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BOARD OF ZONING APPEALS
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

December 18, 2008

7:15 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Brendan Sullivan, Chair
Constantine Alexander, Vice Chair
Tim Hughes, Member
Slater Anderson, Member
Tad Heuer, Member

Sean O'Grady, Zoning Specialist

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CASE

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1 P R O C E E D I N G S

2 (7:15 P.M.)

3 (Sitting members: Brendan Sullivan,
4 Constantine Alexander, Tim Hughes, Tad Heuer,
5 Slater Anderson.)6 BRENDAN SULLIVAN: The Board will
7 hear case No. 9703, 307-313 Cambridge Street.8 The Board is in receipt of
9 correspondence on the letterhead of Antonia,
10 A-n-t-o-n-i-a Shelzi, S-h-e-l-z-i dated
11 Friday, December 12th.12 To the Chair of the Board of Zoning
13 Appeals: I would like to request a
14 continuance of the zoning appeal case in
15 order to gather information being requested
16 by my neighbors. Thank you, Antonia Shelzi.17 On the motion to accept the request for
18 the continuance on the --

19 SEAN O'GRADY: July 23, of '09.

20 CONSTANTINE ALEXANDER: This is a
21 case heard, though. Are you sure --

22 SEAN O'GRADY: Well, it's awfully

1 far off to try to guess. Should we try to do
2 that?

3 BRENDAN SULLIVAN: It's probably
4 going to -- is this a case heard?

5 TAD HEUER: Yes.

6 SEAN O'GRADY: Yes, it is a case
7 heard.

8 BRENDAN SULLIVAN: It was heard?

9 SEAN O'GRADY: Yes.

10 BRENDAN SULLIVAN: Okay. Let's
11 schedule it. If -- to July 23, 2009 at seven
12 p.m. on the condition that the petitioner
13 changed the posting sign to reflect the new
14 date and time. And also on the condition
15 that the members who originally sat on the
16 Board are available for that particular
17 evening.

18 SLATER ANDERSON: I know for a fact
19 I am not. I'm on vacation.

20 BRENDAN SULLIVAN: Okay. And you
21 sat on that case?

22 SLATER ANDERSON: I think.

1 BRENDAN SULLIVAN: Okay.

2 SLATER ANDERSON: So what are we
3 before that?

4 SEAN O'GRADY: We can go July 9th if
5 you like.

6 BRENDAN SULLIVAN: That's July 4th
7 time frame. So that's okay, July 9th?

8 SEAN O'GRADY: Maria has it
9 scheduled for then. So the 4th --

10 BRENDAN SULLIVAN: So we're going to
11 do July 9th?

12 SEAN O'GRADY: July 9th.

13 BRENDAN SULLIVAN: So the new date
14 will be July 9th. And if there's a conflict
15 with some of the members, we can deal with
16 that also. It will just have to push it off
17 again.

18 SEAN O'GRADY: Absolutely.

19 BRENDAN SULLIVAN: So on the motion
20 to continue on July 9, 2009.

21 (Show of hands.)

22 BRENDAN SULLIVAN: Five in favor.

1 (Sullivan, Alexander, Anderson, Heuer,
2 Hughes.)

3 BRENDAN SULLIVAN: Okay, July 9th.

4 (Off the record.)

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1 (7:20 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Tim Hughes, Tad Heuer,
4 Slater Anderson.)

5 BRENDAN SULLIVAN: The Board will
6 hear case No. 9710, 11 Tufts Street.

7 If you would introduce yourselves.
8 Please spell your last name for the record,
9 it's being recorded, whoever is going to
10 speak.

11 WILLIAM SCHAEFER: I'm William
12 Schaefer, architect. Schaefer is
13 S-c-h-a-e-f-e-r. And to my right is Matthew
14 Levy, one of the owners of 11 Tufts Street.
15 The other owner is not present. She just had
16 a child and is probably taking care of her
17 child.

18 The owners are petitioning the Board to
19 allow the construction of two additional
20 porches at the west half of a six-family
21 building at Tufts Street. New porches will
22 be built above a porch at the first floor,

1 and you -- there's photos enclosed. To allow
2 the construction of the two porches will
3 follow the existing pattern of three- and
4 six-family buildings with porches. To the
5 west of No. 11 there are three, three-family
6 buildings with porches, and across the street
7 there are two, six-family buildings with six
8 porches. In addition, behind 11 Tufts Street
9 are several well-developed trees which will
10 provide screening from our intended porches.
11 Also, the third floor porch that we're
12 proposing will not have a roof, which will
13 allow more light to penetrate the rear yards.

14 In conclusion, there are a high number
15 of structures with porches as we propose and
16 it is much the norm for this type of
17 structure and elsewhere in Cambridge
18 neighborhoods. The new porches will
19 duplicate the existing first floor with one
20 alteration which I'll address. Which is that
21 -- at previous hearing some abutters on
22 Chestnut Street requested that we reduce the

1 size of our intended porches. Which, as you
2 see in the addendum that I furnished, the
3 owners have expressed that that was all right
4 with them. So instead of duplicating the
5 first floor porch at 10 feet in-depth, it's
6 been reduced to six feet. So the perspective
7 on the cover is the drawing that shows that.

8 CONSTANTINE ALEXANDER: Okay, but
9 exactly what is the zoning? What is that?

10 WILLIAM SCHAEFER: It's a setback
11 requirement.

12 CONSTANTINE ALEXANDER: Zoning
13 setback, not FAR?

14 WILLIAM SCHAEFER: It's also FAR.
15 It's a minor, minor quantity of FAR.

16 CONSTANTINE ALEXANDER: How much? I
17 couldn't tell from your dimensional form.

18 WILLIAM SCHAEFER: Okay. If I look
19 at the dimensional form -- we're essentially
20 adding, I think, there's 6,000 square feet.

21 CONSTANTINE ALEXANDER: Right.

22 WILLIAM SCHAEFER: And we're adding,

1 I think it's a -- let me see if I can find my
2 dimensional form. Here it is.

3 Let's see, we -- the existing FAR ratio
4 is 1.35. And then when we had the 10 foot,
5 that increased to 1.42. So we reduced by
6 four feet -- we've reduced -- it's four times
7 15 is 60. We reduced it by about 120 square.
8 So it's about 1.38 now.

9 CONSTANTINE ALEXANDER: Going
10 from -- I'm sorry, from what to what?

11 WILLIAM SCHAEFER: We had --

12 CONSTANTINE ALEXANDER: We have now?

13 WILLIAM SCHAEFER: We have 1.35.

14 CONSTANTINE ALEXANDER: And you're
15 going to 1.38.

16 WILLIAM SCHAEFER: And the original
17 petition went to 1.42, and we reduced that a
18 little bit, miniscule amount.

19 CONSTANTINE ALEXANDER: And the
20 setback, what is it in the setback --

21 WILLIAM SCHAEFER: The setback was
22 20 feet.

1 CONSTANTINE ALEXANDER: Right.

2 WILLIAM SCHAEFER: And we -- let's
3 see. We -- the setback was 20 feet, and we
4 never could provide that. The building now
5 goes -- it's 14 and a half feet from -- and
6 so that --

7 CONSTANTINE ALEXANDER: The decks
8 are eight and a half feet from the lot line?

9 TAD HEUER: No, the other way
10 around.

11 WILLIAM SCHAEFER: No, it's actually
12 going to be 14 plus 4, it's going to be 18
13 feet. So it's going to be 18 and a half. So
14 we're a foot and a half short now. And then
15 in addition, we have some letters of support.

16 BRENDAN SULLIVAN: The dimensional
17 form that's in the file is not our
18 dimensional form.

19 CONSTANTINE ALEXANDER: Exactly.

20 BRENDAN SULLIVAN: And that's what
21 problem No. 1 is, that that form should have
22 been filled out. And you must have used your

1 own --

2 WILLIAM SCHAEFER: But it follows
3 the format, though.

4 BRENDAN SULLIVAN: Well, it doesn't
5 though, that's the problem. And so -- the
6 form that we have should have been filled in
7 without exception, and not used your own
8 form.

9 WILLIAM SCHAEFER: We've actually
10 done it this way before.

11 BRENDAN SULLIVAN: Well, in
12 somebody --

13 WILLIAM SCHAEFER: No, but we can
14 actually fill out the same form. This is the
15 same form. It's just computerized.

16 BRENDAN SULLIVAN: Right.

17 WILLIAM SCHAEFER: But we will fill
18 out the same form.

19 BRENDAN SULLIVAN: I would have
20 slapped your wrist then as I'm going to do it
21 now --

22 WILLIAM SCHAEFER: Okay, fine.

1 BRENDAN SULLIVAN: -- because I'm
2 really insistent upon our forms being filled
3 out, because that's what we're used to.
4 That's what we like to see and it's much
5 clearer --

6 WILLIAM SCHAEFER: That's fine,
7 sure.

8 BRENDAN SULLIVAN: -- than this to
9 be quite honest with you. Because it doesn't
10 beget the question that it's hard to decipher
11 the information. It might be quite clear to
12 you, but, you know, you've got to make it
13 quite clear to us. So that's where the
14 problem is, No. 1, from the get-go.

15 I would ask if we were to approve this,
16 that -- and if we were to go forward, that
17 that form be filled out is my recommendation.

18 WILLIAM SCHAEFER: I understand your
19 point and I accept it. We should have used
20 your form, but I would like to say that this
21 does follow the format, and we did mention
22 that the two applicable quantities. And one

1 is the setback that the existing condition is
2 four feet -- 14 feet that we have. And we're
3 not changing that. And that the requirement
4 was for 20 feet. So we did stipulate in our
5 document what the requirement was and what we
6 were provided.

7 TAD HEUER: The FAR is not .37 going
8 to .53 or .90; is that right?

9 WILLIAM SCHAEFER: No. The existing
10 condition --

11 TAD HEUER: What is -- can you
12 explain what that means?

13 WILLIAM SCHAEFER: Excuse me?

14 TAD HEUER: On the back side of the
15 dimensional form it says you're in FAR of .37
16 going to .56, .90 and then in a .75 district?

17 WILLIAM SCHAEFER: No, I'm sorry, I
18 don't know what you're looking at.

19 CONSTANTINE ALEXANDER: What you
20 submitted. That's my question.

21 WILLIAM SCHAEFER: May I see?

22 CONSTANTINE ALEXANDER: It's totally

1 confusing.

2 WILLIAM SCHAEFER: We said setback
3 is -- we said total FAR existing condition is
4 1.35. This is what the existing condition is
5 now. And the ordinance requirement is 4.75
6 times the lot size. So it was 1.42.

7 TAD HEUER: So what's in the back?

8 WILLIAM SCHAEFER: I don't know. I
9 think that -- this is the document, and I
10 think what happened was --

11 TAD HEUER: That's our problem.

12 BRENDAN SULLIVAN: That's the key to
13 when you say "I don't know." We don't know
14 either.

15 Let me ask you another germane
16 question.

17 WILLIAM SCHAEFER: Yep, go ahead.

18 BRENDAN SULLIVAN: You have made
19 some changes to reflect some concerns from
20 one of the neighbors.

21 WILLIAM SCHAEFER: Right.

22 BRENDAN SULLIVAN: Which are

1 submitted dated 5, December.

2 WILLIAM SCHAEFER: Right.

3 BRENDAN SULLIVAN: Does this
4 dimensional form which says 24, July reflect
5 those changes?

6 WILLIAM SCHAEFER: With the
7 exception of the --

8 BRENDAN SULLIVAN: Well, it's either
9 yes or no.

10 WILLIAM SCHAEFER: No.

11 BRENDAN SULLIVAN: It doesn't?
12 Okay.

13 WILLIAM SCHAEFER: This was the
14 worst case scenario. What it doesn't -- what
15 it didn't change is that the -- the FAR --
16 this was calculated at a 10 foot deck, and
17 our six-foot deck is approximately 60 feet --
18 60 square feet less than what this reflects.
19 So this reflects the worst case scenario.
20 This is what we originally applied for.

21 BRENDAN SULLIVAN: But what I need
22 is a document that reflects the actual

1 scenario.

2 WILLIAM SCHAEFER: Okay.

3 BRENDAN SULLIVAN: So, I guess my --

4 WILLIAM SCHAEFER: Okay. It's 1.4.

5 So we're talking about two one-hundredths of

6 a --

7 BRENDAN SULLIVAN: Right.

8 WILLIAM SCHAEFER: -- percentage.

9 BRENDAN SULLIVAN: I guess my

10 feeling is that the dimensional form has to

11 follow our form, No. 1, it has to be filled

12 in. And that the dimensional form should

13 reflect the plan that is being proposed

14 before us.

15 WILLIAM SCHAEFER: And we will do

16 that.

17 BRENDAN SULLIVAN: I mean, it's a

18 legal document.

19 WILLIAM SCHAEFER: Sure, that's

20 fine.

21 BRENDAN SULLIVAN: We're not doing

22 this on a whim. It's a legal document.

