



**TOWN OF WINTHROP
OFFICE OF THE BOARD OF APPEALS**

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Meeting Minutes August 26, 2021

Chairman Baird officially opened the Board of Appeals hearing at 7:04pm on August 26 2021. We have we have four cases on the agenda this evening. Members Irene Dwyer, and Tom Chiudina, as well as associate members, John Young and Jason Wright. This meeting is being held remotely pursuant to the allowances in a mass general laws to the COVID pandemic. It is this meeting is being recorded. public comment is limited to two minutes per speaker.

Case 23B Almont St, Michelle Harkins. Sitting on that was Chairman Baird, Tom Chiudina and Jason Wright. The applicant is in the process per the pursuant to the Board of Appeals requests of getting a survey plan commissioned and done. This matter will be w continuing this matter to the September 23 2021 meeting, we will get something in writing from their attorney, Attorney Cipoletta that you know waives any statutory timelines for reaching a decision. And we will take this up, or I would ask for someone either Mr. Wright or Mr. Chiudina to make a motion to continue officially on the record to our meeting on September 23 2021 at 7pm. Do I have a motion? Yes per Mr. Wright, case number 16 B of 2021 23. b Almont Street. I'd like to make a motion to continue the case to our next scheduled meeting on September 23. So we have a second. Second, all those in favor. So Darren Baird. Yes. Jason, right. Yes. Tom Yes. Okay, so the yeses, have it for the sitting members. This matter will be continued to seven pm on September 23 2021.

The next case on our agenda is case 018-2021. Craig Doster 20 – 22 Bank Street. This is a continuance from a matter we first heard on May 27 2021. I know Attorney Cipoletta represents Mr. Doster.

Sitting on this case is Chairman Baird, Jason Wright and Tom Chiudina.

Attorney Jim Cipoletta spoke- Mr. Chairman, thank you and members of the Board of Appeals. This matter has been continued a couple of times for the gathering of further information. And in speaking with Craig and looking at the building department and looking at the things that they had, we wanted to establish two things. One is we know that at some point in 2020, Craig went to the board, sorry, to the building department. And he was looking to utilize that third apartment, the third unit that was in in the home, the building department at that time, told him that because the building jacket at the building department indicated that it was a two family that he could not do that. Also, his interaction with the building department included at least two inspections. At the home, there was a housing inspection, the most recent one was in January. And that was done by the building department. And what the building department had observed during that housing inspection was that there was a finished apartment there. It was, as described by Mr. Doster, when he described it to the board. And the cabinets in the kitchen were metal, the linoleum was old, the tile was ancient, and so on. In the interim, he had then removed the old appliances, tile and all of that and started to do some renovations. So he was not able to establish at that point when he made his application to the Board of Appeals, that the apartment or the dwelling unit had actually existed and had existed in ancient form. So I think what may have happened during his discussion with the Board of Appeals, that it was suggested, at some point that he go back and try to establish what the historical uses were. So the first thing that he did, the first week in July, he was able to get in touch with the previous owner, and did have a telephone conversation with her. She validated and confirmed that when she bought that property back in the 90s, that unit was there, that it was old then, and that for a period of time her niece resided there in that apartment. When the discussion moved a little closer to the issue that's now before the Board of Appeals, and her involvement in any proceedings here. She just doesn't want any part of that she doesn't want to talk to the Board of Appeals. She doesn't want to appear as a witness. But she did confirm orally convey to Mr. Doster. From that back in the 90s when she purchased it, that the unit was in existence, and that her niece had lived there. I was able to speak with the people at the building department and they did an inspection and the building Commissioner wrote a note dated the 19th of August, reflecting his observations that the kitchen in the bathroom existed for several years. Obviously it comports with the description given by the previous owner and by Mr. Doster. He felt that

it was a free family but it in fact does not reflect that in the building records. So what we did in lieu of the previous owner, giving testimony filed an affidavit under the pains and penalties of perjury side by Mr. Doster. recounting his conversation and interview with the previous owners, Ms. Bruno. I filed that and ask that it be made a part of the record. If the board would like to hear from Mr. Doster, he actually, he's in Maine, he has kind of sketchy Wi Fi, but I see that he is, he is on there. And just to reiterate, but not to become too repetitive. This property actually is a double lot, it's 70 to 110 square feet, he shows four parking spaces on the property, the house that in question is pushed all the way to the right of the property and the access to the parking is open and fairly convenient. To the left side. I do note and I wasn't able to find I did find the previous owner, the one prior to the seller of the property. And I was not able to ascertain whether there was any application or attempt at in 1991. And in 92 as to what we call the town of Winthrop had sent out a notice pursuant to a town meeting. Adopted measure that if there were more units in the structure than are recorded at the building department that one could make an application to the to the building department to the Board of Appeals and have those apartments sort of legalized I guess is, for lack of a better term. I couldn't find that the penultimate owner had actually done that. I do know that the board had acted on over 100 of those. One of the glitches in that and I think it's what's causing some of these to come back now is that from what I understand, and was able to ascertain from the clerk's office, and the notes from the town meeting, is that the notices were placed in the tax bills that were sent out to the owners. So not all owners get their tax bills. And I understand that at the time, a lot of these tax bills were going directly to the bank. So, we don't know whether this owner actually got that, or whether he thought that since he had three units and was paying taxes on for units that he was legal with what the situation was. But the bottom line is that it existed at least since the 1990s when the previous owner had taken, taken ownership that's 23 years ago, she bought by 1998. So we talked about 23 years, and it looked old that so I think the building department in the denial letter indicated two measures of relief that were required. One was a variance under 1.750. 2030. The use variance to allow a three-family dwelling in a two family zone. And the other is for relief for two parking spaces. Mr. Doster is on I don't know whether the board has questions of him. Whether he has anything to add, perhaps the chairman would want to hear it just have him affirm the affidavit on the record that I leave that to the board's wisdom.

Chairman Baird, Mr. Doster if you're if you're available to speak, I would like you to affirm the substance of the affidavit. You know as in give as much context to it as possible. So if

you're available and can speak, I see you in the attendee group, could you raise your hand and we'll move you over?

Mr. Doster, After that hearing in June, I did reach out actually, to my real estate agent that was involved in the sale. And she connected me with the previous seller, Evelyn Bruno, she did reach out to me. And we did chat over the phone. And I did just want to get the backgrounds of the unit and how it was used previously. She did say that it did exist when she did buy the unit in 1990. And she did confirm that, you know, she did have her niece that went down there for a period of time. So I do confirm the affidavit.

Chairman Baird-Great, thank you very much. Are there any questions from the remaining questions from the public given this additional information?

Public Comment made by Peter Gill. He spoke saying that this property apparently on all the time records is a two family, including the assessor's report. So if it was a three family at one point, that was apparently not illegal three family, I would appreciate it if the board would take that into consideration. And I assume that the closing Attorney for the bank when the buyer bought this to his due diligence and found out that it was a two family. I know the closing attorneys do that. And if they thought it was a three. that's my comment. Thank you.

Motion to close public comment. Motion by Tom. Second by Jason.

Jason Wright Yes, Tom Chiudina Yes and Chairman Baird to close public comment.

Attorney Cipoletta had one final comment saying. One of the reasons that town meeting adopted that measure was the realization that the town records in many cases were inaccurate. So that's not a surprise.

Tom Chiudina, What are you referring to Mr. Cipoletta when you say that the town that last statement?

Attorney Cipoletta- So in 1991, the town meeting had taken up a measure to create what's colloquially known as the sort of this immunity period where you could ask the board to legalize some of these, what were referred to as illegal apartments.

Tom Chiudina, And I don't mean to interrupt but being somewhat familiar with it, let me get to I guess the root of my question. Is that in our bylaws somewhere?

Attorney Cipoletta, Yes. Okay. In fact, it's still being carried in the current code. And under the special permit section. it's, if I if memory serves, it's titled, multifamily a special permit for multifamily uses or something to that effect. It's still there. It was extended one time, and I believe it ended 93 or 94. And it was because either the town wanted to get a lot of these off the books, apartments, legalized or they could start taxing them, or if people were paying taxes on them, but they were carried as two families, while less on the building department records, that they get those squared away.

Chairman Baird, 1728 040. b, as in Bravo, have the ordinance. And it's odd that it's still there, but it's still there.

Tom Chiudina, Yeah, I have in front of me, I'm just trying to figure out what I understand the purpose of it back then. But how does it apply? Now? Did this, some this some way, prevent the public from requesting, you know, additional variances?

Chairman Baird, I think that the reality is right, that the there was this amnesty provision in there that still is getting carried forward on our books. And frankly, when we did the zoning when the zoning overhaul was done to create chapter 17 here probably should have been removed because it doesn't have any legal effect. It was a, you know, it was something that said, basically, if you do this before, whatever the magic date was in 1994,

you know, we'll wave a magic wand over it, and it'll be a three family forever multifamily forevermore, that doesn't prevent someone from making a case that the otherwise have a preexisting nonconformity, if they otherwise do, or seeking a variance to reassess to establish the fact that they have always had a three family, that's always zoning relief that we can give. I mean, I think that it's, and we get those from time to time. And I guess the question here is, you know, for me, anyway, is this still a variance request? Or is this a section six finding at this point, given the information we have from the building inspector and the prior owner?

