

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, NOVEMBER 20, 2014

7:05 p.m.

in

Senior Center

806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member
Douglas Myers, Associate Member

Sean O'Grady, Zoning Specialist

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I N D E X

<u>CASE</u>	<u>PAGE</u>
BZA-003934-2014 -- 7 Kirkland Road	3
BZA-004610-2014 -- 10 Glassworks Avenue	7
BZA-003764-2014 -- 650 East Kendall Street	12
BZA-005393-2014 -- 200-202 Lakeview Avenue	16
BZA-005420-2014 -- 134 Magazine Street	35
BZA-005332-2014 -- 166 Elm Street #2 (North)	94
BZA-005395-2014 -- 1430 Mass. Avenue	122
BZA-005437-2014 -- 324 Harvard Street #2A	119
BZA-005419-2014 -- 59 Market Street	148
BZA-005363-2014 -- 25 Alpine Street	209
BZA-005313-2015 -- 41-45 Alewife Brook Parkway #C	226
Keyword Index	

PROCEEDINGS

(7:05 p.m.)

(Sitting Members Case No. BZA-003934-2014: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: Okay, the Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to start with the continued cases. The regular cases will not start until 7:30, the first of the cases per our agenda. We're not trying to pull a fast one and rush something through that's not ready to be heard.

So, the Chair will call the first continued case, it's case No. 003934, 7 Kirkland Road.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one here.

The Chair would also report that we are in receipt of an e-mail from the petitioner addressed to Maria Pacheco. (Reading) Per my conversation with Sean O'Grady today, I recognize that I failed to cite the relevant articles in our application for 7 Kirkland Road. I am requesting a continuance of my case. We will file a new application ASAP. And please let me know if we can get a new slot. We will be away Christmas week, but should be able to make any other Thursday.

And just for the benefit of the Board, the problem here is that the petitioner just advertised for a setback relief, and upon examination of the plans, it appears they also need relief or need to seek relief from the separation of buildings provisions of our Zoning By-law. You have to be at least 10 feet apart, and what they're proposing will

be three and a half feet -- the residence of the garage. And that's why they're going to have to re-advertise and seek a second Variance; not just setback, but separation between buildings. So that's the basis for the case.

The Chair moves that we continue this case as a case not heard until seven p.m. on January 8th subject to the following conditions:

The petitioner has already signed a waiver for a time of decision.

But that the petitioner modify this posting sign to reflect the new date and the new time. It's important that she understand both the date and the time, to seven p.m. on January 8th.

That to the extent new plans are to be submitted or a new dimensional form from

that, which is already in our files, those must be in our files or the ISD Department files no later than five p.m. on the Monday before January 8th.

All those in favor of continuing the case on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Case continued.

(Alexander, Sullivan, Scott, Green, Myers.)

* * * * *

(7:05 p.m.)

(Sitting Members Case No. BZA-004610-2014:
Constantine Alexander, Brendan Sullivan,

Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 004610. 10 Glassworks Avenue.

Is there anyone here wishing to be heard on this matter?

RICHARD McKINNON: Good evening.

CONSTANTINE ALEXANDER: You've been here before. As you know, give your name and address to the stenographer, please.

RICHARD McKINNON: Yes. Richard McKinnon, One Leighton Street, 1905, Cambridge, Mass.

How are you, Mr. Chairman?

CONSTANTINE ALEXANDER: I'm fine, how are you? I may not be fine before the evening's over, but right now I'm fine.

RICHARD McKINNON: I sent an e-mail in to Maria and Sean earlier and we had asked

for a continuance so that we can go to the East Cambridge sign forum which was going to be in the end of last month, but it wound up being delayed and they didn't have it until this month. And so I'd like to know if I could ask for a second continuance so I could -- they're redoing the sign and we'd like to bring it back to the East Cambridge Planning Team.

CONSTANTINE ALEXANDER: By all means. When would you like to have the case continued to, and then we'll let you know if it fits our schedule.

RICHARD McKINNON: I think if not the first week but the second week in January, Sean.

CONSTANTINE ALEXANDER: That would be the 29th.

RICHARD McKINNON: Yes.

CONSTANTINE ALEXANDER: Our

schedule is different than the usual.

RICHARD McKINNON: The only thing that I might add is the Variance is shrinking rapidly as we go through the process. It's going to be only one sign instead of two.

CONSTANTINE ALEXANDER: Okay, the relief you're seeking is not going to be as pronounced.

RICHARD McKINNON: Yes.

CONSTANTINE ALEXANDER: A wise decision.

Okay, the Chair moves, this case be continued until seven p.m. on January 29th. This being a case not heard. Subject to the -- and the petitioner having previously signed a waiver for a time of decision subject to the following conditions:

That the posting sign be modified to reflect the new date and the new time. Both.

RICHARD McKINNON: Yes.

CONSTANTINE ALEXANDER: And be maintained for the two-week period required by our Ordinance.

And secondly, to the extent that, and it sounds like there is, this will happen, there's going to be a modification of the plans or the signs that are in our files for the dimensional form, those must be in our files no later than five p.m. on the Monday before January 29th. If that doesn't happen, we're not -- we'll continue the case again or dismiss it. We're not going to hear the case. Those are our rules.

RICHARD McKINNON: I understand on both matters.

CONSTANTINE ALEXANDER: I know you've been here before.

RICHARD McKINNON: Thank you.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

RICHARD McKINNON: Thank you very much.

CONSTANTINE ALEXANDER: There was no need for you to come down by the way. The e-mail would have been fine. Nice to see you.

(Alexander, Sullivan, Scott, Green, Myers.)

* * * * *

(7:10 p.m.)

(Sitting Members Case No. BZA-003764-2014: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: Let's get the other continued case out of the way. We'll have time to fool around with the mics. Get our homework done.

The Chair will call case No. 003764, 650 East Kendall Street.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one here wishing to be heard.

The Chair would also report that we are in receipt of a letter from Dan Winny, W-i-n-n-y, architect, addressed to Maria Pacheco. (Reading) On behalf of Ipsen Biosigns, Inc., the applicant which I'm representing as a consultant, I am writing to let you no that Ipsen would like to withdraw

the current Variance application currently scheduled for public hearing tonight.

This letter is dated November 20th. After earlier continuations. Therefore, we will not be attending tonight's meeting. In response to comments from the public and from the Planning Board, Ipsen will now be considering an alternative signage option. Thank you for your help and patience to date with this matter. Yesterday, the day after the Planning Board's review and comments, I notified Barbara Broussard of the East Cambridge Planning Team and also Carol O'Hare of Ipsen's decision and I trust this will forestall any wasted trips to the BZA tonight. We will also indicate on the placards at the site that the application is withdrawn.

Let me -- as this occurs to me, a

withdrawal is deemed to be the same as a denial. And if there's a denial, a new petition cannot be brought for two years unless it is substantially different than what was before and there's a procedure we have to go through where first we have to make that initial determination. The Planning Board has to make the same determination. And then it's the determination goes away, we both agree that it's a different petition, we then consider the case in the merits. Is Mr. Winny aware of that?

SEAN O'GRADY: I'm fairly certain that Mr. Winny is aware of that, yes.

CONSTANTINE ALEXANDER: Okay. Well, in any event, he's not here tonight and that's the way our Zoning Ordinance works.

I suspect that the sign -- I shouldn't suspect. I'll wait to see what he has.

Okay, the Chairs moves therefore, that we accept the requested withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Sullivan, Scott, Green, Myers.)

* * * * *

(7:30 p.m.)

(Sitting Members Case No. BZA-005393-2014: Constantine Alexander, Brendan Sullivan, Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: Okay, as I

said we're going to call this meeting to order. Our regular meeting of the Zoning Board of Appeals. And the first case I'm going to call per the agenda is case No. 005393, 200-202 Lakeview Avenue.

Is there anyone here wishing to be heard on this matter? And I guess you are.

CRYSTAL LESLIE: Here I am.

CONSTANTINE ALEXANDER: And here you are.

CRYSTAL LESLIE: Yes.

CONSTANTINE ALEXANDER: Okay.

CRYSTAL LESLIE: So I just get going here?

CONSTANTINE ALEXANDER: Yes.

Well, first you have to give your name and address to the stenographer.

CRYSTAL LESLIE: Sure. My name is crystal Leslie and I live at 202 Lakeview and

I am the petitioner.

Well, I -- as you say, I live in West Cambridge and I live in an old type Cambridge two-family. I live on the second and third floor of that with a friend. I also have a tenant who is a single mother who has been there for seven years, and she lives on the bottom floor. I've lived in Cambridge 40 years and in this house for 35. And so now is the sad part, I -- as you probably see in the photographs, my back porches badly need repair and I really not used them for the last couple of years. And they're old fashioned. I think they're called sleeping porches. They're very small, five-and-a-half-by-twelve and they were designed in 1924 when the house was built. They were never really suitable for modern living even in 1979 when I bought the house,

and they also did not work for people who were less nimble as they were difficult to get in and out of.

And my plan is to rebuild these porches with a modest increase in size, and I'll be adding 120 square feet of floor area. And it's 38 square feet on the top and 82 square feet on the bottom. And that is exactly 31 square feet over the allowed floor area. And the proposed new porches are of a size and character compatible with neighboring abutters. And I think I sent some photographs which kind of demonstrates that. And I spoke --

CONSTANTINE ALEXANDER: I'm sorry, I'm missing the file.

CRYSTAL LESLIE: Do you want me to stop?

CONSTANTINE ALEXANDER: No, no, no.

Go right ahead. I apologize.

CRYSTAL LESLIE: I spoke to all of my owner abutters on the list and I showed them my plans and I discussed suggestions with some of them, and all of them were supportive. And I have here -- or you probably have them, too, 14 letters of support from both sides of the street, you know, right and left of me, four or five people, and also across the way. I think there are five people I got letters from, and also from Lexington Avenue which is the street which is in the back.

I, I want to stay in my home. I'm a little bit on the older side as you probably note. And as comes to us all, I am looking to a future of maybe somewhat less mobility and I'm planning to move down a flight of stairs to a second floor bedroom with porch access. And if it comes to that sort of

horrible thought, I'm hoping that the increased size of the porch will allow wheelchair access and, you know, when the time comes.

So in summary, as an older, long-term Cambridge resident, I am looking forward to enjoying the outdoors and comfort from my second floor home and seeing the garden. We have a very nice garden without having to always go up and down the stairs. And that it.

CONSTANTINE ALEXANDER: Thank you for a very cogent explanation of your case and the relief you want.

Just for the record, the relief you're seeking is rather modest in terms of -- it's just a setback issue. The increased volume creates a setback issue I think on either side because you're already non-conforming as to

setbacks. So it's not a significant departure from our Zoning Ordinance which you're seeking, No. 1.

CRYSTAL LESLIE: Yes.

CONSTANTINE ALEXANDER: And No. 2, I'll get to that in a bit in terms of the letter. We do have numerous letters of support. I don't know if they are the same ones you have with you or not.

CRYSTAL LESLIE: I think I got them all. I mean, my immediate abutters were very supportive.

CONSTANTINE ALEXANDER: Why don't you -- can I have those?

CRYSTAL LESLIE: Yeah, you want to have them?

CONSTANTINE ALEXANDER: I'm going to make them part of the record, that's the reason.

CRYSTAL LESLIE: That's all of them.

CONSTANTINE ALEXANDER: That's all of them? Good, thank you.

CRYSTAL LESLIE: Yeah.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: No questions?

I'm going to open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

Sir. Name and address for the stenographer, please.

JOHN PAGE: My name is John Page. I live at 210 Lakeview, and I'm here in support of Ms. Leslie's proposed porch additions,

porch expansion. They will be wonderful and a great addition to the neighborhood.

Thank you.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

Ma'am.

JOAN SAWYER: Hi, I'm Joan Sawyer. I'm at 217 Lexington Avenue. And we are strong supporters of Crystal's backyard. She has a beautiful garden and we all get to enjoy it and she does it, and it's just not fair.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

CANEEN CANNING: Hi, my name is Caneen Canning, C-a-n-e-e-n C-a-n-n-i-n-g,

45 Hancock Street, Cambridge, Mass.

I'm a born and raised Cambridge young adult and I love it here and -- but I also I'm a co-owner of Follow the Honey and we're a store who loves to drive business --

JANET GREEN: That's the wrong case.

CONSTANTINE ALEXANDER: Ma'am, I think you're talking about the wrong case. We're not talking about the bee case yet.

CANEEN CANNING: Where am I?

FROM THE AUDIENCE: We're not there yet.

CANEEN CANNING: What is this about then? I heard gardens.

CRYSTAL LESLIE: We do have bees in the garden.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard on this matter?

KAREN GOLMER: Just one more

comment, Karen Golmer, G-o-l-m-e-r, 381
Huron. I just want to applaud Crystal and
thank her for the lovely garden and for making
improvements to her home because it helps us
all.

CONSTANTINE ALEXANDER: Thank you
very much. Again, thank you for taking the
time to come down.

Anyone else wishing to be heard on this
case?

CAROL ALLFATHER: I'm Carol
Allfather, A-l-l-f-a-t-h-e-r, 205 Lakeview
Avenue. And Crystal's plans have been shown
to me and I'm in full support. Her garden is
beyond beautiful and she would welcome you
all in to view it I'm sure.

CONSTANTINE ALEXANDER: Thank you.
Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: No one else.

The Chair is in receipt of letters in our files and also given to us by the petitioner. They're numerous as she said. Typically we read these letters, but I'm just going to identify -- I'm not going to read them. They're all different which is also unusual. Usually we get a form letter and everybody signs the form. And everybody this time took the time to write a separate letter. But I am going to identify who did write the letters.

For our purposes these letters will be incorporated into our record just as if they had been read fully, but I don't want to spend two hours reading letters for something that basically everybody has the same opinion.

Anyway, we have a letter from Sheila

Kennedy, Sheila R. Kennedy, 194 Lakeview Avenue.

We have a communication, an e-mail Gunnel, G-u-n-n-e-l Schmidt, S-c-h-m-i-d-t who lives at 188 Lakeview Avenue.

We have something, a letter or an e-mail from Steven, S-t-e-v-e-n Perlmutter, P-e-r-l-m-u-t-t-e-r and Elisabeth, spelled with an S not a Z, Altman (phonetic) who reside at 186 Lakeview Avenue.

We have a letter from Alain, A-l-a-i-n Schuster, S-c-h-u-s-t-e-r who resides at 195 Lakeview Avenue.

A letter from Barbara Winchester and Malcolm Peyton who live at 197 Lakeview Avenue.

A letter from Carol, no E, C-a-r-o-l and Lars, L-a-r-s Allfather, A-l-l-f-a-t-h-e-r, 205 Lakeview Avenue.

We have a letter from Ann Aubrey,
A-u-b-r-e-y, 207 Lakeview Avenue.

A letter from Roger -- I'm going to
probably mispronounce Theberge,
T-h-e-b-e-r-g-e and Linda Caswell,
C-a-s-w-e-l-l who reside at 209 Lakeview
Avenue.

A letter from J. Roger Boothe,
B-o-o-t-h-e and Claudia G. Thompson,
T-h-o-m-p-s-o-n who reside at 206 Lakeview
Avenue.

A letter from John F. Page, P-a-g-e and
Cindy F. Friedman, F-r-i-e-d-m-a-n, reside
at 210 Lakeview Avenue.

A letter from Thomas and Joelle Flynn,
reside at 216 Lakeview Avenue.

A letter from Joseph and Genevieve
Coyle, C-o-y-l-e who reside at 230 Lakeview
Avenue.

A letter from Timothy and Joan Sawyer,
217 Lexington Avenue.

And last but not least a letter from
Patricia Flaherty and Charles McDermott who
recite at 211-213 Lexington Avenue.

And, petitioner, you are to be
congratulated. You set a world's record for
the number of letters of support that was
received.

CRYSTAL LESLIE: Good.

CONSTANTINE ALEXANDER: With that
I'll close public testimony. Comments from
Members of the Board or are we ready for a
vote?

BRENDAN SULLIVAN: I think you
summed it up, that it's quite modest, and I
think that it will add to the quality of your
life which is something I think that we pride
ourselves in trying to do. And you should be

applauded for a wonderful presentation. And I think you've got half of Huron Village in your corner so I would fully support it.

CONSTANTINE ALEXANDER: Here, here. Well stated.

Just so you understand, and I see your architect in the back, when we approve things like this, we approve them on the condition that the work proceed in accordance with the plans that you've submitted. And if you change those plans, you have to come back before us. So I want to be sure you and your architect are comfortable these are the final plans?

CRYSTAL LESLIE: Yes, yes, as far as I know, yes.

CONSTANTINE ALEXANDER: Okay. I just wanted to read you your rights, that's all.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that the petitioner needs a delapidated -- don't mind my saying that -- delapidated rear porches that need to be repaired, and also to be expanded to accommodate the evolving lifecycle of the petitioner and the tenant in the building.

That the hardship is owing to circumstances relating to the fact that this is already a non-conforming structure. It's shaped as such that it violates setbacks, and so any instruction of this requires Zoning relief.

And that relief may be granted without

substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note that the relief being sought is rather modest in terms of its departure from our Zoning Ordinance.

That it will improve the housing stock of the city of Cambridge.

That it will enable a long-time resident of the city to remain a resident of the city.

And that there is a significant and unanimous neighborhood support for the project.

So on the basis of all these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with the plans

submitted by the petitioner and initialled by the Chair. There are one, two, three, four, four pages.

All those in favor of granting the Variance on this basis, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Scott, Green, Myers.)

CONSTANTINE ALEXANDER: Good luck and thank you very much for coming down.

CRYSTAL LESLIE: Thank you very much for your attention.

* * * * *

(7:45 p.m.)

(Sitting Members Case No. BZA-005420-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Douglas Myers, Slater
Anderson.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 005420, 134 Magazine Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY HERBERT WEISS: May I, please?

CONSTANTINE ALEXANDER: I'm sorry?

ATTORNEY HERBERT WEISS: May I?

CONSTANTINE ALEXANDER: You may. As you heard already, you need to give your name and address.

ATTORNEY HERBERT WEISS: I got it. My name is Herbert Weiss, W-e-i-s-s. I'm an attorney with the firm of Burns and Levinson in Boston at 125 Summer Street. My residence is 72 Mount Vernon Street in the city of Boston.

CONSTANTINE ALEXANDER: Please have a seat.

ATTORNEY HERBERT WEISS: Thank you very much.

CONSTANTINE ALEXANDER: You're welcome.

ATTORNEY HERBERT WEISS: I appreciate the opportunity to address the Board.

CONSTANTINE ALEXANDER: Well, before you exercise that opportunity I want to make a few comments if I may.

ATTORNEY HERBERT WEISS: Certainly.

CONSTANTINE ALEXANDER: The purpose of these comments is to focus the discussion on what the issues are before us tonight and to make a more efficient handling of this case and to -- and as I say, to deal with the case which actually frankly, as we will see, is rather narrow in scope in terms of the Zoning issues.

The first issue I want to address is selective enforcement. There's been a suggestion in the advertisement and through some of the letters we've received, that the city with regard to this petitioner is engaged in selective enforcement. That is not so. You have to understand the philosophy, longstanding philosophy of the Inspectional Services Department is to enforce our Zoning Ordinance, and I suspect the Building Code by complaint. If there's a complaint made by a citizen, the office acts, investigates, takes whatever action it feels appropriate. If there is no complaint filed, they don't go out and seek to find Zoning violations. You may debate whether that's right or wrong, but that is the philosophy of the ISD. And that is why if we -- if there are other beekeepers in the

city, I suspect there are, and they have not been cited for violations, it's because no one has complained about their bees. This time there is a complaint and that's why ISD took action.

So, frankly -- and this is speaking personally, I think the ISD's philosophy is the right one for the city of Cambridge. We're a diverse city and we don't need Zoning police snooping around people's backyards, but you need to act if there is a concern in the neighborhood or among the citizens of the city. So that's the issue No. 1. I don't want to hear any -- frankly, I'm going to rule out of order any comments about selective enforcement because that's not before us tonight and that is not in fact true.

The second issue I want to deal with at the outset has been the suggestions -- it's

been stated that the bees are essential to, essentially may be too strong a word, but are part of the religious ceremonies or the activities that take place on the premises. What I hear is essentially a nascent First Amendment argument that perhaps what's being done restricts the free expression of religion which is prohibited by the First Amendment. We're not going to deal with those issues tonight. Any Constitutional issues. We are not experts in Constitutional law. We're not a court. Two of us are of -- the five members of the Board are lawyers, but neither of us are Constitution lawyers. I'm not, I don't know about you.

DOUGLAS MYERS: Definitely not.

CONSTANTINE ALEXANDER: Okay.

Those arguments can be raised in a court

should this case end up in court. But I don't want to hear that tonight. The issue tonight is a narrow Zoning issue, and it's about what the Zoning Law permits and does not permit and that's what we're going to be speaking to. And to the extent that people get off the track when we have public comments, and I'm sure we're going to hear plenty of public comments, I'm going to stop the comments and rule you out of order. I want to keep this case on a straight and narrow path otherwise we'll be here forever.

So with those two directions that we can now start the case. But let me also make one other point to you, sir, looking at what's been submitted so far and looking at what -- and I know the basis of the decision of Mr. O'Grady who is sitting right over there, there seems to be a disconnect. We

seem to be going this way. I don't think there's a full appreciation of why Mr. O'Grady issued the letter that he did. And so, typically what we do is the petitioner, your case, you would make your case, we would ask Mr. O'Grady to present why he did what he did, and then we would take it from there. But it may make sense, and it's your call, I'll defer to you, but it may make sense to let Mr. O'Grady go first, you know, explain to everyone why he did -- the basis for the letter, and then you can address that if you --

ATTORNEY HERBERT WEISS: I'm happy to -- if that's, if it's your convenience, I did ask Mr. O'Grady when I received it as to -- but I got almost no information from him. Other than he said somebody complained and then -- but he would give me no names.

FROM THE AUDIENCE: We can't hear.
Can you speak up, please?

CONSTANTINE ALEXANDER: They can't hear you in the back.

ATTORNEY HERBERT WEISS: I'm sorry.
I'm happy to have Mr. O'Grady go first and talk if that's --

CONSTANTINE ALEXANDER: I think it would make for a more informed discussion.

ATTORNEY HERBERT WEISS: May I at this point thank you for limiting, because I have no intention of speaking about selective enforcement or the other issues which I think are there. But I do want to talk about one issue which I think is relevant and important. But, Mr. O'Grady, you go ahead.

CONSTANTINE ALEXANDER:
Mr. O'Grady goes ahead, and he will.

I just want to say one thing, you just

made the statement, and I accept it, that you're not really sure on the basis of Mr. O'Grady's decision.

ATTORNEY HERBERT WEISS: Someone complained, I know that.

CONSTANTINE ALEXANDER: Okay. Well, I'm going to read the complaint. I'm going to start with that.

ATTORNEY HERBERT WEISS: Sure.

CONSTANTINE ALEXANDER: My only point is that after you hear Mr. O'Grady's, whatever he's going to say, you feel you need time to deal with his comments, because things you had not anticipated, and I'm not suggesting that is the case, but if that's the case, we would be -- I would be happy to entertain a motion to continue this case to give you time to make an informed presentation knowing now what it is you're

dealing with. It's your call again, and -- but I just want to let you know that you have that opportunity. I want to make sure that this is a fair process, but it's going to be a focussed process as I've said several times already. So I'm giving you that opportunity.

So now let me turn it over to Mr. O'Grady, but let me start with Mr. O'Grady's letter which started this whole case, and it is rather brief.

It's addressed to the Harvard Hillel Children's School. (Reading) To Whom It May Concern: We are receiving complaints regarding your keeping bees at 134 Magazine Street. Pursuant to Article 4, Section 4.30 of the Cambridge Zoning Ordinance, livestock, including bees, are not allowed in the city. Kindly cease and desist this

activity immediately. Failure to comply with this order, and then it's the usual protocol.

So that's not a cryptic -- Sean, could you just elaborate on the basis I think for everybody's benefit what's behind this letter and what prompted the decision you reached?

SEAN O'GRADY: Sure. So the Ordinance Section 4.13 says if a use is not listed in the Table of Uses, 4.30.

FROM THE AUDIENCE: Please, I can't hear you.

CONSTANTINE ALEXANDER: They can't hear you, Sean. Take the mic.

FROM THE AUDIENCE: Thank you.

SEAN O'GRADY: Article 4.13 says that use is not listed in the Table of Uses, Article 4.30, are not allowed uses. Bees

don't appear in the Table of Uses and nothing like bees, no agricultural uses, no livestock uses are listed in the Table of Uses, and so it was determined that beekeeping was not listed and not allowed.

CONSTANTINE ALEXANDER: Let me, just to -- you can do it, too, if you want, Sean. Why don't you read to the audience, Section -- or I will, Section 4.13 of our Ordinance which is --

SEAN O'GRADY: Do you want to --

CONSTANTINE ALEXANDER: I'll do it. I have it right in front of me.

What 4.13 says in verbatim, it's very short. (Reading) No building, structure, or land in any district may be used, erected, or designed to be used in whole or in part, for any use not listed in Section 4.30, except non-conforming uses -- which are not relevant

here.

So if it's not listed in 4.30 of our Ordinance, Section 4.13 says you can't do it. And I think what you're saying, Mr. O'Grady, if I'm right, I don't want to put words in your mouth, bees are not listed in 4.30 and, therefore, per 4.13 are not permitted.

SEAN O'GRADY: Exactly.

CONSTANTINE ALEXANDER: That is the issue before us tonight.

ATTORNEY HERBERT WEISS: I think there's another issue, sir, if I might.

CONSTANTINE ALEXANDER: Go right ahead.

ATTORNEY HERBERT WEISS: And there are obviously a lot of people who -- I don't want to talk about bees. There may be a lot of people who do, and I hope they'll be able to -- I really want to get to what I consider

the legal issues of this whole thing.

Mr. O'Grady's determination was based upon, as you just quoted, the fact that the bees are livestock and therefore not permitted in the city. And I tried to find out, and I've asked and I wrote, where does this definition come from? Was there a public definition of livestock? Was there any -- where did it come from? Who said that bees are livestock? There are a lot of things that are not listed for use in the city. I don't know whether gerbils are listed or not as pets or whatever, but there are a lot of things that happen to exist in Cambridge because they're not listed. Whether it's a listed item or not a listed item I find it very strange that there's an arbitrary determination that they're livestock.

CONSTANTINE ALEXANDER: Sir, if I may, this is a red herring. The livestock -- you're correct in your comments of livestock, but that's not what it's trying to get at.

ATTORNEY HERBERT WEISS: Yes, but --

CONSTANTINE ALEXANDER: Let me finish, please. You'll have your opportunity.

Livestock -- this is not whether this is or is not livestock. The issue today is whether this is a use that's in the Table of Uses. What Mr. O'Grady was trying to do, I think, was trying to plumb around the 4.30 and see if he can find any use that you could put the bees under, which would then get you out of 4.13 and he couldn't get there. It is not an issue of whether this is or is not livestock.

ATTORNEY HERBERT WEISS:

Mr. Chairman, there are a lot of bees, beehives in Cambridge as you know. Many by the dozens. And they have been here for a long time, and I don't want to get into the issue of selective enforcement. I do want to get into the question of a determination by someone in Inspectional Services of what these are and therefore not permitted. Whether they're specifically allowed or specifically taken out of it. And I say that creates a real problem because you're leaving it to a city official to make the determination of what in his personal opinion, without any discussion, without any public hearing, as to what should be allowed and what should not be allowed.

CONSTANTINE ALEXANDER: We're having the public hearing tonight, sir.

ATTORNEY HERBERT WEISS: Based after a cease and desist order has been filed.

CONSTANTINE ALEXANDER: That's how it always works. You have a cease and desist order and then we have -- you have a right to take a -- any petitioner or any citizen in the city has a right to take an appeal. And during that appeal the issues get thrashed out. That's the whole purpose of tonight's hearing.

ATTORNEY HERBERT WEISS: Well, no. The only argument I want is the legal argument as to the legitimacy of the determination of a cease and desist order to a single owner of a bee -- of a beehive. The problem I'm faced with is that I think the complaint, which there was one, I don't know who did it or whatever. I think -- I don't want to go into the issue of bees, you know, the passiveness

of honeybees. The confusion between honeybees and yellow jackets and wasps and so on. That's for others. My sole concern at this point, this hearing -- and I don't want to get into issue of whether unfamiliarity or fear or ignorance and so on, which is the cause of complaint, I don't know who complained or whatever. But I think the concern that we do have for this Board is the ability of individual city officials to make determinations as to what they're going to enforce and what they're not. And that's the end of my case.

CONSTANTINE ALEXANDER: Okay. Let me -- a couple of comments.

You're right about -- the letter -- the complaint -- we have a letter in our files from a neighbor, which I'm going to -- and who is opposed to granting relief tonight. I'm

going to read that at an appropriate point unless that neighbor is here and wishes to speak, which I hope is the case. One of the tragedies of this case is that no one is talking to each other. This is a city that -- the city of Cambridge. You're in a neighborhood, you talk to your neighbors, you try to resolve issues with your neighbors. Let me finish, please.

Often we have -- this is not the first time we've had this kind of an issue with bees, but issues with fights between neighbors, misunderstandings. What we always do, if we can, and one of the reasons I was going to suggest continuing this case, is we urge the folks, the neighbors, to sit down and talk it out and see if they can come to an understanding or an accommodation or both. Unfortunately that has not happened

here. Let me -- please, sir.

ATTORNEY HERBERT WEISS: Sorry, I thought you were finished.

CONSTANTINE ALEXANDER: The neighbor apparently went, although, I'll let them speak for himself or herself, apparently what I see in the file, some attempt to communicate to your client about the concerns of the bees. Your client did not reach out or try to, to try to have a dialogue and understanding. They went right to the appeal, to the court, and here we are tonight.

What would have been better, and I would still like to see happen, is to have, you know, you know what your client should have had done, you should have had a public hearing. You have a facility. Announce to the neighborhood we are going to be -- we're maintaining bees on our property, we'd like

to explain to you what it means, the impact of bees, how they work, and hear your views. And that's what we do. That's what's done in a number of cases. That was not done here.

ATTORNEY HERBERT WEISS:

Mr. Chairman, I totally agree with you about the fact that it really should. I can't -- I can't speak for what was, what outreach was attempted or not. The Synagogue is a good citizen, a good neighbor, it tries to be. I did speak to Mr. O'Grady. He gave me -- forgive me if I misquote you, but I got no other information other than the fact that there had been a complaint and I got no further information.

SEAN O'GRADY: That's the only information I had, sir.

ATTORNEY HERBERT WEISS: Okay.

CONSTANTINE ALEXANDER: I'm sorry,

I interrupted you. I apologize.

ATTORNEY HERBERT WEISS: No, that's okay.

We're faced with a cease and desist order from Inspectional Services. What would you as an attorney do? I'm sure you would do the same thing, which is to respond to it. I don't even know who complained. We don't even know who complained.

CONSTANTINE ALEXANDER: Let me renew my suggestion.

ATTORNEY HERBERT WEISS: Sure.

CONSTANTINE ALEXANDER: That we continue this case. You have a public hearing within the halls of your synagogue. And invite everybody, citizens of the city, but mainly the neighborhood to come and have a dialogue and see if there can be some sort of understanding or accommodation. Why not

do that rather than trying to press the case tonight to a legal conclusion?

ATTORNEY HERBERT WEISS: I can't speak to that. I can -- unless you want to give me a five minute.

CONSTANTINE ALEXANDER: I'll give you as much time as you want for this.

ATTORNEY HERBERT WEISS: How about if we can postpone this for about five minutes?

CONSTANTINE ALEXANDER: We'll take another case and then we'll come back so it will probably be a little more than five minutes. Unless you think -- you'll only be five minutes?

ATTORNEY HERBERT WEISS: Five minutes.

CONSTANTINE ALEXANDER: Okay.
We're going to recess this case for five

minutes.

ATTORNEY HERBERT WEISS: Can I ask one thing. Would we know the name of the complainer?

CONSTANTINE ALEXANDER: I think you will. If the complainer is not here to identify herself. I'll have the letter which I will read into the record.

ATTORNEY HERBERT WEISS: Could we have that information prior so we know whether or not there was an outreach or not. You're asking us to --

CONSTANTINE ALEXANDER: All I know is I have a letter in the file from a neighbor --

ATTORNEY HERBERT WEISS: Right.

CONSTANTINE ALEXANDER: -- who I know is a person who made the complaint opposing the granting of relief tonight.

ATTORNEY HERBERT WEISS: Right.

Could we know --

CONSTANTINE ALEXANDER: I don't know who the person is.

ATTORNEY HERBERT WEISS: I don't know whether or not there was an attempt to reach out. We don't know who the person is.

CONSTANTINE ALEXANDER: You can ask your client whether they reached out.

ATTORNEY HERBERT WEISS: Well, the client may have reached out to a number of people. I can't respond to that unless it was a specific person.

BRENDAN SULLIVAN: It's a public record. Can we not turn the file over to counsel and --

CONSTANTINE ALEXANDER: Sure. I just as soon read the letter first.

ATTORNEY HERBERT WEISS: Could you

read it now? Mr. Chairman, could you read it now?

CONSTANTINE ALEXANDER: Yes, so everybody in the audience hears the letter not just the petitioner. Sure, I would be happy to do that.

ATTORNEY HERBERT WEISS: Thank you.

CONSTANTINE ALEXANDER: Let me just find it. We have a few pieces of correspondence in our file.

Okay, the letter is from Richard -- I'm probably going mispronounce the name -- Bernard --

ATTORNEY HERBERT WEISS: Bonrigo (phonetic).

CONSTANTINE ALEXANDER: Is Mr. Bonrigo here tonight?

(No Response.)

CONSTANTINE ALEXANDER: Okay, he's

not. If he were, he could speak for himself.
I'm going to read the letter he wrote to our
Board.

(Reading) My wife and I reside at 132
Magazine Street.

ATTORNEY HERBERT WEISS: I
understand.

CONSTANTINE ALEXANDER: (Reading)
And share a long common property line with the
appellant, the Harvard Hillel School and
Congregation Eitz Chaim. Did I pronounce it
right?

ATTORNEY HERBERT WEISS: Eitz
Chaim.

CONSTANTINE ALEXANDER: Eitz Chaim.
I apologize. (Reading) They maintain on a
second story rooftop four stackable honeybee
hives typically seen in the production of
honey. And I imagine that this many hives

can support hundreds, even thousands of bees. We recognize the importance of sustaining healthy bee colonies in natural and agricultural environments. However, for sensible reasons we do not support and by culture in densely populated urban settings. Given the proximity of these hives to our backyard, we are made -- we are made that much more susceptible -- we are made that much more susceptible, excuse me, to accidental and risky encounters with honeybees. This beekeeping venture, however well meaning, is inappropriate for the location and poses public safety issues. Until fairly recently we were unaware of our neighbor's beekeeping, but we were very aware that this past summer our garden became refuge to extravagance of bees. We didn't realize that our nearest neighbor might be a contributing source of

the bees until one day in late summer my wife was alarmed to discover a large swarm at the back of our yard. I went to investigate and found a great number of agitated bees wildly swarming over and around several five gallon tubs, and as many large plastic trash bags discarded along the property line. Later examination revealed the presence of pooled honey and honeycomb. No wonder the bees were excited. Sometime ago another nearby neighbor, since moved, maintained an apiary near the corner of Chestnut and Magazine Streets. We knew nothing of it at first, but we similarly had a resurface of bees. In that time frame on an occasion when I was gardening and wearing a loose fitting T-shirt, I suddenly had two bees under my shirt and I was stung by both of them. Soon after my wife was stung while standing at the

corner of Magazine and Chestnut Streets speaking to a neighbor whose home was across the street from where the beehives were located. He remarked ryely: Bee sting, huh? It had happened to him frequently, he said. We support Inspectional Services' designation of bees as livestock and ask the Zoning Board to take into account the public's best interest when considering the appellant's petition.

That's the neighbor who made the complaint I believe, right?

SEAN O'GRADY: Yes. I think there's another one, also.

CONSTANTINE ALEXANDER: Another letter?

SEAN O'GRADY: I believe so.

CONSTANTINE ALEXANDER: Okay. Let me read that letter.

Do you know where it is, Sean?

SEAN O'GRADY: A gentleman named Goss.

CONSTANTINE ALEXANDER: Goss? An e-mail from Robert Goss, G-o-s-s. It's rather short.

(Reading) Hello. As of this message, nothing has been done about the bees on the roof of the congregation adjoined the honey from the beehives on the roof. If this is truly against the Zoning Laws of Cambridge, then it needs to stop, especially before one of the children is stung and suffers a fatal allergic reaction. Please take care of this problem.

This e-mail was addressed to Ranjit Singanayagam, the Inspectional Services commissioner.

FROM THE AUDIENCE: Is that from an

abutter?

FROM THE AUDIENCE: It is.

CONSTANTINE ALEXANDER: It is?

ROBERT GOSS: Me.

CONSTANTINE ALEXANDER: Okay, the answer is yes. Sir?

ROBERT GOSS: I'm Robert.

CONSTANTINE ALEXANDER: You're Robert Goss?

ROBERT GOSS: Yes.

CONSTANTINE ALEXANDER: Please come forward if you want to speak. Or not. If you don't want to speak, that's fine. But I read your e-mail. But if you do, please come forward.

Talk into the mic if you would, please.

ROBERT GOSS: Yes. I'm Robert.

I actually went to City Hall to represent some of the neighbors. We weren't

quite sure what was happening. My daughter and our dog went out for a walk, and out our back door we face the back of the temple from our backyard and there were bees all around the garage. And apparently there was a -- well, people were selling the house and the inspector parked back there and then he got stung. But we weren't even sure what they were. We thought --

ATTORNEY HERBERT WEISS: When was that?

CONSTANTINE ALEXANDER: Excuse me, Mr. Weiss, our rules do not allow cross-examination.

ROBERT GOSS: This was back in the summer I think. It was in the summer, I think.

And so another neighbor on the second floor whose house is on Chestnut faces right

at the roof, and she took some pictures of the bees swarming and stuff like that. And, you know, we were just talking. And I said, well, I can go down and show this to people. Because I looked it up, and what I found on-line was that there were some cities did allow it, but there were very strict guidelines. And there are state -- there's Commonwealth guidelines about the number of things you have, and about notifying your abutters and all these things. And so I said, well, yeah, you know, I can be the nice guy and go down. And I think I talked to Andrew. I don't know if he's here tonight. And he said he'll go and tell them they're not allowed to do it. And then apparently they, you know, didn't -- didn't comply. But I was representing oh, you know, around 15 people or so who were upset. Some of my neighbors

don't, you know, they have young children and pets and they're nervous about going out in their own backyard which is crazy. And especially for -- well, from what I've read and experienced that it can be fatal for children and for dogs. And one of my neighbors who's here is a doctor and has some information about that.

And, you know, and then I got a call from the rabbi, and I guess my name is on the public record, I didn't know that. And she said, you know, What's the problem? And I explained to her that -- and she said, well, our bees don't sting. And I said, Well, how is someone gonna know one bee from another bee? And she said, We have an EpiPen. And I said, If one of these kids gets stung, we're not gonna go around, knocking on your door asking for an Epi -- we're gonna go to the

Emergency Room. And so, you know, that was -- there wasn't much of a help I think.

CONSTANTINE ALEXANDER: But in any event, you brought to the attention to the rabbi of your --

ROBERT GOSS: Well, no, she called me.

CONSTANTINE ALEXANDER: Okay. But you had a communication with her?

ROBERT GOSS: Yeah, we had a phone call.

CONSTANTINE ALEXANDER: And it's to her credit she called you and reached out to you.

ROBERT GOSS: Well, she wanted to know what the problem was. And I said, you know, again, it's not just me. I'm not, you know, I have friends who do this and I support the whole concept of beekeeping and, you

know, I have raw honey every morning. I have a friend who is a beekeeper who told me I should get bees and use it for my knee arthritis. And I said well, let me think about that. But, so, you know, I just was kind of the neighbor who was -- had free time to go down. And when I showed the picture to the people at the desk, they were like oh, my God. They were horrified.

CONSTANTINE ALEXANDER: Which desk, I'm sorry?

ROBERT GOSS: The Inspectional Services. I actually went to animal control first. And we all agreed that they're not animals. And I said where do I go, you know? And she said go to Inspectional Services and so I did and Andrew was dealing with me and then Ranjit took over the case at some point. I can't remember. But this was back I think

in the summer, so it had been a long time. And, you know, I looked up on-line, and, you know, Somerville has some very strict guidelines; the number you're allowed to have, the cost you pay, the safety netting that you have to have to protect the neighbors. And, you know, I was just worried about my own children, about our dog, and then the neighbors who, you know, feel uncomfortable in their own yard seems kind of, you know, strange. And, again, and the state guidelines are not followed in this case either. But, you know, that's really all I did. And then I just kept getting calls from Andrew saying well, they're not responding, blah, blah, blah. And so Ranjit's taking it over and then now the same thing now we're here. It's been, I don't know -- a long time.

CONSTANTINE ALEXANDER: The enforcement letter that went out was September 18th. I didn't read that before. You said in the summer you went to the City Hall?

ROBERT GOSS: Yeah. And I don't know if the guy's here. I wasn't expecting to be in the Boston Globe today, but you know, I've had reviews from my artwork and that's nice, but I don't particularly like it. But he was very nice. I don't know if -- I can't remember his name, if he's here. But he had a two-year-old and a five-year-old, and he said yeah, I can empathize with that situation. You know, we as adults, you know, if there's a bee around, you just kind of freeze, you know, you don't want to get stung. But a toddler or a dog is gonna do this, they're gonna, you know, try to swat them away

and they're gonna get stung. And, you know, I know that it can be fatal. Or a person who is a doctor has some other information. So, you know, it wasn't just me, I just want to make that clear.

CONSTANTINE ALEXANDER: Mr. Weiss wanted to find out.

ROBERT GOSS: Yeah, thank you.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

You said you wanted five minutes. You want your five minutes now?

ATTORNEY HERBERT WEISS: I would appreciate it.

CONSTANTINE ALEXANDER: Okay. There's a room back there.

We're going to recess for five minutes and then we will resume. So what, it's 8:15. 8:20. If you need more time, Mr. Weiss, let

me know.

ATTORNEY HERBERT WEISS: We'll come back shortly. Five will do.

(A short recess was taken.)

ATTORNEY HERBERT WEISS: May I ask Rabbi Stern, the rabbi to come.

JOHN HAWKINSON: Could you use the microphone, please?

ATTORNEY HERBERT WEISS: Can you hear me?

CONSTANTINE ALEXANDER: That's for the TV people.

Rabbi Stern can come up.

ATTORNEY HERBERT WEISS: Rabbi Stern is here. She's basically the head of the --

CONSTANTINE ALEXANDER: The petitioner.

ATTORNEY HERBERT WEISS: Right.

She would like to make some comments and I defer to her if that's okay with you.

CONSTANTINE ALEXANDER: By all means.

RABBI STERN: I am handing you honey. This is not a bribe. This is a gesture of good will. It's really delicious. It says Bee the Light. Can I take this out?

CONSTANTINE ALEXANDER: Maybe you should give it to your neighbors.

RABBI STERN: I have given it to my neighbors. And that actually, sir, the first thing I would like to say. I put the beehive on the roof of the temple to save these beehives from being destroyed. They were on a farm. The farmer called me and told me it had been sold to a developer and the beehives were going to be destroyed and they

immediately needed a place to go. I talked with the head of the building committee at my congregation, and the flat roof, which if you see it, and there are a number of people here who have, it's pretty far away. There are no actual abutters. We put the beehives up. It never occurred to me honestly, I apologize -- it didn't occur to me that anyone would be other than grateful that we had brought these bees into the neighborhood.

When I did hear from some neighbors, they were concerned. Swarms are not actually dangerous. Bees don't have the capacity to sting when they're swarming because their stomachs are filled with honey, but there are people who are much more professional about bees than I am, and they can speak to that. They were concerned. I called every single person. I offered honey

to every person. I did everything I could to create an opportunity for people to share their concerns. I said when we harvest the honey, I would like to give you some. We did -- I did everything I knew to do. I think a postponement in the public hearing is a great idea. I didn't think of it. I didn't even -- I'm sorry that it didn't occur to me as an option. The last thing in the world that I would want to do is alienate my neighbors. The first letter you read was from a next-door neighbor who we've had, we've had a property dispute with that neighbor and that may have influenced his letter. I will say, that one day we did, one day we harvested the honey, and I left the material that we had used over near his property edge. I wasn't aware that bees would go there. He called to tell us they

had. I immediately removed everything that was there. Immediately. I was totally responsive. So I just want for the record, it -- I don't want the record to --

CONSTANTINE ALEXANDER: I understand.

RABBI STERN: -- to show that we were unresponsive. It's very important to me that everyone knows that we want the neighborhood to benefit from these bees. Our children have benefitted, the congregation has benefitted. I'm gonna give you honey, you're gonna take it home, it's going to be delicious. You're gonna love it. Some of you here already have. I called Mr. Goss because I heard he was concerned, and I'm sure Mr. Goss will admit he was not in a good mood when I called him and he did hang up on me. I wanted to discuss --

CONSTANTINE ALEXANDER: Okay.

RABBI STERN: I think it's important for you -- for this to be heard by this community. I will gratefully ask for an opportunity to have a public hearing so that we can talk about whether or not these bees are a good idea for Cambridge.

I will tell you that the bees have gone to sleep for the winter. They're all safe in their hives staying warm. We're not gonna see any bees out for months and months to come and that should give us plenty of time to talk about whether or not it's a good idea for our neighborhood.

CONSTANTINE ALEXANDER: What I have in mind -- thank you by the way. And I want to make it clear that no one is suggesting that you acted in bad faith. I'm sure you acted with utmost good intentions. What I

was suggesting, and I still would suggest, I haven't heard from my fellow Board Members whether they agree with me. What I would suggest, you have a hall presumably at the school, and to have a meeting that the -- public hearing you refer to, a public meeting, at that hall after sending out invitations to the neighborhood however you want to define it. And maybe if you can even get something out to the community at large so other people who might have a view one way or another could attend.

RABBI STERN: I think it's a great idea.

CONSTANTINE ALEXANDER: And have a dialogue. What I'm hoping you could come to, hoping, is some sort of resolution that -- well, I don't want to say -- prejudge the case, but that would cause the

complainant to withdraw their objections.

RABBI STERN: That would be great.

CONSTANTINE ALEXANDER: If that's the case, then we're back to where I started is that we only enforce our Zoning by complaint.

RABBI STERN: That would be terrific. I would be delighted. And I'm sorry that it came to this. That was my hope when I called Mr. Goss and all the others, was that we could get on the same page about the benefits of these bees.

CONSTANTINE ALEXANDER: This is a tough time. We're going into a tough time of year, holiday season for everybody. But what I'm going to suggest is that we continue this case until January 8th, which is our first meeting in January. Which is six weeks from now. And during that time you take

whatever steps that are necessary to have this public meeting or meetings, if more than one is necessary, to see what can be done. If we're back on January 8th and we're back exactly where we are today, the neighbors are insisting that we should not grant you the relief you're seeking and you want to pursue the relief you're seeking, we'll make a decision on the case at that time.

But, again, I'm going to remind everybody, you in particular or -- this is a narrow Zoning issue. It's not about how tasteful honey is. It's not about the need for bees, which we do have. I'm speaking for myself, within our environment. It's about what our Zoning Ordinance allows and doesn't allow. And to the extent that it does not allow, and I'm not prejudging the case by any means, but as I said, we decide it does not

allow you to continue with bees, you have other alternatives. The right alternatives, which is to go to the City Council and get an Ordinance adopted that deals with bees and allows them, subject to whatever restrictions. Somerville has it. Newton has it. And I'm sure many other communities around the Commonwealth. That's the real answer. We don't have -- and this is for the benefit of the audience, not for you, sir, you know. We don't have the ability to do what we want with Zoning. We don't rewrite the Zoning Ordinance every time we have a hearing. We interpret what is given to us by the City Council. And the issue you've heard is the City Council has not allowed bees -- there's nothing in the Ordinance that deals with bees, and it is a position of the Inspectional Services

Department that Section 4.13 means, therefore, you can't have the bees. Now we haven't decided that yet. I know you want talk. Let me just finish. We haven't decided yet. But that's the narrow Zoning issue. And that's the only issue we're going to be dealing with when we get to this case.

RABBI STERN: So if you can help me on one piece, and I'm not a lawyer and you are. And I know that bees are not mentioned in any of the Zoning, not mentioned.

CONSTANTINE ALEXANDER: Right.

RABBI STERN: It was my understanding that if something is for educational purposes that the Zoning --

CONSTANTINE ALEXANDER: We're not going to get there.

RABBI STERN: No, that as a limited narrow within the Ordinance that you cited

that there's an exception for educational purposes. Is that --

CONSTANTINE ALEXANDER: Well, there are all kinds of exceptions, but uses. