

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JUNE 20, 2024

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Jim Monteverde, Chair  
Steven Ng, Vice Chair  
William Boehm  
Fernando Daniel Hidalgo  
Virginia Keesler  
Carol Agate

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: Jim Monteverde, Carol Agate, Daniel Hidalgo Fernando, and Virginia Keesler

JIM MONTEVERDE: The first cases tonight are all continued cases that were started previously and not resolved. So the first case to be heard this evening is BZA 261068 -- 38-40, 48 and 54-56 Banks Street.

Is there anyone with us this evening who wishes to speak about that case?

Sarah, there you are.

SARAH RHATIGAN: Hello.

JIM MONTEVERDE: Hi.

SARAH RHATIGAN: Nice to see you. Sarah Rhatigan, Trilogy Law. I am here representing the petitioner, Lubavitch of Cambridge, Inc. And thank you for hearing us this evening.

JIM MONTEVERDE: Yep.

SARAH RHATIGAN: With me today is our team who you will see on the screen here: Rabbi Zarchi, Elkie Zarchi and Jason Jewhurst.

1           JIM MONTEVERDE:  Yep.  Thank you.  Sarah, can I  
2 try and introduce this?

3           SARAH RHATIGAN:  Yes.  That would be great.

4           JIM MONTEVERDE:  And just kind of --

5           SARAH RHATIGAN:  Thank you.

6           JIM MONTEVERDE:  -- summarize what we saw last  
7 time?

8           SARAH RHATIGAN:  Mm-hm.

9           JIM MONTEVERDE:  What we did, what's in front of  
10 us this evening that's different.  And then I'll ask you to  
11 just confirm that I've got it straight.

12           SARAH RHATIGAN:  Great.  That would be great,  
13 thank you.

14           JIM MONTEVERDE:  Thank you.  So -- because there's  
15 a lot of material.  We met last on May 9.  Your team  
16 presented their scheme for the proposed building  
17 renovations/additions/modifications.

18           We had -- we went through the public commentary;  
19 all the letters from -- I forget how many there were; 70  
20 plus from folks either in support or in support (sic) and  
21 then from the neighborhood in their concerns.

22           In the end -- and I think two of the Board members

1 at that time, kind of testing the waters had concerns, and  
2 we elected to -- we outlined several options on how we could  
3 proceed. And we elected to take a -- to do the continuance,  
4 tested until this evening.

5 Okay.

6 In our file -- and this is what I want to confirm  
7 I have correct -- there's no new documentation submitted,  
8 plans or supporting statements. Everything in the file is  
9 what was submitted for the previous, May 9 hearing. So  
10 nothing has changed there.

11 We do have a couple of pieces of correspondence  
12 from a few folks in support. I'm assuming those are new  
13 letters in support. And we have a letter from the  
14 Neighborhood Group stating their concerns, that are new from  
15 the last ones we saw.

16 That's kind of -- that's the broad summary of what  
17 we saw before, and what's new in terms of we did the  
18 continuance, sometimes we assume that there will be some  
19 change to either what's being proposed -- but there is none  
20 of this in front of us.

21 Okay. One other piece I'd like to mention, if  
22 you'll permit me, please. In rereading all the

1 documentation from the presentation on May 9, what I read  
2 with some interest -- I'll admit that it didn't strike me  
3 the last time, but it's the -- in what you submitted, Sarah,  
4 from Trilogy Law, in your correspondence dated May 1, this  
5 is all part of a record for the May 9 move.

6 And it attaches -- and I forget what the Exhibit  
7 Number is, but it has a Statement of Fact prepared by the  
8 law firm of Weil, Gotshal & Manges -- sorry if I'm mangling  
9 that name, but -- out of New York.

10 And it basically -- and I think you -- I know you  
11 alluded to this as I reread the record, to -- and it's a  
12 federal regulation called, "The Religious Land Use and  
13 Institutionalized Person's Act" -- RLUIPA -- of 2020.

14 There's a statement that this firm prepared that  
15 basically says, "RLUIPA prohibits the government from  
16 implementing a Land Use Regulation that imposes a  
17 substantial burden on the religious exercise of a person,  
18 including a religious assembly or institution, unless the  
19 government carries its burden to show the regulation  
20 furthers a compelling government interest, and is the least  
21 restrictive means of doing so."

22 So am I correct, Sarah, that in the absence of any

1 new submittal, new plans, new statement about either the  
2 variance and the variances for the addition to the building  
3 and the special permit as far as rearrangement of parking,  
4 that in the absence of any new information being submitted  
5 to be reviewed, are we basically here to discuss that  
6 particular ordinance? That particular federal regulation?

7 SARAH RHATIGAN: My understanding from -- one,  
8 thank you for outlining so clearly what was a long hearing  
9 last time, May 9. Looking back at my notes, I was  
10 remembering it was a fascinating hearing, but also, we were  
11 all quite tired by the time we got to the point of your  
12 Board being able to deliberate.

13 JIM MONTEVERDE: Yep.

14 SARAH RHATIGAN: And my takeaway from the hearing  
15 was that Board members wanted to understand the hardship  
16 sort of legality argument, maybe didn't quite appreciate the  
17 -- we call it, "RLUIPA." That's how I say it, that's the  
18 acronym for R-L-I-U-P-A --

19 JIM MONTEVERDE: RLUIPA, yeah.

20 SARAH RHATIGAN: -- the federal rights  
21 implications of the case.

22 And that with some time and opportunity for us to

1     come back to essentially summarize that and have a  
2     discussion, that we could -- that we could persuade this  
3     Board that we have a very good argument for a hardship,  
4     which I'm happy to describe to you.

5             And also, we didn't feel -- the petitioner's side,  
6     we didn't feel that because of all the testimony and the  
7     time that was spent with -- frankly with all of our  
8     supporters, which was wonderful, we didn't have the time to  
9     kind of explain, rebut the ways in which the neighborhood  
10    opposition we feel is mischaracterizing the project in such  
11    a way that we felt the Board had concerns where they  
12    shouldn't have concerns.

13            So we want a chance to just be able to respond to  
14    that as well this evening.

15            But -- but we also honestly would like to know, if  
16    you're willing to share, where Board members who may still  
17    feel uncomfortable, if you would be willing to share what  
18    issues you have that are most concerning. Then we can  
19    address those.

20            JIM MONTEVERDE: Yeah, I think --

21            SARAH RHATIGAN: Is that --

22            JIM MONTEVERDE: -- could you --



1 SARAH RHATIGAN: -- is that helpful?

2 JIM MONTEVERDE: I don't want to bypass our  
3 typical process. And again, the introduction was just  
4 trying to set the parameters for tonight's discussion.

5 SARAH RHATIGAN: Mm-hm.

6 JIM MONTEVERDE: And I was really -- what I was  
7 really getting to was whether if our discussion was really  
8 all about RLUIPA or whatever you want to call it?

9 And how it either transcends or has to work along  
10 with our Cambridge Zoning Ordinance, whether that in fact  
11 was the issue at hand in that if any of the public or Board  
12 members had any concerns about our typical issues for a  
13 variance, hardship, et cetera, that we also had to consider  
14 it in light of the requirements of RLUIPA. Because it tends  
15 to cast it in a slightly different light.

16 And it suggests, as I read what I just read from  
17 your supporting attorneys, there is some phraseology that  
18 has to be rather specific about if there are concerns; what  
19 are they? What is the compelling government interest, and  
20 is it the least restrictive means?

21 So I understand that's all part of the discussion,  
22 and I don't think we had discussed it in any detail last

1 time. But I wanted to give you the chance to make your  
2 presentation.

3 I guess I'm trying to suggest that we've seen all  
4 the plans, and unless any Board members or anyone needs to  
5 see anything from that, we don't need to go through that  
6 again.

7 I think you presented in several -- We have  
8 correspondence on May 1, we have correspondence I believe on  
9 May 8 that preceded that May 9 meeting that, or right in  
10 there, where you presented your case, basically. So we have  
11 all of that.

12 The record has all of the public testimony from  
13 the proponent last time about their opinion of the  
14 neighbors' commentary. But I'll let you take it away from  
15 here, and in the interest of time --

16 SARAH RHATIGAN: Right.

17 JIM MONTEVERDE: -- I'm going to talk about ask  
18 folks to stay for the three-minute timeframe.

19 SARAH RHATIGAN: I don't need to speak in three  
20 minutes, can I have more than that, or you mean members of  
21 the public?

22 JIM MONTEVERDE: You can get five, but --

1 SARAH RHATIGAN: You want --

2 JIM MONTEVERDE: -- you can't go on for a half-  
3 hour.

4 SARAH RHATIGAN: You want me to speak like, like,  
5 um -- you know, an auctioneer? [Laughter]

6 JIM MONTEVERDE: [Laughter].

7 SARAH RHATIGAN: Because I've got, like, 10 pages  
8 of notes. No, I -- in all seriousness, I appreciate your  
9 suggestion. And we were not planning on rehashing the  
10 plans.

11 JIM MONTEVERDE: Thank you.

12 SARAH RHATIGAN: We obviously have them and are  
13 ready to respond --

14 JIM MONTEVERDE: Yep.

15 SARAH RHATIGAN: -- as we need to.

16 JIM MONTEVERDE: Yep.

17 SARAH RHATIGAN: Let me take a stab at this.

18 RABBI HIRSCHY ZARCHI: If it's not out of place,  
19 not to interrupt the attorney, there is -- I think -- Mr.  
20 Chairman, I think you omitted a very important piece of  
21 information unrelated to RLUIPA that you -- that I think  
22 colored last hearing, where there was a question that you

1 posed if this project indeed had the support of Historical  
2 Commission.

3 JIM MONTEVERDE: Yep.

4 RABBI HIRSCHY ZARCHI: And we did submit a new  
5 letter from Charlie Sullivan --

6 JIM MONTEVERDE: Yep.

7 RABBI HIRSCHY ZARCHI: -- putting it --

8 JIM MONTEVERDE: And we have it. --

9 RABBI HIRSCHY ZARCHI: -- to rest.

10 JIM MONTEVERDE: I have it. Thank you. I've  
11 received that, and they've confirmed that they're -- what  
12 they submitted previously in that the existing buildings,  
13 they had -- well, this is on January 4, 2024 -- that the  
14 buildings in question were not preferably preserved in the  
15 context of the development project.

16 And by doing so, the Commission signified its  
17 approval of the plans submitted by the Harvard Chabad for  
18 partial demolition, relocation and new construction on the  
19 site.

20 So that was clarified.

21 Yes, you're correct. I admit it. That's the new  
22 piece of --

1 SARAH RHATIGAN: Yep.

2 JIM MONTEVERDE: -- info that we have. So Sarah,  
3 please.

4 SARAH RHATIGAN: Great. And thank you for  
5 reminding me of that, because I did forget.

6 JIM MONTEVERDE: Yep.

7 SARAH RHATIGAN: So you have heard the testimony  
8 of -- between verbal testimony and letters of support from  
9 dozens of Chabad members who are either former or current  
10 people in the community who practice on Banks Street with  
11 the Zarchis.

12 And this project is a project for the people who  
13 currently attend. This is not an aspirational project, as  
14 the neighbors have described for some -- you know, hundreds  
15 above -- you know, above the current -- the current  
16 community.

17 But the current community is operating in  
18 circumstances that are really untenable in a long-term way.  
19 And I think you've also heard a lot of testimony about that.

20 So I don't want to harp on it, but what I do want  
21 to say is that the hardship here and the public interest in  
22 this project is really enormous. And really, it can't be

1 overstated.

2           The community is on Banks Street. It has been on  
3 Banks Street since 2000. It will continue to be on Banks  
4 Street.

5           And its location is both its home, where it's  
6 grown, but it's also -- if you heard the testimony of the  
7 people who attend, they've ordered their lives around where  
8 this community exists. They walk there for services on  
9 Fridays and Saturdays. It's where they bring their -- often  
10 their children to the preschool down the street. So its  
11 location in this neighborhood is central.

12           The Kerry Corner Neighborhood Association, as  
13 they've called themselves -- and I would note it's not,  
14 like, a recognized neighborhood organization or even a, as  
15 far as I know, an organized entity that has standing, but  
16 the folks who are signing this letter, they say, you know,  
17 "We're happy for you to stay, but you need to --quote,  
18 unquote-- "rightsize your project." Well, their rightsizing  
19 the project is just it's absolutely inadequate to what we're  
20 trying to do here.

21           Now, when we talk about -- you had concerns  
22 previously about some question about is there really

1 hardship? We're talking about that, but also what is this  
2 federal law, and what do these federal rights mean?

3 I am not a RLUIPA expert, obviously. I'm --  
4 that's not my area of practice. I understood it much better  
5 now, but I think the essential things that we want to bring  
6 to bear to this Board is that when you have discretion to  
7 grant a variance, in this case where the variance is really  
8 limited, it is limited to FAR only.

9 We are not exceeding all these other Dimensional  
10 Requirements for the area. The religious use and the  
11 religious needs of this community really do have to be taken  
12 with utmost seriousness.

13 And the other thing that's really surprising --  
14 and I was actually going to submit this in writing because  
15 there's some numbers here that I want to site to you all,  
16 but I had an internet who was helping me this summer and I  
17 was curious. We talked a lot about how there are churches  
18 all over the city of Cambridge. And they're often in  
19 residential neighborhoods -- usually Christian and Catholic  
20 churches, and that's the sort of the history of the  
21 community, but we were speaking on an anecdotal basis.

22 But I wanted to know what are -- what is the data?

1 So I contacted the City Assessor's Office, and they gave me  
2 access to -- they have a public portal, where you can run  
3 the numbers based on what the City has assessed for property  
4 ownership records for -- you know, across the city.

5 And again, I will submit this in writing. I'm  
6 sorry that I wasn't -- I didn't have the staff to help me do  
7 this before, but I just want to give you some facts that are  
8 -- that I feel are -- should color your thinking about this  
9 project.

10 So in the city of Cambridge, there are 70  
11 properties that are classified by the City Assessor as  
12 having a State Use Code of 960. And 960 is for churches,  
13 mosques, synagogues, temples, et cetera.

14 67 of those properties, which is 95.7 percent of  
15 those properties: if you look at the entity name, the  
16 entity name tells you that these are Christian and Catholic  
17 organizations.

18 Only 4.3 percent of the properties in the city of  
19 Cambridge are other than Christian and Catholic  
20 organizations. That's pretty outstanding. I mean, I don't  
21 know what all of our area -- you know, again, like, I -- I  
22 haven't -- I don't do this for a living, but that's a pretty



1 stark number.

2 Now, of that, there is one property that is listed  
3 as the Jewish or owned by a Jewish organization. That  
4 doesn't include the Chabad, because strangely the Assessor  
5 has the Chabad as a university, probably because they're  
6 confused by the name.

7 But of those churches and mosques and temples --  
8 all of those, all of those 70, where are they located?  
9 Well, 97 percent of them are located in residential  
10 districts. So that's where they're located. That's the  
11 reality. And of course, this is because probably this is,  
12 you know, where churches and religious establishments should  
13 be, or have been historically.

14 And so, in this case where there's a newer  
15 religion, or a minority religion who is trying to establish  
16 a reasonable sized sanctuary in a residential district,  
17 they're butting up against the imposed FAR limitations for  
18 the district. That's what the law says.

19 We come to the Board of Zoning Appeal for a  
20 variance of that restriction in this case, where it's  
21 absolutely essential to the organization, it has an  
22 incredibly important public purpose, and where it can be

1 done in a manner that does not cause substantial detriment  
2 to the neighborhood.

3           So I wanted to just -- and I'm trying to keep the  
4 comments brief, I could go on ad nauseum, which I really  
5 don't want to -- one last comment about the data: If you  
6 look at the -- if you calculate FARs for churches across  
7 the city, I was hard pressed to find any of those churches  
8 that fell into -- you know, 0.75 FARs. They were all in the  
9 mid 1s, 2s, 3s, which is what you experience.

10           I mean, those are probably even underestimates,  
11 because a lot of those churches have very tall spires, et  
12 cetera.

13           But there's something different about Religious  
14 Use than there is about residential use in Office and Retail  
15 and Restaurant Use when you look at it from an FAR or, you  
16 know, square footage perspective.

17           And what I mean by that is for the Chabad Center,  
18 when you look at their use -- the intensity of the use of  
19 this building, this future building which they're hoping to  
20 build, for much of the week, it is frankly a very quiet  
21 place.

22           There are -- Rabbi Zarchi can correct me on this,

1 but my recollection on the notes was approximately 20 staff  
2 members who are on the site, who are doing the work of, you  
3 know, supporting the organization; the Rabbi and his staff  
4 and other rabbis who come to visit and teaching, et cetera.

5 The times when there's higher occupancy is on  
6 Fridays starting at around 4 p.m., when people come to the  
7 site for the Chabad services, and on Saturdays, where they  
8 also have Chabad services throughout the day.

9 So there's an influx of people coming in, and then  
10 the place quiets out for the rest of the week.

11 So there's a lot of problems with, you know, the  
12 neighbors are working hard on their opposition. Like, their  
13 briefs are, you know, exhaustively written. But there's a  
14 real problem with the way they're trying to mischaracterize  
15 the building, the size -- the number of people that it's  
16 intended to house.

17 And I did want to ask, Jason, can I ask you to  
18 pipe in at this point? We just wanted to comment on the  
19 number of 890 occupants or something that was floated by  
20 this chart that's showing all the use of the space. It's  
21 really a misunderstanding and a mischaracterization of  
22 what's being built. And I think it's really important to

1 clarify that.

2 JASON JEWHRST: Sure. I can do that, and I'll do  
3 it briefly. Thank you, Sarah.

4 You know, as the Architect of Record for the  
5 Chabad Center for Jewish Life, it's my responsibility and  
6 the firm's responsibility to comply with state and city life  
7 safety codes and egress requirements like any other project.

8 For the Chabad, this building is designed to  
9 support the current size of congregants and programs that  
10 are happening weekly. The occupant capacity for the  
11 building is designed to support the 200 -- I'm sorry, the  
12 200 to 250 occupants that Sarah just narrated in those times  
13 of the week.

14 These are not concurrent uses. They are regularly  
15 attended on a weekly basis or through the seasonal holidays  
16 with established religious programs and ceremonies and  
17 prayer service that are provided by the Chabad Center.

18 The building is designed to accommodate the  
19 required egress capacity to meet these nonconcurrent uses.  
20 So that means when you have a synagogue service, that does  
21 not also mean that you have a second floor having a Chabad  
22 dinner. Those are not concurrent uses.

1           The building egress system, the egress capacity,  
2 the stairs, the capacity for safety and life systems, is  
3 designed for that. We do not have multiuse, concurrent  
4 programs.

5           For example, when you have a seasonal holiday,  
6 there is a very specific ritual and ceremony that happens,  
7 and afterwards there is a reception and a ceremonial meal or  
8 gathering to break bread. They do not happen at the same  
9 time.

10           This is grossly misrepresented in the letters that  
11 have been provided by the opposition, and it does support  
12 that the Chabad is only welcome in its insufficient organi--  
13 the way it's set up today. And that the Jewish community  
14 should meet outside.

15           JIM MONTEVERDE: Okay.

16           JASON JEWHRST: So I just wanted to clarify that  
17 the building has been designed for the current uses in those  
18 capacities that I've mentioned. Thank you.

19           JIM MONTEVERDE: Yep. So if I heard you  
20 correctly, in the nonconcurrent uses, it sounded like the  
21 maximum on site at any one time is between 200 and 250  
22 occupants, is that correct?

1           JASON JEWHRST: Yes. When you count the staff  
2 that Sarah had mentioned, the capacity for the synagogue is  
3 less than that.

4           JIM MONTEVERDE: Okay. Thanks. Thank you.

5           Sarah, do you have anything else?

6           SARAH RHATIGAN: I just wanted to summarize  
7 briefly just a couple things on the allegations of a  
8 negative impact. I mean, I think the biggest takeaway  
9 message is that the impacts that the neighbors experience  
10 now are -- will be better, will be improved by this project,  
11 not to the contrary.

12           There's a lot of concern about noise in the  
13 neighborhood. Well, they're operating under a tent outside.  
14 They are gathering outside. Their noise is traveling  
15 because they don't have an interior space to gather.

16           Even concerns about light spillage is probably due  
17 to some of the lights that are out in the tent.

18           The pedestrian safety concerns, I'm not sure how  
19 that makes any sense. The people who come here are largely  
20 walking. I think almost every person who spoke and has  
21 written letters has talked about how they come to the Chabad  
22 on foot.

1           The trash concerns, there's going to be  
2 professional trash pickup; that's going to be an  
3 improvement. Light -- there's been changes to the plan to  
4 address concerns about light.

5           I don't want to speak for too long. I would ask  
6 that we be allowed an opportunity to respond if there's  
7 something that, you know, that comes up that's -- that  
8 really needs, like, a response or a correction.

9           JIM MONTEVERDE: All right. Thank you for your  
10 presentation.

11           SARAH RHATIGAN: Thank you.

12           JIM MONTEVERDE: Any questions from members of  
13 the Board before I open it up to public commentary?

14           CAROL AGATE: Yes, Jim.

15           JIM MONTEVERDE: Yep, Carol?

16           CAROL AGATE: I do have some questions. First,  
17 I'm curious about the idea of addressing RLUIPA. I will  
18 tell you that back in the day it came out of a peyote case,  
19 strangely enough.

20           But my understanding is that we are just  
21 considering zoning; that if whether or not RLUIPA applies  
22 here would have to be a decision of a court that this isn't

1 the kind of thing that we're equipped to deal with.

2 So I would not think that that would be an element  
3 of the hearing today.

4 Also, I'm concerned about these facts that have  
5 been given to us, because I've done some studying on this  
6 and come to very different conclusions and to get the facts  
7 about 95.7 percent of the churches that there are 70  
8 churches? I came up with 11. I come up with four Jewish  
9 ones.

10 And if we're being given facts and figures that  
11 are relevant to a decision, I think we have to have that  
12 material beforehand and not just sited orally at the time of  
13 the decision.

14 So I don't know how this can be accomplished.

15 JIM MONTEVERDE: Okay. Let me take your first  
16 question, the first part of that, if I can. And I'll offer  
17 my unprofessional opinion, based on just what I've read from  
18 the second attorney that had written a statement of the  
19 facts. And that was presented, or it was available to us in  
20 the file the last time we met. And this is about RLUIPA, R-  
21 L-U-I-P-A.

22 I think the way it affects what we do: I think it



1 has no effect if we grant the variance; it has no effect.

2 If we don't grant the variance, then we should  
3 state clearly, decide what we usually do for our Cambridge  
4 Zoning Ordinance, we should discuss how there is a  
5 compelling government interest. I think all that means is  
6 we have to elaborate on what it is that's our concern; the  
7 reason why we would not accept it.

8 And then also have the discussion about is in fact  
9 that if we reject it, is that the least restrictive method  
10 of addressing that compelling government interest?  
11 I think that's how it weaves together in the decision that  
12 we make as a Board.

13 I think it only comes to play if we make it -- if  
14 we don't approve the variance. And we just have to have a  
15 further discussion about some of those facts.

16 CAROL AGATE: But the problem is that a decision  
17 like that is something that requires some measure of  
18 studying. It's not just -- I mean, they have sited cases.

19 JIM MONTEVERDE: Correct.

20 CAROL AGATE: We have nothing but their analysis  
21 of what the case says. We're not equipped to study the  
22 cases. And they have to be decided; the decision has to be

1 made based on what the courts have said.

2 JIM MONTEVERDE: Okay. Let's hear any other  
3 questions and move along and see if your question gets  
4 answered, Carol. If not, we'll pick it up again when we  
5 have our discussion among the Board members, please.

6 Is that all right?

7 CAROL AGATE: Okay.

8 RABBI HIRSCHY ZARCHI: Unless we have -- should we  
9 -- do we have --

10 CAROL AGATE: All right.

11 JIM MONTEVERDE: No. Rabbi, please. --

12 RABBI HIRSCHY ZARCHI: -- speak to the --

13 JIM MONTEVERDE: No. No. Stop. This is -- I'm  
14 asking for questions from members of the Board. Please.  
15 Desist until it's your opportunity to speak. Any other  
16 questions?

17 CAROL AGATE: No, I just --

18 JIM MONTEVERDE: Any other questions from members  
19 of the Board?

20 CAROL AGATE: I do have some questions for the  
21 proponents.

22 JIM MONTEVERDE: Go ahead.

1 CAROL AGATE: Do you have the square footage of  
2 the tent?

3 SARAH RHATIGAN: I'm sorry, I do not.

4 RABBI HIRSCHY ZARCHI: It's -- just to be clear  
5 about it, I could answer that. The tent is really  
6 irrelevant as I understand your question, because the tent  
7 is only relevant in December when there's snow.

8 But right now, we use most of the space beyond the  
9 tent, so that we have the square footage of the open space,  
10 which is about -- you know, it's 5,000 plus square feet that  
11 we take advantage of.

12 So for example last week at the holiday of Sukkot,  
13 when we had the services with the children, we used  
14 thousands of square feet, not just the 1,500 square feet of  
15 the tent, but we must have used 3,000 plus square feet to  
16 accommodate the children, parents, students, the various  
17 residents of the city to observe the holiday of -- the  
18 Biblical holiday of the Sukkot.

19 JIM MONTEVERDE: Thank you. Carol, did that  
20 respond to your question? Did you get a sense then?

21 CAROL AGATE: Well, I'm curious where 5,000 square  
22 feet would fit. I figure on your new plans is the 4,300

1 square feet. And that's even a smaller area. So where is  
2 the place?

3 RABBI HIRSCHY ZARCHI: So as you know, there's  
4 three properties. Combined, they total I think about 12,000  
5 square feet of land. So when I'm describing the thousands,  
6 it's -- the driveway is -- the tent is only in the driveway  
7 of 38 Banks Street. There's significantly more space in  
8 48's property. 48 Banks Street is about 5,000 square feet.

9 The house is only -- as we'll see soon here --  
10 it's a tiny little house, I think it's red, in the back.  
11 Everything around it is open area. So that's what we're  
12 referring to when we say, "thousands of square feet of  
13 outdoor space."

14 CAROL AGATE: About how many people attend the  
15 Shabbat evening services?

16 RABBI HIRSCHY ZARCHI: On a typical Friday night,  
17 there's about 250 to 300 people. Most of them come for the  
18 dinner that follows the service. So we have, as Jason  
19 pointed out, under -- well under the 200 for services, but  
20 it reaches at capacity when we shift from the service to the  
21 dinner.

22 CAROL AGATE: So --

1           RABBI HIRSCHY ZARCHI: And the dinner can easily  
2 have 250, maybe up to 300 people sometimes.

3           CAROL AGATE: Oh. I'm surprised. One of the  
4 people who spoke on your behalf -- somebody sent a letter or  
5 spoke, I can't remember which -- she said when there are 50  
6 people for the worship services, it's too tight to even  
7 move.

8           RABBI HIRSCHY ZARCHI: Right. And that's why  
9 we're outdoors. So the indoor space currently, beyond 50,  
10 that's -- we've surpassed that years ago, and that's why  
11 we're exclusively in the outdoors now.

12          CAROL AGATE: So your services are also outside?

13          RABBI HIRSCHY ZARCHI: For the most part.

14          CAROL AGATE: Then it's not too crowded outside?  
15 She said if there are 50 people --

16          RABBI HIRSCHY ZARCHI: Well, out -- yeah. Outside  
17 it works, but outside it's very unsafe and very cold in  
18 December. And no one -- there's not a single religious  
19 community that is asked to do that.

20          CAROL AGATE: And where are the Saturday morning  
21 services?

22          RABBI HIRSCHY ZARCHI: Saturday morning services

1 happen both indoors and outdoors. The larger service, which  
2 involves young families, have been in the outdoors. That's  
3 actually the larger and more popular one. It's a good -- it  
4 shows a good side of the future for Jewish life in  
5 Cambridge.

6 And the smaller service for the students are  
7 indoors. They're typically sleeping on Saturday morning,  
8 the college kids. So it's a smaller service.

9 The families are a big number with their children,  
10 and they're in the outdoors.

11 CAROL AGATE: And I'd like to ask you, Sarah, I'm  
12 fascinated with the idea that you got this information from  
13 the City. All I could do is get the information from  
14 Google. And --

15 SARAH RHATIGAN: I -- yeah. I was -- I was also  
16 surprised, if you don't mind. I contacted the Assessor's  
17 Office thinking it was a Public Record Request and was  
18 immediately put in touch with the person who operates an  
19 Open Data portal that you can access. So basically, anybody  
20 who wants to can access that portal.

21 And again, I apologize that this wasn't submitted  
22 in advance. I actually literally while we were talking here

1 -- I did submit my letter, the chart, and the -- sort of the  
2 summary of data so that everybody will be able to see the --  
3 it gives the URL post for the link to the data site --

4 CAROL AGATE: Well, I --

5 SARAH RHATIGAN: -- so that, you know --

6 CAROL AGATE: -- I can't --

7 SARAH RHATIGAN: -- people can --

8 CAROL AGATE: -- imagine --

9 SARAH RHATIGAN: -- take a look.

10 CAROL AGATE: -- I can't imagine that there are 70  
11 churches in Cambridge.

12 RABBI HIRSCHY ZARCHI: Carol --

13 CAROL AGATE: Especially --

14 RABBI HIRSCHY ZARCHI: Carol, there's 11 houses of  
15 worship --

16 CAROL AGATE: -- residential areas.

17 RABBI HIRSCHY ZARCHI: -- five --

18 CAROL AGATE: So are these just non-profit  
19 organizations?

20 JIM MONTEVERDE: Yep.

21 CAROL AGATE: Is this tax rolls -- a list of --

22 SARAH RHATIGAN: There --

1 CAROL AGATE: -- those who --

2 SARAH RHATIGAN: Yeah, so --

3 CAROL AGATE: -- don't pay taxes?

4 SARAH RHATIGAN: Yes. Yeah. The state -- the  
5 State Use Code 960 is a, a tax-exempt --

6 CAROL AGATE: Aha.

7 SARAH RHATIGAN: -- religious organization  
8 categorization, yes.

9 CAROL AGATE: Well, I guess it's not just  
10 religious organizations, then, it must be any tax-exempt  
11 organization? Various charities?

12 SARAH RHATIGAN: This -- these are the ones that  
13 are, that are religiously based. And that's -- I asked --  
14 that's what I asked the State Assessor -- I'm sorry, the  
15 City Assessor's Office. I specially told them what I was  
16 looking for.

17 And then you'll see the purpose --

18 CAROL AGATE: Okay.

19 SARAH RHATIGAN: -- is listed as --

20 CAROL AGATE: Oh. So in other words, Catholic  
21 Charities would be included? Not so much Catholic Charities  
22 as an organization would be included.



1           SARAH RHATIGAN: Yes, but I'm pretty sure that the  
2 only type of -- they were only counted when it was listed as  
3 a Church Use.

4           JIM MONTEVERDE: Carol, do you have any other  
5 questions, please? I think -- as opposed to going back and  
6 forth on this?

7           CAROL AGATE: I'm also curious that you came up  
8 with only one Jewish one. I mean, the Google alone has  
9 three synagogues, and then a fourth one is in Belmont right  
10 over the town line. So I don't know how it came up with  
11 only one. It's -- just doesn't make any sense. Beth Shalom  
12 --

13           SARAH RHATIGAN: And I should --

14           CAROL AGATE: -- Eitz Chayim --

15           SARAH RHATIGAN: Yeah.

16           JIM MONTEVERDE: Yep.

17           CAROL AGATE: -- Kahal B'raira, and Beth El.

18           JIM MONTEVERDE: Yep. Carol, thanks for sharing  
19 that info. That's informative.

20           CAROL AGATE: So --

21           JIM MONTEVERDE: It will help the Board.

22           CAROL AGATE: Anyway, I'm concerned about the --

1 being able to check the information.

2 JIM MONTEVERDE: Okay. Thank you. Any other  
3 questions?

4 CAROL AGATE: Also, there are two Hillels that are  
5 also available, plus one other Chabad.

6 JIM MONTEVERDE: Thank you. Does any other Board  
7 member have a question?

8 DANIEL HIDALGO: Can you just briefly discuss what  
9 the changes vis-à-vis the trash collection, garbage  
10 collection, and then also some of the neighbors were  
11 discussing -- I don't know, issues with traffic being  
12 blocked because of package delivers, et cetera?

13 How does the design affect any of these issues?  
14 I'm just curious.

15 ELKIE ZARCHI: So I think because I'm the one who  
16 has to make things work at Chabad, I could tell you.

17 So first of all, for example deliveries. Yeah.  
18 We get a million deliveries a week --

19 RABBI HIRSCHY ZARCHI: Extremely --

20 ELKIE ZARCHI: -- because -- sorry, we get a  
21 million deliveries a week because we don't have the storage  
22 for it. So absolutely, once we have storage, I could get

1 one delivery a week.

2 I will also point out that I will not resort to  
3 taking photos and submitting them, but our Chabad driveway  
4 was blocked just this week alone 12 times that I counted,  
5 not from our delivery vehicles.

6 So I think that, you know, when you have a big  
7 driveway and a big operation, a lot of things just get  
8 lumped on you.

9 Trash. We have a -- we order, right away we got a  
10 trash delivery to come now, and he keeps telling me, "When  
11 are you going to have a normal place for your trash, so I  
12 can actually come three times a week and just pick it up?"  
13 Right? Right now, we don't have that space.

14 So I think that that's, like a big part of it is  
15 that the complaints which are, you know, I hear them. Those  
16 complaints are actually going to go away when we have a  
17 valid space.

18 And we actually so blessed to have a community  
19 that wants to show up for community. It feels really,  
20 really hard and really impossible to tell someone, "I'm  
21 sorry, there's no space." Or to have to tell someone at a  
22 children's program: "Please watch your kids, they're going

1 to -- you know, I can't have them run into the street."

2           So all of their complaints really feel like  
3 they'll go away when we actually have this space to  
4 accommodate the people who are showing up. We're not  
5 begging them to come; they're just showing up. So what a  
6 blessing to have that in Cambridge and in this community.

7           But I do think as the one who makes things work,  
8 give me more storage; I promise I'll have one delivery a  
9 week. Trust me, Hirschy will love that.

10           JIM MONTEVERDE: Okay. Thank you.

11           RABBI HIRSCHY ZARCHI: Thank you.

12           JIM MONTEVERDE: Daniel, does that give you a  
13 sense?

14           DANIEL MESSPLAY: Yes, great.

15           JIM MONTEVERDE: Ok. Any other Board member have  
16 any question before I open it up to public comment? No?  
17 Not hearing anything else.

18           Before we open it to public comment, let me just  
19 -- I think I said this before, but let me say it again: And  
20 we have correspondence dated -- and this is really just to  
21 summarize what's been submitted so everyone who has  
22 submitted doesn't need to call in to say it again, but

1 they're certainly welcome to if they feel they need to do  
2 that.

3 We have -- dated June 17, from Alan Joslin -- Alan  
4 representing the Kerry Corner Neighborhood Association --  
5 with 33 signators to this. This is the neighborhood group  
6 stating -- this is an updated version of what they had  
7 submitted before -- in opposition and stating their concerns  
8 about a substantial detriment, really about the FAR.

9 And this is some of what Sarah, and I think the  
10 Rabbi spoke to and take exception to about the neighborhood  
11 public would experience detriment to the public good because  
12 of a very large FAR, which would impact pedestrian safety,  
13 parking and traffic, trash, noise, lighting, loss of trees  
14 and green space and more, as detailed in the previous letter  
15 to the BZA.

16 So that is in the file, and I think that is all we  
17 have as new correspondence. We do have all the  
18 correspondence previously that was for.

19 So with that, any members of the public who wish  
20 to speak should now click the icon at the bottom of your  
21 Zoom screen that says, "Raise hand."

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

1 hand by pressing \*9 and unmute or mute by pressing \*6.

2 I'll now ask Staff to unmute the speakers one at a  
3 time. You should begin by saying your name and address, and  
4 Staff will then confirm that we can hear you. After that  
5 you will have up to three minutes to speak before I ask you  
6 to wrap up.

7 OLIVIA RATAY: Elizabeth Foote?

8 ELIZABETH FOOTE: Hi, can you hear me?

9 JIM MONTEVERDE: We can.

10 ELIZABETH FOOTE: Great. Thank you. Hi. I am  
11 Elizabeth Foote, here with my husband, Erik Thorkildsen.  
12 We've lived at 27-29 Surrey Street, at the corner of Banks  
13 and Surrey, for over 20 years, and we're here as member  
14 representatives of the KCNA. We thank you for your time and  
15 your careful consideration of all of it.

16 We are here to respond to questions raised at the  
17 main hearing regarding our identification of the project's  
18 potential occupancy numbers.

19 We were dismayed with the petitioner's claim that  
20 our Jewish members are unfamiliar with the faith's  
21 traditions and its use of space, thus its occupancy  
22 capacity.

1           But rather than quibble here with unsubstantial  
2 claims, we ask you to turn to the facts. One simply needs  
3 to examine the International Building Code, the basis for  
4 the Massachusetts Zoning Code.

5           Therein the occupancy load calculations derived  
6 from the petitioner's plans demonstrate that the proposed  
7 facility can be legally occupied by as many as 894 people.

8           The details of the calculations can be found in  
9 Appendix 3 of our most recent submission to the Board. Will  
10 this happen? Please consider the following:

11           First, the petitioner has already held events on  
12 their property and in our streets, requiring the closure of  
13 the street.

14           They have complained in the Jewish Journal and  
15 even on their own website the number attending was, "over  
16 1,000 people." In the last BZA hearing, they announced too  
17 that their membership was already well over 1,000.

18           Second, the petitioner already housed larger scale  
19 events in university space offsite because their current  
20 onsite facilities do not offer the capacity they desire for  
21 these events. However, the proposed facility growth finally  
22 allows the much larger activities to move to Banks Street.

1           And finally, in our meeting with the petitioner  
2 last year, the architect noted how the design's flexibility  
3 and size of the new facility will not only handle current  
4 needs but will also vastly increase the ability to host a  
5 much broader array of programming activities throughout the  
6 week.

7           While this petitioner may now promise to use the  
8 space in one way, the promise cannot assure that it will not  
9 be used with greater capacity or frequency by themselves or  
10 by future leaders of this community, or whoever may  
11 eventually own the property.

12           Therefore, we kindly request that the Board deny  
13 the variance based upon the proposed ability over [unclear]  
14 and increase in occupancy capacity. Thank you.

15           JIM MONTEVERDE: Thank you.

16           OLIVIA RATAY: Adam Sherwin?

17           ADAM SHERWIN: Good evening. Can you hear me?

18           JIM MONTEVERDE: Yes, we can. Go ahead.

19           ADAM SHERWIN: Members of the Board, this is  
20 Attorney Adam Sherwin. I was asked to speak for the Kerry  
21 Corner Association; I spoke at the last meeting as well.

22           I'm a real estate litigation attorney. I'm also a



1 member of the City of Malden's Zoning Board as well, so I  
2 understand much of the issues that's going on today.

3 I wanted to briefly talk about RLUIPA, which the  
4 other side has brought up. RLUIPA, again, is not something  
5 for you to consider. I say this respectfully, but you are  
6 not a court. You are not judges; you are not -- some of you  
7 are not lawyers.

8 It's not your role to determine what substantial  
9 burden is or a compelling government interest; that's an  
10 issue for a court to decide. That's something that requires  
11 extensive research, testimony, and evidence. It's not  
12 something for a Zoning Board of to consider. Your job is to  
13 take the issues as presented and decide it based on the  
14 variance and special permit standard.

15 The petitioner, if they're dissatisfied, and they  
16 think it's a violation of the law, they have a right to go  
17 the court. They have a right to file their own action and  
18 ask the court to decide that, where a Judge makes that  
19 decision.

20 So I would submit to the Board respectfully, don't  
21 even get involved in that. It's not your consideration.

22 I raised that point at the last meeting. I

1 reviewed the memo closely. I haven't seen anywhere where  
2 that memo states that you can make that determination. I  
3 would submit to you that's a pretty tacit admission that you  
4 don't have that authority; you're not a court, you don't get  
5 to determine the constitutionality of a local ordinance.

