

BOARD OF ZONING APPEAL FOR THE

CITY OF CAMBRIDGE

GENERAL HEARING

June 25, 2009

7:00 p.m.

in

Senior Center, 806 Massachusetts Avenue

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Tim Hughes, Vice Chair

Brendan Sullivan, Member

Douglas Myers, Member

Thomas Scott, Member

Tad Heuer, Member

Sean O'Grady, Zoning Specialist

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P R O C E E D I N G S

(7:00 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Thomas Scott, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call the meeting of the Board of Zoning Appeals to order. And as is our custom, we will start with our continued cases. These are cases that we've started or heard at an earlier time and continued to tonight. And the first continued case we're going to hear -- actually, is two cases in tandem involve 279 Huron Avenue, case No. 9781, a variance case. And case No. 9787 involving a Special Permit. Petitioner is a Mireya Nadal and Joe Ronayne.

Anyone here on this matter?

JOE RONAYNE: That's me and my wife.

CONSTANTINE ALEXANDER: Come

forward. We have a stenographer and so you have to speak up here so she can -- we have mics over here, not for us, but for you.

JOE RONAYNE: Terrific. Just to make a note initially, we're waiting for our architect. We're happy to start off as best if you like --

CONSTANTINE ALEXANDER: We can take other cases.

JOE RONAYNE: Okay.

CONSTANTINE ALEXANDER: If you would rather wait for your architect, we can take another case.

MIREYA NADAL: We've never done this before so we don't know what's involved.

CONSTANTINE ALEXANDER: I suspect you'd be better served to wait for your architect.

JOE RONAYNE: Thank you very much. It was nice joining you for a minute

there.

CONSTANTINE ALEXANDER: You'll be back.

(Whereupon, a discussion was held off the record.)

(7:00 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Thomas Scott, Brendan Sullivan, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 9792, 14-16 Kelly Road. Petitioner is Nathan Abramson and Sara Ontiveros.

Is there anyone here on that matter? Please come forward.

RICK CUTLER: Good evening.

CONSTANTINE ALEXANDER: Good evening. For the record, please give your name, spell it and your address.

RICK CUTLER: My name is Rick Cutler, C-u-t-l-e-r. I represent Out of the Woods Construction. We're at 15

Ryder, R-y-d-e-r Street in Arlington.

CHARLES COCHRAN: And my name is Charles Cochran from Cornerstone Architects. C-o-c-h-r-a-n. Eight Calista Terrace in Westford, Mass.

CONSTANTINE ALEXANDER: Okay.

You're seeking in this case both a variance and Special Permit. And frankly, I'm not clear exactly what zoning relief you're requiring and all what you want to do. So please start on that basis.

RICK CUTLER: Please. I have here actually -- maybe this will help you gentlemen --

CONSTANTINE ALEXANDER: Sure.

RICK CUTLER: -- if you want to look at some of these.

CONSTANTINE ALEXANDER: Anything will help. Including myself.

RICK CUTLER: We're doing a gut renovation of the entire house --

CONSTANTINE ALEXANDER: Right.

RICK CUTLER: -- and we're looking to make mostly some minor changes to the exterior envelope.

CONSTANTINE ALEXANDER: Okay. And I suspect these minor changes require both a variance and a Special Permit?

RICK CUTLER: Yes. We came up with a list and I met with Ranjit and he was the one who gave me the determination on which are variance items and which are Special Permit items.

CONSTANTINE ALEXANDER: Okay.

RICK CUTLER: So he told me to file accordingly.

CONSTANTINE ALEXANDER: And start with the variance items. And specifically while you're getting your glasses, what the Board wants to know exactly to what extent you're not complying with our Zoning By-Law and what the relief is that you want. You know, what the variance entails --

RICK CUTLER: Right.

CONSTANTINE ALEXANDER: And then we'll get into the merits more.

RICK CUTLER: Okay.

The No. 1 variance item we're looking at is there's an existing hallway in the very rear section of the building that we would like to use as a legal egress for the basement, the unit that's in the basement. Currently the ceiling is only at 6-11 because the entire building is over FAR.

CONSTANTINE ALEXANDER: Right.

RICK CUTLER: We would like to just raise the ceiling of that hallway to the minimum seven feet thereby making it a legal egress.

CONSTANTINE ALEXANDER: But also increasing your FAR?

RICK CUTLER: Yes. The building started at 132 percent over FAR. The construction we're doing has reduced the

FAR to 118 percent including if you grant us the use of that hallway.

TAD HEUER: Isn't that interesting how that works?

RICK CUTLER: Yeah.

CONSTANTINE ALEXANDER: Thank you.

RICK CUTLER: I'm sorry?

TAD HEUER: Can you explain how that works?

RICK CUTLER: Yeah. We took down a pretty substantial section. It's an old building that was built in three sections. There's the A section. I'll pick out a nice floor plan, that might be better. There's section A which faces the street. And then there's B, which was built concurrent with B. And at one point C was built and added on. What we've done is we've eliminated this entire two floors of C in order to create an entry deck into the building.

CONSTANTINE ALEXANDER: Oh, I see.

RICK CUTLER: So, we reduced the FAR by that much. The building as it stood was at 132 percent over.

TAD HEUER: So C is just the new deck area or the entire back side?

RICK CUTLER: No, C is also two floors. The hallway in question is just this 12 feet of hallway from the existing -- from the old basement so to speak through, through this basement. It's only this section which is not in compliance.

And we have a -- we have a basement apartment unit. Right now we're forced to put a window, a door well and we really don't want to have a set of stairs in a door leading directly into the bedroom. We feel that's a safety and a privacy issue for anyone living in this. So, but that's the only way right at the moment to get them legal egress out. Whereas, this hallway leads both egress front and back. So we're asking for relief for just this

12 feet of hallway, bring that ceiling up an inch and that becomes a legal egress. And then this cannot have to be a stairwell. It can just be an egress window, which obviously we would have in the bedroom.

TAD HEUER: So what happens -- so your exterior wall is going to be the back of your -- what you're calling the B section?

RICK CUTLER: Yes. This is an existing foundation. This part has actually been rebuilt under the permit we're working with now.

CONSTANTINE ALEXANDER: As a matter of right. You don't need any zoning relief on that.

CHARLES COCHRAN: Right.

RICK CUTLER: Matter of right, yep. Everything we've done up to -- we have a permit. We're well under construction. I have a book which has

some pictures if you'd like to look at it. We're well under the construction phase under by right permit. And what we've been doing is in order not to delay the project for our client, move it along with all those items while we filed for the variances. You know, they would be willing to sacrifice if they had to some of these items, but it causes hardship for them and it makes the building much less useful as a two-unit building and so -- you look a little confused. Did I explain correctly what I'm --

TAD HEUER: Maybe you can show me an elevation.

RICK CUTLER: Right.

TAD HEUER: So, you're -- what is -- my impression was that this area, the C area, was being taken out on the upper levels; is that right?

RICK CUTLER: Yes, correct.

TAD HEUER: So what covers the

basement unit?

CHARLES COCHRAN: The only section being taken out is over here (indicating). Show him.

TAD HEUER: Okay.

RICK CUTLER: This is still staying as the two-story existing, that's here.

TAD HEUER: So you're getting --

RICK CUTLER: We took down these two stories to create an entrance deck.

TAD HEUER: Right.

RICK CUTLER: And the basement area is underneath that area.

TAD HEUER: So you're getting your FAR reduction from the area that is going to be covered just by that approximately square deck.

RICK CUTLER: Correct. We took out two floors of 12-by-12 or whatever the dimension for that is.

TAD HEUER: Okay.

RICK CUTLER: Eliminated interior space.

BRENDAN SULLIVAN: I have a question. When did you go over with the Commissioner the need to go to seven-foot egress?

RICK CUTLER: Back during the permitting process.

BRENDAN SULLIVAN: Which was?

RICK CUTLER: Ongoing for quite sometime. A few months ago.

BRENDAN SULLIVAN: Yes. The reason I bring it up is because Chapter 7 now has changed, and I believe that in a basement it's six-foot-eight.

Is that right, Sean.

SEAN O'GRADY: That's my understanding. But that's anecdotal.

CONSTANTINE ALEXANDER: It's typical with state building code, right?

BRENDAN SULLIVAN: Building code.

SEAN O'GRADY: Building code

issue, right.

BRENDAN SULLIVAN: They changed it.

RICK CUTLER: So possibly six-foot-eight still leaves us as a legal egress? That would be fine with us. I mean, we've got it at 6-11 now.

BRENDAN SULLIVAN: Yes, I think. I wish I had it in front of me. But anyhow --

SEAN O'GRADY: Oh, Brendan. How many units are in the building?

RICK CUTLER: Two.

CHARLES COCHRAN: Two.

SEAN O'GRADY: I think it's for one and twos, yes.

BRENDAN SULLIVAN: One and twos.

RICK CUTLER: My understanding from looking at the code book it is seven feet, but if I'm wrong and 6-8 will suffice.

BRENDAN SULLIVAN: It's seven feet

every place and then they make an exception for basements.

RICK CUTLER: Oh, okay.

BRENDAN SULLIVAN: But, maybe I'm throwing a monkey wrench into this thing. Maybe we should consider the relief.

CONSTANTINE ALEXANDER: I think we should consider the variance. If we turn them down and if you're right, the building code has changed, it can go as a matter of right. Even if they didn't get a variance, you can still do it. But if we give them the variance, you can don't have to worry about that.

RICK CUTLER: Okay.

BRENDAN SULLIVAN: I thought it was very recently -- well, this came into effect in January. Anyhow.

THOMAS SCOTT: Is the permit under the sixth edition or seventh edition?

RICK CUTLER: Seventh edition.

BRENDAN SULLIVAN: Anyhow, okay.

CONSTANTINE ALEXANDER: Okay. So that's the first item.

RICK CUTLER: That's the first one which is sort of tied to the second one, because by having that hallway be the legal means of egress, we can eliminate an exterior set of masonry stairs outside of that bedroom and just have an egress window well. So they're sort of tied together.

TAD HEUER: Why do you need a variance to remove that means of egress if you're going to have another one?

TIM HUGHES: Not particularly, but he can't remove that egress unless he gets a variance for the other one for the egress.

RICK CUTLER: Right.

TAD HEUER: Right.

RICK CUTLER: Without this egress I need to provide some egress here.

TAD HEUER: Right.

TIM HUGHES: It's part and parcel the same move.

TAD HEUER: Right.

RICK CUTLER: Right. The hardship being they really don't want to have a stairwell and a door leading directly into the basement off the driveway. That's sort of a security and a privacy issue for whoever is living there.

TAD HEUER: Sure, I get that. My question is just that usually we grant a permit relief not relief that you can do essentially by right once you have our variance. So, that's the only reason I was concerned. I was questioning why.

RICK CUTLER: Right.

CONSTANTINE ALEXANDER: Why don't you stick with the variance items. We're on No. 4 I guess on your list.

RICK CUTLER: Right.

The roof over the -- the roof over the second floor of the section. Maybe

you can find the page for me, Charlie. Is the floors are -- there's a drop in the floor levels in the building in a bunch of places. We've brought them up to level everywhere inside where we've been able to, but the floor at this rear room that's remaining here is also about two steps down from the rest of the house. What we'd like to do just for, I don't know if you want to call it safety but lack of tripping hazard, just to make the house all on one level, is to raise this floor up flush with the rest of the --

CONSTANTINE ALEXANDER: Why does that requiring zoning relief?

RICK CUTLER: Because if we were to raise that floor, we would run out of head room on the roof above.

CONSTANTINE ALEXANDER: You're going to raise the roof above as well?

RICK CUTLER: We have to raise -- in order to get --

CONSTANTINE ALEXANDER: I can see.
It's okay.

RICK CUTLER: This roof has to
just go vertically about 18 inches --

TAD HEUER: This is the roof over
the C section?

RICK CUTLER: This is the roof
over the C section.

CONSTANTINE ALEXANDER: But you're
still going to be under 35 feet?

TIM HUGHES: Yes.

RICK CUTLER: Yes.

CONSTANTINE ALEXANDER: So,
raising the roof why does that change the
FAR?

RICK CUTLER: It doesn't. I was
informed that in order to make any changes
to the outside of the envelope I have to,
I have to apply for this variance and
these Special Permits, that's why I'm
here.

TAD HEUER: You in the rear

setback there?

RICK CUTLER: No. No.

TIM HUGHES: Is there a setback anywhere?

RICK CUTLER: Yes, it is on a setback on a couple of the sides.

CHARLES COCHRAN: On one side of the lot it is slightly.

TAD HEUER: Is it on the side of the lot -- the same part that roof is on the setback?

RICK CUTLER: No.

SEAN O'GRADY: Did you have a volume problem?

RICK CUTLER: Here's the setback lines.

TIM HUGHES: I don't think they heard you, Sean.

SEAN O'GRADY: Do you have a volume problem?

RICK CUTLER: It may change the volume slightly. I mean, if....

SEAN O'GRADY: Post-war additions?

CHARLES COCHRAN: Because of eliminating the second and first floor.

RICK CUTLER: It's still not going to bring us back above the 132 percent that we originally had.

TAD HEUER: But there would still be some increase on volume that you wouldn't have had otherwise whether relief has been granted.

RICK CUTLER: Correct.

SEAN O'GRADY: Could be if they have post-war revisions. Do you have post-war revisions? After World War II.

RICK CUTLER: We talked about this earlier and I wasn't sure what this -- half of this was post-war, half of this was pre-war, so it's hard to figure out.

SEAN O'GRADY: Yes, they probably -- they're over ten percent is my guess.

CONSTANTINE ALEXANDER: Okay.

RICK CUTLER: So what we're asking for is to just take that roof, rebuild it about 18 inches up. That will give us plus seven feet of head room to bring the floor inside the second floor flush and it will put the entire second floor at one level inside the house.

CONSTANTINE ALEXANDER: Okay. The next variance is the plan for the porch. Unless other members have questions at this point.

TIM HUGHES: I have one question. When you're referring to this 132 percent that's going to 118. Are you talking about going to an FAR of 1.18 or is it 100?

CHARLES COCHRAN: 1.18.

TIM HUGHES: What is the allowable in the area? .5?

CONSTANTINE ALEXANDER: .5.

TIM HUGHES: So it's really not 132 percent of .5. It's an increase of .5

to 1.18?

RICK CUTLER: Yeah.

TIM HUGHES: Or a decrease from 1.32 to 1.18?

RICK CUTLER: That's correct.

CONSTANTINE ALEXANDER: That's how I understand it anyway.

RICK CUTLER: Uh-huh.

CONSTANTINE ALEXANDER: Actually a .6, though, not a .5. It's not quite as bad.

Okay, keep going.

RICK CUTLER: Okay. The front porch we were looking for a couple of items on the front facade of the house. Right now there's a small overhang, it's probably oh, maybe three feet by 12 feet. It covers the front door.

CONSTANTINE ALEXANDER: Right.

RICK CUTLER: For architectural interests, we would just like to not change the size of it at all. Right now

it's held up by brackets.

CONSTANTINE ALEXANDER: Right.

RICK CUTLER: We would just like to be able to install some columns and a wooden arch.

CONSTANTINE ALEXANDER: And is that a setback issue, the front yard, you're too close to the street?

CHARLES COCHRAN: Yes.

CONSTANTINE ALEXANDER: So that's why you need relief there?

RICK CUTLER: Right.

CHARLES COCHRAN: The setback is almost right at the face of the home, but this extends out just beyond that.

CONSTANTINE ALEXANDER: Are you increasing the intrusion into the setback by what you're doing?

RICK CUTLER: No.

CHARLES COCHRAN: No.

CONSTANTINE ALEXANDER: It's just mostly --

CHARLES COCHRAN: Cosmetic.

CONSTANTINE ALEXANDER: --
architectural, cosmetic? Cosmetic? Okay.

RICK CUTLER: Cosmetic. Depending on what my carpenters tell me, we may not even rebuild that roof. We may just pop the columns underneath it.

TAD HEUER: And that doesn't create any new FAR?

RICK CUTLER: No.

CONSTANTINE ALEXANDER: And the last one for variances is the extended -- well, go ahead.

RICK CUTLER: Well, there's two bump out bays on the front of the house now. They're one story. For general architectural look and to make the inside of the building a little more comfortable, we would just like to raise those up and make them two stories tall. They're about 14 feet now from grade to where the roof is. We're gonna want to add about ten

extra feet and just, and just extend those up. And they would look basically the way they look now. We would just add three more windows and put those up there.

CONSTANTINE ALEXANDER: So you're adding from FAR?

RICK CUTLER: Yes.

CONSTANTINE ALEXANDER: And are you intruding into the setback?

RICK CUTLER: We are not.

CONSTANTINE ALEXANDER: Okay.

RICK CUTLER: Any more than we already are.

CHARLES COCHRAN: Right. They're being built over the existing bays which set into the setback.

CONSTANTINE ALEXANDER: Okay, got it.

RICK CUTLER: And I have photographs. I just looked up and down the street, there's quite a few houses right on that street within half a block

that has plenty of two-story bay bump outs. So we're not doing anything that I think is unusual at all.

CONSTANTINE ALEXANDER: Okay.

Unless there's any other questions at this point, let's go to the Special Permit part of it.

RICK CUTLER: Okay.

The first thing we want to do on Special Permits is because we have a basement unit and it's very close to the setback line, here we don't have any problems adding bays because we're well within, but we want to add a couple of bays over here (indicating). We want to add window well bays because it is a basement unit. We want to get light in there. And we're even going to make this one an egress window just because there's a living room up here and we like to just give the --

CONSTANTINE ALEXANDER: And you're

close to the lot line there, aren't you?

RICK CUTLER: Well, the lot line is over here (indicating). There's a driveway.

CONSTANTINE ALEXANDER: Oh, okay.

Any issue about the basement windows on a driveway? Isn't there a section in the Zoning Ordinance about you need wells or something -- we had this case once before. You know what I'm referring to?

SEAN O'GRADY: I'm sorry. Maybe I don't -- I thought the question was going to be -- well, I should actually let you rephrase it.

CONSTANTINE ALEXANDER: Yes. There's something about you have a bay window or a window in a basement, that's too close to the driveway. You have to have some sort of separation between the driveway and the window. We had that case over on Cherry Street I think it was.

SEAN O'GRADY: Right. You can't

have the well in the driveway. That was the case in Cherry Street where they were going to grate the wells.

BRENDAN SULLIVAN: Which case was that?

SEAN O'GRADY: Cherry Street.

CONSTANTINE ALEXANDER: We all remember that well. Okay.

And that's not your case?

RICK CUTLER: That's not the case at all.

CHARLES COCHRAN: We're not looking to extend it into the driveway.

RICK CUTLER: Right. It will be -- as a matter of fact, there's a bump out here (indicating), and we're probably going to forego anything but a very small something because we're too close to the driveway.

TAD HEUER: And because this is a two-family you're not hitting the distance between your parking?

RICK CUTLER: Correct.

CONSTANTINE ALEXANDER: Okay.

RICK CUTLER: The next one is on the opposite side of the house. This half of the basement belongs to unit No. 1, and he has some storage and, you know, home shop area up here (indicating). He would like to add a basement stairwell similar to the one that we've already built in the back in order to have an access door close to the street, close to his area in order to access this area of the basement.

CONSTANTINE ALEXANDER: Okay.
Keep going.

RICK CUTLER: Okay.

CONSTANTINE ALEXANDER: Unless some members of the Board have anything to say I don't want to interrupt you. Go ahead.

RICK CUTLER: The next two Special Permits are pretty almost silly. There are some -- there's windows --

CONSTANTINE ALEXANDER: Nothing is silly before our Board.

RICK CUTLER: Yeah, I know.

There's windows on these two -- there's windows that are now not lining up across this great room. We would just want it -- and because this is in the setback line, we don't want to change the size or the number. We just want to slide those windows down a couple of feet so that the room is symmetrical.

TAD HEUER: Can you show an elevation?

RICK CUTLER: Yeah. Here's the current locations of the windows and dotted lines. We just want to move this one this way (indicating), half a window width and this one about a full window width. Same thing on the first floor. Although, in order to make -- in order to make the building symmetrical because the windows on the other side are already in

these locations.

TAD HEUER: And the dotted line is the window as it existed --

RICK CUTLER: The dotted line is the existing rough opening now.

TAD HEUER: And it looks like the window you're asking for -- are those shutters or is that a window?

RICK CUTLER: Yeah. Those are shutters.

