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Volume IX
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Brookline Zoning Board of Appeals Hearing
455 Harvard Street
Comprehensive Permit Application
Harvard Danesh 455, LLC
October 23, 2017, at 7:00 p.m.
Brookline Town Hall
333 Washington Street, 6th Floor
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

1 APPEARANCES

2 Board Members:

3 Kate Poverman, Chair

4 Lark Palermo

5 Christopher Hussey

6

7 Town Staff:

8 Polly Selkoe, Assistant Director for Regulatory

9 Planning

10 Karen Martin, Planner

11

12 Applicant:

13 David Danesh, Harvard Danesh 455, LLC

14 Danny Danesh, Harvard Danesh 455, LLC

15 Geoff Engler, Vice President, SEB, LLC

16 Peter Bartash, Associate Principal, CUBE 3

17 Studio, LLC

18 Jennifer Gilbert, Esquire, Law Office of Robert L.

19 Allen, Jr., LLP

20

21 Members of the Public:

22 Mark Rosen, Thorndike Street

23

24

1 PROCEEDINGS:

2 7:03 p.m.

3 MS. POVERMAN: All right. We're going to
4 reopen the hearing into the comprehensive permit
5 requested by Danesh for a comprehensive permit -- I
6 said that -- 455 Harvard Street. Our current
7 proposal is to construct 17 residential rental units
8 including four affordable units with no more than
9 1,900 square feet --

10 MS. SELKOE: That has to be changed.

11 MS. POVERMAN: Yeah -- 1,800 square feet of
12 retail space and nine spaces.

13 The general structure tonight is going to
14 be that the applicant will present their revised
15 parking garage layout and entrance, we'll go through
16 the final waiver list, we'll see what gets accepted
17 and what doesn't, we'll talk about the decision and
18 conditions and all the other various papers we have
19 been reviewing over the last week or so.

20 If you are talking --

21 MS. SELKOE: You've been talking about it
22 for the last year.

23 MS. POVERMAN: That's true.

24 If you want to speak, come up, identify

1 yourself, speak clearly. The proceedings are being
2 videotaped and transcribed by our court reporter.

3 All right. First we will start with the
4 presentation of the revised parking garage caused by
5 a pesky tree.

6 MR. BARTASH: Good evening. Peter Bartash,
7 CUBE 3 Studio. We're the architect on the project.
8 As mentioned by Chairwoman Poverman, we will go
9 through the parking plan comparison to show you
10 where we were two weeks ago and where we are today.

11 We have relocated the driveway entry in
12 relation to an existing street tree that is unable
13 to be removed. We've done an analysis for turning,
14 and we've done an update to our civil engineering
15 plans as well to coordinate that new location. I'll
16 take you through that really quickly, and if you
17 have any questions, feel free to stop me at any
18 point.

19 So on the left is the plan that we were
20 looking at two weeks ago, on the right is the plan
21 that we're now proposing. This was part of the
22 package that was submitted to you as the plan of
23 record dated October 23rd.

24 So you'll note that what we ended up doing

1 is we took the driveway entry, which you can see at
2 the far right-hand corner of the garage, and we
3 shifted it closer to Thorndike Street so it's more
4 or less in the center of the garage. There is an
5 existing street tree that's identified by this red
6 circle here that the cursor is hovering over on the
7 right-hand side on Thorndike Street, and that tree
8 is now able to remain. The new driveway location is
9 it actually in the location of an existing curb cut
10 on Thorndike Street now, so we're reusing that curb
11 cut and actually reducing its width from 24 feet to
12 20 feet width, so it actually gives a little bit
13 more space to the street tree that sits here.

14 As a result of the shift, we did end up
15 losing one parking space. The reason being, we had
16 to take this bank of three spaces that were
17 identified on the left-hand side of the slide and we
18 had to split that on either side of the entry. So
19 we ended up relocating the accessible space and
20 removing one standard spot in order to allow for
21 turning, maneuvering, and to accommodate the new
22 driveway entry.

23 So this is the civil engineering plan that
24 also shows that new location of the driveway

1 position. You can see where the gray line kind of
2 jogs here on either side of the driveway. Those are
3 the existing cutouts for street trees that sit in
4 either location, so we're kind of coming right in
5 between those two street trees, as you can see.

6 Here is a car-turning plan that
7 demonstrates how a car would come into the garage,
8 access the spaces at the rear of the garage, and
9 exit the garage, and the same also to show that it
10 is possible to maneuver into the accessible space
11 and the other spaces on the other side of the
12 garage. So we've done the analysis. It's showing
13 the same result as we've seen with the last garage,
14 just to make sure that we are kind of crossing all
15 bases.

16 You'll notice, looking at the ground floor
17 plan, that the stormwater management system has also
18 been relocated to coincide with the new driveway
19 location. Nothing else about the ground floor plan
20 has changed.

21 And so now if we're looking at the
22 northeast building elevation, we no longer have the
23 cutout or the column in the corner where we had
24 removed a portion of the wall to improve the sight

1 line of the street.

2 And then if we're looking at this elevation
3 that faces Thorndike Street, you'll notice that we
4 moved the driveway entry over into the middle of the
5 garage and shifted the opening that we had
6 originally placed on the right-hand side, so we just
7 flip-flopped those two things.

8 MS. POVERMAN: Are they now different
9 sizes, the windows, or --

10 MR. BARTASH: No. They're the same size as
11 they were before.

12 And so here's a view of the revised entry
13 location, and the same as well for here. You can
14 see now that, you know, we've extended that
15 landscaping area at the corner closer to the
16 neighborhood here within that setback, moved
17 everything over. You can see that we're now
18 preserving that existing street tree as well.

19 Same thing, just the view down at the
20 street level.

21 And that concludes the changes that we've
22 made to the plan.

23 MS. POVERMAN: Lark, do you have any
24 questions?

1 MS. PALERMO: No.

2 MR. HUSSEY: No.

3 MS. POVERMAN: The only question I have is
4 more for Polly than anything else, which is whether
5 or not the new driveway position and change of the
6 location of the stormwater drainage has been
7 reviewed by Mr. Ditto.

8 MS. SELKOE: Well, it has not. But the
9 final plans, before they get a building permit, will
10 have to be reviewed and approved by him, and we'll
11 make sure he does that. I mean, that was the
12 condition before, that's the condition now. No
13 difference.

14 MS. POVERMAN: But you don't see a change
15 happening that would require a relocation of the --

16 MR. HUSSEY: I think it's pretty unlikely.
17 I really wouldn't worry about it.

18 MS. POVERMAN: All right. Then I don't
19 have any questions.

20 Does anybody from the audience have any
21 questions?

22 Mr. Rosen?

23 MR. ROSEN: Hi, everybody. I'm Mark Rosen
24 from Thorndike Street. I just live right up the

1 street from the development.

2 I do like the change in the garage
3 location. I do want to say that. It keeps the
4 sound and the activity further away from the
5 residential part of the street.

6 As I mentioned before, there are actually
7 ten children that live within a couple of houses'
8 distance that are under the age of 10: two in the
9 house across the street from me, two in the house
10 next to me, and six in the house that's like
11 catty-cornered across the street from this project.

12 One thing I did want to mention -- and this
13 has been a concern of some of the other neighbors --
14 was just the noise from the traffic and garage. And
15 I'm wondering if the board might take upon the
16 suggestion of installing soundproofing panels to
17 hang on the walls, kind of like pictures, but
18 they're just soundproofing panels. And their
19 purpose is to -- you would hang them inside the
20 garage. They don't take up very much space, but
21 they do stop reflectivity of sound and help to
22 deaden and quiet any noises that may be emanating
23 from that area. My understanding is they're not
24 that expensive and they're quite effective, so just

1 a suggestion.

2 And thank you very much.

3 MS. POVERMAN: Thank you.

4 Anybody else?

5 (No audible response.)

6 MS. POVERMAN: To anyone's knowledge -- you
7 can all answer -- have such soundproofing panels
8 been used in garage locations?

9 MS. SELKOE: With all the cases I've had --
10 the major-impact cases over the years -- I've never
11 heard of that. You know, this is pretty much an
12 enclosed garage. The lifts are on the back wall.

13 MS. POVERMAN: Right.

14 MS. PALERMO: I think they also buffer the
15 lifts with the trash collection area.

16 MS. POVERMAN: Right.

17 MS. PALERMO: So it's buffered naturally by
18 creating the trash room, I think.

19 MS. POVERMAN: Right, but that's --

20 MS. SELKOE: That's the commercial side.

21 But what I would say is that they do have
22 to meet the noise bylaw, and that if they weren't
23 meeting it and it was, you know, enforced, that
24 might be something that they were asked to do if

1 they weren't, or it could be an alternative. There
2 could be other alternatives. I would hate to, you
3 know, make it specific to that. But if they don't
4 meet the noise bylaw, the town will ask them to
5 correct that and they'll have to figure out a way to
6 correct it.

7 MS. POVERMAN: Mr. Rosen?

8 MR. ROSEN: Yeah. I have an additional
9 comment. Number one, the garage is not an enclosed
10 garage. It actually is open. It has openings to
11 the air that will let sound out, so that was the
12 basis of my concern. I know the mechanical parking
13 systems were initially designed to be placed in
14 enclosed garages that were subterranean so the noise
15 would just remain in there.

16 And I have been in garages where I've seen
17 soundproofing panels, so they are made. There's a
18 whole industry that provides that service. Whether
19 or not you feel it would be appropriate, I thought
20 it was certainly in my purview to suggest it. I'll
21 leave it up to you to make that decision.

22 But it is an open garage. It's not
23 enclosed. It has an open, grated door, and it has
24 two windows that open up to the residential side of

1 Thorndike. So that can be a -- that situation can
2 allow a certain level of sound to emanate from the
3 garage. So in anticipation of that, you know, hence
4 the suggestion.

5 MS. SELKOE: Maybe the applicant wants to
6 comment.

7 MS. POVERMAN: Yes, that would be helpful.
8 Thank you, Mr. Rosen.

9 MR. ROSEN: Thank you.

10 MR. ENGLER: For the record, Geoff Engler
11 from SEB.

12 We appreciate Mr. Rosen's comments. We
13 disagree. We're not comfortable with soundproofing.
14 We've spent a lot of time with this board in this
15 public hearing process talking at length about the
16 sound that's generated from the system. We had our
17 installer come in. I think the board, I would hope,
18 is comfortable with that presentation and the level
19 of sound. Moreover, the board said you're not
20 comfortable granting a waiver to the sound
21 requirement, so we're living with that.

22 And people -- if I build a single-family
23 house, I don't have to put soundproofing up in my
24 garage, because I'm living with the sound

1 requirement.

2 So we're not okay with the additional cost
3 of putting up sound attenuation in the garage. We
4 feel we've gone to great lengths. This is
5 semantics, but for the most part, yes, there's
6 ventilation to the garage, but it's closed.

7 And mind you, across the street from us is
8 a mechanic shop and garage that has way more cars
9 than we will ever have, open air, and much, much
10 louder. So I think comparatively -- doesn't mean
11 we're perfect, but relative to how disruptive we are
12 in the neighborhood, there's something already there
13 way more disruptive than we'll ever be. Thank you.

14 MS. POVERMAN: Well, let me ask you,
15 Mr. Engler, and your client, would you be open to
16 something which Polly sensibly suggested such as
17 language that if the noise limits are violated in
18 any way, you will work with planning to determine
19 what the appropriate mitigation is, including
20 possibly panels?