6           What I think is the most surprising about this  
7 petition is at the last meeting you heard 30 local members  
8 -- 30 neighbors opposing this project. The Board decided to  
9 continue this for about a month.

10           In that month's time, to the best of my knowledge,  
11 the petitioner has not reached out to any of the 30 members  
12 or myself about these concerns.

13           I would think -- and I've been in the petitioner's  
14 petition where a large number of people are opposing a  
15 project -- the first thing I would be doing would be  
16 reaching out to my opposition and speaking with them and  
17 opening a dialogue. That has not happened.

18           And I'd ask the Board to really take that into  
19 consideration.

20           This doesn't seem like a group that's interested  
21 in being a good neighbor. It seems like a group that's  
22 trying to ram through a project, with every one of the

1 neighbors opposed to it. And that's really not the way this  
2 should work in light of the gross request and request for,  
3 you know, really extreme zoning relief.

4 Thank you so much for your time.

5 JIM MONTEVERDE: Thank you for calling in.

6 OLIVIA RATAY: Thomas Serwold?

7 THOMAS SERWOLD: Hi. I'm Tom Serwold. And I'm a  
8 member -- I'm a resident of 30 Banks Street since 2009 and a  
9 member representative of the KCNA.

10 First, I want to express my deep appreciation for  
11 the BZA and for its careful consideration of the Banks  
12 Street Neighborhood Project.

13 And I'd like to speak to one of the petitioner's  
14 claims of hardship regarding the CZO requirement to combine  
15 contiguous properties held under common ownership.

16 The petitioner claims as a hardship the Zoning  
17 Requirement that for Zoning evaluation the petitioner must  
18 merge their multiple commonly owned, congruent properties  
19 into one. The requirement to merge this properties is based  
20 on Massachusetts Chapter 40A Section 6 in the case of  
21 Preston v. Board of Appeals in 2001.

22 The petitioner suggests that without such a

1 requirement, each of their contiguous parcels less than  
2 5,000 square feet containing a nonconforming structure built  
3 for two-family use would be entitled to increase their GFA  
4 FAR significantly with a special permit under CZO Section 8.  
5 And as such, they would like to avoid the more stringent  
6 variance process, which they currently face.

7           Very simply, zoning regulations do not constitute  
8 a legal hardship. The CZO very clearly defines what deems  
9 acceptable hardships, and zoning laws are not hardships.

10           Even if the petitioner was able to seek a special  
11 permit and use Section 8 as they desired, they'd still have  
12 to satisfy the other requirements of that section, which  
13 include having to convince the BZA that, "The alteration or  
14 enlargement shall not be substantially more detrimental than  
15 the existing nonconforming structure of the neighborhood."

16           And that "The alteration or enlargement satisfies  
17 the criteria in Section 10.43" which has several additional  
18 requirements attached to it regarding the impacts of the  
19 project on traffic, the neighboring properties, the creation  
20 of nuisances and hazards, and the derogation and purpose of  
21 the Ordinance itself, as well as the impact on the Cambridge  
22 Urban Design objectives.

1           And the petitioner wouldn't be able to satisfy any  
2 of those requirements, probably.

3           So in summary, the requirement to apply for a  
4 variance rather than special hardship doesn't constitute a  
5 legal hardship, as defined by the CZO, and should be  
6 excluded from this hearing.

7           Thank you.

8           JIM MONTEVERDE: Thank you for calling in.

9           OLIVIA RATAY: Molly Rothenberg?

10          MOLLY ROTHENBERG: Hello. Hi. Can you hear me?

11          JIM MONTEVERDE: We can.

12          MOLLY ROTHENBERG: Hi. I'm going to read my  
13 statement. That'll definitely take under three minutes.

14          My name is Molly Rothenberg. I live at 649 Green  
15 Street. I'm speaking in support of the petitioners in  
16 Harvard Chabad.

17          I also want to kind of reiterate that despite any  
18 claims to the contrary, the Kerry Corner Neighborhood  
19 Association does not speak for all nearby residences, nor  
20 members of the large neighborhood.

21          While I now live with my husband and two young  
22 children at 649 Green Street, I live in what was originally

1 my parents' residence and childhood home until we purchased  
2 the property from them in 2023.

3 So as a longtime resident of 30 years of this  
4 neighborhood and having had the perspective across multiple  
5 generations of family life, including being a young parent,  
6 I feel I can confidently speak to navigating community life  
7 in this neighborhood.

8 What I can most speak to here is my objection to  
9 KCNA's claims that such a project represents substantial  
10 detriment to the public good. Rather, we feel that this  
11 institution and what it offers to the neighborhood is fully  
12 in the best interest of our community.

13 To be frank, the only way this institution is out  
14 of step with the residential life of this city neighborhood  
15 is that resources like it are too few and far between.

16 We regularly walk to programming offered by  
17 Harvard Chabad for families, and I can think of two other  
18 families just on our short walk of Green Street who do as  
19 well, that also have young children.

20 In a segmented city where much is either  
21 individual residences or student housing and commercial, a  
22 religious and community gathering space, rather than

1 changing the feel of the neighborhood, is vital to the  
2 character of the community.

3 Further, right now it especially feels important  
4 to support Jewish places of gathering and community.

5 I feel I should qualify this by saying that my  
6 family is an interfaith family and mostly secular, and we  
7 have always felt welcomed by Chabad despite that.

8 So I hope you will consider my viewpoint as a  
9 neighborhood resident who fully supports this. And I thank  
10 you for your time.

11 JIM MONTEVERDE: Thank you.

12 OLIVIA RATAY: Berl Hartman?

13 BERL HARTMAN: Got it. Can you hear me?

14 JIM MONTEVERDE: Yes. Go right ahead.

15 BERL HARTMAN: Thank you. my name is Berl  
16 Hartman. My husband and I live at 28 Banks Street, two  
17 doors down from Chabad, and I'm a member representative of  
18 KCNA. Thank you very, very much for your time and attention  
19 to this issue.

20 We would like to again go back to the RLUIPA  
21 matter and point out that the petitioner is apparently  
22 trying to cloud the hearing to a threat to seek entitlement

1 to -- quote -- heightened protection from the federal  
2 government through the Religious Land Use and Person -- and  
3 Institutionalized Persons Act.

4 Obviously, that would be a matter for a court, as  
5 our previous speaker mentioned and not the BZA.

6 Nonetheless, because of the facts on the ground, it is  
7 unlikely to ever be heard by a court.

8 The petitioner's co-council would have you believe  
9 that denial of the application to expand their building  
10 would -- quote -- substantial burden Chabad's religious  
11 practice, but they have been performing religious practice  
12 on this property for many, many years.

13 The petitioner's co-counsel makes mention of a  
14 series of cases where RLUIPA has been used to prevent, to  
15 overturn a city's decision. However, looking closely at  
16 these cases, they all rely on -- quote -- individualized  
17 assessments; in other words, where a town has treated a  
18 petitioner's property uniquely and differently from  
19 comparable ones. This case does not fall into that  
20 category.

21 RLUIPA is not a blanket exception from Zoning  
22 Laws. According to the Justice Department, if city or town



1 decisions are based solely on a mechanical objective basis,  
2 with no discretion on the part of the decision-makers, they  
3 do not meet the criteria for individual assessment. Here,  
4 there can be nothing more objective than observing and  
5 rejecting the overage of the FAR.

6           Moreover, the City of Cambridge through their  
7 Zoning Ordinances already provides the protection that  
8 RLUIPA requires. They require, specifically:

9           One, religious assembly or institution is fully  
10 treated on equal terms with nonreligious assembly or  
11 institution.

12           Two, there is no discrimination against any  
13 assembly on the basis of religion or religious denomination.

14           Three, there is no land use regulation that  
15 totally excludes or unreasonably limits religious assemblies  
16 or structures on the petition's property.

17           In summary, the petitioner, or any other potential  
18 owner of the property, religious or not, must still abide by  
19 the Dimensional Regulations of Section 5 of the Cambridge  
20 Zoning Ordinance. Thank you very much.

21           JIM MONTEVERDE: Thank you.

22           OLIVIA RATAY: Sara Wolfensohn?

1           SARA WOLFENSOHN: Thank you so much. I really  
2 appreciate that you're letting me speak. I'm very much in  
3 support of this project. I've been a member of this  
4 community for 18 years. I live at 64 Garfield Street, and I  
5 go there on Shabbat, I go there for holidays.

6           And I just wanted to address -- I've only been on  
7 for about six minutes, so I apologize I'm only responding to  
8 a couple of things that I've heard.

9           In terms of it being a building for the future, I  
10 hate to say it, but that's actually just rubbish. They need  
11 the building now, and that's really what they're thinking  
12 of. They're not trying to take over the world.

13           They just simply want to have a building where  
14 Jews from the neighborhood can come and enjoy meals on  
15 Friday and Saturday and have some programming.

16           And it's preposterous if you ever go there on a  
17 Friday to eat in winter outside and -- you know, it's --  
18 it's not good, actually, for the community in terms of the  
19 lights, in terms of the garbage, in terms of any number of  
20 things.

21           And in response to the neighbors saying they  
22 didn't -- the lawyers saying that neighbors actually they

1 haven't reached out to them, I find that really to be an  
2 untruth.

3           Because I know from having spoken with the Zarchis  
4 that if there's a complaint about garbage or this or that,  
5 they pray for things privately and they address issues as  
6 they arise.

7           But I would encourage you to see a Friday night  
8 during the school year or talk to people who go there to  
9 hear about the hardship of being outside in winter in a tent  
10 with one or two heaters. I mean, it's a crazy, crazy setup.

11           And in terms of more programming during the week,  
12 you know, you're talking about Harvard students. It's not  
13 like they can go there Monday through Friday; they're  
14 working incredibly hard, and the same goes for their  
15 wonderful community members.

16           And by the way, I don't know how much you know  
17 about Judaism, but there are many different types of Jews,  
18 you know, who are religious, who are intermarried, who are  
19 observant -- and there are all different types of observant  
20 Jews -- and this is the only organization in Cambridge that  
21 in fact is welcoming to all.

22           And so, it embraces Jews from across the spectrum

1 in a way that no other organization does. I mean, so let me  
2 just quickly see what else. I think it's in the best  
3 interest of the community for them to have this community  
4 center.

5 I'd -- let me just see what else I needed to say.

6 JIM MONTEVERDE: Sarah, I'm going to ask you to  
7 wrap up night 30 seconds, please.

8 SARA WOLFENSOHN: Okay. In conclusion, then,  
9 thank you very, very much. It's a spectacular place. It's  
10 a home for Jews across Cambridge, and it's really not a home  
11 when you're in a tent. So I would encourage you to really  
12 think of all the people in Cambridge.  
13 Thank you very much.

14 JIM MONTEVERDE: Thank you for calling in.

15 OLIVIA RATAY: Emily Anne Jacobstein?

16 EMILY ANNE JACOBSTEIN: Hello. Can you hear me?

17 JIM MONTEVERDE: We can. Go right ahead.

18 EMILY ANNE JACOBSTEIN: Wonderful. My name is  
19 Emily Anne Jacobstein. My husband, my son and I live on  
20 Chauncy Lane. We've lived in Cambridge for over a decade  
21 and we're very much in support of what Chabad is trying to  
22 do here.

1           We regularly attend Tot Chabad with our 4-year-  
2 old. And this is truly the only religious space that our  
3 family can walk to, particularly with a weekly early  
4 childhood program for Jewish children. I've looked. This  
5 is the only option we have.

6           And the current situation really does pose a  
7 significant hardship to the Jewish community. And we do not  
8 have a space right now that is acceptable. We are not  
9 increasing the size of our community; we're not trying to  
10 build for the future; we're building for today.

11           And the neighbors consistently -- they just don't  
12 want us, and it comes off as straight-up NIMBYism. A few  
13 years ago, when the Rabbi and his wife wanted to make the  
14 neighborhood preschool permanent in the midst of an ongoing  
15 early childhood education crisis, we first heard that there  
16 were too many cars.

17           When we proved that the extreme majority of  
18 families walk -- I walk 25 minutes to take my son there  
19 instead of driving because I know the parking challenges --  
20 they then said that there were too many parents and children  
21 walking on the sidewalk. God forbid in a neighborhood like  
22 ours that we have children walking on the sidewalk safely.

1           Now we're in a similar situation. We hear  
2 concerns of rodents. With the future building, we'll be  
3 able to eat inside, reducing outside waste. We'll have a  
4 large enough dishwashing situation to allow for reusable  
5 plates and have a better plan for trash removal; there will  
6 be less trash.

7           We hear complaints that Chabad is open 24 hours.  
8 Any religious institution with parsonage likely claims to be  
9 open 24 hours in case a member of the community has an  
10 urgent need.

11           We have one holiday a year celebrating the Torah  
12 and resulting in an overnight Torah study. It is not common  
13 for there to be all-night ragers at Chabad.

14           And, you know, we hear residents say that we have  
15 plenty of space. My 4-year-old is out there in a snowsuit  
16 in freezing weather, and y'all think that's acceptable.  
17 That is just offensive. I mean, does Cambridge not care  
18 about our children?

19           This is absolutely ridiculous. I understand that  
20 many people on the other side have said they're Jewish; that  
21 doesn't matter. I've seen people of many different faiths  
22 fight within another because they may not like a

1 construction project. I mean, we should all feel welcome in  
2 Cambridge. Please support this.

3 Thank you.

4 JIM MONTEVERDE: Thank you for calling in.

5 OLIVIA RATAY: Jacqueline Jowett?

6 JACQUELINE JOWETT: Hello there, can you hear me?

7 JIM MONTEVERDE: We can. Go right ahead.

8 JACQUELINE JOWETT: Hi there. My name is  
9 Jacqueline Jowett. I live at 49 Howard Street with my  
10 husband Nate. We've got five young kids.

11 We are members of the St. Paul Parish. We walk by  
12 Banks Street every Sunday and we also, you know, pop into  
13 the St. Paul Parish into the church more than just on  
14 Sundays. We are welcome to walk in. We've got brunch,  
15 we've got dinners, we have movie night, we have plenty of  
16 space at our church for family events.

17 It really saddens me that the Jewish community is  
18 struggling for more space, and for a meal during winter that  
19 they're eating outside under a tent, while we're -- while we  
20 have a warm space just down the street at a Catholic church.

21 So I really hope that the community steps up and  
22 supports the Chabad community. Thank you.

1 OLIVIA RATAY: Deborah Epstein?

2 DEBORAH EPSTEIN: Hi, can you hear me?

3 JIM MONTEVERDE: Yes. Go right ahead.

4 DEBORAH EPSTEIN: Hi. I'm Deborah Epstein, a  
5 direct abutter at 36 Banks Street. I'm Jewish and a  
6 representing member of the KCNA. We want to express our  
7 deep appreciation to the BZA for its careful consideration  
8 of the Banks Street Neighborhood Project.

9 We were surprised and saddened by the comments of  
10 the petitioner's lead representative, Rabbi Hirschy Zarchi,  
11 at the end of the last meeting. His comments, which are  
12 available for review in a recording of the meeting, were  
13 surprising, hurtful, and untrue.

14 To be clear, KCNA members have lived alongside and  
15 supported the petitioner for many years, decades. All of us  
16 many of us are Jewish, although we were told that we are  
17 not, deeply value all of our neighbors and we are especially  
18 comfortable that Harvard Chabad at its current scale is part  
19 of our community.

20 Last December, within a week of learning of the  
21 proposed expansion, we reached out to meet with the  
22 petitioner to learn more. We were surprised at what we saw.



1 On December 22, we followed up with a written memo,  
2 recommendations for rightsizing to serve the greatest public  
3 interest, which was included in KCNA's rebuttals.

4 This memo balanced what we heard as the  
5 petitioner's needs with neighborhood concerns so as to  
6 encourage Chabad to remain and thrive in the neighborhood.

7 The construction proposed in the memo brings the  
8 activity of the tent indoors, adds interior space, and  
9 provides outdoor space for religious gatherings in a  
10 location that would have less negative impact than a rooftop  
11 setting.

12 This too would require a variance, but one we  
13 would likely support. We have never varied our  
14 recommendations from that document, despite the petitioner's  
15 claim otherwise.

16 Unfortunately, following their receipt of that  
17 memo, the petitioner's response was firm, stating there will  
18 be no discussion of reducing square footage. This all-or-  
19 nothing approach saddens us, especially since the petitioner  
20 has successfully used the property for two decades, and we  
21 have been open to negotiation around their current plans for  
22 expansion.

1           While the petitioner considers this a moral issue,  
2 we consider it a dimensional issue, a simple case of FAR  
3 overreach. Thank you.

4           JIM MONTEVERDE: Thank you for calling in.

5           OLIVIA RATAY: M.M. Zarchi?

6           MENDEL ZARCHI: Hi. This is Mendel Zarchi. I  
7 serve -- I work in Harvard Chabad, and I work with the  
8 graduate students. I'm not a lawyer, so I'm obviously not  
9 going to talk about RLUIPA. I'm not an expert on BZA, so --  
10 and the mandate.

11           But I've been quiet and listening, mostly because  
12 I didn't think it would be useful for you guys to hear my  
13 opinion, because you probably know what my opinion is.

14           But I can't help but speak up when I hear a  
15 constant juxtaposition of the neighbor -- the entire  
16 neighborhood and the neighbors are against a project by a  
17 rabbi who's just trying to ramp their project.

18           I mean, I was born in Cambridge. I spent my  
19 entire childhood in Cambridge. I grew up walking to the  
20 park and then talking and getting a drink from Louie.

21           And we are talking about a place where you just  
22 heard where hundreds of Jews -- parents, students -- come

1 and to find their home, their religious home, and their  
2 community.

3           So when you tell -- when we talk about a letter of  
4 33 neighbors that are signing on it, we -- it's important to  
5 juxtapose that to the hundreds of parents, families and  
6 students that are supporting this expansion, and that need  
7 Chabad as their home and right now currently are spending  
8 their entire religious experience and family experience  
9 outside in the cold.

10           So I find it -- I found it very offensive, the  
11 comments of everyone who's against it when we're talking  
12 about a situation where -- we're talking about hundreds of  
13 people that are sitting outside that are part of this  
14 community.

15           They may not -- they may not have homes, they may  
16 rent, they may only live here for three or four years, they  
17 may be starting families, but they are very much part of the  
18 Cambridge community, and Chabad is the place where they find  
19 home and meaning.

20           And to ignore the fact that this is hundreds of  
21 people that are -- that need this -- that need this space, I  
22 feel like it's just worth kind of mentioning.

1 Thank you for your time.

2 JIM MONTEVERDE: Thank you for calling in.

3 OLIVIA RATAY: Sarah Gropel?

4 SARAH GROPEL: Hi. Sorry, I usually have  
5 something prepared to say, but I was at the airport, and I  
6 was listening to this, and I was just like, "Oh my gosh, I  
7 need to call in." I have two things to say.

8 The first was at the last hearing I was very  
9 offended, and this is kind of what Mendel was saying, by  
10 what Carol said about how she's never seen such unanimous  
11 support amongst the neighbors after you heard from me, a  
12 neighbor, and multiple neighbors -- neighbors that live on  
13 Athens Street, neighbors that live on Green Street; even  
14 neighbors that live on Banks Street who support this.

15 And it felt like that she took the whole entire  
16 conversation and reduced it to one sentence and ignored all  
17 of the neighbors who really, really could benefit from this  
18 plan. And that was offensive. And I'm happy that there's  
19 record. And I hope that you guys will go through the record  
20 from last call and see how many people called in to actually  
21 support that.

22 And the second thing is I just want to respond to

1 what Deborah Epstein said. And to me as someone who has  
2 been on all of these calls for the preschool, for the  
3 building, like it's a blatant lie that they've been  
4 supportive neighbors.

5 They call in every hearing -- it doesn't matter  
6 what angle it is -- to stop the school being built; that had  
7 nothing to do with the big building, the Harvard Chabad  
8 building. They call about that.