Tom Chiudina, In other words, a special permit to continue preexisting non-conforming? Yes. Would it be acceptable to share my screen? so I just did some quick scale of this the site plan. You can see the dimensions match up with the existing site plan dimensions, but you can see I modified it slightly. This is a huge paved area here. I don't understand why there's a request for various parking when you can easily get three spaces here. So I'm not sure what, why there's a request for a variance for parking.

Jason Wright, That was actually my point as well as to why the two cars parked tandem behind them look like a lot was big enough. And obviously, it looks like Tom can just confirm that.

Tom Chiudina, Yeah, I yeah, I thought the same thing. And then I said, Well, how wide is this And clearly, you can easily make it a couple feet wider, you still have plenty to get three, nine foot spaces there. And then a fourth one here that easily works without even interrupting any of the parking. I don't see that a variance where parking is warranted here. I would think it conforms just they just need to, you know, show a proper plan.

Craig Doster- there's also two garage spaces there as well, which are not in use today. So currently, I have a setup where there are four cars, both units are rented. And there are four cars in the driveway assigned spots. And that's without disrupting any of the vehicles to back out without stacking the vehicle, I should say. So if I needed to involve six spots, I mean, I could use the garage. I could enforce something where you can stack vehicles to

get out. But right now there are four cars in the driveway and there's still plenty of room for parking.

Jason Wright- a letter from the Commissioner mentioned egress missing from the bedroom as as that's all been satisfied. Safety health wellness point of view this failing height. That's all. Adequate.

Craig Doster, I did actually I had a window installed in that bedroom unit. And it does mean eat grass now and I believe it's maximum 44 inches from the ground. So that that has been resolved.

Jason Wright, I guess is what exactly is that we're being asked to grant? Are we looking for the variance? So we're looking for a special permit? Or are we granting approval contingent on another parking plan? What is it? What are we being asked to order? This is one affidavit is that adequate

Chairman Baird= I think that given the weight of the evidence, I would be comfortable saying that this is a preexisting legal preexisting non-conforming three family and that as such, making a finding under Mass General laws chapter 40 a section six that the continuance in changes to the internal aspects of the structure, an external you know, in the outside as well to allow that we you know, sort of code compliant egress are consistent with a change in a preexisting non-conforming use an instruction containing that use and that it's not substantially more detrimental to the neighborhood than what is there today because it is, I think, on the way to the evidence, shown to be a three family. We have a affidavit that signed under the pains and penalties of perjury. We also have a letter from the building Commissioner that says it appears to be a preexisting non-conforming, three family. So with that, I think we could make a section six binding on the condition that there'll be a minimum of six off street parking spaces sited on the property so that there's not any attempt to avoid the sort of conflict of on street parking happening as a result of the verification of this use. And I think we can make that condition as part of our section six finding that that would be the find that would be the finding, I would make

under 40.6. With the condition, you know, in of course, being the renovation being confirmed to be done in accordance with the plan submitted.

As moved motion by Jason Wright, Second by Tom condition to a revised site plan.

Chairman Baird, We have to get six spaces on there. And I think we could add to the condition, Tom, that I'm in, I guess we should do that by amendment that the applicants submit to the board, a revised site plan that shows how the six spaces will be sited on the property prior to you know, getting an occupancy certificate, or any renovation permit that they need from building inspector. So I'll take that as an amendment. Tom, if you want to move the amendment formally. I'll ask for a second on the amendment. Yes, I'll move the amendment. Alright. So as moved on the amendment, do we have a second Mr. Right. Second. Okay. So the amendment to the motion. We'll do that by name and vote. Darren Baird. Yes. Tom Chiudina. Yes. Jason right. Yes. Okay. So the amendment has been approved three nothing now as to the motion as amended by the approved amendment. And seconded by moved by Mr. Wright and seconded by Mr. Chiudina Darren Baird. Yes. Jason Wright. Yes. Tom Chiudina. Yes. Okay.

Chairman Baird, So the section, the finding under 40 a section six has been granted. You know, subject to conditions. Attorney Cipoletta, if you wouldn't mind drafting that decision and sending it our way we'll review it.

Second case of the night to be heard is case 021-2021 10-, 12, 16 Revere Street Realty Trust, a matter looking for variances at 12 and 16 Revere Street. This is continued from the hearing that we held on June 24 2021. Sitting on this as Chairman Baird, Tom Chiudina and John Young.

Attorney Cipoletta, Thank you, Mr. Chairman, members of the Board of Appeals. This is I think the third plan that we have submitted to the Board of Appeals, or I should say, the third version of plans that we have, and it's a result of some of the very pointed questions by the Board of Appeals and some of the concerns of their surrounding neighbors. The plans that were revised, was submitted a little bit ago, but we also submitted a copy of the plans to have annotations in red, so that it points out clearly the changes that were made from the last version of plans that the Board of Appeals had received. So the requested relief still remains mixed use in the BA district, maximum building height that would require a variance minimum setback on the right side and parking. In this version of the plan, which is to be addressed by Mr. Lloyd, will be explained in greater detail. But just to

give a recap of what has happened in a thumbnail is that, of course, the lot size is 17,467 square feet. And lot coverage is only 50%. This version anticipates 15 residential units, reduction from the previous plans, 13 of those would be two-bedroom units, and two of them would be one-bedroom units. And since this area is still a mix of residential and business use, Mr. Carney thought it appropriate to maintain the first floor for parking and commercial or business use. So that would add up to the request for a mixed use going up and down revere Street, you can see that there are a number of businesses, obviously the marketplace is across the way there's an automotive repair shop. Next door, there's a bait shop to one or two doors down the street. And there are some residences mixed in as well. Being mindful and knowing that there was a lot of concern about what the effect is going to be on the residents of Taylor Street, We still have 24 parking spaces lined out on the site. But the building has been moved back again, away from the rear boundaries of those Taylor Street properties. The upper floors have been terrorists back so that you don't get that that looming effect. And all of this is shown on the annotated plans that were most recently submitted for purposes of explanation.

John Lloyd shared his screen, As Jim was saying, earlier plans that were submitted, we did have more units than 15. The previous hearing, we did have 15 residential units. This revision had changed one of the two-bedroom units to add an additional one bedroom because of a stepping back of the building from the right-side yards, which as Jim mentioned, abuts the Taylor streets property rear yards. At the end of the last meeting, we had some discussion about the project. And you know, the impact and I just the massing of it. And I think we all felt that maybe taking another shot at it, it seemed like you guys might be okay with maybe sacrificing a parking spot that would allow us to shift our second egress to the left of the right side property line, which then would allow us to reduce that fourth floor on that side, and this is the first page the first sheet of the site plan that shows what we did with this red arrow. I don't need to reread what this is but essentially, we are sliding that over. You'll see on the sheets that I'm going to slide to next how it affected it. So there was building in this section where the arrow was on the ground floor and on all floors, and it's not there now. One other thing I did want to point out that one The neighbors or some of the neighbors might have mentioned, it was kind of an error on our part. But in this area here, we had a dimension from the property line to the building. And in fact, there is a balcony in this area. So I didn't want to seem that we were trying to sneak anything past anybody, this line here would continue straight down. And that that setback would be what that number is that is recorded on it, it's nine plus feet. If you didn't count the balcony, it's 15 feet to the building. But we know it's part of the

structure. So just wanted to clarify that for everybody. So second floor, there was no change the floor plans except for the stair sliding forward. The third floor, same thing as the second floor. And you'll see it in the elevations. The fourth floor, this boxed out area is essentially removed. And in doing so we were left with enough space for a one bedroom versus a two bedroom with a little modification. And we felt like is still maintained the nice look of the mansard roof with the dormers and the recessed balconies for those units. And here's the front elevation, that portion is now slid over. So the three floors are at 33 feet, four inches, approximately, there's probably like a eight inch parapet going around it just for necessity. This is one of the renderings that shows this step back portion. So it's only a three story building on the side, right next to the repair shop. Behind this section, the stair was also bumped out, but you can see it's gone. Now, that was probably more in line with the residential a butter behind the repair shop. You can see it probably better from this bird's eye view where we stopped that fourth floor back. And you can see where the stair was stepped back as well, which is right behind I think that would be near the residence at 12 Taylor. So that part of the building got stepped back as well. And keep in mind that that was just a staircase in itself anyway. That's pretty much it. I can share the screen or I can leave it on during questions whatever you'd like.

Attorney Cipoletta addressed the board again, -Mr. Chairman, but just to accentuate that one, that one point that we had. And I think it's in the record now. I had asked Mr. Lloyd to shoot some distances from the building of the proposed building to the buildings surrounding it. And we didn't do that on this one because of the constraints of time. But I think that the those lines now, or the distances are even greater. So I mean, we did what we could to push it back away from there, especially above the above the first floor and as you get higher and higher in the building, because what we heard was, there was some concern about the looming nature of that building and the impact on the properties on Taylor Street, but I would just reserve the rest for in response to questions because I'm sure there will be so thank you, Mr. Chairman.

