

CITY OF WALTHAM

ZONING BOARD OF APPEALS

December 2, 2012

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, December 2, 2014, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando and members Glenna Gelineau, Mark Hickernell, Gordon LaSane and John Sergi.

The Chair called the meeting to order at 7 P.M.

Mrs. Rando: Tonight we have two new cases before us, Case 2014-27, The Salvation Army of Massachusetts Incorporated, 33 Myrtle Street, 25-27 Myrtle Street and 142 Ash Street, and Case No.2014-26, Hines MIP, 36 River Street.

The first action this evening is for a motion to accept the minutes of November 25, 2014.

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to accept the minutes of November 25, 2014.

Would the clerk please read the petition in Case No. 2014-27, The Salvation Army of Massachusetts, Inc., 33 Myrtle Street, Waltham?

Ms. Gelineau: Madam Chair, can I just say before I start this case that I am a member of the Advisory Council at the Salvation Army here in Waltham, but I do not feel in any way that it will influence my decision and my ability to sit on the case.

Mrs. Rando: That's fine. Thank you very much.

The clerk then read the petition of The Salvation Army of Massachusetts Incorporated in an appeal from the decision of the Building Inspector pursuant to G.L. c 40A, ss3. The Salvation Army of Massachusetts Incorporated is a Massachusetts religious corporation organized under Chapter 180 of the Massachusetts General Laws. The Petitioner proposed to unite all the existing lots and to construct, use and occupy an addition to its existing church structure. The existing church structure and associated parking is located on 33 Myrtle Street and 25-27 Myrtle Street. The addition will be located on part of 33 Myrtle Street, and 142 Ash Street. Location and Zoning District 33 Myrtle Street, 25-27 Myrtle Street and 142 Ash Street and are located in a Residence B Zoning District.

Mrs. Rando: May we hear from the Petitioner or the Petitioner's representative, please?

Robert E. Connors, Jr., Esquire, Law Offices of Connors and Connors, 6 Lexington Street, Waltham, the Petitioner's representative came forward.

Mr. Connors: I guess to begin with, Madam Chair, if the board so allows, I have some letters in support here. I would like to hand out copies to the board if that would be all right.

Mrs. Rando: You may, We do have quite a few that might be the same.

Mr. Connors: I think most of them are the same. Did everyone get a copy?

Mrs. Rando: Yes.

Mr. Connors: I also have extra copies of my brief. I don't know if everybody brought their copy tonight or didn't bring their copy. (Mr. Connors submitted copies of his brief to some of the board members.)

I will just go over the first part of the brief, just generally, Madam Chair. The first part of the brief talks about the Salvation Army themselves and who they are. (Mr. Connors read the first part of his brief.)

So that kind of gives you an overview on the Salvation Army. Later on I will get into some figures on all of the people involved in it. (Mr. Connors went over the plan of the locus with the board and then went back to his brief. He posted renderings of the project on the board.)

Mr. Connors: I'm sorry, I should have done this before, Madam Chair. This is Lt. Rafael Viana who along with his wife, Lt. Thais Viana run the Salvation Army down there.

(Mr. Connors went back to his brief and went over the rendering of the new section.)

Mr. Connors: This is Rich Griffin and he can probably go over this.

Richard Griffin, Architect, Scott Griffin Architects, 80 Main Street, Waltham came forward.

Mr. Griffin: The essence of the design of the building is essentially to locate an elevator. The building is on three levels. There's a basement and second level in these two buildings. We have located this tower as now the principal entry to the building and it

gives an aspect of control in the building in terms of how it is operated. Mr. Griffin went over the plan with the board in detail.)

The design of the building, we tried keeping it, it's called the Queen Anne style which is the type of architecture during the turn of the century where they took buildings that had no character and added elements to them to give it some victorian character. We are adding light to the Sanctuary area of the church and we followed that routine down here along the building to give it some character and break it up and give it some form. The building is currently a stucco building and we have continued the stucco like material around the building and it has a masonry base to the building which we're also continuing it all around the building and try to mimic to some extent the character of the building in the front. We've kept the scale of the building pretty much as close as possible to, when I am talking about scale, I am talking about height to the buildings that are around it and pitched the roofs to be like that. There are a lot of things that we have to do with regard to the building code. As we take on this entire building, we have to make this building up in the front begin to meet the current building code. We are putting a lot of money into his building to make it work in a contemporary environment that we have today.

Mrs. Rando: Are there any questions of the architect?

Mr. Hickernell: Why couldn't there be a door or a window of some kind at the rear of the building?

Mr. Connors: Funny you should ask because we had a neighborhood meeting down there. We went out and flyered the neighborhood and contacted people. It's my understanding the ward councillor who is also here tonight went around to everybody to get them down to the meeting. They had a couple of people come down to the meeting and one fellow addressed that who lives on Ash Street. So this is what we are now proposing on Ash Street. (Mr. Connors submitted a plan to the board.)

Mr. Connors: Rich, I don't know if you received an email. Do you want to read that email into the record?

Mr. Griffin: This came from a resident on Ash Street. He writes to me: "Hi Richard, Thank you for responding. (He came to me at the meeting and I thought he had a legitimate design concern which was one of my own in critiquing that design). The blank wall, as you probably see in the package, occurred as a result in the evolution of design in the aspect of the use of the mix and we thought about it a little bit and there was value to doing it. It would make them happy and the Salvation Army agreed.

"The revised Ash Street side looks much better. Could you send me a copy through email of the original Ash Street side. The Ash Street side was not shown in the project case statement. I'd like to show some neighbors the improvement you have made and I'm seeing the West side view for the first time. It looked good. Good luck tonight."

Mr. Hickernell: So what you just handed out is the present plan?

Mr. Connors: We wouldn't mind if the board acts favorably on this tonight and caption that as one of the conditions. I could make it Exhibit A.

Mr. LaSane: Purely informational. is the elevator going to serve both buildings?

Rich: Yes it will. It has two doors, one on each side.

Mrs. Rando: Are there any other questions? (There were none.) You may continue.