1 WILLIAM SCHAEFER: I understand.

2 BRENDAN SULLIVAN: And right now
3 it's deficient, and quite short.

4 WILLIAM SCHAEFER: We need to
5 reflect the change of four feet.

6 BRENDAN SULLIVAN: What's before us,
7 right.

8 WILLIAM SCHAEFER: And we would be
9 happy to do that. We can make that a
10 condition of our --

11 BRENDAN SULLIVAN: Well, unless
12 other members of the Board -- are we sure
13 what we're voting on or what we're being
14 asked to consider?

15 CONSTANTINE ALEXANDER: I'm not.
16 And do we have a blank form here? Can we
17 just continue this case at the end of the
18 meeting?

19 SEAN O'GRADY: I can go next-door
20 and get one.

21 BRENDAN SULLIVAN: Why don't we give
22 you until the end of the evening.

1 WILLIAM SCHAEFER: That's fine.

2 BRENDAN SULLIVAN: And then you can
3 bring the stuff up to where it should be.

4 WILLIAM SCHAEFER: That's fine,
5 sure.

6 BRENDAN SULLIVAN: The numbers. And
7 then come back at the end, and either it's
8 completed or it's not.

9 WILLIAM SCHAEFER: That's fine.

10 BRENDAN SULLIVAN: Okay? Why don't
11 we do that? Does that sound --

12 TAD HEUER: That's fine. Just be
13 aware we have a short case load this evening.

14 WILLIAM SCHAEFER: Well, it's just a
15 matter of changing it by eight feet. So --
16 and then changing the math.

17 BRENDAN SULLIVAN: But it's
18 really -- it may seem miniscule to you.

19 WILLIAM SCHAEFER: No, it's
20 appropriate.

21 BRENDAN SULLIVAN: I'm stressing the
22 point that it's -- our form needs to be

1 filled out.

2 WILLIAM SCHAEFER: That's fine. And
3 we have no objections.

4 BRENDAN SULLIVAN: And lately what's
5 been happening is that some people have been
6 using other software to use their own forms,
7 and I for one don't want to accept it.

8 WILLIAM SCHAEFER: That's fine.

9 BRENDAN SULLIVAN: So, let me
10 continue this matter to a little bit later on
11 in the evening to allow the petitioner to
12 fill in the dimensional forms for
13 Inspectional Services. I'd like the
14 petitioner to come back to us.

15 CONSTANTINE ALEXANDER: This
16 gentleman.

17 CHRIS WELLER: I'm -- my name is
18 Chris Weller, and I'm one of the people from
19 160 Chestnut Street, and we wanted to make a
20 request of you folks in terms of something
21 you might -- some language you might add to
22 it. And we'd be grateful if you'd consider

1 that now rather than at the end of the
2 evening because you do have a tendency to go
3 to one in the morning. Just so that we could
4 -- we negotiated this. We feel comfortable
5 with all of this. And only, I can describe
6 it. We are concerned with -- 11 Tufts Street
7 is a six-unit building. Three units of them
8 have been condo converted. And it's those
9 three folks that are doing this. On the
10 other side there's still rental units and it
11 might be for a while to come. The other side
12 is much closer to us. And we understand that
13 without even saying so, what you folks decide
14 on this has no bearing on what happens to get
15 on the site in the future. But we would be
16 grateful if you would include some language
17 in this to let anyone who is, you know, going
18 to buy and does due diligence to know that
19 that's not the case so that they don't
20 think -- so they're not buying and thinking
21 about. An example of the kind of language
22 would be the BZA stipulates this finding sets

1 no precedent for what may or may not be
2 permitted in the future at the other half of
3 11 Tufts Street.

4 And, you know, as I understand it, as
5 Sean has said, that -- it's like that -- I
6 know that goes without saying. But that way
7 somebody buying it would know up front, and
8 then they wouldn't have as hard feelings with
9 us when they're -- we haven't had hard
10 feelings here. It's been great. The, you
11 know, they understood our -- but we think it
12 might well be on the other side, especially
13 because it's so much further, and we might
14 not feel comfortable with six feet. Will not
15 feel comfortable with going outside the rear
16 yard setback.

17 BRENDAN SULLIVAN: Yes. Go ahead.

18 CONSTANTINE ALEXANDER: I'm not sure
19 -- I'll defer to others. I'm not sure we can
20 put the language you want in our decision.
21 That that would ever be covered by the buyer
22 of the other half.

1 CHRIS WELLER: Sean said the same
2 thing, that they probably would never get
3 that thorough. But there is the chance that
4 we could let them know up front, though, that
5 it's, you know, not that we will oppose you
6 when you do this, but rather that there was a
7 decision on this so that it goes back to the
8 city instead of starting off with new
9 neighbors as bad neighbors that are going to
10 restrict them. I think that's what we were
11 hoping for. That there would be something
12 that -- of course, it would be nice if they
13 know that up front, and maybe if they, you
14 know, prior to buying they know.

15 BRENDAN SULLIVAN: It may be in the
16 transcripts, but it may not be in our formal
17 decision.

18 CHRIS WELLER: Whatever you think is
19 appropriate.

20 BRENDAN SULLIVAN: Yes.

21 SLATER ANDERSON: On the face that
22 personally I'm not comfortable making

1 statements about property of owners who
2 aren't here. Even though it may not have a
3 -- we're talking about -- I'm assuming this
4 whole building has been condo-ized but the
5 other three are rented; is that correct?

6 CHRIS WELLER: I don't think they --
7 have they? I don't think they're being
8 condo-converted yet, are they?

9 MATTHEW LEVY: I don't know.

10 CHRIS WELLER: We don't know.

11 SLATER ANDERSON: Well, maybe it's
12 -- I don't know, but the owners of those
13 units aren't present here. And I just feel
14 like for us to put stipulations however
15 non-binding, specific about someone's
16 property who is not here representing
17 themselves, I'm just not comfortable.

18 BRENDAN SULLIVAN: Yes, I think it
19 gets into an area that may not be proper, I
20 guess, for lack of a better word. But it may
21 be in the transcripts, but not in our
22 document.

1 CHRIS WELLER: Wonderful. I mean,
2 we'd be grateful for that.

3 BRENDAN SULLIVAN: Maybe the sense
4 of the Board. But I'm not even sure. I'm
5 not -- let me think about that as we get
6 through the evening.

7 Anything else?

8 TAD HEUER: I appreciate your desire
9 and I see where you're coming from.

10 CHRIS WELLER: Yeah.

11 TAD HEUER: I think I share Slater's
12 concern and also the fact that it is a matter
13 of law that is the case. That our decisions
14 are variances, they're appeals. They're not
15 binding as precedent on other properties.
16 And particularly in a situation where you
17 have a property that if it were to be
18 purchased, there would be no record in that
19 title search of anything that happens to
20 adjacent properties. It would seem that if
21 you were -- the perspective new buyer decided
22 to be diligent, they would title search the

1 rest of the physical building. That's what I
2 would presume they would do.

3 CHRIS WELLER: Okay, that's fine.

4 TAD HEUER: But if they didn't, you
5 know, they're kind of proceeding at their
6 risk. It's not really something that we can
7 declare upon.

8 CHRIS WELLER: I hear you. And your
9 point is terrific, too. It's just, I have
10 anxiety about these folks feeling in the
11 future that it's not fair and, you know, our
12 having be the messenger and just wishing --
13 but we can work around it if it's just as
14 inappropriate for you guys. We would be
15 grateful if you include the language.

16 CONSTANTINE ALEXANDER: I think
17 we've already done it. We do have a
18 transcript. It's all going to be reflected
19 in the transcript of the hearing.

20 CHRIS WELLER: Oh, no kidding. I
21 didn't know that.

22 CONSTANTINE ALEXANDER: It's in the

1 language, every word. It's --

2 CHRIS WELLER: In other words, every
3 word that I'm saying --

4 BRENDAN SULLIVAN: It's already been
5 said.

6 TIM HUGHES: Even the "no kidding"
7 part is going to be in there.

8 BRENDAN SULLIVAN: Okay. So -- yes.

9 SLATER ANDERSON: I was just going
10 to say as a suggestion, if you do see these
11 come up for sale, it would be important for
12 you to look at the language of the broker's
13 listing to see what they're representing at
14 that time, because you may want to make it
15 clear to the broker that, you know --

16 CHRIS WELLER: Right.

17 SLATER ANDERSON: -- what the
18 reality might be. What their rights are on
19 the property.

20 CHRIS WELLER: Given this kind of
21 market, it's going to be quite a while before
22 they're under anyway.

1 BRENDAN SULLIVAN: Okay. So on the
2 motion to continue this matter to a little
3 bit longer into the evening.

4 (Show of hands.)

5 BRENDAN SULLIVAN: Five in favor of
6 continuing the matter.

7 (Sullivan, Alexander, Anderson, Heuer,
8 Hughes.)

9 (Off the record.)

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1 (7:40 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Tim Hughes, Tad Heuer,
4 Slater Anderson.)

5 BRENDAN SULLIVAN: The Board will
6 hear case No. 9717, 194-R Prospect Street.

7 Sean, do you have any of those forms?

8 SEAN O'GRADY: No, I have to go
9 next-door to get them.

10 BRENDAN SULLIVAN: Maybe
11 Mr. Rafferty might have a handful.

12 CONSTANTINE ALEXANDER: Along with
13 his business card.

14 BRENDAN SULLIVAN: If you would
15 identify yourself, please, for the record.
16 Please spell your last name for the
17 secretary.

18 SUZANNE MARTIN: Suzanne Martin,
19 M-a-r-t-i-n.

20 BRENDAN SULLIVAN: Is it Jan?

21 SUZANNE MARTIN: Suzanne,
22 S-u-z-a-n-n-e. My husband Peter desperately

1 wanted to be here tonight, as you can
2 imagine. He coaches at track at Reggie Lewis
3 and they had -- a problem unexpectedly came
4 up, he can't be here. So I'll represent the
5 two of us.

6 BRENDAN SULLIVAN: Okay.

7 PATTY SEITZ: And I am Patty Seitz,
8 S-e-i-t-z. And I'm the architect on the
9 project.

10 BRENDAN SULLIVAN: Let me just do
11 some pro forma language before we get into
12 the merits of the proposal before us.

13 For the Board's -- in case members were
14 not here, back, I believe, in August of '07,
15 the Martins came down with a proposal, and
16 correct me if I'm wrong, to get a larger
17 garage, an existing garage which was a repair
18 garage, and create a residence. Basically
19 enlarging it and putting a second and third
20 floor on it. There was either one or two
21 hearings, I'm not sure. But the petition was
22 denied at that time. The -- the architect

1 and the Martins went back, took our comments
2 I think into consideration, comments from
3 Planning, I think, and Historical at that
4 time, and redesigned and scaled back their
5 project. Then they submitted that for
6 reconsideration. And then on August 14th we
7 heard their revised petition. And the first
8 finding that we had to make was whether or
9 not it was a repetitive petition because it
10 involved the same address, and -- for a
11 single-family unit. And at that time under
12 section 10.51 four members of the Board, at
13 least four members of the Board felt that
14 there were material changes. And as such
15 then referred it back to the Planning Board
16 where under 10.51 the Planning Board is
17 required to look at our decision, that it --
18 there are material changes, and hence it is
19 not a repetitive petition. One of the
20 conditions is that all but one of the members
21 of the Planning Board has to consent thereof
22 to our decision. And for the record, the

1 Board, Planning Board did consider on
2 September 10, 2008. The correspondence from
3 them is that the Planning Board has reviewed
4 this case and consents to the Board Zoning
5 Appeal finding of August 14th that there are
6 specific and material changes in the
7 condition. Hence, this would not be
8 considered a repetitive petition. And so the
9 new petition can go forward.

10 So at least we get that on the record
11 anyway.

12 Okay, that being said, if you would
13 sort of tell us briefly for the other members
14 sort of what it was before and what it is
15 now.

16 SUZANNE MARTIN: I'll just introduce
17 and let Patty go into the specifics. But
18 basically our goal was to turn a really ugly
19 but huge garage into a dwelling place for my
20 husband and I who love the area. My husband
21 grew up in that area, Magazine Street, and we
22 want to move back to that area. We came

1 originally with 300 -- more than 300
2 signatures of Cambridge individuals and did
3 -- there was one problem that the neighbors
4 -- some of the neighbors did raise having to
5 do with parking. So we met with the
6 neighbors. We resolved that issue to the
7 point where the neighbors actually came here
8 and vocally supported the project. But then
9 it became obvious, the Board felt that it had
10 concerns about the size of the project. And
11 in the end I think we heard -- we appreciated
12 the Board's concerns. We heard them, and in
13 the end, as Peter said the last time, we
14 realized we had to tear the garage down and
15 really rebuild. And we do appreciate it. We
16 believe we now have a plan that's actually
17 better. We're happy with it. And we think
18 that it's going to be good for the area. So
19 I'll let Patty go into the specifics.