9 They call about what they see as, like, potential  
10 safety risks for crossing. Like, I just don't get it.  
11 Like, there's record. You can't just call and lie.

12 Anyways, I hope you guys will please approve this  
13 building. This is so crazy. Everything will be better if  
14 we could just get inside a building. Please.

15 Goodbye. Thank you.

16 JIM MONTEVERDE: Thank you.

17 OLIVIA RATAY: Nana?

18 NANA ROSKIN: Hi, can you hear me?

19 JIM MONTEVERDE: Yes. can you tell us your name,  
20 please, and address?

21 NANA ROSKIN: Hi. My name is Nana Roskin. I live  
22 at 245 Hampshire Street in Cambridge, and I've lived in this

1 city for my entire life.

2 Harvard Chabad is the only place of worship and  
3 Jewish community that my family attends, which has become  
4 increasingly important, as we see the terrible rise of anti-  
5 Semitism on our own streets.

6 I want to recognize how hurtful and painful it has  
7 been to me and our entire community to see such strong  
8 opposition to the only Jewish community available to us. I  
9 strongly urge the Board to understand the importance of this  
10 project and how not allowing this community to build a safe,  
11 sustainable, indoor home is denying the residents of  
12 Cambridge a Jewish house of worship that does not otherwise  
13 exist.

14 I also want to understand what the opposition is  
15 intending when they say they welcome us at our current size,  
16 but the trash we accumulate isn't okay, the light we use in  
17 our outdoor tent is too bright, and building a space that  
18 would address these problems is too disruptive.

19 I'd like to address three quick things that came  
20 on from other people's testimonies. It's true that 1,000  
21 people gathered with the great help of the Cambridge Police  
22 Department after October 7, which was the deadliest attack

1 of Jewish people -- on the Jewish people -- since the  
2 Holocaust. So I don't think that's a typical or normal  
3 gathering that we would like to be hosting on Banks Street.

4 And lastly, I want to add that I live on top of a  
5 restaurant. I live across the street from a church.

6 Occasionally, there is music, there is loud noise, there are  
7 church bells ringing. I mean, that's part of living in a  
8 city. If I wanted to live in a quiet neighborhood without  
9 homes or any institutions miles away from my home, the  
10 suburbs are available.

11 You're complaining about normal city noise and  
12 community that is going to exist wherever you go.

13 Thank you. Thank you for your time.

14 JIM MONTEVERDE: Thank you for calling in.

15 OLIVIA RATAY: Albert Lamb?

16 [Pause]

17 JIM MONTEVERDE: Albert, are you with us? Can you  
18 unmute yourself if you'd like to speak?

19 ALBERT LAMB: Who were you asking for?

20 JIM MONTEVERDE: Albert Lamb. Or someone calling  
21 from that phone number.

22 [Pause]

1           ALBERT LAMB: This is Albert, this is Rick Lamb.  
2 Is that who you've called?

3           OLIVIA RATAY: Yes.

4           JIM MONTEVERDE: Yep.

5           RICK AND NANCY LAMB: Okay. It's Rick and Nancy  
6 Lamb. We're residents of the Kerry Corner Neighborhood at  
7 21 Graham Street. We've been there for 50 years.

8           We look to the Zoning Board's obligation to  
9 approve submittals that conform to the existing character of  
10 the neighborhood in terms of the rhythm of a residential  
11 streetscape affected by FAR, as defined by Zoning,  
12 associated to levels of activities and beneficial  
13 landscapes, not to a petitioner's emotion or programmatic  
14 needs and politics.

15           The petitioner has historically exhibited an  
16 history of tree, shrub, and ground cover removal in order to  
17 create greater areas for congregating and parking. Their  
18 proposed building size, significantly larger than allowed in  
19 a C-1 residential zoning, would dramatically limit the  
20 opportunities of the petitioner to reverse this trend.

21           Many residents in the neighborhood nurture gardens  
22 and tree canopies, to the mutual benefit of all. The City



1 of Cambridge is actively adding street trees within the  
2 neighborhood. Conspicuously, the petitioner has not  
3 participated on any of their properties.

4 Proposed green roof will benefit only the  
5 petitioner and will do little to abate the noise from  
6 rooftop activities.

7 The Kerry Corner Neighborhood looks to the Zoning  
8 Board to provide guardrails against the petitioner's  
9 nonresidential project, one with a program that is simply  
10 too large for the parcel.

11 The requested increase of FAR presents a project  
12 that is simply too large and out of scale with the  
13 residential character of the neighborhood and doesn't  
14 contribute to the relief with the existing domestic  
15 landscape -- trees, shrubs, vines, and perennials.

16 The proposed expanse of parking, of pavement and  
17 building covering nearly all the property would be an  
18 unfortunate anomaly and detriment to the historic Kerry  
19 Corner Neighborhood.

20 Thank you.

21 JIM MONTEVERDE: Thank you for calling in.

22 OLIVIA RATAY: Lily Shen?

1 LILY SHEN: Hello? Can you guys hear me?

2 JIM MONTEVERDE: Yes, we can. Go right ahead.

3 LILY SHEN: Oh, hi. So I'm Lily Shen, a resident  
4 of 23 Banks Street, and a member representative of KCNA. We  
5 want to express our deep appreciation to the BZA for its  
6 very careful consideration of the Banks Street Neighborhood  
7 Project. Thank you very much for hearing us out.

8 Lastly, KCNA is sympathetic to the community  
9 members who have called in to support the petitioner and to  
10 the petitioner. KCNA treasures and has supported the  
11 diversity of our community, and especially has appreciated  
12 the Chabad community's religious home on Banks Street for  
13 over 20 plus years.

14 As the BZA Board and the petitioner are aware from  
15 the last hearing, and from this time, a significant  
16 proportion of the KCNA community are of Jewish faith. KCNA  
17 wants to see Chabad community thrive, but with a sensitive  
18 balance between the petitioner's interest and the residents'  
19 concerns.

20 We seek development of a project with a reasonable  
21 scale of building capacity and activities comparable to its  
22 current operation for 250 congregants, and not the 894-

1 person capacity that the FAR variance would allow, because  
2 Banks Street has a unique petite Zoning VAR (sic) of only  
3 0.75, much smaller than many other neighborhoods in  
4 Cambridge.

5           Unfortunately, since the last BZA meeting on May  
6 9, when Board members shared similar concerns to downsize  
7 the project to address neighborhood disturbance, we have not  
8 heard from, nor have we seen any changes in the current  
9 project for the petitioner to reflect such requests.

10           KCNA believes it is possible to achieve a win-win  
11 situation. 20 plus years ago, Harvard was planning a 12-  
12 story development in the center of KCNA.

13           Fortunately, Harvard University successfully  
14 worked with KCNA to redistribute the program area into a  
15 smaller, separate dormitory on Cowperthwaite Street  
16 alongside structures of such scale, while building graduate  
17 housing on Grant and Banks Street in multiple smaller, new,  
18 and existing buildings that matched in size and used those  
19 of the residential neighborhood, and tastefully integrated  
20 off-street parking.

21           We had hoped that the petitioner would be as  
22 willing to work directly with KCNA.

1           In summary, we urge the honorable members of the  
2 BZA and the petitioner to note that the allowed FAR of Banks  
3 Street is uniquely only 0.75, where most other districts in  
4 Cambridge have significantly higher FAR in the range of 1.25  
5 to 4.0. Thus, we ask --

6           JIM MONTEVERDE: Lily?

7           LILY SHEN: -- community -- yeah?

8           JIM MONTEVERDE: Lily, I need you to wrap up.

9           LILY SHEN: Okay. To seek actual negotiation  
10 balance with the BZA and the KCNA on development that  
11 acknowledges this uniqueness and its value to all parties.

12           Thank you.

13           JIM MONTEVERDE: Thank you for calling in.

14           OLIVIA RATAY: Joan Wing?

15           JOAN WING: Yes. Hello. Can you hear me?

16           JIM MONTEVERDE: Yes, we can. Go ahead.

17           JOAN WING: Okay. My name is Joan Weinfeld Wing,  
18 and I'm at 703 Green Street. and I'm one of several Jewish  
19 members of the KCNA.

20           My husband and I have just built a home on the  
21 land directly behind the Chabad property, and also my  
22 children and grandchildren have lived on Banks Street for

1 over eight years, and I've spent much time on Banks Street.

2 I'm very worried and concerned how this proposed  
3 oversized Chabad building would negatively impact my home  
4 and the Kerry Corner Neighborhood.

5 I want to stress emphatically that this has  
6 absolutely nothing to do with antisemitism, as some people  
7 have suggested. Many in the neighborhood are Jewish, and  
8 the Kerry Corner Neighborhood has welcomed and supported  
9 Chabad for over 25 years.

10 There's been -- I've witnessed a very friendly,  
11 neighborly relationship with Chabad just up until this  
12 project has been publicized.

13 Our objections are only about the massive size of  
14 the proposed new structure and the occupancy capacity; how  
15 this will adversely affect our neighborhood.

16 And we are very much in support of a smaller  
17 building that will continue the wonderful program that  
18 Chabad does, you know, enable the neighborhood to have and  
19 the community to have.

20 We would be opposed to this massive structure no  
21 matter who was supporting it -- any religion or any  
22 institution, and as Lily has just said, in 2002, Harvard

1 University proposed a massive structure on Banks Street and  
2 the KCNA worked with Harvard and Harvard worked with the  
3 KCNA, and there was a positive outcome.

4 The other thing that concerns me in the special  
5 permit which hasn't been mentioned yet, but the access for  
6 parking supposedly two cars that would make it necessary to  
7 open up Green Street, the street I live on, which has always  
8 been a dead-end street with a fence running along the end.

9 The special permit would open the street up and  
10 once this is done, even though they're saying now this is  
11 only to park two cars, I don't see what would prevent people  
12 from using this access to pick up trash and make deliveries.  
13 And I think this would be very detrimental to the quality of  
14 life on Green Street.

15 Yet in earlier discussions with the architects,  
16 they were proposing to do just that, and they referred to  
17 this as the "Green Street Throughway" which was very  
18 disturbing to those of us -- many of us who live on Green  
19 Street.

20 Finally, I also want to say that at the end of the  
21 May 9 hearing, I understood that Chabad was asked to make  
22 their project smaller, and to address neighbors'

1 overwhelming objections. Chabad has done nothing, I think,  
2 to make the project smaller and has not reached out to any  
3 of the neighbors.

4 JIM MONTEVERDE: Ms. Joan, I need you to wrap up,  
5 please.

6 JOAN WING: Yes, I'm done. Thank you so much.

7 JIM MONTEVERDE: Thank you for your time.

8 OLIVIA RATAY: Michael Wiggins?

9 MICHAEL WIGGINS: Can you hear me?

10 JIM MONTEVERDE: Yes, we can.

11 MICHAEL WIGGINS: Okay. Good evening, Mr.  
12 Chairman, and members of the Board. I represent the  
13 abutters on both sides; Joan Wing and her husband, who just  
14 talked, and also Pamela Toulopoulos and her brother, who own  
15 the property with 20 tenants across the way.

16 I spoke at some length before about the fact that  
17 there is no legal access, this is a private way, and I  
18 reiterate that today, but I also want to point out there was  
19 new material put into the file that hadn't been mentioned  
20 before, in which the petitioner tried to claim that it's a  
21 public way and put in some sort of a copy of a block map.

22 We have exhaustively visited this issue with the

1 City Engineer. They've looked through all the records.  
2 There was at one point a proposal back in 1906 to make it a  
3 public way, but that did not ripen into a taking of the  
4 private way, and there never has -- it's never become a  
5 public way. It's just very clear.

6 And so, I wanted to sort of dispel that notion  
7 right up front.

8 And also, I just want to -- you know, even if you  
9 were to find that somehow, they could get legal access, and  
10 I don't know how, this really would be an overwhelming  
11 burden. In the petitioner's plans, they include trash  
12 receptacles right on the border of our private way.

13 And it's -- I would ask you to just be very  
14 circumspect about -- or to be suspicious about the notion  
15 that two cars parked in tandem would have to -- that would  
16 have to back up and down this way every time, would be only  
17 -- the only burden on that street.

18 I also uploaded for your consideration a photo  
19 showing how difficult that street is to turn around in.  
20 There's a picture that I uploaded showing a small  
21 subcompact, which could not turn around in that street  
22 without going up on the curb.



1           So in sum, there would be an enormous impact.  
2       There is no legal access, and it is not a public way in the  
3       first place.

4           Thank you.

5           JIM MONTEVERDE: Thank you for calling in.

6           OLIVIA RATAY: Pam Toulopoulos?

7           PAM TOULOPOULOS: Yes. I'm here. Can you hear me?

8           JIM MONTEVERDE: Yes. Go right ahead.

9           PAM TOULOPOULOS: Thank you. My name is Pam  
10       Toulopoulos. For the past 60 years, our family has owned  
11       694, 698, and 702 Green Street, the 20-unit property Mike  
12       just alluded to located on Green Street Extension, the dead-  
13       end section of Green Street, which is a private way.

14           Last week one of our own tenants contacted us to  
15       say they had tried to secure a permit from the City of  
16       Cambridge to reserve space in front of our building in order  
17       to park their small moving van.

18           The City would not issue a permit to reserve space  
19       for them for the van because the City told them that Green  
20       Street Extension is a private way.

21           We just wanted to share that anecdote with the  
22       Board. Thank you for your time.

1           JIM MONTEVERDE: Thank you for calling in.

2           OLIVIA RATAY: James Williamson?

3           JAMES WILLIAMSON: Can you hear me?

4           JIM MONTEVERDE: Yes, we can. Go ahead, James.

5           JAMES WILLIAMSON: Thank you. Appreciate it. I  
6 really wasn't planning to comment, but I've been waiting for  
7 another case. I'm listening very carefully. I am very  
8 familiar with this neighborhood. I have friends who live  
9 right there.

10           I went to a party -- an afterparty once on Grant  
11 Street with Alan Ginsburg many years ago, and actually I'm a  
12 direct descendant of Mathers, and there is a Mather house in  
13 the -- right nearby.

14           But that doesn't really matter, I -- it seems to  
15 me that this is a pretty straightforward case as I'm  
16 listening to it, and maybe the perspective of somebody who's  
17 sort of not embroiled in the personalities and the clash,  
18 maybe my perspective might be somewhat helpful, which is --  
19 it seems like it's a pretty straightforward case.

20           People in the neighborhood who actually live there  
21 -- not all of them, never everybody, just like it's not all  
22 Jews who believe the same thing or whatever -- people in the

1 neighborhood are quite uncomfortable with a proposed  
2 expansion that they believe is oversized and will have  
3 negative impacts on -- to the public technically, but to  
4 people in the neighborhood, and they're concerned about  
5 protecting the scale of the neighborhood.

6 I was involved in the fight -- one of the fights  
7 years ago in that very neighborhood that I think was alluded  
8 to, or maybe even an earlier one. I had a niece who lived  
9 in Peabody Terrace.

10 I just would ask the Board to think just about the  
11 objective dimension of this. Is it too much? Is it -- does  
12 it not warrant the granting of a variance, the kind of  
13 expansion that the proponents are requesting?

14 And look, everybody wants more. We all want more.  
15 I'd like to have a bigger apartment, you know? But just  
16 because you want more and you can -- you know, obviously  
17 everybody has -- Harvard is always saying how much more they  
18 need. But that doesn't necessarily mean you get a variance.

19 And I just -- I'm quite sympathetic to some of the  
20 complaints, and the worries of people who live in the  
21 immediate neighborhood.

22 Thank you.

1 JIM MONTEVERDE: Thank you, James.

2 OLIVIA RATAY: Philip Wellons?

3 PHILIP WELLONS: Yeah. Can you hear me?

4 JIM MONTEVERDE: Yes, we can. Go right ahead.

5 PHILIP WELLONS: Yeah. Okay, thanks. I'm Philip  
6 Wellons. I live at 651 Green Street. I've been here for 46  
7 years. We're four houses in from Putnam, so we're very  
8 close to the project.

9 I oppose the petition for the many good reasons  
10 that the -- in the Kerry Corner Neighborhood Association's I  
11 found impressive reply.

12 I'll only give a few, but I -- and I want to  
13 qualify this -- we will feel the impact of the very big  
14 increase that they've described in the number of people who  
15 can use the size.

16 To say that they don't plan it today is kind of  
17 irrelevant. Because the changes will permit it down the  
18 road. And as we know, down the road is what really counts.

19 The proposed curb cut that you just heard  
20 described would radically change pedestrian and possibly car  
21 traffic down little Green and perhaps beyond. The massive  
22 increase in the use on a short, crowded street, Banks

1 Street, it seems to me, will harm the neighborhood as has  
2 been described.

3 So I welcome John (sic) Williams's comment.

4 I would like to say one other thing, though: the  
5 -- there are real concerns that my neighbors are -- little  
6 neighbors are bringing up that have to do with children,  
7 young children's education in the area.

8 And I -- what I don't understand is why the  
9 parties, the -- why the petitioners have not been willing to  
10 discuss this with the -- with the neighbors who are  
11 objecting -- the Kerry Corner Neighborhood Association. I  
12 don't understand it.

13 And I've been listening all the way through to  
14 this, and it strikes me that the petitioners are ill-  
15 prepared to deal with specific questions that the Kerry  
16 Corner people have specifically raised that are legitimate  
17 questions. I don't know -- I don't know why, but it -- the  
18 contrast is really quite striking.

19 With that, I'll -- I just want to say that this  
20 whole business about whether we go -- I would say, well,  
21 many years ago my wife and I found a young resident of the  
22 Chabad about -- maybe 3 or 4 years old -- wandering

1 unattended on Surrey Street near Putnam. We led him back to  
2 his parents and his home on Banks Street. It seems to me  
3 that's what neighbors do. And that's what we did.

4 We're glad the group is there, as it is now, as  
5 the Kerry Corner Neighborhood Association is saying.

6 Thank you.

7 JIM MONTEVERDE: Thank you for calling in. And  
8 that is everyone who is calling in. Sarah, do you want the  
9 minutes, or Rabbi, three minutes to add anything to that  
10 before I close public?

11 RABBI HIRSCHY ZARCHI: Yes. I'll take it. First  
12 of all, thank you --

13 JIM MONTEVERDE: Hold on. Hold on. It's between  
14 Sarah, that's the three -- between the two of you, there's  
15 three minutes. You can decide how you want to use it.

16 RABBI HIRSCHY ZARCHI: I'm happy to go as a member  
17 of the public. So I'll take the three minutes.

18 JIM MONTEVERDE: Nope. You're here as the  
19 proponent. So you just have -- it's three minutes to go.  
20 If you'd like to go ahead, go right ahead, please.

21 SARAH RHATIGAN: That's fine, Rabbi. You want to  
22 start?

1           RABBI HIRSCHY ZARCHI: Yes, I'll go ahead. Yes,  
2 please.

3           JIM MONTEVERDE: Please.

4           RABBI HIRSCHY ZARCHI: First of all, I want to  
5 thank the Commissioners, thank you for the time to hear our  
6 presentation today. I also want to take this opportunity to  
7 publicly recognize some of the voices on the Commission,  
8 both in today's hearing and in last month's, who showed deep  
9 sympathy and understanding of the severity of the issue and  
10 its importance to the citizens of the city. And we deeply  
11 appreciate it. We're moved by it.

12           I'd rather not go into this is tit for tat and  
13 rebuttals. You know, I was personally identified and  
14 characterized in a certain way, and it would be an offense  
15 to the community if I didn't always respond for a minute to  
16 that.

17           There's no fancy way of saying it, but a number of  
18 the people who have called in today from the day we moved  
19 into this community were very hostile to us. Some of them  
20 spoke on the call today. I -- we're accused of not wanting  
21 to negotiate, to communicate.

22           I'll say for the record one last time, there's not

1 a person or a neighbor that we're not ready to spend the  
2 day, the night, the week, to month to discuss this project  
3 and hear them out.

4 It's indeed correct that when the people who we  
5 reached out to tell us, "We're going to fight you, you're  
6 never going to build anything here. We fought Harvard and  
7 we won; we'll certainly win you" that's nobody home. When  
8 someone tells us "You don't belong here," I don't have to,  
9 there's no conversation to be had.