Mr. Connors: So, Madam Chair, that is my case. We have a number of people I

know down here tonight on this. Just in passing, I already introduced the Lieutenant. I don't know if he wants to get up and talk about his programs, but they also do things like Thanksgiving, just past. They are out passing out turkeys all over the place to people and Christmas is coming. Of course they are bringing toys and getting toys for all the children. It's their mission. This is what they do. So with that, that's my presentation.

Mrs. Rando: May I say, first of all, I never realized you had so many programs. I am actually ashamed I didn't realize that. I'm impressed, I really am.

Mr. LaSane: Thank you very much for the service you provide for the city.

Mrs. Rando: On Sunday mornings, what is the number of people that do attend?

Lt. Viana: About forty people. For Sunday school, we have about twenty-five to thirty people and then when the service time comes we have the rest of them.

Mrs. Rando: About forty in all, children and adults?

Lt. Viana: Yes.

Mrs. Rando: And they park on Moody Street?

Lt. Viana: No. The ones who have cars park in our parking lot. Some of them just walk. Some of them are dropped off by either family and a few people we pick up. We have a twelve passenger van.

Mrs. Rando: You must have people from all over the city.

Lt. Viana: We have people on Main Street, by Trapelo Road, Linden Street that we pick up and we bring them here and take them back home.

Mrs. Rando: And the front yard is the same front yard since 1938.

Mr. Connors: Yes, it is.

Mrs. Rando: I have one other question. When was the Dover Amendment instituted?

Mr. Connors: 1952.

Mrs. Rando: And the abutters, the direct abutters, these letters, are any of them from the direct abutters?

Mr. Connors: I just got these this afternoon, Madam Chair. So, I honestly don't know. I don't think so.

Mrs. Rando: Did you speak to the direct abutters and how do they feel?

Lt. Viana: All of them are satisfied that finally this property is going to come through.

Mrs. Rando: Is this a project that is going to happen now or are you going to be raising money funds?

Lt. Viana: Salvation Army is bringing in 2 Million Dollars. We've got some of our own capital money.

Mr. Connors: As I said Madam Chair, this has been going on since 2002. They have been getting ready for this.

Lt. Viana: We are going to break ground in March.

Mrs. Rando: Great. Good to hear. Also do you rent the building for any social events?

Lt. Viana: No.

Mrs. Rando: Do you have any parties among the congregation?

Lt. Viana: Yes. The congregation, we have a birthday party or just last week we had Thanksgiving.

Mrs. Rando: How many attended the Thanksgiving, about?

Lt. Viana: Thanksgiving in our soup kitchen, we had about sixty people from the community come plus a few volunteers. We had the Haitian church that came with about five people and their volunteer. The church Thanksgiving meal, we had the same forty members.

What two days are those? Did you do it on Thanksgiving?

Lt. Viana: Soup kitchen meal was on Wednesday, so just prior to Thanksgiving Day. Our Thanksgiving meal with the church was a Sunday prior to Thanksgiving.

Mrs. Rando: I have to say the building does have a lot of character. It's very nice.

Mrs. Rando: Mr. Sergi, are there any questions?

Mr. Sergi: Just a few. First of all, I like the architecture. Very nice building and thank you for your service as well.

As far as the construction schedule goes, how long will the construction take approximately. Is there a general contractor here.

Mathew Martin, 80 Bridge Street, Newton from Commodore Builders:
Approximately nine months.

Mr. Sergi: And the funding of the project. Have the funds completely been raised or are you going to require any financing.

Lt. Viana: The Salvation Army itself is bringing into the project \$2 Million from their own pocket, basically. Our Advisory Council has come together and raised some of their funds and we have brought some of our own capital money from local money and a few of our endowments to be able to again bring all that money in. Now, we are still looking for a few more funding to be able to do the whole thing. The project is already, I would say, 80% to 90% almost, the funding raised already.

Mr. Sergi: So it wouldn't take you long to raise the difference if you had to. That sounds very promising. You've got the funding in place, you've got a reputable contractor. That's all I have Madam Chair.

Mr. Connors: Maybe if I might just mention, Commodore is doing the old Polaroid site up there and they are also doing the Wyman Street thing. They've got the Carpenter's Union to make significant contributions. So there's been an involvement by a number of people.

Mr. Hickernell: The modification on the Ash Street side addresses any concerns I might have had.

Mrs. Rando: Ms. Gelineau, any questions at this time?

Ms. Gelineau: No, not at this time.

Mrs. Rando: Mr. LaSane?

Mr. LaSane: No.

Mrs. Rando: Is there anyone in the audience that is in favor of this petition?
(Twelve people raised their hands in favor.)

Is there anyone seeking information? Seeing none. Is there anyone in opposition?

Melissa Downes, 287 Ash Street, Waltham; I live right behind the elementary school in the neighborhood. I don't believe anything that the Salvation Army has said tonight is in conflict with the values with the Waltham City. I understand the Mayor's pro transformation for the socially economically challenged. We're all sympathetic. We want to help the poor, that's all great.

We've had discussions about legitimate community concerns. I understand this may be a little bit late because the Salvation Army has had this property for a hundred plus years. But if I, as a resident taxpayer and voter of Southey took my house, dropped it in Newton, it would be worth twice as much. If I took my property and I dropped it into Warrendale or Cedar neighborhoods, I could get twenty to fifty-thousand more for that house partly because I believe in residential community integrity. Warrendale has that.

Cedarwood has it. Southey not so much. I understand that the people on this panel are solely responsible for that. We've got the building committee. We've got the zoning committee from the city council. I worry about Southey. This picture here is of the condos that are abutting that piece of lot. They did the same thing with Sally Army, it's one of their nicknames inside the community. They did the same thing as the Sally Army's proposal. They took property from Ash Street and the abutting street and they cut it right through. It disrupts the integrity of the residential neighborhoods. So, I guess I am kind of making a plea in some fashion that the Salvation Army when we are considering making sections to the zoning law, we consider what it does to the integrity of the neighborhood.