20 PATTY SEITZ: So, I'll talk to you.
21 We're requesting three variances. One is in
22 side yard setback on one side. One side yard

1 abuts the building and it's allowed to abut
2 just as the existing garage did. The other
3 side is reduced to its absolute minimum. And
4 I'll explain that in a second.

5 The second one is FAR. We're still
6 over, but we're significantly below where we
7 were before.

8 And then the third one is open space.
9 We're actually significantly above in open
10 space what the existing build had, but we
11 were unable to meet the 30 percent. We're at
12 28 percent. And the existing building was at
13 eight percent. So we significantly increased
14 the open space.

15 So the issue on side yard setback, and
16 I can just show you this -- you have these
17 drawings, but I'm just going to explain what
18 the problem is. We have to get -- one of the
19 issues that the families -- one of the
20 neighbors in particular brought to our
21 attention was that they wanted us not only to
22 have one car parked in the parking spot but

1 two. So we've continued to honor that. We
2 did not want to do battle with them again
3 even though one would have provided it.

4 The second one is not legal from your
5 terms, so from your perspective because the
6 lot parked each other it's one. But from the
7 neighbor's perspective it was two. So the
8 garage needs to fit between an existing porch
9 and two preexisting parking spaces that are
10 on the lot. And that -- to get them in
11 straight back, the most that we can possibly
12 set that back and still get an exterior wall
13 is 10 feet, three quarter inches from that
14 side lot line. The current garage is two
15 inches away. So, we've actually increased it
16 by almost ten feet. So we've done the best
17 that we can. We can't do better with that.

18 CONSTANTINE ALEXANDER: Can the
19 requirement -- and the zoning requirement is
20 what?

21 PATTY SEITZ: When you add all the
22 spaces up, it's 15 feet, nine inches or

1 somewhere in thereabouts, when you do sort of
2 the planar dimensional one. It's certainly
3 more than what other neighbors have. It's
4 just that the lot is long, and there are a
5 lot of faces on that particular lot on that
6 side. So the other side is abutted up
7 against the building as does the existing
8 garage.

9 We meet rear yard setback. We did not
10 last time. We do now.

11 The second issue is FAR. So one of the
12 issues in FAR, the lot is slightly undersized
13 from the typical lots in the area. And your
14 minimum required how -- for a new lot.
15 However, it does meet the requirements of
16 use. There is over 1500 square feet in lot
17 area for each unit, but there is a
18 denominator issue that effects FAR relative
19 to that, that has a minor impact on the
20 project.

21 The second thing is that because of
22 where that garage needs to go and that it

1 pretty much faces the rear lot line, we end
2 up with very little space -- in fact, none,
3 on the bottom floor that is actually usable
4 space. I mean, we have a door added as our
5 second means of egress, but we don't have a
6 room on the bottom floor. So it is
7 effectively a basement although it's actually
8 a first floor. So we don't take issue with
9 that. We go up.

10 So then on the second floor plan we
11 then go up, and we reduced it as much as
12 possible. It includes -- there was a chunk
13 taken out of the lower floor, and that's
14 reflected here. And it's a kitchen, a
15 dining, a living room is one space. And then
16 there's one other enclosed space. And then a
17 bathroom and then the stair keeps going up to
18 the third floor. So, one of the things that
19 we did between the two, the existing FAR on
20 the lot doesn't actually count that garage,
21 and it's .49. If we count the area of the
22 existing garage, just to give you a

1 perspective, it's .93. And what we're
2 requesting is .99. So we're just over the
3 area of the garage itself as we go up to get
4 enough usable space. So, it's just that that
5 commercial garage isn't counted in full area,
6 but it actually exists in space.

7 And then when we go up to the third
8 floor, we've made the master bedroom and a
9 bath and a study. And the bedroom space is
10 small. We actually set it back. And part of
11 this was to take out as much -- so we tried
12 to receive two ends here. One is to take out
13 as much space as we possibly could on this
14 side. And the second thing was, when we met
15 with the Historic Commission, was to reduce
16 -- and also with some of the comments that
17 came out of the meeting here in August of
18 2007 was to actually bring -- take bulk out.
19 So we reduced -- on that third floor, we
20 brought it in as much as possible. We went
21 with Historic Commission to actually fine
22 tune all the trim details and to match things

1 up in a way that they found compatible and
2 supporting. And there's a letter that they
3 made in support of it. And then we also
4 additionally -- originally matching the 35
5 foot maximum height allowed, and we actually
6 brought it down three feet. So that, again,
7 we could reduce the bulk.

8 So that, in effect we pretty much
9 reduced it in every possible way in working
10 with them and in consulting with Sean in
11 Zoning in the most possible way, and still
12 getting a unit there. We feel that, you
13 know, we've increased open space. You can
14 see a side lot now from the street. It
15 actually buffers, subsequent to doing this,
16 there are now large buildings all around us.
17 There was several -- a development that went
18 up that actually filled in on the back and
19 the side, but we've now created ten feet on
20 the side and more than that on the rear yard
21 which can be a buffer for us. It's actually
22 probably built more -- needed more than the

1 neighbors do, but in either case it's fine.
2 We've kept the two cars in the garage because
3 we want the neighbors who opposed us -- there
4 was one, to continue support and they're
5 aware that we did that. And we just did
6 everything that we possibly could to take
7 area out of it at every floor level.

8 So we come here knowing that we've
9 increased open space. We feel like we've
10 made a much better look to the front face of
11 it. Historic Commission supports us. And we
12 hope that you see that positively. We're not
13 sure what else we could possibly do after
14 having met with everyone.

15 BRENDAN SULLIVAN: Any questions by
16 members of the Board?

17 CONSTANTINE ALEXANDER: I have a
18 question. This is the third unit. The
19 two-family --

20 PATTY SEITZ: There's a two-family
21 on the lot, right.

22 CONSTANTINE ALEXANDER: And this is

1 going to be a rental unit out?

2 PATTY SEITZ: No, they're moving
3 there.

4 CONSTANTINE ALEXANDER: You're going
5 to live in this one?

6 SUZANNE MARTIN: Yes, that's for us.

7 CONSTANTINE ALEXANDER: And what are
8 you going to do with the other two? Are you
9 going to rent those out?

10 SUZANNE MARTIN: One.

11 CONSTANTINE ALEXANDER: One. And
12 one for your daughter?

13 SUZANNE MARTIN: No, no. There's
14 only one other that we own.

15 CONSTANTINE ALEXANDER: You own the
16 second floor?

17 PATTY SEITZ: Right. And there's a
18 one bedroom unit that's at the very top
19 floor. That's on the existing building in
20 the front, and it's currently rented out and
21 they're going to leave it rented. And the
22 bottom floor is owned by another party. It's

1 somebody completely disassociated with them.

2 BRENDAN SULLIVAN: Anything to add?

3 SLATER ANDERSON: Apparently not.

4 I'd like to see that site plan.

5 TAD HEUER: You said there's a
6 unit -- there's one that has brick facing; is
7 that right?

8 PATTY SEITZ: We -- yes. So yes,
9 that's this one. All we did was change it.
10 We dropped down the basement and we put brick
11 in. And the only other thing that happened
12 with Historic, they actually agreed with
13 massing. But we went to them to just punch
14 -- sort of punch up some of the dimensions on
15 the trim. Those are the only changes that we
16 made. So, the base dropped down and it now
17 matches the existing. And we changed the
18 trim side at the corner boards and also along
19 the windows.

20 TAD HEUER: And is that a carriage
21 house garage, is that --

22 PATTY SEITZ: Yes, it was a carriage

1 house garage. So what exists there now is a
2 five car commercial garage, which -- I mean,
3 it's what's there. I mean, nobody wants it.
4 It's actually on the rear lot line
5 practically. It's a couple inches off. And
6 it's on -- two inches at one point off the
7 side lot line. So we're vastly improving
8 that. And that's one of the major changes
9 that we made from the last one to this one.

10 SLATER ANDERSON: So was this a
11 separate unit, the commercial garage, was it
12 a separate ownership unit?

13 PATTY SEITZ: Yes, it was. That's
14 correct.

15 SLATER ANDERSON: So you purchased
16 an upstairs unit and the garage?

17 PATTY SEITZ: Not at the same --
18 they didn't purchase them at the same time.

19 SLATER ANDERSON: But you owned
20 both, but they were three separate units?

21 PATTY SEITZ: Yes.

22 BRENDAN SULLIVAN: Questions? Tim?

1 TIM HUGHES: No questions.

2 BRENDAN SULLIVAN: Is there anybody
3 here -- let me open it to public comments.

4 Is there anybody here that would like
5 to speak on the matter 194-R Prospect Street?

6 Please come forward and identify
7 yourself.

8 ADAM WAHAB: My name is Adam Wahab,
9 W-a-h-a-b. I live next-door at 190 Prospect
10 Street. And I'm actually concerned about
11 just how large this dwelling is going to be.
12 I know you brought drawings, but I can't see
13 them from here, but --

14 PATTY SEITZ: I'd be happy to show
15 you.

16 ADAM WAHAB: Okay.

17 PATTY SEITZ: So this is -- here's
18 the existing piece. The building that you
19 live in is right here. And we're here. And
20 our garage -- actually, the current garage is
21 here. So we're adding this thing so it comes
22 up and setback. I think there might be

1 another --

2 ADAM WAHAB: The current garage now,
3 it's quite wide though. It comes up to the
4 lot --

5 PATTY SEITZ: The current garage
6 comes all the way to the lot line. It comes
7 all the way to here. Right. It comes all
8 the way to here. We're setting it back ten
9 feet on that side.

10 ADAM WAHAB: So you're making it
11 narrow?

12 PATTY SEITZ: Right. So, the
13 existing garage -- we wiped out half of it in
14 Photo Shop. The existing garage is here.
15 We're bringing it back over this way. Are
16 you in the front or the back?

17 ADAM WAHAB: I'm here.

18 PATTY SEITZ: So we're actually
19 lower.

20 ADAM WAHAB: I was really concerned
21 that you were just bringing it straight up.
22 In fact, that garage is quite hideous. I was

1 going to put in a complaint about it, you
2 know. I call it the West Nile garage. It's
3 full of water. Okay, thank you.

4 BRENDAN SULLIVAN: Any other
5 comments at all?

6 ADAM WAHAB: No.

7 BRENDAN SULLIVAN: No? Okay.

8 Is there anybody else who would like to
9 speak on the matter.

10 (No response).

11 BRENDAN SULLIVAN: The last time we had
12 quite a lot of signatories, but there are
13 none in addition to?

14 PATTY SEITZ: No, we didn't go back
15 and get them all again. It was -- 300
16 signatures is a very laborious job.

17 BRENDAN SULLIVAN: Well, no. All
18 right.

19 PATTY SEITZ: But they were in
20 support of that one.

21 CONSTANTINE ALEXANDER: And this is
22 better than that one.

1 PATTY SEITZ: This is better than
2 that one.

3 BRENDAN SULLIVAN: Okay. Let me end
4 the public comment part.

5 And questions from the Board?
6 Concerns?

7 CONSTANTINE ALEXANDER: No. I wish
8 you would read into the record the
9 correspondence from the Historical
10 Commission.

11 BRENDAN SULLIVAN: Yes, I will.

12 TIM HUGHES: I have no questions.

13 BRENDAN SULLIVAN: There was
14 correspondence from the Historical
15 Commission. It's probably already been said,
16 but there's correspondence dated September
17 24th where they express some concern with the
18 proposed three-story addition which they call
19 bulky and awkwardly proportioned with an
20 aggressive choice of planning material for
21 the ground floor. If relief is granted, the
22 Board is asked to consider giving review of

1 alterations to the front building to the
2 Historical Commissioner.

3 The petitioner did go back and sat down
4 with the Historical and there was
5 correspondence dated December 12th from
6 Charles Sullivan, Executive Director of
7 Cambridge Historical. Cambridge Historical
8 Commission has previously commented on case
9 9497. Because of the relationship of the
10 proposed new unit at 194-R Prospect Street to
11 the historic Maria Baldwin House at 194-196
12 Prospect Street, the building listed on the
13 National Register of Historic Places, the
14 project architect, Seitz Architecture, Inc.
15 has met with the Historical Commission staff
16 and revised the design's massing and exterior
17 detail significantly so as to alleviate our
18 previous concerns about the proportion and
19 finishes of the new unit. The massing has
20 been reduced in scale from the original
21 proposal. The foundation cladding has been
22 lowered on the wall and the material changed

1 from stone to brick. The window size and
2 placement and the trim details have been
3 modified to be compatible with those of the
4 historic building. We are now able to offer
5 support for the revised design as depicted in
6 elevation by Seitz Architect, Inc., titled
7 Martin Residence 194 Prospect Street, dated
8 and revised December 11, 2008.

9 Okay. What are your thoughts? Any
10 more questions?

11 TIM HUGHES: I'm good with it.

12 TAD HEUER: I'm fine.

13 What kind of brick are you planning on
14 using?

15 PATTY SEITZ: We're going to try to
16 match the existing brick in conversation with
17 Charles and Suzanne.

18 CONSTANTINE ALEXANDER: My other
19 comment is I think the process has worked
20 here. This is a far better project from a
21 zoning point than we saw before. I'm in
22 favor of it, so I'll support it.

