

FOR THE
CITY OF WALTHAM
ZONING BOARD OF APPEALS

GENERAL HEARING

March 28, 2017

7:00 P.M.

at

Public Meeting Room, First Floor
Arthur Clark Government Center
119 School Street
Waltham, Massachusetts 02451

Barbara Rando, Chair
Mark Hickernell, Clerk
Glenna Gelineau
Sarah Hankins
Edward McCarthy
Marc Rudnick
John Sergi

Arlington Reporting Corporation
(339) 674-9100

Waltham Zoning Board of Appeals/3-28-17/2

I N D E X

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A T T A C H M E N T S

Legal Notices: Case No. 2016-45
Case No. 2017-04

Case No. 2016-45:
Proposed finding of facts
Proposed decision

Case No. 2016-49
Proposed finding of facts
Proposed decision

Arlington Reporting Corporation
(339) 674-9100

Waltham Zoning Board of Appeals/3-28-17/3

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

2 BARBARA RANDO, CHAIR: Good evening.
3 The Zoning Board of Appeals for Tuesday, March 28,
4 2017 is called to order at 7:00 p.m.

5 Tonight we have two new cases and one
6 continued case: Case 2016-49, Robert and Ann
7 Foucher, 30 Sanders Lane, and that's for a variance;
8 Case 2017-06, Design Communications, 225 Second Ave.,
9 and that's also for variances; Case 2016-45, Colbea
10 Enterprises, LLC, 225 Waverley Oaks Road, and that's
11 also for variances.

12 The members sitting this evening on
13 the Colbea case will be Mr. Sergi, Mr. Hickernell,
14 Ms. Gelineau, and Mr. Rudnick, and the Chair.

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1 ACCEPTANCE OF MINUTES OF JANUARY 30, 2017

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 BARBARA RANDO, CHAIR: I would like a
motion to accept the minutes of January 30th.

 JOHN SERGI: So moved, Madam Chair.

 BARBARA RANDO, CHAIR: Motion by Mr.
Sergi. Do I have a second to approve the minutes?

 GLENN GELINEAU: Second.

 BARBARA RANDO, CHAIR: Second by Ms.
Gelineau.

 All in favor?

 ALL BOARD MEMBERS: Aye.

 BARBARA RANDO, CHAIR: Opposed?

 (No Board Members opposed.)

 BARBARA RANDO, CHAIR: The ayes have

it.
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1 **Case Number 2016-45: Colbea Enterprises, LLC c/o**
2 **Ayoub Engineering Inc.**

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4 BARBARA RANDO, CHAIR: Would the Clerk
5 please read the petition in Colbea?

6 MARK HICKERNELL: (The Clerk reads the
7 above-mentioned petition into the record. See
8 Attached.)

9 BARBARA RANDO, CHAIR: May we hear
10 from the Petitioner or the Petitioner's
11 representative please?

12 ATTORNEY WILLIAM PROIA: Good evening,
13 Madam Chair, members of the Board. For the record,
14 my name is William Proia. I'm here for the applicant
15 this evening.

16 Just, I'd like to bring to the Board's
17 attention, the plan has been revised and we're able
18 to actually move the dumpster so that it complies
19 with the side yard setback now. So, we're
20 withdrawing our request for that. It's, like I said,
21 the side yard, where our previous plan didn't. So, I
22 want to just point that out right away.

23 MARC RUDNICK: Is that on these plans
24 that you gave us?

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1 ATTORNEY WILLIAM PROIA: Yeah, that
2 one, I think what we do is -- so, as we move along,
3 we obviously can provide revised plans of other
4 changes happening there as well.

5 BARBARA RANDO, CHAIR: Sir, you
6 mentioned the dumpster. Where did you move it to and
7 how did you --

8 ATTORNEY WILLIAM PROIA: It's located
9 in the same area, but we were just able to do some
10 redesign where we pushed it closer to the building so
11 that that works. It's really still in the location
12 that's here in the plans. We just moved it closer to
13 the building and outside of the side yard setback.

14 We have a full team here tonight, so
15 I'm not going to sort of get into the details of the
16 improvements. But I'd just like to say that it's a
17 really outmoded site, the pumps, the building. And
18 it gives us an opportunity to really make some really
19 nice improvements, especially to the environmental
20 condition of the property, add some landscaping. And
21 we'll go through the details on that.

22 According to the City records, there's
23 been a gas station here since at least 1958. And
24 there's been some improvements over the years and

1 some changes, but nothing that really would address
2 some of the things you'd really want to see on the
3 site now, things like stormwater improvements, state-
4 of-the-art equipment, new building, new utilities,
5 fire protection, things like that. So, all that
6 we'll get to in a minute.

7 I just wanted to note that the
8 project, as it's depicted on the plan, requires
9 relief from all four permit-granting authorities:
10 this Board, the Board of Survey and Planning for the
11 curb cuts that exceed 25 feet; the Conservation
12 Commission as there's a wetland across the street;
13 and the City Council as well for the special permits.
14 So, we're just sort of starting in front of this
15 Board. We are going to appear before the Board of
16 Survey and Planning next Wednesday and Conservation
17 Commission on Thursday of next week. And we expect
18 to wrap up the Conservation Commission. We're pretty
19 far along in being able to address all their requests
20 -- all their concerns or requests on the plan. So, I
21 just wanted to give you that background.

22 There was a variance granted on this
23 site back in 1996. It just related to some signs.
24 It was a dimensional variance. There were some older

1 signs taken down and then the current sign was
2 permitted under that variance. So, again, I just
3 wanted to let you know the history of the site.

4 So, I just want to point out -- I
5 apologize for this plan. It was actually from the
6 City's GIS. And just to get orientation, it's Beaver
7 Street and Waverley Oaks Road. This is obviously a
8 big plan view. This is Cornelia Warren Field, and
9 the wetlands I talked about across the street. And
10 this is the American Legion. So, our site is right
11 here. It's this sort of irregularly shaped lot right
12 between, you know, sort of pinched between the two
13 streets, and, again, sort of funny rear lot lines and
14 side lot lines. Fairly small compared to the other
15 commercial lots in the district. So, generally, it
16 doesn't share those characteristics of the other
17 commercial lots. I'll leave this here so you can
18 look at it.

19 And, again, this is obviously the site
20 plan. So, Waverley Oaks Road, Beaver Street, the
21 development sort of around it, the office building to
22 the back. Again, the American Legion would be across
23 the street, and Cornelia Warren diagonal with that.

24 So, the site has those kind of

1 characteristics, being on the corner lot, fairly
2 small, with really an acute angle with the street.
3 And it does require, because of those sort of --
4 because of the shape of the lot, and the fact that
5 it's on a corner, there's a couple of things that
6 we're constrained by. I'd just like to point those
7 out. And, also, because of the intersection and
8 really the need to alleviate having all the traffic
9 going on one street or the other, we do have curb
10 cuts on both streets. And what that does is, you
11 know, if this was closed, for example, the building
12 could be sort of -- you could rotate it this way and
13 away from the back lot line. But we really can't do
14 that. I forgot to mention, we've been through the
15 Traffic Commission, and they've approved this plan.
16 And, Scott can talk a little bit more about traffic
17 in a few minutes. But I just wanted to point out
18 that the shape of the lot really constrains us and
19 requires us to kind of push the building back, and
20 that's the reason why we're in the rear setback.

21 The other piece to that is that the
22 site meets the FAR requirement, meaning the density.
23 So, the building isn't too big for the lot under the
24 requirements of the zoning ordinance, which is kind

1 of interesting to think about. So, it's really that,
2 again, the shape and the requirement for those curb
3 cuts that pushes us back into the setback. And,
4 again, we're seeking relief to 15 feet instead of 25.

5 As for the other variance that we're
6 seeking, to increase the floor area from 1,000 feet
7 for the convenience store to 2,306 I think it was,
8 again, that's related to the way the site functions
9 as a gas station, it's -- the gas retail portion of
10 it doesn't really support the project, in other
11 words, support the improvements we'd like to make to
12 the site. So, the idea is we have to increase the
13 other commercial parts of the property to make it
14 more feasible financially. And without that, we
15 won't really be able to create any of the
16 improvements that we're doing on the lot.

17 Again, it's interesting that it's not
18 an FAR issue. In other words, the building is still
19 the right size, but the amount of space being devoted
20 to that particular use we're asking for is a little
21 bit more than the bylaw permits. And I don't know
22 where that 1,000 feet came from. I know it's in the
23 Code. It seems kind of arbitrary. In this case,
24 even though we're asking for more, the impact on

1 traffic, which I think is probably the most important
2 impact, and I probably think that's what the Code was
3 trying to get at by limiting it to 1,000 feet, was
4 what would happen if you had a bigger use, you know,
5 devoted to -- a bigger space devoted to that use.
6 Would it create more traffic or other kind of impacts
7 that the zoning code was trying to regulate? And, in
8 this case, it really doesn't. So, I think that it's
9 justified as well for those reasons.

10 I'm going to let Paul walk you through
11 the site plan and talk about some of the really nice
12 environmental improvements we can make, and then
13 Scott can talk about traffic. And if you have any
14 questions, we hopefully will be able to answer them
15 for you. Thank you.

16 PAUL SYLVIA: Good evening. My name
17 is Paul Sylvia, Ayoub Engineering, project manager.
18 We've been working on this project now in terms of
19 design and planning and permitting for several
20 months. I'd like to go through some of the key
21 features of the site.

22 Presently, this facility is being
23 reviewed by your engineering department. We have
24 complied, at least so far, with their submission

1 requirements. And they're reviewing it. And,
2 hopefully, within the next couple of weeks they will
3 have completed the review. And whatever changes they
4 require, we will certainly be willing to make.

5 This project does involve complete
6 removal of all the structure that is there right now.
7 Practically everything on that site will be gone.
8 There will be a new building. If I could just play
9 Vanna White for a minute. This is what ultimately
10 the new facility will look like, approximately.

11 And, along with the brand new
12 building, I do want to emphasize that all the new --
13 actually, all the amenities that are required for all
14 this building to operate would be all brand new.
15 We've already spoken to the engineering department.
16 They would like to see us bring in the utilities from
17 Beaver Street. That's already baked into the design.

18 I think the other thing that's very
19 critical in this project relates to the environmental
20 issues. We've had two or three meetings now with the
21 Conservation Commission. They've asked us to
22 implement phosphorous removal, which is pretty much
23 state-of-the-art kind of technology for wastewater
24 treatment. So, that has been incorporated. There

1 will be not one drop of water that leaves the site.
2 We're looking at 100 percent capture of all the
3 stormwater runoff and complete treatment. And that
4 also includes phosphorous removal.