Chairman Baird did open public comment.

My name is Sarah Borelli. I'm here with my husband, Kevin Vargas. We live at 12 Taylor Street. So we're in a butter to this project. So first and formal Good evening, members of

the board. Let me first start by saying that I was truly optimistic that these revised plans would have taken into account public and board feedback from our last discussion. But that does not seem to be the case now, nor has it been for the last year when the applicant has been given multiple opportunities to create a structure that will benefit this neighborhood and this town, but we continue to make no progress. In this latest round of plans, the stairs have been stepped back. So what's this? What this means for us in our backyard is instead of looking at a flat four story wall, a mere three feet from our property, we'll be looking at an indented four story wall. What is the difference? I understand the zoning laws and board don't dictate you light air privacy is still a concern. Yes, I know. It's Winthrop. We're all close to our neighbors. And this is just a massive, massive structure for our neighborhood. Our neighborhood is comprised of two and three story homes, not 44 foot high structures. A one of the fingers that was shown, I think it was R7, so our home is right there. Yep, 12 Taylor Street right there is going to be looking directly into this structure and the people in this structure will be looking directly into our home. It's going to negatively impact our daily lives. put yourselves in our shoes, what would you do if this was your home. In our last meeting, the board flagged that density and parking was still a concern, the minimal change to turn a single two-bedroom unit into a one bedroom unit does nothing to impact those concerns. The primary use for this building is residential uses 15 residential and two commercial units. There should be some pause here given to how monstrous this building will be. I was looking at the table of dimensional regulations, which say that in multifamily there needs to be at least 20,000 square feet, which the applicant is below at 17,001 and one unit per 2500 square feet. If this project called the lock, there would only be 6.9. Units allowed. They're asking for more than two times that amount. If my husband and I want to build a similar structure on our lot, it's almost certain that this would be denied by the board. Why should it be allowed in this case, and on top of all of this, they're asking for parking relief. And in regard to parking, one space has been removed. This round of plans and four or five that came before it. Parking has always been a concern for the board and the neighborhood. Nothing of significance has been changed time and time again. We've also never addressed the fact that there will be two commercial units here. Where will those employees have those commercial spaces to park? we strongly urge the board deny these variances and protect neighborhood and the residents of Winthrop. We ask that the applicant be given no more opportunities to make miniscule changes. We spent the last year before you month after month, having various having seen very little progress. Thank you.

Kevin Vargas. I'm Sarah's husband, so good evening members of the board. I also live at 12 Taylor Street. My wife Sarah and I urge the board to vote against these variances. The location is currently zoned for commercial use and the addition of the two commercial units is an afterthought to get these variances granted. Business District A is a limits of 40 feet and the project is 44 feet. If the development is mixed use should at the height requirements follow the rules at the other residential properties in the area have fallen and only be a max of 35 feet? The project will be nine feet and not feet four feet over what is legally allowed. Also, the development should only be a max of two and a half stories but this project will be four stories I don't see how the minor adjustments made in the third floor and pushing back the stairs makes a difference at all. Those little tweaks do not make any impact. The property is still 44 feet four stories tall. It's not a three-story building. Like you mentioned, it's not set back enough mixed it's mixed use and does not provide enough parking for the proposed building. In the pre previous plans. There were 25 parking spots now there are only 24 the residents are short six parking spots, and this still isn't dedicated parking for the businesses. All the parking will not be on site. That was the case of variance for parking wouldn't be requested. Taylor street is a dead end. I've seen people drive up and down search into parking. It happens with our driveways in use history can get very congested, and I'm looking at parking spots 24, 23 and 22. They appear to be just a few feet from our property with the parking spots 19,20 and 21 behind them. I'm not sure how they're going to get in and out without hitting our offense. I also don't understand how 19,20 and 21 are going to get into the spots with the other spots blocking them. The park in the back next to my property. It's not making sense it looks like an unavoidable situation. Within the past year they've been minor plan adjustments made to get these variances granted, but the plans have never taken the public's thoughts in consideration. None of the plans submitted have requested anything reasonable. It's always been this massive development requesting many variances. The latest plans even more massive and tall than the plans that was submitted on January 15 2021. And the board stated concerned about those plants Like my wife said that density has not been addressed in the new plans. That point was brought up by the board in the last call, the number of units per square feet far exceeds what's allowed for plans requesting double the units that are allowed. This may be a fifth or sixth meeting about fixing every person who made a public comment has been against this development. I don't know if anyone's going to be on the call tonight supporting the development. But there's never been anyone that previous calls that made any comments that support it. I'm just going to wrap this up. Right now the zoning laws are in place to protect the community. My wife, I purchased this on 12 Taylor Street on April 30, 2020. If we had any idea, there's a chance that a four story 40 foot apartment building there will be live in our backyard, we may not

have purchased a home. So we worried about an audience privacy, two years of construction traffic, debris making its way into a yard, along with all the other concerns have been mentioned. It's the same thing over and over again. The area's does not zone for this request, there are too many variances requested. Density is still an issue. And there's never been any adjustments to satisfy the public's concerns. Thank you for your time.

Mary Jane Abbott 24 Taylor Street. I agree with Mr. Vargas, there's way too many variances requested. And I'd just like to note real quick that with all the projects Mr. Carney has done for this town, none of them were over 44 feet high. And that seems to be a big issue that height and just the whole scope of the project, not having enough room to accommodate it. So my husband, Paul Abbott, would also like to say a few words. Okay,

Paul Abbott 24 Taylor Street, and I would like the board to consider some problems I have with the project, I'm totally against the project. And there's a few things I like to say negative about the project. Recently, I believe the gas station is claiming out his property. And I believe he might be selling for sale. But I know he's cleaning off maybe retiring. And what was if Mr. Carney gets approved for a 50-foot building, the new owners for that building might want to put another 50 foot building VIPs if one person gets approved, the other one will get approved, then Mr. Vargas will be totally engulfed with a 50 foot building. And we're still not sure if Mr. Carney is going to develop it or sell it as a package deal to developers, he hasn't really said he's going to develop it. I like to know if I can if I can't, it's all right. And I'm also what I got to say is yes, we bought in the street. And we bought under a certain set of rules that it was a commercial piece of property. And we would have never bought if we know a 50 foot building was going up next to our houses. And, you know, we work a whole life for this house. I also worked 40 years, 70 hours a week so I can retire in peace and width. And that's all I have to say.

Chairman Baird, I see Patti Hurley felt in before you start Patty, I just want to let you know we did in fact, receive your email from 3:22pm today. Thank you for that submission

Patty Hurley felt I'm the butter on 18 Taylor Street, and I oppose this project. Because first of all, I feel this no undue hardship to base this project on to base all these required variances on And furthermore, if this is direction the town of Winthrop wants to go on, then we should update the zoning laws to reflect that and not allow these onetime approvals. The zoning regulations for the center business district were mentioned in the previous hearing. And they are not applicable here because they have strict boundaries put in place when that project was going on. There were too many variances requested and I asked that you put up the new piece of paper I just got submitted yesterday. Because I'd like to explain one of the variances that had never got mentioned until today after they got my papers, if they could put the new where they moved, where they took out one bedroom, please, if that could come back up. Now the one with the trees. The other one with the trees, there's one with a row of trees that he wrote on. That was the new that submission. And there are way too many variances to move forward on this project and should be denied. It states there is 15 feet to the fence where the first tree is along my property line with that tree is that's where there will be a balcony overlooking where my grandchildren play. Mr. Carney has planted trees they were dead A week later, and the place was a mess. I have previous pictures. That where that measurement is where the second tree is says it's 9.5 inches. Down back with the arrow on the second tree. The measurement from the end of the building to my fence says it's 9.5, if you look at the way the fence slopes where that balcony is going to protrude is going to be about five feet from my property line. The safety of my grandchildren as well as the school children and elderly to the parking in front of the building is absolutely a hazard to this place. Boston doesn't allow sidewalk parking Revere doesn't allow sidewalk parking. Although the project states there's three variances that they mix, you tighten parking, the zoning laws and regulations set forth. He doesn't have open space. Open space requires no parking or driveways on it. According to the definition, based on your zoning regulations. We never saw a site plan that you asked for a site plan review, you also asked for an environmental for apartment buildings an environmental design plan. Where is the traffic congestion going to go that's already deemed unsafe. These are the requirements under the Environmental Design Review. So therefore this should be denied with prejudice. And I also believe he said he's leaving and not even building this is really unfair. And I want that on the record. You cut it from three minutes to two minutes. Sorry, my mic. Yeah, Patti, your sound is not on. Well, I was told I had to stop anyway, I just feel like two minutes is inappropriate when you change it from three last month and I had time to myself, these parking spots are illegal, you can't park on open space. The parking spots in the front of the building are a safety hazard. And I'm still waiting for the safety of my grandchildren and all those variances. There's many, many more variances that are not included. And

you people are aware of this. And that balcony still sticks out more than the nine feet, it's way over and the building existing commercial, the footage on that should be done a plot plan doesn't say existing footage it should have he's not leaving that there. It's a totally new building going up. So he needs a variance because it's three feet from Kevin's property also.