1 SLATER ANDERSON: I'm all set.

2 BRENDAN SULLIVAN: Okay. I was one
3 of the ones who did not support the previous
4 application because I felt that it was
5 awkward, bulky and needed something. And I
6 think you've addressed that. So I think that
7 the efforts, even though they were probably
8 torturous, I welcome your opening statement
9 that you have a better project.

10 So anyhow, let me make a motion then to
11 grant the relief requested to allow for the
12 construction of -- to remove the existing
13 garage and construct a dwelling unit as per
14 the plans submitted, which is the -- dated
15 12/11?

16 PATTY SEITZ: Yes. The elevation is
17 dated 12/11.

18 CONSTANTINE ALEXANDER: There's more
19 than that.

20 PATTY SEITZ: And the plans were
21 submitted 8/11.

22 CONSTANTINE ALEXANDER: Are these

1 the plans here?

2 PATTY SEITZ: I believe.

3 SLATER ANDERSON: The elevation was
4 revised?

5 PATTY SEITZ: The elevation was
6 revised 12/11, and the plans were 8/11.

7 BRENDAN SULLIVAN: So L1, L2 remain
8 the same; is that correct?

9 PATTY SEITZ: That is correct.

10 BRENDAN SULLIVAN: A1 stays the
11 same?

12 PATTY SEITZ: Yes. A1 is identical.

13 BRENDAN SULLIVAN: A2 stays the
14 same?

15 PATTY SEITZ: Yep.

16 BRENDAN SULLIVAN: A3 stays the
17 same?

18 PATTY SEITZ: Yes.

19 BRENDAN SULLIVAN: A4 changes.

20 PATTY SEITZ: A4 changes, which is
21 the elevation. And everything else is -- A5
22 changes because it's also a rear elevation.

1 BRENDAN SULLIVAN: So A4, A5.

2 PATTY SEITZ: And that's been the
3 only changes, the elevation pages which is A4
4 and A5.

5 BRENDAN SULLIVAN: Notice the
6 changes reflect the meetings -- those two
7 pages reflect the reason for the Historical
8 and addresses their concerns.

9 So I make a motion to allow for the --
10 again, removal of the existing garage and the
11 construction of the dwelling unit as per the
12 drawings entitled Martin Residence, prepared
13 by Seitz Architects, dated August 11, '08,
14 and with revisions dated 12/11/08, and
15 initialed by the Chair.

16 The Board finds that a literal
17 enforcement of the provisions of the
18 ordinance would involve a substantial
19 hardship to the petitioner.

20 The Board finds that the existing lot
21 is a non-conforming, substandard lot having a
22 frontage of only 44.5 in the zone which

1 requires 50 foot. So that any alteration,
2 repair or addition of a building would
3 require the relief of support.

4 The Board finds that the hardship is
5 owing to be a substandard nature of the lot
6 and the strict requirement of the setbacks,
7 which in this particular instance are most
8 difficult to comply with.

9 The Board finds that -- the Board also
10 notes that the removal of the existing garage
11 is quite beneficial not only to the
12 neighborhood but also to the adjoining
13 historical building. That the proposed plan
14 is increasing the open space from presently
15 three percent to 28 percent. The rear
16 setback which is now at 2.25 inches will now
17 be increased to 13.4 and a quarter inches.
18 And the right side, which is now zero setback
19 will be increased to 10 feet. The left side
20 setback will not change because it is
21 adjoining the existing building.

22 The Board notes that the relief which

1 is being requested and being approved is fair
2 and reasonable. The FAR, including the
3 existing garage, would be included with FAR,
4 existing .93 and the proposal is .99.

5 The Board finds that desirably it may
6 be granted without detriment to the public
7 good, and relief may be granted without
8 nullifying or potentially derogating from the
9 intent and purpose of the ordinance.

10 All those in favor of granting the
11 relief requested.

12 (Show of hands.)

13 BRENDAN SULLIVAN: Five in favor.

14 (Sullivan, Alexander, Anderson, Heuer,
15 Hughes.)

16 CONSTANTINE ALEXANDER: Good luck.

17 SUZANNE MARTIN: Thank you.

18 (Off the record.)

19

20

21

22

1 (8:00 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Slater Anderson, Tim
4 Hughes, Tad Heuer.)

5 BRENDAN SULLIVAN: The Board will
6 hear case 9732, Nine St. Mary Road.

7 Okay, Mr. Rafferty.

8 ATTORNEY JAMES RAFFERTY: Thank you.
9 Good evening, Mr. Chairman, members of the
10 Board. For the record, James Rafferty. I'm
11 appearing this evening on behalf of the
12 applicant Walden Infinity Realty Trust. And
13 seated to my left is Ms. Muranne Glenmullen
14 (phonetic). And Ms. Glenmullen is an agent
15 of the trust.

16 This is an application that seeks a
17 special permit to allow for some additional
18 GFA onto a non-conforming structure in the
19 mid-Cambridge Conservation District. The
20 matter was last before the Board about a
21 month ago, and there was discussion about
22 proceeding, even though the Conservation

1 District Commission had not approved it. And
2 there is a long discourse in the transcript
3 which I had the opportunity to review, and my
4 objective tonight was to try to make the case
5 shorter than the 30-page transcript about
6 whether the case should have been heard the
7 last time I was here.

8 Suffice it to say that the issue that
9 created some discussion among the Board
10 members has been resolved. The -- and the
11 file reflects a memo from the Historical
12 Commission. The Architect's Committee
13 reviewed the proposed changes. And if you
14 look at Mr. Sullivan's memo to Mr. Sullivan,
15 you'll see that the Mr. Sullivan of the first
16 part describes the relationship between the
17 two other -- the two subsidiary structures
18 and the main structures, what was a source of
19 concern. If you look at the photo, you'll
20 see that the building is somewhat typical
21 with the exception of what was some type of a
22 commercial enterprise. The square box on the

1 corner. And you'll see that that's being
2 treated -- has been treated by Mr. Boyce
3 Watson, and it's added it's -- I think he's
4 very cleverly added an air of domesticity to
5 an otherwise commercial looking structure
6 through the inclusion of the hip roof and the
7 clear story. And this frankly is not even
8 the subject of the relief. This is all
9 taking place within there.

10 What the relief is about is the other
11 subsidiary structure, this portion of the
12 building over here, where there's a one-story
13 element and they're seeking to add a second
14 story. It's within the allowable GFA, but
15 because of the non-conforming nature of the
16 setbacks, most particular this building right
17 here is right out to the corner, the property
18 is subject to the provisions of Article 8
19 with regard to limitations on it.

20 It's a three-unit dwelling today and
21 there's no -- that would continue to be the
22 case. So there's no real change in the

1 intensity or nature of the use. But as I
2 said, the communication from the Historical
3 Commission -- I think in the minutes of the
4 architect's meeting, which were also
5 included, really show a high level of
6 satisfaction with the design approach that
7 was taken, the use of materials, and
8 particularly the desire to create a
9 subsidiary height for the addition.

10 CONSTANTINE ALEXANDER: So the first
11 floor is true to the setback. Are you adding
12 the second floor, that second floor equally
13 improving to the setback, is that the zoning
14 problem?

15 ATTORNEY JAMES RAFFERTY: No, no.
16 The zoning problem actually deals with the
17 setback in this building. That's the --
18 there's a non-conforming setback and there's
19 no addition on that building. The addition
20 is going on over here on the second floor
21 over here. And that building, that one --
22 when this is done, that will have a

1 conforming setback.

2 CONSTANTINE ALEXANDER: So what's
3 the problem with the building that's not
4 being -- why is it now -- why is there a
5 zoning problem now?

6 ATTORNEY JAMES RAFFERTY: Because
7 the structure is non-conforming.

8 CONSTANTINE ALEXANDER: Okay.

9 ATTORNEY JAMES RAFFERTY: Because
10 this building, if you look at the site plan,
11 this building, the footprint of this
12 building, this structure has a zero setback
13 on the two fronts. So it shows the whole
14 building into non-conformity.

15 CONSTANTINE ALEXANDER: Okay. I
16 understand.

17 ATTORNEY JAMES RAFFERTY: They are
18 making -- they're making modifications to
19 this that will not result in non-conformity
20 over here. But yet the non-conformity
21 remains here and that's what's got us into
22 Article 8.

1 BRENDAN SULLIVAN: So it's an
2 alteration of a non-conforming building?

3 ATTORNEY JAMES RAFFERTY: It's a
4 conforming addition to a non-conforming
5 structure of less than 25 percent --

6 BRENDAN SULLIVAN: Right.

7 ATTORNEY JAMES RAFFERTY: -- since
8 the structure first became on the line.

9 Mr. Boyce Watson had to -- is in
10 England and he couldn't find an adequate
11 architect, so he asked given my high sense of
12 design whether I'd be willing to come here.
13 And I --

14 BRENDAN SULLIVAN: Second career?

15 ATTORNEY JAMES RAFFERTY: -- was
16 nervous until I looked at the CVs of the five
17 members tonight, and felt that I was -- I
18 could equally match any of the architectural
19 expertise on the Board.

20 BRENDAN SULLIVAN: Possible second
21 career or delayed vocation?

22 ATTORNEY JAMES RAFFERTY: It's been

1 suggested by more than a few clients of mine
2 that I consider a different vocation. But at
3 the moment....

4 CONSTANTINE ALEXANDER: That reflect
5 on your legal abilities or reflect on your
6 artistic abilities?

7 ATTORNEY JAMES RAFFERTY: I suspect
8 it might be the first, not the second,
9 but....

10 TAD HEUER: Although I hate to say
11 this, as an attorney, I have an architectural
12 question that's minor, but I'll ask it
13 anyway. I was hoping that your other guy
14 would be here.

15 ATTORNEY JAMES RAFFERTY: You --
16 there's an alarming lack of confidence in my
17 ability to respond to an architectural
18 question. Go right ahead.

19 TAD HEUER: On the left side
20 elevation, I believe the original plan was
21 for all gabled dormers, and here they're
22 flat. I don't know if those are hip or just

1 flat dormers. Was there a reason to do that?
2 Is it because of the way the cut out is done
3 on the --

4 MURANNE GLENMULLEN: You mean the
5 shed dormers?

6 TAD HEUER: Yes.

7 MURANNE GLENMULLEN: What the
8 Historic Commission really wanted was for
9 this main building to stand strong and proud,
10 and for the others to be reduced as much as
11 possible in terms of visual impact. And as
12 part of that, the architect came up with the
13 idea of making this shed dormers to just
14 reduce it. And actually the committee was
15 very pleased.

16 ATTORNEY JAMES RAFFERTY: But in
17 response to your questions, it isn't flat.
18 It is a shed dormer. It is sloped.

19 TAD HEUER: All right. It wasn't
20 clear from the plan.

21 ATTORNEY JAMES RAFFERTY: It is
22 sloped. But it reads like it's flat.

1 MURANNE GLENMULLEN: It's very
2 discrete.

3 ATTORNEY JAMES RAFFERTY: And it was
4 the type of scaling down if you look at the
5 notes, that the -- in the -- so it basically,
6 the dormers sat higher in the roof and the
7 roof was larger, so the second floor now has
8 a reduced roof and the dormers that are
9 appearing, and is creating, I think, the
10 architect's thought was an interesting break
11 here. So it's very much in response to the
12 notion of this is subsidiary to the main
13 house.

14 BRENDAN SULLIVAN: Tim, any
15 questions?

16 TIM HUGHES: I have no questions.

17 BRENDAN SULLIVAN: Tad, do you have
18 any?

19 TAD HEUER: No.

20 BRENDAN SULLIVAN: Slater?

21 SLATER ANDERSON: I don't think so.

22 BRENDAN SULLIVAN: Gus?

1 Let me open it to public comments. Is
2 there anybody here who is interested in case
3 No. 9732, Nine St. Mary Road?

4 (No response).

5 BRENDAN SULLIVAN: I see none. And
6 there is no public comment correspondence in
7 the file. There is correspondence from the
8 Cambridge Historical Commission dated
9 December 16th from Charles Sullivan, Paul
10 Tudeau (phonetic).

11 The Cambridge Historical Commission had
12 previously commented on case 9732 based on
13 the mid-Cambridge Commission's review at
14 public hearing on October 6th and November
15 3rd, a re-proposal for selected demolition,
16 renovation additions. The mid-Cambridge
17 Conservation Commission disapproved the
18 design proposed dated October 27th, but
19 encouraged the applicant to submit a revised
20 proposal.

21 At the December 1, 2008 public hearing
22 of the mid-Cambridge Conservation Commission,

1 the Commission reviewed and approved a
2 revised proposal for Nine St. Mary Road on
3 the condition that several modifications to
4 the design be submitted for final review, and
5 approved for the architect's -- approval of
6 the Architect's Committee. Please see the
7 attached decision. The Commission's greatest
8 concern was the lack of distinction between
9 the primary house and its two secondary
10 structures and requested a reworking of the
11 porch configuration of the north elevation
12 and overall supplication of detail.