21 MR. ENGLER: I mean, I think we are, but I
22 don't know that that language is any different than
23 if we're in violation of any other, you know, local
24 bylaw that we're not adhering to. If we don't

1 meet -- if we're not dealing with the trash as
2 required by the town, the town has recourse against
3 us. Any number of things, the town has recourse
4 against us. But if it makes the board comfortable
5 that if we violate the town ordinance, you know, and
6 that's demonstrated, that we will work with the
7 planning department to look at the issue.

8 MS. POVERMAN: Okay. Last bite at the
9 apple, Mr. Rosen.

10 MR. ROSEN: Hi. Thanks for letting me have
11 the opportunity to rebut.

12 I just want to raise a couple of points.
13 Number one, the parking garage at home does not have
14 a car stacking system in it that is noisy, or it
15 doesn't have more than five cars, hopefully. If you
16 do, then you're probably Jay Leno or something who
17 has a lot of cars.

18 Secondly, the garage that is across the
19 street -- and I know them very well -- stops
20 operation approximately at 5:00 at night, so the
21 sound and the noise from that will be stopping at
22 5:00 at night. So I'm sure that -- it's just really
23 not a fair comparison, unless Mr. Engler is
24 proposing that all parking activities stop at the

1 same time. So you can't compare apples and oranges.

2 It's not accurate or reasonable, really.

3 And that's all I wanted to say. I do
4 appreciate the suggestion and the willingness to
5 want to work with the board to make sure that the
6 building is in compliance with the health and safety
7 regulations regarding noise, so that's very good.

8 Thank you so much.

9 MS. POVERMAN: Thank you.

10 MS. DOPAZO GILBERT: Jennifer Gilbert on
11 behalf of the applicant.

12 Just to follow up on Mr. Engler's comment
13 and with respect to that additional language, my
14 concern is actually that you're going to be tying
15 the hands of the building commissioner and leaving
16 him only one option.

17 MS. POVERMAN: No. It would be "including
18 but not limited to" language.

19 MS. DOPAZO GILBERT: So then I don't
20 understand why that language would be necessary.
21 Because if the noise bylaw is violated, the building
22 commissioner comes out, they measure the noise, and
23 then the building commissioner works with the
24 property owner to address it in whatever remedy

1 possible. So if you put in sound panels or anything
2 else, the building commissioner already has that
3 option, so I just think it's superfluous language.
4 Thank you.

5 MS. POVERMAN: Mr. Hussey, do you have any
6 comments at this point?

7 MR. HUSSEY: Well, no, only that the
8 condition is correctable. If there is a problem,
9 then there is recourse of the building commissioner
10 and the building department and it's correctable
11 later, and so I see no need to put anything in there
12 now.

13 MS. POVERMAN: Ms. Palermo?

14 MS. PALERMO: I agree. I don't see any
15 reason to change our decision.

16 MS. POVERMAN: I'm, for the most part, in
17 agreement. But what I would like to do as we go
18 through the conditions, if we see some place that
19 there is any language that needs to be tightened up
20 to make that clear, we will do that. So right now,
21 let's see how it goes. I'm not saying it will be
22 left a hanging issue after this hearing at all.

23 MS. SELKOE: The waiver list, you had -- it
24 was attached to your --

1 (Multiple parties speaking.)

2 MS. POVERMAN: I have never had this
3 problem in any other hearing. You are disrespectful
4 by talking. Do not do it again. If you want to
5 talk to one of your team, go outside.

6 MS. SELKOE: The waiver list is attached to
7 your package to the decision as Exhibit No. 1.
8 Actually, that will be added to it. The difference
9 between this waiver list and the waiver list you saw
10 last time has to do with the tree protection bylaw
11 that we were waiting -- saying that they would work
12 with the tree arborist. The tree arborist has made
13 a definitive decision that they cannot move the
14 tree, and therefore they have moved the entrance to
15 the garage and eliminated that waiver.