The South side is where most of the working class residential folks live. I understand that the Salvation Army has made their argument that they can't move this location because the folks don't have cars. I use public transportation. Anybody on Moody Street, Route 20, can pretty much get around on public transportation. I would just like, if not for this property, just going forward for this committee to be aware of the fact, that if you are going to have people who want to live in Waltham, it's not just about school districts which I think is fairly good. It's also about making sure that you don't let non-residential uses into a residential neighborhood. I think Sally Army has done a decent job of trying to make the architecture fit the neighborhood. It's not taller than the houses. My primary objection is the fact that this is just another example of you violating the integrity of house to house per street. I am not worried about who's using this. I am not worried about the community outreach. I am not really worried about the parking because my understanding is there's twelve slots today, there will be fifteen slots in the future. So I am not worried about that. It's just that general appeal of that. If the Salvation Army has to do this that we have recognition of the fact that it is not an ideal solution. That you are undermining the fabric of the neighborhood and the families that live there.

Mrs. Rando: Thank you. I hope you realize that they are coming in under the Dover Amendment which is a little bit different than the condos across the street.

Ms. Downes: That's law and I appreciate that. I don't have any religious objections to this which is what I believe is what the Dover is getting at. We weren't always a tolerant society.

Mrs. Rando: No, I am just saying that they have a little bit more freedom to be coming under the Dover Amendment then say the condos across the street.

Ms. Downes: As a private citizen, I don't think there's enough oversight from the citizens because of the way these decision make. It's not just this property. The Polaroid property, the BJ's development; the stupidity of the road system around the new Wendy's that was redeveloped. It just seems like as a community we are not making the best decisions. I think that the property values have lowered because we don't seem to learn. I mean, even if you look at the Chateau, seventy-five years ago, if you look at the Chateau, that was a neighborhood around the Chateau Restaurant. All the properties around it have been bought. They have been flattened for parking lots or they are being run as landlord tenant properties. They gutted that neighborhood.

Mrs. Rando: Did you live there at the time the condos were being put up?

Ms. Downes: I technically don't qualify as a Waltham resident. I've only been here since 1998, so I am a breezer. My father and grandfather were not born in this community.

Mrs. Rando: But you live in Waltham now and you live in that area, and you, of course, have something to say.

Ms. Downes: I have something to say, yes. But I realize that not everybody in the community recognizes me as legitimate.

Mrs. Rando: Oh, I wouldn't say that. Tell me, were you living there during the building of the condos. Did you speak out in opposition to those?

Ms. Downes: No. The longer I live in Waltham, the longer I own property, the more vocal I have become. I don't necessarily think that either the municipality or the representatives are trying to disrespect the public but I don't think the transparency and openness is necessarily sufficient.

Mrs. Rando: Thank you very much. Is there anyone else in opposition? Would you like to read just the names of the people who wrote letters that are in favor?

Mr. Hickernell: Yes. So in support of this project, the following people have submitted letters to the Zoning Board of Appeals in support of this petition:

Robert Marcou

Thomas M. Stanley

Christopher Bella

James Masterson

Kenneth Brown

Gary Marchese

Mrs. Rando: All right, is there anything else.

Councillor Stephen Rourke, 36 Riverview Avenue, the City Councillor representing Ward 8 came forward:

Councillor Rourke: Melissa is one of my constituents as well and she is one of the few people that came to the neighborhood meeting that we had and she makes a good point.

The Salvation Army distributed printed flyers to the doorways of all the surrounding areas. I sent out two emails to a couple of hundred constituents in the area and we only got a handful of people at the meetings.

But, I want to speak in support of this. It's been on the boards for several years. When I first became councillor in 2002 and that's when I first heard about this. And then there was the purchase of the lot on Ash Street and I got some phone calls from neighbors on Ash Street concerned about what was going to happen and how the Salvation Army purchased this lot, and so that's when I first got involved in it. And then more recently when the previous leaders of the Salvation Army were in touch with me about the fact that the regional organization has decided this thing that we heard about several years ago and then nothing happened that the regional organization was making this a priority. More recently, Lt. Rafael got in touch with me and let me know that the funding was actually being put in place.

So we called a neighborhood meeting and we had a presentation that was open for questions and answers. One issue that came up from the constituent who lives on Ash Street about the look of the back wall was discussed and as you can see the petitioner's extremely responsive to that concern. And, as was mentioned before, the rear of the building is actually the front. If you look down Ash Street, it's the front. To have that just be a blank wall would not look good, so I think that the changes they have made in the design are laudable and accomplishes the objective of making it fit into the Ash Street street-scape, not looking intrusive and look appropriate.

They are a local organization. They have been around for a long time, over a half a century at that location. They provide very, very valuable services to the community and the majority of the people who are served, walk to or are transported to the location. They are very much a fabric of the local community and they are very good neighbors. There have been maybe at least three or maybe four sets of lieutenants in charge of that site and

they don't stay long enough, because every time they go, we feel regret that we are losing these people and then the new people come in and they're just like the ones that were there before. They fit into the community immediately and we've always developed good relationships with the people who are there to lead in that limited amount of time that they are there.

So what they are doing is providing basic important services to the community. They feed food, education and care of the body and care of the soul and the mind. And in light of that, the variances that exist in their proposal that are variances from the requirements of the zoning ordinance, I don't believe are unreasonable. They are fitting in very well to a residential area where there are other institutional uses very nearby, other churches, former school building that is now a community center, and so I encourage you to provide the relief that they are seeking and I believe that it is not unreasonable.

This project is going to enable them to better provide the services that they provide, although it is a physical expansion of the property that's going to be under a roof. It's going to allow them to do what they are attempting to do under very tight and unrealistic circumstances. So it's not going to increase the number of people that are coming to this place. It's going to allow the people they are serving just to get better service and for them to be able to make better use of the property. They are really cramped in that space with all the programs that they do.

So, those are my comments and I appreciate being able to give them to you.

Mrs. Rando: Thank you. Are there any other questions from the board members?

Mr. LaSane: Just one, Madam Chair. I just want to make sure we put a stamp on the issue for the people who are against the project. Is it a sense that the people who are

opposed to what's going on have been shut out of discussions or meetings? Have you been notified of meetings? Have you gone to meetings? Have you participated?

Ms. Downes: There were meetings in November that I attended but I will defer to Councillor Rourke if there were prior meetings that I never attended. I know on the November meetings they were very good about architectural concerns that were addressed at that meeting.

Mr. LaSane: What you said at the podium was like transparency. And that's a serious issue, so I just want to be sure that you - - - But what's important for me is to understand from you that you participated. You were heard.

Ms. Downes: Yes, I did participate.