Nick Aggrey 149 Morton street precinct two. Thank you for your time. It's just leave this page up because it looks like a bunch of these parking spots. There's no measurements on here. So it's hard to tell. And as Mr. Cipolletta I let us do the constraints of time we didn't get a look at this previously. Looks like a lot of these parking spaces might be within three feet of other property lines. So, but because you're not measuring, say, we don't know, you might need a variance for that also, it also looks like you have I can't tell the square footage because it's all over the place here. But I know for mixed use the commercial on the first level has to be at least 30% of the total floor plan of the building. It doesn't look like you're at that here, either. So it looks like you're missing another variance. That would be 2 so far. And while density and mixed use isn't defined in the code anywhere, I believe the board needs to take that in consideration, as other people had said, you know, it's very dense for the square footage based off of other parts within the code. And, you know, while it's a mixed use area, and all that, I think it just still needs to be considered heavily. Really, that's it, I just think that it needs to be considered by the board that there's still some missing things here. And density is still an issue, even though it's not part of the code, it still needs to take into consideration. And one thing I'd say is just as far as the developer goes, he's done awesome things for the town, no one is in doubt of that. We've, you know, he's built marketplaces, that other things. It's really nice. But I feel like his character didn't come through in the last meetings. He was making threats that if this building doesn't get built, he'll just fill it with construction equipment, and the neighbors would be looking at that. That might have been out of character for him. He seemed like a nice guy. But that was kind of rude to the neighbors. I'm not even in the abutter, but I don't think I would if I wasn't abutter. I don't think I'd be enjoying that comment. Thank you for your time.

I'm Steve Lamonica. I live on 15 Taylor Street. And I have disapproved of this. If we can refer to the photograph of 7 I'll be very quick. Right there. If you look, no, that's the one. Now you look at the middle of the picture. You can see the traffic light, that's a working

traffic light are two different ways to traffic. And a majority of times during the day, you cannot even get off of Taylor Street, that light is only about 175 yards or so from the corner of Taylor Street. It's always filled with traffic. And the way people drive their attempts people cross the double yellow line not to let you get off the street. Now thinking of business traffic trying to get out there. Residential, this is ridiculous. There's no way this should be that many guys going in and out of that area. He doesn't have the room. It's not set up for that no matter how you dress it up and how many trees you plant and awnings that you put up. It's clearly a safety hazard. You don't have to look any further than that one picture right there. Not even touching all the stuff looking into people's backyards. I mean, really, who wants to see anybody in the house? That's all I have to say I just disapprove of this whole thing. Thank you. Okay,

My name is Jodi Fitzpatrick. I'm calling for my parents who I am their power of attorney, Matt and Roberta Phalange they live at 20 Taylor, St. Winthrop mass. So I want to thank you for taking the time to have an opportunity for me to speak. I just didn't, I didn't want to go through the whole rigmarole of what everyone else is saying. But I just kind of wanted to go over some things that attorney Cipoletta and also Mr. Carney said, at the last meeting, they use first the Ferrara building, which you can see on this print as a comparison for the building that he's making in the sense of it used to be it was supposed to be mix, it's not. But as you can see from the pictures, the size difference is unbelievable. between what he wants to build, and what the Ferrara building is also the for our buildings does not have any neighbors directly in behind them, there's a huge space between what would be another thing, so I think, to use this as a comparison, it doesn't really, it's just it's like, you know, apples and oranges, because we until the street, this giant building here is really is sort of an eyesore, and it's also directly affecting all of the neighbors. The second thing was Mr. Carney mentioned that no one on Taylor Street knew what they were getting into that when people bought there, they knew that, you know, there was a Construction Set. I mean, my parents had been there for 40 plus years, they were there prior to any of Mr. Carney's getting involved. So that's not true. And also, I did hear Mr. Attorney Cipoletta Tell him not to threaten the residents of Taylor Street, which is a little concerning to me, only because he spent a lot of time trying to sell his character on the first meeting. And then for him to sort of threaten us, like Paul mentioned about, you know, I'm just going to put a construction back there. That's not the point. Our point is to not stop him from building something, but to stop him from building something like that. The other thing to take him on is the resale value of these houses on Taylor Street, Mr. Carney is going to be making a lot of money from building this house, the rest of us are going to have a very hard time trying to sell our houses, because that is what's in the

backyard. My parents house is a third house down from this picture on our seven and that is what the view is, and that is what I'm going to have to try to sell to someone to sell their house. And that also needs to be taken into effect for the people who have been living in this town their whole entire life. Um, I guess, Pat, someone did bring up about the fact that Mr. Carney did mention that he was retiring. Is there a stipulation? Or is there something in effect that if he does retire, can he sell these plans to another developer, I know that we're all going on, again, based on all the great things that he's done in this town, and he has the market value in the marketplace is beautiful, the East Boston even all centers great. But if he leaves this town and it can he sell it to someone else to another developer, and sort of get away with that, I didn't know if there was a rule or a stipulation for that. The other thing is just for the town, just to know that the mixed use, there's only about three or four buildings that we know of that have mixed use where they're like the bait shop has some people living above them, the 90 restaurant has someone living above them. Same thing with the taxi, but those are only two or three floors, not four not 15 units.

Chairman Baird took a motion to close public comment by Tom Chiudina and second by John Young.

Attorney Cipoletta addressed to Board again, so there's in as part of the record, that sightline, I'm sorry, that distance line that's entitled dimension to a budding buildings scale 1/32 equals an edge. I think we submitted that during the last public hearing. And just to point out and leaving out the Colpack property, which is the commercial automobile repair place, and going down Taylor Street, 12, 18 and 20. With the stairway in place as it was two months ago, the closest that that building or any portion of that development comes to number 12, is 44 feet nine and a half inches to the house. building a building. to number 18, it goes across a vacant lot, which is shown as lot z owned by Ms felt 22082 square feet to her house is 75 feet nine inches. About number 20, it doesn't even look like the building it's going to be contiguous, to that house, Now this the plan that I'm looking at. So I understand the view and privacy concerns of numbers 12 and number 18. I don't understand much of the arguments about number 20. But I just wanted to point out what those distances were or are building to building. The other thing is that you also have in the record 12 abutters or neighbors, signatures who did sign in favor that was submitted and entered into the record, business district A has been commercial forever. It's been designated commercial forever. So if you bought a house next to a commercial building, well, you bought a house next to a commercial zone, that's

the way it is. There's a garage there now that repairs cars, he has a left, maybe two, it's being sold, and it's being cleaned out, as one of the gentlemen indicated, I saw that when I drove by it today. I don't know what's going there. But I'm pretty sure it's not a 50-foot building. But nonetheless, that's a commercial use, that's much more toxic, not obnoxious than a residential building might be. And by the way, if this were it's 11,467 square feet, but let's just say for sake of argument that somebody wanted to put a two family home there. But even in terms of residential dimensions, and dimensional requirements, you can go 35 feet. So you still if you're at ground level, you're still going to be looking at a 35 foot high, two and a half story minimum, a maximum building, and you're still going to be looking at 35 feet of perhaps a monolithic wall. So there's no real appreciable difference between sticking a two family house there with a 10 foot setback than you are with this. There's a site plan review committee report that is dated August 23, 2020. And I found that as part of the initial application is probably part of this one, too, because the exhibits were the same. But nonetheless, when this project was initially proposed, it was proposed as a mixed use with 18, two bedrooms and 3 one bedrooms. So that's 21 units down to 15 units. So when there is an argument that's put forth to the board that says, oh, they're not making any changes, these are all just minutes miniscule changes, and they don't make any difference. That makes a huge difference. And I think taking off parts of the building is a huge difference. The Taylor Street parking issue, that's Taylor Street parking issue that's existed forever those houses that knew those cars know they've been there forever. I don't see anybody going out to the street to make to look for a parking space, because there are none, that's probably the biggest point of agreement that I have with anybody who's from Taylor Street who opposes this project. Yeah, you've got a parking problem, not caused by Mike Carney. I mean, that's just the way that it was laid out in the nature of the residences that were built and the usage of the driveways and non-usage and the number of cars that the residents have. So, I mean, the issue of there being a parking situation that's going to be exacerbated by the construction of this building is just, it's illusory. I'd like to ask John to explain those to make those dimensions would call into, into question again, by one or two of the people. And if John has a, I saw him doing some calculations there on his magic machine, so if I could, with his with, with the permission of the chair, just have joined, explain those to those dimensional.