5 I want to emphasize now that you're
6 not getting that presently with the site that's
7 there. I mean a good portion of it does runoff.
8 You're all aware of the wetland across the street.
9 And the phosphorous does have an impact on that
10 wetland because the phosphorous literally makes
11 things grow as you watch. It's the only reason why
12 they're trying to protect wetlands from over
13 propagating I guess. So, anyway, we are already
14 incorporating that into the design. And we expect
15 that next week when we meet with the Conservation
16 Commission, we should get a clean bill of health from
17 them.

18 We have adequate parking. I want to
19 emphasize that the parking for the facility is only
20 designed in terms of what your requirement is. We
21 have 25 spaces. You'll notice we have parking all
22 along the front of the building, which complements
23 this kind of a design in terms of, you know, people
24 being able to drive through.

1 If you'll notice the way these pumps
2 are set up, there are six dispensers. Each will be
3 able to provide diesel for cars, not -- this is not a
4 high-speed diesel facility for trucks. I want to
5 emphasize that. This is just for people who might
6 have a car that does need diesel and plus the regular
7 gas, high-test, and the medium grade.

8 So, this facility is set up -- and, by
9 the way, we've done many, many of these, and we know
10 what works and what doesn't in terms of convenience
11 and safety on the site. So, that's why we usually
12 like these facilities to have parking in the front.
13 In addition, we have parking all around the facility.
14 The employees will be parking off to the side, once
15 again, to make sure that there is unfettered access
16 to the facility for the customers.

17 The other thing that is very important
18 is all the landscaping. Ultimately, there will be a
19 complete landscaping plan that I guess that we will
20 be reviewing with your planning department. We have
21 a landscape architect on staff. So when this project
22 is done, you will see a marked change compared to,
23 you know, what is there now. As Mr. Proia pointed
24 out, the facility has been there since 1958. This is

1 I think going to be a vast improvement over what
2 you're all used to looking at.

3 Let me just show you a quick rendering
4 of what the exterior of the building will look like.
5 This design evolved as a result of Colbea's engaging
6 the services of designers. What you see here with
7 this look is the Colbea look, or I should say the
8 Seasons' facility look. All these colors have been
9 integrated and thought about over time so that it
10 exactly works not only with their game plan, what
11 they like to see, but also with the surrounding area.

12 It will also be state-of-the-art in
13 terms of safety equipment. The gas pump area, which
14 is this area right here with the traditional canopy,
15 that I'm sure you all have seen. It has a state-of-
16 the-art fire suppression system. We also have to get
17 approval from your local fire department to make sure
18 that they're pleased with it as well.

19 All the utilities, brand spanking new.
20 The building will be designed to all the latest
21 fire, plumbing, electrical, life safety codes so that
22 when it's all said and done, like I said, it will be
23 state-of-the-art for this type of facility.

24 I guess with that, if anyone has any

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1 questions, I'd be happy to --

2 BARBARA RANDO, CHAIR: Sir, what is
3 that other building down on the end?

4 PAUL SYLVIA: This, ma'am?

5 BARBARA RANDO, CHAIR: Yeah.

6 PAUL SYLVIA: What you're seeing here
7 is the tank mat. That is a concrete mat that is over
8 the tanks that are in the ground. So that is not a
9 building. It is just a concrete slab.

10 BARBARA RANDO, CHAIR: It's flat on
11 the ground.

12 PAUL SYLVIA: Yeah. Yeah, the only --
13 in fact, the only reason why we point that out is
14 because, obviously, it's an engineering function that
15 the engineering department will certainly want to
16 see. So, our tanks are here. And all these circles
17 and dots that you see all represent the fills and
18 everything else for the facility.

19 BARBARA RANDO, CHAIR: So where would
20 the large trucks go when they're filling?

21 PAUL SYLVIA: We have a plan to bring
22 the trucks in. I think the plan calls for them
23 coming up this way, this way to fill up, and through,
24 and then back out to Beaver Street. But I think the

1 traffic engineer will be able to address that one.

2 BARBARA RANDO, CHAIR: I'd be
3 interested in knowing the width between that filling
4 whatever you call it --

5 PAUL SYLVIA: The tank pad.

6 BARBARA RANDO, CHAIR: The tank pad.

7 PAUL SYLVIA: Yes.

8 BARBARA RANDO, CHAIR: And the six
9 units for the gas.

10 PAUL SYLVIA: Okay. Well, this --
11 what is unique, as I was saying, is this pad is
12 structured so that trucks can drive across it. So,
13 it's not as if you cannot drive across the tank pad.
14 And, typically, when the filling of the tanks is
15 done, it's generally scheduled for off-peak hours as
16 much as possible to have the least amount of impact
17 on traffic in the area.

18 Colbea's been doing this for many,
19 many, many, many years, so they have this whole
20 routine down in terms of when is the best time to
21 deliver so that it does not have an impact on the
22 facility and also on the traffic in the area.

23 BARBARA RANDO, CHAIR: And what do you
24 call the downtime?

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1 PAUL SYLVIA: It would be the hours of
2 say probably after 5:00, 7:00 in the evening, when
3 typically traffic is less.

4 BARBARA RANDO, CHAIR: And what if two
5 huge trucks come at the same time?

6 PAUL SYLVIA: Typically, there's only
7 one at a time, ma'am, that would -- these tanks are
8 15,000 gallons each. So, the plan is only one tank
9 truck at a time. And what would that be, once a
10 week, typically?

11 SCOTT THORNTON: Two or three times a
12 week.

13 PAUL SYLVIA: Only one truck at a
14 time?

15 SCOTT THORNTON: Absolutely, one truck
16 at a time.

17 BARBARA RANDO, CHAIR: Two to three
18 times a week. How many trucks do you have two to
19 three times a week? Just the one truck two or three
20 times?

21 PAUL SYLVIA: Yes, ma'am, just one
22 truck two or three times, which, by the way, is
23 probably what's going there nowadays, am I right?

24 SCOTT THORNTON: That's not going to

1 change.

2 PAUL SYLVIA: Right.

3 BARBARA RANDO, CHAIR: Also, the
4 machines, the vending machines, are there chairs or
5 tables?

6 PAUL SYLVIA: In the shop?

7 BARBARA RANDO, CHAIR: In the shop.

8 PAUL SYLVIA: There are no seats.
9 That is not a sit down type of situation. There's no
10 drive-up window for this. It's just a matter of
11 people going in, ordering, and back out again.

12 BARBARA RANDO, CHAIR: Ordering?
13 Ordering what? What are you serving?

14 PAUL SYLVIA: Well, in the
15 presentation it was mentioned that there was a coffee
16 shop.

17 BARBARA RANDO, CHAIR: Fast food.

18 PAUL SYLVIA: Yes, but it's not a sit
19 down place. It's not designed for that.

20 BARBARA RANDO, CHAIR: No, but it's
21 not that they're making sandwiches or --

22 PAUL SYLVIA: No. What we envision,
23 which are most of the shops, are donut type
24 facilities, Dunkin' Donuts, or Mary Lou's, Honey Dew,

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1 that type of thing.

2 BARBARA RANDO, CHAIR: So you may have
3 a Dunkin' Donuts shop in there serving coffee?

4 PAUL SYLVIA: Yes.

5 BARBARA RANDO, CHAIR: So people could
6 run in and get their coffee and their donut?

7 PAUL SYLVIA: Yeah, exactly. That's
8 exactly what --

9 BARBARA RANDO, CHAIR: And do they
10 also have to pay for their gasoline inside, too?

11 PAUL SYLVIA: No, you can pay right at
12 the pump.

13 BARBARA RANDO, CHAIR: With your card?

14 PAUL SYLVIA: Yeah, exactly.

15 BARBARA RANDO, CHAIR: But if you're
16 paying cash, you'd have to go in?

17 PAUL SYLVIA: Yes.

18 BARBARA RANDO, CHAIR: So you have
19 people going in paying for their gas and also paying
20 for their coffee, or donuts, or whatever.

21 PAUL SYLVIA: Absolutely.

22 BARBARA RANDO, CHAIR: And you think
23 25 parking spaces are going to be sufficient?

24 PAUL SYLVIA: What I can tell you is

1 this is a typical design that we've used in tens of
2 other applications just like this --.

3 BARBARA RANDO, CHAIR: How close to
4 Waltham?

5 PAUL SYLVIA: Pardon me?

6 BARBARA RANDO, CHAIR: How close is
7 your facility like this to Waltham?

8 PAUL SYLVIA: Well, we're doing one in
9 Lakeville that's under construction. We're doing one
10 in Westwood. Actually, we have multiple ones all in
11 the general area that are presently in design.

12 ATTORNEY WILLIAM PROIA: Can I just
13 interrupt for a minute, because I think some of the
14 questions Scott might answer. He's the traffic
15 engineer. So, some of those things would be helpful.
16 And if we have to get back to Paul, we can bring him
17 back up for more questions.

18 The other thing I just wanted to say
19 is the use permits, the fast food and the convenience
20 store, would have to be approved by the Council. So,
21 any questions along those lines, we'd be happy to try
22 to answer. I think Scott can answer a lot of them
23 for you.

24 BARBARA RANDO, CHAIR: Do you have

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1 anything else to add, sir?

2 PAUL SYLVIA: No, ma'am, unless you
3 all have any other questions.

4 BARBARA RANDO, CHAIR: Does anyone
5 have any questions?

6 JOHN SERGI: Yeah. Just related to
7 the tanks, are these new tanks or are they existing
8 tanks?

9 PAUL SYLVIA: These tanks are only a
10 couple of years old, and so they will be remaining in
11 place.

12 JOHN SERGI: Okay. So, there's no new
13 regulations in the near future that you can see?

14 PAUL SYLVIA: Well, any modification
15 that they would require to bring them up to state-of-
16 the-art will be done. They already are state-of-the-
17 art. They are the fiberglass double-wall tanks with
18 the leak detection already in place.

19 JOHN SERGI: Oh, okay. So you have
20 all the monitoring in place.

21 PAUL SYLVIA: Oh, yeah, yeah. These
22 are not the old-fashioned steel tanks. Otherwise,
23 they'd be coming out. But, you know, these are
24 fairly new, so the intent is to leave them in.

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1 JOHN SERGI: And the lifespan of those
2 tanks are?