16 They had -- not this time, but the last
17 time, they had eliminated part of the waiver list,
18 something you had also requested to be eliminated,
19 which was kind of a caveat at the end that said,
20 well --

21 (Multiple parties speaking.)

22 MS. SELKOE: So that's not there anymore.

23 So I have reviewed the waiver list, and so
24 has the building commissioner, and we have no

1 problem with it. I don't think there's any other
2 outstanding issues.

3 MR. HUSSEY: I move we accept the waiver
4 list.

5 MS. PALERMO: I second.

6 MS. POVERMAN: Then it's unanimous. Thank
7 you.

8 MS. SELKOE: Then we go on to the decision.
9 And as you know --

10 MS. POVERMAN: Oh, let me ask. I'm sure
11 that you, Mr. Engler and your clients and attorney,
12 had the chance to review this and that it would
13 incorporate any comments you had?

14 MS. SELKOE: Yes. You mean the decision?

15 MS. POVERMAN: The decision, yes.

16 MS. SELKOE: Yes. This afternoon they
17 received copies of the latest, most current draft,
18 and they've gotten back to me. I think the one
19 issue that I was unsure about was whether the retail
20 space -- the language should be "no more than 1,800
21 square feet" or "no more than 1,900 square feet,"
22 because I recollected, I thought, that we talked
23 about 1,900. But, Kate, you felt 1,800 was
24 appropriate, and the applicant agreed to that

1 language, so that's been incorporated already into
2 this decision.

3 MS. POVERMAN: Okay, great. Could we go
4 through just any substantive changes that were
5 made --

6 MS. SELKOE: Sure.

7 MS. POVERMAN: -- just to highlight them?

8 MS. SELKOE: If you look at Condition
9 No. 10, which has to do with the vapor barrier --

10 MS. POVERMAN: That's actually -- I'm
11 sorry. Go ahead.

12 MS. SELKOE: Did you want to start before
13 that?

14 MS. POVERMAN: No, no. Not at all. But it
15 answers the question I had of the correct placement
16 of the vapor barrier.

17 MS. SELKOE: Well, actually, before you
18 emailed me that question, Chris, this morning, had
19 emailed me that the correct location was under the
20 ground floor concrete slab, and that's been added,
21 as well as your suggestion that we add the 40
22 millimeters because that's what the expert had
23 suggested.

24 MS. POVERMAN: Exactly. Okay, perfect.

1 MS. SELKOE: Although, it's all, of course,
2 subject to the review and approval of the building
3 commissioner and the director of engineering and
4 transportation.

5 MS. POVERMAN: And as a nit, the "under the
6 ground floor concrete slab" is in a different font
7 than the other.

8 MS. SELKOE: Okay. Well, I think that can
9 be corrected.

10 MS. POVERMAN: I think it can.

11 MS. SELKOE: If you then turn to Condition
12 No. 23, you had raised the issue about what happens
13 if the -- if a modification after the approval is
14 considered significant, and so the language was
15 added, "In which case, approval of the modification
16 from the zoning board of appeals would be required."

17 MS. POVERMAN: Perfect.

18 MR. HUSSEY: I see you modified the first
19 sentence of 23, which answered my question last
20 time. It said, "Before or after the issuance" --

21 MS. SELKOE: Yes, that's right.

22 MR. HUSSEY: Very good, thank you.

23 MS. SELKOE: And then I think that is all
24 the significant things. There are some minor little

1 tweaks, some typos and style.

2 And then Attachment No. 2 is the
3 replacement regulatory agreement, and you had
4 suggested some changes to that, and those have been
5 incorporated. And I did send a copy of it this
6 afternoon to the applicant's team, and they have no
7 problem with the changes in it.

8 MS. POVERMAN: Okay.

9 MS. SELKOE: And the last attachment,
10 Exhibit No. 3, is the -- just the legal notice of
11 the opening of the hearing, which meets the law
12 about when you open a hearing.