10 Someone who wants to have a substantive  
11 conversation, a question of function, of use, a sensitivity  
12 of concern: we have, and we will always -- regardless of  
13 the outcome of today -- we'll always engage in conversation  
14 and try to resolve any differences with anyone.

15 Certainly, if we can help improve the neighborhood  
16 and our neighborly function, we were, and we will always do  
17 that. But not when you're told, "You're not wanted here,  
18 and you don't belong here" in those words by a number of  
19 people. But we shouldn't spend time on that.

20 We were told tonight that you're not lawyers and  
21 you're here to look at the matter in terms of the Zoning.  
22 If you -- I'm sure even this evening you have other calls



1 every day of the week. Every meeting of the month or the  
2 two meetings of the month is always a variance issue.

3 The issue of RLUIPA is indeed a very serious one.  
4 I feel an obligation now as a citizen to say this: people  
5 are telling me -- even lawyers are saying, "It's not an  
6 issue for you." Absolutely it is. It's an issue because  
7 it's a moral issue.

8 Carol, you were questioning the number of  
9 churches; there's a dozen within five blocks of here. I  
10 mean, I question the number 70; I believe it's much higher.

11 Not a single one of them conform to the current  
12 Zoning Laws. They were given the respect as community  
13 centers when they were being built and approved; few dared  
14 to get in the way of it.

15 Somehow, we're fair game and somehow if you call  
16 yourself a Jew, that gives you a license to fight a project  
17 and attack it.

18 Friends, everything we did on the block from the  
19 day we moved in was opposed. We were told we don't -- we're  
20 not responsible, we're endangering children, we want to have  
21 a classroom that doesn't belong here.

22 Our children don't belong on the block because

1 when we back out of our driveways, we may crash into them.  
2 They just don't want us here, and they've made it very, very  
3 -- they told us, "We don't want you here."

4 JIM MONTEVERDE: Rabbi, I need you to conclude,  
5 please.

6 RABBI HIRSCHY ZARCHI: In summary, in summary, the  
7 Jewish community -- I'm a Rabbi of the city for 25 years,  
8 and probably the longest-serving Rabbi here. Indeed,  
9 there's only two places in the city of Cambridge. One is on  
10 Magazine, Eitz Chayim, a small little house, and one on  
11 Tremont Street, Beth Shalom. There's a few places on  
12 University-, but not City-owned property.

13 This is by far the largest, most inclusive center  
14 for Jewish life, and would make it the third real space of  
15 any dimension. It's urgently needed. It's unsafe. We're  
16 accused of making this neighborhood safe. Somehow, we're  
17 responsible for the hate that we're getting security for.

18 We're not responsible for making -- for the hate  
19 that's comes towards us. We need a roof over our heads.

20 There are dozens of cases -- any of you should do  
21 a search on Google. And this I want to say to the citizens  
22 of the city, and this is not us threatening: Weil Gotshal

1 in New York is a pro bono, one of the world's largest law  
2 firms. They're saying that "You guys are being  
3 discriminated against."

4 Millions of dollars of taxpayer funds built Chabad  
5 Centers an America, and even more for churches and houses of  
6 worship that were denied by citizens who don't care about  
7 the other minority communities, or what's good for the city  
8 or what's morally correct.

9 JIM MONTEVERDE: Rabbi --

10 RABBI HIRSCHY ZARCHI: They're focused on NIMBYs.

11 JIM MONTEVERDE: -- please. Please conclude.

12 RABBI HIRSCHY ZARCHI: So there is a liability  
13 here.

14 JIM MONTEVERDE: -- please conclude.

15 RABBI HIRSCHY ZARCHI: So my conclusion is --

16 JIM MONTEVERDE: I don't want to have to cut you  
17 off.

18 RABBI HIRSCHY ZARCHI: So I conclude by thanking  
19 you for your time.

20 JIM MONTEVERDE: Thank you.

21 RABBI HIRSCHY ZARCHI: And please do do the right  
22 thing tonight and give the Jewish community the home that it

1 desperately and urgently needs.

2           JIM MONTEVERDE: All right. Thank you. That ends  
3 public testimony. Any discussion among members of the  
4 Board? Or are we ready for a motion?

5           CAROL AGATE: Well, I'd like to speak, I guess, if  
6 nobody else is. I'm really puzzled why they're putting in  
7 their question when we're talking about almost doubling the  
8 size in a residential -- quiet, residential street, a narrow  
9 street, and the building goes from side to side. I mean, it  
10 fills the whole lot.

11           They even have to have a Sukkot up on the roof  
12 because there's not even land space. The building is taking  
13 up all the land.

14           The -- you know, at the last hearing, we did make  
15 it clear that the neighbor concerns were important. And I  
16 thought that when we had a continuance, as we normal do with  
17 a continuance, that the neighbors are brought into it.

18           And why there could be no discussion with the  
19 neighbors? I'm sure not every neighbor was nasty; that  
20 there must have been some neighbors who were telling us they  
21 were willing to talk, who were willing to talk.

22           And I did want to point out the portion of the

1 Cambridge Institutional Use Regulations. "It is the purpose  
2 of this Section 4.50 to protect lower-density residential  
3 neighbors from unlimited expansion of institutional  
4 activities, to reduce pressures for conversion of the  
5 existing housing stock to nonresidential uses, to minimize  
6 the development of activities which are different from and  
7 incompatible with activity patterns customarily found in  
8 lower-density residential neighborhoods."

9           So, you know, if people are concerned about  
10 RLUIPA, is that saying that if Chabad continues to grow,  
11 then if they want to add a fourth story, that we're bound to  
12 grant them whatever space they want?

13           This -- this is so far outside anything else that  
14 this Board has ever decided on that I cannot decide why  
15 they're -- why this would be granted, when it won't work for  
16 the neighbors, and why the FAR is just so out of line with  
17 anything that has ever been approved.

18           JIM MONTEVERDE: All right. Thank you, Carol. I  
19 mean, for the purpose of debate among the members, I share  
20 your concern about the FAR. It's really relevant to the  
21 variance that's being requested. I think I said that last  
22 time.

1 I think even after reviewing all of the  
2 documentation and hearing everything tonight, that still  
3 remains my concern. And that's where I'm at.

4 So any other discussion among members of the  
5 Board?

6 STEVEN NG: Yes. I'd like to reiterate my support  
7 for the application. It is a -- it is a place of worship  
8 that is currently serving their community outdoors with no  
9 security or have to provide their own security.

10 So this is a group of people who are worshipping  
11 with whatever they can do all year round.

12 And so, the vision they have to serve this  
13 congregation of a certain size is essentially what the  
14 architect has presented to us. I think the concurrent use  
15 is a good condition we can talk about, if that can be  
16 included in the motion, where -- you know, something where  
17 it's not -- you can't have two events or, you know, full  
18 occupancy or something like that.

19 But this is something this religious group needs  
20 to serve their community properly. We're -- I think that  
21 RLUIPA and, you know, that federal guidance there is kind of  
22 enlightening, because it -- you know, just like we look at

1 Zoning Variances, the hardships: they're talking about  
2 substantial burdens, compelling interests.

3           If those get impacted, that's where that  
4 particular -- you know, requirements kind of -- that's what  
5 that's there for is to protect these groups from when they  
6 have to turn people away, or if he's not able to host his  
7 congregants indoors or have to cancel an event because of  
8 restricted zoning or -- you know, that is something we  
9 should take into account to support this application.

10           And I know it's challenging because, you know, it  
11 is -- the FAR is, you know, 4 versus 0.75.

12           But again, I think the proponent's counsel makes a  
13 good point about, you know, when other churches were built,  
14 et cetera. I mean the footprints and so on are, you know,  
15 what they need to be to serve their community.

16           And I think we need to really think about that  
17 because they are serving people who are in our city. And  
18 it's not a constant intense use or it -- and it's something  
19 that I think we have to support because it goes beyond the  
20 Ordinance in some ways.

21           And I think the hardship is pretty obvious if you  
22 don't even have a building, how can you -- you're going to

1 let them continue to worship outdoors, provide their own  
2 security.

3 I mean, I do not personally want to be responsible  
4 to see God forbid something happens because, you know,  
5 you're worried about something just being about the same  
6 height as everything around in the neighborhood.

7 So I urge my fellow Board members to really  
8 consider that. And it's not a black and white decision. So  
9 it's a tough one for us to make, but it's something worth  
10 discussing, or continuing.

11 CAROL AGATE: Jim, I'd like the clarify something.  
12 Because I don't think anybody here, including all of the  
13 neighbors, are talking about not bringing it inside.

14 In other words, I think security unfortunately for  
15 synagogues is the most important thing. Almost all of them  
16 now have security guards.

17 But nobody is talking about not doing anything.  
18 Nobody is talking about remaining outdoors. The neighbors  
19 have all been talking about yes, we are in favor of a  
20 building, but not so big.

21 So -- hopefully we can sort of keep it on that  
22 track, that it seems to be petitioners who are not willing



1 to accept moderation, and therefore it's not -- doesn't have  
2 to be a yes or no if they were willing to make it smaller.

3 VIRGINIA KEESLER: I would say that I find the  
4 Neighborhood Density Site Plan that was provided by the  
5 petitioner to be compelling in terms of illustrating that  
6 the proposed FAR is not totally out of line with the  
7 neighborhood. There are numerous other cases of that FAR  
8 existing within the neighborhood.

9 Also, the height of the development isn't  
10 changing, as compared to what currently exists.

11 So I am less concerned, I think, about that as  
12 compared to some of the other Board members.

13 I agree with Steven in terms of the substantial  
14 burden that is imposed on the petitioner and the Jewish  
15 community, and I think as well, I found the explanations  
16 around capacity and not having concurrent uses and sort of  
17 explaining how the space isn't oversized, given the  
18 different uses of the different spaces, which would not be  
19 concurrent. I was satisfied with that explanation.

20 And I appreciate as well the point that the noise  
21 and trash and lighting concerns would be mitigated with this  
22 development as compared to what exists currently.

1           It does seem like there are other solutions that  
2 could be thought of; potentially not even under the purview  
3 of this Board related to traffic, if that's a concern.

4           I guess I don't find that to be -- I don't find  
5 the traffic concern to be a defining point in this case. It  
6 sounds like most people walk.

7           So I agree with Steven. I am in support of this  
8 case.

9           JIM MONTEVERDE: Thank you.

10          DANIEL HIDALGO: If I may, so I just want to talk  
11 a little bit about this RLUIPA which, you know, prior to the  
12 first meeting, I've known about Institutional Use  
13 Regulations related to the Dover Amendment, which Cambridge  
14 was exempted for -- was exempted primarily because of  
15 university expansions. But I was less familiar with this  
16 act.

17          And so, thinking about it, I actually -- I sort of  
18 disagree that we can't take into account federal regulations  
19 and thinking about how this case would move forward if they  
20 went to the courts.

21          Because I think if it did go to the court, then  
22 they would -- you know, apply the criteria. And one of the

1 criteria I think I've been convinced is that there would be  
2 to be a compelling government interest to -- you know, to  
3 deny this application.

4 And frankly, I'm really struggling to find any  
5 compelling government interest. Like, I understand the  
6 neighbors' concerns, but to me that doesn't rise to the  
7 point that would, you know, override the interests of a  
8 religious community that deserves special protection and,  
9 you know, for which this lot and so much law gives special  
10 prerogatives to.

11 And so, I'm sort of -- I've been pretty convinced  
12 that without a compelling government interest, I think this  
13 would be very susceptible to challenge and, you know, this  
14 would just create a long, lengthy period of uncertainty.

15 And I, to me it's -- given the big community of  
16 congregants that support this, I think this would be an  
17 asset for the community at large. And I would be fine  
18 voting for it.

19 JIM MONTEVERDE: Okay. Thank you. I think that's  
20 everyone heard from. Any other discussion, or are we ready  
21 for a motion?

22 [Pause]

1 I'll take that as we're ready for a motion. We  
2 first have the variance. The variance from the  
3 advertisement: It says, "For renovation to the addition to  
4 the nonconforming structures, including dormers, which  
5 increases the gross floor area/floor area ratio." So this is  
6 for the variance.

7 The Chair makes a motion to grant relief from the  
8 requirements of the Ordinance under Sections -- and this is  
9 5.31, the Dimensional Form -- on the condition that the work  
10 proposed conforms to the drawings entitled "Harvard Chabad  
11 Center for Jewish Life," dated May 1, 2024, prepared by  
12 Bruner/Cott Architects, initialed and dated by the Chair.

13 And further, that we incorporate the supporting  
14 statements and dimensional forms submitted as part of the  
15 application.

16 Board members on a voice vote, please? Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: Thank you. Virginia?

19 VIRGINIA KEESLER: In favor.

20 JIM MONTEVERDE: Thank you. Daniel?

21 DANIEL HIDALGO: In favor.

22 JIM MONTEVERDE: Thank you. Carol?

1 CAROL AGATE: Opposed.

2 JIM MONTEVERDE: Okay. And Jim Monteverde  
3 opposed as well for the variance.

4 [Three vote YES, two vote NO]

5 JIM MONTEVERDE: Now, since the two of us have  
6 opposed, we need to state the Variance Request fails for not  
7 receiving the four and cite the reasons why the petition is  
8 denied.

9 So Carol, you and I have to come up with the  
10 language. And I think I would suggest -- I go back to the  
11 Article 1.30, which is the purpose of the Ordinance -- the  
12 Zoning Ordinance. And one of the purposes --

13 CAROL AGATE: By the way, Jim?

14 JIM MONTEVERDE: Yeah.

15 CAROL AGATE: It helps me all of the if I can see  
16 your mouth. I lip read, and I just --

17 JIM MONTEVERDE: Yeah, okay. Sorry. Let me move  
18 the book over. So I was going to start by suggesting my  
19 concern is with the FAR and as it relates to the bulk, the  
20 massing, and the residential neighborhood.

21 And I would say that it would be the -- it equates  
22 to the -- under the Ordinance Article 1.30, the purpose for

1 the Zoning Ordinance and the statement that says, "The  
2 protection of residential neighbors from compatible  
3 activities," et cetera.

4 I think this -- the increased mass and therefore  
5 FAR is really incompatible with that neighborhood. And  
6 that's what I state in my opposition.

7 Carol, do you have anything to add, or do you want  
8 to quantify or qualify that at all?

9 CAROL AGATE: I would agree with that.

10 JIM MONTEVERDE: Okay. That's the denial of the  
11 variance. Now, there's the special permit. Should we do  
12 the special permit separately, or is it -- are we done?

13 OLIVIA RATAY: Maybe you should make up one.

14 JIM MONTEVERDE: Okay. So the second piece is a  
15 special permit. This is for the on-grade open parking in  
16 tandem located within 10 feet of the building wall.

17 Olivia, can you bring up the one drawing that  
18 shows -- I just want to confirm just so we all know where  
19 this is. And I think it's -- one second, please.

20 OLIVIA RATAY: This one?

21 JIM MONTEVERDE: There's one called, "Site plan."  
22 Yeah, there you go. The only place I see two parking spaces

1 is between the two buildings there. It appears as a curb  
2 cut on Banks, and I'm not going to get into any issue of  
3 whether that Green Street is private or not. I don't see  
4 anything described in the documentation that's in front of  
5 us.

6 Anyway, this is the special permit for those two  
7 spaces, since they're within 10 feet of the building wall.

8 The Chair makes a motion to grant relief from the  
9 requirements of the Ordinance under Sections -- what are the  
10 Sections?

11 It's parking --

12 OLIVIA RATAY: Six -- first case would be --

13 JIM MONTEVERDE: Sorry, give us one second. One  
14 second, please.

15 OLIVIA RATAY: -- 6.43 --

16 JIM MONTEVERDE: So the Chair makes a motion to  
17 grant relief from the requirements of the Ordinance under  
18 Sections 6.43.5, tandem parking and 6.44.1.a.g, parking  
19 within 10' of a building wall.

20 JIM MONTEVERDE: On the condition that the work  
21 proposed conforms to the drawings entitled "Harvard Chabad  
22 Center for Jewish Life," prepared on -- dated May 1, 2024,

1 prepared by Bruner/Cott Architects, initialed and dated by  
2 the Chair.

3 And further, that we incorporate the supporting  
4 statements and dimensional forms submitted as part of the  
5 application.

6 Board members, on a voice vote, please? Steven?

7 STEVEN NG: In favor.

8 JIM MONTEVERDE: Virginia?

9 VIRGINIA KEESLER: In favor.

10 JIM MONTEVERDE: Daniel?

11 DANIEL HIDALGO: In favor.

12 JIM MONTEVERDE: Carol?

13 CAROL AGATE: In favor.

14 JIM MONTEVERDE: And Jim Monteverde in favor.

15 [All vote YES]

16 JIM MONTEVERDE: That's five affirmative. The  
17 special permit is granted. Variance is not. Thank you,  
18 everyone.

19 SARAH RHATIGAN: Thank you. Thank you for your  
20 time.

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22



1 \* \* \* \* \*

2 (8:01 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: The next case is BZA-2076--

6 OLIVIA RATAY: Who's sitting on this case? Is  
7 Carol on?

8 JIM MONTEVERDE: I was just going to ask. Bill,  
9 are you with us?

10 BILL BOEHM: I am. Bill Boehm is here. I am  
11 hiding, and I'm -- I will correct that, sorry.

12 JIM MONTEVERDE: No, you -- all right, do you  
13 think you're going to be able to sit through the balance of  
14 this, given the weather where you are?

15 BILL BOEHM: Oh, yeah. We're good.

16 JIM MONTEVERDE: Okay.

17 BILL BOEHM: Thank you.

18 JIM MONTEVERDE: Carol, I think you're done for  
19 the evening, correct?

20 CAROL AGATE: Well, that's it. Bill, do you think  
21 you're good for the evening, or --

22 BILL BOEHM: Yes. All set, Carol. Thanks.

1 JIM MONTEVERDE: All right.

2 BILL BOEHM: Thanks.

3 CAROL AGATE: Okay.

4 BILL BOEHM: Goodnight, Carol.

5 CAROL AGATE: Goodnight.

6 JIM MONTEVERDE: All right. Thank you, Carol.

7 All right. So sitting on the following cases are Steven,  
8 Virginia, Daniel, Bill, and myself.

9 So the next case is BZA 207647 -- 401 Concord  
10 Avenue. And we are in receipt of a letter requesting an  
11 extension of the variance, dated May 22, by Andrew Plumb  
12 requesting a Six Month Extension for the Zoning Variance  
13 granted for the property at 401 Concord Avenue.

14 And that will bring our variance to December 22,  
15 2024.

16 So is there anything more to say besides just the  
17 voice vote? I don't have any --

18 OLIVIA RATAY: Yeah.

19 JIM MONTEVERDE: -- any other spiel for an  
20 extension. Okay. So for the Extension, on a voice vote,  
21 please from the Board, Virginia?

22 VIRGINIA KEESLER: In favor.

1 JIM MONTEVERDE: Thank you. Steven?

2 STEVEN NG: In favor.

3 JIM MONTEVERDE: Daniel?

4 DANIEL HIDALGO: In favor.

5 JIM MONTEVERDE: Bill?

6 BILL BOEHM: In favor.

7 JIM MONTEVERDE: Okay. And Jim Monteverde.

8 [All vote YES]

9 JIM MONTEVERDE: Five in favor. The extension is  
10 granted. Thank you.

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(8:03 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
Daniel Hidalgo, and Virginia Keesler

JIM MONTEVERDE: Next case is BZA-21804 -- 26  
Bellis Circle, Unit 26. This is also a request for a Six  
Month Extension of a Variance only. We have a letter dated  
June 10 from Thomas Culotta and Mary Custic requesting a Six  
Month Extension, which will bring it to January 12, 2025.

Wow, '25!

On a voice vote, please, Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Daniel?

DANIEL HIDALGO: In favor.

JIM MONTEVERDE: And Bill? Bill?

BILL BOEHM: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: Five affirmative. It is extended.

1 \* \* \* \* \*

2 (8:06 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Next case is BZA-188958 -- 24  
6 Union Street, and this is also a Request for a Six Month  
7 Extension of the Variance only.

