [Pause]

3 CONSTANTINE ALEXANDER: No. No one does, so we'll
4 now close public testimony and as is our practice in this
5 time of Zoom, I will make a motion to grant the relief being
6 sought, and then we will just vote up or down or modify it
7 as the Board wishes.

8 So the Board -- I propose that the Board make the
9 following findings -- let me get my file out -- that a
10 literal enforcement of the provisions of the ordinance would
11 involve a substantial hardship, such hardship being is that
12 this home has a garage that is inadequate with the passage
13 of time -- inadequate in size, and this would have -- that's
14 not only the current owner but any future owners of the
15 property, so it runs with the land, if you will.

16 That the hardship is owing to the fact that --
17 well the shape of the structure, because it's too small.
18 And also, that this is a structure that predates zoning in
19 Cambridge. And so any modification would require relief.

20 And that what is being proposed will not cause --
21 desirable relief may be granted without substantial
22 detriment to the public good, or nullifying or substantially

1 derogating from the intent or purpose of this ordinance. In
2 this regard, the Chair would note that we have neighbors who
3 don't agree with that point of view, but we have an abutter
4 who does.

5 So on the basis of all of these findings, the
6 Chair moves that we grant the variance requested on the
7 condition that the work proceed in accordance with plans
8 prepared by H.K.T Architects dated March 18,2021, the cover
9 page of which has been initialed by the Chair.

10 Brendan?

11 BRENDAN SULLIVAN: I would support granting the
12 variance. What is the dimension from the grade to the peak
13 of the garage?

14 BILL HAMMER: Hold on a second.

15 FAWWAZ HABBAL: From the ground to the peak of the
16 garage?

17 BRENDAN SULLIVAN: Correct.

18 FAWWAZ HABBAL: Is that the question?

19 BRENDAN SULLIVAN: Yes.

20 BILL HAMMER: It's actually -- that's --

21 FAWWAZ HABBAL: Doesn't appear to be here.

22 BILL HAMMER: What?

1 FAWWAZ HABBAL: From the top of the entrance --

2 BILL HAMMER: I have --

3 BRENDAN SULLIVAN: If you can find it.

4 BILL HAMMER: Okay. It is --

5 FAWWAZ HABBAL: Sorry, just give us one second
6 here to find it.

7 BILL HAMMER: Hi. It's 15.8 feet.

8 BRENDAN SULLIVAN: 16.8?

9 FAWWAZ HABBAL: 15.8.

10 BRENDAN SULLIVAN: 15, one five?

11 FAWWAZ HABBAL: One five, point eight.

12 BRENDAN SULLIVAN: And that area above the garage
13 doors, is that open to the other side of the roof? Or is it
14 floored over?

15 FAWWAZ HABBAL: No, it's open.

16 BRENDAN SULLIVAN: It's open. Okay. Didn't have
17 any questions before; I do now. I will vote for granting of
18 the variance. Yes. Yes. Yes.

19 CONSTANTINE ALEXANDER: Mr. Sullivan votes yes, in
20 favor. Mr. Monteverde, Jim?

21 JIM MONTEVERDE: [Jim Monteverde] I vote in favor
22 of the variance.

1 CONSTANTINE ALEXANDER: Andrea?

2 ANDREA HICKEY: Andrea Hickey yes in favor.

3 CONSTANTINE ALEXANDER: Laura?

4 LAURA WERNICK: Laura Wernick yes in favor of the
5 variance.

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

8 [All vote YES]

9 CONSTANTINE ALEXANDER: It's unanimous. Variance
10 granted.

11 FAWWAZ HABBAL: Thank you very much.

12 CONSTANTINE ALEXANDER: Thank you. And that
13 concludes our agenda for tonight.

14 JIM MONTEVERDE: Alright. Thank you very many,
15 everyone. Goodnight.

16 CONSTANTINE ALEXANDER: Thank you.

17 COLLECTIVE: Goodnight.

18 [9:00 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.

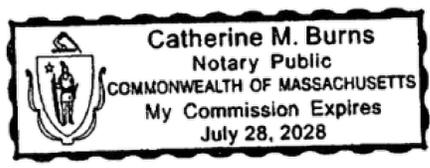
In witness whereof, I have hereunto set my hand this 22nd day of November, 2021.



Notary Public

My commission expires:

July 28, 2028



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