13 MS. POVERMAN: So that looks to me in
14 order.

15 Lark, do you have anything to say at this
16 point?

17 MS. PALERMO: No, I don't.

18 MS. POVERMAN: Chris?

19 MR. HUSSEY: No. I would move that we
20 accept the decision and the conditions as presented.

21 MS. POVERMAN: I would actually just like a
22 minute to review it to see if there's an appropriate
23 place to put in the noise mitigation language that
24 Mr. Rosen suggested, so just two or three minutes to

1 look through it.

2 MS. PALERMO: Didn't we just decide we
3 weren't --

4 MS. POVERMAN: No. I didn't agree with
5 that.

6 MS. PALERMO: I think that the town
7 ordinance covers --

8 MR. HUSSEY: You were voted over,
9 Ms. Chairman.

10 MS. POVERMAN: All right. I was outvoted.
11 I apologize, Mr. Rosen.

12 So you were saying something, Mr. Hussey.

13 MR. HUSSEY: Well, have we heard the public
14 comments?

15 MS. POVERMAN: We have heard only on one
16 issue. Is there any more public comment before the
17 board decides on whether or not to grant the
18 comprehensive permit and accept the decision and
19 conditions as written in the document we have before
20 us?

21 Mr. Rosen?

22 MR. ROSEN: Yeah, hi. I just have one
23 comment, is that in terms of businesses that have
24 been slated to go into this building, we'd like to

1 include any marijuana-selling facility because of the
2 nature of the makeup of the neighborhood. It's just
3 not something that's in demand. There's children
4 under the age of 10 and elderly, so it makes no sense
5 for us. I'm not sure if that's in the waiver list,
6 but we'd like to have --

7 MS. SELKOE: Let me just say that it's a
8 good question, but the town has not -- there's a
9 moratorium right now on marijuana facilities -- any
10 recreational marijuana facilities. The state is
11 supposed to come out with its rules and regulations
12 in March. Shortly after that, the town will come out
13 with its own rules and regulations. I'm not sure
14 that it would be legal to take this one site,
15 depending on what the eventual rules and regulations
16 are -- and I know that one of the things that the
17 state has already said is that a default is that it
18 be at least 500 feet from any K to 12 school, and
19 that's public or private.

20 MS. POVERMAN: Would that include religious
21 institutions?

22 MS. SELKOE: Public or private.

23 MS. POVERMAN: Religious --

24 MS. SELKOE: Yes, private.

1 MS. POVERMAN: There's a nursery school.

2 MS. SELKOE: Not nursery. I didn't say
3 nursery. I said K through 12.

4 MS. POVERMAN: Right. No, no. I'm sorry.
5 There's a Hebrew school that goes up to those levels,
6 and so I'm just wondering if that would be
7 encompassed in that. And I'm sure things have not
8 gotten perhaps sophisticated enough to answer that
9 question.

10 MS. SELKOE: Well, if you're talking about
11 just, like, Sunday or Saturday school --

12 MS. POVERMAN: Three days a week.

13 MS. SELKOE: That's a good question.

14 MR. HUSSEY: That comes under the heading
15 of a private school, doesn't it?

16 MS. POVERMAN: That's what I would say.

17 MR. HUSSEY: Yeah. So I don't think we
18 need to have -- I'm not sure it's legal for us to get
19 involved.

20 MS. POVERMAN: I don't know about that. I
21 mean, I honestly don't know the extent of our
22 responsibility. It might be appropriate to say
23 something like -- because I wouldn't want it in such
24 a location -- there shall be no -- whatever -- retail

1 sale of marijuana --

2 MS. SELKOE: You know, I think -- and their
3 attorney can address this, and maybe the applicant
4 could agree. But I'll tell you right now, I think
5 that legally -- and I'm not a lawyer, but legally
6 this could be a real problem to put this into the
7 decision. But I suppose if they agreed to it, then
8 it would be all right. After all, it is a
9 residential building. I don't think the residents
10 are going to be thrilled about it. Quite frankly, I
11 don't think anyone in this town is going to be
12 thrilled when it's near them, but the town
13 overwhelmingly voted for recreational marijuana in
14 the town.