8 And we are in receipt of a letter clocked in on June 17 Lin  
9 Lin requesting a Six Month Extension. And that will bring  
10 this to December 22, 2024.

11 On a voice vote, please? Bill?

12 BILL BOEHM: In favor.

13 JIM MONTEVERDE: Daniel?

14 DANIEL HIDALGO: In favor.

15 JIM MONTEVERDE: Steven?

16 STEVEN NG: In favor.

17 JIM MONTEVERDE: Virginia?

18 VIRGINIA KEESLER: In favor.

19 JIM MONTEVERDE: And Jim Monteverde in favor.

20 [All vote YES]

21 JIM MONTEVERDE: That's five affirmative. The  
22 Extension is granted. That's the Continued Agenda.

1 \* \* \* \* \*

2 (8:03 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Moving onto the Regular Agenda,  
6 and we're going to have two cases for 6 Francis Avenue.

7 We're going to start with Case No. BZA-267305 for 6 Francis  
8 Avenue.

9 Is there anyone calling in who wishes to speak  
10 about this case? And this is 267035. Either Emma Wolbach  
11 or Bailey Buchanan?

12 Bailey, you're there; you are just muted. Would  
13 you like to join us?

14 BAILEY BUCHANAN: Good evening. Sorry about that.  
15 I'm having trouble. There's another attorney from my office  
16 who's going to be participating. I believe he's in -- is  
17 there a wait room -- Orestes Brown?

18 JIM MONTEVERDE: I think we've taken care of that.  
19 Can you introduce yourself and tell us what you'd like to  
20 present this evening?

21 ORESTES BROWN: Yes. I'm Orestes Brown. I don't  
22 know when my -- I'm not showing up here on the video, but I

1 --

2 JIM MONTEVERDE: Can you identify yourself please,  
3 for the record?

4 ORESTES BROWN: Yes, of course. My name is  
5 Orestes Brown. And I'm representing Emma Wolbach.

6 JIM MONTEVERDE: Okay. Go ahead. Do you want to  
7 present what it is you'd like to speak about?

8 ORESTES BROWN: Yes of course. I'm just looking  
9 for my -- I guess you don't need to see me?

10 JIM MONTEVERDE: No. Not really. You can just  
11 speak, please.

12 ORESTES BROWN: Yeah. So -- so in accordance with  
13 the letter that my colleague wrote, we are here on appeal  
14 from several decisions of the Building Inspector and the  
15 Inspectional Services Department representing the Building  
16 Inspector, essentially fining my client.

17 I understand that the Building Inspector has  
18 contested the jurisdiction of this Board to hear the appeal,  
19 and of course we do not agree. Every decision under the  
20 statute of the Building Inspector has one administrative  
21 appeal route, and this is it.

22 And the failure to exhaust your administrative

1 process is fatal to your appeal.

2 So unfortunately or fortunately, we are here  
3 because we have to be. And we have been fined in accordance  
4 with the Building Inspector's Cease-and-Desist letter, as  
5 this Board knows, and we've taken the appeal properly also  
6 appealing these fines in the District Court.

7 But we believe that the law clearly requires us to  
8 be here as well.

9 As the Board probably already knows, that the  
10 gravamen of the issue here has been the use by the Fox -- of  
11 my client's premises by the Fox Club to hold meetings, but  
12 really more essentially parties.

13 And so, I don't know how much the Board is aware  
14 of. I guess it is somewhat of a public controversy. The  
15 Fox Club began to hold parties that disturbed the  
16 neighborhood; there was a lot of noise, they were asked to  
17 stop. Nobody was fined.

18 There is a provision in our lease -- Ms. Wolbach's  
19 lease with the Fox Club that they expressly agreed to be  
20 compliant with the Zoning Ordinance and the Municipal  
21 Regulation of the City of Cambridge. They are at all times  
22 required to do that.



1           When they're notified by the Zoning Inspector that  
2 they're not in compliance, they simply refused to comply.  
3 Now, our information is somewhat hearsay, because they  
4 reported in the newspaper, but clearly, they continued after  
5 the Building Inspector gave them several chances to stop  
6 having their meetings or having their parties.

7           And we took action. My client was always  
8 compliant with the Building Inspector's request to the  
9 extent that she had control, which, as Ms. Buchanan wrote in  
10 her letter, "We do not have complete control, obviously, of  
11 a third party's actions."

12           And despite we did evict them, we sent them a  
13 notice to quit, so we did everything -- my client did  
14 everything that was possible to comply with the Building  
15 Inspector's request. We obviously can't completely control  
16 a third party.

17           So we feel that the fines are inappropriate for  
18 two reasons: One, my client was always complying. And two,  
19 the compliance issue: She's not the party that can be  
20 forced to comply --

21           JIM MONTEVERDE: Okay.

22           ORESTES BROWN: The --

1 JIM MONTEVERDE: Mr. Brown --

2 ORESTES BROWN: -- obviously is the Fox Club.

3 JIM MONTEVERDE: Mr. Brown, if I can interrupt you  
4 --

5 ORESTES BROWN: It's the Fox Club.

6 JIM MONTEVERDE: -- sorry for interrupting. The  
7 Zoning Board has no jurisdiction over the fines, either  
8 their issuance, or relief from them. So there's really  
9 nothing here for -- nothing for this Board to decide on. We  
10 can't. It's not our jurisdiction. So --

11 ORESTES BROWN: So what is the -- is the Board  
12 going to not take action, or is it -- will just be a no  
13 vote, or how --

14 JIM MONTEVERDE: No. No. No vote at all. Okay?  
15 Correct? Give me a second before I stick my foot  
16 further in my mouth.

17 [Pause]

18 STEVEN NG: Jim, this is Steve Ng. You've got a  
19 -- there you go. You muted the -- one of your mics I think  
20 were open.

21 JIM MONTEVERDE: Okay. So fun advice: Yeah, the  
22 only action we can take here is to dismiss it. And as a

1 Board, we can agree to dismiss. And that's the end of it,  
2 as far as being in front of this Board.

3 So unless anyone from the Board disagrees, I'd  
4 like to agree to dismiss this case, the BZA-267305 on the  
5 basis that the BZA has no jurisdiction over the issuance of  
6 fines.

7 Everyone agree? Daniel?

8 DANIEL HIDALGO: I mean, I defer to you on  
9 this, Jim.

10 JIM MONTEVERDE: Okay. Virginia?

11 VIRGINIA KEESLER: I defer to you as well. Okay,  
12 Bill?

13 BILL BOEHM: Likewise, Jim.

14 JIM MONTEVERDE: Thank you. Steven?

15 STEVEN NG: Same. Your call.

16 [All vote YES]

17 JIM MONTEVERDE: Okay. So we'll dismiss this.  
18 Dismissed.

19 ORESTES BROWN: Thank you, Board members.

20 BAILEY BUCHANAN: Thank you.

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1 \* \* \* \* \*

2 (8:13 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Next case is BZA-266931. This is  
6 also 6 Francis Avenue. This is -- Sarah, are you with us  
7 again?

8 SARAH RHATIGAN: I am, yes. Sarah Rhatigan,  
9 Trilogy Law, on behalf of the appellant.

10 JIM MONTEVERDE: And this is --

11 SARAH RHATIGAN: Thank you.

12 JIM MONTEVERDE: -- the description is that you're  
13 representing Ms. Wolbach. Appeals the Zoning Enforcement  
14 letter issued by the Building Commission dated March 25,  
15 2024? You've heard the --

16 SARAH RHATIGAN: No. No. Sorry.

17 JIM MONTEVERDE: No?

18 SARAH RHATIGAN: Just to correct you, I represent  
19 the appellant Fox Club Underground Associates.

20 JIM MONTEVERDE: Oh, okay. All right. Make your  
21 presentation, please.

22 SARAH RHATIGAN: We consider this matter moot and

1 would like to withdraw the case.

2 JIM MONTEVERDE: Okay. Okay. We'll take a vote  
3 to withdraw. Daniel?

4 DANIEL HIDALGO: In favor.

5 JIM MONTEVERDE: Virginia?

6 VIRGINIA KEESLER: In favor.

7 JIM MONTEVERDE: Bill?

8 BILL BOEHM: In favor.

9 JIM MONTEVERDE: Steven?

10 STEVEN NG: In favor.

11 JIM MONTEVERDE: Jim Monteverde in favor of  
12 withdrawal.

13 [All vote YES]

14 JIM MONTEVERDE: That's unanimous.

15 SARAH RHATIGAN: Thank you very much.

16 JIM MONTEVERDE: The case is withdrawn. Thank  
17 you.

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2 (8:16 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Next case is BZA-268589 -- 4  
6 Holworthy Street (sic). Mr. Linn?

7 ROBERT LINN: Yes, hi.

8 JIM MONTEVERDE: Hello.

9 ROBERT LINN: I am -- I'm Robert Linn. I am the  
10 architect with Moscow Linn Architects for this project. And  
11 we came before the Board several months ago with a project  
12 that's almost identical to what we're presenting here.

13 But in working with our developer, he wanted us to  
14 make a few tweaks. And so, we enlarged slightly the second  
15 floor primary bedroom.

16 But because we had already maxed out the FAR, it  
17 wasn't as easy just increasing the bedroom. We started  
18 moving pieces around.

19 And as we did that, we actually came up with what  
20 we think is a slightly better layout, primarily for House B,  
21 where we shifted more of the living space toward the  
22 southern side of the property.

1           And in doing that, we have opened up a little more  
2 yard space in the corner next to 96 Holworthy.

3           We talked to the owner of 96 Holworthy. She was  
4 very comfortable with that, and we had interactions with the  
5 owners who are contiguous to this, who actually -- this  
6 impacted their view, and they let us now through e-mail that  
7 they actually preferred us moving the mass a little bit away  
8 from their property, so that they had a little bit more  
9 breathing space, a little bit more light, and they wouldn't  
10 be bothered by people sitting out on the deck.

11           Beyond that, we did the same thing with House A,  
12 although it had much less impact on the overall massing.  
13 But it did change some window locations and I think for the  
14 better we shifted the main entry, so that it's closer to  
15 Holworthy Terrace.

16           Yeah, thanks, Olivia. Sorry, I should have had  
17 that up before we were talking. So yeah, if you go onto the  
18 A0.1 or A0.5, either one of those is fine. Yeah.

19           So right there you can see that hatched area in  
20 the upper right-hand corner. We had the mass of sort of  
21 that lower deck and the -- that section was pushed further  
22 toward that corner of the lot, which actually was

1 potentially blocking some light and a little bit of the view  
2 from the neighbor just beyond, right where it says, "rear  
3 lot depth 68."

4           Anyway, we talked with them. They were very  
5 comfortable with it. So that's the only change there.

6           And then in House A, we -- because we sort of  
7 shifted things around, the entry was more or less where  
8 Olivia's got the kind of closer to where the hand is, like,  
9 in that corner. And we shifted the entry closer to that  
10 shared driveway.

11           Beyond that, there's like a few fenestration  
12 changes. But the shared driveway remains the same. The  
13 parking's the same. The setbacks are the same. We  
14 actually increased open space a little bit from what we were  
15 approved for earlier.

16           We're not asking for any different relief. It's  
17 just primarily that we're asking for approval of a set  
18 that's different than set that was originally approved.  
19 It's just that in talking with Olivia and with ISD, it felt  
20 like we've made enough changes that the Board needed to see  
21 this again to make sure that it was -- you were comfortable  
22 with these minor changes.



1           JIM MONTEVERDE: Okay. Thank you. Any questions  
2 from members of the Board?

3           BILL BOEHM: Just not having -- I don't think I  
4 saw the previous version, so could you just briefly outline  
5 the variances or special permit requests?

6           ROBERT LINN: Yeah, absolutely. So the only real  
7 dimensional issue that doesn't have to do with parking is  
8 House B, the rear yard setback is 7.5'.

9           And that's in keeping with there's a current house  
10 in that same location that actually has more or less the  
11 same setback from that rear yard, which we plan to take  
12 down, and we're building back up in that same location.

13           We're meeting all the FAR requirements. We're  
14 meeting all the Open Space requirements, all the other  
15 setback requirements, except for that one rear yard and for  
16 House B.

17           The other thing that we were granted relief for  
18 was that our parking is in the front yard setback. So it  
19 doesn't comply with typical parking regulations in the  
20 Ordinance, in both -- for both House A and House B.

21           But, you know, it felt like that was the best way  
22 to kind of allow for the maximizing of open space and, you

1 know, for just generally having the best access to the  
2 house, as opposed to trying to drive into the back of the  
3 lot because it's such a strangely shaped lot.

4 And in addition, we're showing less -- where we  
5 have a sort of little slightly larger parking location,  
6 parking slots than would be normal, we're actually showing  
7 that it could have a guest, could pull in or it could be for  
8 snow removal, and that's less than 5' away from the side  
9 yard setbacks.

10 So it's just that we're actually showing potential  
11 parking locations that would not be or were not in  
12 compliance with the Ordinance. And that's it. Those were  
13 the -- that was what the relief that we were granted  
14 originally.

15 JIM MONTEVERDE: Any other questions from members  
16 of the Board? If not, I'll open it up to public commentary.

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

22 I'll now ask Staff to unmute speakers one at a

1 time. You should begin by saying your name and address, and  
2 Staff will confirm that we can hear you. After that you  
3 will have up to three minutes to speak before I ask you to  
4 wrap up.

5 OLIVIA RATAY: Luke?

6 [Pause]

7 OLIVIA RATAY: Luke? You're muted.

8 [Pause]

9 JIM MONTEVERDE: Luke, if you're trying to call  
10 in, you're muted. If you could unmute yourself.

11 [Pause]

12 All right.

13 OLIVIA RATAY: James Williamson?

14 JAMES WILLIAMSON: Can you hear me?

15 JIM MONTEVERDE: Yeah.

16 JAMES WILLIAMSON: Thank you. so I really just  
17 have a procedural -- a comment about the procedure, and it's  
18 been a long-standing issue with BZA announcements that I --  
19 the continued cases don't generally get posted to the City  
20 Calendar or the website until, like, I think 48 hours before  
21 the regular cases, which you can get information about for,  
22 like, a week or more ahead of time.

1           But the problem is that the continued cases in  
2 particular, when it's posted, for some reason the text is  
3 always completely jumbled and overlapping itself.

4           And it was -- I didn't -- that's one of the  
5 reasons I didn't know, you know, like I tuned in when I did  
6 expecting -- I didn't know what case you were on until I  
7 listened for a while and heard that you were on the Banks  
8 Street case.

9           So I just want to ask please can the Board maybe  
10 give some attention to this and work with Staff to -- and  
11 the City IT people so that the public information is better  
12 and legible, especially for continued cases.

13           Thank you.

14           JIM MONTEVERDE: Thanks. Is there anyone calling  
15 in who wants to speak about 4 Holworthy Terrace?

16           OLIVIA RATAY: Luke?

17           [Pause]

18           OLIVIA RATAY: Luke, you're still muted.

19           JIM MONTEVERDE: Is that it? Okay. I'm going to  
20 close public testimony. Any discussion among members of the  
21 Board? Or are we ready for a motion?

22           STEVEN NG: I think we're ready for a motion.

1           JIM MONTEVERDE: Ready for a motion? This is a  
2 variance. I want to make sure I get this correct. And Mr.  
3 Linn, the set of documents I'm going to be referring to, is  
4 that correct, they're dated April 10, 2024?

5           ROBERT LINN: That's correct.

6           JIM MONTEVERDE: Okay. And the description of the  
7 proposal that's clocked in at ISD dated May 6, 2024, is that  
8 the latest?

9           ROBERT LINN: Yes.

10          JIM MONTEVERDE: Okay. Thank you. So the Chair  
11 makes a motion to grant relief from the requirements of the  
12 Ordinance under Sections 5.31, Table of Dimensional  
13 Requirements, 6.44.1.5 and Section 6.44.1.c for Off-Street  
14 Parking; Section 8.22.3 for Nonconforming Structure, and  
15 then the requirements for a 10.30 for a variance.

16          On the condition that the work proposed conforms  
17 to the drawings entitled "4 Holworthy Terrace," prepared by  
18 Moscow Linn Architects, dated April 10, 2024, initialed and  
19 dated by the Chair.

20          And further, that we incorporate the supporting  
21 statements and dimensional forms submitted as part of the  
22 application.

1 Board members, on a voice vote, please? Virginia?

2 VIRGINIA KEESLER: In favor.

3 JIM MONTEVERDE: Thank you. Steven?

4 STEVEN NG: In favor.

5 JIM MONTEVERDE: Daniel?

6 DANIEL HIDALGO: In favor.

7 JIM MONTEVERDE: Bill?

8 BILL BOEHM: In favor.

9 JIM MONTEVERDE: And Jim Monteverde in favor.

10 [All vote YES]

11 JIM MONTEVERDE: That's five affirmative. The  
12 variance is granted.

13 ROBERT LINN: All right. Thank you for your time.  
14 I appreciate it.

15 JIM MONTEVERDE: You're welcome. Thank you.

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(8:27 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
Daniel Hidalgo, and Virginia Keesler

JIM MONTEVERDE: Next case is BZA-268340 -- 16  
Ellsworth Avenue, Unit 2.

Mr. Tingle, do you wish to share with us what  
you're proposing?

ROBERT TINGLE: Yes, thank you. My name is Robert  
Tingle, and I am calling -- I'm requesting special permit  
for the egress windows on the side of the house to increase  
the length on those by 13" in length.

The existing openings are 30 -- the existing  
openings are 33" on the width by 27" on the height, and so  
we're requesting another 13" so that we can put an egress  
window in there for the basement unit.

So there's two -- one on the -- towards the front  
of the house, and one on the back of the house.

JIM MONTEVERDE: Yep. Can you just point those  
out? Olivia, it's the arrow. It's in the two bedrooms,  
down below. That one.

ROBERT TINGLE: Yes, so one --

1           JIM MONTEVERDE: One, correct, it says it's a new  
2 egress window in that bedroom --

3           ROBERT TINGLE: Yes.

4           JIM MONTEVERDE: And that is also in that plan to  
5 the left?

6           ROBERT TINGLE: Yes.

7           JIM MONTEVERDE: I don't know my right from my  
8 left.

9           ROBERT TINGLE: Yes, that's correct. Yep.

10          JIM MONTEVERDE: And the reason you're here  
11 needing relief is on the Dimensional Form, the side yard  
12 setback, the Ordinance requirement is 7.5', and the existing  
13 condition is 6'7"?

14          ROBERT TINGLE: Correct.

15          JIM MONTEVERDE: Right? That's really the relief  
16 you need.

17          ROBERT TINGLE: Right.

18          JIM MONTEVERDE: Correct?

19          ROBERT TINGLE: Yes.

20          JIM MONTEVERDE: Okay. And that's the extent of  
21 it? Anything else?

22          ROBERT TINGLE: That's it.



1 JIM MONTEVERDE: Okay. Thank you.

2 ROBERT TINGLE: Thank you.

3 JIM MONTEVERDE: -- for providing the Dimensional  
4 Form. Any questions from members of the Board?

5 BILL BOEHM: Yeah. are you -- is the proponent  
6 proposing to add window wells as well?

7 ROBERT TINGLE: Yes.

8 BILL BOEHM: Are those --

9 ROBERT TINGLE: Yeah, but they're done in about a  
10 half-moon. They're in -- below grade.

11 BILL BOEHM: So they're not existing now? I saw  
12 the pictures, so you'll be doing new window wells, and are  
13 those within the setback?

14 ROBERT TINGLE: Yes.

15 BILL BOEHM: Okay.

16 JIM MONTEVERDE: Do you propose -- sorry. Bill,  
17 anything else?

18 BILL BOEHM: No.

19 JIM MONTEVERDE: If I could just piggyback on  
20 Bill's question. On the area well, Mr. Tingle, what -- is  
21 there any cover to that area well?

22 ROBERT TINGLE: No, there's not.

1           JIM MONTEVERDE: I would suggest a type of grading  
2 that you can put on top of that window well, so someone  
3 could walk down that pathway and not fall in your window  
4 well. Would you be amenable to that?