TAD HEUER: They're not additional lights?

RICK CUTLER: No, no.

TAD HEUER: Okay.

RICK CUTLER: Those are shutters.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: Okay.

RICK CUTLER: That's --

CONSTANTINE ALEXANDER: That covers the relief you want to seek.

RICK CUTLER: Uh-huh.

CONSTANTINE ALEXANDER: Have you

spoken to the neighbors? You or your clients.

NATHAN ABRAMSON: The stairs to the driveway.

RICK CUTLER: Oh, I'm sorry, you're correct.

CONSTANTINE ALEXANDER: Which one?

CHARLES COCHRAN: Right there, in the front there.

RICK CUTLER: My error. It falls under the variance item.

Right now there's only one set of stairs coming down off this front porch and they go this way to a small gate. Yet the driveway to the house is over here (indicating). So, we're asking to add a second set of stairs, same dimension, same size, to provide direct access from the driveway to the front door.

CONSTANTINE ALEXANDER: Again, those stairs are in the front yard setback which is -- you're non-conforming.

Okay. My question about whether you spoke to -- you or your clients have spoken to your neighbors. If you want to speak, you have to come up and give your name.

NATHAN ABRAMSON: Sorry. I'll just stand here. My name is Nathan Abramson. Do I need to spell it out?

CONSTANTINE ALEXANDER: Would you like it spelled? Ms. Stenographer, would you like it spelled?

THE STENOGRAPHER: I have it.

CONSTANTINE ALEXANDER: We have it.

NATHAN ABRAMSON: Okay. So, yes, we've been speaking with the neighbors for several months, the process has been ongoing. We've received basically positive encouragement from all the neighbors in just the ability to revitalize this house. I don't think any specific objections have been raised to

any of the items that we've presented. And only a couple neighbors we've actually gone sort of item by item with these variances, but in general we've just received encouragement from the neighbors.

CONSTANTINE ALEXANDER: Okay.

Thank you.

RICK CUTLER: My take is that as the general contractor, when we first started, one of the first things I do when I go into a neighborhood, is introduce myself to the neighbors and pre-apologize for trucks or noise or anything like that. And all I've received so far is positive feedback. The building was in pretty delapidated condition when Nathan bought it. There was an old car in the backyard, and it seems to be nothing but encouragement that someone has bought the building, is fixing it up, is doing a major renovation. We're making it a very state of the art green building which

doesn't affect the neighbors directly, but the fact that we're also doing a complete change of the outside to make the building look new again, there's been nothing but positive feedback that I've had.

CONSTANTINE ALEXANDER: Thank you.

I'll open it up to public testimony. Is there anyone here who wishes to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. There are no letters or other forms of communication in the file. So, I think we're ready -- members of the Board, further discussion, questions? We're ready for a vote.

TIM HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: Okay. We'll have two votes, one on the variance and one on the Special Permit.

The Chair moves to grant a variance

to the petitioner to raise the basement hall, ceiling for egress, remove stairwell egress, front porch stairs and extend two front bays up two stories, raise rear flat roof for interior flush floors, all as more specifically set forth in the petition filed by the petitioners.

The variance be granted on the basis that not granting the relief would create a substantial hardship to the petitioner. Such hardship being that we have a building that is in delapidated condition, and it's a building to be used and rented on a meaningful basis as affected by the current state of the building.

That the hardship is due to special conditions effecting the property; namely, the fact that this is a, if you will, a jury built building that's been built in stages over years. It is not in good condition and it is -- the shape of the structure and the nature of the structure

are special circumstances.

And that granting relief would not substantially derogate from the intent or purpose of our Zoning By-Law. In fact, what we will be doing is improving the housing stock of the City of Cambridge.

The Chair would further note that there appears to be no objection from the neighbors with regard to this relief. And although the relief in number is substantial, in fact, most of the items, if not all of the items are rather minor in nature and technical in nature.

The variance will be granted on the condition that the work proceed in accordance with the plans submitted by the petitioner. I'll say voluminous plans submitted by the petitioner, starting with HP-1 prepared by Cornerstone Architects, Inc. And the first page initialed by the Chair.

All those in favor of granting the

variance on that basis say, "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

CONSTANTINE ALEXANDER: The Chair will now move to grant a Special Permit to the petitioner to do the work specified in the petition; namely, to relocate four windows, add two egress windows and to add a stairwell entry.

Such Special Permit would be granted on the basis of the fact that the requirements of the ordinance cannot be met without granting the Special Permit.

That the Special Permit or the work being proposed will not cause congestion, hazard or substantial change in established neighborhood character.

That the granting of the relief would not affect the development of

adjacent uses or adverse -- and would not create hazard or nuisance to the detriment of the health, safety and welfare of the occupant or the citizens of the city.

And that the relief would not also -- the Special Permit would not impair the integrity of the district or adjoining district.

The basis for granting the Special Permit for all the reasons I've cited is the fact that I cited before with regard to the variance; namely, that there appears to be no neighborhood opposition to the project. That the project will result in an improvement of the structure, an improvement of the quality of housing in the city.

The Special Permit will be granted on the condition that the work proceed in accordance with the plans, voluminous plans prepared by Cornerstone Architects, Inc., the first page of which is numbered

SP-1 and initialed by the Chair.

All those in favor of granting the Special Permit on the basis moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five.
Special Permit granted. Good luck.

(Alexander, Hughes, Sullivan,
Scott, Heuer.)

(Whereupon, a discussion was
held off the record.)

(7:30 P.M.)

(Sitting Members: Constantine Alexander,
Tim Hughes, Thomas Scott, Douglas Myers,
Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will now call the two cases I called before both involving 279 Huron Avenue; case No. 9781 and case No. 9787. One seeking a variance, one seeking a Special

Permit.

MAGGIE BOOZ: Sorry to be late. I'm Maggie Booz, B-o-o-z, and I'm the architect for the project.

JOE RONAYNE: I'm Joe Ronayne. I'm one of the two owners of the project which we bought last year.

MIREYA NADAL: And I'm Joe's wife Maria Nadal, N-a-d-a-l. First name M-i-r-e-y-a.

CONSTANTINE ALEXANDER: Ms. Booz, go ahead. Start with the variance first.

MAGGIE BOOZ: Okay.

The variance that we're requesting is for floor area ratio exception. And we right now are over the floor area ratio as you can see on the dimensional form, and we're asking for a minimal increase in that overage.

CONSTANTINE ALEXANDER: To be specific, as I read your form right, you're now at .937 and you want to go to

.959.

MAGGIE BOOZ: That's right.

CONSTANTINE ALEXANDER: And the district permits only up to .5.

MAGGIE BOOZ: That's right.

CONSTANTINE ALEXANDER: No setback issues with regard to the variance?

MAGGIE BOOZ: Not with regard to the variance, no.

I think we're asking for a total 110 additional square feet in the building that would be increased -- it would be caused by these two dormers. Two, seven and a half foot dormers on the west side the building, on the third floor. And a small increase because of the raising of this dormer on the east side of the building, this sort of L roof that exists there now. You can see in the photographs probably best what's going on here. There's a, there is an opposing gable on the east side of the building. We're

proposing to raise that up. And on the west side of the building there are no dormers and we're proposing these two dormers.

CONSTANTINE ALEXANDER: Dormers comply with the dormer guidelines?

MAGGIE BOOZ: They do indeed. They total 15 feet in length. They don't come up to the ridge, and they setback from the wall of the house.

The reason that the house right now is so over on FAR is largely because of basement and third floor, both of which are usable spaces. I mean, the third floor being a very voluminous space really except that accessing it is a problem because the stairs at one end -- at one extreme end and the rear end of the building. Because of that, any use of that building would mean either the creation of a quarter down the middle that would diminish the usability of the rooms

on either side because really the headroom space is down the center for about ten feet in width. Or a shotgun plan wherein you went from room to room to room. Or one large space which isn't practical for the use of a family.

CONSTANTINE ALEXANDER: So one of the dormers is for the stairwell that would solve --

MAGGIE BOOZ: It is.

CONSTANTINE ALEXANDER: -- the problem you just identified.

MAGGIE BOOZ: It is.

CONSTANTINE ALEXANDER: And the other is for?

MAGGIE BOOZ: The other is for a bathroom. It's basically just to get a little more natural light up into that third floor. There are the windows at the front end of the house which are facing south, so they get -- excuse me, the front of the house so they get quite a bit of

light down that end. And then we have one right now -- there's one window in this opposing gable roof structure. And then the two windows at the rear of the house which are right here (indicating). So we're trying to get more natural light up there. We'll also be proposing skylights, although aren't variance issues. And then the dormers are the issue.

CONSTANTINE ALEXANDER: On one side of the house is a larger apartment house?

MAGGIE BOOZ: That's right.

CONSTANTINE ALEXANDER: The dormers are on the other side, though, right?

MAGGIE BOOZ: They're on the other side.

CONSTANTINE ALEXANDER: And the reason for the location on the other side the lighting, a light issue?

MAGGIE BOOZ: It's really plumbing

and egress. The existing stair from the first to the second floor is on the west side of the house. That is the side opposite the apartment building. And the plumbing and plumbing stacks of different -- of the bathrooms on the first and second floor are also on that west side of the building. So, we're trying to stack the bathrooms over the bathrooms, and we're trying to stack a stair over the stair. That's the reason for the request to have them on the west side of the building.

TAD HEUER: If you check out the floor to area ratio in the basement what would you drop to, do you know?

MAGGIE BOOZ: We'd probably drop 1500 square feet or so. 1200 square feet.

JOE RONAYNE: Close to 70.

CONSTANTINE ALEXANDER: You still wouldn't be in conformance though?

MAGGIE BOOZ: We wouldn't be in

conformance.

TAD HEUER: Right, I'm trying to get a sense of how close what that would be if that wasn't --

MAGGIE BOOZ: Yeah. I mean the fact is the space exists in the building. I mean, the amount that we're requesting is really minimal at 110 square feet. I mean, the equivalent in three different places of a very small bedroom.

CONSTANTINE ALEXANDER: And the building now has 4,600 roughly square feet.

MAGGIE BOOZ: Yes.

CONSTANTINE ALEXANDER: So, you're 100 adding over 4,600?

MAGGIE BOOZ: That's right. That also includes the front porch, the covered front porch and everything else that's considered covered in that building.

CONSTANTINE ALEXANDER: Okay. Do you want to move on to the Special Permit?

Tell us about the Special Permit.

MAGGIE BOOZ: Of course, yeah.

So, what we're also proposing is enclosing the walls of this two-story porch that's in the back. Right now the access to the site from -- by car is -- there's a garage in the back -- at the back of the site and there's a driveway, and there's a back door. And right now what you do is you go up a set of stairs up to the basically to the kitchen. We're proposing to turn that first floor of the porch into a mud room, and the second floor into a small study basically.

CONSTANTINE ALEXANDER: How close are those porches which will now be enclosed to the lot line, rear lot line?

MAGGIE BOOZ: Six point -- to the rear lot line?

CONSTANTINE ALEXANDER: Yes.
That's in the rear of the building, right?

MAGGIE BOOZ: Yeah, they're twenty

-- I have to check the dimensions.

CONSTANTINE ALEXANDER: I mean, one of the issues with enclosing a screen -- or open porches, is you're increasing the massing of the structure. And the massing impact, the increased massing would be most greatest to the people who are closest to the lot line. So, I'm trying to figure out for the people who are most directly affected by what you want to do, how far away are they?

MIREYA NADAL: There's a garage between them and the street.

CONSTANTINE ALEXANDER: So there's a --

MIREYA NADAL: There's a full garage.

CONSTANTINE ALEXANDER: -- a garage between the next resident structure and yours?

MIREYA NADAL: No. From facing the rear --

JOE RONAYNE: This should be actually helpful.

CONSTANTINE ALEXANDER: Okay. There is a garage here.

Okay. Okay. I got a sense.

MAGGIE BOOZ: So the Special Permit aspect of enclosing that porch is actually on the side, on that west side where we're 6.2 feet away from the property line. And currently there is egress in and out of that side of the house already. That is where the doors are on that side of the house. We're actually -- we'll actually be making the door up to the second floor unit through that mud room. So the door that exists there now that goes into some stairs and a back stair, the stair of the basement in the back stair, will be just a door into the first floor unit. We -- we need as much accessibility of that first floor unit as possible.

TAD HEUER: Why?

MAGGIE BOOZ: Because there's a disabled person living on the first floor. So we're trying to -- we're actually keeping the options open, Mireya and Joe have decided to expand the hallway. That hallway back there for her is only 32 inches wide. They've decided to widen that hallway to make it 36 just so that if -- she's not in a wheelchair right now, but has a degenerative disease where she can wind up in a wheelchair. And the thought is not only maintain the entrance but actually -- changes the interior --

CONSTANTINE ALEXANDER: As I recall from the filings, that you sort of made a verbal commitment to the person that you bought the structure from that you would do all you could --

MIREYA NADAL: That we would keep the tenant. And she has MS. And right now she has this very convoluted egress in

the back. And so what we're doing is straightening her hallway. So, we're basically swapping. She comes out and turns this way (indicating), and we were going in around that, so we're turning her hallway into a straight shot and we're taking over her entrance.

MAGGIE BOOZ: I mean, there isn't a ramp. There is no ramp for her. But we're --

MIREYA NADAL: But we're trying to set it up so that we can build the ramp if we need to.

MAGGIE BOOZ: Trying to instrumentally make it a little easier.

And so that in terms of -- all I really meant to say was in terms of the egress in that way there is already a door there. So the amount of activity in that area doesn't increase. There's no -- there's no disturbing neighbors any more than, you know, neighbors are already

disturbed by a door being open.

The other aspect of the Special Permit is the window changes which I -- and that may have been why somebody requested existing condition plans on the Board. But I sort of pointed it out in yellow and in red on this elevation. And that is we've got a window here (indicating). We're actually proposing to take that window because it's kind of an aberration and put it up into this dormer. It's a diamond glass encasement window and put in another sort of standard double hung that matches the other double hungs on the facade. This one gets a little bit narrower and then becomes the size of the windows on that facade. And then right now there are two windows inside where this dotted red line is. We're moving them over and adding one. So we're -- we have -- we've got the increase in windows right there (indicating).

And then these other windows are windows in the enclosed porches. So these are proposed for the second floor. This is a window in the stairwell to try to get some light into that stair as you go into the back door (indicating). And then these are -- obviously these are the windows that are being proposed for the back porches.

So I think that the increase in mass, you know, in terms of what it does to the rear yard is pretty minimal. I mean, especially considering what's there now which is really a delapidated porch. And I think partially that porch has suffered because it's facing north. I mean, it's just a really bad place for porches. You know, they get wet and they never dry out and they rot. And so the idea is -- and they're unpleasant to sit on because it's shady all the time. So the idea is to just make something that,

you know, is durable, that's usable and that is logical from an access point of view to the site.

CONSTANTINE ALEXANDER: Questions from members of the Board?

DOUGLAS MYERS: You referred to it as the opposing gable that you're going to raise?

MAGGIE BOOZ: Yes.

DOUGLAS MYERS: Would it still remain cantilevered out to the extent that it is now?

MAGGIE BOOZ: In that it has a skirt, yes. The floor -- right now the floor actually is cantilevered out over the second floor exterior wall. And the way it's framed -- it isn't framed properly. It's framed like a little ladder. So basically there's -- at the second floor wall there's a break in framing. So, here's the second floor wall and here's the second floor joists that

are coming across (indicating) and that 18 inches of cantilever isn't a cantilever. In other words, those things don't -- they don't come out over the second floor wall and they're not supported. They stop -- the joists stop at the second floor wall and then they ladder framed out here (indicating). So the whole thing is going like that (indicating). It's not a cantilever. In -- visually we're going to yes, maintain that same eight, we would propose to maintain that same 18-inch overhang, but it would just be a skirt. The second -- the third floor would stop at the exterior wall of the building.

MIREYA NADAL: So that wall would come back toward the house.

MAGGIE BOOZ: We're not occupying the space of that cantilever -- of that so-called cantilever. That false cantilever.

DOUGLAS MYERS: Second question.

Insofar as it relates to the relationship of the proposed changes in the back porches and the frontage on the street, the passing lane, what are your plans for the garage?

MAGGIE BOOZ: The plan for the garage is to leave the garage there and repair it. It's -- it's canting severely towards its rear -- towards the building actually. It's collapsing at the back corner that faces the back of the house on that site plan. So --

MIREYA NADAL: This one.

MAGGIE BOOZ: My clients who avidly bicycle want to be able to get bicycles into the garage and have it be a usable building still. So we're going to replace the roof, prop it up. Probably we're going to -- what we were just talking about this the other day with the builder, probably we will propose to cut off the bottoms of the joists, pour a

little knee wall around the back where we've got, you know, where we've got more grade coming up on the building. The grade's, the grade's going down towards Vassar like this (indicating). The garage is coming in like this (indicating). We've got grade back here that's built up on the back of the building. In other words, the soffit is six feet from the ground, whereas on the front it's, you know, seven, seven and a half feet from the ground or something like that. So we're going, we're going to cut the joists, I mean, the studs off, pour a little concrete knee wall in the back and just, you know, maintain it at the same height.

DOUGLAS MYERS: Talking the approximate present dimensions?

MAGGIE BOOZ: Yeah.

MIREYA NADAL: The dimensions are not going to change at all. Just

structurally we're going to put right angles back into it.

MAGGIE BOOZ: And pour a new slab.

TAD HEUER: What's the reason you need the variance for heightening the gable on the L?

MAGGIE BOOZ: FAR also. Because when we raise that roof, we increase the floor area.

MIREYA NADAL: We take them away by coming in, but we still add more by raising the roof.

JOE RONAYNE: I thought we built it --

MIREYA NADAL: No, no.

TAD HEUER: Even though the wall doesn't -- I'm just following up on Mr. Myers' question.

MIREYA NADAL: Right. We lose some by bringing the wall in, but we gain more by raising it. It's a small.

MAGGIE BOOZ: It's very small.

MIREYA NADAL: Small net increase.

TAD HEUER: So technically it's not a variance to raise the ridge height of the gable, it's a variance for FAR?

MAGGIE BOOZ: Right. There's no variance in the ridge height change.

CONSTANTINE ALEXANDER: Further questions or should I open it to public testimony?

THOMAS SCOTT: Why are you saving that window?

MIREYA NADAL: That's going to be our only non-environmental window. But I like that window.

JOE RONAYNE: The last remaining window.

MIREYA NADAL: But I like that window.

MAGGIE BOOZ: Maybe we'll auction it off instead. No, that's -- because it's a remnant, I don't know.

THOMAS SCOTT: Make it green I

guess.

MAGGIE BOOZ: We're trying to be a little bit responsible by not throwing things away.

THOMAS SCOTT: Another use?

MAGGIE BOOZ: It's not terribly attractive and we all sort of feel the same way about it.

CONSTANTINE ALEXANDER: Well, if you all feel the same way about it, then why keep it?

MIREYA NADAL: That's a good point. I think we can revisit that.

MAGGIE BOOZ: Guilt.

TAD HEUER: We won't make removing that window a mandatory requirement for Special Permit.

MIREYA NADAL: Okay.

CONSTANTINE ALEXANDER: We might.

MAGGIE BOOZ: We'll come back.

CONSTANTINE ALEXANDER: I'll open it up -- unless you have more to add, I'll

open it up to public testimony.

Is there anyone here who wishes to be heard with regard to this petition?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. We do have some letters in the file, however, that I'm going to read into the record.

We have actually two letters from a David P. Sullivan at 287 Huron Avenue. I'll read the later of the two which I assume supercedes the first. It's a letter addressed -- dated June 12th addressed to the Board. "I wish to advise you that my wife and I are in favor of the referenced petition. We own the house next-door at 287 Huron Avenue. I received the notice of the subject case after sending my letter regarding case No. 9781. The notice for the subject petition was delivered to a neighbor who held it for several days before delivering it to us on

May 19, 2009. We regret that we cannot attend the hearing. We have a prior commitment for June 25th. We are very pleased with the quality of the work that is being done at 279 Huron Avenue. We are also pleased that the owners plan to live in the house. Most two- and three-family houses in the neighborhood that have been sold have been to developers with the purpose of reselling."

Second, we have an e-mail from Marion, M-a-r-i-o-n and Kathleen, K-a-t-h-l-e-e-n Reine, R-e-i-n-e. "As abutters to 289 Huron Avenue we are writing to say the following:

"One, we have no objection to the two proposed new dormers, to the proposed changes to the roof line, and to the proposed enclosure of the back porches.