15 MS. POVERMAN: Mr. Engler?

16 MR. ENGLER: We would not be comfortable
17 with that language. We expect to be treated just
18 like any other retail location and have to go through
19 the same process. I would agree with Polly. I don't
20 think singling our development out relative to
21 prohibiting a specific use is legal.

22 But if -- my client hasn't made a
23 determination of what that use will be, but whatever
24 they do or whatever tenant approaches them or

1 tenants, we will need to adhere to the town
2 regulations and we'll have to go through that same
3 process, whether it be some sort of small cafe or a
4 retail store or whatever, a hair salon. So we just
5 think we should be treated the same way any other
6 retail space in the town would be treated.

7 MS. POVERMAN: So 500 yards, how many
8 blocks is that, approximately?

9 MS. SELKOE: I said 500 feet.

10 MR. ENGLER: But why do we even need to
11 talk about that? Because if that's the regulation
12 and we're within the distance, it wouldn't be
13 allowed. So I don't think --

14 MS. POVERMAN: I'm just curious,
15 Mr. Engler.

16 MS. SELKOE: 500 feet -- we have some maps
17 that we've done to show 500 feet. I don't have them
18 with me, and I didn't study them before I came here
19 tonight because I didn't expect that question. But
20 there's also going to be regulations about what
21 zoning district it can be in. However, keep in mind
22 this is a commercial district.

23 There would be other regulations which I
24 just can't speak to because I don't know what -- the

1 town can't make those regulations until we know what
2 the state allows us to do.

3 MS. PALERMO: I might say that I believe it
4 will probably be somewhat similar to the regulations
5 covering the sale of alcoholic beverages. You have
6 on-premise sales, you have off-premise sales, they're
7 licensed by the state, and they are within the
8 purview, to some extent, of the town zoning. But
9 it's not for this board to conclude what the best
10 place should or shouldn't be zoned.

11 MS. SELKOE: I'll also say that there will
12 be a limited number allowed in the town. It will be
13 a certain percentage of the liquor stores. So we
14 figured out that there wouldn't be more than four or
15 five locations, and, quite frankly, I doubt there
16 would be that many.

17 MS. POVERMAN: Mr. Hussey?

18 MR. HUSSEY: Well, I repeat, I think it
19 would be not appropriate for us to limit the
20 commercial function and use of this space.

21 If somebody wants to make a motion for us
22 to put that in, then we can vote on it.

23 MS. POVERMAN: Well, actually, I agree with
24 Mr. Engler's point that we can't treat this project

1 any differently than any other project has been
2 handled in the town, whether 40B or 40A.

3 MR. HUSSEY: Good.

4 MS. POVERMAN: So thank you very much.
5 That was a very interesting suggestion, Mr. Rosen,
6 and I appreciate that.

7 All right. I can't remember what we voted
8 on.

9 MS. SELKOE: Well, Mr. Hussey was about to
10 make a motion.

11 MR. HUSSEY: I make a motion that we accept
12 the waivers -- we've done that, I guess -- that we
13 accept the conditions and the exhibits and the
14 decision and decide to approve this project.

15 MS. PALERMO: I second it.

16 MS. POVERMAN: Okay. It's unanimous. The
17 comprehensive permit is approved.

18 MS. SELKOE: And you'll have to close the
19 hearing, I guess.

20 MS. POVERMAN: At the end of this, yeah.
21 Are we all done? That's too shocking to even
22 consider.

23 Well, I would like to close this hearing.
24 We won't -- we will be seeing anybody who wants to be

1 seen again in terms of going through the decision. I
2 want to thank my co-board members for their help and
3 Ms. Selkoe and her department for the incredibly
4 invaluable help as well as our court reporter who has
5 patiently worked her way through many 40Bs at this
6 time.

7 In addition, the neighborhood input was
8 very important, was considered, and I want you to
9 know that everything was taken very seriously in that
10 regard.

11 And now it is time to adjourn and close the
12 hearing at 7:32 on October 23, 2017.

13 (Proceedings concluded at 7:32 p.m.)

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1 I, Kristen C. Krakofsky, court reporter and
2 notary public in and for the Commonwealth of
3 Massachusetts, certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth and
6 that the foregoing is a true and correct transcript
7 of my shorthand notes so taken.

8 I further certify that I am not a relative
9 or employee of any of the parties, nor am I
10 financially interested in the action.

11 I declare under penalty of perjury that the
12 foregoing is true and correct.

13 Dated this 6th day of November, 2017.

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15 
16 Kristen Krakofsky, Notary Public
My commission expires October 25, 2024.

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<hr/> <p style="text-align: center;">1</p> <hr/> <p>1 17:7</p> <p>1,800 3:11 18:20,23</p> <p>1,900 3:9 18:21,23</p> <p>10 9:8 19:9 23:4</p> <p>12 23:18 24:3</p> <p>17 3:7</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 21:2</p> <p>20 5:12</p> <p>2017 29:12</p> <p>23 20:12,19 29:12</p> <p>23rd 4:23</p> <p>24 5:11</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 4:7 21:10</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>40 19:21</p> <p>40A 28:2</p> <p>40B 28:2</p> <p>40bs 29:5</p>	<p>455 3:6</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>500 23:18 26:7,9,16,17</p> <p>5:00 14:20,22</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7:03 3:2</p> <p>7:32 29:12</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>able 5:8</p> <p>accept 18:3 21:20 22:18 28:11, 13</p> <p>accepted 3:16</p> <p>access 6:8</p> <p>accessible 5:19 6:10</p> <p>accommodate 5:21</p> <p>accurate 15:2</p> <p>activities 14:24</p> <p>activity 9:4</p> <p>add 19:21</p> <p>added 17:8 19:20 20:15</p> <p>addition 29:7</p> <p>additional 11:8 13:2 15:13</p>	<p>address 15:24 25:3</p> <p>adhere 26:1</p> <p>adhering 13:24</p> <p>adjourn 29:11</p> <p>affordable 3:8</p> <p>afternoon 18:16 21:6</p> <p>age 9:8 23:4</p> <p>ago 4:10,20</p> <p>agree 16:14 22:4 25:4,19 27:23</p> <p>agreed 18:24 25:7</p> <p>agreement 16:17 21:3</p> <p>ahead 19:11</p> <p>air 11:11 13:9</p> <p>alcoholic 27:5</p> <p>allow 5:20 12:2</p> <p>allowed 26:13 27:12</p> <p>allows 27:2</p> <p>alternative 11:1</p> <p>alternatives 11:2</p> <p>analysis 4:13 6:12</p> <p>answer 10:7 24:8</p> <p>answered</p>	<p>20:19</p> <p>answers 19:15</p> <p>anticipation 12:3</p> <p>anybody 8:20 10:4 28:24</p> <p>anymore 17:22</p> <p>anyone's 10:6</p> <p>apologize 22:11</p> <p>appeals 20:16</p> <p>apple 14:9</p> <p>apples 15:1</p> <p>applicant 3:14 12:5 15:11 18:24 25:3</p> <p>applicant's 21:6</p> <p>appreciate 12:12 15:4 28:6</p> <p>approaches 25:24</p> <p>appropriate 11:19 13:19 18:24 21:22 24:22 27:19</p> <p>approval 20:2,13,15</p> <p>approve 28:14</p> <p>approved 8:10 28:17</p> <p>approximately 14:20 26:8</p> <p>arborist 17:12</p> <p>architect 4:7</p> <p>area</p>
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