3 PAUL SYLVIA: Typically 20.

4 JOHN SERGI: Twenty years? Okay. And
5 you're getting rid of the carwash? The carwash is
6 gone?

7 PAUL SYLVIA: Oh, that will be going.

8 JOHN SERGI: The carwash and --

9 PAUL SYLVIA: Which, by the way, it's
10 an interesting point that you bring that up because
11 without the carwash it takes a load off of water
12 consumption certainly at the site, potential runoff,
13 impact on the sewers. So, that is a benefit that
14 will accrue to this project that you presently aren't
15 realizing because the carwash is in place.

16 JOHN SERGI: Yeah. No, I realize
17 that. Sure. And the vacuum pumps are gone as well?

18 PAUL SYLVIA: There will be a tire
19 filling and a vacuum.

20 JOHN SERGI: One?

21 PAUL SYLVIA: Yeah, but that's pretty
22 much, you know, a standard kind of a thing. But no
23 carwash.

24 JOHN SERGI: Okay. All right. I'm

1 very pleased to see that you're going to be adding
2 the landscaping.

3 PAUL SYLVIA: Oh, yeah. It will be
4 dynamite when it's done. It will really dress up the
5 corner very nicely. It will certainly be in harmony
6 with everything that's out there.

7 JOHN SERGI: Very good. That's all I
8 have, Madam Chair.

9 BARBARA RANDO, CHAIR: Any other
10 questions? Mr. Rudnick?

11 MARC RUDNICK: No.

12 BARBARA RANDO, CHAIR: Ms. Gelineau?

13 GLENNA GELINEAU: No.

14 PAUL SYLVIA: Thank you.

15 BARBARA RANDO, CHAIR: Okay. Thank
16 you.

17 Name and address, please.

18 SCOTT THORNTON: Scott Thornton,
19 Vanassee and Associates in Andover, one of the
20 traffic engineers for the project. And, we prepared
21 a traffic study with new traffic counts, counts at
22 the facility, including parking counts at the
23 facility. We did our counts in April and May last
24 year. We submitted the traffic study to the City

1 traffic engineer. We actually met with him during
2 the preparation of the study to make sure that he was
3 satisfied with our study area. And, the traffic
4 engineer, along with the traffic commission, reviewed
5 the study and made a recommendation to accept the
6 study to the traffic commission so the proponent
7 could receive a special permit with the City Council.

8 And I think Attorney Proia mentioned
9 that as mitigation for the project impacts, which are
10 fairly slight, but as mitigation for the project the
11 proponent is making a payment of \$17,500 to the City,
12 to the traffic department, for replacement of some of
13 the signal heads at the Beaver Street/Waverley Oaks
14 intersection, or however the traffic department sees
15 fit to use those funds.

16 I think in terms of the project, it's
17 a -- you know, it's an increase of about 600 square
18 feet in the floor area and the addition of the fast
19 food type use. We had initially thought it would be
20 a donut shop, as had been mentioned. Those
21 facilities would have their peak traffic generation
22 in the morning. So, we expected that the morning
23 peak hour would really be the critical time period.

24 We did do, as I mentioned, we did do

1 traffic counts. And we looked at the morning peak
2 hour, the evening peak hour, and also the Saturday
3 midday peak hour. Those are the critical time
4 periods for adjacent street traffic.

5 We're looking at increases of -- and
6 this is actually included in the traffic commission's
7 letter -- but we're looking at trips of about 63
8 additional trips in the morning peak hour, which is
9 equivalent to a car entering and exiting a minute
10 over that time period. In the evening peak hour,
11 it's about half that amount, so about 34 trips. And
12 on the Saturday time period, it's about 54 trips
13 during that peak hour.

14 And, as the traffic engineer, Mr.
15 Garvin indicated, the signalized intersection of
16 Waverley Oaks Road and Beaver Street will operate at
17 a Level of Service C even with the additional traffic
18 generated by the project.

19 And, in terms of overall delays,
20 there's a slight increase for traffic that's exiting
21 the site, but those delays are felt just by our
22 traffic that's exiting. You know, we have traffic
23 split out amongst the three driveways. It's the more
24 holes in the bucket theory so that traffic gets

1 distributed more effectively and efficiently than if
2 you only had one driveway or two driveways.

3 The parking counts that we conducted
4 out there, we indicated -- there were 31 spaces if
5 you include the eight at the pumps. And a lot of
6 people will get their gas and then run in for
7 something real quick and then come out. They'll
8 leave the car parked at the pump. Because it takes -
9 - you know, a lot of gas pumps are smaller these days
10 than ten years ago or 20 years ago -- it takes less
11 time to fill up at the pumps. So, there doesn't seem
12 to be any type of queuing except in extreme
13 conditions where you have a car that's waiting to
14 pull in and you don't have an open gas pump
15 available. With the addition of the gas pumps, that
16 should be even less of an issue at the site.

17 So, with the proposed -- so, the other
18 thing, the maximum amount, number of spaces, we
19 observed at any one time in use was 15 on site. And,
20 so we think that with the additional trips and
21 parking for people that maybe coming in and going to
22 the Dunkin' Donuts or to whatever donut shop or fast
23 food might be there, that might be an additional 15
24 cars that are parked on site. And with the 12 spaces

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1 at the pumps and then the 25 additional spaces that
2 are going to be striped around the site, that's 37.
3 And that should be more than enough parking demand to
4 -- or parking supply to accommodate the demand.

5 I think there was a -- the only other
6 question I heard related to the path of the fuel
7 delivery trucks, I believe. And they generally
8 unload from the passenger side of the truck. So,
9 they're most likely going to be coming in possibly,
10 if they can make this turn from Waverley Oaks Road to
11 come in through this side and then pass right back
12 out or circulate out through the site to come through
13 the other curb cut to Beaver Street.

14 I think that's it. If you have any
15 other questions --

16 BARBARA RANDO, CHAIR: Any questions?
17 Mr. Sergi?

18 JOHN SERGI: No.

19 BARBARA RANDO, CHAIR: Mr. Hickernell?

20 MARK HICKERNELL: No.

21 BARBARA RANDO, CHAIR: Ms. Gelineau?

22 GLENNA GELINEAU: No.

23 BARBARA RANDO, CHAIR: Mr. Rudnick?

24 MARC RUDNICK: Could you give us some

1 guidance of the number of parking spaces the City
2 wants on this site?

3 PAUL SYLVIA: I didn't hear the
4 question.

5 MARC RUDNICK: What are you required
6 for parking for this kind of use in this kind of
7 zone?

8 PAUL SYLVIA: As far as employees, we
9 usually have --

10 MARC RUDNICK: No, what does our
11 ordinance require for parking for this kind of use in
12 this zone?

13 PAUL SYLVIA: Maximum FAR, which is
14 what you're talking about --

15 BARBARA RANDO, CHAIR: You need the
16 microphone.

17 PAUL SYLVIA: The requirement is .28.

18 MARC RUDNICK: I'm not asking about
19 the FAR. You're .27. You require .28.

20 PAUL SYLVIA: Right.

21 MARC RUDNICK: Yeah, I'm asking how
22 many parking spaces are required for this use in this
23 zone, parking spaces.

24 PAUL SYLVIA: Okay. Required, 22;

Waltham Zoning Board of Appeals/3-28-17/30

1 existing, 24; and provided, which is the proposed
2 work, is 25.

3 MARC RUDNICK: Any handicap spots?

4 PAUL SYLVIA: Of course, at this
5 location.

6 MARC RUDNICK: A couple right at the
7 door there.

8 PAUL SYLVIA: Yeah.

9 MARC RUDNICK: Thank you.

10 PAUL SYLVIA: Yes.

11 MARC RUDNICK: When you looked at the
12 traffic, did you look at the question of the cars
13 that drive across this site in order to avoid making
14 left turns through the traffic light there?

15 SCOTT THORNTON: Yeah. Yeah, we did -
16 - we did notice that, absolutely, on the site
17 occurring. And I think the idea is -- part of the
18 problem -- I don't think we have an existing display
19 board. But, I think part of the issue is right now
20 you have a lot of pavement behind the site. And I
21 notice people cutting around the back in both
22 directions. But by reconfiguring the site, closing
23 off the area in the back, landscaping it, really
24 reducing the travel width to these aisles in the

1 front with the parking, I think that's going to have
2 a big effect --

3 MARC RUDNICK: So you think your
4 design will mitigate it somewhat?

5 SCOTT THORNTON: Yes.

6 MARC RUDNICK: Okay. Thank you.

7 And then were you there when you
8 appeared before the traffic commission?

9 SCOTT THORNTON: No. No.

10 MARC RUDNICK: Did anybody from your
11 team appear before the traffic commission?

12 ATTORNEY WILLIAM PROIA: I was there.
13 I was there. Giles, his partner, was.

14 MARC RUDNICK: So, did the fire
15 department weigh in at all? They're there at the
16 traffic commission, right?

17 ATTORNEY WILLIAM PROIA: All the
18 departments were there.

19 MARC RUDNICK: And did they express
20 any particular concerns about the narrowness of the
21 space behind the building reduced from 45 feet to 15
22 feet now?

23 ATTORNEY WILLIAM PROIA: No, they did
24 not. The comment was there's plenty of room to the

Waltham Zoning Board of Appeals/3-28-17/32

1 side and to the front of the building.

2 MARC RUDNICK: Behind the fence on
3 that guy's property, is that pavement there between
4 that big building and your place or is it grass? I'm
5 wondering how the fire department is going to have
6 access to that building.

7 ATTORNEY WILLIAM PROIA: I have no
8 idea.

9 MARC RUDNICK: I guess they'd be able
10 to drive right onto your side.

11 ATTORNEY WILLIAM PROIA: I just know
12 that --

13 STENOGRAPHER: Marc, could you speak
14 into the microphone?

15 ATTORNEY WILLIAM PROIA: This plan,
16 they reviewed it, and there were no negative
17 comments.

18 MARC RUDNICK: No negative comments --

19 ATTORNEY WILLIAM PROIA: Or requests
20 for revisions.

21 BARBARA RANDO, CHAIR: Marc, we can't
22 hear you. Can you get your microphone?

23 MARC RUDNICK: Do you recall the fire
24 department representative at the traffic commission

1 making any comment about the width of the egress
2 behind the building?

3 ATTORNEY WILLIAM PROIA: I don't
4 recall any comments at all.

5 MARC RUDNICK: Is there another
6 opportunity for the fire department to intervene in
7 your process?

8 ATTORNEY WILLIAM PROIA: At any point
9 they could, yes.

10 MARC RUDNICK: You'll have to go to
11 them for some permits, I assume.

12 ATTORNEY WILLIAM PROIA: We'll have to
13 go to them for fuel storage.

14 MARC RUDNICK: These are issues for
15 the Board of Survey and Planning, also, I assume.
16 All right. Great. Thank you.

