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HEARING OF BOARD OF APPEALS
455 HARVARD STREET
Wednesday, January 16, 2019 at 7:15 p.m.
Brookline Town Hall
333 Washington Street
Sixth Floor
Brookline, Massachusetts 02445

Reporter: Jennifer A. Doherty, CSR

1 APPEARANCES:

2 Johanna W. Schneider, Chairwoman

3 Jesse Geller, Board Member

4 Lark Palermo, Board Member

5

6 Polly Selkoe, Assistant Director of Regulatory

7 Planning

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9 Victor Sheen, AURA Properties, Development Manager

10 Dartagnan Brown, EMBARC Studio, Architect

11 Robert Engler, SEB, LLC, Development Consultant

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

2 MS. SCHNEIDER: We appreciate
3 everybody's patience. I apologize for the delay in
4 getting started. This the Brookline ZBA first
5 public hearing on the project of 445 Harvard Street.
6 This is a request for a comprehensive permit under
7 Chapter 40(b) to construct a five-story building
8 with 25 rental residential units, 4,380 square feet
9 of commercial space and 20 parking spaces in a
10 below-grade garage.

11 My name is Johanna Schneider. I will
12 be sitting as chair for the duration of the Board's
13 proceedings on this project. My fellow Board
14 members for this project are Jesse Geller and Lark
15 Palermo.

16 This is a neighborhood that I think
17 is fairly familiar at this point with the 40(b)
18 process, there having been a number of other 40(b)s
19 in the last couple of years, but if at any time
20 there are questions about the process, we are happy
21 to answer them. If they're questions that we can't
22 answer, the Board does still retain a 40(b)
23 consultant and we can run things by her, although
24 not necessarily be able to answer those things on an

1 immediate basis.

2 So tonight being the first hearing,
3 we're going to kick things off by having a
4 presentation of the plans by the development team.
5 Once we have had presentation, the Board members
6 will ask questions that we may have about this
7 initial presentation. We will have an opportunity
8 for some public comments. Obviously as things go
9 on, we will be having a series of hearings that will
10 tend to be focused on specific issue areas relating
11 to the project and will feature testimony from the
12 applicants team and also from our peer reviewers.
13 Those hearings will have more directed public
14 comment about whatever the topic of the night is.

15 We are also going to cover some
16 organizational administrative business tonight and
17 we will end by discussing when we will meet again.

18 Board, anything else before we get
19 started? All right.

20 Mr. Sheen, do you want to introduce
21 yourself and your team and tell us what you're
22 looking to do here.

23 MR. SHEEN: Thank you, Ms. Chairman
24 For the record, my name is Victor Sheen. I am the

1 development manager for this particular 455 Harvard
2 Street project. With me today, we have Dartagnan
3 Brown who is our architect. We also have Bob Engler
4 who is our 40(b) consultant. We have Jonathan Parks
5 whose presence -- he's in charge of the sort
6 construction aspects of the development. So if
7 there are any questions, we have him present as
8 well.

9 And sitting in the back we have
10 Shimon Cohen who is the current owner of the
11 project, of the property as well as Yonathan Halprin
12 who is the development partner in this 445 LLC
13 company.

14 So with that, I would like to start
15 with a quick update. The last time we were before
16 the ZBA we were under the comprehensive permit for
17 our first building on 420 Harvard Street. It's gone
18 through a successful -- what we consider as a fairly
19 successful 40(b) process. At the end of the day we
20 were able to achieve a building with ground floor
21 retail, underground parking, and a stepback fifth
22 floor of residential units. And I'm happy to report
23 that the building is currently under construction.
24 We just finished pouring the first level of the

1 elevator shaft. We are officially above grade at
2 this point.

3 We are also happy to report that the
4 entire ground floor of the commercial spaces are
5 either under lease or soon to be under lease. We
6 will be bringing back Re/Max as a real estate office
7 as portions of it and associated, I think, with a
8 co-tendency by a mortgage company, and then the
9 remaining two-thirds of the ground floor space will
10 be a bakery that will be added to the tenants mix.

11 We look to be able to disclose the
12 name of the baker shortly once we have the final
13 paperwork signed.

14 So in terms of this proposal what
15 we're seeking -- the permit is for the demolition of
16 the existing commercial building currently is an
17 active gas station that also services vehicles.

18 The building will be demolished and
19 in its place we are proposing essentially a sister
20 building to the 420 Harvard Street building with
21 very similar design and materials and the makeup.
22 So you would encompass 25 residential units with 20
23 apartment spaces below grade in the garage. Of the
24 25 residential units 20 percent of those units will

1 be deemed affordable at 50 percent median income.