5           ROBERT TINGLE: Sure.

6           JIM MONTEVERDE: If we make that a condition,  
7 would you be okay with that?

8           ROBERT TINGLE: Yeah.

9           JIM MONTEVERDE: Okay. Any other questions from  
10 members of the Board? All right.

11          OLIVIA RATAY: Jim? [Side conversation]

12          JIM MONTEVERDE: So Mr. Tingle, the other -- it's  
13 the area well wasn't understood in what you presented or  
14 submitted, I'll say. It doesn't appear that you addressed  
15 the window well in terms of the height. Usually that  
16 nominally affects the height, increases the height.

17          ROBERT TINGLE: The window well is going to be 16"  
18 below grade.

19          JIM MONTEVERDE: Yeah. But still, you do have to  
20 do the calculation and submit it. Can we make it a  
21 condition? It's a variance, right?

22          OLIVIA RATAY: You can grant the window.

1 [Unclear].

2 JIM MONTEVERDE: Yeah, so we -- in terms of we can  
3 only act on what you've submitted. Okay?

4 ROBERT TINGLE: Well, I spoke in detail with Mr.  
5 Natola about this, and he told me that it was, that's how he  
6 proposed it. He said that window well would be okay. That  
7 was talked about in length when I submitted this, so.

8 JIM MONTEVERDE: Okay. We can -- we can basically  
9 proceed. Again, we've got to do public comment and other  
10 discussion, but we can basically grant you the right to  
11 increase the window width.

12 But when you go to get a permit, don't be  
13 surprised if you have to then apply for a variance, and at  
14 least do the arithmetic for the building height, and confirm  
15 it like you say, like is said in the Dimensional --

16 ROBERT TINGLE: We have a building permit. There's  
17 been a building permit. We have a building permit.

18 This was all done, you know, when we did the  
19 original floor plan. There was always going to be an egress  
20 window in the basement.

21 So this was -- had been -- was on that print. I  
22 mean, when I had talked to Steve Natola about it, he was

1 very aware of the egress putting the window well in there.  
2 That was the question to me. And I addressed it and I said,  
3 "Yes, definitely we're going to have to put a window well in  
4 there."

5 JIM MONTEVERDE: Well, all I can say is --

6 ROBERT TINGLE: So I don't know why it wasn't put  
7 in there. You know?

8 JIM MONTEVERDE: It's not in front of us in the  
9 documentation that was submitted. So we can, as I said,  
10 make a condition if we -- if the Board so agrees that the --

11 ROBERT TINGLE: Yeah, we'll do it. whatever you  
12 want to do, it's fine.

13 JIM MONTEVERDE: -- through it, but --

14 ROBERT TINGLE: You know.

15 JIM MONTEVERDE: -- and we'll see what happens  
16 when we go -- when this goes to the Building Department.

17 ROBERT TINGLE: Okay.

18 JIM MONTEVERDE: All right? Before we open this  
19 up to public comment, we have a correspondence from the Mid  
20 Cambridge Neighborhood Conservation District Commission  
21 saying this to the -- they have no issue. A Certificate of  
22 Non-Applicability, given that the basement windows are not

1 visible from the public way.

2 ROBERT TINGLE: Mm-hm.

3 JIM MONTEVERDE: Otherwise, there is one piece of  
4 correspondence from I'm assuming your neighbor --

5 ROBERT TINGLE: Mm-hm.

6 JIM MONTEVERDE: -- 16 Ellsworth. Having --

7 ROBERT TINGLE: 14. 14, yeah.

8 JIM MONTEVERDE: Oh, that's right. I'm sorry.

9 Yeah, the owner of 14, they have no concerns with you as the  
10 owner of 16 doing the improvements you're talking about.

11 And that seems to be --

12 ROBERT TINGLE: Correct.

13 JIM MONTEVERDE: -- of what we have in the file.

14 Let me open it to public comment. Any member of  
15 the public who wishes to speak should now click the icon at  
16 the bottom of your Zoom screen that says, "Raise hand."

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

19 I'll now ask Staff to unmute speakers one at a  
20 time. You should begin by saying your name and address, and  
21 Staff will confirm that we can hear you. After that you  
22 will have up to three minutes to speak before I ask you to

1 wrap up.

2 No? No one calling in? Close public testimony.

3 Discussion by members of the Board? Are you all  
4 okay if we make a condition of having the window well have a  
5 grading with some type of cover on it, so someone doesn't  
6 mistakenly fall into it?

7 DANIEL HIDALGO: Okay with me.

8 JIM MONTEVERDE: All right.

9 STEVEN NG: Works for me.

10 JIM MONTEVERDE: Okay. Any other discussion among  
11 members, or are we ready to go for a motion?

12 STEVEN NG: Ready for a motion.

13 JIM MONTEVERDE: All right. Ready for a motion.

14 This is a special permit. So the Chair makes a motion to  
15 grant relief from the requirements of the Ordinance under  
16 Sections 5.31, the Dimensional Form -- that's the intrusion  
17 in the side yard setback; Section 8.22.2.c for a  
18 Nonconforming Structure and for the Requirements of 10.40  
19 for a special permit on the condition that the work proposed  
20 conforms to the drawing entitled "16 Ellsworth Avenue,"  
21 prepared by Robert Tingle and dated -- so I'll put today's  
22 date on it -- initialed and dated by the Chair.

1           And further, that we incorporate the supporting  
2 statements and dimensional forms submitted as part of the  
3 application.

4           Further, that the special permit is granted  
5 incorporating the following conditions, and that the areaway  
6 will have a grading cover to them, so that someone can't  
7 mistakenly fall into the window well.

8           Board members, on a voice vote, please? Virginia?

9           VIRGINIA KEESLER: In favor.

10          JIM MONTEVERDE: Steven?

11          STEVEN NG: In favor.

12          JIM MONTEVERDE: Daniel?

13          DANIEL HIDALGO: In favor.

14          JIM MONTEVERDE: Bill?

15          BILL BOEHM: In favor.

16          JIM MONTEVERDE: And Jim Monteverde in favor.

17          [All vote YES]

18          JIM MONTEVERDE: So five in favor, the relief is  
19 granted. Thank you.

20          ROBERT TINGLE: Thank you. Have a nice night.

21          JIM MONTEVERDE: You too.

22

1 \* \* \* \* \*

2 (8:39 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Next case is BZA-268861 -- 6  
6 Sacramento Street. Mr. Rafferty?

7 JAMES RAFFERTY: Thank you, Mr. Chair. Good  
8 evening.

9 JIM MONTEVERDE: Good evening.

10 JAMES RAFFERTY: For the record, my name is James  
11 Rafferty. I'm an attorney with offices located at 907  
12 Massachusetts Avenue in Cambridge.

13 I'm appearing this evening on behalf of the  
14 petitioner, Sacramento House, LLC. The Principal of that  
15 entity, Derek Chen, is also present -- C-h-e-n. And also  
16 present with us this evening is Daniel Anderson, the Project  
17 Architect.

18 This is an application that seeks relief, both in  
19 the form of a variance and a special permit. The variance  
20 is related to the fact that this structure built into 1880  
21 as a six-unit dwelling, has been used for the past few  
22 decades as a dormitory by Lesley University. They've sold



1 the property, and Mr. Chen wishes to return it to its prior  
2 original use as a multifamily building.

3 This proposal is to put seven units in the  
4 building. The building, however, is located in a Res B  
5 Zoning District. As Board members are well aware; the Use  
6 Limitations in Res B are for a single-family and two-family  
7 alone.

8 It's because of the age and the size of the  
9 structure that the hardship for the variance is based. It  
10 is not a building that would lend itself to use as a two-  
11 family or a single-family. Were that to happen, it would be  
12 mansion-quality housing; not what I think is needed or  
13 wanted in this district.

14 Mr. Chen has engaged in extensive outreach, spoken  
15 directly with his neighbors. We met along with Mr. Anderson  
16 with the Baldwin Community Association last week to describe  
17 his plans.

18 The plans, as I noted, result in the creation of  
19 seven dwelling units, and Mr. Anderson could walk you  
20 through those units. There are a number of units, including  
21 a one-bedroom unit, and several larger two-bedroom units.

22 The relief also addresses parking. The building

1 contains a -- the rear of the building has always been used  
2 for parking. The historic use of the parking involved three  
3 spaces.

4 The application seeks a special permit that would  
5 provide some relief from the Dimensional Setback  
6 Requirements in Article 6 for Parking Spaces you'll see  
7 depicted on the plan.

8 We can comfortably fit four parking spaces on the  
9 site. Given the number of units and the demand for on-  
10 street parking, that was a feature that was well received,  
11 both at the Neighborhood Association and by the abutters.  
12 There is limited open space here, but across the street from  
13 property is Sacramento Field, a large, recreational field  
14 with playground equipment.

15 Mr. Chen is not a developer. He is an economist.  
16 He has purchased this property because of his family  
17 connections in the area and his interest in the area.

18 His current intention would be to develop this as  
19 a condominium -- a For Sale project. And his objective is  
20 to be able to put one of the units in the basement and  
21 that's why the petition also addresses the question of a  
22 window well for a basement unit.

1 I'm going to ask Mr. Anderson to address the  
2 Chair's comment from the prior case, as it seemed rather  
3 appropriate for this case with regard to the window well.

4 Would the Board want me to defer now to Mr.  
5 Anderson and have him address that question? I think you're  
6 muted, Mr. Chair.

7 [Noise, distorted sound]

8 JIM MONTEVERDE: Now I have a fun machine. Can  
9 you hear me?

10 [Noise, distorted sound]

11 I think I've entered a dimension.

12 I think I'm back. Can you all hear me again?

13 JAMES RAFFERTY: Yes.

14 JIM MONTEVERDE: So Mr. Rafferty. Could you  
15 please explain the Section of the Ordinance that you're  
16 asking for relief from? It's in the BZA application.

17 JAMES RAFFERTY: Yeah, so the --

18 JIM MONTEVERDE: 4.7.g is the Multifamily, that's  
19 just the conversion, right? from dormitory to multifamily?

20 JAMES RAFFERTY: Well, no, it's more than that.

21 it's the fact that the use here is not a permitted use in

22 the scheduled uses, a multifamily in the district. So this

1 would allow a multifamily in a Res B district, that's what  
2 the Article 4 Use Variance is. So --

3 JIM MONTEVERDE: Thank you.

4 JAMES RAFFERTY: That's -- I would say that's the  
5 principal issue. The dimensional issues, the Section 5  
6 citing, has to do with the fact that the building is  
7 currently nonconforming. It's a nonconforming structure.  
8 It significantly exceeds the allowed FAR, but we do have a  
9 change in use.

10 So we reference the fact that the dimensional --  
11 there is not dimensional compliance here.

12 And then the remainder of the -- the relief is  
13 related to -- three sections in Article 6 all relate to the  
14 fourth parking space, the parking space most proximate to  
15 the building.

16 We've rearranged the parking in a way that some of  
17 the setback requirements off the building are not being met.  
18 Article 6 allows for deviations from those requirements in  
19 cases where site circumstances warrant it.

20 We would suggest in this case that is the case,  
21 that site circumstances allow -- do warrant this, because  
22 the fourth parking space for a seven-unit building we think

1 is something that would be beneficial to both the project  
2 itself, as well as the neighborhood.

3 And then finally, there's an existing head house  
4 on the building that's going to be replaced. And there's a  
5 dimensional issue associated with that as well. This is a  
6 35' height district and we're going to be rebuilding that.

7 JIM MONTEVERDE: Okay. Thank you. Mr. Anderson,  
8 do you want to walk us through the proposal?

9 DAN ANDERSON: Thank you, Mr. Chair. Daniel  
10 Anderson, a Partner at Anderson Porter Design. We're  
11 located at 1972 Massachusetts Avenue. Yeah, happy to do  
12 that.

13 As you see on the cover sheet, we've got a view  
14 from Sacramento Street. You can see on the drive it runs on  
15 the right-hand side.

16 Second sheet is our Dimensional, which outlines  
17 the items and that Mr. Rafferty outlined.

18 And the next sheet is our site location. So we're  
19 a block -- just one property in from Massachusetts Avenue.

20 Subsequent sheet shows the existing conditions  
21 site survey plan. So you can see the situation of that  
22 property of the building. The nonconforming side yard

1 setback is to the right-hand side. And the parking at the  
2 rear has an existing handicapped ramp and is entirely  
3 bituminous asphalt.

4 So it's -- there is no significant green or open  
5 space available on the property currently.

6 The next sheet is our overall site plan. So it  
7 shows the increase, however minor, in green space. But we  
8 think it's a benefit.

9 The card shown in red you can see dimensionally is  
10 closer to the building than the Ordinance allows but has all  
11 the appropriate dimensions and aisle requirements.

12 Also shown is the required bicycle parking spaces.  
13 and at the -- yes, at the upper left-hand corner.

14 And then along the lower edge of the property in  
15 that setback, you can see the locations of the window wells  
16 that were mentioned. So there's some increased openings to  
17 meet basement egress requirements.

18 We don't anticipate that those window wells will  
19 be deeper than 30". That will need to be confirmed  
20 absolutely, but, as you can see, it's not a passageway.

21 So we're not particularly concerned about grading,  
22 although the one in the middle would be locked. In other

1 words, if it was needed for egress and one needed to exit  
2 the rear or to the street. So we would be happy to take it  
3 as a condition that grading might be provided, just to  
4 ensure that any kind of unnecessary life safety egress could  
5 be easily accommodated.

6 Happy to run through subsequent ones.

7 I think, maybe Olivia if you could shift to the  
8 elevations, that would illustrate existing. If you go to  
9 the next side elevation, you can see the existing head house  
10 above and to the rear.

11 And we have an existing areaway that provides  
12 basement access to storage, fire safety, sprinkler system,  
13 et cetera.

14 And if you would scroll down to the proposed  
15 elevations past the plans just quickly to that same  
16 elevation, you can see where the existing head house was,  
17 and the proposed new head house.

18 It's an increase of a couple of feet, which would  
19 allow a safely accessed roof area, which is really just for  
20 mechanical equipment.

21 There's no roof decks proposed, no habitable  
22 space. It's really for safe access to mechanical systems,

1 and there was a provision for rooftop solar.

2 So that really -- I guess if you scroll down --  
3 excuse me, Olivia, to the next side elevation. Thank you.

4 That shows the areas in which we have the window  
5 wells. We have a few window openings that have been closed,  
6 but apart from the basement windows, no new windows have  
7 been proposed. So we're maintaining the structure and  
8 essentially a very much the same configuration and character  
9 as it is -- that it is currently.

10 If it's helpful, I can walk through the plans.  
11 But it's at the pleasure of the Board.

12 JIM MONTEVERDE: I am comfortable with that  
13 discussion. Does any other Board member want to see more of  
14 the plans? Otherwise, I'm fine with what's been presented.  
15 Thank you.

16 Any discussion among members of the Board? Any  
17 questions? Sorry.

18 BILL BOEHM: Yeah. Dan, I notice we're losing a  
19 handicapped ramp in exchange for a parking space, which  
20 tells me we're sort of decreasing accessibility to this  
21 building with this project.

22 Can you just fill us in on the kind of code



1 requirements and how you're meeting that, in terms of  
2 accessibility?

3 DAN ANDERSON: Yeah. Thank you, Bill. So as an  
4 existing multifamily, it is exempted from accessibility  
5 requirements. And we took the approach that -- particularly  
6 the likelihood of needing to provide accessibility.

7 None of the units are required to be either Group  
8 1 or Group 2 in this existing building; that the tradeoff  
9 was providing additional parking space for unlikely need for  
10 access seemed to be a reasonable tradeoff.

11 And again, it was not a code requirement or under  
12 AAB.

13 JIM MONTEVERDE: Thank you. Any other questions  
14 from members of the Board? If not, we'll go to public  
15 comment. We have one correspondence in the file from  
16 Catherine Rondeau, dated June 16 in support, next-door  
17 neighbor at 8 Sacramento Street, and we have nothing  
18 submitted against. So let me open it to public comment.

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

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

1 hand by pressing \*9 and unmute or mute by pressing \*6. I'll  
2 now ask Staff to unmute the speakers one at a time. You  
3 should begin by saying your name and address, and Staff will  
4 then confirm that we can hear you. After that you will have  
5 up to three minutes to speak before I ask you to wrap up.

6 Anyone? Nope. No one calling in. I'll close  
7 public testimony. Any discussion among members of the Board  
8 and are we ready for a motion? I'll take that as we're  
9 ready for a motion.

10 We have -- this is a two-part; the variance first;  
11 has to do with converting the dormitory to multifamily  
12 residential, seven units, by replacing the existing roof  
13 head house. Dimensional relief, off-street parking spaces  
14 by permitting the use of compact spaces, and then the  
15 requirements for a variance.

16 So I'll take the variance first. The Chair makes  
17 a motion to grant relief from the requirements of the  
18 Ordinance under Sections 5.31 for the Table of Dimensional  
19 Requirements, and that is specially the FAR, which actually  
20 will be reduced from the existing, but we will still be over  
21 the Ordinance requirement.

22 For the height, which will increase above the

1 Ordinance requirement and the existing requirement by virtue  
2 of the height of the head house and the window well. And  
3 that's the requirements or the relief from the 5.31.

4 4.31.g Multifamily Dwelling, 6.34 Compact Space  
5 Ratio, which basically is no more than 50 percent and 6 --

6 JAMES RAFFERTY: Excuse me, Mr. Chair. I  
7 apologize. The 4.31 is part of the Variance Request. But  
8 the remaining sections are part of the special permit. So  
9 the variance is --

10 JIM MONTEVERDE: Oh --

11 JAMES RAFFERTY: 4.31 and 5.31, the use --

12 JIM MONTEVERDE: Okay.

13 JAMES RAFFERTY: -- and the Dimensional are the  
14 variance. The remaining sections of the application involve  
15 a special permit.

16 JIM MONTEVERDE: Special permit? All right.

17 JAMES RAFFERTY: I apologize.

18 JIM MONTEVERDE: No, that's fine. Thank you.  
19 thank you. Thanks for the clarification.

20 So just to go back, the variance is under Sections  
21 5.31, the Table of Dimensional Requirements. I'll just  
22 write off what the particulars are on that, and 4.31.g for a

1 Multifamily Dwelling.

2 On the condition that the work proposed conforms  
3 to the drawings entitled "6 Sacramento," prepared by  
4 Anderson Porter Design, dated June 17, 2024, initialed and  
5 dated by the Chair.

6 And further, that we incorporate the supporting  
7 statements and dimensional forms submitted as part of the  
8 application.

9 Further, that the variance is granted  
10 incorporating the following condition, and that's to include  
11 a grading above the three window wells that are shown.

12 On a voice vote, please, Board members? Virginia?

13 VIRGINIA KEESLER: In favor.

14 JIM MONTEVERDE: Steven?

15 STEVEN NG: In favor.

16 JIM MONTEVERDE: Daniel?

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: And Jim Monteverde in favor.

21 [All vote YES]

22 JIM MONTEVERDE: The variance is granted. And

1 then the special permit, which is regarding Section 6.34 for  
2 the Compact Space and 6.43 for the Dimension of Off-street  
3 parking. And that is the -- let's see, is there any more --

4 JAMES RAFFERTY: There's one more; 6.44.1 --

5 JIM MONTEVERDE: Yep.

6 JAMES RAFFERTY: That's the distance from the  
7 building.

8 JIM MONTEVERDE: Yep. that's the 5' from the  
9 building.

10 JAMES RAFFERTY: Correct.

11 JIM MONTEVERDE: 10' from the building, sorry.

12 BILL BOEHM: Jim, sorry. I didn't realize how  
13 this case was broken up. Given that the parking space is a  
14 separate item and is replacing a handicap ramp and making  
15 this house inaccessible for people who are not able, I find  
16 it a bad idea and I would be opposed to granting this  
17 special permit for the parking specifically.

18 JIM MONTEVERDE: Well --

19 JAMES RAFFERTY: Could I be heard on that?

20 JIM MONTEVERDE: -- hold on. No, wait one  
21 second, please. Let's just consider this as a discussion  
22 among members of the Board for a moment.