17 BARBARA RANDO, CHAIR: Any other
18 questions?

19 MARC RUDNICK: Oh, I'm sorry. Are
20 there more pumps now than there were -- than there
21 are? I mean is this plan for more pumps than exist
22 now?

23 ATTORNEY WILLIAM PROIA: Yes.

24 MARC RUDNICK: How many?

Waltham Zoning Board of Appeals/3-28-17/34

1 PAUL SYLVIA: There were four
2 originally. Now there are six.

3 MARC RUDNICK: Thank you. Thank you,
4 Madam Chair.

5 BARBARA RANDO, CHAIR: All right. Is
6 there anyone -- are you, sir, are you finished, Mr.
7 Proia?

8 ATTORNEY WILLIAM PROIA: Yes.

9 BARBARA RANDO, CHAIR: Is there anyone
10 in the audience that is in favor of this petition?
11 Please raise your hand or come up to the microphone.

12 Is there anyone with any questions
13 about this case?

14 (No response.)

15 BARBARA RANDO, CHAIR: Is there anyone
16 in opposition to this case that would like to be
17 counted in opposition? Anyone in favor? I'll say it
18 again. Anyone in favor? And no one is seeking
19 information. Okay.

20 If there are no more questions, you
21 may continue.

22 ATTORNEY WILLIAM PROIA: Well, again,
23 we --

24 BARBARA RANDO, CHAIR: Your proposed

Waltham Zoning Board of Appeals/3-28-17/35

1 finding of facts.

2 JOHN SERGI: Madam Chair, may I make a
3 motion that we waive the reading of the finding of
4 facts since we finally had it to review?

5 BARBARA RANDO, CHAIR: Did everyone
6 have a chance to read the proposed finding of facts?

7 MARK HICKERNELL: Yes, I'll second
8 that motion.

9 BARBARA RANDO, CHAIR: Motion by Mr.
10 Sergi. Second by Mr. Hickernell to waive the
11 reading.

12 All in favor?

13 ALL BOARD MEMBERS: Aye.

14 BARBARA RANDO, CHAIR: Opposed?

15 (No Board members opposed.)

16 BARBARA RANDO, CHAIR: The ayes have
17 it.

18 You may continue with your proposed
19 decision.

20 JOHN SERGI: And in a similar fashion,
21 Madam Chair, I propose we waive the reading of the
22 decision.

23 BARBARA RANDO, CHAIR: Motion by Mr.
24 Sergi. Do I have a second?

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1 MARK HICKERNELL: Second.

2 BARBARA RANDO, CHAIR: Second by Mr.
3 Hickernell.

4 All in favor?

5 ALL BOARD MEMBERS: Aye.

6 BARBARA RANDO, CHAIR: Opposed?

7 (No Board members opposed.)

8 BARBARA RANDO, CHAIR: The ayes have
9 it.

10 Okay. Do I have a motion on the
11 proposed finding of facts?

12 MARK HICKERNELL: Could I make a
13 motion that we amend the proposed -- I guess I forget
14 if it was separated in the draft you gave us -- but
15 to delete the references to the request for the
16 dumpster variance, the second variance sought, as
17 well as to condition, add as a condition, the grant
18 by the -- of the reviewing City bodies, particularly
19 the City Council, of the necessary permits.

20 BARBARA RANDO, CHAIR: All right.
21 Does anyone else want to add anything?

22 (No response.)

23 Did you happen to have any meetings
24 with the neighbors over this, you know, the neighbors

1 on Barbara -- is Barbara Road the first road closest
2 to that?

3 ATTORNEY WILLIAM PROIA: It's not very
4 close.

5 JOHN SERGI: No, you'd have Clematis
6 Ave.

7 ATTORNEY WILLIAM PROIA: We did not
8 have any meetings.

9 JOHN MCLAUGHLIN: Madam Chairman,
10 there's two projects. John McLaughlin, Ward 4
11 Councilor. There's two projects by Colbea. One is
12 on Waverley Oaks Road --

13 BARBARA RANDO, CHAIR: Right.

14 JOHN MCLAUGHLIN: -- which really
15 doesn't have any neighborhoods around it until you go
16 over the culvert up Beaver Street. The other project
17 is on Main Street, 65 Main Street. That's Barbara
18 Road.

19 BARBARA RANDO, CHAIR: I see.

20 JOHN MCLAUGHLIN: That's what you're
21 thinking of, yeah. There are -- you know, again, I'm
22 not offering an opinion, just I've gotten a lot of
23 phone calls about concern about that, but nothing
24 about this.

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1 BARBARA RANDO, CHAIR: We'll discuss
2 that that night. Okay.

3 All right. Do I have a motion on the
4 finding of facts as amended?

5 JOHN SERGI: I make a motion that the
6 finding of fact as amended be adopted by the Board.

7 BARBARA RANDO, CHAIR: Motion by Mr.
8 Sergi. Do I have a second?

9 MARC RUDNICK: Second.

10 BARBARA RANDO, CHAIR: Second by Mr.
11 Hickernell -- or Mr. Rudnick.

12 JOHN SERGI: The other Marc.

13 BARBARA RANDO, CHAIR: Mr. Sergi, how
14 do you vote?

15 JOHN SERGI: Yes.

16 BARBARA RANDO, CHAIR: Mr. Hickernell?

17 MARK HICKERNELL: Yes.

18 BARBARA RANDO, CHAIR: Ms. Gelineau?

19 GLENNA GELINEAU: Yes.

20 BARBARA RANDO, CHAIR: Mr. Rudnick?

21 MARC RUDNICK: Yes.

22 BARBARA RANDO, CHAIR: And the Chair
23 votes yes.

24 Do I have a motion on the decision?

Waltham Zoning Board of Appeals/3-28-17/39

1 Does anyone want to change the decision?

2 JOHN SERGI: I think we should do the
3 same type of --

4 MARK HICKERNELL: Yeah, I mean my
5 amendments will apply to both.

6 JOHN SERGI: Okay. I make a motion
7 that the decision that's amended become the Board's
8 decision.

9 BARBARA RANDO, CHAIR: Motion by Mr.
10 Sergi. Do I have a second?

11 MARC RUDNICK: Second.

12 BARBARA RANDO, CHAIR: Second by Mr.
13 Rudnick.

14 How do you vote, Mr. Sergi?

15 JOHN SERGI: Yes.

16 BARBARA RANDO, CHAIR: Mr. Hickernell?

17 MARK HICKERNELL: Yes.

18 BARBARA RANDO, CHAIR: Ms. Gelineau?

19 GLENNA GELINEAU: Yes.

20 BARBARA RANDO, CHAIR: Mr. Rudnick?

21 MARC RUDNICK: Yes.

22 BARBARA RANDO, CHAIR: And the Chair
23 votes yes. It is granted.

24 I need you to sign something before

Waltham Zoning Board of Appeals/3-28-17/40

1 you leave, an extension of time because we're not
2 going to have time to make the decision within the
3 timeframe.

4 ATTORNEY WILLIAM PROIA: Yes.

5 BARBARA RANDO, CHAIR: We'll take a
6 two-minute recess. Do I have a second?

7 MARK HICKERNELL: Second.

8 BARBARA RANDO, CHAIR: All in favor?

9 ALL BOARD MEMBERS: Aye.

10 BARBARA RANDO, CHAIR: Opposed?

11 (No Board members opposed.)

12 BARBARA RANDO, CHAIR: Two-minute
13 recess.

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1 **Case Number 2016-49: Robert Foucher and Ann Foucher.**

2

3 BARBARA RANDO, CHAIR: Will the Clerk
4 please read the petition in Case 2016-49, Robert and
5 Ann Foucher, 30 Sanders Lane.

6 MARK HICKERNELL: (The Clerk reads the
7 above-mentioned petition into the record. See
8 Attached.)

9 BARBARA RANDO, CHAIR: Thank you. The
10 members sitting on this case will be Mr. Sergi, Mr.
11 Hickernell, Ms. Gelineau, Ms. Hankins, and the Chair.

12 All right. May we hear from the
13 Petitioner or the Petitioner's representative,
14 Attorney Connors?

15 ATTORNEY ROBERT CONNORS: Good
16 evening, Madam Chair. Good to see you back.

17 BARBARA RANDO, CHAIR: Thank you.

18 ATTORNEY ROBERT CONNORS: My name is
19 Robert E. Connors, Jr. I'm an attorney here in
20 Waltham with the firm of Connors and Connors. I
21 represent the Petitioners tonight. The Petitioners
22 are Ann and Robert Foucher.

23 Ann bought this house in 1999, was
24 subsequently married to Bob, and they're here tonight

1 asking for relief with this petition.

2 The locus is situated in the Piety
3 Corner area of Waltham on Clark Lane, at 30 Sanders
4 Lane is the address. The locus contains 10,125
5 square feet of land and has a one-family house
6 located thereon, single-story, an attached garage,
7 and a small gazebo in the side yard. The residence
8 is situated in a Residence A-2 Zoning District,
9 according to the zoning map of the City of Waltham.
10 The locus is shown on the set of plans that were
11 filed with this map.

12 The original house was built in 1957.
13 Although the house was assigned a street number of 30
14 Sanders Lane, the frontage for the house has always
15 been on Clark Lane.

16 To better follow what goes on here
17 tonight, the issue is very simple. On the second
18 page of the brief, you'll see a picture of the house
19 and the garage. All we're here tonight seeking is to
20 connect this house ten feet over to this garage, the
21 sole purpose that we're here. But what has happened
22 is some other things have come up along the line.
23 And, because of that, we're requesting a number of
24 things.

1 To give you a little bit of a history
2 on how we've got here, I've included exhibits in with
3 the brief. But because sometimes it's hard to flip
4 back and forth between the exhibits and the brief, I
5 have printed out copies of the exhibits so you can
6 old those off to the side.

7 As I said, the Petitioners have a
8 desire to connect the house to the garage. If the
9 Board grants this petition tonight, no part of the
10 house, the proposed breezeway which would connect it,
11 or the garage will be any closer to any lot line than
12 the house or the garage currently are.

13 The reason for this is the zoning
14 ordinance of the City of Waltham. The zoning
15 ordinance of the City of Waltham says that in any
16 zoning district you can have a detached garage and
17 have a side yard or a rear yard of only three feet
18 from the lot line. However, as soon as you connect
19 that detached garage to a house, you then have to
20 have the setback required in that zoning district.
21 In this case, in a Residence A-2 Zoning District, you
22 have to have a setback of 40 feet for the -- excuse
23 me, 20 feet for the rear yard, for the side yard, and
24 40 feet for the rear yard. So, you've gone from

1 three feet and three feet, all of a sudden you jumped
2 up because you've connected the two of them. And
3 that's the crux of our problem here tonight.