2 The current lot is just about over
3 10,100 square feet, and the proposed building is
4 roughly about 34, 35,000 square feet. The building
5 height is exactly the same as 420 Harvard Street
6 that's previously approved.

7 By way of orientation, the site has
8 an address 445 Harvard Street. It's a corner lot
9 with a frontage on Harvard Street as well as
10 Thorndike Street. Currently there are three
11 curbcuts, two on Thorndike and one on Harvard Street
12 that are being used by the service station.

13 Opposite to 445 Harvard Street is 455
14 Harvard. That was a project that was previously
15 approved and currently under construction. It is a
16 little bit smaller site a little bit over 7,000
17 square feet lot of area.

18 The surrounding street scape composed
19 of a series of retail along Harvard Street and two
20 and a half three-story residential on Thorndike
21 Street. 455 was approved. I believe it's going to
22 be a four-story project. It's going to be above the
23 existing houses.

24 In terms of existing conditions I

1 would like to sort of talk a little bit about what
2 is there today. So currently it's a gas station.
3 As is attended, it is very well used. It has
4 approximately 120 vehicle trips coming in and out of
5 the gas station currently. The gas station is
6 opened from 7 a.m. to 9 p.m. doing weekdays and
7 Saturdays for all services, meaning pumping gas,
8 doing any repairs as well as doing inspections. So
9 to break down a little bit more, I think the vehicle
10 trips is about 80 gas trips for the gas services and
11 about 20 vehicles will be for the repairs, about 20
12 vehicles for the inspections.

13 On Sundays it operates from 8 a.m. to
14 8 p.m. for gas pumping only. There are no repair
15 and inspection services on Sundays. So effectively
16 this gas station is in operation seven days a week
17 from 7 a.m. to 9 p.m. doing weekdays plus Saturdays
18 at 8 a.m. to 8 p.m. Sundays.

19 So the existing building currently
20 has two service bays and one inspection bays that
21 are in the main building itself. And approximately
22 30 parking -- surface parking spaces that covers the
23 balance of the site itself. Most of the customer
24 parking are in the front of the building on Harvard

1 Street with two lanes of gas pumping, and then the
2 remainder of this site behind the building as well
3 as on the side of the building off Thorndike is
4 really sort of the waiting area, staging area for
5 cars to be serviced by the station. So overall,
6 there are approximately existing 30 service parking
7 spaces that is fully utilized by the service
8 station.

9 The station is in compliance, in
10 compliance with the DOR, DEP, and it participates in
11 the Massachusetts General Law 21 J program. 21 J
12 program is an insurance program for underground
13 storage tank clean-up. So it's a reimbursement
14 program. If there is a leakage from the holding
15 tanks, then the owner will be responsible to clean
16 it up and will be reimbursed by the 21 J fund.

17 The tanks are constantly being
18 monitored, so the ownership knows exactly how much
19 gas is being pumped out, and how much gas is being
20 deposited. So if there are any discrepancies, then
21 the state as well as the owner shall be notified and
22 for the investigation to take place. So far there
23 has been no reportable events.

24 So with that, I actually would like

1 to turn it over to Dartagnan to talk more about the
2 project from a design perspective and then we can
3 answer any questions.

4 MR. BROWN: Thank you, Victor.
5 Again, Madam Chair, members of the Board, I'm
6 Dartagnan Brown, architect on this project. Great
7 to be back again. Quick note just to follow up on
8 this line of Victor's. Currently the site is
9 virtually a hundred percent either paved or with
10 structure, except one small planter bed that houses
11 right along the edge of Harvard. As kind of high
12 level relative to our site, as Victor mentioned is
13 off of Thorndike and Harvard Street. We're right on
14 the 66 --

15 THE COURT REPORTER: Could you slow
16 down?

17 MR. BROWN: So indicated in blue here
18 is the bus route line, the station within 400 feet
19 of us. Half a mile walk down is Coolidge Corner T
20 and then in the opposite direction a third of a mile
21 gets you to the Harvard Avenue stop.

22 Our site here located, again, on the
23 corner of Thorndike is one district with our 420
24 site being down here and 455 site. And I'll get a

1 little more to the architecture. As Victor
2 mentioned, we're looking to have this complementary
3 sister building. We're in the early stages of kind
4 of the actual aesthetic but in terms of setting the
5 fundamental massing for the ground floor retail that
6 ties into the adjacent context, the bay
7 articulation, the facade, the successful moments
8 that we worked through with the town, the peer
9 reviewer, Cliff, and the abutters are elements that
10 we're starting to draw now initially and they kind
11 of stepped back fifth floor. Some of adjacent
12 heights with the 455 across the street, and as we
13 transition into the neighborhoods and across down to
14 Coolidge Street.

15 So aerial footprint, this is the
16 proposal at 455 under construction now with
17 superimposed on our site and then our project here
18 at 445, what we're looking to do is create kind of
19 that street scape identity along Harvard Street so
20 they will have kind of the ground floor presence.
21 We'll take that up and tie that into the adjacent
22 building.

23 Very initial rendering, so the idea
24 that we have, again, the bay articulation, the

1 corner slides that looks very similar to 420, we see
2 as we start to go through the process, the actual
3 materiality, maybe some of scaling of elements, how
4 we treat the facade conditions. We can see that
5 evolving nicely but fundamentally at this level
6 we're looking for corner entry off of Thorndike and
7 Harvard.

8 Currently there is a curbcut here and
9 along Harvard Street. We're proposing a single
10 curbcut entry into the garage, which I'll get to in
11 a moment, with the residential entry flanking off to
12 the right, and then the stepback as well.

13 In terms of plan, the basement plan
14 underground here, so the idea is we have a car lift
15 system that would bring you down into semi automated
16 systems. I know this came up when we were going
17 through 420, but in this proposal here, it's
18 actually all contained in the basement within the
19 building, so none of the parking is visible to the
20 outside. Within the basement level here we have 20
21 spots. We have room for mechanical trash utility,
22 bike storage, accessible spots. We have elevator
23 access down to the garage. And off of the first
24 floor, so coming off Harvard Street here you can see

1 where the existing curbcuts are noted. One here,
2 here, and then here. Again, that would get built
3 in.

4 With sidewalk we are proposing to
5 locate a loading zone off Harvard Street where the
6 existing curbcut is. The inside corner for the
7 retail entry, residential lobby here. And then
8 coming off the garage, we know they will be details
9 that we need to look at and how we set the site
10 lines up, similar to exit strategies we worked on
11 420, but the idea is that we have a cueing space
12 internally here with the car lift going down as
13 mentioned. There will be temp spot here if somebody
14 wanted to drop something off, they can come into the
15 building and have direct access into the residential
16 portion of the building with amenity space and a
17 landscape buffer rear-end side yard.

18 Over here are the southeast corner we
19 have direct access as well out for egress. So Blair
20 Hines is on this project or his firm rather is
21 working this with us. They're on the 420 project as
22 well. We are starting to look how we work with the
23 existing street trees, how we start to look at
24 paving and landscape options. That's still very

1 early on, we know, but we want to start to get that
2 into the mix. So the idea of creating a stepback
3 front entry to the retail, the residential lobby,
4 looking at the street tree plantings, setting brick
5 kind of wrapping that corner as we infill the
6 curbcuts.

7 Moving to the back area -- so the
8 idea of working on some landscape buffering along
9 here, we are having more of a permeable paver system
10 to allow for drainage and suffrage and we'll get
11 into it with engineering, but that will have come
12 off of Thorndike and wrap around up to Harvard.

13 In terms of overall unit breakdown as
14 you mentioned, we're at 25 units so a mix of 13 one
15 bedrooms with an 840 average. We have two bedrooms,
16 there are nine of those at a thousand thirty and
17 three bedrooms, we have three of those at 1,190
18 which I'll show you in a second. This is first
19 throughout the building. So a mix of one to two and
20 three bedrooms, three bedrooms on the corner taking
21 advantage of two sides of exposure. And as we move
22 up through the building, the top floor setting
23 anywhere back from nine foot -- seven foot nine to
24 nine foot ten on the front, almost ten and a half

1 feet on the side and eleven foot two off of
2 Thorndike Street on the north.

3 Then on the roof of that would be an
4 increase screen enclosure for mechanical units which
5 are anywhere from a little bit over thirty feet away
6 from the adjacent building, 77 on our property up to
7 40 feet back off of Harvard Street and similar 30
8 feet off of the buildings along Coolidge, and off of
9 Thorndike Street about 29, 30 feet as well.

10 Just some schematic elevation in
11 terms of setting heights, similar approach with 420,
12 kind of the overall stacking of the building, the
13 envelope, the ground floor retail are present, kind
14 of that done in a darker stone panel system with the
15 bay articulation above.

16 This is a view along Thorndike
17 Street. So again, early on, but looking how we're
18 starting to step down in the scale of the building
19 as it transitions into the neighborhood. The
20 residential garage entry here, the residential
21 entry, the ground floor retail. And then we put
22 together a series of kind of massing heights along
23 445 to Thorndike to our site, Coolidge and 441
24 Harvard. The overall area that I showed earlier of

1 how this site itself on that intersection of
2 Thorndike and Harvard.

3 Some early massing. Schedules.
4 We're starting to write some shadow studies
5 understanding the impacts of abutting homes. One
6 thing we did successfully at 420 is work with all
7 direct abutters and that helped to really shape the
8 project. So starting with this, we'll run a series
9 of shadows, work with the abutters around us to
10 understand impact and how we will keep working through
11 the process.