13 At a public meeting on December 11,
14 2008, the Architect's Committee reviewed a
15 revised set of elevation drawings and a model
16 and unanimously voted that the conditions of
17 the certificate of appropriateness had been
18 met.

19 There was a -- in the file a
20 certificate of appropriateness regarding the
21 installation of the new steps, landing and
22 entrance door. New hip roof, roof deck,

1 glazed opening and doors. Second floor
2 addition on the rear L matched the material
3 and trim of the existing house gable dormers
4 and entrance, porches on the north and south
5 aside. Two over -- two double hung wood
6 replacement window sash. Approval was
7 granted with the understanding that the
8 current design does not adequately retain the
9 clear distinction between the primary house
10 and its two subsidiary structures. And,
11 therefore, is conditioned on the submittal of
12 a revised set of elevation drawings rendering
13 and a model for a final review an approval of
14 the Architect's Committee which will better
15 maintain that distinction and to that and
16 shall address without limitation the
17 following points:

18 The relationship between the main house
19 and the L; the elimination of the engaged
20 high last on the south elevation; a
21 simplification of the corner board and front
22 door detailing on the store addition. Signed

1 by Steve Cohen, dated 12/8/08.

2 So they approved it with some --

3 ATTORNEY JAMES RAFFERTY: But as the
4 memo indicates, they had the look and they've
5 now -- and the minutes reflect the fact that
6 they, on December 11th, they had that look
7 and voted unanimously that that condition had
8 been -- those conditions had been satisfied.

9 CONSTANTINE ALEXANDER: And the
10 plans we have in our file is consistent?

11 ATTORNEY JAMES RAFFERTY: They're
12 the exact same plans, yeah.

13 BRENDAN SULLIVAN: Any other
14 questions?

15 Slater anything?

16 SLATER ANDERSON: No.

17 BRENDAN SULLIVAN: Tim, any?

18 TIM HUGHES: No, I don't have any
19 questions.

20 BRENDAN SULLIVAN: Tad?

21 TAD HEUER: No.

22 BRENDAN SULLIVAN: I'd like to make

1 a motion to grant a Special Permit to add a
2 second floor at the rear L of the building at
3 Nine St. Mary's Road, 74 Amory Street as per
4 the plans submitted.

5 SLATER ANDERSON: Not those.

6 BRENDAN SULLIVAN: And dated
7 12/15/08 as prepared by Boyce Watson,
8 architect, entitled Nine St. Mary Road, 74
9 Amory Street and initialed by the Chair.

10 The Board finds that the requirements
11 of the ordinance can be met.

12 The Board finds that the ordinance
13 provides in Section 8.22-2.C that there --
14 may grant a Special Permit for the alteration
15 and enlargement of a non-conforming structure
16 as long the following requirements are met:
17 There was no alteration or enlargement of a
18 non-conforming use.

19 The Board finds that there is none. No
20 violation of Article 5 or 6 is created. The
21 structure is not increased in area or volume
22 more than 25 percent since it first became

1 non-conforming and that the proposed project
2 has not changed the use. It does not create
3 any further non-compliance to Article 5 and
4 increases compliance to Article 6.

5 The Board finds that traffic generated
6 or patterns of access or egress would not
7 cause congestion, hazard or substantial
8 change in the established neighborhood
9 character.

10 The Board finds that continued
11 operation of or development of adjacent uses
12 as permitted in the Zoning ordinance would
13 not be adversely affected by the nature of
14 the proposed use. And there would be no
15 nuisance or hazard created to the detriment
16 of the health, safety or welfare of the
17 occupants of the proposed use or of the
18 citizens of the city.

19 And that the Board finds that the
20 proposals will not impair the integrity of
21 the district or adjoining districts.

22 All those in favor of granting the

1 Special Permit.

2 (Show of hands.)

3 BRENDAN SULLIVAN: Five in favor.

4 (Sullivan, Alexander, Anderson, Heuer,

5 Hughes.)

6 ATTORNEY JAMES RAFFERTY:

7 Mr. Chairman, may I be permitted to draw the
8 Board's attention to one issue that I would
9 appreciate some guidance on or at least a
10 reflection in the record.

11 The property today is three units and
12 it has two parking spaces. The plan as
13 approved, contains a third parking space. It
14 meets zoning requirements, but there is a
15 process to get a curb cut that the applicant
16 will have to go through. In the unlikely
17 event that that curb cut were not approved,
18 and the ultimate decision is made by the City
19 Council, since we're not changing the
20 relationship to units in existing parking, we
21 would ask that that proposed parking space on
22 St. Mary Road not be viewed as a condition of

1 the plan such that if it is not present, it
2 would be difficulty in granting the building
3 permit when Mr. O'Grady does his review. As
4 I said, because there's an opportunity here
5 to create it. It satisfies the open space
6 calculations. It's not within the front
7 setback. It's been reviewed initially with
8 the Building Commissioner. But that process
9 requires input from the Traffic Department,
10 around issues of site lines, the Public Works
11 Department, the Historical Commission. And
12 it was depicted on the Historical Commission
13 plan.

14 BRENDAN SULLIVAN: It's not
15 required.

16 ATTORNEY JAMES RAFFERTY: That's my
17 point. It's not required, but yet it appears
18 on the plan, and sometimes when the language
19 of the motion is matched against the plan, if
20 the site plan -- or even a sequencing issue,
21 you can't cut a curb here until after April
22 15th as the cold weather moratorium. If the

1 applicant wanted to begin construction prior
2 to the creation of the curb cut, they would
3 like the ability to do that since it's not --
4 we would hope the Board would agree, it is
5 not a condition, and it doesn't trigger any
6 requirement, and the unit count isn't
7 changed. I was just hoping we could
8 acknowledge the separation between the
9 proposed additional parking space and the
10 relief in the --

11 BRENDAN SULLIVAN: You don't want it
12 to be required should it run into a problem?

13 ATTORNEY JAMES RAFFERTY: Exactly.
14 Or should we not be able to proceed with the
15 initial renovation, typically -- the
16 conformity with the plan is deemed very
17 literal at times and that would not represent
18 conformity until such time as we're able to
19 get.

20 BRENDAN SULLIVAN: I have no
21 problems with that.

22 CONSTANTINE ALEXANDER: No.

1 TAD HEUER: That's fine.

2 TIM HUGHES: I don't have a problem
3 with this.

4 BRENDAN SULLIVAN: Let the record
5 reflect that.

6 ATTORNEY JAMES RAFFERTY: Thank you
7 for your time. I wish you a happy holiday.

8 (Off the record.)

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1 (8:20 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Slater Anderson, Tad
4 Heuer, Tim Hughes.)

5 BRENDAN SULLIVAN: The Board will
6 hear case No. 9740, 149 Sidney Street. Is
7 there anybody here interested in that matter?

8 (No response).

9 BRENDAN SULLIVAN: Do we have a
10 correspondence from them?

11 SEAN O'GRADY: We should. I'm not
12 sure what to say about that. I don't
13 remember talking to him on the phone. I
14 thought that one came in, but I suppose it's
15 possible that they didn't, but we'll take
16 their --

17 BRENDAN SULLIVAN: Maria's been out
18 the last two days.

19 SEAN O'GRADY: That's correct.

20 BRENDAN SULLIVAN: So that's
21 possible.

22 CONSTANTINE ALEXANDER: We can put a

1 request on it.

2 SEAN O'GRADY: I can represent for
3 them that they'd want a continuance.

4 CONSTANTINE ALEXANDER: Well,
5 because they're not here.

6 SEAN O'GRADY: That's a strong
7 indicator.

8 BRENDAN SULLIVAN: Do we know what
9 the clock is?

10 SEAN O'GRADY: Yes. February 26th.

11 BRENDAN SULLIVAN: It has to be
12 heard by then?

13 SEAN O'GRADY: Oh, no. Going
14 February 26th is what I offered them.

15 CONSTANTINE ALEXANDER: That's 65
16 days, right, from the date of expire?

17 BRENDAN SULLIVAN: Station two
18 something. They filed with 11/1. So it has
19 to be heard within 65 days, which we're
20 applying obviously today. We're going to
21 continue it.

22 SEAN O'GRADY: It will be out of

1 compliance. I mean, make it conditional on a
2 waiver.

3 BRENDAN SULLIVAN: So should we
4 continue this for January just in case we
5 don't get the letter?

6 SEAN O'GRADY: And then re-continue
7 it?

8 BRENDAN SULLIVAN: And then
9 re-continue it if they're not ready to go
10 forward in January?

11 SEAN O'GRADY: If you -- I mean --

12 BRENDAN SULLIVAN: I'm just thinking
13 if we schedule this beyond the 65 days --

14 SEAN O'GRADY: And they don't sign
15 it.

16 BRENDAN SULLIVAN: -- and they don't
17 sign it.

18 SEAN O'GRADY: Yes.

19 BRENDAN SULLIVAN: Or if we're
20 chasing them all the time, then it becomes a
21 de facto grant.

22 SEAN O'GRADY: Why don't we do this,

1 why don't we do the same thing we did with
2 this case a couple weeks ago where we
3 continue it to within the 65 days just for
4 the purposes to get the signature, and then
5 if we get the signature, we'll put them on
6 the next available cases. Because they've
7 got business to do.

8 BRENDAN SULLIVAN: So that would be
9 the January --

10 SEAN O'GRADY: 8th.

11 BRENDAN SULLIVAN: -- January 29th.

12 SEAN O'GRADY: January 8th we have a
13 hearing.

14 BRENDAN SULLIVAN: January 8th?

15 TIM HUGHES: What was the original
16 date we're working on?

17 SEAN O'GRADY: 11/1. We're still
18 not going to make it.

19 TIM HUGHES: We're still outside of
20 it even with January 8th. So it's they
21 either sign the letter --

22 SEAN O'GRADY: This came up the

1 other day. If -- what's the feeling of the
2 Board, if we make the usual finding which is
3 on the condition that you sign the waiver and
4 that you change the Board. And then they say
5 well, we're not going to sign the waiver.
6 Then we just have to call a meeting, have
7 them come in prior to that date and resolve
8 the issue?

9 CONSTANTINE ALEXANDER: Can we say
10 that inasmuch as the petitioner didn't show
11 tonight, we are prepared to -- and we vote to
12 deny the petition unless within the statutory
13 period, they deliver a waiver of notice? In
14 which case our turning them down is withdrawn
15 and we'll hear the case on the merits at the
16 time we continue the hearing. Can we do
17 that?

18 SEAN O'GRADY: Well, we've made a --
19 I think we open up ourselves for a repetitive
20 petition. The language for repetitive
21 petition.

22 CONSTANTINE ALEXANDER: They gave us

1 the waiver, we never turned them down. I
2 don't know. I'm just throwing this out.

3 SEAN O'GRADY: Well, I guess I'd be
4 more comfortable not breaking new ground and
5 assuming that we're going to get the waiver
6 that we usually get.

7 CONSTANTINE ALEXANDER: What's our
8 alternative though? If we can't --

9 SEAN O'GRADY: I don't know what the
10 answer is. I mean, that's the problem. And
11 it's never -- it's never been a problem until
12 last week when somebody said that they
13 weren't going to sign the waiver. Well, they
14 ultimately did sign the waiver. But it
15 raised a question that I hadn't thought about
16 before.

17 CONSTANTINE ALEXANDER: What do you
18 think?

19 BRENDAN SULLIVAN: I think once you
20 said that we will call a special meeting to
21 decide, then it becomes a notice thing.

22 SEAN O'GRADY: That's a notice

1 problem, too, yes.

2 BRENDAN SULLIVAN: So, and they can
3 contest our without due notice. So I mean
4 it's sort of a quandary, a catch 22 here as
5 to failure for them to show up.

6 CONSTANTINE ALEXANDER: This is not
7 unique to this case, you realize that? I
8 mean, every time there's a case, we grant the
9 continuous subject to sign the waiver and
10 they don't sign it the next day, we have a
11 problem.

12 SEAN O'GRADY: Yes.

13 CONSTANTINE ALEXANDER: I think we
14 need a new approach.

15 SEAN O'GRADY: I think we do. And
16 I'm not sure their approach isn't the correct
17 approach.

18 SLATER ANDERSON: You mean legally?

19 SEAN O'GRADY: Well, we're flush
20 with lawyers so I suppose we should --

21 TIM HUGHES: Which just means we
22 have flush opinions.

1 BRENDAN SULLIVAN: Well, should we
2 schedule it -- continue the matter until
3 January 8th on the condition that the -- and
4 they can continue it if they're not ready on
5 January the 8th.

6 SEAN O'GRADY: Yes.

7 BRENDAN SULLIVAN: On the condition
8 that the petitioner sign the waiver of lien
9 for the statutory climate for a hearing and a
10 decision to be rendered hereof.