John Lloyd Yeah. And in that general area, I believe, felt bad mentioned that the balcony is going to be five feet from the property line, it will be as that fence line is angled a little bit, it's coming in the balcony edge will probably be about nine feet, not nine foot six at the angle of as it projects to where the balcony would be. Right now, the building itself is 15 feet from that fence. And there's just a balcony at that first-floor level there. I can share

the screen and show it somewhere. But there was another comment about the six spaces , I guess 19 through 24. And how they were going to operate and how they were going to get in there without hitting 12 Taylor streets fence. Those 22,23 and 24 spaces are probably, you know, 12 feet from the property line. But those are tandem spaces with 19, 20, and 21. So those would belong to one unit. You know, each pair would belong to one unit. So the owners would not would be, moving to their car to get their other car within the property. There was no driveway on the other side, it's one entrance and exit at the garage door at the front of the building. I think there might have been some confusion on those statements. Another thing when we stepped back the building on the front right side, and basically the buildings at 34 or 33 foot for height. I believe that's probably lower than the other three families on the left side of this property , There's a building on the other side of Taylor Street in the corner of Taylor revere, I think it's a multi-family home. I believe that buildings probably higher than 35 feet itself. So this, that step back portion will be 20 feet from the property line. I just wanted to make sure that the board knew that I know you've probably read the notes and probably picked up on it. But then looking at the other markups, but some of the statements were mentioning that it was 40 feet and 44 feet below the total height is 44 feet at the portions that are at the highest, but not any portion. That's three feet or 20 feet from the property

Chairman Baird opened up questions to the Board.

John Young, tried to review you know, Attorney Cipoletta his information he brought to the board. I read in detail today. Miss Hurley felts comments. She gave A nice email. One of the things I'm trying to wrap my head around is how many variances are we trying to grant? What is the scope? there? There's so much talk about this variance that variance this and that is that detailed on one sheet?

Chairman Baird, I don't think that exists. And I think it's an issue from the standpoint of the I think the way that the building inspector wrote the denial letter was that it assumed that by saying that one of the variances that you need, which we're changing it to was mixed use that that pulled in all of the dimensional allowances that went along with mixed juice type of structures as opposed to the use, and the dimensions of related with the zones in which those uses are permitted being two separate things. So I think there's a

disconnect there, because they think that you're allowing the use separately from what you're varying from a dimensional standpoint. And so the dimensions of the zone still control, irrespective of what the uses. Right, so I think that there's not an enumeration that breaks it down. From the standpoint of this is the zone you're in, tell us all the variances you need for this structure. I don't care what the uses. Right, the use is a separate variance. The short answer to your question is, I don't think that exists right now.

John Young- Is its complex that it can be detailed, or is it just not been asked to be provided to us?

Chairman Baird Well, I think if the board were inclined, if we get to the point where the board is inclined to grant the relief that will have to be enumerated so that the correct relief is granted, if that's where we end up. So that's one of those things, I think we can hold that aside for a second, I assure you, it's not three variances, right? There's a use variance, there's a height variance, there's a setback variance, there's a parking variance, there's a parking setback variance, there's, you know, a number a host of variances, that we would need to enumerate and tie to the sections, it's not just a use a setback and height, it's beyond that. It's density, units per lot area, it's there's a lot of stuff that would have to be varied. And it's just not two or three things. I think it's more than a handful, when you get down to it

Attorney Cipoletta- I went off of the building inspector and site plan review committees dictate and what I came away with is variants or mixed use and a BA zone. Variants for maximum building height, minimum setback on the right side, and parking spaces. Now, the building has changed a number of times. So whatever the site plan review committee actually saw, and wrote in its report when it was 21 units is different. So it may have an impact on the density. So I do agree with the chair that there's a density issue. Parking setback. So those four variances that I set out in paragraph 11, I took from the building inspectors zoning review, and I think it may have been John Barrett who did it. I think it was that that long ago. And also a site plan review committee from August. So that's where that's what we had in writing. And as we moved forward with different versions of the plan, some of those things may have changed. But there was a minimum of four. And I do agree with the with the density. So that's five.

Chairman Baird- Well, I'm going to go with sitting members first and then come to you Irene, but I think that the I do think that we want to make sure if we were moving in that direction, that we have double stitched it all so you're not back here asking for additional things later, when you go to when you go to pull a building permit or you go to finance or do something like that. I will say this, say that going for site plan, I think that One of the things that we have to be careful of is the use. That's a lot and what it's allowed in certain other districts does not necessarily carry with it. Those same dimensional regulations to a BA district, when it's not otherwise allowed, you got to use in dimensions have to be treated separately. And I think that's what maybe little bit conflated in the building commissioners denial letters letter.

John Young- one of the questions and listen to the public comment. And I'm just wanted to get some clarification if I could. Mr. Cipoletta, you've told us out your last meeting, you are retiring. And I believe some of you said that you may or may not develop the property. Do you have any information you'd want to share to the folks? Are you going to be developer or do you plan? Do you have any advice you're going to sell the development?

Applicant Mike Carney spoke -I'm trying to find the best use for the property. I'm done with construction, I'm really wound down I put 45 years into heavy construction. And I'm just I thought I was bringing a town a gift by a beautiful residential property. I thought it was the best usage property values in the neighborhood. You know, it's existing usage, I think is detrimental and end up people say I threatened I threatened to do anything, it's just I was being honest. I know, in the world of construction, I may be blunt, but I just told the truth. If there's not a residential solution, it will states was existing use. If I sell it to somebody, it's going to be for a lot of money for them to pay a lot of money, they have to generate a lot of money, which means a lot of activity, the activity would be trucking, it has to be trucking, it would be a tow company, or a site company that does emergency guesswork, try axles 580 cases coming back in and out with trailers. I'm just being honest. I haven't that's not a threat. I'm just being straight.

John Young- No, sir. I'm not. I didn't mean to say that. My question was not about if it's not approved, I believe that your butters and folk said if it is approved, are you going to develop this property or someone else going to develop it? For you? I mean, as if this is approved, that's a biggie, if this is approved, are you developing, or someone else going to develop it?

Mike Carney- Yes, I will be developing the property and may have a partner. You know, it's an expensive project. You know, I have had other contractors like myself, that have approached me and said to be happy to do business with me and to be part of it. So, you know, we may go to a bank, we may not go to a bank, if I have other people with deep pockets that want to come in and be part of the project and then so be it. But yes, I will be involved in it was my design I thought I was bringing up. Like I say that. We did the nice demand side, we cobbled it back to give it a lot of pizzazz. I thought we would just only several feet higher than the building on the revere street side. Like I mentioned before, I don't remember standing about the four building across the street. It's quite nice. The only building I referred to him in the last comment was the one beside the Winthrop fire department at the beach station. I noticed that that is quite high from the sidewalk to the top of that building. And I thought well, what's the difference in zoning between revere Street and shirley street? That was my question and like I thought we were just a few feet higher than the revere street side. As far as parking variance, yeah, we may need a few spaces. But again, the width of zoning law packing is kind of antiquated. I figured this is going to be young people maybe one car there's a bus stop right out front and be a mixed use. Elliot Whittier is staying the footprint of that building a state that's going to build right over them. And there'll be a system building commercial use perpendicular to it so it would give it a nice feel was the breakfast side. I I put that facade on the building because I grew up in Charlestown and I modeled the Elliot Whittier building after what I witnessed in Main Street Charlestown growing up. So that's what I was trying to bring. You know, a pretty look. And I was just being honest about other uses

Tom Chiudina- Yeah I have a number of things. But I guess I'll start with Mike, I think the neighbors would agree that the requested change in use is a positive, I think the issue they have is the density. Yes, the height may only be as high as the revere structure is on the left side, but they're not on the left side and on the right side, and it clearly towers over many of those structures. To be blunt, I'm not overwhelmed with the changes you made, I was hoping that you would step back at least the third floor, in addition to the fourth floor as you have. I think that would help things. But before we even go there, the parking is what is still really bothering me. Because those seven spaces that are out front are clearly for commercial use. I don't see how you can do a sharing there unless you're going to restrict them from opening up on this on Saturdays or having evening hours. I mean, I don't know how you would do that. So to me looking at this, you've got 17 parking

spaces for 15 residential units. And that's still to me a big imbalance. The other thing you know, I think this site plan needs to be further developed, there's no indication of where the pavement is, where the landscaping is, you have spots laid out, but there's no actual edge of pavement anywhere, there's no you know, it's note, you know, you should have a more developed for development of this size, we should be getting a more complete site plan, separate landscaping plan. And this isn't that, you know, the other thing is, is you've got a commercial property to commercial properties, you're not showing any handicap spacing. Once you throw a handicap spot in there, you're going to lose one of those spaces. You might have the same issue with the residential ones underneath as soon as you although you might be able to satisfy that because you do have some loading area there. But, you know, that also is lacking in this. So like I said, um, the setback was nice on the fourth floor, but still underwhelmed with what it looks like, it's not sure why you couldn't still step that back and, not have to request a variance for that size, it would be more of a preexisting condition. So I'm not sure where we go from here, there. But one thing, just one more statement, I guess, is in just a general one for attorneys HIPAA letter. Because you are in front of us so many so often with so many cases. And when they get continued like this, or like this one has and the plans are changed. I don't understand why you can't get back in front of building inspector with those plans to update his denial letter. So that it's clear when you get back in front of us what the changes are.