"Two, Joe Ronayne and Mireya Nadal have met with us several times and have responded to our requests for shadow

studies and perspective drawings of the proposed new dormers in a timely and cooperative way.

"Three, we are very pleased with the quality of the work being performed so far with their objective of achieving L-e-e-d-s, LEEDS certification of the renovation and with the plans to obtain as much of the original detail as possible.

"In summary, they are carefully and responsibly renovating a house that has deteriorated badly. Their careful renovation will make it an important asset to the neighborhood. We recommend that their petitions be approved."

And lastly we have a letter from Charles F. Brown, B-r-o-w-n at 291 Huron Avenue.

MIREYA NADAL: This morning he --

JOE RONAYNE: He actually --

MIREYA NADAL: -- he wanted us to give this. But he didn't have time to --

JOE RONAYNE: We received a prior letter.

MIREYA NADAL: It's dated today -- or yesterday.

CONSTANTINE ALEXANDER: Fine, okay. The letter I was going to read had some objections, which I will not now read because we have a letter now dated June 24, 2009 from Mr. Brown saying: "The owner has provided shadow diagrams showing that the changes will not be a problem. My other questions have been answered. I, therefore, withdraw all of my objections."

So there's no opposition to the petition that I can see in the file.

I'll close public testimony.

Discussion from members of the Board?

Questions? Comments? Ready for a vote?

TAD HEUER: I have a question.

CONSTANTINE ALEXANDER: Go ahead.

TAD HEUER: I have no problems with anything except for the filling of

the porches which I don't think I would be willing to support. I think that filling the porches where they are particularly given where the lot line is and where the garage is, the next-door neighbor in particular that combination of Huron Avenue and Vassar Street is not a -- it comes at odd angles where they fit together, that the front of the house and the back of the house, and the back of the house fronts onto a street essentially. I think it adds too much massing. And given that we are providing additional FAR, useful FAR on the third floor, I think even though this is not -- it's a Special Permit even though it's not FAR, I think it adds much too much of the massing on that side of the given the neighboring buildings and the street configuration.

CONSTANTINE ALEXANDER: So you would be in opposition to the Special Permit?

TAD HEUER: I would be in opposition to the Special Permit only as it is to the porches. To the windows I have no problem.

CONSTANTINE ALEXANDER: Okay.

I think we come to making a motion. I don't think I want to bifurcate it to the windows versus the porch. Do any other members have a different view? Okay, I think we're ready for a vote.

MAGGIE BOOZ: Can I comment on that?

CONSTANTINE ALEXANDER: Well, yes, sure. That's fair. Please.

MAGGIE BOOZ: It's only the first one point --

JOE RONAYNE: It's actually right there.

MAGGIE BOOZ: On the dimensional form.

JOE RONAYNE: I think it's something in the order of like one point

something feet.

MAGGIE BOOZ: 1.5 feet maybe. The porches we can enclose up to the point where they are with -- are satisfying the side yard setback. The side yard setback requirement is 7.5 feet. We're at 6.2 feet. So the only part of the Special Permit -- the only part of the enclosure of the porches that's required to have a Special Permit is the first 1.3 feet of it. So, what that does to the interior of the building is visible right here (indicating). We have an existing stair coming down from the second floor to the first floor. It comes right here (indicating). We would --

TAD HEUER: (Inaudible.)

MAGGIE BOOZ: Existing. We would be allowed to enclose all of this porch except for the first 1.3 feet of it.

TAD HEUER: Right. But you wouldn't want to because that's why you're

here for the Special Permit.

MAGGIE BOOZ: Well, we couldn't because we couldn't then access the stair from this mud room we want to make.

TAD HEUER: Right.

MAGGIE BOOZ: So, we could do it, but it would screw up the plans basically.

JOE RONAYNE: Ultimately we also would not have the ability to make a handicap accessible hallway in that space.

MIREYA NADAL: You're talking about the other one.

JOE RONAYNE: Right, from the first floor unit.

MAGGIE BOOZ: Well, no, actually the hallway remains. But the stair we wouldn't be able to access from here (indicating).

So what we're asking for relief of is just this wall (indicating).

TAD HEUER: Sure.

MAGGIE BOOZ: Do you know what I

mean?

TAD HEUER: I understand entirely. I mean, everyone comes asking for just a little bit of relief. And I just -- given what would happen to the rest of the massing, it's not that you need a foot and an inch. It's that you want to enclose the porch that's much bigger. I mean, I understand -- I understand exactly where you're going.

MAGGIE BOOZ: Okay.

MIREYA NADAL: But what she's saying is -- because we've talked about this possibility is that back porch may end up to enclosed to a certain point so that the alternative would be to have our door be open. Have the door to the mud room just be off to the left. Have you go off to the mud room and do all this stuff and then go into the door. So it doesn't necessarily block the enclosing of all of that space, because we can enclose some of

it. And it all has to be rebuilt and it is rotting, and so we'd actually rather make it usable space. So then it ends up just looking funnier because it doesn't go all the way to the edge.

MAGGIE BOOZ: I think he understands.

TAD HEUER: Oh, I understand what you can do by right, and I understand what we're allowed to grant you by Special Permit.

DOUGLAS MYERS: I want to speak to this issue. I don't know what other members of the Board are thinking, but I would just want to state my opinion, that I'm really quite untroubled by the proposal to close in the back porches. These are very unsightly tenement style porches that are on a facade of the bidding that are unmistakably a rear part of the building. And I don't think the massing -- I'm not troubled by the massing

because there's considerable open space around the garage. The garage is going to maintain in its present proportion, and I don't think the garage screens those porches from the neighbor, but it certainly screens it from the street. The combination of the low garage and the considerable open space plus the rear aspect of the building goes a long way to persuade me that it's not too much massing enclosing the porches.

TAD HEUER: This is a one-story garage; is that right?

MAGGIE BOOZ: It is, yes.

TAD HEUER: And I guess my response to that is that the porch will rise significantly above the garage. The problems that I have of the massing provide, obviously the vegetation that's on that back line which abuts Vassar Lane.

MAGGIE BOOZ: We tried to keep the porch obviously -- as many people do when

they enclose things, is trying to, you know, trying to keep it as glassy as possible. It's not a big box up there. It's trying to make a glassy rear room out of -- and, you know, not with storm windows either. You know, with proper windows and proper structure and the quality of the work that we've been proceeding with so far.

CONSTANTINE ALEXANDER: Speaking for myself, I strongly support what Doug has said.

TIM HUGHES: So am I for that matter. And if we can get Tom on board, we can stop this dialogue and pass this thing forward and get on with this night.

TAD HEUER: I'm just stating that I'm very much opposed to it.

MAGGIE BOOZ: I'm just stating --

CONSTANTINE ALEXANDER: Okay. I think we're ready for a vote.

THOMAS SCOTT: I'm in favor.

CONSTANTINE ALEXANDER: Okay.
We'll do it formally. As Ms. Booz knows, when we grant relief, if we grant relief, we haven't had a vote yet, we do it that the work proceed in accordance with certain plans. I have two sets of plans here. And I want to make sure I have the right set of plans that you're going to work with.

MAGGIE BOOZ: One for the Special Permit, and one for the --

CONSTANTINE ALEXANDER: Okay. Is that it?

MAGGIE BOOZ: Yes.

CONSTANTINE ALEXANDER: So these A-3.0?

MAGGIE BOOZ: Uh-huh.

CONSTANTINE ALEXANDER: And following?

MAGGIE BOOZ: Uh-huh.

CONSTANTINE ALEXANDER: And the other one is A-F.0 and following?

MAGGIE BOOZ: Yes, that's correct.

CONSTANTINE ALEXANDER: Okay.

Let's start then.

The Chair will move first to grant a variance to the petitioners to construct two wide gable dormers on the third floor of the house to accommodate a stair and bathroom and to raise a ridge height of an existing opposing gable.

The variance will be granted on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. Such hardship being that they are now subject to FAR that they can't use, particularly with the third floor. And the gables will one, make the house more usable. And two, will allow the accommodation of a stair which will make FAR that's not now really very usable to be usable.

That the hardship is owing to

circumstances relating to the shape of the house. The structure is a large structure. It is -- it is non-conforming now and -- but it is somewhat unusual. The only way we can do what you want to do is by granting the relief you're seeking, and that the relief may be granted without substantial detriment to the public good.

The relief, in fact, is quite modest in nature in terms of the expansion of the FAR. At this point there is no neighborhood opposition to the petition.

And further, that as I mentioned before, it would allow this building to be better used by the occupants current and future.

The variance will be granted on the condition that the plans proceed in accordance with -- these are the ones, right? Which are the ones for the variance? Is it this one?

MAGGIE BOOZ: Yeah, I think these

are for the variance.

CONSTANTINE ALEXANDER: I think that's for the variance.

MAGGIE BOOZ: Uh-huh, yep.

CONSTANTINE ALEXANDER: On the condition that the work proceed in accordance with plans prepared by Smart Architecture, and they are numbered A-X.0, A-X.1, A-X.2, A-X.3, A-X.4, A-X.5, and A-X.6. The Chair having initialed the first of these various pages.

On that basis the Chair moves that the variance be granted. All those in favor, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Scott, Myers, Heuer.)

CONSTANTINE ALEXANDER: Variance granted.

The Chair now moves that a Special

Permit be granted to the petitioners to enclose a pre-existing non-conforming two-story porch to make a mud room on the first floor and a study on the second floor and to make window changes in the setback.

The Special Permit would be granted on the basis that you currently cannot meet the requirements of the ordinance that you want to accomplish the work that you're seeking to accomplish.

That what you're seeking to do will not increase -- will not cause congestion, hazard or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses would not be affected by the work you're proposing to do as subject to the Special Permit. And that you would not create any nuisance or hazard by virtue of doing what you want to do to the detriment of the health, safety

and/or welfare of the occupants or the citizens of the city.

And that the proposed work would not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the ordinance.

The Special Permit would be granted on the condition that the work proceed in accordance with plans prepared by Smart Architecture numbered A-3.0, A-3.1, A-3.2, A-3.3, A-7.1, and A-7.2, and A-7.3.

All those in favor of granting the Special Permit on this basis, please say "Aye."

(Aye.)

(Alexander, Hughes, Scott, Myers.)

CONSTANTINE ALEXANDER: Four in favor.

Opposed?

(Show of hand.)

CONSTANTINE ALEXANDER: One. One

opposed. Motion is carried.

(Heuer.)

MAGGIE BOOZ: Thank you so much.

(Whereupon, a discussion was
held off the record.)

(8:00 P.M.)

(Sitting Members: Constantine Alexander,
Brendan Sullivan, Thoms Scott, Douglas
Myers, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 9785, 132 Antrim
Street, apartment No. 2. Please come

forward.

And for purposes of this case, the members of the Board sitting are Brendan Sullivan, Tom Scott, myself as Chair, Tad Heuer and Doug Myers.

Please identify yourself for the record.

KATHARINA VON HAMMERSTEIN: My name is Katharina, K-a-t-h-a-r-i-n-a. Last name Von Hammerstein, V as in Victoria -o-n space H-a-m-m-e-r-s-t-e-i-n. I'm here for the continuance of the case 132 Antrim Street and I am sitting in for my husband who has been called away to his sick father.

CONSTANTINE ALEXANDER: Sorry to hear that.

KATHARINA VON HAMMERSTEIN: And also I heard two hours ago that my architect will also not be here because he was taken to the hospital. So here I am at your mercy.

CONSTANTINE ALEXANDER: This is a dangerous petition you're putting before us.

KATHARINA VON HAMMERSTEIN: Yes. So you have heard this case on May 14th. Would you like me to go over all the items or would you like me to start where the open question was left last time?

CONSTANTINE ALEXANDER: I want to start with the plans. There's all kinds of plans floating around these files that we're going to be asked to approve.

KATHARINA VON HAMMERSTEIN: Okay. You have big, bulky plans, I think. I brought you some smaller ones which may be a little easier --

CONSTANTINE ALEXANDER: As long as it's the same information, that's fine.

KATHARINA VON HAMMERSTEIN: Unfortunately I have only four if that is okay. And the front piece is just a sketch to come to that question that was

left open last time.

CONSTANTINE ALEXANDER: Just explain that a little bit?

KATHARINA VON HAMMERSTEIN: Sure.

CONSTANTINE ALEXANDER: You're talking about this obviously? The front page.

KATHARINA VON HAMMERSTEIN: Yes.

CONSTANTINE ALEXANDER: And what's it --

KATHARINA VON HAMMERSTEIN: The question that was left open last time was the size of the access area to the AC compressor on the roof of the second floor, the -- yeah, the roof on top of the second floor. That was the question that was left open. I believe the other items had been discussed but I'm happy to go over that if you would like me to.

The revised plans now are to be seen on A2, A3 and A4. And my husband has sent you a letter saying: I'm filing a revised

plan for the second floor deck at my home. The plan is consistent with the suggestions made at the hearing on May 14th by several members and represents about half the area of the deck as originally proposed.

That means that we have decreased -- reduced the area around the AC compressor as much as possible which still will allow for maintenance but is not, you know, the big --

CONSTANTINE ALEXANDER: As I see this now, you have if you will, the compressor somewhat in the middle of the deck so that --

KATHARINA VON HAMMERSTEIN: Which it is. It's kind of smack in the middle.

CONSTANTINE ALEXANDER: In the middle. So the area right around the air conditioner compressor is not likely not to be used for recreational purposes. So, it's really from one side to the lot to

the other end of the deck.

Do you have any idea what size that is?

KATHARINA VON HAMMERSTEIN: The compressor?

CONSTANTINE ALEXANDER: No. The deck that's going to be useable. I guess it's going to be four-feet, eight-inches by -- I can't tell.

KATHARINA VON HAMMERSTEIN: About 13 and then you have to take out the period -- the piece that is the dormer --

CONSTANTINE ALEXANDER: Right.

KATHARINA VON HAMMERSTEIN: -- coming out.

CONSTANTINE ALEXANDER: Right, right.

KATHARINA VON HAMMERSTEIN: And the compressor in the middle.

CONSTANTINE ALEXANDER: Okay.

KATHARINA VON HAMMERSTEIN: It's on the near side of the chimney to the

edge of the property which is literally adjacent to the neighboring house.

CONSTANTINE ALEXANDER: The questions for you -- excuse me.

KATHARINA VON HAMMERSTEIN: As to the sketch, the dotted line is just to let you know what would be four feet around the compressor. Four feet would be kind of what you would need if you were repairing it, if you were doing maintenance. So just that is -- would be sort of four feet. So what this area now comprises is maintenance area.

CONSTANTINE ALEXANDER: Yes.

A question for Mr. O'Grady. Are these plans sufficient for your purposes? Are they sufficiently detailed if we were to approve this petition on the basis of these plans?

KATHARINA VON HAMMERSTEIN: I think we submitted bigger ones....

CONSTANTINE ALEXANDER: I just

want to make sure.

SEAN O'GRADY: (Looking over plans.)

KATHARINA VON HAMMERSTEIN: The deck piece is on 18, page 18.

SEAN O'GRADY: I'm on 18.

KATHARINA VON HAMMERSTEIN: So it's this piece.

CONSTANTINE ALEXANDER: We also have the old plans with the dormer. It shows it, but we have a dimensions? I'm just trying to avoid, if we grant relief, avoid problems down the road.

KATHARINA VON HAMMERSTEIN: 4.9 for the dormer.

SEAN O'GRADY: Yes, those are good enough.

CONSTANTINE ALEXANDER: They're good enough?

SEAN O'GRADY: Yes. I mean, they would have to be flushed out a little bit but we can follow along -- thank you for

asking.

CONSTANTINE ALEXANDER: I'm sorry. I didn't mean to interrupt. Continue if you have anything else to say.

KATHARINA VON HAMMERSTEIN: I have plenty to say. But I'm not sure what it is that you want to hear. This was the question that was left open the last time.

TAD HEUER: I think the last time we had agreed that the -- if I remember it correctly, that the fire escape was an issue that we all were willing to go ahead on, and had the deck issue been resolved in the last set it would not have been an issue at all. That we were willing to grant relief there. So I don't believe that --

CONSTANTINE ALEXANDER: I think that's right. I think everything else -- and the problem we had before was concern as we have in many cases before us about roof decks and the invasion of privacy of

neighbors. And this was going to be originally a very large roof deck. You've shrunk the roof deck in size. You've moved it off really, if you will, to one side which I think helps a little bit. And I think the other point that was driven home was that as of right, you could have built it almost as big a roof deck on the other side.

KATHARINA VON HAMMERSTEIN: On the other side, yeah.

CONSTANTINE ALEXANDER: To me that mitigates a bit the concerns of privacy. That's just speaking for myself.

Other comments?

Anyone here wishes to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

Discussion or are we ready for a vote? Ready for a vote.

The Chair moves to grant the petitioner a variance to construct a new fire escape on the rear of the building and dormer and roof deck.

The variance would be granted on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. A hardship would involve safety issues in terms of the need for a fire escape and otherwise with regard to the use of the building, that the hardship is owing to circumstances relating to basically the location of the structure on the lot. And that granting relief will not be a substantial detriment to the public good.

On the basis that what the petitioner proposing in terms of a roof deck is otherwise greatly less than what was originally proposed. What has been proposed has received no opposition from the neighbors. And that as I said before,

that the petition will increase the safety of the building by allowing a stairwell, and a dormer is a necessary part of that for rear egress.

The variance would be granted on the condition that the work proceed in accordance with three page -- four pages of plans submitted by the petitioner and initialed by the Chair.

All those in favor of granting the variance on the basis proposed, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Myers, Scott, Heuer.)

(Whereupon, a discussion was held off the record.)

(8:10 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9796, 42-58 Willow Street.

Anyone here wishes to be heard on that petition?

For the record, Tom Scott is not sitting on this case. The other five members are the Board.

Before we start, one point, I take it you're coming -- it's my understanding you're coming before us with revised plans?

AHMED IDRIS: Correct.

CONSTANTINE ALEXANDER: Different plans from what we saw last time.

Now, typically, not typically. We do require as a matter of our rules that any revised plans, substantially revised plans, be submitted to the Zoning office at least seventy -- by five p.m. on the Monday before the hearing. The purpose of that is a matter of fairness. Fairness for members of the Board so we have time to consider revised plans, and fairness to the community so if interested, people can come and look at the file. I understand that you didn't do that this time. Best that I can recall, I didn't warn you, that's my fault. You had to have the plans in by Monday five p.m. No. 1.

No. 2, if we do continue this case further because the plans were not in, we're going to holding the case back to September because Doug is not available

from tonight until September.

And lastly, this case has received at least the last time substantial neighborhood interest. So I've got to assume that the neighbors are not being surprised by what you're going to do, or they'll have an opportunity to see the plans tonight. So on that basis I am prepared to go forward tonight as opposed to requiring this case to be continued.

Are there members of the Board who feel differently?

BRENDAN SULLIVAN: No, that's fine.

DOUGLAS MYERS: No.

CONSTANTINE ALEXANDER: Okay. Then we'll proceed I just wanted to put that on the record.

So, why don't you start by telling us -- last time you were here you had six windows and three buildings. We had a lot of neighborhood interest and opposition.

Are you back with six windows or the six same windows?

AHMED IDRIS: No, we changed --

CONSTANTINE ALEXANDER: Oh, I'm sorry, for the record, I should have told you, please give your name and address.

AHMED IDRIS: I'm the architect. Ahmed Idris.

TERRY DUMAS: Terry Dumas from Cambridge Housing.

BILL EWALL: And Bill Ewall from Cambridge Housing.

CONSTANTINE ALEXANDER: And by the way, before we start it, if there's anyone here that's interested in this petition and can't see the plans, please feel free to come forward. We're not trying to hide anything from anybody.

BILL EWALL: The last time we were here we went and caucus with a number of people from the neighborhood in that room over there and we came close to an

agreement. The neighbors objected to two things mostly, and those were privacy issues by having new windows, although they maybe didn't face directly across from them which as we assumed they did have views towards them. The second was noise problems. That additional windows caused noise.

We came up with a compromise we thought was quite reasonable which was to replace all three windows with fixed -- small fixed windows set high enough that residents basically could not see through. So there's a picture of sort of what we propose. We actually had the contractor install plywood squares up on the building in the size --

TERRY DUMAS: Why don't we put it here.

BILL EWALL: The size of the plywood would be the size of the glass. We're talking a single fixed window that

does not open.