11 SEAN O'GRADY: Yes.

12 BRENDAN SULLIVAN: And then tomorrow
13 just get on the phone and ask them, we had to
14 continue it, but we really have not received
15 correspondence -- or maybe they have, maybe
16 it's on Maria's desk, but that we would also
17 ask that you sign this waiver. That's all.

18 SEAN O'GRADY: Yes. Which is what
19 we do.

20 BRENDAN SULLIVAN: And see if they
21 would just --

22 CONSTANTINE ALEXANDER: What if they

1 don't?

2 SEAN O'GRADY: Well, how about this,
3 maybe this is a better way, what if you say
4 you grant the continuance on the condition
5 that you sign the waiver --

6 BRENDAN SULLIVAN: Because of the
7 failure of petitioners to show.

8 SEAN O'GRADY: Yes. Failure to sign
9 the waiver is a dismissal.

10 CONSTANTINE ALEXANDER: I think you
11 have a reversal. I think you should say that
12 they -- not being here they haven't sustained
13 a burden of proof to get the relief. They
14 have to present a case for us to justify the
15 relief.

16 SEAN O'GRADY: Right.

17 CONSTANTINE ALEXANDER: They haven't
18 presented that to us. Therefore, we are
19 going to turn them down, however -- subject,
20 however, if they wanted to give us a
21 continuance to another date when they will be
22 here to present their case, we'll grant.

1 SEAN O'GRADY: I'll defer. I mean,
2 if that's the feeling. I mean, I -- it's
3 just new ground to me. I haven't thought it
4 all through and so I guess....

5 TAD HEUER: My question is since
6 we're in proximity to Maria's desk, is it
7 possible to continue and have -- does the
8 correspondence come in to one place?

9 SEAN O'GRADY: No. I mean, it can
10 come into -- it can be in I suppose her box.
11 It could be somewhere on her desk. It could
12 be on one of the other girl's desks who's
13 taking her stuff in for her. It could be on
14 the fax machine.

15 TIM HUGHES: That's kind of
16 irrelevant unless they specifically say in
17 the communication that they're willing to
18 sign a waiver. Because it's really the --
19 signing the waiver that's the issue here.
20 Not the request for the continuance.

21 CONSTANTINE ALEXANDER: That's
22 right.

1 BRENDAN SULLIVAN: Well, again,
2 maybe we should just make a motion to
3 continue the matter until January 8th?

4 SEAN O'GRADY: Yes.

5 BRENDAN SULLIVAN: On the condition
6 that the petitioner sign a waiver to the
7 statutory requirement for a hearing, and a
8 decision to be rendered thereof. And that
9 the petitioner also is required to change the
10 postings sign to reflect the new date of
11 January 8, 2009 and the time of seven p.m.

12 SEAN O'GRADY: Okay. I was just
13 going to say this: If we're going to miss
14 the boat at 1/8, you might have well miss the
15 boat February 26th. We don't know they're
16 going to be ready then. We don't know
17 they're going to be ready on January 8th.

18 BRENDAN SULLIVAN: That's okay. And
19 then also at the January 9th hearing --

20 TIM HUGHES: 8th.

21 BRENDAN SULLIVAN: -- they should
22 have a letter saying that even though they're

1 going to schedule to appear on January 8th,
2 they are requesting a continuance to the
3 February case. So at least we have some -- I
4 guess I would like to shorten down the time
5 frame rather than really pushing it out.

6 SEAN O'GRADY: Okay.

7 BRENDAN SULLIVAN: Again, if they're
8 not ready to go forward on January 8th, a
9 simple letter requesting a continuance until
10 either the end of January or end of February
11 however you can plug them in.

12 SEAN O'GRADY: Okay.

13 BRENDAN SULLIVAN: Does that --

14 CONSTANTINE ALEXANDER: That still
15 doesn't solve our problem.

16 TIM HUGHES: That doesn't really get
17 us off the hook.

18 BRENDAN SULLIVAN: No, it doesn't.
19 Nothing is going to get us off the hook to be
20 quite honest with you.

21 SLATER ANDERSON: Can we get some
22 guidance though?

1 BRENDAN SULLIVAN: It will be after
2 January 8th before we get the guidance.

3 SLATER ANDERSON: Sure.

4 SEAN O'GRADY: But let's officially
5 get the guidance.

6 SLATER ANDERSON: Because this has
7 come up before. We sort of, you know --

8 BRENDAN SULLIVAN: Might as well
9 just have gone forward.

10 SLATER ANDERSON: Fair enough.

11 BRENDAN SULLIVAN: On the motion
12 then to continue this matter to January 9th?

13 (Show of hands.)

14 BRENDAN SULLIVAN: Five in favor.

15 TIM HUGHES: It's January 8th
16 actually.

17 BRENDAN SULLIVAN: Is it? January
18 8th, sorry.

19 TAD HEUER: I'm opposed actually.
20 It's a four, one.

21 BRENDAN SULLIVAN: Sorry?

22 TAD HEUER: Four, one. I'm opposed.

1 (Sullivan, Anderson, Alexander, Hughes
2 in favor. Heuer opposed.)

3 (Off the record.)

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1 (8:30 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Slater Anderson, Tad
4 Heuer, Tim Hughes.)

5 BRENDAN SULLIVAN: The Board will
6 hear case No. 9741, 121 Appleton Street.

7 Good evening. Please introduce
8 yourself for the record. Please spell your
9 last name and your address.

10 TIMOTHY BURKE: Yes, my name is
11 Timothy Burke, B-u-r-k-e. I'm the architect
12 for the project. I'm representing the owner
13 this evening. My address is 142 Berkeley
14 Street in Boston, 02116.

15 BRENDAN SULLIVAN: Okay. If you
16 tell us what you would like to do.

17 TIMOTHY BURKE: Thank you.

18 These are some photographs of the
19 existing two-family house at 121 Appleton
20 Street, and these are the houses to the left
21 and right of it just to give some context.
22 The client is -- it's a partnership -- it's a

1 realty trust, it's a family, and they're
2 looking to renovate this second floor for the
3 parents to live in. And the two pieces --
4 there's a special permit and a variance that
5 we are requesting.

6 One is to enclose this deck to make it
7 part of the kitchen which is shown here in
8 the proposed plan to make it a more liveable
9 kitchen. It's quite small right now. That's
10 an existing deck, but a portion of it falls
11 within the rear setback. The other portion
12 of the relief is to take this small bedroom
13 on the front of the house and enclose the
14 deck there with a small bay above the main
15 entrance to the building.

16 CONSTANTINE ALEXANDER: And that bay
17 causes the relief of the variance?

18 TIMOTHY BURKE: That's correct.

19 CONSTANTINE ALEXANDER: Because
20 you're increasing by the -- the FAR
21 changing --

22 TIMOTHY BURKE: It doesn't really

1 change the FAR ratio, it's such a small
2 amount. But it is seven and a half square
3 feet. We rounded it up to eight. And so
4 that is the second part of the relief.

5 This is an elevation showing the --
6 this front elevation with the porch with the
7 bay window. And then this is the existing
8 porch that's left as it is. And then the
9 rear porch is shown here filled in on the
10 back where the kitchen would be located.

11 And we've tried to treat this as if it
12 was, at the end of the day, it would look
13 like it was always this way and just blend in
14 with the neighborhood. The other neighbors
15 have done similar items with their buildings
16 filling in this. But we thought this sort of
17 flat approach was a little boring, and we
18 liked the way this bay looked here, so that's
19 the idea of complementing that with our house
20 to give it a little more architectural
21 interest at the front door.

22 TAD HEUER: I have two questions.

1 So is the Special Permit to enclose
2 both the front and the rear porch?

3 TIMOTHY BURKE: Correct. Because
4 they fall within the setback line, yeah.

5 TAD HEUER: But the Special Permit,
6 it comes with both of those porches?

7 TIMOTHY BURKE: That's correct.

8 TAD HEUER: And on the right
9 elevation, there's a note that says new
10 awning window D. Is that part of the relief
11 that you're requesting here or not? Because
12 I didn't see it -- that would be -- if I'm
13 correct, that's a window in a setback; is
14 that right?

15 TIMOTHY BURKE: That is correct,
16 yes.

17 TAD HEUER: And is it a new window?

18 TIMOTHY BURKE: The existing window
19 that we're partially filling in, it's in a
20 bathtub shower.

21 TAD HEUER: Okay.

22 TIMOTHY BURKE: And so we're

1 reducing the size of the opening. This is
2 what it looks like currently. This window
3 here.

4 TAD HEUER: Okay.

5 BRENDAN SULLIVAN: Does anybody have
6 any questions at this time?

7 SLATER ANDERSON: No.

8 BRENDAN SULLIVAN: Tim?

9 TIM HUGHES: No.

10 BRENDAN SULLIVAN: Tad, anything
11 further?

12 TAD HEUER: No.

13 BRENDAN SULLIVAN: Is there anybody
14 here who would like to comment on case 9741,
15 121 Appleton Street?

16 (No response).

17 BRENDAN SULLIVAN: I see none.

18 Okay. There's not much to rebut, is there?

19 I guess when I first reviewed the case,
20 I sort of thought it was a terrible thing to
21 do to the house. But then knowing the street
22 very well and knowing the houses very well,

1 everybody has sort of done it. And it sort
2 of would not be out of character I guess.
3 And I guess it would have been extreme -- to
4 me it's tough to fill in porches. Doing it
5 halfway is probably half the crime, but
6 everybody else has done it complete. The
7 house that's across the street and all of
8 that stuff and sort of filled in to push the
9 space, living space forward. So, I guess if
10 it was the only one in that block or the only
11 one on the street, then I would probably look
12 less favorably on it. But it's already been
13 done. The precedent is there, and I think
14 this is what we've done tastefully as they
15 possibly could do it.

16 SLATER ANDERSON: Has the family
17 owned this building for a while?

18 TIMOTHY BURKE: Yes. For a long
19 time, and maintained it well.

20 SLATER ANDERSON: It's a two-family?

21 TIMOTHY BURKE: It's a two-family,
22 yes. The main reason is because the parents

1 are getting older and they need to get out of
2 a bigger house and want to live here.

3 SLATER ANDERSON: And they're moving
4 into the first floor?

5 TIMOTHY BURKE: The second floor.

6 SLATER ANDERSON: The parents on the
7 second floor.

8 BRENDAN SULLIVAN: What's going on
9 in the third floor, the attic space, is that
10 useable?

11 TIMOTHY BURKE: There's nothing
12 planned for that at the moment.

13 BRENDAN SULLIVAN: Is it not usable
14 now or --

15 TIMOTHY BURKE: It's accessed only
16 through a scuttle hole, and you can barely
17 stand up.

18 BRENDAN SULLIVAN: So it's not
19 finished space at all?

20 TIMOTHY BURKE: A lot of houses here
21 have done a third floor renovation.

22 BRENDAN SULLIVAN: Right. I know.

1 But if you look at it, it almost looks like
2 the windows were put in and that there was
3 sort of a bowling alley type of living space,
4 but anyhow....

5 TIMOTHY BURKE: It's unhabitable.

6 BRENDAN SULLIVAN: Tim, anything?

7 TIM HUGHES: Nothing else.

8 BRENDAN SULLIVAN: Tad?

9 TAD HEUER: No.

10 CONSTANTINE ALEXANDER: I just got
11 one comment for the record, Mr. Chairman.

12 BRENDAN SULLIVAN: Yes.

13 CONSTANTINE ALEXANDER: I do support
14 this petition. But you made the point that
15 the other houses on the street have done this
16 and, therefore, you no longer oppose this
17 one. We face this issue often in zoning when
18 people say I want to do something that's
19 non-conforming and other people on the street
20 have done it and we turn them down. I don't
21 want to set a precedent. I support this on
22 the merits not because there are other

1 properties nearby. And, therefore, because
2 they do it, you could do it. I want to keep
3 the --

4 TIMOTHY BURKE: I understand.

5 CONSTANTINE ALEXANDER: I want to
6 keep a clear record that we consider each
7 case on the merits. But I'm in support.

8 BRENDAN SULLIVAN: I guess where I
9 was going with that, the proposal was not
10 inconsistent --

11 CONSTANTINE ALEXANDER: Okay.

12 BRENDAN SULLIVAN: -- as opposed to
13 it's okay because other people have done it.
14 It's that -- it's not inconsistent with the
15 street scape I guess.

16 CONSTANTINE ALEXANDER: Just so the
17 record's clear.

18 BRENDAN SULLIVAN: Yes. But it's
19 not an endorsement of the future.

20 Let me make a motion to grant the
21 variance which is -- now it says here, Sean,
22 to enlarge the existing porch. But it is in

1 fact to install the bay window.

2 TIMOTHY BURKE: That's correct, yes.

3 BRENDAN SULLIVAN: Which increases
4 the FAR. So it's not necessarily an
5 enlargement of the existing porch. It's
6 really encroachment of a living space
7 somewhat into the porch.