Attorney Cipoletta, On these plans I in order to get on tonight's agenda, I wouldn't have been confident about receiving a thorough zoning review from the building department given the fact that he's understaffed for the last couple of weeks. But I think as a general rule that a great suggestion and it makes more sense and it also keeps him in the loop.

Irene Dwyer, This is the first time I've been watching myself the widow. Anyway I had just some of the comments I have to make. is just simplified versions of what a lot of other people put together, for example, going on about, and I made two of them one about the height, as well, it's not that much taller than the three story, you know, three family building, it's not much taller than the three family building that is taller. And it's a different kind of building.. As in similar way the winds have been made as well, if we're three family and well, if you were, there would be submit a fair amount of side yard opens, notice he isn't the same volume, even if you had like, let's say we've got 15 units right now requested. If you had five, three family houses going down the street, you'd have 15 units,

but you'd also have grass between each unit, you'd have parking within the lot. And it just it would be a very, it would be a very different thing than 15 units in a connected multifamily use. And this is it's not that I kind of following some of the fine points that you've been people have been explaining and questioning, and they're all really good points. But the point, but the point is there if this particular type of use is okay, to begin with, if this building were being proposed, for someplace where it was properly zoned, um, those arguments about whether stepping something down or, you know, shifting something, I think we could just things that would make sense ironing out. But you're like jumping from a plan that is not a permitted use. And then comparing apples to oranges, it's, well, it isn't quite the right use, but it's only six feet taller than what would be a permitted use. I mean, I'm not going to argue every single point here, it's just that the overall nature of this discussion seems to me to be trying to shoehorn things into a plan that isn't really the right thing for the amount of space we have here. And it seems like we're arguing about nickels and dimes, and we should make use of money when arguing about what the color we're going to paint the house and we haven't built it yet. So I think everybody's, you know, on asking fair and reasonable questions, and the answers are coming back fair and reasonable. But they're comparing things that are not comparable.

Mike Carney- Like I said, I just like to say that if you're aware of the existing conditions, the White House, the residential house, that's part of the property that will be coming down. That's literally 10 inches from the property line. 10 inches from the abutting line on the west side. When it comes down, it'll be moved back 10 feet. So it's not that it's getting worse. It's actually getting better on that side. It's 10 inches right now, the existing White House, the residential house that's on the property that will be demolished for this project is literally 10 inches from the property line. If you look at the blueprint, it's proposed 10 feet on that side.

Attorney Cipoletta, the point about the building inspector reviewing revised plans if they're materially different. I'm not sure we need to go back to site plan review every time because we never get anything done. But I, I've been sitting here thinking about that. And we've been talking about this, this has nothing to do with this case. But I think as a general, general procedure, a lot of things I think, come before, before getting to the Board of Appeals, a lot of things are going to need to happen before the application is actually advertised. So we've been in discussion with the building department, and the

new Clerk of the Board of Appeals has set up some other, you know, deadlines, so the things don't need to get rushed in and so forth. So I'm hopeful that in the future, some of these things may have gotten more attention before the first advertisement in the newspaper than they have in the past.

Chairman Baird- here's where I'm struggling with this one. And it's not any different than what I wanted where I was struggling with it last time, which is, I'm struggling with this, because I do I think, primarily residential use on that site. is a better use than what's there now. And what could be there in the future? I sure do. Do I think it fits with the character of the neighborhood as far as the use of that type? I do. I'm the product of what I'm struggling with his, even though that's the case, and this may be the highest and best use of the property, frankly, um, that's not how I get to make this decision. Right. At least in my mind. I have to find it. There's something about this site, from a soil shape or topography standpoint, that the literal enforcement of the zoning is enforced creates a substantial hardship. And based on that, am I granting a variance in those that that variance outweighs any public health safety or welfare concerns that the project may result in now, going in reverse in my mind, from a public health safety or welfare perspective? I do have concerns about traffic. I do have concerns about that intersection. Do I think that their concerns that rise to the level of creating a traffic Crisis or higher incident, you know, incident rate for accidents? No, I really don't I really don't believe that's the case. You see, a lot of people doing really strange stuff on revere Street, turning around doing u turns doing other stuff in either the gas station or this site all times the day, just because it's more convenient than going down a side street and doing it through illegal turning maneuver. Right. So I mean, we've all seen that hack. We probably all done that. Right. I mean, I think that's the reality. I think that. So I don't think that this would create necessarily a more dangerous condition, would it create a more congested condition? Yeah, probably, there'd be some, some additive, some additive result of that. So leaving that aside for a second where I have the hardest part, and coming to grading this, even though I do think it's a really, it's a handsome building, I think that it's a, it would look really nice, I think it's a little a little big for the site, you know, it's one thing to go as high or slightly higher than the building next to you. But doing that across the entire frontage of that building, that that site is adding a massive dimension there. And without relief that I don't think is necessarily tolerable from that perspective, it's not apples to apples height wise, it's may be from a height, ground to Sky pedestrian view at one face of the building, but not along the whole frontage. It's going to be bigger and taller and longer than anything around it with exception of maybe the marketplace, right, which is a brick block building. And I just I I have a really hard time getting to there being a true

legal, legally recognizable substantial hardship here. If the variances aren't granted that that's, that's where I am. And I don't know that at this point. I think we've seen enough iterations of this plan. That I'm not sure that absent something truly dramatic that that's going to change tried it from my from my standpoint? And that's just, you know, sort of what, how under variance law under 40, a section 10. You know, where we are constrained some somewhat about how we grant variances and when we grant variances, and that's what I keep coming back to is, I have a hard time getting to there being something so unique about this law, and yet has it's not a rectangle. So is it different than other lots around? Yep. But it's not soil shape topography, that would require this density? I don't I don't, I can't get there based on this configuration. So that's where I am. And I don't know where other board members are. I mean, I think that I'm not sure a plan revision is going to help me. But I'm not, I'm not the one making a motion or tell, you know, making sort of offering something up for consideration. So I just, I'm being honest, I think that sometimes, as Mr. Carney pointed out earlier, sometimes, you know, being honest and direct isn't fun. But that's where I am honest. And in again, by the way, Mr. Carney, Mr. Cipoletta, you were implicated in a crime that I may have committed last time when I referenced the Ferrara building. So I apologize for that. But I was the one who actually referenced the Brar building in the last hearing as sort of how that played out from it was supposed to be mixed use now it's all residential perspective and, and how we got there on that. But I do think that density wise, this is much different. We're talking about a much different proposition. So I'll stop there.

Tom Chiudina How do you justify a variance for use? When the soil Sabir topography has nothing to do with use, at least in this case? I don't see how it does. And yet, I am in agreement that the better use would be, you know, something mixed like this with residential.

Chairman Baird- from that perspective, right, I think that it's from a youth perspective, and a use variance perspective, , soil shaped topography of the lot, the structures, those sorts of things are really, frankly, more about dimensional than necessarily, they are used, I think, if you can get to the point where you're at, you get to the point where you're at sort of the dimensional aspect of things. And the question is, can you get to the point where you feel comfortable that they use fitting in within those dimensions as appropriate.

Attorney Cipoletta- I think in real world analysis of this whole area of revere Street, you can probably build a really, really great professional looking building, it could be an office building, it could be something that would accommodate a number of different commercial uses, and all of that, and you know what, nobody's going to come? There's actually no, there's no call for it. If this property was developed in accordance with the business A district, and what are you going to get buddy got a sub shop, you're going to get a pizza joint, what you're going to get an office building a bank, you know, you're not going to get any of those things, you have Banks down the Center closing, you have food establishments that can't make it going, if you build something other than residential, for which there was a great need in the in the town of Winthrop and, and abide by the zoning and build commercial, you're going to be stuck with an empty building. And I don't think that does the town any justice, I don't think it does the community or the or the residents around there, within a couple of blocks. Any justice, you go by there Now, take a look on the left hand side as you walk, if you're going out of town to East Boston you look on the left hand side, past the marketplace, you got a boarded up building, you look at the other corner of Taylor Street and revere Street, you have a building that maybe or maybe not be boarded up, I can't tell because it's in such disrepair. You have that white house that Mike purchase to make out of this property. That thing was in in desperate disrepair, about to fall down, that he couldn't even rent it. So he's rolling it into it that's pointed up, and he's looking to avoid it into this property. So I would argue that with regard to the use, the use is much would be much less detrimental as a residential use than the development of any commercial enterprise there in the middle of what people have been describing as neighborhoods. I agree. And I think I had a little bit of a plot of the case with the Ferrara building across the way. It was all the plans were they were great. When they were first presented to the Board, the board spent a lot of time utilizing the proposal, this one that wasn't one and done either call for it his credit, said look, you know, this would be great. We can have some commercial on the first floor, we can have store, we got our insurance company, you can have all these kinds of things, you have the cabinet company, and you know what, nothing made it. So what he ended up doing is he did what the what the need, what he could do to fill the need, the need is for residential, the need is nothing more empty commercial, commercial space. I don't think that the use variance actually ties in to the size, shape and topography analysis. I do think however, it may be noted, the parking variance is measured by that. And there is if you look to the to the south side of the building, or the southwest side of the building, that's where you get the angle. It's not a straight shot. It's not a straight boundary line. So if you if you were to take that and pivot that line back out, you could probably pick up if it were a perfect rectangle, you could probably pick up a greater number of parking spaces. But that's not the case. And this

kind of lot being as large as it is does not lend itself just a one- or two-family house. It doesn't lend itself to a you know what? A complex like Mike was able to pull off, up on up at the bridge Isle Seafood is for the East Boston neighborhood health center and all of that. That was the conversion. That was there was a need for that. Belle Isle needed a place to go. He's Boston neighborhood health needed a place to expand the nail place moved out of where are they where are they opened up another place they were in. So they had a place to go. The depth of the lot is huge. Unfortunately, it's surrounded by other uses that are appropriate to the zones, where they reside.

