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Town of Brookline
Board of Appeals Public Hearing
Re: Residences of South Brookline

Remote Zoom

Monday, November 9, 2020

7:05 p.m. - 8:40 p.m.

A P P E A R A N C E S

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Maria Morelli, AICP, Senior Planner
Planning and Community Development
Town of Brookline
333 Washington Street
Brookline, MA 0445
(617) 730-2670
mmorelli@brooklinema.gov

Board of Appeals
Mark Zuroff, Chairman
Kate Poverman, Board Member
Randolph Meiklejohn, Board Member

Theo Kindermans, Engineer
Steve Schwartz, Attorney
Marc Levin, Chestnut Hill Realty
Andy Martineau, Project Manager
Monique Baldwin, Planner

P R O C E E D I N G S

1
2 MR. ZUROFF: Good evening, everyone
3 who is here. My name is Mark Zuroff. I am
4 sitting as chair tonight of the Zoning Board of
5 Appeals. We are convening this evening for the
6 purposes of hearing a request for a modification
7 on a 40B application by the Residences of South
8 Brookline.

9 To start off with, I will announce
10 that this meeting is being recorded, both audio
11 and visually, and will be available -- the
12 transcript will be available on the town's
13 website at some point in the future.

14 Sitting with me tonight on the board
15 is Kate Poverman --

16 MS. POVERMAN: Yes.

17 MR. ZUROFF: It seems that you're
18 here.

19 MS. POVERMAN: I'm here.

20 MR. ZUROFF: -- and Randolph
21 Meiklejohn.

22 MR. MEIKLEJOHN: I am here.

23 MR. ZUROFF: Also appearing for the
24 town is Maria Morelli from the planning

1 department --

2 MS. MORELLI: Here.

3 MR. ZUROFF: -- and Monique Baldwin
4 from the planning department.

5 MS. BALDWIN: Here.

6 MR. ZUROFF: Once again, the purpose
7 of this, which is a meeting and not a hearing, is
8 to hear the request for modification of the ROSB
9 project. It's the job of the board this evening
10 to make a determination as to whether the
11 request represents a substantial or
12 insubstantial modification of the existing
13 modified special permit.

14 After we hear the presentation from
15 the applicant, we will also hear from the
16 planning department. The board can ask
17 questions at any time, and then the board will
18 make a determination as to whether the request
19 is substantial or insubstantial. If it is
20 deemed insubstantial, then it will be deemed as
21 granted, and it will require no further hearings
22 or meetings.

23 Hopefully, I've laid that out
24 properly. So with that, Maria, would you like to

1 speak first before the applicant?

2 MS. MORELLI: No. I think you've
3 covered everything, Mr. Zuroff.

4 MR. ZUROFF: So Mr. Schwartz, you're
5 in charge of your side. Whoever wants to speak
6 for you, you may.

7 MR. SCHWARTZ: I'm actually going to
8 introduce Marc Levin and Andy Martineau, who are
9 going to be taking the lead in their
10 presentation this evening, and Theo Kindermans.
11 So I think we just heard from him. He unmuted
12 himself. He's another member of our project
13 team from Stantec, our civil engineer on the
14 project. So that's our team this evening, and
15 with that very brief introduction, I'm just
16 going to turn it over to Marc and to Andy.

17 MR. LEVIN: Good evening, Chairman
18 Zuroff. Can you hear me?

19 MR. ZUROFF: Yes, I can.

20 MR. LEVIN: Fellow board members and
21 planning staff, I'm Marc Levin of Chestnut Hill
22 Realty. As Steve mentioned, I'm joined by Andy
23 Martineau of Chestnut Hill Realty, and he will
24 walk you through the refinements to the ROSB

1 comp permit that we're seeking tonight. Theo
2 Kindermans is now connected from Minnesota.
3 Amazing what technology does.

4 MR. KINDERMANS: Absolutely.

5 MR. LEVIN: There you go. And he's
6 available to answer any questions regarding the
7 site. Before I turn it over to Andy, I'll just
8 give you an update. We've been at the
9 construction now for about eight months, and I'm
10 happy to say that the blasting and rock removal
11 is complete, and that the town home units, also
12 known as the infill, are coming along really
13 well, and eight out of the 11 of those will be
14 delivered in the spring, if not sooner.

15 We've been running the -- getting
16 ready to run the lottery. We've been
17 advertising for that and receiving applications
18 for the affordable units. And the Asheville
19 building, the larger building, is now going
20 vertical. So we have foundation walls going in,
21 and obviously, it's a pretty exciting time for
22 us. So without any more, I'll let Andy talk
23 about the refinements.

24 I just want to say that, you know, as

1 we've proceeded, you know, we've come to
2 recognize certain ways we can make the project
3 better, and I think you will find that they are
4 rather small in scope, but hopefully you can
5 appreciate the benefit that these small
6 refinements will accrue to the project. So
7 Andy, do you want to take over?

8 MR. MARTINEAU: Sure. I'll just go
9 ahead and share my screen here, and you have to
10 enable me to do that, Monique, I think.

11 There we go. Thank you very much.
12 Thank you, Mark. Thank you to the board. As
13 Marc indicated, we're about eight months into
14 construction on this project, and, you know,
15 we're making a lot of good progress, and this is
16 a project where, as we -- even as we started to
17 build it, continued to look for opportunities to
18 make improvements.

19 We have a series of ongoing
20 conversations with our property management
21 folks, property maintenance folks, people that
22 are responsible for the day-to-day operations
23 and marketing of the property, and the changes I
24 have to present to you this evening are the

1 result of those ongoing conversations, which
2 happen, you know, in the context of how can we
3 make this project better and how can we improve
4 the quality and functionality of the units and
5 amenity spaces. So these changes are entirely
6 driven by that desire to make the project
7 better.

8 In this particular instance, with this
9 request, looking at opportunities to improve the
10 site and site planning, we made some changes --
11 or refinements, rather, to the pedestrian
12 walkways. We redistributed some of the surface
13 parking lot spaces, both the existing approved,
14 as well as adding some surface parking spaces as
15 a result of some programmatic changes that we've
16 made to one of the garage levels in the Asheville
17 building, and I'll talk a little bit more about
18 that.

19 Enhancing the quality of the unit
20 layouts and amenity areas. As I said, you know,
21 the ongoing conversations with property
22 management, as well as the architects and
23 consultants that are helping us design and
24 layout both the units and amenity areas, and how

1 can we make those better. And then as a result
2 of that, some minor adjustments to the facade of
3 the building, getting the window walls to line
4 up, etcetera. And then one very specific change
5 to the site plan with respect to an emergency
6 access driveway, which I'll show on the site
7 plan, changing that for ease of maintenance
8 purposes.

9 So just a summary of changes. We're
10 proposing to change the Asheville building unit
11 mix by increasing the number of one-beds by
12 five, decreasing the number of two-beds by five,
13 and we're also proposing to eliminate both the
14 one- and a two-bedroom unit in the upper garage
15 level. So the way the math works out on that is
16 there's no change to the overall number of
17 units. We're still at 175 for the project, and
18 I'll show you what that looks like on the floor
19 plans.

20 Some adjustments to the facade
21 materials in certain locations on the Asheville
22 building. These are changes that we feel are
23 minor and make the building look better. Then I
24 had mentioned some of the programming of the

1 interior spaces, in particular, the upper garage
2 level, where we're converting some existing
3 approved garage spaces to both amenity and
4 storage space, as well as converting those two
5 units that we're eliminating to storage space,
6 and I'll show you that on the floor plans, as
7 well. And then by virtue of reprogramming that
8 garage space, redistributing those 15 garage
9 spaces out onto the surface.

10 Straightening the emergency access
11 driveway and changing the material to asphalt.
12 The driveway, as it's approved, is scheduled to
13 be paved with Grasscrete pavers, and we're
14 proposing to adjust the geometry to straighten
15 the road and pave it with asphalt. The thinking
16 there is that a straight road pave with asphalt
17 is easier to maintain, and in particular, easier
18 to plow than a Grasscrete driveway that has
19 curves and angles.

20 We're also proposing to add some bike
21 storage, which we have in the project now, but
22 we're proposing to make it better, as well as a
23 dog wash area to the Asheville building, and
24 I'll show you what that looks like on the floor

1 plans. And then I had mentioned adjusting
2 window bays, locations and styles, again, to
3 accommodate the unit layouts, and we have the
4 same situation with a couple of the infill
5 buildings, both Building 3 and 11. We're
6 proposing to eliminate a single window on each
7 of the buildings, and I can show you what those
8 changes look like and elevations, as well.

9 So just starting with the site plan --
10 and I'll acknowledge that just before the
11 meeting, I learned that this might be a little
12 challenging to read, the blue versus the black,
13 so I'll do my best to walk you through those
14 changes. We have Theo on hand to help with that,
15 as well.

16 Although, I'll also point out the fact
17 that it's a little bit challenging to tell the
18 changes also speaks to sort of the de minimis
19 scope, I guess I would say, with respect to the
20 changes. Really not too much moving, at least on
21 this side of the site plan, but again, if there's
22 any questions, just stop me, and I'll do my best
23 just to walk the board through those changes.

24 So what you have is the approved plan

1 is in blue, and we've overlaid that onto the
2 proposed plan, which is in black. So just
3 starting down here by Building 1, which is
4 adjacent to the Baker School -- if you're
5 following my cursor, the Baker School is just
6 over here, and then you have Beverly Road to the
7 north. We're proposing to make some adjustments
8 to the walkway running along by Building 1.
9 Those changes continue in between Buildings 1
10 and 2, and then here, you can see where we've
11 added some of those surface parking spaces here,
12 here, here --

13 MS. POVERMAN: Can you blow it up
14 more, because it's really not clear what you're
15 talking about, to me.

16 MR. MARTINEAU: Sure. Let me see if I
17 can zoom in. Is that a little better?

18 MS. POVERMAN: Yeah.

19 MR. MARTINEAU: So adding surface
20 parking here, here, and here, and then you can
21 see the adjustments to the walkway coming around
22 Building 2. This blue line here was a rather
23 large retaining wall that's no longer necessary.
24 As we got into building the project, we've

1 identified this wall as something that doesn't
2 need to be as big, as it was initially proposed
3 and approved to be. So you can see the proposed
4 wall in black here. Moving over, this retaining
5 wall is just shifting over some.

6 MR. MEIKLEJOHN: A question about
7 these retaining walls. Are there associated
8 topographic grading changes, and you're just not
9 drawing them, or are they not significant enough
10 to draw?

11 MR. MARTINEAU: Theo, do you want to
12 field that one?

13 MR. KINDERMANS: Yeah, we just
14 adjusted some field -- there were just all field
15 changes where we could grade out some of these
16 areas, and, as you know, especially
17 topographically, a survey is -- I don't want to
18 necessarily tell you an approximation, but it's
19 never -- you know, the field is always different
20 than what the survey shows. So these are just
21 tweaks, and where we could grade out and not use
22 a wall, we're trying to do that.

23 MS. POVERMAN: Can you show me again
24 what's happening with the walkway now that it's

1 larger?

2 MR. MARTINEAU: Yeah, I'll go back
3 over to Building 1.

4 MS. POVERMAN: Great.

5 MR. MARTINEAU: So this walkway is
6 just getting straightened. Excuse me.

7 MR. KINDERMANS: No, it's the other
8 way around. We have a straight walkway, and that
9 actually loop is to make it handicap accessible.
10 That's just the sort of -- that's, quote,
11 unquote, the "handicap ramp." You can see some
12 very vague strikes in the straighter section of
13 that walkway. That's where a couple of -- right
14 there, yeah. That's where a few steps are. So
15 the straight walkway has steps in it, and then
16 that's this asphalt route.

17 MR. MARTINEAU: So just moving along,
18 you can see the adjustments to the curvature
19 here. It kind of went this way before. Now, it
20 more closely hugs the driveway. I'd mentioned
21 the added surface parking. You can see the
22 walkway or sidewalk is adjusted accordingly on
23 both sides of Building 2 here. We talked about
24 the retaining walls. Surface parking here and

1 here. This retaining wall shifts over.

2 MS. POVERMAN: Can you remind me what
3 was in the place that the surface parking is now
4 taking over? I mean, were there plantings, were
5 there --

6 MR. MARTINEAU: Curve extensions. It
7 was, you know, like a bump-out --

8 MR. KINDERMANS: Yes, those are plant
9 islands.

10 MR. MARTINEAU: And then the retaining
11 wall behind Building 4 growing a little bit
12 here. So those are the changes on this side of
13 the site plan.

14 I'll just go to the next slide. I need
15 to zoom out for a second so I can get over there.
16 So Independence Drive is here on the left, if
17 you're following my cursor. So you can see some
18 adjustments to the walkway here running along
19 between -- or next to Building 5, I should say,
20 then picking up again over by Building 6, and
21 then we come to one of the more notable changes
22 to the site plan where you see this area outlined
23 in blue here. This was the approved parking lot
24 between these two buildings.

1 I believe we had about eight parking
2 spaces that were pull-in spaces that you would
3 pull in and face Building 6 or 7, as the case may
4 be. In looking at this, we felt that pulling
5 this back to what you see here in black was a
6 better solution, and redistributing those spaces
7 was a better solution for not only the residents
8 of these two buildings, but as well as the
9 neighboring abutters here, pulling that parking
10 lot away, providing for some green space here
11 and taking the cars away from the units, pulling
12 the cars away from the units, as well as from the
13 abutters.

14 MR. MEIKLEJOHN: Those spaces that
15 were displaced from there, do they go across
16 Independence Drive or somewhere nearer?

17 MR. MARTINEAU: I believe they are
18 closer. Theo, do you recall specifically?

19 MR. KINDERMANS: There is one space
20 that's right across, correct, and then you see
21 between 5 and 6 on the ends of spaces, and then
22 you'll see -- right. So they were sort of
23 distributing -- when you go down past Building
24 8, you'll see some more, but they were evenly

1 distributed sort of where we could fit them.

2 MR. MEIKLEJOHN: Sorry, just a follow-
3 up question. Were you generally able -- to the
4 extent you've shifted parking spaces around,
5 have you done it without a parking space having
6 to cross a public way like Independence Drive?

7 MR. KINDERMANS: Correct.

8 MR. ZUROFF: What kind of landscaping
9 are you replacing that parking area with? Is it
10 going to be just low landscaping, or are there
11 going to be trees?

12 MR. KINDERMANS: It's going to be lawn
13 and have a couple of trees in it. Otherwise, it
14 will be lawn.

15 MR. MARTINEAU: There's trees in here,
16 but there's also trees programmed already and
17 approved for the property line, and that's
18 pretty dense. It's a mix of arborvitae and
19 deciduous trees.

20 Moving on, I had mentioned the
21 emergency access drive that we want to
22 straighten and change the paving material.
23 That's this area in blue here in front of
24 Building 7. And then when you come across

1 Thornton Road, it picks up again in front of
2 Building 8. This is an emergency access
3 driveway. It's required to be restricted,
4 access restricted, for emergency vehicles only,
5 and we're not proposing to change that.

6 We're just proposing to straighten the
7 road as best as we can and change the pavement
8 material from the Grasscrete pavers to asphalt.
9 Again, that's entirely driven by ease of
10 maintenance. So it would maintain -- or it would
11 remain, rather, an emergency access driveway,
12 just different material and a slightly different
13 geometry, and you can see the adjustments, the
14 blue versus the black, however subtle they may
15 be, in an attempt to try and straighten that
16 roadway.

17 MR. MEIKLEJOHN: Can you talk more
18 about that design decision, because, you know,
19 the maintainability and so on of asphalt and
20 Grasscrete, I mean, that's a difference that was
21 already generally known at the time of design.
22 So why the change now?

23 MR. MARTINEAU: Part of the change --
24 and Marc, maybe you can speak to this, because I

1 think it goes back to some of the hearing, which,
2 you know, pre-dates me -- but the ask to have
3 this, as it's an emergency access way, I believe
4 was a request of the town at the time, and the
5 site plan was slightly different then, which
6 actually required a portion of this driveway to
7 run over Hancock Village property, versus the
8 40B property.

9 So, you know, it was intended to be
10 designed for emergency vehicle access, and I
11 think the design idea with having it be
12 Grasscrete was a way to ensure that it would
13 remain that way. And, you know, as we've gone
14 through building -- starting to build the
15 project and looking at ways to change the design
16 to make maintenance easier, it just became
17 evident that that would be a better solution.

18 And whereas the site plan was changed
19 in one of the previous modifications where the
20 lot line was adjusted so that area -- I believe
21 it was right here -- that ran across Hancock
22 Village property was changed, so that became a
23 moot point. So, you know, Marc, I don't know if
24 you want to chime in with a little bit more of

1 the history.

2 MR. LEVIN: No, I think you described
3 the process fairly accurately. Originally, when
4 we were asked to provide emergency access for
5 fire trucks, we had to cross Hancock Village
6 land. We had to go outside of the 40B lot, and
7 it was just suggested that we -- by our site
8 engineers that we just do it in Grasscrete.

9 Subsequent to that, since the layouts
10 have changed, we were able to put those roads
11 exclusively on residences at Brookline property,
12 and then looking at that, it made sense to us to
13 actually make them more maintainable in the
14 process. So we didn't really think about the
15 maintenance of it back then, but in looking at it
16 now, it seemed to make sense.

17 MR. MEIKLEJOHN: I just want to ask
18 for clarification -- and, you know, I know this
19 project has been around for a number of years,
20 but I haven't been that close to it. On this
21 drawing, can you point to the two properties
22 that you were both referring to, the Hancock
23 Village and the residences of properties, which
24 are on that -- I think it's that heavy dotted

1 line probably.

2 MR. MARTINEAU: Yeah. That heavy dash
3 line is the 40B property line on both sides.

4 MR. MEIKLEJOHN: So what's in it?
5 Like 7, 8, and B2, those are inside the 40B
6 development?

7 MR. MARTINEAU: Correct, yeah. So the
8 heavy dash line continues here.

9 MR. MEIKLEJOHN: I mean, the reason
10 I'm asking about that is that it actually looks
11 to me that the black layout lines of the
12 emergency drive, you know, show that it's on
13 both properties, whereas the blue one looked
14 like it was more on the 40B only. So that's why
15 I got a little -- I was having trouble following
16 the reasoning about the design change with
17 respect to, you know property --

18 MS. MORELLI: Mr. Zuroff, could I just
19 jump in? This is Maria Morelli. I think it's
20 just important to clarify or to have the
21 applicant explain. The Grasscrete was there to
22 discourage people who would be parking in these
23 lots from actually using it. So it's restricted
24 to emergency vehicles only. So perhaps the

1 applicant could explain how they're going to
2 communicate to the residence people parking
3 there, how they're going to restrict them so
4 that they don't use the emergency drive.

5 MR. MARTINEAU: So as I said, it's our
6 intention to maintain this as restricted access
7 for emergency vehicles only. We would certainly
8 have a signage, the appropriate signage to
9 discourage people from driving there, and we
10 would also be open to gating it with something
11 that would be acceptable to the fire department
12 if the signs were not sufficient.

13 MR. ZUROFF: Wasn't it discussed
14 originally that there would be some kind of
15 emergency gate access?

16 MR. MARTINEAU: There is off of
17 Grassmere here. So there will be what's called
18 an Opticom gate -- or what was at the time called
19 an Opticom gate. It will ultimately be whatever
20 the fire department deems acceptable -- you
21 know, technology changes -- but a gate that only
22 they could access for fire trucks to get in from
23 here and go this way or that way, as the case may
24 be.

1 MR. ZUROFF: Would you be willing to
2 do the same thing for these roadways?

3 MR. MARTINEAU: We hadn't talked about
4 an Opticom gate specifically, but I think we'd
5 be willing to gate it if it became an issue.

6 MR. ZUROFF: Well, again, the parking
7 on those areas has to be restricted so that it is
8 for emergency vehicles only, and you know people
9 will park where they want to park.

10 MR. MARTINEAU: Well, there's no
11 parking on the driveway.

12 MR. ZUROFF: No, you're not allowing
13 parking on the driveway, but that's not going to
14 stop people from parking there if it's open to
15 them.

16 MR. MARTINEAU: Well, then we would
17 gate it if the signs -- so the comp permit
18 doesn't give any exclusive guidance on that,
19 even when it's scheduled to be paved with
20 Grasscrete. It just says you'll restrict access
21 and take the appropriate measures. I'm
22 paraphrasing. So that can be signs and/or
23 gates. I think we would do both if it was
24 necessary.

1 MR. ZUROFF: Well, that was my
2 question. Would you be willing to do that?

3 MR. MARTINEAU: Yeah. And I believe
4 the comp permit leaves it to us and the fire
5 department to, you know, make sure that that is
6 an acceptable means of restricting access.

7 MS. MORELLI: This is Maria Morelli
8 again. The important thing is, number one, to
9 indicate -- have some visual cues for the fire
10 department as to where they can drive onto,
11 because obviously, it's going to be heavy
12 equipment. So they need some visual indicators
13 of where they can go.

14 And then for restricting access, the
15 Grasscrete was -- obviously, with grass growing
16 in between those pavers, it would be a visual cue
17 to people, you know, parking there that they
18 can't drive over that. So I guess gates would
19 work, but, you know, obviously, you'd have to
20 talk with the fire chief. I'm not sure if it
21 seems -- that's a lot of gates.

22 MR. LEVIN: Well, we could start with
23 signage, very explicit signage, and see how that
24 works, you know, in conference with the fire

1 department, and if that doesn't seem to be
2 working, we'd be happy to put up gates if that's
3 something they would want.

4 MR. MARTINEAU: Ultimately, it's going
5 to be an enforcement issue on our part. And
6 while I don't disagree the point I think you were
7 making with, you know, Grasscrete discouraging
8 people from driving, you know, if the grass is
9 mowed, and they see that it's, you know, a quasi-
10 paved surface, there are folks that would still
11 use that.

12 So I'm not sure that the Grasscrete
13 was the best solution in terms of a visual cue
14 that you're not supposed to drive there. I think
15 ultimately it's going to require explicit
16 signage, and likely gates, to meet the spirit of
17 that condition.

18 MR. ZUROFF: Continue, please.

19 MR. MARTINEAU: So just moving on
20 across the site, here is the area where Theo had
21 indicated some of those additional surface
22 spaces had been redistributed. So again, you
23 see the area in blue is the approved, the gray
24 or the black is the proposed.

1 So you can see some spaces added here,
2 here, over here, and I believe that is it. And
3 this is the porous paving -- this is the porous
4 paved parking lot, which we're not proposing to
5 change that. It would still be porous paving.

6 Moving down to the rest of the infill
7 area, you can see further adjustments to the
8 walkways, some minor adjustments to the surface
9 parking and curb extensions, adjustments to the
10 walkways. This retaining wall is no longer
11 needed, as well as this retaining wall here. And
12 then moving over to the Asheville building, this
13 retaining wall was no longer needed, this
14 retaining wall shifts.

15 And then here, is where you start to
16 see one of the more notable site plan changes, as
17 well as one of the more notable changes to the
18 Asheville building footprint, and I'll show you
19 what this looks like, both in terms of the floor
20 plan, as well as elevations.

21 So here, in the approved condition, we
22 have a series of stepped or terraced retaining
23 walls. The proposal is to eliminate those and
24 infill a portion of the lower garage level. So

1 it's just a single story here, and this becomes
2 expanded bike storage and the dog wash amenity
3 area.

4 Just to kind of give you a reference
5 of what I'm talking about with a portion of the
6 building being filled in, you can see here the
7 building kind of comes in this way, then comes
8 down. In the approved condition, you have the
9 same thing, but we would infill that portion of
10 the building with the bike storage and dog wash
11 area, and these retaining walls would be
12 eliminated, and I can show you what that looks
13 like in the floor plans.

14 MR. MEIKLEJOHN: Is that happening
15 only in the garage or basement story and not in
16 the super structure?

17 MR. MARTINEAU: Correct. So it does
18 not continue vertically. It does not extend
19 beyond that level. So it's not like a
20 continuation, and I'll show you the floor plans
21 and the elevations, and hopefully it makes a
22 little bit more sense that way.

23 So just starting with the approved
24 lower garage plan, if you're following my

1 cursor, Asheville Road is here. You come in.
2 The garage entrance is here. You have parking on
3 either side of the building. Note that this area
4 here is not filled in. In the proposed plan, it
5 comes out to meet this corner of the building.
6 This is the bike storage and dog wash area,
7 again, just a single story. I know it's only for
8 this level of the building.

9 Bike storage is something that we were
10 required to have in the comp permit, and we have
11 now in the approved plan. Our feeling is that
12 this works better. The bike storage that's
13 approved, the bike parking spaces, are in the
14 parking stalls themselves. So there's racks on
15 the walls as you come around. We feel like not
16 only will this allow us to accommodate more
17 bikes, over 100 -- we're required to accommodate
18 at least 50 -- this will accommodate over 100.
19 It's also more accessible, where you can get to
20 it right off the street.

21 The same is true for this dog wash
22 area. This is an amenity that we have at some of
23 our other properties and has actually proven
24 quite popular. So making that accessible from

1 the ground level we thought was the best means to
2 provide access to those two spaces, in
3 particular.

4 Getting into the upper garage level,
5 so I had mentioned the two units that would be
6 eliminated. You see them highlighted in yellow
7 here, a one-bed and a two-bed. I also want to
8 point out for the board this area here. These 15
9 parking spaces are the spaces that we would be
10 proposing to redistribute out onto the surface
11 lot by virtue of converting this space to
12 storage and amenity area. So approved, and then
13 you have the proposed condition.

14 So you can see the units, the
15 residential units, have been converted to
16 storage. This green area, which was previously
17 parking, has been converted to storage. The
18 corridor, which you see in blue, has been
19 straightened. We feel like this works better
20 and functions better. Some parking spaces here
21 are converted to an activity room or amenity
22 area, and then down here, you see bathrooms and
23 other miscellaneous storage and maintenance
24 closets.

1 So no change in building footprint on
2 this level, and you can see here the outline of
3 the proposed bike storage and dog wash area
4 below. So if you were on this level looking out,
5 you'd be looking at the roof of that portion of
6 the structure.

7 MR. MEIKLEJOHN: Is it only a roof and
8 not a surface you can go walk on?

9 MR. MARTINEAU: Correct. It's just a
10 roof. Moving on to the other levels, we are
11 making floor plan changes on the second floor.
12 We're eliminating two two-bedroom units. You
13 see them highlighted in yellow, converting them
14 to one's, and then repeating that on the next
15 level up, two two-bedroom units, converting them
16 to one's.

17 Getting into the elevations. So this
18 is Side A of the building, so this is the side
19 that you see upon entering the site on Asheville
20 Road. So if you're following my cursor, on the
21 legend, it's right here. On the left, we have
22 the approved condition. On the right, we have
23 the proposed.

24 You'll note on this level here where

1 we have stone carrying across the horizontal
2 plane. We're proposing to bring the brick down
3 to that level, as well as the paneling. We feel
4 like this looks better and is more consistent
5 with the Hancock Village architecture. So
6 that's the change -- most notable change on this
7 elevation. You'll also observe single windows
8 here converted to double here and here.

9 MR. MEIKLEJOHN: What's the paneling
10 material?

11 MR. MARTINEAU: It is like an FC
12 board, parting board. Yeah, fiber cement.

13 Moving to the front of the building,
14 if you follow me on the legend, it's right here,
15 Side B. On the left, again, the approved
16 condition, on the right, the proposed, and this
17 is where you start to see the dog wash and bike
18 storage area emerge. On the right here, you can
19 see -- we've tried to fade out the landscaping so
20 you can see it.

21 In the approved condition, you see the
22 retaining walls, the stepped retaining walls,
23 that have been eliminated here. You can see
24 they've been eliminated here. You'll also note

1 that in this area here, which is the upper garage
2 next to that amenity area that you saw on the
3 floor plans, which carries across here, we're
4 proposing to add a couple of windows to mimic the
5 condition above. We thought this looked better
6 than just having a plain space. So those are the
7 changes there.

8 Coming around to Side C, so this is
9 the side interior to the side facing Hancock
10 Village, the existing town homes. You can see,
11 again, the large retaining wall that ran the
12 length of the building has been eliminated, and
13 you see the bike storage area now with, you know,
14 sort of transom style windows to provide some
15 light in.

16 MR. MEIKLEJOHN: So there was sort of
17 a hierarchy of materials that, you know, are
18 pretty conventional in the other design with,
19 you know, the HardiePlank and then the brick and
20 then the stone on the bottom. So it doesn't seem
21 to be that way anymore. You've got brick
22 underneath stone. What do the architects have
23 to say about that?

24 MR. MARTINEAU: I think that the

1 architects and the owner went through several
2 design iterations for this portion of the
3 building, and they felt that this was the
4 preferable solution.

5 MS. POVERMAN: What is the reason for
6 the change in design? It looks like design
7 detail between the approved, especially around
8 the look of the windows, and proposed where
9 there's a lot more detail on the approved than
10 the proposed. What's happened there?

11 MR. MARTINEAU: I don't know that
12 there's more detail. I think it's just change in
13 the style of the window as well as some of the
14 locations. So when you have elevations at this
15 scale, you know, it's sometimes a little hard to
16 pick up on the subtleties. But the rationale
17 with the window changes is driven by the
18 interior layouts. So shifting a window, as the
19 case may be, or as maybe needed it to accommodate
20 the interior unit layouts.

21 And so you see small changes there, as
22 well as changes to the style of the window.
23 That's just a design detail that once you get
24 into really designing a building like this, you

1 know, you look at other options to make
2 improvements, and we felt that this was more
3 desirable.

4 MR. MEIKLEJOHN: Maybe you could zoom
5 in like you did on the site plan.

6 MR. MARTINEAU: Sure. Do you want to
7 zoom in on the approved or the proposed?

8 MR. MEIKLEJOHN: Both. I'm partly
9 following Kate's question. I just wanted to get
10 a better look at it, because I think I understand
11 what she is asking about.

12 MS. POVERMAN: It just has a different
13 feel.

14 MR. MEIKLEJOHN: The newer elevation
15 has a plainer appearance, and it's because that
16 horizontal white bar at the top of the pairs of
17 windows has -- if you pan over, Mr. Martineau, to
18 the proposed, it looks like that's been -- yeah,
19 it's been eliminated.

20 MS. POVERMAN: Well, it looks more
21 institutional.

22 MR. MARTINEAU: Well, it's been
23 adjusted to accommodate, again, the unit layouts
24 and the ceiling heights. So it's still there

1 here. It's just not as tall.

2 MR. MEIKLEJOHN: It looks like an
3 element on the exterior. It's not clear to me
4 that it has anything to do with the interior. I
5 think the building has gotten notably plainer,
6 you know, counter to your presentation of the
7 minor modifications. I don't think this is
8 minor at all.

9 MR. MARTINEAU: Shall I continue?

10 MS. POVERMAN: Well, unless you want
11 to explain any more what the difference is.
12 Well, let's continue and see where --

13 MR. MEIKLEJOHN: I don't have anymore
14 questions, Mr. Chair, at the moment.

15 MR. MARTINEAU: Continuing on to Side
16 D, so this is, again, interior to the site, this
17 end of the building here, if you're following
18 the legend. You can see the window added here,
19 and this is the end of the bike storage area, and
20 that's the most notable change on this side of
21 the building.

22 Side E. So this is the backside of the
23 building now here. You can see some adjustments
24 to the windows on this side of the building. You

1 have a single hung. Now you have the double.
2 Other than that, it's really just changes to the
3 window styles, and again, they're very subtle
4 adjustments.

5 Side F. So this is the backside of the
6 building here. You can see we added a doorway,
7 and that's to accommodate a stairwell that comes
8 down and out. Side G, single windows here,
9 double windows here. And then coming around to
10 Side F, no real changes, other than you can see
11 the windows here are a little bit more centered.
12 Here, they're a bit more offset, and again,
13 changes to the window style, as well.

14 MS. POVERMAN: There's a mark (?) sort
15 of to the garage on the left, which is absent on
16 the right. Yeah, that is gone, which makes,
17 again, the one on the right look more industrial
18 and like an elementary school from the 1930s.
19 Why were changes like that made?

20 MR. MARTINEAU: Again, you know, the
21 owner, in working with the architects on the
22 design of the building, were looking to make
23 certain adjustments to accommodate the unit
24 layouts, and then with respect to the window

1 styles, locations, and as well as the material
2 changes, it's our view that this looks better to
3 us. This is how we want the building to look.
4 It is more consistent with the architecture at
5 Hancock Village, and so it blends in a little bit
6 better.

7 MR. MEIKLEJOHN: Could we just come
8 back around briefly to the elevation that shows
9 the side of the building where you see the bike
10 storage extension?

11 MR. MARTINEAU: So you see it here --
12 this is the front of the building -- and you also
13 see it here. So where you had a very large and
14 tall retaining wall running the length of the
15 building, that's brought down to accommodate the
16 bike storage and dog wash area.

17 MR. MEIKLEJOHN: I just have a
18 question about the site plan, and you can stay on
19 this slide. I'm just looking at the legend down
20 below, and I'm sorry to be not as familiar with
21 the project as some of us. But I'm just thinking
22 about how, for example, the bike storage
23 changes. You know, how visible is this in the
24 overall development. And it looks like there's

1 sort of a wooded area across the drive that wraps
2 around there, and what's in that site area above
3 the word "legend"? Is there another building in
4 there, existing building?

5 MR. MARTINEAU: So there are existing
6 town homes there, and it actually might be
7 better to go to the site plan. Sorry.

8 MR. MEIKLEJOHN: Thank you. Yeah,
9 that's probably a good idea.

10 MR. MARTINEAU: You don't quite get
11 it, just because it's outside the project
12 limits, and actually, that's the municipal
13 boundary, that dash line. So it's not so much a
14 wooded area as it is a -- you know, it's a
15 landscaped area, and there are some trees there,
16 and then there's a cluster of existing town
17 homes there.

18 So that's sort of backyards, and then
19 there's a network of walkways, which I'll go
20 back, even though it's not really a great site
21 plan. You have walkways that will bring you down
22 into -- towards the shopping center. So this all
23 kind of networks together. It also picks up over
24 here where there's a parking lot and a walkway

1 down.

2 MR. MEIKLEJOHN: I mean, the fact that
3 you put the bike storage and the dog wash there,
4 it suggests that those are put there for
5 convenience. They probably are pretty centrally
6 located and fairly visible. That's just why I'm
7 asking what they're -- you know, how they
8 present in the building. But is this a fairly
9 central location --

10 MR. MARTINEAU: Yeah, I mean, it's --

11 MR. MEIKLEJOHN: -- in the
12 development?

13 MR. MARTINEAU: In the development,
14 it's certainly fairly central to one of the more
15 centers of activity, and, you know, bike storage
16 is something that we're expanding upon across
17 the property. So this project will have it. The
18 approved Jerry building 40A project has a bike
19 storage area over there, and there will also be
20 bike storage in the Puddingstone project, as
21 well.

22 So, you know, I guess it's central in
23 that it will provide bike storage for this side
24 of the property, with the caveat that

1 additional, more centralized bike storage areas
2 will be added as projects get built.

3 MR. MEIKLEJOHN: Thank you.

4 MS. POVERMAN: Mark, were you on this
5 initial panel? Mr. Zuroff?

6 MR. ZUROFF: I was. Yes, I was.

7 MS. POVERMAN: So what I'm wondering
8 is -- I'm still bothered by the change in the
9 appearance of the building, because we have our
10 expert peer reviewer go through when changes are
11 made and tweaks are made based on feedback from
12 the board and the peer reviewer, and I'm just
13 worried that there have been changes made here
14 that change what was basically an understanding
15 of how the buildings would work.

16 MR. ZUROFF: The architectural changes
17 that I see are small, but yes, I don't disagree
18 with you. This is the way we approved the
19 building on the left, the changes that are being
20 made and explained as design changes for
21 function, and I understand your reluctance to be
22 accepting of all of them. We did approve the
23 prior design, and now it's being changed
24 specifically, but it's still significant.

1 MS. POVERMAN: You know, if it weren't
2 being made to look more institutional -- and,
3 you know, the way I interpret it as a total
4 layman is being okay, you take off some of the
5 details, that makes it less expensive to do --
6 it's hard to get character to any of these
7 buildings, but I feel like character is being
8 taken away by some of those details being taken
9 away. I just don't understand it.

10 MR. KINDERMANS: Hi. This is Theo
11 Kindermans again. Also, a little bit of this is
12 rendering. At least on my screen, what I'm
13 looking at between approved and proposed, the
14 approved, the colors are just a little bit
15 crisper. Even the blackness of the windows on
16 the approved plan is blacker, more contrast than
17 the gray of the proposed plan, and it's (?)
18 white.

19 So some of this that you're seeing
20 with the building looks flatter. I think it's
21 been a rendering from, you know, around the
22 building from several years ago to the new
23 proposed around the building. So it's a little
24 bit of that that you're seeing here.

1 MR. ZUROFF: I do understand what Kate
2 is saying. For instance, on the view we're
3 looking at, over the garage doors, there's a bit
4 of an archway on the approved plan. There's no
5 longer an archway there. The stone coloring on
6 the left of the approved plan has been
7 discontinued lower.

8 All of that contributed to a feeling
9 that the building was not as big as it is, and
10 that was a major concern of our original board.
11 The building was large. We wanted it to be
12 smaller, but in the end, you got it to look a
13 little smaller, and I think that's kind of
14 important.

15 MS. POVERMAN: I mean, going back to
16 the one that Randolph and I were commenting on,
17 especially, it's not just having to do with the
18 shading of, you know, how the particular
19 renderings come out. I mean, it's just really
20 obvious if you compare the approved with the
21 proposed that there's a lot more detailing, a
22 lot more contrast of colors and shapes than
23 there is on the right, and I don't think that's
24 what the board agreed to, and I don't think

1 that's what our architectural peer reviewer --
2 he didn't recommend the one on the right is what
3 I'm saying.

4 MR. ZUROFF: There does seem to be a
5 little bit more detail on the previously
6 approved plan.

7 MR. KINDERMANS: Yeah, but it's also
8 clear, if you look at the banding in there,
9 especially in the middle of the rendering, on
10 the right-hand side, there is -- the white
11 doesn't show up as bright white as it shows up on
12 the approved plans, and, you know, I think
13 that's a little bit -- as I said, that's
14 contrast, and it makes the proposed look more
15 flat than it is, but I don't -- yeah.

16 MR. MEIKLEJOHN: I may have
17 misunderstood. I thought Mr. Kindermans was a
18 civil engineer.

19 MR. KINDERMANS: No, I play also an
20 architect on the -- no, I'm a landscape
21 architect by trade.

22 MR. MEIKLEJOHN: Landscape architect.
23 Thank you.

24 MR. KINDERMANS: Our office actually

1 did the renderings of these.

2 MS. POVERMAN: They just look totally
3 different. So go to the middle -- on this one,
4 the second red building part from the left -- or
5 there are two smaller ones. On the left, there's
6 a big white parapet -- what is it -- red (?),
7 that seems to come out creating three
8 dimensionality, which is gone on the right, and
9 that seems to carry through, you know, a smaller
10 scale on just about everything relating to the
11 windows and ledges. Are you telling me that the
12 ledge on those two sections on approved are the
13 same as the ledges on those on the proposed, that
14 it hasn't been changed?

15 MR. MARTINEAU: It shrunk. It came
16 down. So I'm just looking at my notes here for a
17 moment. So the width of these -- these are what
18 you're talking about, right?

19 MS. POVERMAN: Just as an example,
20 yeah.

21 MR. MARTINEAU: So the widths were
22 adjusted, and this, and I agree with Theo,
23 doesn't come through quite as strongly, you
24 know, in part, because of the renderings. So I

1 can zoom --

2 MS. POVERMAN: So what was the width
3 reduced from, to?

4 MR. MARTINEAU: I don't have that in
5 my notes. It was a very minor adjustment.

6 MS. POVERMAN: It doesn't look minor.
7 I'm sorry, you know, it just doesn't look minor.
8 I'd like to have some numbers there, because I'm
9 just really bothered by what I see as a chipping
10 away at all of the individuality that was fought
11 and argued for on these buildings.

12 MR. MEIKLEJOHN: Well, Kate, before
13 you go too deep on that, Mark, could I ask you to
14 talk a little bit about the agenda for decision
15 making tonight about -- you know, with respect
16 to developing an opinion about the scope of
17 these modifications, because I've only done one
18 of these, you know, modification hearings
19 before.

20 MR. ZUROFF: Well, the modifications
21 that we're considering are those detailed in Mr.
22 Schwartz's letter and the application itself.
23 There was no request for a modification of
24 design, as I understand it, even though there

1 are modifications to the design.

2 So our purview here tonight was to
3 weigh in on the changes of unit mix and driveways
4 and materials, but not on the design. And I
5 think what my two fellow board members are
6 seeing is that there are changes to the design
7 that, for whatever reason -- and it may be a good
8 reason, but they are changes to the design that
9 we're not actually being asked to consider, but
10 they are there.

11 So I really don't know whether we are
12 able to quantify whether those changes are a
13 modification request or -- I mean, I suspect,
14 Mr. Levin, that you're not proposing them as a
15 design change, but they are.

16 MS. POVERMAN: Could we get a
17 different view? I just like have a half view of
18 a building here, and it's really irritating.
19 Just give a full screen of something of what
20 we're looking at.

21 But yeah, Mark is saying exactly what
22 I'm thinking. I mean, we approved a project that
23 looked a certain way. You're asking for changes
24 -- particular changes, and it's like oh, yeah,

1 maybe you won't even notice that we made these
2 changes, but here's the one we're proposing now,
3 and that's going to become what we do.

4 MR. MEIKLEJOHN: Well, Mark, there is
5 a paragraph in the letter, the Goulston & Storrs
6 letter, on Page 3, and it's II(1)C that, you
7 know, as shown in the modified plans, the south
8 and southwest elevations and so on, and it does
9 go on to, you know, list in a couple of sentences
10 minor changes, as it says, minor changes to
11 window styles, window locations, exterior door
12 locations, widening window bays, and so on.

13 I'm still looking for language about,
14 you know, changing the building materials, you
15 know, changing brick to the HardiePlank and
16 changing stone to brick and things like that,
17 which we've certainly seen a fair amount of. And
18 Mark, my original question is whether -- well,
19 you're sort of answering a different question.

20 I was just asking about whether we're
21 mainly trying to just decide substantial or not
22 substantial, but you've been pointing towards,
23 you know, the scope of the identified
24 modifications. You know, the drawings are a

1 little bit different from the letter.

2 MR. ZUROFF: I think what you did is
3 you pointed out that the, quote, unquote,
4 "minor" changes don't appear to be as minor as
5 the applicant may have considered them. We are
6 seeing -- or at least the other two board members
7 -- and I understand where they're coming from.

8 We're seeing design changes that may
9 not be minor in our opinion. So what I'm being
10 directed toward is asking the applicant if these
11 changes -- although you consider them minor,
12 we're not apparently seeing them as minor, and
13 whether these design changes can be reversed.

14 To go back more to the original
15 design, even though you're changing some of the
16 functionality inside the building, we understand
17 that, but you've also changed the fenestration,
18 some of the detail on the exterior, and those
19 things, apparently, are not striking my fellow
20 board members here.

21 MR. MARTINEAU: Steve, you look pre-
22 verbal (??).

23 MR. SCHWARTZ: Well, I just was going
24 to say I think it's, you know, potentially a

1 matter of the language that's being used. I
2 don't think that we would concur with the idea
3 that the design of the building is changing, as
4 much as based on when a comprehensive permit is
5 approved based on essentially what's supposed to
6 be a preliminary set of plans, and then certain
7 aspects evolve through the process.

8 If you actually look at the
9 comprehensive permit regulations, they don't say
10 a lot about what is considered to be a
11 substantial or an insubstantial change, but one
12 of the things they do say, pretty explicitly, is
13 a change in the color or style of materials used
14 in the building is considered to be an
15 insubstantial change. And in our view, that's
16 what we're talking about here, not, you know,
17 any major changes in the design of the building
18 but really a change --

19 MR. ZUROFF: But you have changed the
20 design, because I'm looking at the view that I'm
21 looking at now, and you've changed the coloring,
22 you've changed the --

23 MR. SCHWARTZ: The coloring is --

24 MR. ZUROFF: No, no, no. Let me

1 finish. You've also changed -- along the bottom
2 of the building, you've also changed the windows
3 so that it now looks -- just on first view, it
4 does look like there's an additional story,
5 because you've added a row of windows. And I
6 know very well that we pushed back hard on the
7 size of this building and on the appearance of it
8 as being larger than it should have been, but you
9 got it through based on the design changes that
10 you made at our request.

11 MR. SCHWARTZ: Right, but --

12 MR. ZUROFF: Now, you're going
13 backwards.

14 MR. SCHWARTZ: In fairness, I think
15 the vast majority of that discussion was really
16 about the height of the building and the fourth
17 story, and in my recollection, at least, much
18 less about, you know, the details of the
19 fenestration or the like that we're changing,
20 which we think are, you know, squarely within
21 what the comprehensive permit regulations
22 contemplate as being insubstantial changes. And
23 I realize that's a matter of opinion and
24 judgment, but I think if you actually look at the

1 language in the comprehensive permit
2 regulations, we think we're within that area.

3 MS. POVERMAN: Well, let me pick up on
4 what Mark was saying, because he's making a very
5 important point. The height was important. The
6 board may not have had the building lowered to
7 the extent it wanted it.

8 So together with the peer architect
9 reviewer, the applicant made changes to the
10 design to make it appear more contextual with
11 the neighborhood, with the other Hancock
12 buildings, and like a more residential building.

13 So that is, in effect, a pact you're
14 making as you go through the hearing and say
15 okay, architectural peer reviewer, you
16 recommended this, yeah, we can do that, okay,
17 here are the designs that we're showing to show
18 that we did this. The architectural peer
19 reviewer says yes, I like that. The board says
20 okay.

21 I mean, we all know that the way a
22 building works in the architectural review is
23 key in all cases, but especially in 40Bs, which
24 are -- can be so problematic. And while there is

1 not written as part of the rules as to what's a
2 substantial change, we all know that there are
3 guidelines for 40B design and booklets relating
4 to that.

5 So if at the end of a hearing, you've
6 produced a model which satisfies the board and
7 its peer reviewer that sufficient design
8 elements according to 40B design guidelines and
9 aesthetic issues, which have been basically
10 bartered during the agreement, those have been
11 agreed to, but then you come along several
12 months later and say oh, yeah, well, so what. We
13 decided to change it to, you know, no harm, no
14 foul. Go away, you can't do anything. Well,
15 that's just not right.

16 MR. SCHWARTZ: Well, I think, in
17 fairness, it's not several months later. It's
18 several years later based on a design that was
19 presented a few years ago because the project
20 underwent substantial litigation appeals,
21 etcetera, before it was -- construction was able
22 to commence.

23 You know, again, there is clearly some
24 discretion here, but I think if you actually

1 look at what's changing, it really is changes in
2 the color and the style of materials, not major
3 changes to the design of the building, and I
4 think these are the types of changes, frankly,
5 which fit pretty squarely within the definition
6 of insubstantial under 40B.

7 I think, actually, these issues with
8 regard -- when you call the 40B problematic, I
9 think that sort of begs the question. I think
10 that the design issues and the scope of review
11 and discretion on design issues like this were
12 materials and colors, and fenestration is
13 probably less in a 40B context than it is in a
14 40A context, frankly.

15 MS. POVERMAN: Well, we don't have
16 peer reviewers in 40A contexts, and we do --

17 MR. SCHWARTZ: Well, that's never --

18 MS. POVERMAN: (Talked over) so it's
19 no small thing, as you know.

20 MR. SCHWARTZ: Well, because I suspect
21 that's because much of that in the 40A context is
22 done through the design advisory process, which
23 any 40A project goes through, which is extremely
24 detailed, and that's why when it gets to the

1 zoning board, it's been through that process.
2 It's not that it doesn't happen. It just happens
3 in a different place.

4 MS. POVERMAN: Well, I don't agree
5 with that analysis at all of how peer review of
6 architectural design works in the 40B context,
7 but, you know, my -- Maria and Mark, I'm kind
8 of --

9 MR. MARTINEAU: Can I just say
10 something? You know, we're looking at this
11 elevation, and this is one where yes, you know,
12 the building appears taller because of the
13 windows for the bike storage and dog wash area.

14 But I think it's worth noting that
15 we're looking at these elevations in two
16 dimension. So you don't really get a full
17 appreciation of, you know, the changes because
18 -- and particularly on this side of the
19 building, a full appreciation of the changes,
20 because this condition is only for one level,
21 and it's only on this side of the building.

22 So yes, we've made some changes to the
23 materials, you know, carrying down the brick or
24 the paneling on certain sides of the buildings,

1 which I would tend to agree with Steve, fall
2 squarely within the context of what's typically
3 considered an insubstantial change.

4 As far as the other changes to the
5 windows and the fenestration, you know, I
6 wouldn't say that these are the wholesale
7 changes that I think they're being made out to be
8 from the approver's proposed condition. You
9 know, I think we need you to look at it in the
10 context of these are two-dimension renderings.

11 We're not changing the materials on
12 all sides of the buildings, we're not changing
13 the fenestration on all sides of the buildings,
14 and so, you know, this one particular side of the
15 building is probably not the best example. It's
16 a lean-on for, you know, you're making wholesale
17 changes to the building, because this is not --
18 this is just one side of the building.

19 MS. POVERMAN: Right. Well, let's
20 look through the others again, because, I mean,
21 as I said, my general concern is making
22 something look more institutional than it needs
23 to look. Even though it's already a big building
24 that was very contentious at the time, it was

1 negotiated and approved.

2 MR. MARTINEAU: So here, again, just
3 walking through it, you have the stone
4 condition. Here, we're proposing to carry the
5 brick down and the paneling down, and then you
6 have the single hung versus the double hung
7 windows.

8 MR. ZUROFF: With all due respect, I
9 understand what you're saying, and I understand
10 that these are architects -- this is appearance,
11 it's cladding, but the change of design --
12 listen, by your own admission, the rendering on
13 the right is not as clear or maybe as high
14 contrast as the one on the left, which is a
15 disservice to what you are trying to convey to
16 us.

17 And maybe a better rendering would
18 have made your argument more easily accepted,
19 but the fact is that the building on the left,
20 the design on the left, looks to be smaller
21 because of the coloring of the first story, and
22 you've changed it, and I know that you think that
23 it's more functional for you, and it's not a
24 substantial difference, but it looks to us like

1 it's a design change that makes a difference.

2 So I understand what CMR says about
3 what's substantial and what's not substantial,
4 but you've done yourself no good service by
5 presenting a design change that goes contrary to
6 what we asked for and got. And I can tell you
7 that, you know, it would have been much better
8 had you not done what you've done. And I'm
9 asking you now are all of these changes that
10 you've proposed on these buildings --

11 Specifically, I'm looking at this view
12 here and seeing the color change on the lower
13 story. Why is that necessary? Why couldn't you
14 keep it the way it was? I mean, I understand
15 changing windows, but why couldn't you keep the
16 colors the same?

17 MR. MARTINEAU: So the material, I
18 think is what you're referring to, and it's a
19 matter of personal preference. You know, this
20 is --

21 MS. POVERMAN: It's a matter of good
22 faith.

23 MR. ZUROFF: But you could have kept
24 the colors the way they were, and we wouldn't

1 have had a question about the change in design.

2 MR. MARTINEAU: So I'm sorry, are you
3 questioning the stone, or are you questioning
4 the color of the brick?

5 MR. ZUROFF: No, I don't care what
6 color the brick is. I'm saying I see a
7 definition between the first story and the upper
8 two stories on the left, and I don't see it on
9 the right.

10 MR. MARTINEAU: That's because the
11 material has changed from stone to brick.

12 MR. ZUROFF: And I'm asking you why
13 you made that change. Why does that serve your
14 function? Why didn't you keep it the way it was?

15 MR. MARTINEAU: We made the change
16 because the ownership feels this looks better.
17 It's a matter of personal preference.

18 MR. ZUROFF: All right. I think
19 you're getting a sense from the board that they
20 don't agree with the developer. Now, I
21 understand the legal argument, but I'm saying
22 from a design standpoint, and from an aesthetic
23 standpoint, it wasn't a good move.

24 MS. POVERMAN: No, and it wasn't a

1 respectful move to either us or the
2 neighborhood.

3 MR. MEIKLEJOHN: Mark, can I ask a
4 question?

5 MR. ZUROFF: Of course.

6 MR. MEIKLEJOHN: Maria had sent us a
7 link, of course, to 760 CMR, and while this
8 discussion was going on, I was just reading the
9 text of it where they give examples of what are
10 generally substantial changes and what are
11 generally not substantial changes. And, you
12 know, I'm not going to read them all, but, you
13 know, there's some -- the example of changing
14 one material to another does not appear on
15 either list.

16 So my question is has the question of
17 scope of changes to the proposal come up, you
18 know, before this board where, you know, we got
19 things that are in the middle? Some of these
20 things might be in the middle between the -- you
21 know, in my initial reading, between substantial
22 and insubstantial changes, and they aren't
23 covered by the examples in the statute.

24 MR. SCHWARTZ: Can I just correct that

1 for a moment, because I think that that's
2 actually not accurate. 76056.07 specifically
3 lists -- Part 4 specifically lists examples of
4 substantial and insubstantial changes, and in
5 the listing of matters that are not considered
6 to be substantial changes, Item Number 4 is a
7 change in the color or style of materials used or
8 to provide that --

9 MR. MEIKLEJOHN: Yes, thank you. Mr.
10 Schwartz, this is exactly my point. There is no
11 example of a change in the materials used. I
12 think, to me, and I'm an architect, an example of
13 a change in the color of style or materials used
14 would be changing one colored brick to another
15 colored brick, but, you know, there -- you know,
16 you've shown us several examples where you're
17 changing the brick to the HardiePlank, and that
18 -- to me, that is an example of something that
19 the statute does not say is either sub -- doesn't
20 say it's one or the other.

21 MR. SCHWARTZ: Right.

22 MR. MEIKLEJOHN: Thank you.

23 MR. SCHWARTZ: That's a point that's
24 well taken, and I understand what you're saying.

1 You know, if we were to, you know, do a wholesale
2 change in the building materials, you know, that
3 was, you know, totally changing that, I could
4 see what you're saying. I think this is -- and I
5 understand this is a matter of opinion, but in
6 our opinion, it's a fairly, fairly minor one,
7 but I understand you're saying it changes the
8 overall appearance of the building.

9 But if you look at what is considered
10 to be substantial, you know, they're really
11 talking about really significant changes in, you
12 know, totally changing the building type. You
13 know, if you look at the change in building type,
14 you know, when you're talking about significant
15 changes or significant changes in unit counts or
16 bedrooms or, you know, the site itself, those
17 are really, in my experience, at least, the
18 types of changes which are considered --
19 generally considered by the board to be
20 substantial, not changing one story, frankly,
21 from stone to brick --

22 MR. MEIKLEJOHN: No argument about the
23 clarity of the -- you know, affirmatively
24 describing substantial changes. And yet, you

1 know, since you're, you know, in the business of
2 40B developments in Brookline, I'm sure you know
3 that there are many, many, many public meetings
4 and hearings in which, you know, the particular
5 material of the garage door is discussed at
6 length and the windows and the first story and
7 the cladding on the columns and the cladding on
8 the top of the building.

9 And, you know, the reality, as the
10 chair is pointing out, is that these meetings do
11 go pretty deep on materials, and I think, you
12 know, you're seeing -- that's a little bit of
13 what is behind perhaps some of the members'
14 questions being raised about a material change,
15 for example, a story.

16 MS. POVERMAN: Sorry. I would also go
17 with the detail change. I'm not giving up on my
18 -- you know, the hard fought wars won and lost
19 between architectural review and, you know,
20 developers in the town in terms of what ends up
21 being a 40B that is built, and it should be the
22 project that was approved by the board.

23 MR. ZUROFF: Let me add some clarity,
24 if I might. I do understand you're here for what

1 you have detailed in terms of interior design
2 changes and changing the roads, and none of
3 those, at least in my opinion, rise to the level
4 of substantial, although we could talk about
5 that some more. But my question to you, your
6 team, is that I understand that you felt
7 architecturally or design wise that the design
8 on the right was better than the design on the
9 left, and what I'm telling you is if you felt it
10 was better for your purposes, fine.

11 We see it, the way we were originally
12 given it and approved, as not so fine, and I'm
13 asking you now why -- would you consider going
14 back in design to what you had and had gotten
15 approved? I mean, these are aesthetic changes
16 and not architectural or design changes.

17 This is just the aesthetic of the
18 building we approved before, and you've changed
19 it for whatever reason, but I'm seeing it as a
20 change that may be not substantial under CMR,
21 but it's kind of offensive that you went ahead
22 and made these changes, and you just didn't
23 think that we would care, and we do care.

24 MR. SCHWARTZ: Well, certainly, no

1 offense was intended. So to the extent that any
2 offense was conveyed, we apologize for that. I
3 mean, if this were a regular hearing, if we
4 weren't in Covid zoomland, this would probably
5 be a point in time where I would ask just to
6 confer with our clients briefly, but we
7 obviously can't do that.

8 MR. ZUROFF: Well, let me suggest to
9 you this, that as I pointed out, and your own
10 architect or designer pointed out, that the
11 renderings that you're presenting to us are not
12 as clear as they could have been. The ones that
13 were originally approved were better. They had
14 more shading, more definition, more detail, more
15 contrast.

16 I'm asking you whether you would
17 consider submitting a better set, and maybe
18 reconsider some of the design changes that
19 you've made. I don't want you to change your
20 materials. That's not what I'm asking. I'm
21 asking you to change the view that we have of the
22 building back to more of what was already
23 approved. Would you consider doing that and
24 submitting a better set of renderings?

1 MR. MARTINEAU: I think we would
2 certainly consider doing that. I just want to
3 make sure that we understand the direction we're
4 given.

5 MS. POVERMAN: I'm sorry, could we go
6 back to see faces again? Can you take this off
7 the screen? I'd rather see people's faces at
8 this point.

9 MR. MARTINEAU: I had a little bit
10 more to the presentation. So maybe we'll just go
11 back.

12 MS. POVERMAN: Sorry.

13 MR. MARTINEAU: No, it's okay.
14 There's only a few more slides. You know, I just
15 -- I think it's something that we would
16 consider. I would just look -- or ask for a
17 little bit more direction. I thought you were
18 going where I thought -- I thought I knew where
19 you were going when you were just speaking, Mr.
20 Chairman, and then you talked about, well, don't
21 change the materials back.

22 So, you know, I feel like from some of
23 the board members, we've heard that the change
24 to materials on that first floor was

1 problematic. You know, instead of having the
2 stone where we've proposed to carry down the
3 brick and the panel, I've heard that that was
4 problematic. You know, I think that that's
5 something that we could look at.

6 The window locations, I mean, that's a
7 function of the interior layouts of the units,
8 and those changes were rather subtle. So I guess
9 what are the top three or four items that you
10 want us to look at specifically with respect to
11 the design?

12 MR. ZUROFF: I'll answer that --

13 MS. MORELLI: Excuse me, Mr. Zuroff --

14 MR. ZUROFF: -- but I want Maria to
15 join. Yes?

16 MS. MORELLI: So this is not a
17 hearing. I think if the board wants to revisit
18 -- I've never heard of, you know, continuing a
19 public meeting for this purpose.

20 MR. ZUROFF: Well, that --

21 MS. MORELLI: Excuse me. I'm not
22 sure. Are you saying that you need more
23 testimony, do you need more peer review? I think
24 the question before you is if you want to discuss

1 this, and you need testimony, then it would be
2 substantial. I guess --

3 MR. SCHWARTZ: I totally disagree with
4 that, Ms. Morelli. This is just a request for a
5 continuation for us to consider some changes to
6 the design. The fact that the board has some
7 concerns about some changes here does not make
8 this substantial. That's not accurate or
9 correct in any way.

10 MS. POVERMAN: I think part of what
11 Mark is asking for is -- if you're saying we just
12 really are misunderstanding what you've done,
13 because the pictures you're presenting us are
14 not clear enough, then give us the clearer
15 pictures if that will cure the problem.

16 MR. MARTINEAU: I think it would
17 certainly help.

18 MR. ZUROFF: So Maria, let me address
19 your comment. I am not proposing -- and we're
20 not making a judgment as to substantial or
21 insubstantial. What we're asking for is more
22 clarity on the changes in the design of the
23 building. And I think, and Mr. Schwartz, I
24 think, would agree, that we could continue this

1 meeting just to ask for better renderings and
2 maybe some reconsideration of some material
3 changes before we actually make a judgment on
4 substantial or insubstantial.

5 MS. MORELLI: Sure. I think the other
6 thing I would recommend, that lower level --
7 there's a lot of vegetation along that lower
8 level, so I think that --

9 MR. ZUROFF: And that might be helpful
10 as part of the renderings, as well.

11 MS. MORELLI: Correct, if we could
12 just have better renderings regarding the
13 landscaping.

14 MR. ZUROFF: So board members, can I
15 ask you, would you be in favor of continuing this
16 meeting to allow the applicant to provide us
17 with better renderings and maybe to try to
18 conform some of the appearance of the building
19 more closely to the originally approved design?

20 Again, I am not suggesting that you
21 move windows. I don't think that's what we're
22 talking about. I think we're talking more about
23 the appearance of the building based on what was
24 already approved.

1 MR. MARTINEAU: I think we get it.

2 MS. POVERMAN: I agree, and I also
3 think it gives us a chance to look at the
4 testimony from past hearings and just say okay,
5 well, what didn't we agree to.

6 MR. ZUROFF: Well, you can do that, of
7 course.

8 MR. MEIKLEJOHN: Mark, I'll say I'm
9 willing -- I was about to say I wanted to make
10 sure Mr. Martineau had got his question
11 answered, because I thought it was a legitimate
12 one. Mr. Martineau, do you have -- I want to
13 make sure you don't get conflicting messages,
14 because I know that we were all talking at once
15 and commenting on -- you know, some of the
16 comments were about details, and some of them
17 were about material changes, quality, things
18 like that.

19 MR. MARTINEAU: Yeah, it just seems to
20 me like there's different buckets, so to speak,
21 of architectural elements that you want us to
22 address, and I think what I'm hearing is that you
23 want us to look at the material of the building
24 and look at ways to preserve what was approved

1 with respect to those changes that we are
2 proposing, like going from stone to brick or to
3 HardiePlank, as the case may be, that sort of
4 thing. Those are certainly things that we can
5 look at easily enough. I just wasn't sure if the
6 scope of what you wanted us to look at expanded
7 beyond that, but it doesn't sound like it does.

8 MS. MORELLI: Excuse me. I'm sorry.
9 It just sounds like you're making changes to the
10 design. That sounds like more of an
11 interaction. You know, I just feel like it's
12 getting a little beyond the scope, which is to
13 determine if it's substantial or insubstantial.
14 If you need clearer materials, that's one thing,
15 but I'm actually -- I promoted Director
16 Steinfeld, who might want to speak.

17 MS. STEINFELD: Thank you, Maria. A
18 few things. One is, I mean, I think we're
19 dangerously getting close to public hearing. To
20 expand upon what Maria said, if the board does
21 want to continue the meeting, we certainly need
22 it in writing from the applicant because,
23 statutorily, we're required -- or at least by
24 the regs, we're required to hold the public

1 hearing within 30 days.

2 I'm a little concerned also that
3 there's only one lawyer in the room, and it's not
4 a lawyer for the town. So, for example, I have
5 never dealt with continuing a public meeting
6 under 40B.

7 MR. ZUROFF: Nor have I.

8 MS. STEINFELD: Right. So, I mean, to
9 some extent, it might make sense to hear
10 testimony, which means opening it for a public
11 hearing, to hear a few things. One is from our
12 attorney or from our 40B consultant to
13 understand if this is potentially a substantial
14 change and, possibly, if the switch from
15 Grasscrete to paving is a substantial change.

16 MR. SCHWARTZ: Can I just say that I
17 think that if that's the direction that people
18 want to go -- by the way, I have been involved in
19 other communities, municipalities with precisely
20 this kind of question from board members where
21 they say we're not really comfortable with this
22 aspect of your request for any substantial
23 change. Can you come back next time and tweak
24 this or show us something different.

1 This has happened any number of times,
2 not in Brookline, but in many other places. That
3 doesn't make it -- switch it from substantial --
4 from insubstantial to substantial, and I'm quite
5 confident of that fact. But, I mean, it would be
6 easier for us, frankly, just to withdraw this
7 request and resubmit it as another request for
8 an insubstantial change, rather than have it be
9 considered substantial. So, you know --

10 MS. STEINFELD: Mr. Chair, that may
11 make sense.

12 MR. ZUROFF: Listen, I'm looking at it
13 this way. It seems to me that the applicant is
14 willing to revise its renderings without us
15 having to make a decision, but if -- on the legal
16 basis, if we have to do it the way Mr. Schwartz
17 has proposed, I'm not going to -- I wouldn't
18 stand in the way of that. I'm just trying to be
19 efficient with our time.

20 MR. SCHWARTZ: It's really not
21 necessary, but I guess my only point -- I really
22 believe it's not necessary and that the board
23 certainly has the discretion to say please come
24 back next time with clearer renderings, and

1 consider these, you know, two or three things.
2 I've done it before. I think it's perfectly
3 legal and appropriate under the regulations and
4 the law. That's our view, and that's my view,
5 and I feel that's right.

6 But I certainly don't want this to be
7 turned into a public hearing or a request for
8 substantial changes. We don't think that's what
9 this is, and if it's absolutely necessary for us
10 to withdraw, we'll just come back and submit new
11 plans and another request for an insubstantial
12 change. I think it's frankly a waste of time and
13 paper, but if that's really what the board wants
14 us to do, we'll do that.

15 MS. POVERMAN: I don't think the
16 town's interests are being injured or put at
17 risk here in any way by taking the approach that
18 Mr. Schwartz says that other jurisdictions or
19 towns have done, which is just to come back with
20 another set of documents to show us, rather than
21 going through the whole notice and everything
22 requiring him to get, and if we get in a similar
23 kerfuffle or whatever, then maybe yeah, we have
24 to decide that it's a substantial hearing. But I

1 think it's worth taking a shot at just
2 submitting things again.

3 MR. ZUROFF: As a continuance?

4 MS. POVERMAN: Yeah.

5 MS. STEINFELD: Well, I would like it
6 in writing --

7 MR. SCHWARTZ: Of course.

8 MR. MARTINEAU: I can do that tonight.

9 MS. STEINFELD: -- to know you agree
10 to it, because of the reg of the 30-day
11 restrictions.

12 MR. SCHWARTZ: Of course. We're happy
13 to do that.

14 MS. STEINFELD: And if I may suggest,
15 if you articulate for the sake of the developer
16 exactly what you want to see on those
17 renderings, I'm sure that would be helpful, and
18 also, if -- I think -- Maria, do you think we can
19 talk to the fire chief, and can we pursue that?

20 MS. MORELLI: Sure. So the --

21 MS. STEINFELD: That's not getting
22 additional testimony, we're okay on that?

23 MS. MORELLI: Yeah. I've done that
24 before, I think, consulting with staff just to

1 make sure, you know, nothing rises to where --
2 you know, I think the issue here is that the fire
3 chief would agree to having three gates at those
4 locations, because that could slow down access.
5 So I think it's actually -- it behooves the
6 developer to consult with the fire chief. I know
7 I certainly will.

8 And if he were not to support gates,
9 then, you know, think about an alternative,
10 because there really has to be -- a very
11 important part of the initial hearing was to
12 have visual cues that really precluded people
13 from driving over that driveway access. So I
14 just have to state that. That was the whole
15 point of having grass concrete.

16 MR. ZUROFF: I think what we're
17 looking at is an opportunity for us to have sort
18 of a revised presentation, address the concerns
19 that we've raised without having to do this all
20 over again, and the developer is willing to do
21 that. So I'm willing to allow for a continuance
22 of this meeting to review those proposed changes
23 -- those requested changes, and if the developer
24 will sort of try to address the changes in

1 appearance of the building, not so much the
2 materials or the interior changes that you're
3 making, just the materials that we're seeing on
4 the outside of the building, I think we'll make
5 great progress here.

6 MR. SCHWARTZ: At the risk of
7 prolonging this, I think that Mr. Meiklejohn was
8 responding a few minutes ago to Andy's question,
9 and I don't want to prolong it, but if we could
10 get a sense -- and Allison, you were saying this,
11 too. If we could get a sense just from the board
12 members about what their -- you know, is it the
13 first level, you know, stones or brick, you
14 know, is it that ledge; what specifically are
15 the top issues that you really -- we want to get
16 it right next time, I guess, is what I'm saying.
17 So we don't want to have this happen again.

18 MR. ZUROFF: We want you to get it
19 right also.

20 MR. SCHWARTZ: Right.

21 MS. POVERMAN: What I want to see
22 coming back or make sure it's there, as you say
23 it is, but perhaps not as brightly
24 distinguished, are the architectural details,

1 which made the building seem more broken up and
2 more residential and smaller. So that included
3 for me things like the definition over the
4 windows of ledging, of the breakup along the
5 facades, and also Mark's point about the little
6 dog windows.

7 MR. ZUROFF: The arch?

8 MS. POVERMAN: Right, just
9 architectural details, which are not functional
10 but extremely important in terms of how the
11 building reads. And they're already there, so
12 it's not like I'm asking you to create
13 something.

14 MR. ZUROFF: As much as possible to
15 conform more closely to the originally approved
16 design.

17 MS. MORELLI: I think it would also be
18 helpful to have -- I know there's like a 3D
19 model. I think in the past, the applicant -- or
20 the developer has just done an animation. I
21 don't know if that's too complicated, but I
22 think -- is that too complicated just to provide
23 information?

24 MR. MARTINEAU: Probably, yeah.

1 MS. MORELLI: Even 3D, just some
2 perspectives --

3 MR. ZUROFF: Better renderings.

4 MS. MORELLI: -- of 3D renderings. We
5 were just looking at plans -- elevations that
6 are very flat and two-dimensional. I think you
7 really do need to provide just some perspective,
8 some renderings, that can show the volume,
9 because the volumes aren't changing, and that's
10 key. I think there might be a perception because
11 that stone had -- the delineation between the
12 stone and the brick made it look like it was two
13 stories over one, and now, it looks like, you
14 know, three stories or four stories over one,
15 and I think that's what the ZBA is responding to.

16 So it's really important to see that
17 the volumes haven't changed. And also, the
18 landscaping might actually camouflage whatever
19 that ground floor is, no matter what material it
20 is, and the -- I know that you spent -- the board
21 spent a lot of time discussing landscaping
22 around Building 12, as well. So I think those 3D
23 perspectives would be helpful.

24 MR. MARTINEAU: We can do that.

1 MS. STEINFELD: Mr. Chair, would you
2 like all four sides?

3 MR. MARTINEAU: More than four.

4 MR. ZUROFF: Well, however many we
5 just saw. As many sides as you can provide.

6 MR. SCHWARTZ: I think we have our
7 marching orders.

8 MS. STEINFELD: Can we pick a date, or
9 would you want to get back to us?

10 MR. MARTINEAU: Well, I'll just write
11 an email now, and I'll put out two to three
12 weeks?

13 MR. ZUROFF: As long as it's not on
14 Thanksgiving --

15 MR. MARTINEAU: So I'm thinking ahead
16 of the calendar here.

17 MR. MEIKLEJOHN: Or the second week of
18 town meeting.

19 MS. MORELLI: I'm thinking that this
20 might have to be the -- I don't know, maybe
21 December 7, just after Thanksgiving. I just
22 don't think with --

23 MR. MARTINEAU: Yeah, that's
24 reasonable.

1 MS. STEINFELD: And as of now, there's
2 no town meeting? Could you get something formal
3 to us in writing? It can be an email, but just
4 something agreeing to --

5 MR. MARTINEAU: Yeah, I'll do that.

6 MS. STEINFELD: -- acknowledging that
7 it's going beyond the 30 days? Thanks.

8 MR. MARTINEAU: No problem.

9 MR. ZUROFF: I want to thank the
10 developer for being willing to do this. I
11 appreciate it.

12 MR. SCHWARTZ: And we want to thank
13 the board.

14 MR. MARTINEAU: Yeah, thanks for that.

15 MR. ZUROFF: Do we have any further
16 business, or should we just adjourn and
17 continue?

18 MS. MORELLI: It's okay to continue.

19 MR. ZUROFF: I want to thank everyone
20 for attending and presenting and listening, and
21 we don't have a date certain, but we're going to
22 get a date certain?

23 MS. MORELLI: I think it's December 7.
24 Did we all agree?

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MR. ZUROFF: December 7. So this meeting is continued to December 7. Thank you very much, everyone, for speaking and listening. This meeting is now adjourned. Thank you.

MR. SCHWARTZ: Thank you.

MR. MARTINEAU: Thank you.

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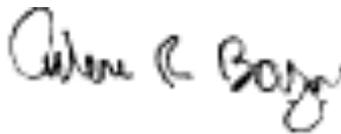
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I, ARLENE R. BOYER, a Certified Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify:

That the proceedings herein was recorded by me and transcribed by me; and that such transcript is a true record of the proceedings, to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal this 18th day of November 2020.



Arlene R. Boyer, CVR
Notary Public
My Commission Expires
November 21, 2025

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11 6:13 11:5	760 59:7	activity 29:21	agreed 42:24
12 78:22	76056.07 60:2	39:15	52:11
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