Mrs. Rando: Is there a limited time that you can serve and then you move on?

Lt. Viana: It's really not up to me. It's up to the Salvation Army to decide whether they keep me there or they move me. There is an average, I would say, from three to five years. It's the average for someone staying on location.

Mrs. Rando: Why is that?

Lt. Viana: Well, it depends on the need of the location and the need of other locations. Different people have different qualities. So they try to fit as much as they can. We were just moved here last year. If it's my desire, I could stay here for the rest of my life.

Mrs. Rando: All right, if there's no other questions from board members we will close the public hearing. You may continue with your proposed findings of fact.

On motion of Mr. Sergi, seconded by Mr. LaSane the board voted to waive the reading of the Proposed Findings of Fact since they have been on file in the legal department and the board has had a chance to read them.

Mrs. Rando: You may continue with your Proposed Decision.

In a similar fashion, on motion of Mr. Sergi seconded by Mr. LaSane, the board voted to waive the reading of the Proposed Decision since they it has been on file in the legal department and the board has had a chance to read them.

Mr. Connors: On the decision, Madam Chair, I might add an (e) on the conditions which would reference this plan that we are talking about.

Mr. Hickernell: I've got that proposed condition. I propose that the following language be added to the condition at the end of the proposed decision as follows: "Except that the facade facing Ash Street shall be constructed and used in accordance with the revised plan introduced at the hearing as Exhibit A."

Mrs. Rando: Do I have a motion on the Proposed Findings of Fact?

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to accept the Proposed Findings of Fact to be the findings of the board.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: Do I have a motion on the Proposed Decision, as amended?

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to accept the Proposed Decision, as amended , to be the decision of the board.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

On motion of Mr. Hickernell, seconded by Mr. LaSane, the board voted to take a five minute recess at 8:25 P.M.

The board reconvened at 8:35 P.M.

Mrs. Rando: Would the clerk please read the petition in Case 2014-26, Hines MIP River Street LLC.

The clerk then read the petition of Hines MIP River Street LLC in an application for a sign variance. The locus has approximately 4,109 acres of land. The locus is situated in an Industrial Zoning District and the Riverfront Overlay Zoning District. The Petitioner proposed to locate, construct, use and maintain various signs on the locus to identify the new residential structure, the associated leasing office, the businesses of an abutting parcel as well a means of access and egress for the locus. Location and Zoning District: 36 River Street is located in an Industrial Zoning District and Riverfront Overlay Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative, please?

Michael Connors, Esquire, Law Offices of Connors and Connors, 6 Lexington Street, Waltham came forward:

Mr. Connors: I am here tonight on behalf of my client, Petitioner and Owner Hines MIP River Street LLC. I have with me tonight Mr. David Perry from Hines.

(Mr. Connors read part of his brief into the record.)

Mr. Connors: Madam Chair, and members of the board, as you are aware, I provided the board with a brief two weeks before, consistent with the board's rules and delivered hard copies to each board member. In that the board is very family with Article 6 of the Zoning Ordinance pertaining to signs, is it the board's wish that I continue with the presentation of the brief or are there specific questions that the board would like to request at this time?

Mrs. Rando: How does the board feel? Do they want Attorney Connors to continue with his brief or are they ready for questions?

Mr. Sergi: I read the brief, so I'm okay with it.

Mrs. Rando: Mr. Hickernell?

Mr. Hickernell: I feel the same way as Mr. Sergi.

Mrs. Rando: Ms. Gelineau?

Ms. Gelineau: I feel the same.

Mrs. Rando: Mr. LaSane?

Mr. LaSane: I got it in plenty of time.

Mrs. Rando: Do you have any drawings to show us exactly where the signs are going?

Mr. Connors: I can flip through the signage package as far as since it was just the signage. The only plan that is clipped to the back of your signage package is the abutter's plan. But page one of the signage package which is just actually the cover page shows all the signs on the site and where they are located. As was stated, this is over four acres of land, so seven signs is less than two signs per acre. Added to that, it's on a busy street corner and I think most uniquely here, it has a right of way for an abutting parcel which further confuses issues at busy intersections. As you can see on page one there, the ground signs, where there's four here, like I said here, there's one at the Stop and Shop and that is in green listed there. Then there's simply a monument sign at the entrance and then just one at the entrance that is also marked as a fire lane which is right near the Watertown line and one up at the corner of Farwell and River. And the plan also shows the projecting signs that are mentioned.

So, really it's a unique site in that the topography as it shifts dramatically down towards the Charles River. This is one of the things that we spelled out in the brief.

Mrs. Rando: Doesn't all these properties along River Street go towards the Charles River? I mean why is this unique?

Mr. Connors: It's unique as compared to other lots in the zoning district. So the fact that the topography changes is one of the standards that we need to meet to have a variance and here I have listed both the shape of the lot and the topography as uniqueness for lots in the zoning district.

Mrs. Rando: You're on a very, very busy street. You're on River Street, Farwell Street and Seyon Street. And you don't think that with the lights there that you're visibly noticed, that huge complex?

Mr. Connors: Well the signs are pointing towards the entrance. If this was, let's say on a Main Street, signage in this zoning district is aimed at a stand alone building with a field of parking much like the buildings that are on Seyon Street. If you think of BJ's, you see a BJ's, there's all parking up front. You drive up as close as you can to the building to a parking space and there's no question where you are. Here, if you're at that busy intersection, you may be looking left and you may have a green light. You may not be waiting at the intersection.

Mr. Connors: It has a River Street address. It is a busy intersection. You have to make a decision and I think most accidents happen when people hesitate, so if you weren't aware of the area, since there's two hundred residential units there, the type of people that live in these residential units are either, A, empty nesters or young. It's probably a more transient population than other places. Because of that, they are going to have visitors at different times of the night and so for those reasons, no, I think that there is quite a need for signage at that intersection to identify where the entrance to the locus is and further, the marketing office which is an entrance to the building.

Mrs. Rando: Tell me, if the whole project were smaller, would you be here asking for as many signs?