1 I think, Bill, I understand your point.

2 But I think the discussion we heard from Mr.  
3 Anderson is that -- and I'm trying to recollect, because I  
4 haven't done condo -- multifamily condos in a while, but  
5 last time I did, in Massachusetts they weren't required to  
6 be handicapped accessible. Public spaces within them were,  
7 but the units themselves, they were not required to be  
8 accessible.

9 So I think on that basis, I'm not -- that's how I  
10 can feel comfortable with removing the ramp, because it's --  
11 I don't believe it's a code requirement that the condominium  
12 units be accessible.

13 BILL BOEHM: Yeah. I understand that it's a code  
14 issue, but if it was only a code issue it wouldn't be coming  
15 before the Zoning Board, and the Zoning Board has the  
16 ability to offer an opinion or judgment on what's being  
17 asked for. And that's my judgment on that one.

18 JIM MONTEVERDE: Okay. Anyone else have any --  
19 among the members of the Board have any discussion, before  
20 we move to a vote, motion?

21 Okay.

22 The Chair makes a motion to grant relief from the

1 requirements of the Ordinance under Sections -- let me make  
2 sure I get this right: 6.34 for the Compact Space Ratio,  
3 the 6.43, Dimensions of Off-Street Parking Spaces, 6.44.1.g  
4 for the Setback Requirement, and then Sections 10.40 for the  
5 special permit.

6 On the condition that the work proposed conforms  
7 to the drawings entitled "6 Sacramento," prepared by  
8 Anderson Porter Design, dated June 17, 2024.

9 Board members, voice vote, please? Virginia?

10 VIRGINIA KEESLER: In favor.

11 JIM MONTEVERDE: Steven?

12 STEVEN NG: In favor.

13 JIM MONTEVERDE: Daniel?

14 DANIEL HIDALGO: In favor.

15 JIM MONTEVERDE: Bill?

16 BILL BOEHM: Opposed.

17 JIM MONTEVERDE: And Jim Monteverde in favor.

18 [Four vote YES, one vote NO]

19 JIM MONTEVERDE: That's four affirmative, the  
20 relief is granted. Thank you.

21 DAN ANDERSON: Thank you very much.

22 JAMES RAFFERTY: Thank you very much. Have a good

1 evening.

2 JIM MONTEVERDE: You too.

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2 (8:59 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
4 Daniel Hidalgo, and Virginia Keesler

5 JIM MONTEVERDE: Next case is BZA-268777 -- ooh,  
6 Plato's lucky numbers. And it is 7 Fenno Street.

7 We have a letter in our file requesting that the  
8 application be withdrawn without prejudice from Mahmood  
9 Firouzbakht, dated June 18, 2024.

10 JIM MONTEVERDE: Vote to accept?

11 OLIVIA RATAY: Accept.

12 JIM MONTEVERDE: So we'll do a voice vote to  
13 accept the application being withdrawn without prejudice.  
14 Virginia?

15 VIRGINIA KEESLER: In favor.

16 JIM MONTEVERDE: Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: Daniel?

19 DANIEL HIDALGO: In favor.

20 JIM MONTEVERDE: Bill?

21 BILL BOEHM: In favor.

22 JIM MONTEVERDE: Thank you. And Jim Monteverde in

1 favor.

2 [All vote YES]

3 JIM MONTEVERDE: That's five affirmative. The  
4 case is withdrawn without prejudice.

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(9:02 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
Daniel Hidalgo, and Virginia Keesler

JIM MONTEVERDE: Next case is BZA-268197 -- 8  
Whittier Street. Mr. Winslow? You're on twice.

JOHN WINSLOW: Yeah. I'm here. I can't -- I  
can't get my face showing, but I'm unmuted, I think.

JIM MONTEVERDE: Well, that's okay.

JOHN WINSLOW: It's still me.

JIM MONTEVERDE: We need you to talk, that's the  
most important part. So --

JOHN WINSLOW: Yeah. Okay. Okay. When can I be  
seen? Oop, oop, oop, oop, oop. There we go. I got it.  
Okay, sorry.

JIM MONTEVERDE: Okay.

JOHN WINSLOW: Hi, you all. Well, greetings.

JIM MONTEVERDE: Yep. Do you want to explain to  
us what the project is about and what relief you're seeking?  
This is a special permit?

JOHN WINSLOW: This is a special permit, yes.

I'm here on behalf of our clients, Arman Garakani

1 and Jenna Hall, who I believe are in the audience. I don't  
2 know if you're able to put them on or how it works, but  
3 there's Jenna. She shows as John Winslow, but it's really  
4 Jenna.

5 JIM MONTEVERDE: Okay.

6 JOHN WINSLOW: Okay. Well, oh, Winslow  
7 Architects, Arlington, Massachusetts. I myself am a  
8 Cambridge resident as well. We're renovating a house at 8  
9 Whittier Street, and there are several technical special  
10 permit requirements. Oh there's Arman Garakani, the  
11 husband-and-wife team.

12 So there are four technical permits -- special  
13 permits that we're asking for, and I don't know if your  
14 office wants to put it on the screen. My understanding was  
15 that you control the screen.

16 JIM MONTEVERDE: We do.

17 JOHN WINSLOW: There we go. Thank you. there's  
18 th

19 the house itself. It's like an early 20 -century, late  
20 19th-century house that's been pretty much renovated  
21 completely, the first and second floor and in the basement.

22 If you can go to the floor plan, go to sheet --

1 keep going, next down, next sheet. Okay, hold it right  
2 there.

3 All right. I guess I'll take them in order. In  
4 renovating the house, we're basically renovating it back to  
5 the shape -- the condition it was originally. And we're  
6 shuffling the deck.

7 And the first special permit requirement is the  
8 front porch was fully enclosed, and we're opening the porch  
9 up again and we're wanting to put front stairs that go  
10 directly towards the street.

11 You can see there on the right-hand side of the  
12 screen right there that that porch had been enclosed, and  
13 the stairs currently exist run parallel to the streets. And  
14 I guess sideways.

15 And we were -- we're recti -- we're wanting to  
16 have the stairs go directly into the street, and that's into  
17 the front yard setback. So that's the first item that we're  
18 requesting.

19 Should I explain all of them, or do you want to  
20 take them one at a time?

21 JIM MONTEVERDE: Lat's take them one at a time.  
22 Just explain to us the item that you're --

1 JOHN WINSLOW: Okay.

2 JIM MONTEVERDE: -- seeking relief for.

3 JOHN WINSLOW: Okay. So what we're asking for is  
4 permission to build the front stairs and a porch, as shown  
5 in the plan that goes directly towards Whittier Street,  
6 towards the sidewalk. And --

7 JIM MONTEVERDE: Okay.

8 JOHN WINSLOW: The red line in the entirety is --  
9 currently is an enclosed porch. We're actually pulling back  
10 a little bit. We are providing partially a mudroom, but  
11 we're recreating a front porch, as you can see, within that  
12 footprint that currently exists.

13 JIM MONTEVERDE: Mm-hm.

14 JOHN WINSLOW: So the request is to have stairs  
15 into the front yard setback.

16 JIM MONTEVERDE: Okay.

17 JOHN WINSLOW: Want me to try to proceed, or do  
18 you want to --

19 JIM MONTEVERDE: Yep. Keep going.

20 JOHN WINSLOW: Okay. The second issue is over  
21 there in the kitchen; we're putting the kitchen back in the  
22 location that we're showing it here.

1           It currently is in -- shown as the dining room  
2 when this plan is now currently the existing kitchen, and  
3 we're removing the kitchen from that location and putting it  
4 in the back of the house.

5           And we're wanting to put a window on that side  
6 wall. That wall is a nonconforming wall because it's a --  
7 it's less than 7'6" setback. It's like 7'3" or something.  
8 So it's nonconforming wall. So the request is to put a  
9 window where we're showing it.

10           I can say that that -- when we did the -- some  
11 destructive demo, there actually was a window in that wall,  
12 but it's not in the location that we'd like to have it for  
13 this plan. So the request is to allow that window.

14           The third item that we're requesting -- you can  
15 see the bay in that kitchen. If you can zoom in to the  
16 kitchen area again, where we're showing the table, that's an  
17 extension to the house.

18           And so that's technically increasing the FAR of a  
19 nonconforming structure, although that area that we're  
20 extending it out into is currently a covered porch.

21           And we actually originally thought that that would  
22 be allowed as -- not increasing the footprint, but we were

1 told otherwise.

2           So the request is to allow that bay that we're  
3 showing on the first floor to allow for a dining table  
4 within the kitchen. It makes it a more pleasant kitchen.  
5 So that's the third request.

6           The fourth request, going -- sliding further down  
7 a little bit, we're -- you're seeing -- we have an area well  
8 going down into the basement.

9           We're providing a family room in the basement  
10 area, and we're proposing to have an egress directly from  
11 the basement, and kind of a -- what we're calling a, "lower  
12 patio." You can scroll down right there. Yep, right there.

13           And that -- by putting in that lower patio, we  
14 know that we're raising the effective height of the  
15 building, because we're lowering in effect the grade. And  
16 we believe the height of the building is increased by about  
17 a half of a foot. And the height, that is nonconforming.

18           So what we're asking for is an allowance to put in  
19 this lower patio area to allow for this egress and entrance  
20 into this family room in the basement.

21           Those are the four items that we're requesting  
22 relief from. So.



1 JIM MONTEVERDE: Okay.

2 JOHN WINSLOW: So much for requesting relief.

3 Pardon my grammar.

4 JIM MONTEVERDE: No, no, you're fine. Thank you.

5 JOHN WINSLOW: Yep.

6 JIM MONTEVERDE: Any questions from members of the  
7 Board? If not, there is before I open it up to public  
8 commentary, we have no correspondence in the file either for  
9 or against.

10 So I will open it to public comment. Any member  
11 of the public who wishes to speak should now click the icon  
12 at the bottom of your Zoom screen that says, "Raise hand."

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

15 I'll now ask Staff to unmute speakers one at a  
16 time. You should begin by saying your name and address, and  
17 Staff will confirm that we can hear you. After that you  
18 will have up to three minutes to speak before I ask you to  
19 wrap up.

20 Luke is back?

21 OLIVIA RATAY: Luke?

22 [Pause]

1           JIM MONTEVERDE: Luke, are you there?

2           [Pause]

3           JIM MONTEVERDE: Luke, we'll give you a moment to  
4 join us, and then we'll keep on moving.

5           [Pause]

6           All right. We're going to close public testimony.  
7 Any discussion from members of the Board? Or are you ready  
8 for a motion? Got a quiet group tonight. I'll take that  
9 as a ready for a motion. And this is a special permit.

10           The Chair makes a motion to grant relief from the  
11 requirements of the Ordinance under Sections 5.31, the Table  
12 of Dimensional Requirements, that is because of the modest  
13 increase in the gross floor area exceeding the Ordinance  
14 requirement.

15           The FAR goes up de minimisly from the existing,  
16 which is also beyond the Ordinance requirement.

17           The setback for the front porch, which will sit in  
18 the -- you know, one foot from the property line, will sit  
19 in the front yard setback.

20           The right side, where you're requesting the new  
21 window is -- again, it's de minimis, but it's inside the  
22 right-side setback.

1           The height increases, it's already beyond the  
2 Ordinance, but it increases ever so slightly because of the  
3 areaway.

4           And I think that covers -- no, where are you?  
5 You've got -- that does your front steps. The -- what did I  
6 say, right-side setback? Right-side setback, the bay window  
7 to the rear yard, and the new areaway down to the basement  
8 space.

9           On the condition that the work proposed conforms  
10 to the drawings entitled "Garakani - Hall Residence,"  
11 prepared by Winslow Architects dated -- last date on this  
12 was April 16, 2024, initialed and dated by the Chair.

13           And further, that we incorporate the supporting  
14 statements and dimensional forms submitted as part of the  
15 application.

16           On a voice vote, please? Steven?

17           STEVEN NG: In favor.

18           JIM MONTEVERDE: Virginia?

19           VIRGINIA KEESLER: In favor.

20           JIM MONTEVERDE: Daniel?

21           DANIEL HIDALGO: In favor.

22           JIM MONTEVERDE: Bill?

1 BILL BOEHM: In favor.

2 JIM MONTEVERDE: In favor.

3 [All vote YES]

4 JIM MONTEVERDE: That's five in favor. The relief  
5 is granted. Thank you.

6 JOHN WINSLOW: Thank you. Thanks for the work you  
7 do. Appreciate it.

8 JIM MONTEVERDE: Is that thunder outside?

9 DANIEL HIDALGO: Yeah.

10 JIM MONTEVERDE: That was a storm?

11 JOHN WINSLOW: Yeah. It's thundering. I'm going.  
12 Bye.

13 JIM MONTEVERDE: I was just checking my phone to  
14 see if it actually [unclear].

15 DANIEL HIDALGO: Right when we made the decision,  
16 it thundered so.

17 UNIDENTIFIED: It was a thunderous decision.

18 JIM MONTEVERDE: Thank you.

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(9:13 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,  
Daniel Hidalgo, and Virginia Keesler

JIM MONTEVERDE: Next case is BZA-268596 -- 270  
Huron Avenue. Is there anyone wishing to speak on this, the  
last matter for tonight?

DAMON SIDEL: I'm here. I'm Damon Sidel. I'm the  
Architect of Record for this project.

JIM MONTEVERDE: Yep.

DAMON SIDEL: I believe that MJ and John Jensen  
are also on the line, who are the owners and my clients.

JIM MONTEVERDE: Okay. Want to walk us through  
what you're looking to do and what relief you need to do it?

DAMON SIDEL: Yep.

MJ JENSEN: Hi. Can you guys see me?

DAMON SIDEL: Can't see you, MJ, just hear you.

MJ JENSEN: Oh. Damon, do you want me to start  
it, or would you like to?

DAMON SIDEL: Yeah, just introduce yourself,  
please.

MJ JENSEN: Hi. This is MJ Jensen. My husband

1 John literally ran out the door just to get some stuff  
2 because it's raining now. So we're -- we live at 270 Huron  
3 Avenue. We've lived here for a long time.

4 We're looking to find a solution to getting in and  
5 out of the basement, getting our bikes down, being able to  
6 carry things in and out without going down some very old  
7 stairs that were kind of built before they thought of a lot  
8 of things like water heaters and burners and things like  
9 that would be in the basement.

10 And we've been working with Damon to make that  
11 happen.

12 DAMON SIDEL: Great. So the proposal that we've  
13 come up with is to add an exterior stairwell. The --  
14 probably the best view to start with is the proposed site  
15 plan in the middle bottom of this page, just to Zoom in  
16 there. Yep. Perfect. All right.

17 And you can see that we're proposing to add a  
18 stairwell that goes down I believe it's one, two, three,  
19 four, five, six, seven eight stairs in the -- on the  
20 Blakeslee Street side of the house in the yard there.

21 It is -- encroaches into the side yard. I believe  
22 that it's an existing nonconformance that the house is

1 already within that side yard there.

2           The house is also already taller than the 35'.  
3 This will increase it a small amount by decreasing the  
4 grade, and we are also decreasing the amount of open space  
5 by a small percentage, which is also already nonconforming.  
6 So each of these is an extension of the existing  
7 nonconformance.

8           With the exception of the railing, everything is  
9 below grade, and so, not all that visible or intrusive to  
10 the street and the neighbors. I think that's as much as  
11 needs to be said.

12           There's a 3D view of it if you want to see a  
13 little bit more of that and otherwise, supporting images of  
14 the existing and proposed.

15           JIM MONTEVERDE: If that's it, thank you.

16           Any questions from members of the Board? If not,  
17 I have one.

18           DAMON SIDEL: Sure.

19           JIM MONTEVERDE: And it's really -- if you go back  
20 to your, I think it was the site -- yeah, the site plan. Is  
21 there any opportunity to do or any desire to do any planting  
22 around the -- the new stair and areaway down?

1           DAMON SIDEL: We hadn't talked about that. But  
2 MJ, if you have any thoughts, I mean I don't see any  
3 technical problems about doing some plantings, but I don't  
4 know about --

5           MJ JENSEN: No, in fact we would -- we were  
6 talking about that the other day about what kind of  
7 planting, you know, like, not that I'm a really good  
8 gardener, but what we could do to sort of work some things  
9 into that area. So we'd like to be able to do that.

10          JIM MONTEVERDE: All right. Just a look at some  
11 landscaping opportunity there just to kind of soften the --  
12 I'll say the intrusion of the new guard -- handrail,  
13 guardrail.

14          DAMON SIDEL: Mm-hm. Yep. That's a great call.

15          MJ JENSEN: Yes, that makes sense.

16          JIM MONTEVERDE: Okay. Thank you.

17                 Are there any questions from members of the Board?  
18 If not, I'll go to public comments. We have two pieces of  
19 correspondence in the file from neighbors; one from Judith  
20 Pemstein, who's the neighbor across the street on the  
21 opposite corner, who is in favor of the plan. And also from  
22 Margo Lindauer, who is the first floor neighbor across the



1 street, in favor also.

2 So I will open it up to public comment. Luke is  
3 there [laughter]?

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

7 If you're calling in by phone, you can raise your  
8 hand by pressing \*9 and unmute or mute by pressing \*6. I'll  
9 now ask Staff to unmute the speakers one at a time. You  
10 should begin by saying your name and address, and Staff will  
11 then confirm that we can hear you. After that you will have  
12 up to three minutes to speak before I ask you to wrap up.

13 Anybody? Doesn't look like it. Nope. Nobody  
14 calling in. I will close public testimony. Any discussion  
15 among members of the Board?

16 STEVEN NG: I think we're ready for a motion.

17 JIM MONTEVERDE: Excellent. Thank you. This is a  
18 special permit. The Chair makes a motion to grant relief  
19 from the requirements of the Ordinance under Sections 5.31,  
20 Dimensional Form. That's for the stair -- the new stair  
21 being -- well, you're already under on the right-side  
22 setback, and this will just increase that nonconformance

1 3.2'.

2 And that -- and the height will also increase from  
3 38.5 to 39.5 due to the same areaway. That's the  
4 Dimensional.

5 And 8.22.2.d for a Nonconforming Structure.

6 And then the requirements for a Special Permit,  
7 10.40. On the condition that the work proposed conforms to  
8 the drawings entitled "Jensen Residence," prepared by Mix  
9 Design and Development, and dated March 13, 2024; initialed  
10 and dated by the Chair.

11 And further, that we incorporate the supporting  
12 statements and dimensional forms submitted as part of the  
13 application.

14 Further, that the special permit is granted  
15 incorporating the following condition: And that's the  
16 proponents explore the opportunity for some landscaping  
17 along the new fence, just to soften that for the neighbors.

18 And now as a vote, Board members on a voice vote,  
19 please. Virginia?

20 VIRGINIA KEESLER: In favor.

21 JIM MONTEVERDE: Thank you. Steven?

22 STEVEN NG: In favor.

1 JIM MONTEVERDE: Thank you. Daniel?

2 DANIEL HIDALGO: In favor.

3 JIM MONTEVERDE: Thank you. Bill?

4 BILL BOEHM: In favor.

5 JIM MONTEVERDE: Thank you. And Jim Monteverde in  
6 favor.

7 [All vote YES]

8 JIM MONTEVERDE: That's five affirmative. The  
9 relief is granted.

10 Thank you.

11 DAMON SIDEL: Thank you so much for your time.

12 JIM MONTEVERDE: And Board members, that's it for  
13 the night. Thank you.

14 COLLECTIVE: Thank you.

15 MJ JENSEN: Thank you all. Have a nice evening.

16 DAMON SIDEL: All right, thanks.

17 JIM MONTEVERDE: Take care.

18 [9:22 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts  
Middlesex, ss.

I, Lynne Blaszak, Notary Public in and for the  
Commonwealth of Massachusetts, do hereby certify that the  
witness whose deposition is hereinbefore set forth, was  
duly sworn by me and that such deposition is a true record,  
to the best of my ability, of the testimony given by the  
witness.

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.

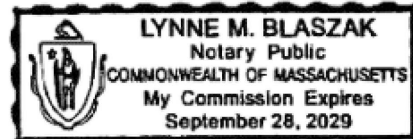
In witness whereof, I have hereunto set my hand this  
ninth day of July 2024.

*Lynne M. Blaszak*

Notary Public

My commission expires:

September 28, 2029



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