12 In terms of initial pallet of
13 materials, again, the idea that we're in the large
14 format storm veneer. We have kind of a cast base
15 looking at moments of natural wood, kind of the
16 quality and elements that would make up the site is
17 the bike parking being at a very high level at this
18 point.

19 Traffic so I'm not a traffic expert
20 myself, but a high level overview as Victor
21 mentioned, we will be bringing our traffic
22 consultant during this process is just getting the
23 change in use from the commercial garage and gas
24 station. I think we should see quite promising

1 results in the reduction of impact on the site and
2 the incoming and outgoing traffic along Harvard and
3 Thorndike. We will include a transportation
4 management program as well and take kind of the same
5 safety measures we have done with 420 to get to a
6 successful understanding of traffic impacts for the
7 proposal and also the relative reduction in the
8 current state.

9 Civil engineers, so again, we will
10 have McKenzie who worked with us on 420 to
11 understand -- we are coming from a fully impervious
12 surface now, so how we can work with the setbacks in
13 the building to allow for sub surface infiltration,
14 which is again understanding how that can better
15 improve the run out board of conditions on the site
16 relative to the construction of the new project and
17 what is currently happening on the site.

18 I think with that, we're good. Thank
19 you.

20 MS. SCHNEIDER: Any questions about
21 the presentation?

22 MR. GELLER: Not about the
23 presentation.

24 MS. SCHNEIDER: Okay. Mr. Sheen, and

1 maybe Mr. Engler, this is a question for you, just a
2 couple of procedural 40(b) type matters. Has there
3 been a project eligibility letter issued, and if so
4 by whom.

5 MR. SHEEN: Sure. So the project was
6 reviewed on Mass. Housing Partnership, MHP, who is
7 currently the lender for 420 Harvard Street project.
8 The pell was received and I don't the exact date.
9 I'm happy to furnish that to the Board. It is in
10 the binder. And I believe it was filed well within
11 the time frame to the Zoning Board Appeals prior to
12 any other moratorium that took place.

13 MS. SCHNEIDER: In this binder of
14 materials have you also furnished to us evidence of
15 site control?

16 MR. SHEEN: Yes, we have, and we
17 are -- we're happy to resubmit site control
18 documentation and core documents if that's needed.
19 The site has been owned by our partner, Shimon
20 Cohen, for over 20 years, and so if need be, we are
21 can furnish that additional documentation.

22 MS. SELKOE: The date of the pell
23 letter is July 2, 2018.

24 MR. GELLER: Just to be clear, I

1 think there was a transfer between the original
2 owner into your...

3 MR. SHEEN: That's right. So I think
4 the intention, as with any project, the intention is
5 that the development will be held by a single asset
6 entity. So by way of cleaning up the title and
7 ownership I think Mr. Cohen transferred the
8 ownership to the current entity, 445 Harvard, LLC as
9 the applicant.

10 MS. SCHNEIDER: Thank you. Anyone?
11 Anything else? Okay. Thank you, Mr. Sheen. We are
12 now going to open this up for public comment. If
13 you are here as a member of the public and you would
14 like to offer us your thoughts about what we have
15 heard so far in this project, I would ask that you
16 please approach the podium and provide us with your
17 name and your address. And if you are going to
18 speak, please do speak loudly, clearly, and slowly
19 because, as I may have failed to mention at the
20 beginning of the hearing, we do have a transcription
21 being made and it will be extremely helpful so we
22 can capture your comments, if you can make sure...

23 MR. GELLER: Let me just mention, the
24 way this process typically works is that the

1 transcript is available on the Town's website under
2 the Planning Board, I think, site.

3 MS. SELKOE: The Planning
4 Department.

5 MR. GELLER: Sorry, the Planning
6 Department is different. It's about two weeks after
7 each respective hearing that the transcript will be
8 available. Other materials will also be available
9 as they're presented in the hearings so that anyone
10 who wants information on this matter should be able
11 to retrieve all of it on-line.

12 MS. SELKOE: Right. And if you have
13 trouble doing that or you have any questions, you
14 can give me a call. I'm Polly Selkoe, Assistant
15 Director of Regulatory Planning.

16 MS. SCHNEIDER: Sir?

17 MR. ROSENTHAL: Yes. I'm Marty
18 Rosenthal. I'm a Town meeting member in precinct 9
19 and I'm a former selectman and I've lived in this
20 neighborhood all of my short life. I grew up on the
21 other side of Harvard Street, and I finally made it
22 across Harvard to Columbia Street.