4 The variances, we're here on a number
5 of variances also tonight. And it seems that we
6 shouldn't be here on this many variances for this
7 simple a thing. But what has happened is that that -
8 - and I'll kind of skip over it quickly -- back in
9 2004, this Board of Appeals granted variances to put
10 up this detached garage, to put an addition on the
11 northerly side of the house, to put an addition on
12 the southerly side, the Clark Lane side of the house,
13 and to have the gazebo where the gazebo is located in
14 the side yard. The plan at that time improperly
15 identified Sanders Lane as an existing roadway.
16 Sanders Lane, as I will go over in a couple of
17 minutes, has never been anymore than a footpath.
18 It's never been approved by the Board of Survey and
19 Planning, never been approved by the City, just never
20 existed. So, because they used Sanders Lane, they
21 used that as their front yard. Clark Lane should
22 have been the front yard. That threw everything off,
23 all the variances that they got at that time,
24 everything for the garage, for the gazebo, for the

1 additions, for the north side and the south side of
2 the house. So, we're back tonight because now we
3 have to correct all of those because an addition was
4 put on the south side of the house, an addition was
5 put on the north side of the house. The gazebo is
6 there. And we have to ask for those variances. So,
7 we're asking for those variances again, only this
8 time they're based off of Clark Lane being the
9 frontage and not this "Sanders Lane."

10 The only variances that are being
11 requested tonight that pertain exactly to this
12 breezeway is that, number one, is the setback of 40
13 feet that I mentioned before. We've gone from three
14 feet to 40 feet on the rear yard. And the second one
15 is that we've increased the lot coverage by having
16 this breezeway. If you go out there right now,
17 there's a patio out there at the house. But as soon
18 as we put a roof over it, it becomes lot coverage.
19 So that increases that.

20 The jurisdiction, obviously, Mass.
21 General Laws, Chapter 40A, Section 10 and 14. The
22 use here is allowed, which is a single-family house.
23 The variances that we're requesting are dimensional
24 variances along with the variance to locate the

1 gazebo in the side yard. And the zoning ordinance of
2 the City of Waltham also authorizes this Board of
3 Appeals to grant any variances allowed under the
4 General Laws and the zoning ordinance. Therefore,
5 we're properly in front of this Board.

6 The first factor that comes up is that
7 there are circumstances that relate specifically to
8 this lot and not to other lots in the Residence A-2
9 Zoning District that we believe qualify it for a
10 variance. In this instance, the Petitioners contend
11 that the shape of the locus and the structure thereon
12 are circumstances which especially affect this lot
13 but do not generally affect other lots in the
14 Residence A-2 Zoning District. To fully understand
15 this, I'll go into the history with the exhibits that
16 I passed out.

17 First of all, up until 1936 -- I've
18 included on page seven -- excuse me, it's not page
19 seven. I've included in the brief that I passed out
20 to the Zoning Board tonight, on page five a picture
21 of what was then the Wellington Farm. The Wellington
22 Farm went from Greenwood Lane over through Clark
23 Lane, through Worcester Lane, over through Totten
24 Pond Road up through the back of the hill where the -

1 - the side of the hill where the Stigmatines are
2 located. So, it was a very large family.

3 Up in that area, too, there were two
4 large landowners. The Wellingtons were up there.
5 There was also the Worcester family. Dr. Worcester I
6 think is probably one of the most famous. He's the
7 founder of the Waltham Visiting Nurses Association,
8 the co-founder of Waltham Hospital.

9 On Exhibit A, you can see Greenwood
10 coming in, Greenwood Lane coming in off of Bacon
11 Street down by the number 21, and it goes up to a
12 parcel of land owned by Martha and Mary Worcester.
13 And then up above that you can see I've highlighted
14 another parcel of land that has the name Alice
15 Worcester on it. That's the Hager House. If you
16 went up there right now, you could find the Hager
17 House up there. It's one of the oldest houses in
18 Waltham. It was built in around 1716. So, Alice
19 lived up there in the Hager House. And what they did
20 is that they had a footpath connecting them. It was
21 all open farm area at that time and, you know, just
22 one going over to the other. So, they had a little
23 footpath and they called it Sanders Lane for whatever
24 reason.

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1 In 1936, the Board of Survey and
2 Planning approved a subdivision plan. And this shows
3 on Exhibit B. And this is called Forest Edge in
4 Waltham, MA. And this was approved according to the
5 rules and regulations of the Board of Survey and
6 Planning, and it was recorded at the Registry of
7 Deeds.

8 The importance of this subdivision
9 plan is that Sanders Lane is not included on it. So,
10 it's not that some people had come forward and said,
11 "Oh, Sanders Lane is part of the subdivision." No,
12 it wasn't. You can see down in the lower corner, the
13 streets that were approved as part of the
14 subdivision, and it's not on there. And, once again,
15 Sanders Lane is only shown as a dotted line, in other
16 words, a footpath.

17 The Building and the Engineering
18 Department got involved in this prior to the filing
19 of this case with this Board of Appeals. We went
20 down to the Building Department and we pointed out
21 what we believe -- we had gone down and done a title
22 search. Our office had gone down and done the title
23 search. Our title examiner came back and said, "This
24 doesn't exist. Sanders Lane doesn't exist," because

1 we thought we were just going to come in and ask for
2 a simple little variance, just, you know, "Here we
3 are. We're coming here to amend a variance that was
4 granted in 2004."

5 So, we sent our title examiner back.
6 He went through everything. And then we brought that
7 up with the Building Department of the City of
8 Waltham. The Building Department brought it up to
9 the Engineering Department of the City of Waltham.
10 And they went up and met with the Engineering
11 Department. And the Engineering Department says that
12 they have no record whatsoever of Sanders Lane
13 outside of in 1951 they found a plan and profile of
14 Sanders Lane, in other words, the start of a
15 subdivision. The Planning Board filed it itself. No
16 person came in. But nothing else was done on it.
17 There was no taking by the City of Waltham. There
18 was no follow-up. And so that just disappeared.

19 To give you an idea of what Sanders
20 Lane is like if you went up there right now, on page
21 six of the brief you can see Sanders Lane shows on
22 Exhibit B. And you can see it runs along Lot 11, 10
23 and 9. It actually runs over those lots. And that's
24 what Sanders Lane looks like over Lot 10 and 11.

1 And, Sanders Lane itself was like this before. Back
2 up until the 1980s, Sanders Lane was exactly the
3 same. Because of this, Sanders Lane was never
4 officially made a street and not included in the
5 subdivision nor in the initial plan and profile. It
6 was never taken by the City of Waltham. The locus
7 fronts on Clark Lane and not Sanders Lane.

8 It also should be noted, too, that
9 Sanders Lane runs over these lots. It doesn't run
10 beside them. So, if you look at the deed, if you
11 match up the deed with the plan, it shows that the
12 deed goes by the easterly side of Sanders, of the lot
13 right here. So, Sanders Lane is included within the
14 lot.

15 I don't know if anybody is familiar
16 with Clark Lane, but just to the easterly side of
17 that lot is where the Hardimans lived. I don't know
18 if anybody ever knew Bob Hardiman. He used to be on
19 the licensing commission in the City of Waltham.
20 That was his and Judy's house. That's where they
21 lived there.

22 This is further buttressed by the City
23 of Waltham in the -- I've included Exhibit C, which
24 is the 1988 atlas of the City of Waltham. You can

1 see the locus down there. And, Sanders Lane
2 terminates at the northerly part of the locus. The
3 locus is -- it's just kind of a little dotted line,
4 once again, that footpath that I keep on mentioning.
5 That's the only thing that shows there.

6 And then I've also included Exhibit D,
7 the 2016 atlas of the City of Waltham. And this is
8 the City's highlighting. This isn't my highlighting.
9 It's highlighted around the house where they put in
10 that street address. And this clearly shows that
11 Sanders Lane does not exist according to records of
12 the City of Waltham.

13 All of this is for the sole purpose
14 of, once again, getting back to the fact that Sanders
15 Lane terminates at the northerly property of the lot
16 and does not create any street for frontage.

17 So, if you go up there, you'll see a
18 paved little street and you say, "How did that street
19 come about?" Back in 1966, Alice Skotland bought the
20 locus and lived there until she died in 1999. During
21 this period of time, up until the 1980s, Sanders Lane
22 was just a little footpath, a rut type of thing, a
23 little path in there. I know that because I live up
24 there. I live on Clark Lane and I've been up and

1 down the street a thousand times. I've been there
2 since the 1970s.

3 At that time, Dr. Maney, who had
4 bought the Hager House, took it upon himself to go
5 out and pave Sanders Lane because he was using it as
6 a driveway. If you were to go up there today, you
7 would see an old falling down garage at the end of
8 Sanders Lane just at the -- where Wildwood Lane and
9 Sanders Lane meet right there. So, he said, "Well, I
10 can get my car up this way. I'm tired of going out
11 Worcester Lane." And so he paved that himself. He
12 paved it. Alice Skotland didn't care. She said, "Go
13 ahead." I remember standing down there with her. I
14 mentioned Mr. Hardiman before, Bobby Hardiman, just
15 watching him saying, "I wonder how much that's
16 costing him."

17 So, it exists only on the basis that
18 an individual took it upon himself. And, Alice
19 Skotland, who was an old woman who lived in the house
20 there, never really objected and never cared about
21 it. And that's how it came about.

22 The structure: The house was built in
23 1957. And, once again, as I said, the Petitioners
24 came to this Board in 2004 with a number of

1 variances. And this Board granted those variances.
2 The Petitioners relied on those variances and went
3 off and put on the additions to the house, the
4 detached garage, and the gazebo. However, you know,
5 as we find out today, these variances weren't proper
6 due to the initial error determining that the
7 frontage was on Sanders Lane rather than Clark Lane.
8 Thus, the additions, the detached garage and the
9 gazebo, are noncompliant with the requirements of the
10 Zoning Ordinance of the City of Waltham. And, as a
11 result, this petition includes a number of variances
12 based on Clark Lane as the frontage, correcting this
13 prior variance which was based on Sanders Lane being
14 the frontage.