CONSTANTINE ALEXANDER: You're still keeping six windows --

BILL EWALL: Yes.

CONSTANTINE ALEXANDER: -- smaller in nature.

BILL EWALL: Smaller.

CONSTANTINE ALEXANDER: They don't open.

BILL EWALL: Yes.

CONSTANTINE ALEXANDER: And before two of the six were for stairwells.

BILL EWALL: That's right.

CONSTANTINE ALEXANDER: And the other four were for residents?

BILL EWALL: For bedrooms.

CONSTANTINE ALEXANDER: For bedrooms?

BILL EWALL: Yes.

CONSTANTINE ALEXANDER: Still the same. But the ones that are going to be for the bedrooms, you cannot open them

now?

BILL EWALL: None of them open now. We made that compromise. We thought it was more than reasonable. And that's what we've offered.

CONSTANTINE ALEXANDER: Well, the not opening deals with maybe issues of noise, it doesn't deal with issues of visual.

BILL EWALL: Well, what we thought was -- and here's the demonstration of how high -- we put them up as high as possible. So if you're worried about neighbors viewing you, that's not very likely now.

TAD HEUER: What's the height from the floor to the --

BILL EWALL: Five-foot-eleven. So if you're 6-6 you can see through there. But my eyes are five-foot-eleven.

We met with the neighbors at the site on Monday.

CONSTANTINE ALEXANDER: I'm sure we'll hear from the neighbors.

BILL EWALL: I'm just saying these pieces of plywood were installed so they can see.

CONSTANTINE ALEXANDER: Okay.

BILL EWALL: So that was what we proposed.

CONSTANTINE ALEXANDER: And by the way, just for the record, those are the plans that are attached to this letter of June 24th? I mean, it's the same photographs right here and it's two pages of plans?

BILL EWALL: Yes.

CONSTANTINE ALEXANDER: Are they up there on the Board?

AHMED IDRIS: Same plans. These are revised elevations and this is revised section showing the average height.

TAD HEUER: And the dotted red line outlining the windows, those would

be --

AHMED IDRIS: Those would be additional windows.

TERRY DUMAS: Proposed three windows.

TAD HEUER: So the window over the stairwell of the hallway is going to be larger. The windows in the apartments are going to be smaller.

AHMED IDRIS: Actually, these all small.

TAD HEUER: As they were before? As to their relative, relative to where they were before, the hallway is a bit larger, the rooms are a bit smaller?

AHMED IDRIS: They're all smaller. The hallway previous to this in the stairs are about the same size.

TAD HEUER: What's the red dotted line and what's the black line because they're different sizes?

BILL EWALL: The red dotted line

just calls attention to what's changed.

CONSTANTINE ALEXANDER: I thought the last time around the hallway window, which is the one in the middle, was smaller in size than the other two. Am I wrong?

AHMED IDRIS: No, it was.

CONSTANTINE ALEXANDER: Okay. But now it looks like it's all the same size.

AHMED IDRIS: Correct. He was asking whether this window got larger.

TAD HEUER: Right. Usually dotted lines will indicate the difference from a previous.

BILL EWALL: Right. He just did it for a highlight.

AHMED IDRIS: This was the previous. So it was larger. So they're all small now.

TAD HEUER: And this is also being elevated from its previous locations; is that right?

AHMED IDRIS: Yes. We elevated it to line up with the windows.

CONSTANTINE ALEXANDER: Is that it? I mean --

BILL EWALL: That's it.

TERRY DUMAS: Yes.

CONSTANTINE ALEXANDER: Okay. I think I'll open this matter up to public comment.

Is there anyone who wishes to be heard on this matter?

RUDY BELLIARDI: Yes.

CONSTANTINE ALEXANDER: Oh, really. Go ahead.

RUDY BELLIARDI: Rudy Belliardi, 195 Webster Ave. Carmela Pucci could not be here. She was with us before. And she wrote this. If you could please.

CONSTANTINE ALEXANDER: I'll read it into the public record. Do you want me to do it now or do you want to finish your remarks?

RUDY BELLIARDI: You can do it now.

CONSTANTINE ALEXANDER: Okay.

We have a letter from Carmela Pucci, P-u-c-c-i at 11 Lincoln Street. We might be interested to know where 11 Lincoln Street is on that plan.

TERRY DUMAS: If you look at --

CONSTANTINE ALEXANDER: How about look at --

RUDY BELLIARDI: It is the one that faces --

CONSTANTINE ALEXANDER: Yes, I can see. Thank you. Okay.

"I reside at 11 Lincoln Street facing the Willow Street apartments in question. I was present at the last meeting concerning these windows. But unfortunately I am unable to attend tonight due to a prior engagement. I'm actually a bit confused as to why there was another meeting on this matter

considering Cambridge Housing Authority agreed to place only thin high windows on just the far side of the property by Willow Street. However, I am hearing otherwise. There has also been some work done on the sides of the apartments already which serves to support the abuse of power that is being played here. I thought my voice was heard when I stated that if more windows were placed on the near side of the Willow Street property, then my privacy would be compromised. I pointed out my home on the map and I described the problem. Mr. Belliardi even has photographs to prove my case. The only window my mother and I can open at this point is that window facing the Willow Street property. We should have our rights to privacy as well. We own the home we live in and yet have no privacy at all. We deserve to be able to open that window without worrying about noise,

lights well into the night, and people looking in on our private time. We had many cases of broken and summarily patched windows on that property for long periods of time. With all due respect to CHA they are not the ones who live in that area. We do, and we will be the only ones suffering the consequences. I hope that the voices of concern from the residents are taken into account and that care is handled when the decision is finally handed down. Thank you for time in this matter."

RUDY BELLIARDI: Yeah, she's referring to these pictures. This is the picture taken from the window on the first floor.

CONSTANTINE ALEXANDER: These are the ones you gave us last time?

RUDY BELLIARDI: No. This is from her window. From the side.

CONSTANTINE ALEXANDER: Yes,

didn't you show us these?

RUDY BELLIARDI: No. I didn't have it. This is --

CONSTANTINE ALEXANDER: Excuse me, where --

RUDY BELLIARDI: This is the first floor looking --

CONSTANTINE ALEXANDER: And that wall is the --

RUDY BELLIARDI: This wall is what she faces now.

CONSTANTINE ALEXANDER: And on that wall there's no windows now.

RUDY BELLIARDI: No windows now.

CONSTANTINE ALEXANDER: And there will be three windows?

TERRY DUMAS: Yes.

CONSTANTINE ALEXANDER: She'll see all three?

RUDY BELLIARDI: Yes.

CONSTANTINE ALEXANDER: She will see all three windows?

RUDY BELLIARDI: Sorry?

TERRY DUMAS: This is not directly under her window but the corner -- it's as close as we can get from the neighbor's property here. And she looks through here. So from the vantage point it looks like these two windows are visible.

CONSTANTINE ALEXANDER: That's what I thought.

RUDY BELLIARDI: And from upstairs is the same thing. I would like to point out that these are really the only windows that privacy in the old house, because there is very little setback and all the other sides are taken. So they are the only windows they can open. And at the same time she's making a comment which is varied. These are windows that have been broken. I would say this one has been broken for two years. Of course it will be fixed now. But it's had paper and plastic for like two years. And they can

confirm. This one has also been broken for a long time.

CONSTANTINE ALEXANDER: Okay. Maintenance of the windows is not an issue, you know --

RUDY BELLIARDI: No, no, yeah, I know. But the issue is this: If they are broken, if an air conditioning is put there, whatever, the time frame is going to be likely the same. It happened before. And we did -- we did reach an agreement indeed as she's saying with the letter there. This agreement was short lived because after she left, they took the agreement back. So the agreement was that the first building, the near building would not have had any windows.

CONSTANTINE ALEXANDER: I don't want to go into what was agreed or might have been agreed. The question is this is what's before us tonight, and your views are you're not in favor of the what's

being proposed tonight.

RUDY BELLIARDI: On the building, no.

Indeed what we say is this: If there were windows there, given the setback on both side is so small and you can see from here, probably these windows, they should be taken off, because it is a benefit for both development with some separation, noise and so on. There is an another lady that she's elder, she's an elderly -- she would have been here. Just this afternoon she got so upset for two hours of loud music and she's under the -- I don't know where she is. But anyway, the issue is this, this side is actually a benefit to the property. The reason there are no windows there is not accidental. This development, we have been told that something similar was already done like ten years ago. It is now a 2.3 millions again. And if they didn't have, if they

had windows, probably they should put them for both sides. It is an improvement to have privacy for both sides. By doing that they are destroying the privacy besides our privacy as well.

CONSTANTINE ALEXANDER: And your comment to the fact that the windows cannot be opened which is designed to deal with the noise intrusion, and there are other further comment -- let me -- and the second change they're making is they've raised the height of the windows. Which they're saying that unless you're rather tall, you can't look through that window and peer into the neighbor's property. So those two -- that's their attempt to deal with the privacy concerns you expressed before. I'd like to hear your views in response to that.

RUDY BELLIARDI: Well, there are basically four things floating around. One is the see through that is varied as

long as the window's up there, right?

CONSTANTINE ALEXANDER: Right.

RUDY BELLIARDI: The second one is the noise, is the noise abatement. The noise is it is clearly less if there is a wall as opposed to opening a window. The third thing is that light at night, we think it is more the light that these windows would generate toward the outside late night, that the light is going to bring in. Because the reason there is no light there is not the absence of windows. It is that it is in a canyon this place, it's very narrow. And there are very, very tall ceilings, three buildings everywhere. There are three, three-story buildings very narrow. So we can propose actually something else. You said why don't you put skylights? They would indeed -- that would solve every problem. And what I would like to say is this: They did ask us to be there. As you see

we are there. Now, we asked the tenant of the buildings, none of them were notified again. We spoke with them this morning. We think it is disrespectful because they do live there and I grant you, they don't like it. Because they have some privacy now. They are gonna lose this privacy. The other issue is indeed, they are saying that they already bought the windows. Well, now it seems contradictory because now they are changing windows.

CONSTANTINE ALEXANDER: Whether they bought the windows or not is not relevant to us. Let's stop that one.

RUDY BELLIARDI: So that should not be relevant.

CONSTANTINE ALEXANDER: It's not relevant, you're right.

RUDY BELLIARDI: As I said before, there are several people that have never been heard and they will never be heard. They weren't even notified.

CONSTANTINE ALEXANDER: Okay.

RUDY BELLIARDI: I have some other points. I don't know if you want me to make them.

CONSTANTINE ALEXANDER: If they're new points that we haven't heard before, fine. If you're just going to repeat things that we've heard.

RUDY BELLIARDI: No. I would never repeat for sure. Just let me review -- well, yeah, we -- we do have situations where we feel like there are several organizations that are ruining the block because --

CONSTANTINE ALEXANDER: Let's not go there. Stick to the zoning issues.

RUDY BELLIARDI: Yeah, I know.

CONSTANTINE ALEXANDER: And I know there are a big subtext here about this. But let's deal with the issues --

RUDY BELLIARDI: No, this is simply part of not notifying tenants

again. So we think that that should have been done.

And then the letter they sent us it mentions ventilation. So we are very concerned with a slippery slope that now there is a little window and then there is a window that opens and you have ventilation. How can you have ventilation if it doesn't open? It's in the letter.

We are not confident, we feel like we are on the short end of the stick.

CONSTANTINE ALEXANDER: Okay.

RUDY: I think I -- I have other things but probably you would say that they don't matter and I'm not going to bring them up.

CONSTANTINE ALEXANDER: We're only here about the Zoning issues.

RUDY BELLIARDI: Yes, the Zoning issue is typically -- it is just a dense place that's what it is.

CONSTANTINE ALEXANDER: You made

that point very well and often. I don't mean to cut you short but we have a long night ahead of us.

RUDY BELLIARDI: You're not cutting me. It's noise and privacy is very important to us.

CONSTANTINE ALEXANDER: Anyone else here wishes to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one else wishes to be heard. I don't think there's any new letters on the file. I don't see how there could be because the plans just came in on the 24th of June.

Discussion by members of the Board.
Starting with you, Tim.

TIM HUGHES: What about skylights?

BILL EWALL: We have used skylights in the past and we find that they're not reliable in terms of leaks.

We experience lots of leaks on flat roofs with skylights.

TIM HUGHES: Maybe you should just hire better contractors.

BILL EWALL: We're limited by the public bid law. We don't get to choose who we hire. But we have a number skylights and have basically taken them out. And it's a concrete slab, it's a big deal to put skylights there.

TAD HEUER: What about the air conditioner question?

BILL EWALL: You can't put air conditioners in fixed windows.

TAD HEUER: You couldn't jury rig it to get one in if you really wanted one? Are these central air?

BILL EWALL: No. No, no, no. People use window air conditioners. But these are fixed windows. They're not windows we can take out.

CONSTANTINE ALEXANDER: And air

conditioning would create another noise issue. You can say noise of opening windows, but you're still going to have the hum of an air conditioner. And we're talking about a dense area. I'm not sure air conditioners would solve the problem anyway. At least for me.

BILL EWALL: I maybe misunderstood.

TAD HEUER: No.

TERRY DUMAS: But these rooms do have a double hung window and where somebody wants to put an air conditioner in, it will be in that standard location. There's an outlet there for it.

TAD HEUER: And what about ventilation?

RUDY BELLIARDI: Could I just say one thing?

CONSTANTINE ALEXANDER: Sir, no, you've had your opportunity, no.

FEMALE AUDIENCE MEMBER: They're

bringing up new points.

CONSTANTINE ALEXANDER: If we open it up to public testimony, I will. But right now....

TAD HEUER: What about the ventilation question? It's been represented that the reason that you want to have additional windows was for ventilation purposes. If they're closed windows and they're not ventilation, is that accurate, not accurate?

TERRY DUMAS: The that letter we said originally our proposal here was to put in the double hung windows because we wanted additional light and ventilation. Right? We backed off that because people were upset with that because of the noise -- potential noise factor. So now we're just after the light with these fixed windows.

CONSTANTINE ALEXANDER: Doug, you want to be heard or anything?

DOUGLAS MYERS: No, I'm satisfied as long as the motion is clear that these are fixed windows that do not open, I'm satisfied.

CONSTANTINE ALEXANDER: Brendan?

BRENDAN SULLIVAN: It's really an attempt to create a brighter room without having to turn the lights on?

BILL EWALL: Yes.

TERRY DUMAS: Yes.

BRENDAN SULLIVAN: I have no problem with the proposal.

CONSTANTINE ALEXANDER: Ready for a vote? You handed something over.

RUDY BELLIARDI: Yes, I gave that letter, it's the recent one, that says ventilation after they proposed the new windows not with the old one. That's for the new ones. And the other thing that --

CONSTANTINE ALEXANDER: Okay. I'm sorry. I did cut-off public testimony. You had your opportunity to speak. I

was --

RUDY BELLIARDI: It's one solution that I missed. It is opening inside that will give light because those rooms they are ready (inaudible).

CONSTANTINE ALEXANDER: Thank you. I'm going to make a motion.

The Chair moves to grant a Special Permit to the petitioner to erect or construct six windows on the property. The work all as shown in their petition and identified on two sets of plans. One dated or numbered I should say A3.2, and the other A9.1. Both have been prepared by Baker Wohl, W-o-h-l Architects, and initialed by the Chair.

The Special Permit would be granted on the grounds that the work as proposed would not cause congestion, hazard -- excuse me, or substantial change in established neighborhood character.

That the continued operation of

adjacent uses would not be adversely affected by what is being proposed to be done.

That the continued operation or development of adjacent uses would not be adversely affected if these windows are permitted. And that there would be no nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupants of the structure or the citizens of the city.

And that otherwise the proposed windows would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance.

The Special Permit would be granted on the basis that the work proceed in accordance with the plans previously identified, the two in nature, and initialed by the Chair.

And further, that these windows

would be such that they would not be openable. That they would be -- and there would be nothing protruding from them, including air conditioning units.

And further that to the extent that the glass in the windows is broken, that they would be promptly repaired.

Any other conditions to the motion?

TIM HUGHES: Did you comment on the size? Did you already make that?

CONSTANTINE ALEXANDER: I said they're in accordance with the plans.

TIM HUGHES: Are they to scale on the plans?

CONSTANTINE ALEXANDER: They are to scale.

MALE AUDIENCE MEMBER: Well, they bought them. Don't they know what the sizes are?

TIM HUGHES: Well, I don't know whether they do but I don't.

RUDY BELLIARDI: Will they be see

through or opaque?

CONSTANTINE ALEXANDER: If the motion passes, Sean, would you be happy this?

SEAN O'GRADY: Yes. You know, they would go by scale.

RUDY BELLIARDI: Opaque, glass?

TERRY DUMAS: Two-feet by 1.6.

CONSTANTINE ALEXANDER: The size of the windows are two-feet by one-foot, six.

And the motion would be further amended to say the glass portion of these windows would be no more than, sorry, two-feet by 1.6? Did I get it right?

All those in favor of granting a Special Permit on the basis of the motion I just made, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Raise your hands. 1, 2, 3, 4, four in favor.

(Hughes, Sullivan, Myers, Heuer.)

CONSTANTINE ALEXANDER: All those opposed?

(Show of hand.)

CONSTANTINE ALEXANDER: The Chair should be recorded as being opposed. Four votes being obtained. The Special Permit has been granted on the basis of the conditions that I specified.

RUDY BELLIARDI: Could we ask if these windows are opaque? The glass is opaque?

CONSTANTINE ALEXANDER: I'm sorry?

RUDY BELLIARDI: Is the glass opaque or not see through?

CONSTANTINE ALEXANDER: Well, the motion has been made and we've taken a vote.

RUDY BELLIARDI: Yeah, but it's -- I'm understanding.

CONSTANTINE ALEXANDER: Sir, we want to move on. There's no requirement that the glass has to be opaque. It can

be clear. Never during your presentation did you suggest to us that you -- if you're going to allow relief, you should have an opaque window. You can't now raise it after we've taken the vote. The case is over.

RUDY BELLIARDI: We thought it was implicit.

CONSTANTINE ALEXANDER: The case is over.

(Whereupon, a discussion was held off the record.)

(8:30 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9775, Four Forest Street. The Chair will note by the way, that's a continued case and then we have also on our regular agenda a case involving the same premises, Four Forest Street, case No. 9802. And I'm going to suggest that we're going to take the case that's on the regular agenda first because I think how that case gets disposable makes the other one mute.

So please come forward.

DAVID KINSELLA: I'd like to submit the drawings.

CONSTANTINE ALEXANDER: What are you handing us if I may ask?

DAVID KINSELLA: These are

additional drawings.

CONSTANTINE ALEXANDER: Additional drawings?

DAVID KINSELLA: Yeah, they just show the -- the compare the -- I put them in a format that compares the present structure to the proposed.

CONSTANTINE ALEXANDER: Before we get into the merits of this case -- I'm sorry, did you give your name for the record?

DAVID KINSELLA: Not yet. I'm David Kinsella. I'm with T&C Architects.

CONSTANTINE ALEXANDER: Okay.

DAVID KINSELLA: I'm representing Kanan Makiya and his family.

KANAN MAKIYA: That's myself, Kanan Makiya, I'm the owner of the property, Four Forest Street.

CONSTANTINE ALEXANDER: Let me say at the outset, I had some issues with the plans that we had in the file. And I

don't think you solved the issue by coming in tonight and handing us plans.

DAVID KINSELLA: Sure.

CONSTANTINE ALEXANDER: As I mentioned, maybe you weren't here earlier, we have a rule that any changes to plans or new plans have to be submitted at least 72 hours before the hearing.

DAVID KINSELLA: Okay.

CONSTANTINE ALEXANDER: So that we have a chance, members of this Board spend time before the hearing reviewing the files, and also it allows the neighbors or other interested parties to see the plans to decide whether they have any problems. So, I'm troubled, I'm greatly troubled by having new plans tonight and dealing with plans that were not adequate in the first place. And I'd wonder whether this case shouldn't be continued to allow us to consider these plans.

DAVID KINSELLA: These plans are

just copies for your personal -- they're not -- there have been no changes.

CONSTANTINE ALEXANDER: I don't mean to be difficult. On the other hand, I think the plans we've had not been as -- in my mind has not been illuminating enough or sufficient to allow me to understand exactly what you want to do and the impact on the neighborhood. But other members of the Board, how do you feel?