8 SEAN O'GRADY: It's only -- but it's
9 being enlarged by the bay. By the seven and
10 a half bay.

11 BRENDAN SULLIVAN: That's right.

12 SEAN O'GRADY: I think that's what
13 that language refers to.

14 BRENDAN SULLIVAN: Okay.

15 So I make a motion to grant the
16 variance to install the bay window, which
17 increases the existing floor area ratio --
18 well, the existing floor area by seven and a
19 half feet, seven and a half square feet.

20 The Board finds that a literal
21 enforcement of the provisions of the
22 ordinance would involve a substantial

1 hardship to the petitioner.

2 The Board finds that the existing
3 structure which is non-conforming creates a
4 hardship on the petitioner that any fair and
5 reasonable alteration or slightly enlargement
6 of much needed living space would be
7 precluded by its non-conformance. The
8 hardship is again owing to the fact that the
9 size of the lot and shape of the lot creates
10 a non-conforming nature of the existing
11 structure, and as such, any relief would be
12 required by this Board.

13 The Board finds that desirable relief
14 may be granted without substantial detriment
15 to the public good, and relief may be granted
16 without nullifying or substantially
17 derogating from the intent and purpose of the
18 ordinance.

19 All those in favor of granting the
20 variance to install the bay window.

21 (Show of hands.)

22 BRENDAN SULLIVAN: Five in favor.

1 (Sullivan, Alexander, Anderson, Heuer,
2 Hughes.)

3 BRENDAN SULLIVAN: On the Special
4 Permit, the Board finds that the requirements
5 of the ordinance can be met.

6 The Board finds that there is no change
7 to the footprint of the building, and the
8 proposed work is limited to the second floor
9 of the structure enclosing a portion of the
10 existing front porch and a rear left porch.

11 The Board finds that traffic generated
12 or patterns of access or egress would not
13 cause congestion, hazard or substantial
14 change in the established nature or
15 character.

16 The Board finds that the continued
17 operation of or development of adjacent uses
18 as permitted in the zoning ordinance would
19 not be adversely affected by the nature of
20 the proposed use. There would be no nuisance
21 or hazard created to the detriment of the
22 health, safety or welfare of the occupant of

1 the proposed use or to the citizens of the
2 city. And the proposed use would not impair
3 the integrity of the district or adjoining
4 district or otherwise derogate from the
5 intent and purpose of the ordinance.

6 All those in favor of granting the
7 relief requested for the Special Permit as
8 per the plan submitted entitled Timothy Burke
9 Architecture, Inc., 142 Berkeley Street,
10 entitled, 121 Appleton Street, Unit 2 and
11 dated 8/29 -- is that the correct date?

12 TIMOTHY BURKE: The proposed plans.

13 BRENDAN SULLIVAN: 8/29/08?

14 TIMOTHY BURKE: Yes, that's correct.

15 BRENDAN SULLIVAN: And initialed by
16 the Chair.

17 All those in favor of granting the
18 Special Permit.

19 (Show of hands.)

20 BRENDAN SULLIVAN: Five in favor.

21 (Sullivan, Anderson, Alexander, Hughes,
22 Heuer.)

1 BRENDAN SULLIVAN: Okay.

2 TIMOTHY BURKE: Thank you very much.

3 (Off the record.)

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1 (8:40 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Slater Anderson, Tad
4 Heuer, Tim Hughes.)

5 BRENDAN SULLIVAN: The Board will
6 hear case No. 9742, 67 Smith Place.

7 Okay, if you'd introduce yourself for
8 the record, please.

9 KENNETH LEITNER: Certainly.

10 BRENDAN SULLIVAN: And please spell
11 your last name and give us your address.

12 KENNETH LEITNER: Mr. Chairman,
13 Board members, my name is Ken Leitner
14 representing the petitioner Tim Shannon. I
15 have a letter of representation.

16 BRENDAN SULLIVAN: Your last name
17 again is?

18 KENNETH LEITNER: L-e-i-t-n-e-r.

19 My office is 75 North Beacon Street in
20 Watertown. We are seeking a Special Permit
21 under 3.47 of the Zoning Ordinance for the
22 storage of new vehicles at 67 Smith Place.

1 67 Smith Place is right off Concord Avenue.
2 There's a private way, Adley Street that goes
3 down there, which leads to the parcel where
4 we would like to store the vehicles. The
5 parcel itself is 15,807 square feet. We've
6 submitted a plan which shows 100 parking
7 spaces for vehicles there with a 20-foot wide
8 aisle through the middle.

9 Historically, according to the City,
10 the land had been used as a dump, and also
11 for towing of illegally parked vehicles, and
12 we'd like to use it to park vehicles now.
13 This is countenance by the Zoning Ordinance
14 and allowed under it with a Special Permit.
15 We suggest that there wouldn't be
16 substantially more traffic or change in
17 traffic pattern. The access would come
18 through Adley up Smith Place onto the Concord
19 Avenue. It's for the storage of new vehicles
20 ultimately for sale. And the -- if they
21 could sell two or three a day, they'd be
22 quite happy. But we don't see that many

1 vehicles coming off the lot. We don't think
2 it would be detrimental to the neighborhood.
3 It's industrial, it's an IB-2 zone. And the
4 only thing around there -- it's a big
5 industrial -- a fairly large industrial park
6 and there are office buildings. They don't
7 really abut any residential neighborhoods, so
8 we don't think we'd effect the residential
9 neighborhoods in a deleterious manner. And
10 it wouldn't create any noise or nuisance.
11 The cars wouldn't be running. It's quiet.
12 The only thing you hear is when a car is
13 removed or a car driving off. And based on
14 all that we don't think we derogate from the
15 Zoning Ordinance in any manner.

16 CONSTANTINE ALEXANDER: The zoning
17 code requires a six foot fence around the
18 property. Do you have that?

19 KENNETH LEITNER: That is already
20 up.

21 TIMOTHY SHANNON: We actually have a
22 ten foot fence with privacy slats. I brought

1 that.

2 CONSTANTINE ALEXANDER: Okay.
3 Before we vote on the merits, Mr. Chairman,
4 we should also put to bed the issue about
5 notice, the proper posting of signs, because
6 there were some questions about that. And we
7 should get that on the record. I don't want
8 to interrupt you.

9 KENNETH LEITNER: No, I'll address
10 that. We did speak to the abutters within
11 the industrial park. There are five letters
12 of support which I've made copies for
13 everyone if you'd all like them. If one copy
14 is --

15 CONSTANTINE ALEXANDER: It refers to
16 signage.

17 KENNETH LEITNER: We do have a
18 letter from one abutter. The sign was put
19 up, but it blew down in one of the storms
20 that we had. I'm not certain of the date of
21 when it came down. But one of the abutters,
22 Ed Hassey who has a place there said that he

1 did see the sign and that caused him to
2 contact -- and I'll submit the letter, the
3 original, to contact the petitioner to
4 discuss the petition. Subsequently, the
5 petitioner did obtain another sign and post.
6 And I have copies of all letters in support
7 for each Board member if one will suffice.

8 BRENDAN SULLIVAN: It's my
9 understanding that the sign was up and it
10 blew down and I guess it was Mr. Shannon who
11 actually --

12 TIMOTHY SHANNON: Yeah, I discovered
13 that it was gone.

14 BRENDAN SULLIVAN: -- called
15 Building to say that it had blown down and
16 requested a new one.

17 TIMOTHY SHANNON: Yeah, I went
18 directly to Inspectional Services and I
19 talked to Sean. And they gave me a new sign
20 to post. And I went back the next morning
21 and I actually wire tied it to the fence in
22 about four different spots. And then I was

1 nervous that maybe somebody didn't see the
2 sign. So I -- and that's when I went and got
3 the letters because I had met with the
4 abutters a couple of times, you know, as this
5 has been going on for the last month. I just
6 wanted to confirm that, you know, that
7 everybody, you know, because where the sign
8 is, the only people that would see the sign
9 are actually probably the people in the
10 complex because the way it's situated, it's
11 not out in the street.

12 BRENDAN SULLIVAN: Yes, okay. So
13 that I guess it would appear that the
14 petitioner was somewhat proactive to maintain
15 the signage, and that unlike other
16 situations --

17 TIMOTHY SHANNON: No, I was very
18 concerned.

19 CONSTANTINE ALEXANDER: I just want
20 it on the record.

21 BRENDAN SULLIVAN: -- to exercise
22 due diligence to maintain it.

1 KENNETH LEITNER: The Planning Board
2 voted in favor of the petition and
3 recommended that it be approved. A condition
4 which they have pointed out is five-year
5 period or a five-year renewal. I would ask
6 initially if you consider an eight-year
7 period because that's the negotiation we're
8 having with the potential lessee, is an
9 eight-year lease, and then a five-year
10 renewal after that.

11 CONSTANTINE ALEXANDER: I don't
12 think the Planning Board had a problem with
13 the renewal, it just said a Special Permit
14 for five years.

15 KENNETH LEITNER: With the
16 possibility of a five-year renewal.

17 CONSTANTINE ALEXANDER: And your
18 issue with -- you don't want -- you want
19 eight rather than five because you're
20 negotiating for an eight-year lease.

21 TIMOTHY SHANNON: Yeah. If I don't
22 have eight years, I don't think I'll be able

1 to obtain the tenant that I want for the
2 property which I think is ideal for the
3 property.

4 CONSTANTINE ALEXANDER: Sure.

5 BRENDAN SULLIVAN: My understanding
6 is that they're new cars so they come off
7 the --

8 KENNETH LEITNER: Car carrier.

9 BRENDAN SULLIVAN: -- the carrier.
10 And that you basically warehouse them there
11 in the open lot. And as dealers need them or
12 whatever it is, one moves out, two may move
13 out on an intermittent basis. Yes, okay.

14 Any questions at all?

15 CONSTANTINE ALEXANDER: None.

16 BRENDAN SULLIVAN: Tim, any?

17 TIM HUGHES: No.

18 BRENDAN SULLIVAN: Let me open it to
19 public comment.

20 Is there anybody here who would like to
21 speak on the matter 67 Smith Place?

22 JOHN CHUN: Yes, I do.

1 BRENDAN SULLIVAN: Please come
2 forward and please give your name, please
3 spell your last name, and your address for
4 the record.

5 JOHN CHUN: Yes, my name is John
6 Chun, C-h-u-n. I'm a residential abutter at
7 48 Loomis Street, L-o-o-m-i-s Street, which
8 is the residential side of the -- abutting
9 the 67 Smith Place.

10 And Mr. Shannon was kind enough to
11 explain to me the plans and what they're
12 going to be using that side of the lot for.
13 And fortunately where he's proposing to use
14 is the other side of the 67 Smith Place,
15 therefore, as a residential abutter, I have
16 no objections as long as the heavy truck --
17 traffic is confined to the city ordinance,
18 loading and unloading hours which I believe
19 is weekdays between the hours of seven a.m.
20 and six p.m.

21 BRENDAN SULLIVAN: Okay.

22 JOHN CHUN: That's all I have to

1 say.

2 BRENDAN SULLIVAN: Thank you.

3 Is there anybody else who would like to
4 speak on matter?

5 (No response.)

6 BRENDAN SULLIVAN: I see none.

7 There is correspondence in the file
8 from Mr. Edward Hassey, 67 Smith Place, Unit
9 7. To Whom It May Concern: I am writing
10 this letter pertaining to the notice of the
11 hearing that was posted at 67 Smith Place.
12 The hearing was to discuss the use of the
13 existing fenced in area. I went to the
14 existing owner, Timothy Shannon, who
15 explained his desired use. As an abutter, I
16 went to seek the feeling of the existing
17 neighbors to seek their input. We all agreed
18 the least impact and the best use would be
19 for the storage of cars. If you were to add
20 additional businesses in this space, it would
21 lead to additional congestion to Smith Place
22 and adjoining Concord Avenue. We all agreed

1 that this is the best use for the above land,
2 and look forward to making our facility in
3 Cambridge a better place for everybody.

4 On the letterhead of J.W. Construction,
5 Inc. To Whom It May Concern: I am writing
6 to you to voice my support for Tim Shannon in
7 his request for a Special Permit at 67 Smith
8 Place. As the closest abutter to the
9 proposed area of storage, I am in complete
10 support of the intended use and feel that
11 there will be no negative impact on the --
12 once the Special Permit is issued. John
13 Wardwell, W-a-r-d-w-e-l-l, 67 Smith Place.

14 To Whom It May Concern: I am a
15 neighbor of the property 67 Smith Place. I,
16 with other abutters, had the opportunity to
17 meet with Tim Shannon to discuss his Special
18 Permit for storage of new cars at the site.
19 In light of these discussions, I would like
20 to voice my strong support for the approval
21 of the Special Permit. It is a greatly
22 improved use of the former dumping ground

1 with minimal impact on the surrounding area.