Mr. Connors: Well, the project as I mentioned, I didn't represent the petitioner of the original special permit. The petitioner purchased it permitted. It didn't change the size of the plan, the building footprint or anything. It was built with specific conditions that includes for instance ten percent of the affordable units. So the size was thought of for signage. The reason the signage is needed is due to partially the location of the building but

it's the location of the building on this oddly shaped lot as well as the fact that there's a dramatic topography shift that goes down to the river. It's 42 feet in elevation as my brief states. It goes down to 19 feet closer towards the river, the DCR property, and I have pictures in the brief showing along that fire lane the dramatic drop off. I think that picture shows it the best and that shows on Exhibit D.

Mrs. Rando: You being in an industrial zone, how does that hinder you? You have the right to have the same size sign as any other business or commercial use. Why is that hindering you? Why is it an advantage and why do we grant you bigger signs? I don't understand.

Mr. Connors: I don't think it's necessarily the size of the signs, even though, like I said, the double face signs is the reason we go over the size. The purpose of the sign, you know, once again is for safety reasons there. If you're thinking once again of the BJ's which happens to be on Seyon Street there, if you're looking you can put it right on the facade. In fact, industrial zone is not contemplated residential use. Residential use came into industrial zone when the zoning ordinance was amended to include Section 8.4 of Riverfront Overlay. Now, once you bring the residential component down there, you say what type of signage do you want on residential? The amount of signage or the size, I actually have Section 6.612b which is not one of the variance requests tonight but it goes to the argument of do you need more signage? The answer is, no, we don't need more as far as the size you were getting at or how much we could have because really the zoning in this district and you will see when I hand out Section 6.612b we are allowed six feet for the width of the building or store and that's why I wrote in the brief that it's written for a Main Street or a Moody Street frontage and you could put a banner along the front of that.

Now, we have 367 feet of frontage of the building along River Street so we could multiply that times six and we could have 2,202 square feet of signage by right. We could put a banner along the building that says Currents on the Charles. Now people would

know where the building is but they still might not know where the entrance is. So what's appropriate signage? Similarly on Farwell Street, we have 270 Feet of building facade there. So multiply that times six and we could have 1620 feet of signage.

Mrs. Rando: You have to have 64 square feet of projecting signs, right?

Mr. Connors: We are allowed up to 64. The ordinance isn't specific as to double space. That's an interpretation by the building inspector and I think that's come up in front of this board numerous times. So it's not, is that sign too big, because we could have a sign that big and simply have it single sided.

Mrs. Rando: Two double faced projecting signs would equal what, 86 and 105 square feet?

Mr. Connors: Correct.

Mrs. Rando: And you don't feel that's excessive. Then on C, you may have one ground sign that's permitted per lot and you want four. On B, it states that no ground sign shall exceed 48 square feet in area and here one double faced ground sign has 47.25 square feet of area and a total of 94.5 square feet on both sides.

Mr. Connors: When you multiply it by times two to get to both sides. So the point I was making, if they are all single sided that they would all meet the size just because they are double sided and I think more effective. Once again, if this was a typical site in an industrial zone, you'd just have the frontage that I said you could put a banner along the whole building because you have this entrance way. Well, this isn't the typical building and it's not a typical lot. So that's why Hines, they're in this business, they've been in the business for fifty-seven years and this is a typical signage plan, this isn't excessive by any stretch of the means.

Mrs. Rando: Your hardship is what, just the river?

Mr. Connors: People finding the entrance to the location. Like I said, I can go through the brief.

Mrs. Rando: I don't think anyone has a problem finding Stop and Shop and that's the same entrance.

Mr. Connors: I mean, I think it's tremendously unique in the fact that there's a right of way access through there and that's why the city council asked that a sign be put there for the Stop and Shop specifically. So if you take that into consideration, that's the one ground sign and now there can be no other ground sign? Just one for the Stop and Shop and the Citizen's Bank there. You know, so I think these are a tremendously unique set of facts here.

Mrs. Rando: Mr. Sergi, do you have any questions at this time?

Mr. Sergi: No, but I think maybe there's some consideration. This corner, I mean, it is a very trafficking corner and I go down there almost daily. I question the need for three signs in that location. A projection ID, I don't see any need for that projecting sign. I think maybe the lit monument directional sign may be warranted there. I question the wall directional sign. I think one sign there would be appropriate and a little bit more tasteful in the neighborhood. So that would be my comment.

Mr. Connors: On that plan, that's in green, the wall directional, just the way that this went through, that was also included on the special permit set. So we included it here. Really the sign plan, I didn't want to take it off there because it was included in the special permit set.

Mr. Hickernell: But that's by right.

Mr. Connors: It's included in the Special Permit.

Mr. Hickernell: You don't need a variance for that one tonight, B1.

Mr. Connors: Correct. The B 1, there's no variances for that. In fact, like I said ,we could do wall signage for twenty-two hundred square feet along River Street.

Mr. Sergi: I'll just make a comment. That surrounding neighborhood, I think it's more tasteful to have less signage at that corner.

Mr. Connors: And I was just explaining why that extra sign is there. We can always build fewer signs but the type of sign that we wanted that was a carry over from the petition of the Riverfront Overlay.

Mr. Sergi: I understand. I question the need for it. Is there a need for that additional third sign even though you say you can put it there. I am just saying. Maybe it's not necessary if you have the other two signs.

Mr. Connors: I didn't want to strike the sign that was approved by the city council specifically there. I wanted to present the plans as they were approved with these additional requests. That's why I put them in a different color on the plans.

Mrs. Rando: Mr. Hickernell?

Mr. Hickernell: I mean, I think I see the need or a reasonable argument for signs C, D and F. I'm not sure about the others assuming that B 1 stays. I mean, again, three at

that corner seems much. I think one would do it and I'm not sure about an E either. I certainly see why C, D and F makes sense because you can go past that entrance pretty quick if you don't know what to look for.

Mr. Connors: Right. With the River Street address, it's coming off of Farwell Street. If you go further down River Street, the plan kind of ends but as you well know then you are into Watertown and the next entrance would be to that Stop and Shop.

Mr. Hickernell: Are they going to put a sign in there for you?

Mr. Connors: They have access over the right of way. But, no, there's no signage there. The city council has quite a few powers but they can't dictate previously permitted items in Watertown. So, there's no signage for us there.

Mrs. Rando: I feel that C, D and F are the projecting directional signs, right?

Mr. Connors: C and A are the projecting.