BRENDAN SULLIVAN: Well, here's my comment, when I reviewed it is that they were woefully lacking in dimensions. And I would need to see dimensions of the proposed dormers in relationship to the rooms and the other schematics of the floor plans. But for us in order to grant relief, we really need to tie -- or the relief we grant to specific dimensions that cause, that's the yard stick. That's what has to be charted.

DAVID KINSELLA: Sure.

BRENDAN SULLIVAN: So that I would like to see dimensions on any drawings that are submitted to us for our review. And because they're not on that plan, because they were not being able to be reviewed I think the suggestion to continue it so that we could really update the plans with dimensions.

DAVID KINSELLA: Could we state into the record the dimensions and be locked into the record as the sizes that we're going --

BRENDAN SULLIVAN: All that does is prolong the hearing unnecessarily.

DAVID KINSELLA: Oh, I see.

BRENDAN SULLIVAN: And then we start throwing numbers around that -- because eventually the Building Department has to enforce or to affirm what we agreed to, but we don't have to agree tonight. It really has to be a in writing. Being in writing means it has to be on the

plans.

KANAN MAKIYA: I thought we had the drawings with the numbers.

DAVID KINSELLA: I thought we did, too.

Do you not have these drawings?

TAD HEUER: This is what was with the original application.

CONSTANTINE ALEXANDER: This is what I have in the file. Is that A1.0?

DAVID KINSELLA: Yes. This is my copy that I made -- the one I submitted to the Board.

CONSTANTINE ALEXANDER: Yes, there aren't dimensions on here.

TAD HEUER: Are there --

CONSTANTINE ALEXANDER: I think that's the exterior dimensions that we're missing. The ones you need relief. You gave us dimensions to the interior.

DAVID KINSELLA: It's everything, interior and exterior.

TAD HEUER: I don't have a dimension on the dormer.

CONSTANTINE ALEXANDER: On the dormer for example?

DAVID KINSELLA: It's on the floor plan. We're doing 15-foot dormers on both sides. And if you look under right, you see seven, four and three-quarters. Seven, four and three-quarters. Three-foot-seven, there's a setback in the rear. And then on the opposite side it's the same, the 3-7 and we go to 12-5 to the back of the kitchen wall, and then the remainder is an existing dormer over the stair which makes the remainder of our 15 feet.

BRENDAN SULLIVAN: Maybe I --

DAVID KINSELLA: I made a diagram of that, also.

BRENDAN SULLIVAN: It might have been even on the original plan then. All right, I did not see that one.

CONSTANTINE ALEXANDER: And the purpose of the plan that you gave us tonight is just to --

DAVID KINSELLA: Sean asked me to bring in proposed and existing so that you would have a handout to compare. So I -- is that right, Sean?

SEAN O'GRADY: That's correct.

DAVID KINSELLA: Yes. And I also made a diagram so you can compare what we're proposing to add -- the two pieces of the -- well there's more than two pieces, but the two primary pieces.

CONSTANTINE ALEXANDER: Well, if the members of the Board are prepared to go forward --

BRENDAN SULLIVAN: Yes, I guess. I didn't see that. I'm not aware of where I pulled it out of.

CONSTANTINE ALEXANDER: These are the drawings.

(Discussion held off the record.)

BRENDAN SULLIVAN: Okay. We're all set. I apologize.

CONSTANTINE ALEXANDER: You're happy with going forward?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Tom?

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Tim and Tad, are you prepared to go forward with the plans that we have?

TIM HUGHES: Yes, sure.

DAVID KINSELLA: Thank you.

CONSTANTINE ALEXANDER: Fine. I just wanted to get that out of the way.

DAVID KINSELLA: So, what we have is a legal non-conforming two-family. It's existing, and it doesn't meet any of the dimensional setbacks as it is. We're asking one to add two 15-foot dormers to the left and right in compliance with the dormer code. And then two, we're asking to expand an existing roof deck that acts

as part of a means of egress.

CONSTANTINE ALEXANDER: Can you give me the dimensions? I know it's on the plans, but tell me what is the size of the roof deck now and how much bigger will it be in the relief you're seeking?

DAVID KINSELLA: The proposed is six feet by eight feet. And then --

CONSTANTINE ALEXANDER: That's the existing?

DAVID KINSELLA: Yes.

CONSTANTINE ALEXANDER: That's the existing.

DAVID KINSELLA: Yes.

CONSTANTINE ALEXANDER: Not the proposed, the existing?

DAVID KINSELLA: Oh, sorry.

CONSTANTINE ALEXANDER: That's okay.

DAVID KINSELLA: You got me all shaken up.

CONSTANTINE ALEXANDER: Okay.

DAVID KINSELLA: And then we have a walkway that's approximately four feet.

CONSTANTINE ALEXANDER: And this is at the second floor level?

DAVID KINSELLA: Yes. It's serving as a second means of egress for the third floor unit.

CONSTANTINE ALEXANDER: Right, right. But that looks like to me that roof deck as it now is, is basically a platform that allows --

DAVID KINSELLA: It's a second means of egress.

CONSTANTINE ALEXANDER: -- egress. Now you have a deck that's a lot more than the first deck?

DAVID KINSELLA: Correct, that's correct. It's 18-6 by 19. So it's an enlargement, there's no question.

CONSTANTINE ALEXANDER: Are you aware of the fact as a Board, we're not uniform all the time, but we do not look

on with favor on roof decks, large roof decks, particularly in congested neighborhoods. We had Antrim Street a couple of cases before.

DAVID KINSELLA: We heard it.

CONSTANTINE ALEXANDER: The issue is the size of the deck.

DAVID KINSELLA: The issue is that Kanan lives in the home and his son will live in the second unit. And so they want to provide adequate space.

CONSTANTINE ALEXANDER: I understand that. By the same token the neighbors whose privacy is going to be potentially invaded by the noise and the activity that's going to be on the deck is a problem.

DAVID KINSELLA: We have large canopies around the -- surrounding it. And he did talk to the neighbor who has the identical house and is contemplating proposing a roof deck of the same nature.

TAD HEUER: I'm sure he is.

CONSTANTINE ALEXANDER: That's exactly why we don't want to grant roof decks.

DAVID KINSELLA: I understand. You know, the other part is what I proposed to him is he has spiral stairs as the means of egress. And although they do meet the code, it's not the best way to egress of a building. It's also inconvenient. So I propose that we add this stair. It's hung off the wall down to the original lower deck.

CONSTANTINE ALEXANDER: You need a stair. How else you gonna get down?

DAVID KINSELLA: Yeah, he's got this egress here -- right now there's an existing dormer of approximately three feet over the stair to give the head room to get off. So, you know, we're not using our full 15 as we're allowed. We're getting the best benefit of our full 15.

CONSTANTINE ALEXANDER: To me, and just speaking for myself, the dormers are not an issue. I mean, you comply with the dormer guidelines. The FAR relief is relatively modest. I should say for the record is that you're going to go from .82 to .85 in a .5 district. Not a substantial amount, and you're complying with the dormer guidelines.

The deck, to me again, is another issue. The size of the deck, I should say, not the deck itself.

DAVID KINSELLA: Sure.

CONSTANTINE ALEXANDER: The size of that deck.

KANAN MAKIYA: I did speak to the neighbors on either side.

THE STENOGRAPHER: I'm sorry, I can't hear what you're saying.

CONSTANTINE ALEXANDER: Yes, you need to speak up.

KANAN MAKIYA: I spoke to the

neighbors. I fully informed them. I showed the plans to one set of neighbors, and they didn't express any objections to myself. So, you know, they didn't seem to have a problem with -- the existing neighbors. But I have no idea in the future there may be different people.

DAVID KINSELLA: Is the issue primarily noise or privacy?

CONSTANTINE ALEXANDER: It's privacy which in terms of noise, in terms of physical intrusion, people look into their windows. I mean, those are general kind of issues you heard on Willow Street but not windows, it's the size of the deck.

DAVID KINSELLA: Sure. You know, I'm sure Mr. Makiya is willing to do changes to the deck. We can put privacy screens up so you can't see the activity on the deck. You know, maybe a three-quarter railing style.

CONSTANTINE ALEXANDER: How about a smaller deck?

DAVID KINSELLA: Smaller deck?

KANAN MAKIYA: Can I make an argument for the deck?

CONSTANTINE ALEXANDER: Sure.

KANAN MAKIYA: At the moment it's a pitched roof with a very dark interior space with no external access, no method. So it's -- the idea is to give some external space to the unit and to lighten it up, and to add a little bit of space. It's about 500 square feet at the moment. We're going up about 650 at most with the extra because of the dormers. So there's a little bit of extra space. There's a lot more light which is necessary really to make it liveable. It's really an attic which is just a rabbit wall inside. And to give it some external depth, because as you correctly pointed out, the existing deck is not usable.

DAVID KINSELLA: Right.

KANAN MAKIYA: And it's a real eye sore. I mean, you can see the ugly sort of shape, the whole thing is primitive construction. We're talking about now having a proper deck that looks like a seamless part of the existing part of the house. So it would look a lot better.

DAVID KINSELLA: Another point I'd like to make is may be in favor or against us, depending on your point of view, but the lot is small and it is a legal two-family so this gives the second unit some outdoor space, recreation space.

CONSTANTINE ALEXANDER: There is a backyard, is there not?

DAVID KINSELLA: Yeah. It's a small backyard. I mean, as you pointed out about the FAR --

TAD HEUER: You also get a lot of house because you don't have a lot of backyard.

KANAN MAKIYA: Right. I think the house is deeded -- the backyard is deeded to the first unit one --

THE STENOGRAPHER: I'm sorry, I still can't hear you.

KANAN MAKIYA: Sorry. The backyard is deeded to the first unit, not to the unit two which is up above. So unit two still doesn't have a backyard. It doesn't have any external space.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

BRENDAN SULLIVAN: If I can just come back to the beginning a little bit. On the first floor is your living quarters now. So there's a kitchen down on the first floor, living room, dining room; is that correct?

KANAN MAKIYA: Yes.

BRENDAN SULLIVAN: Okay. Second floor, what's on there now?

KANAN MAKIYA: Bedrooms.

BRENDAN SULLIVAN: Just bedrooms?

KANAN MAKIYA: And a bathroom.

BRENDAN SULLIVAN: Sorry?

KANAN MAKIYA: And a bathroom.

BRENDAN SULLIVAN: Okay, the third floor which is now -- there's no kitchen up there right now.

DAVID KINSELLA: There is a kitchen.

KANAN MAKIYA: There is a ranch kitchen right now.

BRENDAN SULLIVAN: So what you're doing is you're flipping the bathroom and you're adding a legitimate kitchen, if you will, on the top floor?

DAVID KINSELLA: He has a kitch --

CONSTANTINE ALEXANDER: Please speak up a little louder. I think she's having trouble hearing you, that's all.

DAVID KINSELLA: He has a kitchen and a bathroom presently on the third floor.

BRENDAN SULLIVAN: On the third floor.

DAVID KINSELLA: And it's a one bedroom apartment, and he wants to open it up to make it studio like. And removing the -- building a new bathroom in the front and we're putting the kitchen in the dormer, the proposed dormer on the left side. So that it's more of a studio feel to it. It is a small unit.

TAD HEUER: I have a question. How big is that because you just said 550, 650 and here it says 666. How big is it?

DAVID KINSELLA: It's six. What's in there? 666.

TAD HEUER: It's doubled? Okay.

KANAN MAKIYA: I was just throwing the rough number.

TAD HEUER: That's all right.

CONSTANTINE ALEXANDER: Tim, you are about to say something?

TIM HUGHES: I just wanted to make

a point that, you know, generally speaking it's the petitioner's duty to make their case for why we should grant relief. And when we're talking about something like a deck, which is open and, roof deck, or you know, or decks above the third floor which we typically don't, you know, we frown on, it's not just good enough to say I've spoken to all my neighbors, and they don't have a problem. It's not good enough to say that the neighbors don't have a problem. The neighbors have to come down and support that deck. They have to say I want to see the deck there. I like the deck. It's not good enough to just say it's okay, you know, and then not show up and testify. We need a more positive approach if we're going to even lean towards granting a deck in that kind of situation.

CONSTANTINE ALEXANDER: And the footnote to that is to me anyway

neighborhood support for a deck, even if it's active, to me can be questionable because it's the neighbor says if he gets his deck, he's going to come support my deck next time over and all of a sudden we've got a bunch of decks. Neighborhood support, certainly opposition is very significant. Support is somewhat okay, but it's not overwhelming. And particularly if that support is not stressed by people coming down or writing letters in favor, last I looked there were no letters of support in the file.

DAVID KINSELLA: None that I'm aware. If I could just -- I guess our point, we're land locked because we can't increase the land. Two is that -- so that makes the yard space limited. And those are the two primary points we're making.

TAD HEUER: You're taking over part of the house.

DAVID KINSELLA: We can't. We'd

have to go to historic. I actually redesigned this thing three to four times. Initially I was going to take the whole roof off to give a decent unit is -- you know, and the deck, but -- then we have to get -- go through the demolition by-law and then go to Historic. And Historic, my impression was they were frowning on that approach because the one next to it is its twin?

TAD HEUER: Right.

DAVID KINSELLA: And it's, you know, it's an architecturally significant Victorian home.

TAD HEUER: Does the twin have dormers?

DAVID KINSELLA: I don't know.

KANAN MAKIYA: New dormers.

TAD HEUER: No, it doesn't.

KANAN MAKIYA: It has the same dormer.

DAVID KINSELLA: There's one here.

There's a three-foot wide dormer.

TAD HEUER: I was just confusing your description of the shed dormers to say the proposed shed dormers are in keeping with the maker of the set dormer by-law and maintaining compatibility with Six Forest Street which is built the same time as Four Forest Street is identical. But they don't have dormers?

DAVID KINSELLA: They don't have the shed dormers. What I meant by that is that we're trying to comply with the dormer law. That was what was recommended to us. And we changed our design to reflect the city's -- as much as we could, and still try to meet the objectives, you know, of the city's requirements. You know, we held back the dormers in the rear because that's the best part of the property obviously.

TAD HEUER: Right. You also say that the -- let me find it here, the

reason -- I think you say at some point, I'm not sure exactly where in your document. But that the -- the fact that the legal existing unit 2, the upper unit, is that size, about 600 some odd square feet, is less than desirable for resale and rental. That may be true. Is that necessarily a hardship? I mean, your client purchased the house with that size unit. So clearly he thought it was a good buy for his money, right?

DAVID KINSELLA: I can't speak to his thoughts. I can only speak to what I wrote.

KANAN MAKIYA: I mean, at the moment I purchased the unit with the hope that I could do this extension so my son could live there. At the moment I don't think --

CONSTANTINE ALEXANDER: It's still liveable even without a deck. It's not a matter of your son can't live there.

KANAN MAKIYA: Oh, yeah.

CONSTANTINE ALEXANDER: It's a matter of --

TAD HEUER: I'm saying without the deck and without the dormers. It's a livable unit without dormers, too.

CONSTANTINE ALEXANDER: That's true.

DAVID KINSELLA: It's a tough placing to have it because of the size. It's equivalent to --

KANAN MAKIYA: It's a triangle section.

DAVID KINSELLA: From here that way (indicating). It's pretty small.

CONSTANTINE ALEXANDER: Brendan, any questions or comments?

BRENDAN SULLIVAN: Well, Tom does.

CONSTANTINE ALEXANDER: Tom?

THOMAS SCOTT: I have a question. What happens to this hip roof here in this scheme?

DAVID KINSELLA: We were hoping to remove that down to the plate. Actually, you bring up a good point. Right now this little deck that's there, the door opens there and the deck is above the door. So there's a potential for leaking. So we were hoping to lower that roof, make it flat, and then built a deck on top of that below the doorway.

THOMAS SCOTT: So you have to step up on to this platform to get out?

DAVID KINSELLA: Yes, at present. And we're hoping to mitigate that egress issue, because we have to have two egresses out.

THOMAS SCOTT: What's the height of the knee walls presently?

DAVID KINSELLA: 40 -- 53 inches, sorry.

THOMAS SCOTT: This is 53?

DAVID KINSELLA: Yes.

THOMAS SCOTT: Everywhere? So....

DAVID KINSELLA: Yeah, pretty much. It's been a while since I went in there.

TAD HEUER: Can I see your elevation of your proposed? Do you have one of those?

DAVID KINSELLA: Yeah, sure.

CONSTANTINE ALEXANDER: Brendan, do you have any comments?

BRENDAN SULLIVAN: No.

TAD HEUER: Are you breaking the soffit here?

DAVID KINSELLA: Yes. We don't need to. We're happy to change that if that's an issue.

TAD HEUER: I think the dormer guidelines we ask that you not do so. Am I remembering my dormer guidelines correctly?

DAVID KINSELLA: Okay.

CONSTANTINE ALEXANDER: Give it to me again, I'm sorry.

DAVID KINSELLA: We broke the soffit.

TAD HEUER: That we usually frown on breaking the soffit for the dormer.

DAVID KINSELLA: That's not a problem.

CONSTANTINE ALEXANDER: My understanding is that basically you don't get too concerned about that from the dormer guideline point of view. It's a substantial compliance.

KANAN MAKIYA: I'm addressing the question to Mr. O'Grady.

SEAN O'GRADY: I feel that, I mean, the dormer guidelines technically say to pull back.

CONSTANTINE ALEXANDER: Right, exactly.

SEAN O'GRADY: And Tad's right in the sense that some people have skirted, not skirted the issue, but skirted the dormer to keep that. But we have always

sort of taken -- you know, the big ones that we're worried about are but that's certainly, certainly part of it.

TAD HEUER: It's a 15-foot dormer on that side I believe.

DAVID KINSELLA: Right.

TAD HEUER: So it's the full maximum allowed under the dormer guidelines that the soffit would be broken on.

DAVID KINSELLA: I think it's a, you know, I don't know -- I don't think it's an issue from a design standpoint. If you wanted us to do that, I don't think it's an issue. Actually I think it would be more attractive frankly.

TIM HUGHES: There's three components to the dormer guidelines that I constantly am bringing up. One is the 15 foot. The other one is that it doesn't go to the ridge line and this does.

DAVID KINSELLA: Okay.

TIM HUGHES: And the other one is that it's pulled back from the exterior wall. Which personally I don't agree with. But that is one of the dormer guidelines. And this does sit on the plane of the window wall on the dormer sits in the same plane as the exterior wall. So the only thing that you actually went along with on the dormer guidelines was the overall size, which was the 15 feet. Which is kind of, you know, a suggestion. So you basically tried to maximize everything you can get out of the dormer guidelines it seems to me.

THOMAS SCOTT: But you could skirt the roof by the dormer here, right?

DAVID KINSELLA: Right, we could do that very easily. It's just apply --

THOMAS SCOTT: And that would give the effect that it's setback, yeah.

TIM HUGHES: You know, I would rather see that soffit, you know, not

taken out, that it stay in. Strictly from a, you knew, a design perspective. But it's like, there's no way that thing's pulled up the roof if there's no eve there. It's got to be sitting on top of the wall, the exterior wall, same plane.

DAVID KINSELLA: It is in the same plane.

TIM HUGHES: Yes. I think personally that's an easier way to build. But the dormer guidelines say that should be brought up. Now, because it's in the same plane, is that another setback issue? Do you have a setback problem on that side or on either side?

DAVID KINSELLA: We have setback issues that's why I'm here.

TIM HUGHES: So it's in a setback. And even if you pulled it up the wall --

DAVID KINSELLA: I'm asking for relief on most of my dimensional requirements. I don't think there's one

that we comply with, although I didn't check the front because at this point it was not an issue.

TIM HUGHES: You're not doing anything.

DAVID KINSELLA: No, the sides and the rear, you know.

CONSTANTINE ALEXANDER: Let me throw something out for the Board. It sounds like some members of the Board, maybe the majority, are having problems with the design of the dormer. I'm having problems with the size of the deck.

THOMAS SCOTT: I'm having problems with the size of the deck, too. And I don't like the stairway.

CONSTANTINE ALEXANDER: Right, some people have problems with both.

THOMAS SCOTT: And I also oppose this stairway that goes down and obscures this window right here.

CONSTANTINE ALEXANDER: My point

is if we take it to a vote, you can see which way the wind's blowing, and you're not going to get relief. If we continue the case, you can at least take another shot of rethinking the deck and rethinking the dormers, maybe you'll satisfy Tad, but maybe not. The thing is if we do continue the case as a case heard, and that means the same five people you see here tonight have to be here for that case. We have to find a date that works for the five of us and you. But I would -- and I defer to members of the Board and to the petitioner, I would suggest this is a good situation to continue the case for you to rethink your plans.