23 I've really started dealing with
24 40(b)s maybe one of the first was 121 Center Street

1 before some of you were born. That's probably 20
2 years ago. I'm trying to remember, but I don't
3 know. The point is that I yield to nobody in terms
4 of the number of years contesting some 40(b)s, but
5 I've generally been, as some of you know, not here
6 recently, for two reasons. First, I've been busy
7 with other things, but secondly, I've always felt
8 that expert development was especially bad in the
9 residential neighborhood but the active commercial
10 streets like Harvard and Beacon and Washington --
11 well, some of Washington -- were much more suited to
12 more density. And for that reason I haven't been
13 here, I don't think, on the recent ones on Harvard
14 Street, for instance.

15 But in this case I'm here for a
16 different reason, and at least I Ms. Selkoe is aware
17 of it, and this is one that I feel guilty about
18 because it really is a
19 no-good-deed-shall-go-unpunished reason. This gas
20 station is very wonderful for the neighborhood, and
21 I don't know how that fits into the 40(b)
22 regulations, and I feel badly for Mr. Cohen that I'm
23 here opposing this project for that reason because
24 it's his gas station that's been wonderful. And

1 he's heard me say this before. I said it at the
2 initial selectmens hearing on this topic. And I
3 don't want to belabor that. I could give you lots
4 of reasons why it's a wonderful gas station and lots
5 of people that I know that use it for a service
6 station. In fact, there is so few service stations
7 anymore. In fact there are even less gas stations
8 than there used to be, but there are hardly any
9 places that you can get service like this that's
10 dependable, honest, reliable in terms of price, and
11 the people there are wonderful.

12 So the issue that I have raised is
13 the site control issue. And I am aware and
14 Mr. Cohen knows I know this that there is some kind
15 of arrangement between him and the current manager.
16 I think he's titled manager. I don't know what his
17 position is. That will give the manager right to
18 operate the gas station for a certain period of
19 time. I'm not sure if it's five years or ten years.
20 And that raises a question to me in light of the
21 40(b) issue. As you all know very well, we're
22 approaching the 40(b) threshold and we're hoping to
23 get over it soon, and I yield to nobody in working
24 for affordable housing in Brookline. In fact, one

1 reason I'm no longer a selectman after 30 years is
2 because I supported rent control, and I've supported
3 affordable housing and partly for that reason in the
4 dense areas is because some extra affordable units
5 is a good thing, but what's happening on Harvard
6 Street right now as you all know, is there is so
7 much going in there that there is no way that
8 Harvard Street is going to be a passable street in
9 ten years. And what's going on is people, including
10 myself, I admit it, I'm driving in the neighborhoods
11 instead. I never go on Harvard Street. I go on
12 Winchester. I go down Thorndike and make secuitus
13 routes to Beacon Street. And that's really not my
14 major reason for being here but it enters into the
15 background of my concern about this project.

16 So the question is is whether or not
17 this agreement, and I think the proponents need to
18 be asked about it because I gather from Ms.
19 Steinfeld that this information has been conveyed
20 and I don't know if it's been resolved. This is in
21 December that she wrote back to some of the town
22 meeting members that she would update us on the
23 state response, but the site control was initially
24 approved by, I guess, called pell letter or whatever

1 it's called, but it does seem to me that what's
2 going on is that they're trying to get in under the
3 40(b) deadline for the ten percent threshold, but
4 they're not going to be able to do this for a while
5 if they honor the agreement that I believe is true,
6 and I have to wonder if that comports with at least
7 the spirit of 40(b) and maybe the letter of the law.
8 I don't know if it's -- I guess site control in the
9 regulations, I haven't look at them, but I think
10 that should be examined by this Board and it seems
11 to me it's a legitimate question. Maybe I'm wrong.
12 I'm a lawyer. I don't do what you folks are experts
13 in. So that's what I have to say. I could say a
14 lot more about how wonderful the gas station is, but
15 for that reason it will be bad for the neighborhood
16 to lose that establishment, and I don't know how
17 that comports with the regulations, but I have no
18 doubt that it will be bad for the neighborhood for
19 that reason.

20 MS. SCHNEIDER: Thank you very much.
21 Anyone else? Ma'am?

22 MS. KATES: Beth Kates, I'm a town
23 meeting member from are Precinct 9. I have to agree
24 with Marty. I think that it will be a terrible loss

1 for the neighborhood. I've heard a lot of comments
2 from my constituents about how great the car repair
3 service and how everyone is going to miss it. And I
4 don't share Marty's tolerance of the amount of
5 development in this area. I would say in all of
6 Coolidge Corner, but let's look at Steadman Street
7 to Commonwealth Avenue. And along Harvard Street
8 itself there are four 40(b)s in process at some
9 point. There is 420, 455, this one, and then
10 Rubins. There have been a lot of promises made and
11 promises broken regarding these 40(b)s including --
12 I mean, I don't know about site control, but I know
13 that there was a restaurant where 455 is and there
14 were promises made to that business owner about
15 being able to stay there and eventually they were
16 moved to Rubins and now Rubins is going under the
17 wrecking ball as well. So we lost more businesses.

18 And I have to tell you that the
19 safety issues regarding what's going on currently at
20 420 is pretty hazardous. There are no sidewalk
21 during that construction on that side of the street
22 and there is a lot of elderly people who walk that
23 way. It's really, really dangerous, so much so that
24 I have asked that the transportation board look at

1 changing some of the traffic patterns in that area
2 to make it safer, and one of the issues with 420 is
3 that the Fuller Street lot exit is directly opposite
4 the exit to their parking garage, and it looks like
5 this is going to be the same situation on Thorndike
6 Street where you have two parking garages that are
7 exactly opposite each other, and I think that's
8 really, really dangerous.

9 So I mean in addition to these we
10 have 71 Winchester which is asking for setback
11 relief but not 40(b), also not a 40(b) but asking
12 for setback relief. There is development on Fuller
13 Street and then there is the JCHE project at 384
14 Harvard Street. These are within a few blocks of
15 each other. And this is just way too much
16 development. And this creates, as Marty was saying,
17 a huge traffic problem on Harvard Street, a huge
18 safety issue. We have elderly housing a 100 Center
19 and elderly and housing proposed at 384 Harvard. We
20 have housing at 112 for people with disabilities,
21 and you know -- and the senior center. and senior
22 center parking is the Fuller Street parking lot.
23 You have all of these issues in addition to the KI
24 and Mission to Fuller traffic that uses the Fuller

1 Street parking lot and all the surrounding streets
2 and the new Coolidge Corner School teacher parking.
3 This is just way too much going on in way too little
4 of an area.

5 And the height of this building is
6 out of keeping with the neighborhood, and you
7 know -- well, I understand that in this process
8 everything gets tweaked, but it's got to come down.
9 I don't think that we need another building of this
10 type in these few square blocks, but thank you.

11 MS. SCHNEIDER: Thank you.

12 MS. SHAW: Hi, I'm Sloane Shaw. I
13 live at 88 Thorndike Street. I have a number of
14 concerns with this project that haven't been
15 addressed by this presentation. There is a lot of
16 talk in the presentation about building setbacks at
17 the fifth story but not about building setbacks at
18 the base of the building, and I think that is a very
19 obvious thing when building are being built out to
20 the edge of the lot with no setback at all and have
21 all the discussion about setbacks of the fifth story
22 seems like something is being misleading in this. I
23 don't like that kind of presentation when everything
24 isn't kind of up front.

1 One of the things that bothered me
2 about this building is that Shimon has owned this
3 gas station for about 20 years. I've been on
4 Thorndike Street from '81, so I know the previous
5 gas station and I know that now Mass Department of
6 Environmental Protection has different rules than it
7 used to have been when it was originally a gas
8 station, but I haven't seen any talk about
9 remediating all of the leaks that happened before
10 this became Shimon's gas station. I'm saying maybe
11 in the last 20 years there has been something, but
12 we don't know what's underneath and I don't know
13 where all of that soil and all of that -- it's like
14 what's going to be happening with all of that land
15 that's going to be removed and excavated. And there
16 were a number of times in these past years when
17 there have been flooding, gas leaks into the
18 neighboring buildings on Thorndike Street and also
19 on other areas. And we called the fire department a
20 number of times and there was always something being
21 spilled down the drain, but we don't know what else
22 is in that property, and I think that is something
23 that is essential to be covered.

24 The other thing is that the gas leaks

1 have been happening on Thorndike Street. I'm sure
2 you've been aware that the police have been there
3 and a lot of -- I'm not sure what its name is now.
4 Energy... but anyway, there have been leaks there
5 and at least two solid weeks of trying to find the
6 leaks, and I was going read something Mark Rosen
7 wrote, and I can send it to you Polly, that he
8 talked to the policemen and he talked to the -- I'm
9 sorry, I'm looking for it. So he talked about the
10 gas leaks that were coming on Harvard Street and
11 Thorndike. And so the gas company said that the
12 construction near on 455 has been affecting the gas
13 pipes because they're really old and weak, and with
14 this amount of intense building, it's been cracking
15 the pipes. So because we've had those gas
16 explosions in the Merrimack Valley, I'm really
17 concerned about gas leaks. And that was at least
18 two weeks of having the police there all the time
19 all night long. And so this is a real concern and I
20 don't think that it can be kind of shoved under a
21 rug that this isn't something that might occur and
22 be a danger to the neighbors.

23 And the third part about the
24 neighborhood is there have been a number of

1 accidents on Thorndike and Harvard and going into
2 the Babcock area, different pedestrians have been
3 hit, people on bicycles have been hit, and now with
4 this kind of obstruction that's five feet high, plus
5 the things on the top that blocks all view of
6 Harvard Street, it's seem like a real problem with
7 traffic and all the kids going to Devotion. That's
8 another concern that really should be addressed.
9 Thank you.

10 MS. SCHNEIDER: Thank you. Are there
11 any other members of the public who would like to
12 provide us with comments, and I just want to be very
13 clear this is the very beginning of this process.
14 There will be numerous additional opportunities for
15 us to take public testimony. Yes, Michelle?

16 MS. MICHELLE: I just want to say
17 that the reason people on Thorndike and Coolidge,
18 and I forget the other street right there aren't
19 here tonight is they are so upset with the buildings
20 at 420 and 455 and they feel like there is nothing
21 that can be done with the neighborhood and there is
22 no point in coming.

23 MS. SCHNEIDER: Thank you.

24 MR. GELLER: Madam Chair, you may

1 want to mention that anybody who has been to these
2 hearings before will know, this is an iterative
3 process and what will happen after this sort of
4 global review is that future hearings will be
5 dedicated to discrete subjects. One of those
6 subjects which was -- and I want to thank the
7 comment particularly about environmental issues -- I
8 will tell you that, as I understand it -- I
9 apologize for jumping the gun.

10 MS. SCHNEIDER: That is what you're
11 using to doing. It is okay.

12 MR. GELLER: We are going to be
13 reviewing environmental conditions at the site,
14 which is naturally understood given that it is a gas
15 station use. So it's a fair comment.

16 MS. SCHNEIDER: Yes, it was a fair
17 comment. And as I said at the outset, we'll be
18 having subject matters specific hearings throughout
19 the process on various topics including
20 transportation, traffic, parking, environmental, and
21 of course design, which I guess brings me to some
22 organizational and administrative business that we
23 want to bring up with the applicant. Mr. Sheen as
24 you and your team are aware, the practice of this

1 Board to rely on peer reviewers to advise us as to
2 various topics in this case. I think we would be
3 looking for traffic and parking peer review,
4 environmental, probably an LSP, and also a design
5 reviewer. It is customary to ask the applicant if
6 they will be prepared to pay for the cost of those
7 consultants. Are you prepared to do so?

8 MR. SHEEN: We are, and we've spoken
9 to staff about this prior to this hearing. I think
10 the intention is that we would review the proposals
11 and sign off and fund the necessary peer reviewer
12 fees to the appropriate accounts as necessary.

13 MS. SCHNEIDER: Thank you.

14 MS. SELKOE: Just to mention that
15 stormwater is typically reviewed in-house by Peter
16 Ditto who is the Director of Transportation and
17 Engineering.

18 MS. SCHNEIDER: Thank you, Polly.
19 Good point. The next thing I wanted to raise with
20 the Board is that it is typically the practice with
21 40(b) projects that there are meetings between
22 planning and other town staff and the development
23 team. These are working sessions. As everybody
24 knows we are on a very tight time frame to review a

1 40(b) project. We have historically found it to be
2 more efficient if there are working sessions outside
3 of the public process with the caveat that staff
4 cannot make any determinations, agreements,
5 decisions, and that any kind of project changes or
6 developments that come about as a process of those
7 meetings would then come back to this Board for
8 discussion of public hearing. Is everyone
9 comfortable with that as a way of proceeding during
10 this project?

11 MS. PALERMO: Yes.

12 MR. GELLER: Yes.

13 MS. SCHNEIDER: Polly, is there
14 anything else administrative we need to touch on
15 other than scheduling our next hearing.

16 MS. SELKOE: I think that's it. I
17 think that covers everything.

18 MS. SCHNEIDER: Okay. So we will be
19 continuing this to a future date. Do we have an
20 agenda for that meeting?

21 MS. SELKOE: It will be March 6 and
22 we will posting an agenda on-line as it gets closer,
23 but most likely the topic will be on the design of
24 the building. That's because the other peer

1 reviewers may not have finish their reports yet. We
2 would like to start on the design issues right
3 away.

4 MS. SCHNEIDER: Is March 6 agreeable
5 to Mr. Sheen?

6 MR. SHEEN: So I just was informed
7 that Dartagnan may not be available, but we -- is
8 that the only date that...

9 MS. SELKOE: If he's saying he's not
10 available, then we could do March 13. No?

11 MR. BROWN: Yes, that would be
12 perfect.

13 MS. SELKOE: It's always very
14 difficult to find a date where everybody is
15 available, but certainly the architect should be
16 here.