Mrs. Rando: Now, do you feel that they have to be as large as they are? I mean, what gives you the right to have signs that large? I mean, I just don't understand your reasoning. It doesn't need to be that large. The ordinance wasn't meant to have them that large.

Mr. Connors: Once again, it's a typical request here, like I said, it's an interpretation by the building inspector that it's two sides. The signs that are one sided wouldn't be too large. And as I said, we could have much larger signs. It's just, we think this is a more appropriate sign package. It's substantially less signage. We could have close to 4,000 square feet of signage by right under the Industrial Zone. We're unique in that we are a residential structure down in this Industrial Zone. But the signage that

applies to us is the industrial signage, not separate signage. You know, if you go down to the Watch Factory, there's quite a bit of signage and that's how a residential structure along the Charles River, you know, I think it's appropriate.

Mrs. Rando: I feel it's excessive and not necessary and it reminds me of the RCN case. You have two very main streets, you have three main streets with lights right there.

Mr. Connors: I received that email today, the RTN, the Credit Union. And I'm not sure if that's going to be read into the record.

Mrs. Rando: Are you talking about Councillor Logan's letter? I'm not referencing that. I'm just familiar with that RTN case.

Mr. Connors: My understanding after receiving the letter, the case hasn't been decided yet?

Mrs. Rando: No. But you know the building and you know the main roads that I am speaking of.

Mr. Connors: My father had an office there when they freed the hostages. I watched a parade out of a window there. So I know it very well. That is completely different when I was walking through what we need to prove and I laid out in the brief, for instance, that's just over one acre, that site. And I mean, if you want to talk about visual clearance, you have the common right across the way. It's almost a complete square. Our site has all these undulations that follow the Charles River, there's different bends. Like I said, the fact we're four times the size, seven signs is less than two signs per acre. I actually printed out from the city what that locus looks like compared to ours. I think first and foremost, the fact that it's approximately one quarter of the size, and I can hand this out to the board. I mean, where I was referencing elevations and showed visuals, there's no

need for visuals here. Everyone knows that that part of Waltham is almost completely flat along Main Street. So I just took this off the city website.

I'm arguing shape and topography. So like I said, this site and I'm not picking those standards out of no where. Those are the two out of the three that I can choose for proving the hardship. And I think its laid out that they are at our locus significantly where here, I don't know who's representing the person here, or what their arguments are, because like I said I just got this email today and pulled this information up. I can look across from this building from my office and this is flat, so you can't argue topography. The only other argument you can have is the soil conditions. I don't know the soil conditions there. I am not arguing that here. Maybe that's where they are going under. But they are flat here and I can't think of a shape but for the back corner there. It's really a square lot on the corner of the City common. I'm not at a City common. I am at the meeting of roads at a city boundary line. We have a tremendously unique situation and that's why we have signage on that part of the site where we have a right of way running through our property for another larger entrance way located primarily, I think people would say, it's in Watertown. It does have part of the land in Waltham but really the main entrance is in Watertown. So the fact that we are four times the size of this site, I don't know what they were petitioning for but I don't see us as comparable to them at all. And I respectfully disagree with Councillor Logan's comments about the size, and that's why I laid out some of those arguments. Just to stress the point, we are not looking for that type of signage.

The questions isn't, because by right we could have under the Industrial, it just doesn't fit a residential structure. We could have close to 4000 square feet of signage that we don't want. We are proposing a couple of hundred square feet.

Mrs. Rando: Are you not afraid that we are opening pandora's box. We'll have the whole Shaw's complex coming in looking for bigger signs.

Mr. Connors: I don't think that's ever the case. This board is supposed to look at the facts and what I am talking to.

Mrs. Rando: They've got the same type of locus that you have. The same grade runs down to the water. They have a hardship that way.

Mr. Connors: I haven't looked at that site specifically. I'm not sure they might very well already have a variance.

Mr. Hickernell: They do and partly because of that topography.

Mrs. Rando: Right, we gave them a very hard time when they came before us for the size sign that they received from us.

Mr. Connors: Like I said and it's spelled out in my brief, this has to do with safety, traffic and people finding the entrance to the building properly. That site is set up more or less, we were talking about other industrial sites. You look at it. You can't miss it down the hill and there's a field of parking in front. It's a completely different setup. Here you wouldn't know where the entrance is if you were on River Street without signage.

Mr. Sergi: Councillor, is there a need for that projecting sign? Can it be flush to the building? There's not many projecting signs on that street.

Mr. Connors: The one on Farwell Street?

Mr. Sergi: The one on River Street.

Mr. LaSane: The problem I've got is we keep talking about driving and people trying to find the site easily. Developers, especially the road that Gore Estates is on that

connects Waltham to Watertown, there's a new development back there, a residential development. They have a very small sign and I drove past it eight times until I found it. I had the address all along. I put it in my GPS. I drove past it eight times and then I called the management office, they said slow down, on your right, there's just one sign and we are hard to find. Is the purpose of the signage in your mind to help the leasing process? You see, because those guys have the same problem and they just opened and they are eighty percent filled. I don't equate the logic. I don't get it.

Mr. Connors: That's in Watertown along that road.

Mr. LaSane: No, I'm making the argument on signage to needs. I don't get it. One sign, entrance around the corner.

Mr. Connors: I think on Grove Street, there's no traffic signal at all. There's a four way stop sign across from the Gore Estate. This is more like down on the city common. You know exactly what's going on on that side of the street. You don't have to look anywhere. The Gore Estate, they have including Watertown well over one hundred and fifty acres of farm there, a substantial amount. So you only have to look on one side of the street if you're not at an intersection where you have to make a decision, which way do I go?

Mr. LaSane: But shift the argument from now from River to Pleasant going into Watertown, you've got that 290 Pleasant Street a huge apartment condo complex there and across the street a smaller condo development there with no sign, and they don't seem to be having any problem leasing it. I don't get the argument - - -

Mr. Connors: It's way finding once again. Repton Place is on a perfectly flat land. Russo's is on the other side. This here, we are falling off. The entrance is around the back and that's why I pointed out to the exhibits in the brief that show this extreme change in

topography going down towards the Charles River. I believe Repton Place has multiple entrances.