DAVID KINSELLA: I would be stupid to refuse a continuance.

CONSTANTINE ALEXANDER: Okay. Does the Board feel the same way?

DAVID KINSELLA: Might I just throw this out for consideration?

CONSTANTINE ALEXANDER: Go ahead.

DAVID KINSELLA: I don't think any of the issues regarding the dormer you're raising are an issue to Mr. Makiya. Is it possible to get approval with the soffit coming over the roof held down?

CONSTANTINE ALEXANDER: No, I want to see revised plans. And in particular if you're going to have to come back for revised plans for the deck, too.

DAVID KINSELLA: I'm obligated to ask because there's a time frame. His son is going to need to occupy and I heard earlier that you're away until September.

CONSTANTINE ALEXANDER: No, no, no. That was Doug. He's no longer here.

DAVID KINSELLA: Oh, okay.

TAD HEUER: We may look the same

--

DAVID KINSELLA: No, no. I thought it was you.

CONSTANTINE ALEXANDER: Let's find

out if we're going to continue the case as a case heard, when's the first time we can hear it, Sean, from your perspective?

SEAN O'GRADY: August 13th if five of you can do it.

CONSTANTINE ALEXANDER: You people available August 13th?

BRENDAN SULLIVAN: Yes.

TIM HUGHES: Let me check my calendar.

KANAN MAKIYA: I am not here if that's relevant.

CONSTANTINE ALEXANDER: You'll have to decide among yourselves. It's not relevant to us. It might be relevant to your side.

DAVID KINSELLA: We can always ask it to be bumped again.

KANAN MAKIYA: I'm really running against a deadline here. I have to get this built.

CONSTANTINE ALEXANDER: I mean, I

can't -- you have to make the decision yourself. You have your architect here and maybe some other member of your family can come to represent your interest, but it's your call. The point being if we hear it tonight, if we vote on it tonight, I don't think your choices of success are very good.

KANAN MAKIYA: You can't vote on part of it like the dormer section?

CONSTANTINE ALEXANDER: No. I want to see revised plans 72 hours in advance showing exactly how you're going to change the dormers. And also I want to see what you want to do with this deck. Tad had a problem with both.

DAVID KINSELLA: Can we just discuss the deck a little bit more? I'd like to get consensus. You know, some are not in favor of it. You had suggested maybe shrinking --

CONSTANTINE ALEXANDER: I can only

tell you, I only speak for myself. I'm not necessarily opposed to any deck. I am opposed to a deck of the size that you have presented to us tonight. More than that I'm not comfortable to say.

KANAN MAKIYA: If we --

CONSTANTINE ALEXANDER: I'm not going to design your deck for you. I'm telling you, get a smaller deck from my point of view.

Tom, I don't know whether you oppose the deck period or the size issue?

THOMAS SCOTT: I'm generally opposed to decks period.

DAVID KINSELLA: So we can't win your vote no matter what, is that what you're saying?

THOMAS SCOTT: I guess I would consider something smaller. This type of deck lends itself to, you know, parties with, you know, lots of people out there, and I think that -- I have a problem with

that.

DAVID KINSELLA: Okay.

CONSTANTINE ALEXANDER: Tad, you were opposed. Do you want to express any views with regard to the deck?

TAD HEUER: No.

CONSTANTINE ALEXANDER: August 13th. Do you want to come then? We can pick a later date.

DAVID KINSELLA: No, that's fine. August 13th, if that's okay.

CONSTANTINE ALEXANDER: The Chair moves that the case be continued until seven p.m. on August 13th on the condition that the petitioner sign a waiver of notice. It's being presented to you right now.

On the further condition that the sign advertising the hearing be changed. Just take a magic marker and cross out today's date and put in August 13th.

And on the further and very

important condition, you're going to resubmit revised plans, which of course you will do. Those plans must be in the Zoning office by five p.m. on the Monday before August 13th. You got that?

DAVID KINSELLA: I got it.

CONSTANTINE ALEXANDER: Okay.

All those in favor of continuing the case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued.

(Alexander, Hughes, Sullivan, Heuer, Scott.)

CONSTANTINE ALEXANDER: I think we'll continue the other one.

We also have the continued case, the case is currently continued 9775. The Chair moves that this case continue to be continued until August 13th at seven p.m. There is a waiver of notice on file. On the condition that the sign be changed

before --

DAVID KINSELLA: We'll take care of it.

CONSTANTINE ALEXANDER: And also the revised plans must be in the file by five p.m. the Monday before.

DAVID KINSELLA: 72 hours.

CONSTANTINE ALEXANDER: 72 hours before.

All those in favor of continuing that case, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued. Two cases continued.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

(Whereupon, a discussion was held off the record.)

(9:00 P.M.)

(Sitting Members: Constantine Alexander,
Tim Hughes, Brendan Sullivan, Thomas
Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 9803, 60 Shepard

Street.

Anyone here on that petition?

Please come forward. As you've heard, please state your name and address for the purpose of the stenographer.

JEREMY POOL: Jeremy Pool, 60 Shepard Street.

GAIL POOL: Gail Pool, 60 Shepard Street.

MAGGIE BOOZ: Maggie Booz, 237 Putnam Avenue. I'm the architect for the project.

My plans are proposing a modest increase in floor area ratio, and it is due to two overhangs that they're requesting to construct over their front and side doors on the house. The house currently as you can see from these photographs, has a front door with no overhang and a rear side door with no overhang. They're on the north and east sides of the house. And are icy and

dangerous in the wintertime and we're trying to correct that situation.

CONSTANTINE ALEXANDER: I think the technical reason you're here for the zoning issue now you have a non-conforming structure in terms of FAR?

MAGGIE BOOZ: We do.

CONSTANTINE ALEXANDER: And you're going to slightly increase that non-conformance?

MAGGIE BOOZ: Yes. And it's the Resident B district slash .5/.35 issue.

CONSTANTINE ALEXANDER: And you're going to go from -- for the record, from .5 over .44 to .5 to over .48.

MAGGIE BOOZ: That's right.

CONSTANTINE ALEXANDER: And the district requires .5 over .35.

MAGGIE BOOZ: Exactly. We have a total of about 29-square feet being added due to those roof overhangs.

The one we're proposing is a

bracketed overhang. The other on the front, which is in keeping with the architecture of the original parts of this house which are sort of Italian-made bracket detailing, and then the rear is a roof held up by two posts.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIM HUGHES: I'm ready to vote.

CONSTANTINE ALEXANDER: Anyone wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard. The Chair further notes that there is no correspondence in the file expressing their opposition or support for the project.

Comments, or are we ready for a vote?

THOMAS SCOTT: Very nice job.

BRENDAN SULLIVAN: All set.

TAD HEUER: This has my vote.

CONSTANTINE ALEXANDER: Brendan,
you ready for a vote?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves to grant a variance to the petitioner to proceed with the work that's proposed in their petition on the grounds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship. The hardship being that the safety of the occupants of the structure is somewhat put at risk by virtue of the absence of an overhang, and this would increase the safety of egress and ingress to the structure.

That the hardship is owing to circumstances relating to the shape of the structure; namely, it's already a non-conforming structure. So any change would require zoning relief.

And that relief may be granted

without substantial detriment to the public good.

On that basis we're talking about a project that very slightly increases the FAR. It's a very attractive proposal, and that will, again, improve the use of the structure by improving the safety of people coming in and out in inclement weather.

The variance would be granted on the basis that the work proceed in accordance with plans, two pages of plans prepared by Smart Architecture. They're numbered A-3.0 and A-3.1 and initialled by the Chair.

All those in favor of granting relief as so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

(Whereupon, a discussion was
held off the record.)

(9:05 P.M.)

(Sitting Members: Constantine Alexander,
Tim Hughes, Brendan Sullivan, Thomas
Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 9804, 81 Wendell
Street.

Anyone here wishing to be heard on
that? Please come forward. State your
name and address for the record.

MARIA-LUISA OSORIO GUSILS: My
name is Maria-Luisa Osorio Gusils, 81
Wendell Street.

CONSTANTINE ALEXANDER: I'm not
sure she can hear you. Do we have a live
mic here?

MARIA-LUISA OSORIO GUSILS:
Maria-Luisa Osorio Gusils, 81 Wendell
Street.

MIGUEL GUSILS: Miguel Gusils,

81-A Wendell Street.

CONSTANTINE ALEXANDER: You have the spelling of the names?

THE STENOGRAPHER: I have it here.

CONSTANTINE ALEXANDER: Okay, good.

Tell us why you're seeking -- let me see, you're seeking a variance to construct a small bathroom addition. So small that it's only going to add 12 feet of gross floor area.

MIGUEL GUSILS: Right. We just want to --

CONSTANTINE ALEXANDER: You currently have a non-conforming structure because your FAR is too great and that any addition is going to increase -- it requires a variance. So you're not even changing really much of the non-conformance, 12 feet more of space.

MIGUEL GUSILS: Right. We're basically pushing out an existing wall.

This is what it currently looks like.

CONSTANTINE ALEXANDER: Some of the questions I'm going to have -- maybe the only question is what exactly -- we have all kinds of plans here. Most of them are several years old. As you've heard, if we grant relief, we do it in accordance with certain plans. Which are the plans that you want us to tie the relief to? Is it this or that?

MIGUEL GUSILS: It's this. They're all the same thing. The only change -- this is the way -- this is the addition right here (indicating). So the house currently stops here (indicating).

CONSTANTINE ALEXANDER: Right.

MIGUEL GUSILS: And we just want to push this wall out to accommodate a shower. And this would sort of match the -- this is the kitchen, and this line would just match the kitchen line.

TAD HEUER: So it matches on the

-- it matches as to the property line?

MIGUEL GUSILS: The property's like out here.

TAD HEUER: Right. So it's parallel -- they'd be parallel to the property line and maybe in the same plane as each other?

MIGUEL GUSILS: Right.

TAD HEUER: On the elevation I wasn't quite clear how they match, how the existing matches up to the proposed.

MIGUEL GUSILS: They kind of look like that (indicating). They're -- there's a couple of steps in here going upstairs so that's why they're not exactly even.

TAD HEUER: There's steps going up into the bathroom?

MIGUEL GUSILS: No. There's steps -- like, the floor would be like around here (indicating).

TAD HEUER: Yes.

MIGUEL GUSILS: Or here I guess
(indicating).

TAD HEUER: Oh, I see what you're
saying.

MIGUEL GUSILS: And then the
second floor is up here. So there's -- to
get up to this area of the space, you walk
up three steps.

TAD HEUER: So the stairs to the
rear of the house elevate?

MIGUEL GUSILS: Right, you walk up
this much.

TAD HEUER: Okay.

CONSTANTINE ALEXANDER: Are these
your plans or our plans?

MIGUEL GUSILS: These are yours.

CONSTANTINE ALEXANDER: Okay. I
don't want to lose them that's all.

Questions, Brendan? Tom, while
you're looking at the plans.

Is there anyone here wishing to be
heard.

(No response.)

CONSTANTINE ALEXANDER: Let the record show that no one wishes to be heard. And I don't think there are any letters in the file supporting or opposing.

MIGUEL GUSILS: There's one letter from the doctor supporting it.

CONSTANTINE ALEXANDER: I'm not sure it's in the file. Do you have it maybe with you? I take it you have spoken with your neighbors or have you? It's not required.

MIGUEL GUSILS: We have not.

CONSTANTINE ALEXANDER: You have not. But they have all received the notice?

MIGUEL GUSILS: Yes, it's out front. The only neighbor that would really notice would be the neighbor on our left.

TAD HEUER: On the right side?

The left?

MIGUEL GUSILS: The left.

MARIA-LUISA OSORIO GUSILS: On the side of the driveway.

MIGUEL GUSILS: The driveway.

TAD HEUER: Right.

CONSTANTINE ALEXANDER: This is a letter on the letterhead of Harvard Van Guard Medical Associates. It's signed by Sarah Lennox L-e-n-n-o-x, M.D. It's actually addressed it to the petitioner. "To Whom It May Concern: Ms. Osorio is my patient at Harvard Van Guard. Because of severe narrowing of her aortic valve, she's unable to climb stairs. She requires a full bathroom on the first floor of her house in order to accommodate this disability. I appreciate your consideration in this matter."

Can we keep this?

MIGUEL GUSILS: Sure.

CONSTANTINE ALEXANDER: Tom,

questions or do you need more time?

THOMAS SCOTT: Just a question on the reason for the addition so you can get the washer and dryer in that location?

MIGUEL GUSILS: So everything fits in the same place.

THOMAS SCOTT: You've got the shower kind of in place of where the old washer/dryer was?

MIGUEL GUSILS: Correct.

THOMAS SCOTT: Right?

Could the washer and dryer have gone someplace else?

MIGUEL GUSILS: We consulted a bunch of -- it's an old house. We consulted a bunch of plumbers and contractors. We tried to sneak them into the kitchen and other places under the stairs and it was just a plumbing nightmare. Nobody wanted to do it. It would also involve like ripping up the kitchen so she wouldn't have a kitchen.

THOMAS SCOTT: Is this back portion of the house an addition or is it part of the original house?

MIGUEL GUSILS: It was an addition maybe 20 years ago.

THOMAS SCOTT: It's just an odd shape kind of to add to the, you know, on the face of the house. You've already got this bump here and then you're kind of adding another bump, and it's just architecturally it looks a little funny. But if you have no opposition from any neighbors, nobody has opposed it?

CONSTANTINE ALEXANDER: No one has called you?

MIGUEL GUSILS: No one has called.

THOMAS SCOTT: Have you shown this to the neighbors so they know what you're doing?

MIGUEL GUSILS: No. It ultimately has the existing bump for the kitchen. It would still just be one bigger bump.

TAD HEUER: Except that you're elevating above.

THOMAS SCOTT: There's a little step, a little step back.

CONSTANTINE ALEXANDER: These plans are dated two years old. You're still going to go with these plans? If we grant relief, you have to do it in accordance with the plans that you've submitted.

MIGUEL GUSILS: Yeah. The only difference that I see is that I think we had called -- the architect had written it six inches shorter. So if you look at the plan --

THOMAS SCOTT: There's a little step here.

MARIA-LUISA OSORIO GUSILS: 2.6.

THOMAS SCOTT: Are you changing this to two-foot six so it's flush?

MIGUEL GUSILS: Right.

THOMAS SCOTT: It's not reflected

on here.

TIM HUGHES: Give me and I'll draw the line in.

MARIA-LUISA OSORIO GUSILS: The second line in.

SEAN O'GRADY: SO there should be another set of plans in there with that correction.

CONSTANTINE ALEXANDER: That's why I was confused. It's right here. So we'll use these plans. We'll use -- these are going to be the plans. These two pages all right? If you don't comply with these you have to come before our Board. You have to be comfortable.

MIGUEL GUSILS: We were worried about those six inches.

CONSTANTINE ALEXANDER: Ready for a vote?

The Chair moves to grant a variance to the petitioner to proceed with the construction of a small bathroom addition.

The variance would be granted on the basis that a literal enforcement of the provisions of the ordinance involve a substantial hardship to the petitioner. Such hardship being given the physical condition of the petitioner, that she needs the additional first floor bathroom.

That the hardship is owing to circumstances relating to the shape of the building. It's a non-conforming structure, old in nature, and there's no other way of granting the additional bathroom for the petitioner without substantial financial hardship to the petitioner.

And that granting relief would not have a substantial detriment to the public good, but talking about the addition of 12 square feet to a structure. No meaningful change to FAR. There's been no neighborhood opposition to the project.

The variance will be granted on the

condition that work proceed in accordance with two pages of plans submitted by the petitioner numbered A1 and A2 and initialed by the Chair.

All those in favor of granting relief on the basis moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

(Whereupon, a discussion was held off the record.)

(9:15 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Thomas Scott, Brendan Sullivan, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9805, 1008 Cambridge Street.

Is there anyone here wishes to be heard on that petition? Mr. Rafferty, you know the drill.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman, members of the Board. For the record, my name is James Rafferty. I'm an attorney with the law firm of Adams and Rafferty located at 130 Bishop Allen Drive in Cambridge. I'm appearing this evening on behalf of the applicant. And seated to my left is Mark Rogers, R-o-g-e-r-s. And next to Mr. Rogers' left is Mr. Antonio Gomes, G-o-m-e-s.

CONSTANTINE ALEXANDER: Mr. Gomes, your relationship to this project is what?

ANTONIO GOMES: I'm sorry?

ATTORNEY JAMES RAFFERTY:
Mr. Gomes is a potential -- he is a restaurateur who would hope to be able to open Mu Que Ca Restaurant in this location.

CONSTANTINE ALEXANDER: And Mr. Rogers is?

ATTORNEY JAMES RAFFERTY: The owner of the property.

CONSTANTINE ALEXANDER: The owner, thank you. All set.

ATTORNEY JAMES RAFFERTY: This is a commercial building at 1008 Cambridge Street. It has a couple residential uses above it. The building has been owned by the Rogers family or by Mr. Rogers' maternal grandfather since the 1940's. It was for many years the Atomic Market in East Cambridge, an active retail food market before the advent of the larger supermarkets. It's more recently been a convenience store and different types of retail uses. But, the convenience store, they've had a succession that have not succeeded. And the restaurant use is an allowed use here, but like most commercial properties on Cambridge Street, there's

little in the way of off street parking. And the ordinance provides that when you change from one use to another, and a convenience retail store is a different use than a restaurant use, that the parking exemption, you're not required to provide the parking that would otherwise have been grandfathered but the difference in space. In this case the parking is, as the Board knows, for a restaurant is measured by seats not by square footage. So if this were to become a beauty parlor, a hair salon, a nail salon, there wouldn't be any need for parking relief. But in this case the parking requirements have changed because of the proposed number of seats in the restaurant. Cambridge Street as a whole --

CONSTANTINE ALEXANDER: Just on that before we leave that. You would need under Zoning law -- Zoning scratch ten parking spaces? You have five?

ATTORNEY JAMES RAFFERTY: We would need 12 parking spaces, the ordinance would require one per five or 60 seat restaurant.

CONSTANTINE ALEXANDER: Right but -- I thought -- I must have misunderstood. I thought you were going to have 50 seats in the restaurant.

ATTORNEY JAMES RAFFERTY: We initially were 50 but we've changed to 60. We have a revised plan. There is a small parking -- a small business exemption that qualifies under 6.32.1 that says the first four spaces wouldn't be required. So that's a -- that reduces the requirement by four.

CONSTANTINE ALEXANDER: You have four grandfathered spaces and you're looking for eight additional spaces?

ATTORNEY JAMES RAFFERTY: Right. Grandfathered I guess so you think you're really not grandfathered four exempt

spaces. But in its wisdom, the City Council does have a Special Permit provision under 6.35.1 that says to the wisdom of this Board that you can evaluate certain criteria about reducing the required amount. And No. 1, and particularly No. 2, are appropriate here because surrounding this entire site -- I don't know if Board members have had time to see it -- is a municipal parking facility. There are 12 parking spaces, metered parking spaces owned and operated by the City of Cambridge that literally are hard up against the building. You can see it best in the Assessor's plot. Everything you see there in grey around the orange building represents municipal parking. So much like people who have gone in the past to the old Ding-Ho Restaurant, you have to be around here to know that Ding-Ho -- what do they call it now? In Inman Square.

TIM HUGHES: Olay.

ATTORNEY JAMES RAFFERTY: What is it?

TIM HUGHES: Olay.

ATTORNEY JAMES RAFFERTY: Olay, Olay. It's now called Olay. But on Springfield Street it abuts the municipal parking lot.

This building has a parking lot all around it. There are multiple bus lines running through the Lechmere Station. The criteria allows for a Special Permit. And frankly Mr. Rogers and his family have been in East Cambridge for a long time. His paternal grandfather started has a funeral home a few blocks away that his family continues to run. They care about Cambridge Street. And frankly if you talk to people in the street, Cambridge Street could use a bit a boost. And the thinking is that it may have saturated the nail salon, beauty parlor market and some of

the other retailers that you go in as of right. That what he's found in Mr. Gomes is a local restaurateur who operates the Mu Que Ca Restaurant currently on Cambridge Street and he would look to -- am I saying that correctly?

ANTONIO GOMES: Mu Que Ca.

ATTORNEY JAMES RAFFERTY: Mu Que Ca. That would be a Brazilian restaurant? Yes.