15 SARAH HANKINS: In relation to that,
16 your first point that the shape of the locus creates
17 the hardship, I was having trouble. Reading through
18 the material, it seems that wherever you're facing
19 you're going to have the same issue because once you
20 -- the whole point is once you create this breezeway
21 it makes it part of the house, which eliminates all
22 your -- the frontages and all that. I just don't see
23 how that is directly affected by all this, you know,
24 where the house is facing. You'd be in here for a

Waltham Zoning Board of Appeals/3-28-17/54

1 variance if this Sanders Lane, if they determined
2 it's a street and everything was fine, you'd still be
3 in here. So, I'm not sure how it relates to --

4 ATTORNEY ROBERT CONNORS: We wouldn't
5 be in here for the variances that we're in here
6 tonight for. We wouldn't be in here for these other
7 variances. We're going back and correcting the other
8 variances because the other variances were granted.

9 SARAH HANKINS: So, are you saying
10 that it meets the side yard, the setbacks --

11 ATTORNEY ROBERT CONNORS: Well, we
12 have to meet -- what has happened is because -- what
13 happens is if those variances in 2004 -- the reason
14 that we originally went down to get a title search
15 done is they have what is called a small lot opinion
16 in Waltham. And the small lot opinion says that if
17 you have a lot that was created prior to certain
18 dates, okay, 1952, or 1942, excuse me, if you have a
19 lot that was created prior to that, you can come in
20 and you can build a -- put a house on the lot. You'd
21 have different setbacks. Two houses up from them,
22 the people have the same type of -- pretty much the
23 same type house. They put in a breezeway and a
24 garage that's located about five feet from the side

1 lot line. They didn't have to come to this Board.

2 When we went down to the Building
3 Department and said, "Well, what we'd like to do is
4 come in for a small lot opinion," that's what
5 originally brought up all this title examination.
6 The Building Department said, "Since these 2004
7 variances were granted, you cannot have a small lot
8 there. You have to go back to the Board of Appeals
9 and get new variances on all this." So that's why
10 we're here tonight. That's what brings us back here
11 tonight.

12 SARAH HANKINS: I guess I'm just not
13 really clear on how if you -- let's say Sanders Lane
14 was a street -- how the lining up and how the City is
15 defining, you know, which street. It seems to me you
16 would need a variance of some sort either way.

17 ATTORNEY ROBERT CONNORS: Well,
18 anybody who comes in front of this Board needs a
19 variance. Otherwise, people wouldn't be here, right?
20 Am I missing something?

21 SARAH HANKINS: No, I understand that.
22 But what I'm saying is that if the hardship you think
23 would exist in one situation and not the other. But
24 it exists either way.

1 ATTORNEY ROBERT CONNORS: Well, let me
2 go on and I'll get into the hardship in a minute.
3 Okay?

4 So, the second point being that if
5 there is a literal enforcement of the provisions of
6 this ordinance, we believe it would involve
7 substantial hardship to the Petitioner. These
8 Petitioners, once again, simply request to connect
9 the existing house to their existing garage by
10 constructing a breezeway of about ten feet in width,
11 okay, the distance between the house and the garage.
12 When the house, proposed breezeway, and garage are
13 all connected, the resulting structure will not be
14 any closer to any lot line than the existing house
15 and the existing detached garage.

16 To allow this would normally only
17 require a request for a rear yard variance under the
18 zoning ordinance. However, since these 2004
19 variances were granted, as I said before, we were
20 required by the Building Department to come back
21 here. If now there was a literal enforcement of the
22 ordinance, if the Building Inspector said, "I'm going
23 to out and I'm going to enforce the ordinance," okay,
24 what he would do is he would go out there and he

1 would say, "Well, the 2004 variance is wrong." So,
2 not only would we not be able to connect the garage
3 to the house, but the Petitioners would have to
4 return the house to its original form prior to the
5 2004 variance. So, therefore, they would have to
6 take off the addition on the southerly side of the
7 house, the Clark Lane side; they would have to take
8 off the addition on the northerly side of the house;
9 they would have to take down the detached garage; and
10 they would have to take down the gazebo. So, if
11 there was a literal enforcement of the zoning
12 ordinance, without getting any relief from this
13 Board, the Petitioner would have to go down and take
14 down everything that they built in reliance on a
15 prior decision of this Board. So, we contend that
16 that's a literal enforcement that would create a
17 severe hardship to the Petitioners.

18 Furthermore, if the breezeway is
19 allowed to connect the existing house and garage, as
20 I stated many times before, the existing house and
21 garage would be no closer to any lot line than exists
22 right now.

23 The next issue is whether if these
24 variances are granted by this Board there would be a

1 substantial detriment to the public good. We believe
2 that the Board can grant these without any detriment
3 to the public good.

4 Number one, the ten-foot area between
5 the existing house and the existing detached garage
6 will not have any detrimental effect on the public
7 good. The house, the proposed breezeway, and garage,
8 along with the gazebo, will not be any closer, as
9 I've stated a number of times, to the neighboring lot
10 lines than are the existing house, detached garage,
11 and gazebo, and that there will not be any change in
12 the front yard setback, either of the side yard
13 setbacks and the rear yard setback, or the setbacks
14 of the gazebo, all of which have been there for 12
15 years.

16 Furthermore, in the 12 years since the
17 addition to the house, the detached garage, and the
18 gazebo have been built, the Petitioners have no
19 knowledge of any complaints from any of the
20 neighbors.

21 What I'd like to do, Madam Chair, is I
22 have a petition here that is signed by all of the
23 abutters to the locus and by all but -- is it three
24 people?

1 ANN FOUCHER: Three because they
2 weren't home.

3 ATTORNEY ROBERT CONNORS: Three people
4 who weren't home within the 300 feet, that I would
5 give to the Board.

6 BARBARA RANDO, CHAIR: When you say
7 abutters, are they direct abutters?

8 ATTORNEY ROBERT CONNORS: Direct
9 abutters. Every direct abutter has signed in favor
10 of it. And there are a couple of people up on
11 Worcester Lane that weren't around -- they were just
12 caught in the condo there -- that weren't around at
13 that time. As a matter of fact, this case was
14 originally scheduled before the Board I believe like
15 a month ago or something like that, and it's been
16 continued over to tonight. And my clients wrongly
17 marked their calendar for last week, and they were
18 down here with one of their neighbors in favor of
19 this. So, I think their neighbors probably said by
20 tonight they were tired of coming down here, so
21 they're not here tonight. So, we have the petition
22 in place thereof.

23 Finally, just on that detrimental
24 effect, we believe it won't have a detrimental

1 effect. The proposed addition of the breezeway
2 connecting the house to the garage will be in the
3 character of the neighborhood. The small single-
4 story house will still remain one of the smallest
5 houses in the neighborhood, while allowing the
6 Petitioners some extra room inside for the
7 Petitioners. But, thus, these Petitioners contend
8 these variances may be granted without substantial
9 detriment to the public good.

10 The final point is whether the Board
11 can grant these variances without nullifying or
12 substantially derogating from the intent or purpose
13 of such ordinance. In this instance, the granting of
14 the requested variances will not nullify from either
15 the intent or the purpose of the zoning ordinance.
16 The use, a single-family house, is allowed under the
17 zoning ordinance. There will be setbacks on the
18 front, rear, and both sides of the house. And there
19 will be setbacks of the gazebo from the house and the
20 lot line. Therefore, the zoning ordinance is not
21 nullified.

22 The next question is whether or not it
23 will substantially, substantially derogate, because
24 the courts have pointed out the word substantially.

1 Unless the granting of the variances significantly
2 detracts from the zoning plan, it must be granted as
3 stated in *Cavanaugh v. DiFlumera*.

4 So, we have a couple of different
5 things to look at. Number one, lot area. Though the
6 zoning ordinance currently requires a lot area of
7 15,000 square feet, in this instance the lot was
8 created in 1936 under the subdivision plan and it met
9 all of the requirements of the zoning ordinance at
10 that time, the zoning ordinance being the one that
11 was enacted on June 22, 1925. Mass. General Laws
12 Chapter 40A, Section 6, paragraph 4, provides a
13 pertinent part that such lots are exempt from changes
14 in area requirements. Any changes shall not apply to
15 a lot for single- and two-family residential use
16 which at the time of recording, 1936, was not held in
17 common ownership with any other adjoining land. It
18 hasn't been. The Fouchers only own the house. Ann
19 Foucher owns the house herself. It conforms to the
20 existing requirements when it was built in 1957. It
21 did. And it had less than the proposed area, the
22 15,000 square feet, but at least 5,000 square feet,
23 and here we have 10,125 square feet.

24 Furthermore, our own zoning ordinance

1 provides in pertinent part in Section 4.218 that lot
2 area shall not apply to lots for single- and two-
3 family residential use, which prior to the adoption
4 of this chapter were shown as separate parcels on
5 subdivision plans approved by the Board of Survey and
6 Planning. And the chapter was adopted in 1952. The
7 lots were created in 1936.

8 In this instance, there has been no
9 change in the area of the locus since its creation
10 under the 1936 subdivision plan. And the granting of
11 this petition would not result in any change in the
12 size, shape, or the locus. Thus, the locus, the lot
13 itself, is grandfathered, is protected under the
14 grandfather law.

15 The next question is setbacks. The
16 purposes of the setback requirements are twofold:
17 number one, to prevent overdevelopment of a lot; and,
18 number two, to assure the area of privacy between the
19 structure and the property and the neighboring lots.
20 In this instance, the house with the additions, the
21 detached garage and gazebo, have been in existence
22 for 12 years. So, nothing new is happening here
23 outside of we're connecting the garage to the house.
24 This will not make any significant -- this will not

1 make any changes to the setbacks of the existing
2 house and garage.

3 Furthermore, the proposed breezeway
4 will not be able to be seen from the south due to the
5 house -- that's on the Clark Lane side -- the house
6 is going to block it from the Clark Lane side. To
7 the west is a large hedge growth along the western
8 property line. To the north, because the existing
9 garage is up there, you're not going to be able to
10 see the breezeway. And, to the east, by the paved
11 section of Sanders Lane, once again there's a large
12 hedge row along what I called the Hardiman property
13 before.

14 The final one is the lot coverage. In
15 this instance, we're going to put in a breezeway
16 that's going to measure approximately 10 feet by 22
17 feet. That's kind of the distance between the house
18 is 10 feet, and it's about 22 feet deep, 220 square
19 feet. This is an increase of lot coverage of 4.7
20 percent. As I mentioned before, the existing patio
21 is there right now. It's only because we're putting
22 a roof on it that this comes up as lot coverage.