Oh, okay. So if we unpack the variances and other than the use variance what is being required or requested is a right side setback. So being that he's already reduced the right side and I think that the closest and John can give me the give you the exact setback dimension. And I think it's nine and a half feet at the closest to any of the any of the boundaries, but I don't I don't see the plan up and I don't want to see the point enough on the on the screen at this point. But I think what we're what we're talking about is the front most part of the building is closest to the right side boundary. And it looks like the setback relief that we're looking for, is adjacent to the garage. And I think it's like nine and a half feet and it may be it may be only a matter of feet that is required for relief. The other is parking which about every new car converted building constructed in in Winthrop requires parking, parking relief. Now we asked you for something that's unreasonable. But I do not given the location of it and the location of the bus stop in in front and also the number of spaces that he is providing. He's providing 24 or there abouts parking spaces for 15.

Attorney Cipoletta, what I see our main variances the height, yes. You know, in order to pull a building in, he's building up as opposed to he's building closer to that left side, where the with a three Decker is he's pulling that back in order to comply that side yard setback, as a matter of fact, the building as it is now is the footprint of the proposed new building. So he's already in the setback, as it is. So. He's not creating.

Tom Chiudina- Yes. Okay, that looks to be less than four feet from the property line. He's extending it Two stories. Yes, yes. Okay. So that's so we don't need to argue the point, that's our issue, you're not going to convince us one way or the other. That's one of the issues. The other issue is for me parking. And there's been a lot of back and forth in

reference to the center business district, which was rezoned by the town with a lot of thought put into it, I believe the parking requirements for that are one and a half spaces now, for residential unit. You're not even close to that. So that's a big issue. I'm just telling you that right now. So I think we're really kind of just going around and around in circles. So I'm going to just say one last thing here, because a lot of the public has said, Well, you know, you've been in front of us multiple times, it keeps getting continued, you should just deny this. I don't agree with that. All right. I've been in front of boards like this. And sometimes the process is 10 months long. we're nowhere near that. And I think the applicant has a right to request a continuance if they choose to change the plan further. I don't have a problem with that. But that's a request you got to make. If your request is that we make a decision tonight. I think you've already made your case. I don't think you're swaying anyone. I think you understand where the board sits. So if your request is for us to make a decision tonight, and just say so otherwise request a continuance.

Mike Carney- So to answer your question. After the last meeting, I told John Lloyd, the architect to try to comply to your wishes and suggestions. I thought we would then be honest with you. Okay.

Tom Chiudina, But you've realized now, it's clear that you're not there.

Mike Carney-. So what we'll do is I will meet with John again, and try to make further adjustments if we can. And we'll go from there. But that's all I can say. I'll try one more time with John Lloyd, if he can make any adjustments if he wants to step back that third floor. I thought he heard you guys loud and clear the last time and I thought we were there with compliance to the wishes. but evidently,

Tom Chiudina- I guess we're not we're not trying to design the project for you, Mike. I am doing our best to try and make suggestions. But it's not up to us to design it. you're designing it. We're receiving it. And it hasn't been received? Well. If you're going to request a continuance and come back again, if you're going to do that, can you make sure you include a developed site plan that shows edge of pavement, landscaping areas, as well as landscaping? This is a large development, one of the biggest we've had all year, it deserves that there's no reason why we should not be getting that.

Mike Carney-Alright, as as I said, I discussed with John a landscape plan, I guess he didn't get it done in time. We had planned on having one.

Attorney Cipoletta- Mr. Chairman, we would then if it's the pleasure of the board to grant a continuance we'd move for a continuance of the matter until such time as we can revisit the site plan and the development plans run by the building inspector get a good shot of required proposed in any relief. So we give that to the board and then come back and present that development project.

Chairman Baird- attorney Cipoletta, let's just see this, I get I think that is a good way to do it. I think that so that we don't have to spend town resources, reading Noticing because we don't continue to a date certain. My recommendation here would be that if we're going to continue, you're probably going to need more than 30 days to accomplish all of that. I'm just guessing. So my recommendation here would be to continue to a date certain, which would be the October meeting, not the September meeting. To give you plenty of time to do that, get with the building Commissioner, get back to us. If that acceptable. I think that would make sense. So we don't have to put another Ad in transcript in you know, do all that stuff, because we're not continuing to a date certain, if you think you can get it done in time. So we have it. And it can be shared, you know, and put up on the website prior to our September hearing. We can continue to September and then beyond that, but I'll leave that to you to make the request as to where are you how far out? You want to continue on our calendar.

Attorney Cipoletta- Mr. Chairman, we would request that the matter be continued to the October meeting, whatever busters date of October is, and we waive. sorry, yes, the I would request them to be further continued until the October meeting and on the record would waive and agree to exclude all of the days between now and that date for purposes of 40 A

Chairman Baird- thank you. And I think that that date, and maybe one of the other members cuz they just don't have enough windows to open on my computer would be 28.

Correct. So can I have a motion from either Mr. Young or Mr. Chiudina as sitting members to continue this matter to October 28 at 7pm.

John Young I'll make such a motion. Okay. As moved.

Do I have a second Mr. Chiudina. All right. So, motion and sec motion by Mr. Young seconded by Mr. Medina to continue this matter case number 21 of 2021 12 to 16 reverse Street to October 28 2021. At 7pm. As moved, vote by name and vote Darren Baird. Yes. JOHN young. Yes. Tom Chiudina. Yes. Okay. So the yeses habit to your continued. Thank you, petitioner for members of the public, we will be you, we have continued this matter. We will hold this hearing continuation, this hearing on the 28th of October, plans will be available and we'll work make sure that we get those and get those posted on the website prior to that date. So people have the opportunity to review them prior to that meeting. So thank you, Mr. Carney. Thank you, Mr. Cipoletta. Thank you members of the public has shown up.

Our final case number 25 of 2021 Daniel Hibard and Patricia Hames for 13 to 415 Shirley Street, sitting on this Chairman Baird, Irene Dwyer and John Young

Attorney Cipoletta- Thank you, Mr. Chairman, members of the Board of Appeals. This is the application of Dan Hibbard and Patricia Hames. For a special permit to offer extended non conforming structure and a variance, a use variance, while a restaurant, parentheses ice cream parlor, and to re establish the use as a daycare center at the property, I don't need to run around the plans again, for the board. These The board has seen this before. The board has, in the past granted, granted relief for this property, but this, this seems like to be the very 180 of the case we had just before this. So this is residential district. And it's proposed that the use of the building be off and on non residential purposes. So what Dan and Patricia want to do, and then all the construction is happening inside the building, the foot print is remaining the same, everything remains the same, except what is proposed is to be going to alter the structure, but they're not going to change the footprint. But the main reason for their request for relief is that there is a daycare that wishes to return to that location. It's not the same operator, it's another one, there was a use of a daycare center that was in place previously, whatever use benefit that had had elapsed, and so the building inspector has deemed the use as having been abandoned. So we are back to requesting a reinstallation of the daycare facility in the building. The

second request for use is to install an ice cream restaurant that is shown on the plans as well. That is not allowed in the RA district. So we are requesting then a special permit for a use variance for that particular restaurant. The other use in the building is an educational use that is allowed as a matter of right in the RA district. And that's where Dan Hibbard is going to have his classroom which is on the second floor and his business is teaching and informing individuals with respect to OSHA requirements, OSHA certification, OSHA compliance, and the like. So the building inspector has deemed that to be an educational use. The building inspector the site plan review committee did not find necessity for a parking variance. All of the parking would be as shown on the plan, and within the bounds of the existing lot lines. There is a common driveway easement between this building and the apartment building. To the south of that there would be no parking in that driveway easement, I think the board has been familiar with that had dealt with it in the past. So to the extent that any parking is going to be arranged it's going to be nosing around the building, as shown on the plan. These are two of the uses that would not be disruptive to the neighborhood. The daycare center that uses the neighborhood as used to that as it existed before, the ice cream restaurant would not be one that would attract and ignore an inordinate amount of vehicular traffic. And would that be a more intensive use, and also the classroom on the second floor would be used intermittently as Dan signs up the students for certification, he would then conduct the classes on the second floor what narrowly in hours that the ice cream place in the daycare establishment would not be used. For the additional use as a return to the ambulance company that is allowed as a matter of right. So we're not requesting any variance or any special permit for that either. So again, Business uses going back into a residential area. Businesses, all of which other than the ice cream place, essentially have already been back in the building. Buildings now is mostly vacant. But he, Dan and Patricia, moving forward to receive tenants in a fairly quick manner. So if there are any questions from the board, I'd be happy to entertain those.

Tom Chiudina, Can I make a comment before we open it up to the public?. Maybe a question. To answer before we get to listen to this Your package includes a package that you submitted includes a site plan or review report signed by building inspector, or chairman. It says on the second paragraph, the owner of the property submitted updated plans for the development of a property as a four story mixed use building in the center business district.

Attorney Cipoletta No, it's not a mixed use.

Chairman Baird- That would be that would be the incorrect district and the incorrect use. So it looks like it's a typographical error by the site plan review committee.

Tom Chiudina- So just to be clear, you're not changing the exterior of the building as far as the volume of it goes.

Applicant Hibbard addressed the Board- Okay, so the building is staying the way it is on the outside. As you can see, we just had the outside of the building cleaned up. So it matched on surely Street, the parking lot outside and veterans street side, we kind of cleaned it up and put some gutters on it. And that's the footprint is staying the same bigger, the garage door for the ambulances that are going to be in the same spot. The daycare is on the veteran street side. And then they used to be a karate studio, I believe on the right-hand side, which is surely Street, which the ice cream place would take downstairs in there were some office space upstairs that triple A OSHA training and safety will occupy. The building is staying and as is we were trying to get it all stucco and matched perfectly. So it looks great out there. I don't know if anybody's been driving by it, but it's been looks good cleaned up.

Chairman Baird- no exterior changes or additions to the building. It's within the same footprint?

Applicant Hibbard That's correct. Yes. Okay.

Chairman Baird opened it up to for public comment.

Chairman Baird- Seeing no hands second call questions for the public case number 25 of 2021 413 to 415 Shirley Street . Seeing no hands third and final call for 13 to 415. Surely st Daniel Hibbert and Patricia Haynes case number 25 of 2021. Ms Dwyer or Mr Young to close public comment

Irene Dwyer= Move to close public comment on the case of number again here 25 of 2021.

Do I have a second mystery on? I will second that a motion? All those in favor of closing public comment by name and boat Darrin Baird? Yes. Irene Dwyer Yes. JOHN young? Yes. Okay. So public comment is closed.

Chairman Baird- just from a building code and other perspective, and occupancy with regard to the ice cream restaurant use as well as the daycare use, obviously, we want to make sure that you have the parking required for those and I think you do have a pretty ample parking supply there. I don't really have any questions. I think getting this back into full use is a really good thing for that and to Shirley Street, and I think it's consistent with what's been there historically.

John Young- On the ice cream shop is it's going to be Shirley Street side right? Is it going to be literally like as it exists now you go in or they only have windows?

Applicant Hibbard- there's a door there that they're going to have entrance to walk in off the sidewalk.. And just yeah, there used to be a transportation company back before as well. That was one of the big businesses was there. And that's what she's going to make her ice cream parlor out of inside on that whole floor.

Tom Chiudina- I agree with the comments from the Board so far. I am just curious as to how the parking exactly works. I'm wondering how there is a provision that I'm missing here that allows for relief of parking because the ice cream store would obviously have tables and chairs which are shown so how do they determine how many space are required?

Applicant- I'm not sure I don't have a copy of the interior layout of the ice cream place. But this is anticipated to be a walk up, take it and leave kind of a screenplay similar to the way that then maybe a table a couple of chairs. I don't think that at the time the site plan review committee review this, that there was an actual interior layout that was provided by the by the tenant.

I mean, the one that one thing I would say is, if we're being asked to approve this as an ice cream, place it the way that we're approving it is with the existing parking that's there. And if you get to a point where you add tables and chairs, and suddenly you don't have adequate parking, you're going to be back with us. And that may limit the number of tables and chairs you can have, because that's your parking supply.

Tom Chiudina- that's going to happen very quickly. When you start to park in the residential spaces that are combined with property and in a common parking lot. While blocking the easement, that's going to come up real quick, we'll be criticized for not doing our due diligence.

Chairman Baird- How are the parking spaces allocated presently,

Applicant Dan Hibbard- So they're probably going to be taking most of our spaces, because we only work in the mornings, mostly, we don't work on weekends, we do most of our training off site, , it's not a training facility that I use a lot. I have one on Winthrop street with no parking, and we don't do any training, most of the training happens on sites. Most of the time, they'll be using the ambulance company doesn't have any spaces, they have the vans, and that's mostly inside in the daycare is going to have three spaces on her end. So there'll be some extra spaces.

Chairman Baird- So there is I think the requirement is one per employee, three employees in the max working shift plus one per four seats. that would be the test right would be, , Do we know I mean, we, I assume keep referencing she and I see in the attendees that twist and shake is here.

Cheryl Queen (Twist and Shake owner) . I own the twisting shake over on Shirley street? To answer a couple of the questions for you. Currently, we have approximately four to five tables out our surely street location. Right there at 482. We have absolutely no parking

spaces at all. So people utilize the street out front and veterans road when they need to. But again, it's a neighborhood ice cream shop. So a lot of people walk down they walk down and with groups of people and then they walk back home to have their to have while they're eating their ice creams. To answer the question about the employees, primarily the most employees I ever have on our shift in Winthrop is six. A lot of the students, a lot of the employees actually walked to work because they live in those neighborhoods. The only other thing is we do have our little twists and shape vehicle that we use for deliveries that would be parked there, or parked somewhere during our office hours, and it's quite busy at night. So it will not take up a parking space at night. And I just wanted to say that I did reach out to the fire department just to kind of reach out in and have a conversation with them on what we can do as a business to make sure that my customers aren't blocking the entrance way or the garage doors for the fire department. Because I know that that was a concern of theirs. And we're working closely with them to make sure that we put up the necessary signage and we police that area as well. Well, we're committed to that to the safety. I did a preliminary layout with the architect for the inside of the building. And while I don't have it back from him as of yet, I believe it was about four or five tables inside. Most I would say 90% of the business is either delivery, or folks coming in and grabbing the products to go and then enjoying their ice cream at home.

Chairman Baird- thinking about the reuse of this. I did get a little ahead of myself and Tom, thank you for, reminding us about the park because I do think ultimately parking will be an issue here. But to get just a lay out plan of the ice cream restaurant as proposed. And a allocation of parking. So we know what the supply is how it's intended to be allocated, whether it complies or doesn't. And if there's any variances needed from that from off street parking for those uses, So my recommendation would be that rather than wait till the end of September because I think that's a pretty easy thing to come up with and you probably already have it in large part to the extent that Irene and JOHN, you don't have an objection to this, I would say that we should push this a decision two weeks to give them time to come back with that information.

Chairman Baird- So I would take a motion from either Irene or john to continue this matter case 25 2021 to Thursday, September 9 at 7pm.

Motion to continue So Darren Baird. Yes. Irene Dwyer. Yes. John Young.

Chairman Baird- I think We have a little bit of housekeeping to do here as board this evening. And it's just adopting some meeting minutes. I've gotten backlog a little bit during COVID. But I had submitted and circulated to board members, the meeting minutes for March 25 2021, April 15 2021, April 29 2021. May 27 2021 in August 12 of 2021. And I reviewed them, I'm good with them. I don't know if other people have but if someone wants to make a motion to approve those five sets of minutes, I will take one, when people are ready to I will also say that we have had as people know, some backlog in minutes. We are working on rectifying those, we will have the balance of minutes at our September meeting to approve and then we'll be caught up. So you know, sorry that we inundated you would move to the last minute, But you know with that I'll take a motion to approve the minutes.

Jason Wright-Motion. We have a motion to approve meeting minutes from March 25. Eighth, April 15. April 29. May 27 and August 12.

so moved by Mr. Wright. Do I have a second? Second? By Irene Dwyer Okay.

All those in favor? by name and voice. Darren Baird. Yes. Irene Dwyer Yes. Jason Wright. Yes. Tom Chiudina. Yes. John Young Yes. The yeses, meeting minutes have been approved.

Chairman Baird explained we have an open position on the Board. it is it is a it is volunteer, the term is a I think that a three year term

Irene Dwyer-I got a question. about the minutes thing is, do we have some kind of voice recognition? software that's doing this?

Chairman Baird- Yeah, the good news is we have the zoom now when you it has a transcription function. So at this point, we can hit transcribe it transcribes and gets proof read. So that's what we're doing.

Irene Dwyer- I want to call people's attention in that answer. And then the follow it up on. I think it's pay me April 15 minutes. Think it's like about three or four pages the regarding discussing the third unit and a building upon of which the street one of the one of the streets up towards the highlands

So if there's I guess with that PSA on a new meeting another member. I will take at 9:55pm a motion to adjourn. I move we adjourn this meeting. Do I have a second? Second? All those in favor by name invoice. Darrin Baird. Yes. Irene Dwyer Yes. Yes. Jason Wright. Yes. John Young. Yes.