Very popular with local heavily neighborhood traffic. But before we can go to the license commission and to try to get a license, not because of the use, it's just because we only have four paces, it would be a 20 seat restaurant. Well, a 20 seat restaurant really isn't going to succeed there. So the architect worked on some site plans and they've actually now concluded that a 60 seat restaurant could succeed there. The idea is to really to make it a family oriented restaurant, not

a bar or a lounge. And of course the details would of that would get addressed by the License Commission. But it really is the issue for the Board tonight is the parking. The need to see if the property would qualify under the provisions of 6.35.1 to warrant a modification in the requirement. And as I said, I did the three reasons are: There is a number on street parking provided by meters. It is a use which has a different peak demand than other uses along the street. Other retailers are active during the daytime. If you go down Cambridge Street at night, frankly there isn't a lot of activity at night. That's been one of the --

CONSTANTINE ALEXANDER: That part of Cambridge Street.

ATTORNEY JAMES RAFFERTY: That part of Cambridge Street, right. We're well beyond Inman Square at this point, right. And as you go further into East

Cambridge, frankly it gets even quieter at night for better or for worse.

CONSTANTINE ALEXANDER:

Particularly when you get to the funeral home. Very quiet there.

ATTORNEY JAMES RAFFERTY: Very popular though. People are dying to get in there.

TAD HEUER: The parking spaces that you have around the building what --

ATTORNEY JAMES RAFFERTY: The city has them particularly.

TAD HEUER: The parking spaces that surround the building, not owned by you, what's their current percentage usage at the time that you would be using the building?

MARK ROGERS: Very little.

TAD HEUER: Very little?

ATTORNEY JAMES RAFFERTY: It's a metered -- it's a pay per -- they just switched it from meters to the tickets

that you put on the dashboards.

CONSTANTINE ALEXANDER: Do people who reside in the neighborhood use that for overnight parking?

ATTORNEY JAMES RAFFERTY: I think they do.

TIM HUGHES: They do. I think it's resident permit after a certain hour.

ATTORNEY JAMES RAFFERTY: Like most of the municipal lots, if you have a resident sticker --

CONSTANTINE ALEXANDER: Does that mean that most of those spaces are going to be taken up by residents in the area, and therefore people who go to the restaurant can't use it?

MARK ROGERS: Very little surprisingly. You know I would -- before I took possession of this building, you know, I would help out and plow the back area, the loading area, and I was surprised how few cars are there late at

night. How little that the locals do take advantage of it.

TAD HEUER: Actually, I would suggest to the Board that given that it would be a family oriented restaurant, there would be larger groups of people coming in a single vehicle and therefore wouldn't require the significant number of car parked spaces that, you know, one or two people coming in to fill a large bar type facility would need.

ATTORNEY JAMES RAFFERTY: You must have been looking at my notes, because I was just about to go to that point. But thank you. What was that again?

TIM HUGHES: You might want to right that one down.

ATTORNEY JAMES RAFFERTY: He has a romanticized notion of family sizes in Cambridge. We anticipate -- but it does, the restaurant is a local with a heavy amount of walk-in trade. But that's a

good point. I think the whole notion. Admittedly, the parking ratios been a long time since they've been looked at, and there are a lot of as of right retail uses that generate more parking at times and demand is greater than what this use is trying to do. If this had been a restaurant before, we wouldn't be here. The parking requirements were adopted in '67. Prior to that it would have been grandfathered. So many of the restaurants on Cambridge Street in existence before '67 don't face this issue. It's just the history of this use had been retail. The parking requirements were imposed in '67, made it part of the ordinance at that time. So it's grandfathered for retail so you can have as active and busy a retail as you want. But the square footage of the floor plate is what drives the parking on the retail. Here's it's the capacity of the seating.

CONSTANTINE ALEXANDER: Am I not right, that if we were to grant relief tonight it's a Special Permit. And if another restaurant, you decide to move on, and another restaurant moves in, you're going to have to come back before us for another Special Permit?

ATTORNEY JAMES RAFFERTY: No, that's not right?

CONSTANTINE ALEXANDER: No?

ATTORNEY JAMES RAFFERTY: That only applies to the fast food ordinance.

CONSTANTINE ALEXANDER: Fast food?

ATTORNEY JAMES RAFFERTY: Yes. This relief would run with the land like all zoning relief.

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: Do you lunch and dinner?

ANTONIO GOMES: Yes.

BRENDAN SULLIVAN: With the emphasis obviously at dinnertime?

ANTONIO GOMES: Yes.

CONSTANTINE ALEXANDER: I would just mention for the record, I'm not advocating by any means, is that sometimes we have these kind of matters that we grant a Special Permit with the term of years to see whether -- how it works out. I would not advocate that in this case, but the Board members should be aware of that if anybody feels there's a need for that.

Any further questions from members of the Board?

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair would note that no one wishes to be heard.

The only correspondence we have in the file is a letter from Councillor Timothy J. Toomey. It wouldn't be a zoning matter hearing if we didn't have a

letter. "I am writing in support of case No. 9805 by Mark Rogers requesting a reduction in the parking requirement for restaurant use. In this situation we have a commercial space that has easy access to municipal parking lot that should help to alleviate the demand for spaces for which relief is being sought. Additionally the landlords are seeking perspective tenants that have established themselves in the area as running neighborhood restaurants that serve the local residents. Cambridge Street has traditionally been a place where local shops and restaurants are frequented by neighbors. Recently Cambridge Street has seen its fair share of storefront vacancies which could hinder the liveliness of this area. By allowing this relief the Board will be playing its part in helping to keep this a lively business trip and increasing foot traffic that will ultimately help to keep a safe

and comfortable atmosphere on Cambridge Street. Thank you for attention to this matter."

Further discussion or are we ready for a vote?

TIM HUGHES: No discussion. I can testify that to what's already been testified to, is that lot is under used and I think it's probably because people don't know it's there to a large extent. And I would love to see Mu Que Ca move into a bigger space. They're outgrowing where they are now. And where they are now they have no parking.

ANTONIO GOMES: It's true. I've been there for nine years and no parking.

TIM HUGHES: I think it would be a great move. And since I live three blocks away, it would be good for me, too.

CONSTANTINE ALEXANDER: Okay.

The Chair would make a motion as Mr. Rafferty correctly points out, we do

have a Special Permit authority under Section 6.35.1. That section says that a Special Permit shall be granted only if the Board determines and cites evidence in its decision that the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses or otherwise adversely affect -- adversely impact the neighborhood. The other alternative doesn't apply.

The Chair moves that a Special Permit be granted to the petitioner on the grounds that there will not be -- the lesser amount of parking that would be resulting from the relief would not cause excessive congestion. We're talking about a modest number of additional parking that would be used on the streets. Certainly public safety would not be endangered. There were no substantial parking

availability for other uses or otherwise impacting the neighborhood. We reached these conclusions on the basis that if there is an availability of surplus of off street parking in the vicinity of the area being served; namely, the municipal lot that has been cited by the petitioner and endorsed by Mr. Hughes.

That Cambridge Street is a street that has substantial public transportation. So the need for someone to drive, someone from outside the neighborhood to drive to the restaurant is diminished. The ability to use the restaurant or frequent the restaurant without driving and finding a place to park.

The Special Permit would be granted further on the grounds that the -- no ability to satisfy the requirements of the ordinance. There's just no on street parking provided in the structure which is

an older structure.

That there's -- the traffic generated by this restaurant would not cause congestion, hazard or substantial change in established neighborhood character.

That the continued operation of adjacent uses would not be adversely affected by the proposed restaurant. Although the proposed restaurant will take some parking spaces away from the amount that's available for people in the neighborhood generally, it's not significant enough to affect the development of adjacent uses. And in fact, the restaurant will promote adjacent uses as cited by Councillor Toomey by hopefully increasing foot traffic and just general use of that portion of Cambridge Street.

And that no nuisance or hazard would be created to the detriment of the health,

safety and/or welfare of the occupant or the citizens of the city.

And that the proposed use would not impair the integrity of the district. In fact, it's been cited a number of times, it would increase the integrity of the district by making the commercial area and this area of the city more vibrant.

On that basis, the Chair moves that a Special Permit be granted the petitioner.

All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

ATTORNEY JAMES RAFFERTY:
Mr. Chairman, so the vote waives the amount of parking for a 60 seat restaurant?

CONSTANTINE ALEXANDER: The Special Permit will be granted in accordance with the relief you petitioned for.

ATTORNEY JAMES RAFFERTY: Right. The advertisement was for the restaurant. The supplemental plan changed the seating from 50 to 60.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: So the dimensional form has a six on it, it should be an eight.

CONSTANTINE ALEXANDER: Okay. Then the motion will be so amended to reflect the amended dimensional form.

ATTORNEY JAMES RAFFERTY: Thank you.

CONSTANTINE ALEXANDER: So it is to allow eight additional parking spaces because you're having a 60 seat restaurant.

ATTORNEY JAMES RAFFERTY: Correct.

Thank you.

(Whereupon, a discussion was
held off the record.)

(9:30 P.M.)

(Sitting Members: Constantine Alexander,
Tim Hughes, Brendan Sullivan, Thomas
Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 9806, 46 Hudson Place.

Anyone here wishing to be heard on
that? For the record, please state your
name and address.

ZACHARY SWEET: I'm Zachary Sweet.
Z-a-c-h-a-r-y S-w-e-e-t, 46 Hudson Place.

HELENA SWEET: Helena Sweet,
H-e-l-e-n-a, 46 Hudson Place.

WESLEY QUIGLEY, III: And my name
is Wesley Quigley, III, and I am the
designer and employed of Zachary and
Helena Sweet.

CONSTANTINE ALEXANDER: Okay. One

housekeeping item at the outset.

WESLEY QUIGLEY, III: Yes.

CONSTANTINE ALEXANDER: As you may have heard, I don't know how long you've been here tonight.

WESLEY QUIGLEY, III: We did indeed.

CONSTANTINE ALEXANDER: Maybe a long time. We do like our plans. The plans that we're going to vote on be submitted in the public file 72 hours in advance. The plans we're going to see, we're going to vote on -- or you're asking us to vote tonight were not in the public file at the time. Often we require the case to be continued to allow both the Board members and interested parties to study the plans and have an opportunity to do so, and they don't have to do it on the fly. However, in this case, I mean, there is nothing -- you were not officially notified of this. In the future that's

going to be rectified. I think the change in the plans is rather modest in terms of just reducing the size of the dormer. And it's in response to a letter of opposition which I guess now will be withdrawn.

WESLEY QUIGLEY, III: Right.

CONSTANTINE ALEXANDER: So I for one would like to go forward with this case tonight unless other members of the Board wish to continue.

BRENDAN SULLIVAN: There may be an interested party, and I'm just wondering if they have seen the new drawings.

WESLEY QUIGLEY, III: They have indeed. In fact, we submitted them to them about a week ago.

CONSTANTINE ALEXANDER: That's what the letter says anyway.

WESLEY QUIGLEY, III: And in fact had we known that we had to have them in, we would have gotten them in. It was our understanding that we just needed to have

them for this meeting tonight.

BRENDAN SULLIVAN: That's fine.

WESLEY QUIGLEY, III: But the interested party have not complained.

CONSTANTINE ALEXANDER: Members of the Board are okay with this.

WESLEY QUIGLEY, III: I do have additional plans if anybody else would like to see them.

TAD HEUER: I would like to see them.

CONSTANTINE ALEXANDER: What you've been handing out are these things; is that right?

WESLEY QUIGLEY, III: Exactly the same thing.

CONSTANTINE ALEXANDER: Go ahead.

ZACHARY SWEET: Well, we just wanted to -- the only reason we're seeking to make the change when we originally planned this renovation, we weren't considering the dormer. What we wanted to

do was swap our sink and our toilet so that we had a sink that we could stand up in front of and brush our teeth and when I shave. So that's really --

CONSTANTINE ALEXANDER: When you shave, you don't need that.

ZACHARY SWEET: Right.

But when we found out that we couldn't put the toilet under the slope of the current ceiling, that's when we decided that we would consider getting a dormer. So that's the, that's the only reason that we're here to get it. We did have a larger, a larger dormer that was originally drawn. We thought it was as small as it could be, but we did, we did talk to our neighbor Ellen Leopold and she had some concerns about the way the dormer would look from one of her upstairs rooms. And so we have agreed to decrease the size of the dormer by approximately 30 percent. We dropped it from eight feet, 10 inches

to eight feet, six inches to five feet, ten inches in width.

WESLEY QUIGLEY, III: Basically what we did is, you know, we're looking for a bathroom that we can stand up in. This is the only full bathroom in the house. There is one half bath on the first floor, but this is the full bath for the two bedrooms upstairs. And at present you can't stand up in it. The sink, you literally have to duck down. And we are willing -- the concession that we made was to keep the existing roof line over the bathtub section so that reduces our width by 30 inches, and we can still stand up in the shower head end. We think that's more than fair. We're perfectly willing to do that.

CONSTANTINE ALEXANDER: As you identified there was an issue with one of your neighbors. And perhaps the neighbor's going to speak tonight.

WESLEY QUIGLEY, III: Yes.

CONSTANTINE ALEXANDER: We have two letters. I can't find one of them. But we have --

WESLEY QUIGLEY, III: I have one.

CONSTANTINE ALEXANDER: The original letter is a letter of withdrawal. This is a letter of support. But there was a second letter where the neighbor withdrew her opposition. But one of the questions I have for you, and this is one way of getting there, is that she suggested certain compromises in return for supporting the dormer regarding the installation of a new fence and some other work. Where are you on that? Have you reached an agreement with the neighbor on that? Are you willing to do that?

WESLEY QUIGLEY, III: We believe we have. We're willing to -- she's asking for us to extend a piece of fence towards the back of the house that kind of covers

a new window that was installed on the house as part of the project before. You know, that part of our project didn't require us to have a variance or anything like that. And she was kind of taken by surprise by it. And so, you know, we've kind of agreed to, you know, install a section of fence, you know, as --

CONSTANTINE ALEXANDER: You have no plans for that fence?

WESLEY QUIGLEY, III: We don't at the moment. It's a personal agreement between the two parties, but we are more than accommodating. We're more than willing to do it.

CONSTANTINE ALEXANDER: Maybe at this point let me -- I assume you're the neighbor.

ELLEN LEOPOLD: I am, I am.

CONSTANTINE ALEXANDER: Please come forward we have to keep a record on the transcript.

ELLEN LEOPOLD: Okay.

CONSTANTINE ALEXANDER: Please speak up so the stenographer can hear you.

ELLEN LEOPOLD: Well, the stories that they've told is correct. I was very unhappy with the new French doors that were built very close to my kitchen wall, which I didn't know were going to be there until I saw them going up virtually. And this was a misunderstanding that we didn't speak about it before the drawings were submitted. And it's also true that I found the original design of the dormer inappropriately large and looming too close to my upstairs window. So we went and had a look to see if there was some way we could reduce the scale of it, and discovered that we could actually come to some compromise that would allow everybody to stand up in the bathroom but would push the dormer further along the roof line away from the -- my upstairs window. And

in exchange for my agreeing to that, the Sweets agreed to consider to build a new fence separating our property which would serve more of a screening function between our -- my kitchen and their new French doors.

CONSTANTINE ALEXANDER: I should say you didn't state your name for the record. But I'll do it in your place. It's Ellen Leopold, L-e-o-p-o-l-d.

ELLEN LEOPOLD: It sure is.

CONSTANTINE ALEXANDER: At 48 Hudson Place.

Now, with regard to the fence, you're all basically going to be good neighbors about this. There's no -- we can't -- we don't have a fence before us, a drawing, we can't condition relief as a grant relief on the fence. We're just relying on the fact that you'll build a fence that will satisfy Ms. Leopold's issues.

ZACHARY SWEET: Of course. We live far too close to not build a fence.

CONSTANTINE ALEXANDER: Bomb the rocks --

WESLEY QUIGLEY, III: Good fences make good neighbors.

CONSTANTINE ALEXANDER: Questions from members of the Board?

Anyone here wishing to be heard beside Ms. Leopold who has been heard?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one else wishes to be heard. Ready for a vote?

Well, let me just read into the record -- I'm not going to read into the record Ms. Leopold's letter with your permission because the issues you raise you say have been resolved to your satisfaction.

ELLEN LEOPOLD: Yes, we have agreed to the smaller dormer.

CONSTANTINE ALEXANDER: Right. And the plans show the smaller dormer. So that will be part of our decision, the size of the dormer. But the rest about the fence and the reasons why we're not going to -- is that all right with you?

ELLEN LEOPOLD: That's fine.

CONSTANTINE ALEXANDER: And there's also a letter in the file from Warren Behr, B-e-h-r and Karen Frown. Very brief, "As the owner of the 54 Hudson Place we wish to express our support for a revised plan to add a shed style dormer to 46 Hudson Place. The plan that we support has been agreed to by Helena and Zach Sweet and their immediate abutter Ellen Leopold of 48 Hudson Place. In this revised plan we understand that the dormer will be a smaller size (five-feet, ten-inches) than previously proposed, and included in the plan will be a new section of fencing to provide additional privacy

for Ms. Leopold's residence.

Ready for a vote?

WESLEY QUIGLEY, III: There is a larger plan for that in the back.

TAD HEUER: When they say five, ten --

WESLEY QUIGLEY, III:
Five-foot-ten is the outside dimension.
And it is on there if you want to look at the elevation.

TAD HEUER: So the one I'm looking at looks like 7-10. Is that wrong?

WESLEY QUIGLEY, III: Yeah.
Seven-foot, ten is the inside width of the bathroom, but we're only going in the dormer section, the bathtub.

TAD HEUER: I understand.

WESLEY QUIGLEY, III: If you look there it says five-foot, three inside width the dormer. It says on there.

TAD HEUER: So the five-foot, ten is elevation, SK-7?

ZACHARY SWEET: Can we let her look at the plans?

WESLEY QUIGLEY, III: There's actually a blow up in the floor plan, probably the last page of the handout I gave you.

TAD HEUER: Right.

WESLEY QUIGLEY, III: And that shows that.

TAD HEUER: But for purposes of zoning compliance, we're looking at page seven which denotes a five, ten dormer.

WESLEY QUIGLEY, III: Right, that one. Five-foot, ten.

ELLEN LEOPOLD: So the location of the dormer on the left-hand side has not changed any from the original plan?

WESLEY QUIGLEY, III: That's correct.

ELLEN LEOPOLD: Everything is shaved off on the right-hand side.

WESLEY QUIGLEY, III: Everything

is shaved off, exactly right.

ELLEN LEOPOLD: Good.

CONSTANTINE ALEXANDER: We're now ready for a vote? Tad, you ready?

TAD HEUER: I'm all set.

CONSTANTINE ALEXANDER: Okay.

The Chair moves to grant a variance to the petitioner to allow the construction of a shed style dormer at the second floor bath area.

The variance be granted on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. The hardship being that the bathroom is not -- without the dormer, we have a bathroom that at least someone who wants to shave cannot stand up straight.

That the hardship is owing to circumstances relating to the shape of the structure and basically its location on a very small lot, an older structure. And

so relief -- without granting relief there would be a hardship to the petitioner.

And that relief may be granted without substantial detriment to the public good. We're talking about a very modest dormer. One that now has support of the neighborhood and certainly no opposition. Don't have any letters from the city councillor on this one.

The motion would be granted on the condition that the work proceed in accordance with the plans numbered SK-7, 2SK-7s, SK-8, A-4 and SK-5 and SK-6. All of which have been initialed by the Chair.

On that basis the motion has been made. All those in favor, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Motion granted. Good luck.

Mr. Heuer has abstained. Four in favor, one abstain. The motion still

passes.

(Alexander, Hughes, Sullivan,
Scott in favor. Heuer abstain.)

ELLEN LEOPOLD: Did you mention
the fence in that?

CONSTANTINE ALEXANDER: The fence
we're relying on the good neighbors to do
it.

ELLEN LEOPOLD: That doesn't go
into the --

CONSTANTINE ALEXANDER: No,
because we don't have a fence to tie it
to. We can't have the zoning people in
policing a fence that we don't have any
touchstone to. I think we believe and I
think hopefully rightfully so that you're
going to work out the fencing situation.
You seemed to have worked everything else
out.

ELLEN LEOPOLD: Okay.

TAD HEUER: We also have a
transcript as well.

CONSTANTINE ALEXANDER: There's a
record.

ELLEN LEOPOLD: Good point.
(Whereupon, a discussion was
held off the record.)