Mr. LaSane: I'm not talking about Repton. I wish I could remember the names. No signs. And when I drive down the street I go at least thirty-five to forty miles an hour and after the first time, I got it and still I found it. So I'm just having a problem equating the logic of signage to the development needs unless in the case of finding the entrance and maybe you need a sign that says the entrance is around the corner.

Mr. Connors: And after you identify it you'll always know but this is what I was just saying. There's a high turnover rate at these types of apartments and there's also people with a lot of visitors. I'm not young anymore, but when I was younger I had friends from all walks of life and they might be coming over to meet on certain occasions so it will be their first time coming. And if it's their first time coming, there's nothing worse if someone is stopping at a light and looking around and that's where I think traffic accidents happen.

Mrs. Rando: Attorney Connors, in all due respect, I have children your age and they would have no problem finding that complex with their GPS's or calling Surrey, or whatever they do and they would stop and find an ATM on the way because that's what young people do. They would have no problem. They would be able to find that and the ATM and they would get right to the address that they want.

Mr. Connors: On the flip side of that, I mentioned earlier, my younger sister might have my parents visit them. If they are not from the area, maybe they come in on a plane and they rented a car and came in late at night. I'm just saying that the fact that there's a pause at the intersection, this is a way finding solution.

Mrs. Rando: I agree with Mr. LaSane on that.

We are going to ask is there anyone in the audience that is in favor and I take it you are in favor, seeing one.

Mr. Connors: He's the petitioner, so I don't think we can count him.

Mrs. Rando: Oh, sure.

Is there anyone seeking information? Seeing none. Is there anyone in opposition. Seeing none. If you would like to read Councillor Logan's letter at this time.

The clerk then read a letter from Councillor Logan dated December 1, 2014.

Mrs. Rando: All right, would you like to say something about it or would you like to allow this gentleman here to.

Mr. Connors: I think I addressed the issues that were brought up there and I would respectfully disagree with Councillor Logan on his comparison to this to the RTN because as I showed in my handout we have topographical issues that are not present at that site which is one of the elements that are laid out in the brief. Furthermore, we are four times the size of the locus. RTN is a bank that is more of that for repeat visitors. Obviously I agree with him that if a tenant can't find their way back to their home, they obviously have some issues. But I'm not sure David if you have anything to add.

David Perry, Hines MIP: I just want to make sure everybody's perfectly clear on the logic of the proposed signage. My attorney took care of that but just to summarize, this property has a River Street address and you have many visitors and many prospective tenants. We are not at all concerned about tenants not finding their way home. That's not a concern. But prospective tenants coming here for the first time and visitors, if they use

their GPS, they are going to come to this intersection (referring to the plan) and have no idea where the entrance is. So all of this signage is intended to get those people to the entrance of the building which is off of Farwell Street here. (Mr. Perry went over the plan with the board.) That's our concern and its basically the reason for the way finding and signage that is proposed. Thank you.

Mrs. Rando: Do you have anything else to add?

Mr. Connors: Well, I think just from judging from the board's comments, I don't know if it's a question of addressing one or two signs and that others are okay, I would hope that we could have that discussion further and if there's a middle ground here, we are open to hear. This is just the proposal. That's why we are here.

Mr. LaSane: Can I make a suggestion? If it were me in all of my collateral I would have the words: "Entrance on Farwell Street". Signage doesn't solve things a lot of times. I sympathize with this and I can see what you are saying about the development orientation. I would include that message in all of my collaterals, on the website and all that stuff. And I don't really see signage. I am looking at all the developments that have happened along River Street and Pleasant Street. There are no signs on these developments and a couple of them have very tough entrances to locate. So just in terms of development and signage, limiting my discussion to development and signage, and the logic for signage. And you're right, the properties I am referencing are in Watertown but does Waltham have to be the town that has flags on the side of your buildings?

Mr. Connors: I can't speak to how all those were permitted but I think all those buildings are at street level where here this one, again the entrance is around the back much lower than the intersection.

Mr. Hickernell: I mean, that's a very tough intersection already and you're adding an awful lot of units. To me, this signage that reduces the unnecessary trips to that intersection would be helpful for both traffic and for safety. So those are the signs that I think I would support. With regard to the projecting signs, is there a limit in the code as to how many projecting signs you can have on this building?

Mr. Connors: Projecting signs are unique. They don't fall under wall signs. So the zoning ordinance, sometimes its knee jerk legislation that goes in. There's not a limit as to projecting and once again we are allowed here in the industrial zone a tremendous amount of wall signage, so it's just more of the signage package that was put together. Hines has other properties and this is what is expected of a building like this. As you were saying at the beginning of your comments, the ones that you pointed out I would just add that I think sign E also limits repeat visitors through that intersection in that if you were coming from the East and if you didn't enter there you would have to go down and around the site.

Mr. Hickernell What's past this line here on this map that is cut off.

(Mr. Connors went over the plan with the board.)

Mr. Hickernell: I meant this access road here that you want sign E pointing in. Is there a structure immediately —

Mr. Connors: The Stop and Shop and Citizens Bank.

Mr. Hickernell: Well, I mean, that makes sense to me too. The projecting ones, I mean, I tend to disagree with the building inspector's interpretation of the calculation of area anyway. But again there's really no need for three signs at that corner. I mean, the industrial zone gives you the right to put that massive sort of wall or

banner sign along it. You're not planning to do that, so would you be willing to explicitly give up obviously that unnecessary wall sign right?

Mr. Connors: I think we would be fine with that.

Like I said, I didn't want to take it off the plans since- - -

Mr. Hickernell, No, no, I mean your general right to have those thousands of square feet of additional signage?

Mr. Connors: Yes. If this is the only sign plan that we want, we wouldn't be going for any other signage once there's, I mean if there's a variance on the property for signage, then if we added additional signage, I think it would change the set of facts completely.

Mr. Hickernell: What do you need on that corner there? I mean, I think something identifying the building is probably enough and you've got that with your B 1 sign.

Mrs. Rando: We are asking them to stand right now and decide what they would do without and what they really want. Maybe we should sit down and talk to Mr. Perry and come back and tell us what you are willing to do without and what you feel is absolutely necessary. Unless you want to go forward tonight.

Mr. Connors: Is it okay if I take a one minute brief discussion with my client?

Mr. Rando: Sure.

On motion of Mr. Hickernell, seconded by Mr. LaSane the board voted to take a recess at 9:25 P.M.

The board reconvened at 9:30 P.M.

Mrs. Rando: Attorney Connors.

Mr. Connors: Yes, Madam Chair and members of the board. I discussed with my client, after hearing the board's input as to the number and some of the type of signage. Oddly, we did notice one omission on the description but we are proposing to first off, remove the request for, if everyone is looking at Page One of the sign plan, remove sign A, Lit Projecting ID. If you can see they were meant to be consistent. Sign C was supposed to be a Lit Projecting Directional down there. So after I heard from the board, obviously we can make changes the decision tonight but we would have to re-issue a new plan to be a condition if we do move forward. So I would ask that it be considered that Sign C read as A did as a double face, that's what DF stands for, that it would be a lit projection directional as opposed to projecting ID because that has a directional component to it.

Mr. Sergi: Did you give consideration to a monument sign rather than a projecting. I do not like projecting signs to begin with and lit. I don't think that's right for the neighborhood.

Mr. Connors: So up in the corner, and I will go directly to that, we would be okay with a condition that we wouldn't build B 1 which was allowed by the special permit. So that would reduce a second sign at that intersection. And then, I guess, so the request would be if we change C to similar to B up above here, it would be down here because there is traffic going both ways. It will be a double face but lit monument directional instead of projecting.

Mr. Sergi: I would be okay with that.

Mr. LaSane: So A is on River Street.

Mr. Connors: It would be completely removed. There's only two projecting signs.

Mrs. Rando: Do you need projecting on A on River Street too.

Mr. Sergi: He 's going to remove that.

Mr. Connors: Both projecting signs will be removed.

Mrs. Rando: D and F?

Mr. Connors: No. Projecting signs A & C. C in replacement of that would be a monument lit.

Mrs. Rando: But D and F is going to be a projecting, correct?

Mr. Hickernell: No, the DF just means double face.

Mrs. Rando: Oh, I am sorry. Thank you.

Mr. Connors: So at the corner, there would be only one sign left which would be sign B, a single face lit monument directional. Sign B we would have a condition saying we wouldn't build that wall sign. And we would remove A. So at that corner, it goes from three proposed signs to one. And per Board Member's Sergi's request and it seems that the board as a whole doesn't want projecting signs, we would change sign C which by a scrivener's error, it was not lit but it would now be a monument sign and it would be a ground sign. I guess the only issue there is that would be a fifth ground sign which we

didn't advertise for. I mean we can always reduce what we propose. That would be additional. That's something we didn't request a variance for.

Mr. Sergi: So you would have to add one more ground sign to the proposal. I'm still okay with it because it makes more sense to me.

Mr. Connors: We would have to re-advertise that. It's an additional ask.

Mr. Hickernell: Let's talk through the monument a bit in that location. How big would that be anticipated to be? There's just not a lot of setback there. I wouldn't want to have a monument that makes it a little tougher to see that's going on as you're driving by.

Mr. Connors: That's why I think the projecting, as I had mentioned, with the riverfront overlay special permit and my client mentioned the landscaping. There are a number of plans that they have to build in accordance with.

Mrs. Rando: I think you have a little bit of work.

Mr. Hickernell: Okay, that sounds like a little bit of an issue at this point. Are there any other changes?

Mr. Connors: I think with the removal of the two signs at the corner seem to be the beginning of the discussion with what the board is requesting.

Mr. Hickernell: Well in order to avoid re-advertising, you could keep B 1 and get rid of B instead. I clearly prefer B to B 1 but- - -

Mr. Sergi: I just think if you could think of something other than a projecting sign there.

Mrs. Rando: What is your wish Attorney Connors? Do you wish to continue, go back and come back with a plan?

Mr. Connors: Can I just have one last discussion with my client?

On motion of Mr. Hickernell, seconded by Mr. LaSane, the board voted to take a five minute recess at 9:35 P.M.

The board reconvened at 9:40 P.M.

Mr. Connors: Thank you Madam Chair, and members of the board. As I discussed in my brief and anyone who drives by the site can see they are almost at final occupancy and signage is very important for them. So, what we are going to propose now and we may have to come back in the future and that will be a different discussion on a different night, we will be completely removing sign C as well, so the hope is that we will move both projecting signs being Sign C and Sign A. Additionally, we could have a condition that says that B, the wall directional permitted by the city council special permit, would not be installed.

Mr. Hickernell: Okay, so you would be keeping B, D E and F and at least for the time being remove any sign where A and C are and surrendering rights for B 1.

Mr. Connors: Correct. The number would be four signs where seven were proposed.

Mr. Hickernell: So one sign per acre.

Mr. Connors: Correct in that calculation and I think we have them at the corners of the locus or at the turning point. So, really there's three signs for our property. The other one serves another property as part of the special permit.

The following changes were made:

Proposed Findings of Fact:

Delete Paragraph (d)

Proposed Decision:

Page 5, Delete top paragraph ss 6.642 (b)

Under Conditions:

Add b. As to said sign plan, Signs A, B1 and C shall not be installed.

Re-letter next paragraph to c.

Mrs. Rando: I am ready for a motion on the Proposed

Findings of Fact.

On motion of Mr. Sergi, seconded by Mr. Hickernell the board voted to waive the reading of the Proposed Findings of Fact since it has been on file .

With regard to the Proposed Decision, on motion of Mr. Sergi, seconded by Mr. Hickernell, the board voted to waive the reading of the Proposed Decision.

Mrs. Rando: Do I have a motion on the Proposed Findings of Fact as amended?

On motion of Mr. Hickernell, seconded by Mr. Sergi, the board voted that the Proposed Findings of Fact as amended be adopted as the board's Findings of Fact.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: On the Proposed Decision as amended?

On motion of Mr. Hickernell, seconded by Mr. Sergi, the board voted that the amended Decision be adopted as the board's decision.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. LaSane, yes and Mrs. Rando, yes.

Mrs. Rando: One more motion is in order.

On motion of Mr. Sergi, seconded by Mr. LaSane, the board voted to adjourn at 9:45 P.M.

Handwritten signature of Barbara Rando, Chair, written in cursive and underlined.