17 MR. SHEEN: We'll stick to the 6th.
18 We'll find an alternate presenter, so Dartagnan
19 won't be able to be here.

20 MR. GELLER: Bring a picture of
21 Dartagnan.

22 MR. SHEEN: Yes. We'll make it
23 work.

24 MS. SCHNEIDER: Thank you. We

1 appreciate that. This hearing is continued until
2 March 6 at 7 p.m.

3 (Whereupon, the hearing was adjourned
4 8 p.m.)

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1 C E R T I F I C A T E

2 COMMONWEALTH OF MASSACHUSETTS

3 Worcester, ss.

4 I, Jennifer A. Doherty, Certified
5 Shorthand Reporter and Notary in and for the
6 Commonwealth of Massachusetts, do hereby certify
7 that the foregoing Pages 1 to 36 to be a true,
8 complete and accurate transcript of the testimony of
9 the aforementioned hearing held at the time and
10 place hereinbefore set forth, to the best of my
11 knowledge, skill and ability.

12

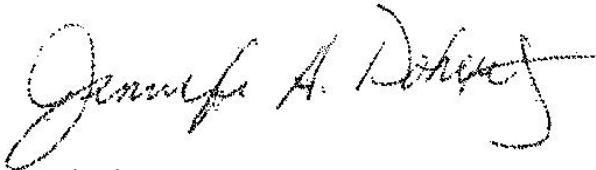
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15 IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY
16 HAND AND SEAL THIS 26TH DAY OF JANUARY, 2019.

17

18

19 
Certified Shorthand Reporter

20 CSR No. 1398F95

21

22 My Commission Expires:

23 October 19, 2023

24

<hr/> <p style="text-align: center;">1</p> <hr/> <p>1,190 14:17</p> <p>10,100 7:3</p> <p>100 26:18</p> <p>112 26:20</p> <p>120 8:4</p> <p>121 20:24</p> <p>13 14:14 34:10</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 18:23</p> <p>20 3:9 6:22,24 8:11 12:20 18:20 21:1 28:3,11</p> <p>2018 18:23</p> <p>21 9:11,16</p> <p>25 3:8 6:22,24 14:14</p> <p>29 15:9</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>30 8:22 9:6 15:7,9 23:1</p> <p>34 7:4</p> <p>35,000 7:4</p> <p>384 26:13,19</p>	<hr/> <p style="text-align: center;">4</p> <hr/> <p>4,380 3:8</p> <p>40 15:7</p> <p>40(b) 3:7,17,22 5:4,19 18:2 21:21 22:21,22 24:3,7 26:11 32:21 33:1</p> <p>40(b)s 3:18 20:24 21:4 25:8,11</p> <p>400 10:18</p> <p>420 5:17 6:20 7:5 10:23 12:1,17 13:11,21 15:11 16:6 17:5,10 18:7 25:9, 20 26:2 30:20</p> <p>441 15:23</p> <p>445 3:5 5:12 7:8,13 11:18 15:23 19:8</p> <p>455 5:1 7:13,21 10:24 11:12,16 25:9,13 29:12 30:20</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>50 7:1</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 33:21 34:4 35:2</p> <p>66 10:14</p> <p>6th 34:17</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 8:6,17 35:2</p>	<p>7,000 7:16</p> <p>71 26:10</p> <p>77 15:6</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 8:13,14,18 35:4</p> <p>80 8:10</p> <p>81 28:4</p> <p>840 14:15</p> <p>88 27:13</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 8:6,17 20:18 24:23</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m. 8:6,13,17,18</p> <p>able 3:24 5:20 6:11 20:10 24:4 25:15 34:19</p> <p>abutters 11:9 16:7,9</p> <p>abutting 16:5</p> <p>access 12:23 13:15,19</p> <p>accessible 12:22</p> <p>accidents 30:1</p> <p>accounts 32:12</p> <p>achieve 5:20</p>	<p>active 6:17 21:9</p> <p>actual 11:4 12:2</p> <p>added 6:10</p> <p>addition 26:9,23</p> <p>additional 18:21 30:14</p> <p>address 7:8 19:17</p> <p>addressed 27:15 30:8</p> <p>adjacent 11:6,11,21 15:6</p> <p>adjourned 35:3</p> <p>administrative 4:16 31:22 33:14</p> <p>admit 23:10</p> <p>advantage 14:21</p> <p>advise 32:1</p> <p>aerial 11:15</p> <p>aesthetic 11:4</p> <p>affordable 7:1 22:24 23:3,4</p> <p>agenda 33:20,22</p> <p>ago 21:2</p> <p>agree 24:23</p> <p>agreeable 34:4</p> <p>agreement 23:17 24:5</p> <p>agreements 33:4</p>
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