(9:45 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair calls case No. 9807, 76 Sixth Street.

Anyone here wishes to be heard on that?

WENDY BOSSONS: Hello.

CONSTANTINE ALEXANDER: I'm sorry, please state your name and address for the record, please.

WENDY BOSSONS: Wendy Bossons, 76 Sixth Street.

CONSTANTINE ALEXANDER: And you're here seeking a variance to add a first floor rear exit and a deck?

WENDY BOSSONS: Yes.

CONSTANTINE ALEXANDER: The deck being ground level, not a roof deck.

WENDY BOSSONS: No. It's first floor level.

CONSTANTINE ALEXANDER: Okay. And

tell us why you want to do this.

WENDY BOSSONS: Well, first off I don't actually have any first floor exit from my house in the rear, and so it's very difficult to get out into the backyard or if there were some type of fire or anything.

CONSTANTINE ALEXANDER: It's a safety issue.

WENDY BOSSONS: A safety issue basically. And the deck would just allow us to use the outdoor space a little bit more efficiently. For example, like right now I only have a place for my trash cans and my recycling in my -- what do you call that? The butcher's alley between my house and the neighbor's. And so if I have the deck, I actually have someplace where I can store those trash cans. And I still have -- I'm not destroying my garden space which is important also. And those are basically better use of the outside

space and also the safety issue.

TAD HEUER: How high is the deck from the ground level?

WENDY BOSSONS: Well, it's in the plans. And I think that it said it's six-foot, nine.

TAD HEUER: So you're just under.

WENDY BOSSONS: I'll look at the plan myself. I don't -- obviously I don't have an architect or a designer with me, so.

CONSTANTINE ALEXANDER: But basically one of the reasons it's got to be six-foot, nine and off the ground is because of the nature of your structure. You have a very high basement wall.

WENDY BOSSONS: That's it exactly. And so there, you know, there is an exit out of the basement so we have to accommodate that structure that's already there. And there were some photographs in the application that I originally

submitted to you.

CONSTANTINE ALEXANDER: Okay.

WENDY BOSSONS: So there are some photographs in the original application of the rear of the house so that you can see it. And I actually, I don't have copies of those with me, so I would expect that they're still there.

CONSTANTINE ALEXANDER: Yes, we have them in the file. I see it.

TAD HEUER: Sean, can you explain, I know you explained the relief in the record when there's no change in FAR by the form.

SEAN O'GRADY: Simply setback. Rear yard setback.

TAD HEUER: It looks like the setback is the same setback that we have.

SEAN O'GRADY: Yes, you'll see that I hyphened it and put in an 11 there.

CONSTANTINE ALEXANDER: I had the same question when I looked at the file.

SEAN O'GRADY: The convention's a little confusing whether you should count the deck in the setback. I think for this -- a lot of cases it makes sense not to, but in this case probably more instructive to. So that's why we made that change.

CONSTANTINE ALEXANDER: Eleven feet from the rear line and then you put the minimum of 20.

TAD HEUER: Right.

WENDY BOSSONS: And I was -- I don't know, maybe I misunderstood but I think I also had to go through the process because the distance between the end of my house and the line in the back is 19 feet.

CONSTANTINE ALEXANDER: That's what we're talking about. Yes, you're going to be 11 feet now. And the zoning law says you're supposed to be 20 feet.

WENDY BOSSONS: Okay.

CONSTANTINE ALEXANDER: That's why you have to get relief from us.

WENDY BOSSONS: Okay.

TIM HUGHES: That's what a setback is.

CONSTANTINE ALEXANDER: Okay.

TIM HUGHES: I know we use lingo here.

WENDY BOSSONS: Okay.

TAD HEUER: The real reason is that it starts at 19 and not from 20. Isn't that --

SEAN O'GRADY: If it started from 20 and it were a couple feet lower, then it would be as of right, the deck would be as of right.

TAD HEUER: So because it's going to 6-9 she doesn't even get the benefit of the as of right from the 20 foot setback.

SEAN O'GRADY: Basically because the basement's so high.

CONSTANTINE ALEXANDER: Anyone wish to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

Questions from members of the Board?

[The] Chair is in receipt -- or the Board is in receipt of a letter from Timothy J. Toomey, City Councillor. "Dear Members of the Board: I'm writing in favor of case 9807 by Wendy Bossons and a request to build a first floor rear exit and a deck. Wendy is attempting to make simple improvements to her home which will make it safer and allow her to enjoy the existing open space in a functional way. Again, I am in support of the application and appreciate your support in this."

THOMAS SCOTT: Are your neighbors away?

WENDY BOSSONS: Yes.

CONSTANTINE ALEXANDER: And no one has expressed any opposition?

WENDY BOSSONS: No.

CONSTANTINE ALEXANDER: We have no

letters for or against in the file.

WENDY BOSSONS: Yeah. Actually, they've said we would sign a petition to let you have the deck. So I don't know.

CONSTANTINE ALEXANDER: Next time you come before us bring a petition with you.

WENDY BOSSONS: Oh, really? I didn't think it would be necessary.

CONSTANTINE ALEXANDER: It's not essential. It does help the Board, people do that.

TAD HEUER: What's the area of the deck? Eight by --

WENDY BOSSONS: Eight by 12.

CONSTANTINE ALEXANDER: Yes.
Ready to are a motion?

The Chair moves to grant the petitioner a variance to add a first floor rear exit and a deck.

The variance would be granted on the grounds that a literal enforcement of the

provisions of the ordinance would involve a substantial hardship to the petitioner. The hardship being that the safety of the structure itself would be somewhat imperiled by the absence of a functional -- a second exit in the rear.

That the hardship is owing to circumstances relating to the soil conditions, shape or topography of the land or structure. The structure is a non-conforming structure with relief being sought modest in nature.

That the relief may be granted without substantial detriment to the public good. In fact, the public good would be served by increasing the safety of the occupants of the home. That there is no neighborhood opposition and there is a letter of support.

The variance would be granted on the condition that work proceed in accordance with the plans submitted by the

petitioner. 1, 2, 3, 4, 5, 6 pages. Most of them have indicated they've been drafted by Dylan Wolchesky D-y-l-a-n W-o-l-c-h-e-s-k-y, and initialed by the Chair.

All those in favor of granting a variance as so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

WENDY BOSSONS: Thank you very much.

(Whereupon, a discussion was held off the record.)

(9:55 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair calls case No. 9808, 338 Concord Avenue.

Is there anyone here wishing to be heard on this matter? For the record please, state your name and address.

DIRK LIPPER: My name is Dirk Lipper, address is 338 Concord Avenue.

CAROLINE LIPPER: My name is Caroline Lipper. Same address, 338 Concord Avenue.

CONSTANTINE ALEXANDER: And you're

here seeking a variance to construct two dormers on either side of the third floor?

DIRK LIPPER: Yes, that's correct. We are planning to extend our family and we are in desperate need of an additional bedroom and, therefore, we would like to create a bedroom under the roof and therefore construct two dormers as shown in the plan to have an upstairs bathroom and also connect to the bathroom.

BRENDAN SULLIVAN: The bedroom that's being created on the third floor is going to be the master bedroom?

DIRK LIPPER: Yes.

BRENDAN SULLIVAN: And I'm not sure if that comes down to -- are you aware of the dormer guidelines at all? Is there a reason why you can't come down from the peak? You know where I mean, the roof line where the top of the roof --

DIRK LIPPER: No, that -- I don't think there's a reason. Actually, we gave

the dormer guidelines to our architect and I think his understanding was that this would conform to the guidelines.

CONSTANTINE ALEXANDER: Not according to these plans that we have.

DIRK LIPPER: Okay.

BRENDAN SULLIVAN: The --

CAROLINE LIPPER: I don't understand.

DIRK LIPPER: In that -- I think it has to do with maybe the head room, because if you put it down a little bit further, the room height would be very limited.

BRENDAN SULLIVAN: What they suggest is that you come down from the peak one foot not go up to the --

DIRK LIPPER: Oh, okay.

CONSTANTINE ALEXANDER: You get a sense of looking at the plans whether if they did drop the dormer that it would make the dormer not nearly as functional?

THOMAS SCOTT: They're probably going to lose a foot on this side.

CONSTANTINE ALEXANDER: About six feet. So you don't have that functional of a bathroom. Six-foot high ceiling.

THOMAS SCOTT: No, no, no. The bathroom is not in the dormer. It's just a bedroom.

CONSTANTINE ALEXANDER: Oh, it's a bedroom.

THOMAS SCOTT: So it's good function lower. That rises.

CONSTANTINE ALEXANDER: And the reason, by the way, why you need a variance you now have from a FAR point of view you have a conforming structure. You're .488 in a .5 district and now you're going to .6.

DIRK LIPPER: Yes.

CONSTANTINE ALEXANDER: So you're taking the structure from conforming, from a zoning point of view, structure to a

non-conforming structure.

BRENDAN SULLIVAN: I guess the only concern that I have as far as going up to the very peak is that it's very prominent because it -- that side of the house really affronts Fayerweather Street, so it's really quite prominent and quite public as opposed to the other side which is a little less noticeable. The side that faces going up Concord Avenue. So, I'm sort of a little bit troubled by the aesthetics on how all of that is going to look.

TAD HEUER: I'm absolutely troubled also, because I think our dormer guidelines do say if it's a corner lot, and you're looking at a dormer on the corner side at least where the Fayerweather side is, that we tend to -- we're asked to give less leeway in those situations than we might otherwise afford. So given that it goes into the roof line

and it doesn't come out the way the dormer guidelines would like it to and it's a corner lot, I'd be less inclined to -- less inclined than I am usually less inclined --

CAROLINE LIPPER: May I say right directly across the street on the other side of Fayerweather on Concord is the exact same house and they have 30-foot dormers on both sides.

TAD HEUER: Yes, they'd never get it today.

CAROLINE LIPPER: I have no idea how they got that. It's very new. But it's very new. Just a few years ago.

CONSTANTINE ALEXANDER: Not that new.

CAROLINE LIPPER: Very new. The house just sold. They redid it. A builder did it I think.

TAD HEUER: It may have been as of right.

CONSTANTINE ALEXANDER: I'm not going to ask Mr. Hughes for his views on this. I know what his views are.

TIM HUGHES: No, you don't necessarily. I don't like to see it go up to the peak unless there's a reason. I do -- I don't mind the plan, you know, on the outside wall. But that structurally makes more sense to me, but I don't know what the interior head height is.

CONSTANTINE ALEXANDER: We were just looking at that. It looks like seven feet now and if we dropped it, maybe we would have an interior height of six feet. At least closest to the wall.

TIM HUGHES: But at the ridge height, and it's only seven feet in the center of the room at this point.

CONSTANTINE ALEXANDER: Let me ask Tom. He has the plans.

TIM HUGHES: If that's the case then I see why you have to go to the

ridge. And you can't unless you raise the ridge.

CONSTANTINE ALEXANDER: Well, that's what I was asking Tom actually.

TIM HUGHES: Did you figure that out?

CONSTANTINE ALEXANDER: If they did drop it, why -- do they really need this to go to the ridge?

THOMAS SCOTT: I think it still works if you drop it. Because you probably end up with about eight feet through the middle of the room here (indicating), and then it's a low slope. It's only a three and 12 pitch. So three and 12 pitch over whatever this distance is, you know, you're probably going to lose half of the seven feet. It might go down to 6-8 at the perimeter edge of the wall. So it's not horrible.

TIM HUGHES: Goes down to what?

THOMAS SCOTT: About 6-8 maybe.

CONSTANTINE ALEXANDER: From
eight?

THOMAS SCOTT: Oh, no. I guess
seven. Probably a little more than that
though.

TIM HUGHES: Seven feet of roof
line there?

THOMAS SCOTT: That's the
distance.

BRENDAN SULLIVAN: Gus, can I see
the pictures of the house?

TIM HUGHES: Even if it's three
pitch, you're still going to lose almost
three feet in an eight-foot room. You're
going to lose two feet in an eight-foot
room.

THOMAS SCOTT: It might go to six
feet on that perimeter.

TIM HUGHES: How tall are you?

DIRK LIPPER: I'm six-one.

TIM HUGHES: There you have it.
Six foot is too low for this guy.

THOMAS SCOTT: Yeah, if he's standing at the edge.

TIM HUGHES: Yes. How did the math work out?

CONSTANTINE ALEXANDER: How's the math working?

THOMAS SCOTT: Hold on.
(Calculating).

It looks to me like it drops about a foot. So you'll probably be down about six feet at that edge.

CONSTANTINE ALEXANDER: At the edge. In the middle of the room you would be what?

THOMAS SCOTT: About eight feet.

CONSTANTINE ALEXANDER: Eight to six feet. Well, let me ask this question is there a sentiment from members of the Board that this dormer needs to be redesigned?

BRENDAN SULLIVAN: It's quite common on Fayerweather, and also there was

a gabled dormer already there and this dormer, it just seems awkward to me. And this new dormer is going to come in sort of -- it's just -- it's awkward. It's bulky.

DIRK LIPPER: When we had the idea because as my wife said just right opposite to our house is kind of sister house.

BRENDAN SULLIVAN: I'm not a fan of that house by any means. I know they renovated it two years ago. And when they were doing it, and put another thing -- I was asking how could they also -- but that's another issue. What I don't want to do is duplicate.

CONSTANTINE ALEXANDER: That's the issue. And I can understand your frustration about that. But they were able to do it without violating the Zoning By-Laws. I don't know the specifics. We don't think it's a great idea, but we have

no control over that. Now, you come in and we do have control over it. And we don't want to multiply things that are not desirable in our opinion, anyway for the community. That's the issue.

BRENDAN SULLIVAN: How long have you lived here?

DIRK LIPPER: Cambridge? Almost a year now.

BRENDAN SULLIVAN: No, in this house here.

DIRK LIPPER: In this house? We actually moved in two months ago.

BRENDAN SULLIVAN: And on the -- it's a two-family house?

DIRK LIPPER: Yes.

BRENDAN SULLIVAN: You own the entire house?

DIRK LIPPER: Yes.

BRENDAN SULLIVAN: And who lives on the first floor?

CAROLINE LIPPER: We're going to

rent it.

BRENDAN SULLIVAN: Okay, so --

CAROLINE LIPPER: We're currently living on the first floor packed in. We have to move up but we can't move up because there's no space for us up there with the family that we're going to have.

BRENDAN SULLIVAN: And the second floor is a typical living room, dining room kitchen.

CAROLINE LIPPER: Uh-huh.

BRENDAN SULLIVAN: Bathroom, bedroom, bedroom.

CAROLINE LIPPER: Uh-huh.

CONSTANTINE ALEXANDER: Well, I would, you know, people don't like to continue cases. I wonder if this might be a situation where we continue the case, think about it with your architect and bring your architect here. If he can persuade us. I'm not one to adverse to approving this. But I see legitimate

concerns by other members of the Board. So, if you can convince us that this is the only solution even though it doesn't comply with the dormer guidelines, you or your architect, it might go a long way.

DIRK LIPPER: Okay. So --

CONSTANTINE ALEXANDER: Other members of the Board feel the same way or do you want to vote tonight?

BRENDAN SULLIVAN: No, that's correct. I mean, I would like to see alternatives and why the alternatives don't work I guess.

CAROLINE LIPPER: What kind of an alternative are you referring to?

BRENDAN SULLIVAN: Well, pulling it down and really complying with the dormer guidelines.

DIRK LIPPER: So one foot from the top edge of the roof and then let the dormer begin? So one foot?

BRENDAN SULLIVAN: Down from the

peak.

DIRK LIPPER: From the peak?

BRENDAN SULLIVAN: Yes.

DIRK LIPPER: Okay.

BRENDAN SULLIVAN: But, again -- and I'm sort of troubled with the way it interacts with that gable dormer that's already existing. It just seems awkward, bulky and I'm not sure really necessary.

CONSTANTINE ALEXANDER: In fairness that's more aesthetic issue than a zoning issue.

BRENDAN SULLIVAN: Everything we do is aesthetic.

CONSTANTINE ALEXANDER: I know.

TAD HEUER: If you're here for an FAR violation, it becomes within our purview --

CONSTANTINE ALEXANDER: It does, it does. But I guess what I'm trying to say the only solution is the one they have before us.

BRENDAN SULLIVAN: It comes awkward with the windows just -- and it's just a main street.

CONSTANTINE ALEXANDER: Well, in any event, should we -- I think --

BRENDAN SULLIVAN: It needs to be reworked.

TAD HEUER: I would not vote for it tonight.

CAROLINE LIPPER: Can I just say that every month that we have to live on the first floor --

CONSTANTINE ALEXANDER: I understand.

CAROLINE LIPPER: -- we're losing money. I mean, it's killing us because we can't rent it. We need to move upstairs and we don't have enough space. So continuing this to another date really puts a lot of pressure on us financially.

TAD HEUER: Why can't you move up to the second floor?

CAROLINE LIPPER: Because we need the space up there to go upstairs. We can't all fit up there.

DIRK LIPPER: And I mean if we want to do the dormer, the contractor said we can't live there if we do the dormers. It's just impossible.

CAROLINE LIPPER: Because they have to put some structural beams into the house.

DIRK LIPPER: And they have to do things to put the structure in place.

CAROLINE LIPPER: So it's really a real hardship that we can't move upstairs in this house right now. And if it's only about dropping it a foot, you know, I would be really happy to do that.

BRENDAN SULLIVAN: How many are in your family?

CAROLINE LIPPER: Well, he has two children and we are going to become foster parents in about a week.

BRENDAN SULLIVAN: Well, I know, I mean, again, not to be unsympathetic this is going to be --

CAROLINE LIPPER: For us as well. We're looking forward to it. It's a beautiful house. We just purchased it so we're really excited about it.

BRENDAN SULLIVAN: I'm not comfortable with the way it's designed.

CONSTANTINE ALEXANDER: We have this dilemma -- it is a true dilemma for you. We hear this dilemma often. And the only way we can say the architect had the dormer guidelines, he's not complying with them. There's no case here being made for why you can't comply. That's what's giving us cause.

CAROLINE LIPPER: We will comply. You're saying just drop it a foot, we can comply to that. That's what we're discussing just drop it a foot off of the roof?

TAD HEUER: Right, but the problem is that once we grant relief, we give the plans to the Building Department and they hold those to go out and enforce them to say you've done it or haven't done it. We don't have a plan that we can sign tonight. Because we can't say to the Building Department if they drop it a foot and it looks generally right to you then it's okay. So we need to be able to give them something that they can look at, you know, 50 years from now and say that's what they approved back in 2009 and in 2060.

CONSTANTINE ALEXANDER: And this is all further concern beyond just dropping it a foot, whether the better solution from an aesthetic point of view that would give you the extra space that you need. Maybe there isn't again. But I think you need to talk with your architect further to see whether you can address

that concern as well. It's not just Mr. Sullivan. It's Mr. Scott and myself as well.

I'm sorry. I mean, I understand it's a dilemma for you, but, you know, we have to deal with what's brought before us.

DIRK LIPPER: Okay.

CONSTANTINE ALEXANDER: August 13th? Let's try to squeeze it in August 13th. It's a case heard so we have to have the same five.

SEAN O'GRADY: Well, let me say this: If you want to squeeze them in prior to the next opening, July 9th is actually better for you than August 13th is now.

CONSTANTINE ALEXANDER: I'm available July 9th.

TAD HEUER: I can do July 9th. I can't do the 27th but I can do the 9th.

CONSTANTINE ALEXANDER: Everybody

else? We'll continue to July 9th. That means --

DIRK LIPPER: Thank you very much.

CONSTANTINE ALEXANDER: -- you don't have a lot of time. You have to get with your architect. This is before I make the motion. There will be revised plans. You have to get them into the office by July 6th. By five p.m. July 6th.

DIRK LIPPER: Understood.

CONSTANTINE ALEXANDER: On that basis the Chair will continue to move the case as a case heard until seven p.m. on July 9th.

The motion to continue is on the basis -- on the condition that the petitioner sign a waiver of notice. You have to sign a waiver. And that the sign identifying the hearing be changed from to reflect a July 9th date. And on the further condition that any revised plans

will be submitted to the Board no later than five p.m. on the Monday before July 9th.

All those in favor of continuing the case on that basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

TAD HEUER: And read your architect the riot act, the guidelines he should know.

DIRK LIPPER: Okay, thank you.

(Whereupon, a discussion was held off the record.)

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 30th day of June 2009.

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

My Commission Expires:
April 23, 2015

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