2 Mr. Jim Kelly of Cambridge Landscaping.

3 To Whom It May Concern: My name is Tim
4 Flynn. I am the owner 67 Smith Place, Unit
5 11. Please grant Tim Shannon any Special
6 Permit required. Tim has done a great job
7 improving the property and is a conscience
8 business owner. Please grant Tim's request
9 to park new vehicles on his property. I
10 support Tim's effort to keep this area a
11 thriving business center. In challenging
12 economic times such as these, efforts to
13 support new businesses take on a renewed
14 importance. Sincerely, Tim Flynn from the
15 Winters Company.

16 On the letterhead of John Walker,
17 Architect. Regarding the appeal of Tim
18 Shannon doing business as TLS Construction to
19 store new vehicles on the lot located at 67
20 Smith Place, I would like to speak in favor
21 of approving this petition. The need to
22 store vehicles in this area is great in part

1 because of the current inventory backlog of
2 unsold cars at dealers, but also because of
3 Tim's lot proximity to urban dealers that are
4 commonly pressed for storage space. These
5 times require inventive solutions to
6 unplanned economic constraint. This is a
7 complementary use to the existing uses in the
8 quadrangle area with little, if any,
9 improvement required. It is also time we
10 can -- it also in time -- it also in time it
11 can be reviewed in the future and revert to
12 its original use of a junk parking for Unit
13 16. John Walker.

14 And To Whom It May Concern on the
15 letterhead of BJC, LLC, 67 Smith Place. I'm
16 the neighbor of Tim Shannon's at the
17 Cambridge Distribution Center Condominiums.
18 In speaking with Tim he expressed his
19 intention to me of how he was going to use
20 his EUA at the southeast side of the
21 property. In turn I think this is a planned
22 use of the area. It is a great idea and have

1 no problems with it. Sincerely, Brian
2 Corsino, C-o-r-s-i-n-o.

3 There was correspondence from the
4 Planning Board dated December 3rd. The
5 Planning Board reviewed the Special Permit
6 application and did not have any objections
7 to the use at this site within the recently
8 rezoned industrial district. The Board does
9 suggest that if the Board of Zoning Appeal
10 grants this Special Permit, there be a
11 five-year time limit with the possibility of
12 renewal to review whether the use continues
13 to be appropriate in this area in the future.
14 And some substance of correspondence.
15 Nothing to rebut?

16 KENNETH LEITNER: No.

17 TAD HEUER: Did you raise with the
18 Planning Board the five-year/eight-year
19 question? Was there discussion about that at
20 the time?

21 TIMOTHY SHANNON: No, I actually
22 didn't attend the Planning Board meeting. I

1 didn't know about it. It had already
2 happened when they -- it had already gone to
3 Planning. They told me to possibly bring it
4 up, you know, at the ZBA.

5 BRENDAN SULLIVAN: Their comments
6 were basically in response to their review of
7 the file, but not of any direct testimony
8 about you or questions and answer or
9 whatever. So they were not aware of your
10 lease constraints.

11 CONSTANTINE ALEXANDER: In the
12 spirit of the Planning Board's comments, they
13 wanted a time limit. They picked five years
14 out of the air basically.

15 BRENDAN SULLIVAN: Well, to receive
16 a number, it's an even number. It's a nice
17 number. But I think that given the fact that
18 it's an eight-year lease, it would be also
19 very restrictive to him.

20 KENNETH LEITNER: I don't want to
21 make a misrepresentation. The negotiations
22 are for an eight-year lease. It hasn't been

1 finalized yet.

2 BRENDAN SULLIVAN: Okay. So that if
3 we were to say eight years, you can live with
4 that?

5 TIMOTHY SHANNON: Yes.

6 BRENDAN SULLIVAN: Tim, any?

7 TIM HUGHES: I'm good.

8 BRENDAN SULLIVAN: I'd like to make
9 a motion to grant the Special Permit for the
10 open lot storage for new vehicles.

11 The Board finds that the requirements
12 of the ordinance can be met.

13 The Board finds that traffic generated
14 or patterns of access or egress would not
15 cause congestion, hazard or substantial
16 change in the established neighborhood
17 character.

18 The Board finds that continued
19 operation of or development of adjacent uses
20 as permitted in the Zoning Ordinance would
21 not be adversely affected by the nature of
22 the proposed use.

1 The Board finds that there would be no
2 nuisance or hazard created to the detriment
3 of the health, safety or welfare of the
4 occupant of the proposed use, or to the
5 citizens of the city, and that the proposed
6 use would not impair the integrity of the
7 district or adjoining districts or otherwise
8 derogate from the intent or purpose of the
9 ordinance.

10 The Board notes the many letters of
11 support from abutting property owners.

12 All those in favor of granting the
13 Special Permit?

14 CONSTANTINE ALEXANDER: Can you put
15 the --

16 BRENDAN SULLIVAN: I'm sorry, what?

17 And on the condition that this Special
18 Permit shall run for a period of eight years,
19 for the period of eight years. We'll leave
20 it at that.

21 All those in favor.

22 (Show of hands.)

1 BRENDAN SULLIVAN: Five in favor.

2 (Sullivan, Alexander, Anderson, Hughes,
3 Heuer.)

4 CONSTANTINE ALEXANDER: You
5 understand that if you should sell the
6 property, the Special Permit doesn't go with
7 it?

8 TIMOTHY SHANNON: Yes. It is just
9 under my ownership. Under my name.

10 BRENDAN SULLIVAN: The other
11 important thing, too, is as the clock ticks
12 and you get down to seven years and six
13 months, make application --

14 TIMOTHY SHANNON: And come back.

15 BRENDAN SULLIVAN: Make application.
16 Come back before the expiration date.

17 TIMOTHY SHANNON: What normally
18 happens after like when the time period is
19 put on that for a special period for a
20 permit, is it considered, you know, how the
21 use has gone and has it worked for the
22 neighborhood?

1 CONSTANTINE ALEXANDER: Yes.

2 TIMOTHY SHANNON: And as long as you
3 adhere to all the rules?

4 CONSTANTINE ALEXANDER: We look for
5 the experiences had on the period of the
6 Special Permit.

7 BRENDAN SULLIVAN: Just that you
8 want to markup seven years and six months
9 from now.

10 TIMOTHY SHANNON: Thank you. Thank
11 you very much.

12 (Off the record.)

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1 (8:55 P.M.)

2 (Sitting members: Brendan Sullivan,
3 Constantine Alexander, Tim Hughes, Tad Heuer,
4 Slater Anderson.)

5 BRENDAN SULLIVAN: Let me re-open
6 case No. 9710, 11 Tufts Street.

7 Where are we on the --

8 WILLIAM SCHAEFER: Well, I guess the
9 -- our calculations, when we had a ten-foot
10 deck, we were on the ratio of is 1.42. We
11 decreased it from ten feet to six feet, so
12 that 1.42 is changed to 1.39.

13 CONSTANTINE ALEXANDER: But you have
14 to compare the 1.39 to what's there now, not
15 from what the --

16 WILLIAM SCHAEFER: And what there is
17 now is 1.35. So we were going to go from
18 1.35 to 1.42. Now, we're going from 1.35 to
19 1.39. That's the only change.

20 CONSTANTINE ALEXANDER: And the
21 setback.

22 TAD HEUER: And the setback?

1 WILLIAM SCHAEFER: And the setback
2 -- and the setback requirement was 20 feet.
3 And our rear was 14, and now it's 18.5.

4 SLATER ANDERSON: And the existing
5 is 24.5 I believe.

6 BRENDAN SULLIVAN: You know what I'm
7 trying to avert is that when, when this thing
8 -- if we were to approve it and it gets
9 permitted, then the building inspector is
10 going to go out and do an inspection. And
11 somebody's going to have to certify that this
12 was done in compliance with the relief that
13 was granted. And we're going by those
14 numbers. And if it's not --

15 WILLIAM SCHAEFER: We should
16 continue this.

17 BRENDAN SULLIVAN: Right, good.
18 That saves me a speech.

19 WILLIAM SCHAEFER: These are small
20 numbers and I'd rather have it exactly right.

21 BRENDAN SULLIVAN: It has to be
22 correct. It's a legal document.

1 WILLIAM SCHAEFER: Rather than
2 trying to do it this evening, and it's late,
3 and I think that it just makes sense to take
4 a proper amount of time to do it accurately.

5 BRENDAN SULLIVAN: That's fine.
6 Because what we don't want is the building
7 inspector and go out and say no, this doesn't
8 comply. And all of a sudden he doesn't sign
9 off and it creates another mess.

10 WILLIAM SCHAEFER: That's true.

11 TIM HUGHES: I personally think that
12 a continuance is a waste of time. I think
13 there was enough information in the plans to
14 tell you what the dimensions were. The set
15 -- it didn't exacerbate the setback, the rear
16 yard setback because it doesn't stick out any
17 farther than the building is right now
18 anyway. In fact, you know, so I could go
19 ahead and vote on this right now. I don't
20 know why we keep, you know, continuing things
21 when all the information is there. All we
22 just -- all we got to do is pick through it

1 and do it.

2 BRENDAN SULLIVAN: Right. I
3 appreciate that, but I want the forms to
4 properly reflect --

5 WILLIAM SCHAEFER: Can you continue
6 it on the basis that we would then verify the
7 form with Sean at a later time? Because --

8 BRENDAN SULLIVAN: Well, that's up
9 to the Board whether they're comfortable with
10 going forward or not.

11 WILLIAM SCHAEFER: The drawings do
12 show accurately what our intention is. And
13 the dimensions are precise.

14 BRENDAN SULLIVAN: Tad, what is your
15 feeling?

16 TAD HEUER: I'm not going ahead -- I
17 will not go ahead if we were voting that way.
18 Because it will not be -- I would not vote to
19 proceed with this tonight.

20 BRENDAN SULLIVAN: Okay.

21 SLATER ANDERSON: Well, I don't
22 think I really want to put it on Sean to be

1 the final arbiter of whether the, you know,
2 the form is what we expected it to be. So I
3 think the procedurally -- I understand your
4 bureaucracy of it all. The form wasn't, the
5 form --

6 CONSTANTINE ALEXANDER: I concur.

7 BRENDAN SULLIVAN: So I think the --
8 I concur.

9 So I would make a motion then to
10 continue this matter until --

11 WILLIAM SCHAEFER: That's fine.

12 BRENDAN SULLIVAN: When? What's the
13 magic date?

14 WILLIAM SCHAEFER: You tell us.

15 CONSTANTINE ALEXANDER: You're not
16 in any rush in construction. September,
17 December, February.

18 WILLIAM SCHAEFER: We started this
19 in July. And we submitted in September.
20 It's now December. So the next hearing that
21 you can give us we will have the form --

22 CONSTANTINE ALEXANDER: It will be

1 in February.

2 WILLIAM SCHAEFER: That would be
3 fine if that's the soonest you can give us.

4 SEAN O'GRADY: February 26th.

5 TIM HUGHES: This is a case heard.

6 BRENDAN SULLIVAN: Right.

7 TIM HUGHES: Everybody is available
8 on February 26th?

9 SLATER ANDERSON: You're looking at
10 -- there will be an appeal period after that
11 which I don't have a problem with it. So you
12 can start sometime in late March.

13 WILLIAM SCHAEFER: Yeah, the appeal
14 period is 20 days from the hearing date.

15 CONSTANTINE ALEXANDER: No, no. The
16 date the decision is filed with the city
17 clerk which is maybe a month after we hear
18 it.

19 SLATER ANDERSON: So it could be
20 March, April that you could get this done.
21 You'll have them for next summer.

22 BRENDAN SULLIVAN: So the motion to

1 continue this matter until February 23, 2009
2 at seven p.m. The petitioner has signed a
3 waiver?

4 SEAN O'GRADY: No, we're waiting.

5 BRENDAN SULLIVAN: On the condition
6 that the petitioner sign a waiver --

7 SEAN O'GRADY: This is a continued
8 case.

9 WILLIAM SCHAEFER: Is it 26th or
10 23rd?

11 TAD HEUER: 26th.

12 MATTHEW LEVY: Seven again?

13 BRENDAN SULLIVAN: Okay. Let me
14 start all over.

15 I make a motion to continue this matter
16 until February 26, 2009 at seven p.m. on the
17 condition that the petitioner sign -- change
18 the posting sign to reflect the new date of
19 February 26th and time at seven p.m. We have
20 a waiver. Okay.

21 On the motion, then, to continue this.

22 (Show of hands.)

1 BRENDAN SULLIVAN: Four in favor of
2 continuing the matter, one opposed.

3 (Sullivan, Alexander, Anderson, Heuer in
4 favor. Hughes opposed.)

5 TIM HUGHES: Opposed.

6 BRENDAN SULLIVAN: Okay, February
7 26th.

8 (Whereupon, at 9:05 p.m., the
9 hearing was adjourned.)

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

I, Catherine Lawson Zelinski, a
Certified Shorthand Reporter, the undersigned
Notary Public, certify that:

I am not related to any of the parties
in this matter by blood or marriage and that
I am in no way interested in the outcome of
this matter.

I further certify that the testimony
hereinbefore set forth is a true and accurate
transcription of my stenographic notes to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 23rd day of December 2008.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 23, 2015

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