23 The actual, even though the increase
24 in lot area is 4.7 percent, that brings us up to 20

1 percent -- excuse me, to 22 percent. So, we're only
2 exceeding what is allowed in the zoning ordinance by
3 2 percent. So, that is not a substantial detriment.

4 Therefore, the Petitioners contend the
5 zoning ordinance is not nullified, nor is there a
6 substantial derogation from the intent and the
7 purpose of the zoning ordinance, and the area of the
8 lot is grandfathered. There's no change in the
9 setbacks to the locus from what has existed over 12
10 years. The proposed addition, the breezeway, will
11 not be able to be seen from any of the abutting
12 properties. And the increase in lot coverage of 2
13 percent is de minimis.

14 Thus, Madam Chair, members of the
15 Board, these Petitioners contend they have met the
16 legal requirements for the granting of these
17 variances and respectfully request their petition be
18 granted.

19 BARBARA RANDO, CHAIR: Mr. Sergi, any
20 questions?

21 JOHN SERGI: No, not at this time,
22 Madam Chair.

23 BARBARA RANDO, CHAIR: Mr. Hickernell?

24 MARK HICKERNELL: Yes, please.

Waltham Zoning Board of Appeals/3-28-17/65

1 What's this breezeway going to look
2 like? I don't see a rendering.

3 ATTORNEY ROBERT CONNORS: It's going
4 to look like a -- I haven't seen one for a while. Do
5 you have a picture of it, Bob?

6 ROBERT FOUCHER: No, I thought it
7 would be in here, but I don't have it.

8 ATTORNEY ROBERT CONNORS: It's going
9 to be screened in, right? I'm sorry. Bob Foucher.

10 BARBARA RANDO, CHAIR: Would you come
11 -- Mr. Foucher --

12 ROBERT FOUCHER: I mean it's going to
13 be --

14 BARBARA RANDO, CHAIR: Would you come
15 up to the microphone so the people at home could hear
16 you?

17 ROBERT FOUCHER: Sure.

18 BARBARA RANDO, CHAIR: Take your time.

19 ROBERT FOUCHER: Hi. I'm Bob Foucher.
20 I'm one of the Petitioners.

21 STENOGRAPHER: Could you spell your
22 last name?

23 ROBERT FOUCHER: What we're
24 envisioning is very nice vinyl side with screens on

1 it, probably vinyl. I haven't really decided on a
2 final one. It will be white vinyl to match the white
3 décor of the house. I guess that's all I have --
4 with a door to get in.

5 ATTORNEY ROBERT CONNORS: So it's a
6 screened in area?

7 ROBERT FOUCHER: Just to screen it,
8 yeah. You put the roof over it and we just drop the
9 panels on both sides. And the panels, you know,
10 we'll make sure they're very nice panels with nice
11 vinyl on the bottom so the cats can't scratch it and
12 get out.

13 MARK HICKERNELL: Okay. Yeah, I just
14 wanted to -- I mean that's kind of what I think of
15 when I hear the word breezeway. I just wanted to
16 make sure it wasn't another room to the house.

17 ROBERT FOUCHER: Yeah. No, no. I
18 mean what Bob called a patio is really a decking
19 that's raised off the ground. There's no foundations
20 connected with the house and the garage. It's
21 suspended. It's that Trex stuff right now. There's
22 no pavement or anything out there. It's just to --
23 you know, I want to be able to go out and sit there
24 and enjoy the evening without being bitten by those

Waltham Zoning Board of Appeals/3-28-17/67

1 mosquitoes that give you all that bad stuff. It's
2 pretty tough at night. It's just to have that kind
3 of a room. It's not a four-season room. There's no
4 heat. There's no -- nothing else there to go with
5 it. As my wife would say, my love always has been to
6 have a screened porch.

7 MARK HICKERNELL: Okay. Thank you.

8 BARBARA RANDO, CHAIR: Ms. Gelineau,
9 any questions?

10 GLENNA GELINEAU: No.

11 BARBARA RANDO, CHAIR: Ms. Hankins,
12 any questions?

13 SARAH HANKINS: No.

14 BARBARA RANDO, CHAIR: Is there anyone
15 in the audience that is in opposition to this
16 petition?

17 (No response.)

18 BARBARA RANDO, CHAIR: Is there anyone
19 seeking information?

20 (No response.)

21 BARBARA RANDO, CHAIR: Is there anyone
22 in favor? Three people. Three people in favor.

23 All right. You may continue with your
24 proposed finding of facts.

Waltham Zoning Board of Appeals/3-28-17/68

1 JOHN SERGI: Madam Chair, I make a
2 motion that we waive the reading of the finding of
3 facts since it's been on file.

4 BARBARA RANDO, CHAIR: Motion by Mr.
5 Sergi to waive the reading of the finding of facts.
6 Do I have a second?

7 MARK HICKERNELL: Second.

8 BARBARA RANDO, CHAIR: Second by Mr.
9 Hickernell.

10 All in favor?

11 ALL BOARD MEMBERS: Aye.

12 BARBARA RANDO, CHAIR: Opposed?

13 (No Board members opposed.)

14 BARBARA RANDO, CHAIR: The ayes have
15 it.

16 Do I have a motion on the proposed
17 decision?

18 JOHN SERGI: In a similar fashion,
19 Madam Chair, I propose that we waive the reading of
20 the decision.

21 BARBARA RANDO, CHAIR: Motion by Mr.
22 Hickernell -- Mr. Sergi. Do I have a second?

23 MARK HICKERNELL: Second.

24 BARBARA RANDO, CHAIR: Mr. Hickernell.

Waltham Zoning Board of Appeals/3-28-17/69

1 All in favor?
2 ALL BOARD MEMBERS: Aye.
3 BARBARA RANDO, CHAIR: Opposed?
4 (No Board members opposed.)
5 BARBARA RANDO, CHAIR: The ayes have
6 it.
7 All right. You may continue with your
8 proposed finding of facts.
9 ATTORNEY ROBERT CONNORS: You just
10 waived it.
11 BARBARA RANDO, CHAIR: No, no. I'm
12 ready for a motion to accept the finding of facts.
13 JOHN SERGI: I'll make a motion that
14 the proposed finding of fact be adopted by the Board.
15 BARBARA RANDO, CHAIR: Motion by Mr.
16 Sergi. Second? Second?
17 MARK HICKERNELL: I'll second it.
18 BARBARA RANDO, CHAIR: By Mr.
19 Hickernell.
20 How do you vote on the finding of
21 facts, Mr. Sergi?
22 JOHN SERGI: Yes.
23 BARBARA RANDO, CHAIR: Mr. Hickernell?
24 MARK HICKERNELL: Yes.

Waltham Zoning Board of Appeals/3-28-17/70

1 BARBARA RANDO, CHAIR: Ms. Gelineau?
2 GLENNA GELINEAU: Yes.
3 BARBARA RANDO, CHAIR: Ms. Hankins?
4 SARAH HANKINS: Yes.
5 BARBARA RANDO, CHAIR: And the Chair
6 votes yes.
7 On the decision?
8 JOHN SERGI: I make a motion that the
9 proposed decision become the Board's decision.
10 BARBARA RANDO, CHAIR: Motion by Mr.
11 Sergi. Do I have a second?
12 MARK HICKERNELL: Second.
13 BARBARA RANDO, CHAIR: Second by Mr.
14 Hickernell.
15 How do you vote, Mr. Sergi?
16 JOHN SERGI: Yes.
17 BARBARA RANDO, CHAIR: Mr. Hickernell?
18 MARK HICKERNELL: Yes.
19 BARBARA RANDO, CHAIR: Ms. Gelineau?
20 GLENNA GELINEAU: Yes.
21 BARBARA RANDO, CHAIR: Ms. Hankins?
22 SARAH HANKINS: Yes.
23 BARBARA RANDO, CHAIR: And the Chair
24 votes yes. So, it is granted. Good luck with your

Waltham Zoning Board of Appeals/3-28-17/71

1 screened porch.

2 ATTORNEY ROBERT CONNORS: Thank you.

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1 **Case Number 2017-06: Design Communications Ltd.**

2

3 BARBARA RANDO, CHAIR: Would the Clerk
4 please read the petition in Case 2017-06, Design
5 Communications, 225 Second Ave.?

6 MARK HICKERNELL: (The Clerk reads the
7 above-mentioned petition into the record. See
8 Attached.)

9 BARBARA RANDO, CHAIR: Thank you. May
10 we hear from the Petitioner or the Petitioner's
11 representative please?

12 MICHAEL VICKERS: Hello. I'm Mike
13 Vickers with Design Communications. We're at 25
14 Drydock Avenue in Boston. And we're the Petitioner
15 on behalf of Bioverativ. Bioverativ is here as well,
16 and the property owner. Bioverativ is the lessee.

17 So, I think I'll talk about these I
18 think one at a time and walk you through each one.

19 The wall sign is the one I'll start
20 with first. And I think you have all this
21 information, but I'd still like to pass it around to
22 tell the story a little bit better. You have that
23 same drawing here, but you can see this.

24 BARBARA RANDO, CHAIR: Do you have any

Waltham Zoning Board of Appeals/3-28-17/73

1 briefs with you?

2 MICHAEL VICKERS: I beg your pardon?

3 BARBARA RANDO, CHAIR: Do you have any
4 briefs with us -- with you to give us?

5 MICHAEL VICKERS: No, I don't, just
6 what was submitted along with the variance
7 application, which I think is the same as what I have
8 with me here.

9 BARBARA RANDO, CHAIR: So, do you have
10 a finding of facts and a decision?

11 MICHAEL VICKERS: Yes, I do. I do
12 have a copy of that I believe.

13 BARBARA RANDO, CHAIR: Just one?

14 MICHAEL VICKERS: That would be from
15 the Inspection Department, is that right?

16 BARBARA RANDO, CHAIR: Could I see it?
17 I'm not sure what it is.

18 MICHAEL VICKERS: Is this the form?

19 BARBARA RANDO, CHAIR: No.

20 MICHAEL VICKERS: Well, I don't
21 believe I have that.

22 BARBARA RANDO, CHAIR: Did you send to
23 Pam in the Law Department a brief, a proposed finding
24 of fact, and a decision on your case? I don't

Waltham Zoning Board of Appeals/3-28-17/74

1 remember seeing it.

2 MICHAEL VICKERS: No, I don't believe
3 we did that.

4 BARBARA RANDO, CHAIR: Did you see it,
5 Mr. Sergi?

6 JOHN SERGI: No, I didn't see
7 anything.

8 BARBARA RANDO, CHAIR: I didn't happen
9 to see it.

10 MICHAEL VICKERS: Okay.

11 BARBARA RANDO, CHAIR: And before we
12 can hear your case, we have to have the brief. It is
13 requested two weeks in advance, actually.

14 MICHAEL VICKERS: Okay.

15 BARBARA RANDO, CHAIR: There is a
16 brief, a proposed finding of facts, and a proposed
17 decision. And then we'll study it, and then we'll
18 have questions that we can ask you.

19 MICHAEL VICKERS: Okay. Well, all I
20 can say is we submitted everything that was asked of
21 us by Pamela. But I must have missed this finding of
22 facts.

23 BARBARA RANDO, CHAIR: And the brief.
24 You didn't submit a brief --

Waltham Zoning Board of Appeals/3-28-17/75

1 MICHAEL VICKERS: The brief.
2 BARBARA RANDO, CHAIR: -- to her.
3 MICHAEL VICKERS: Okay.
4 BARBARA RANDO, CHAIR: Or a decision.
5 MICHAEL VICKERS: The decision would
6 be --
7 MARK HICKERNELL: So, I mean you may
8 have seen the last couple of cases.
9 MICHAEL VICKERS: Right.
10 MARK HICKERNELL: The Petitioners each
11 had an outline of their arguments and a proposed
12 decision and a proposed findings of facts for us to
13 review and either adopt or amend. So, that's
14 mentioned in the application packet, but evidently it
15 didn't happen this time.
16 MICHAEL VICKERS: Okay. Okay. Yeah,
17 nobody explained that to us, unfortunately. So,
18 that's --
19 BARBARA RANDO, CHAIR: It says it in
20 the application form, I believe.
21 MICHAEL VICKERS: Really? Okay. All
22 right. So, that's something you have to have in
23 order to -- okay.
24 BARBARA RANDO, CHAIR: Yeah.

Waltham Zoning Board of Appeals/3-28-17/76

1 MICHAEL VICKERS: So --

2 SARAH HANKINS: Do you want to take
3 theirs as an example?

4 MICHAEL VICKERS: I beg your pardon?
5 Is this --

6 BARBARA RANDO, CHAIR: That's a brief.

7 MARK HICKERNELL: It doesn't have to
8 be that long.

9 SARAH HANKINS: No, it can be like a
10 page.

11 MICHAEL VICKERS: Okay. Well, I
12 apologize. But that just wasn't made clear to us.

13 MARK HICKERNELL: Yeah, I'm sure Pam
14 can show you a previous sign variance case.

15 MICHAEL VICKERS: Right.

16 MARK HICKERNELL: And I imagine the
17 same provisions would be cited each time.

18 MICHAEL VICKERS: Okay. All right.

19 BARBARA RANDO, CHAIR: We'll see when
20 we can get you in.

21 MICHAEL VICKERS: Okay. So, we need
22 to reschedule?

23 BARBARA RANDO, CHAIR: You do.

24 MICHAEL VICKERS: Okay. Well, I just

Waltham Zoning Board of Appeals/3-28-17/77

1 want to double check here because I just don't
2 believe I have anything like that. I have the legal
3 notice and the petition, which, you know, has the
4 denial from the Inspection Department. But that's
5 still not the finding of facts. Okay.

6 BARBARA RANDO, CHAIR: Hold on one
7 second, sir. April 11th, you're not available, right?

8 JOHN SERGI: I'm not available.

9 BARBARA RANDO, CHAIR: Mr. Sergi,
10 you're not available. Sarah is though. But we have
11 three cases. I don't know what some of these cases
12 are. We have two cases on April 4th. We can add a
13 third there or May 16.

14 MARK HICKERNELL: What happened to the
15 28th?

16 BARBARA RANDO, CHAIR: April 28th?

17 MARK HICKERNELL: Oh, I'm sorry, the
18 26th.

19 BARBARA RANDO, CHAIR: The 25th.

20 MARK HICKERNELL: The 25th, yeah.

21 BARBARA RANDO, CHAIR: We have two on
22 April 25th, yeah.

23 MICHAEL VICKERS: Is April 4th too
24 soon?

Waltham Zoning Board of Appeals/3-28-17/78

1 MARK HICKERNELL: Well, frankly, I
2 think it should be a fairly straightforward petition
3 if you can get it into the Law Department, you know,
4 in the next couple of days so that it's available for
5 the public to view beforehand.

6 MICHAEL VICKERS: Yeah, no problem.
7 If that works for you, we would like to get this --
8 get it done.

9 MARK HICKERNELL: Yeah. Is your email
10 attached to something here?

11 MICHAEL VICKERS: I don't know. I can
12 give you a card.

13 MARK HICKERNELL: Yeah, if you could
14 give me the card.

15 MICHAEL VICKERS: Yeah.

16 MARK HICKERNELL: I'll just ask Pam to
17 -- I'll shoot an email to Pam right now asking her to
18 forward you the application packet again just so
19 that, you know, there's a jumpstart on this.

20 MICHAEL VICKERS: Okay. So there's
21 some sort of instructions on this?

22 MARK HICKERNELL: Yes.

23 MICHAEL VICKERS: I apologize.

24 BARBARA RANDO, CHAIR: How is April 4th

Waltham Zoning Board of Appeals/3-28-17/79

1 for the Board members? Can you get it together by
2 April 4th?

3 MICHAEL VICKERS: Oh, yeah.

4 BARBARA RANDO, CHAIR: It should be
5 straightforward. I mean it's not -- Mr. Sergi, April
6 4th?

7 JOHN SERGI: Yeah, I'm fine on April
8 4th.

9 MARK HICKERNELL: We'll be here
10 anyway.

11 MICHAEL VICKERS: That works.

12 BARBARA RANDO, CHAIR: Ms. Hankins?

13 SARAH HANKINS: Yes.

14 BARBARA RANDO, CHAIR: Ms. Gelineau,
15 the 4th?

16 GLENNA GELINEAU: Yeah.

17 BARBARA RANDO, CHAIR: 2017.

18 MICHAEL VICKERS: Same time?

19 JOHN SERGI: Mm hum.

20 MICHAEL VICKERS: Okay.

21 BARBARA RANDO, CHAIR: Do I have a
22 motion to allow Case 2017-06 to continue to April 4th?

23 JOHN SERGI: So moved, Madam Chair.

24 BARBARA RANDO, CHAIR: Motion by Mr.

Waltham Zoning Board of Appeals/3-28-17/80

1 Sergi. Do I have a second?
2 SARAH HANKINS: Second.
3 BARBARA RANDO, CHAIR: Second by Ms.
4 Hankins?
5 How do you vote, Mr. Sergi?
6 JOHN SERGI: Yes.
7 BARBARA RANDO, CHAIR: Mr. Hickernell?
8 MARK HICKERNELL: Yes.
9 BARBARA RANDO, CHAIR: Ms. Gelineau?
10 GLENNA GELINEAU: Yes.
11 BARBARA RANDO, CHAIR: Ms. Hankins?
12 SARAH HANKINS: Yes.
13 BARBARA RANDO, CHAIR: And the Board
14 votes yes.
15 We have enough time on the case, don't
16 we?
17 MARK HICKERNELL: Yeah, 100 days is in
18 June.
19 BARBARA RANDO, CHAIR: All right.
20 Then we're all set. We will see you on April 4th.
21 MICHAEL VICKERS: Okay. Thank you
22 very much.
23 BARBARA RANDO, CHAIR: And check with
24 Pam and the Law Department.

Waltham Zoning Board of Appeals/3-28-17/81

1 MICHAEL VICKERS: Okay.

2 BARBARA RANDO, CHAIR: She'll give you
3 a case that you can follow.

4 MICHAEL VICKERS: Okay. Thank you.

5 BARBARA RANDO, CHAIR: All right?
6 Great.

7 MARK HICKERNELL: And I'm sending her
8 an email right now asking her to just send it to you.

9 MICHAEL VICKERS: Okay. All right. I
10 appreciate it. Thank you.

11 BARBARA RANDO, CHAIR: One more motion
12 is in order.

13 JOHN SERGI: Motion to adjourn, Madam
14 Chair.

15 BARBARA RANDO, CHAIR: Motion to
16 adjourn by Mr. Sergi. Do I have a second?

17 SARAH HANKINS: Second.

18 BARBARA RANDO, CHAIR: Second by Ms.
19 Hankins. All in favor?

20 ALL BOARD MEMBERS: Aye.

21 BARBARA RANDO, CHAIR: Opposed?
22 (No Board Members opposed.)

23 BARBARA RANDO, CHAIR: The ayes have
24 it. We are adjourned at 8:45. Thank you. Good

Waltham Zoning Board of Appeals/3-28-17/82

1 evening.

2 (Hearing reopened.)

3 BARBARA RANDO, CHAIR: I need a motion
4 to allow us to make a few changes to the application
5 folder that we give out. It's punctuation. It's
6 grammar. And we made one of the little boxes for the
7 square bigger for the City to make their stamp on.
8 And there's no --

9 SARAH HANKINS: Is the fee the same?

10 BARBARA RANDO, CHAIR: Pardon me?

11 MARK HICKERNELL: Everything
12 substantive is the same.

13 BARBARA RANDO, CHAIR: Everything else
14 is the same.

15 SARAH HANKINS: Okay.

16 BARBARA RANDO, CHAIR: No big changes.

17 SARAH HANKINS: All right. Yeah.

18 BARBARA RANDO, CHAIR: So, I make that
19 motion. Do I have a second?

20 SARAH HANKINS: Second.

21 BARBARA RANDO, CHAIR: Second by Ms.
22 Hankins.

23 All in favor?

24 ALL BOARD MEMBERS: Aye.

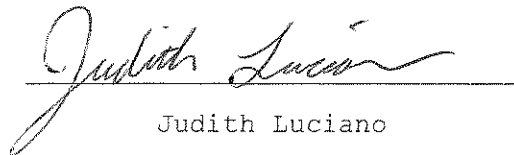
Waltham Zoning Board of Appeals/3-28-17/83

1 BARBARA RANDO, CHAIR: Opposed?
2 (No Board members opposed.)
3 BARBARA RANDO, CHAIR: The ayes have
4 it. Let's go home.
5 //
6 //
7 //
8 //
9 //
10 // *Barbara Rando*
11 // *Chair*
12 // *4/25/2017*
13 //
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Waltham Zoning Board of Appeals/3-28-17/84

C E R T I F I C A T E

I, Judith Luciano, do hereby certify that the foregoing record is a true and accurate transcription of the proceedings in the above-captioned matter to the best of my skill and ability.


Judith Luciano

Arlington Reporting Corporation
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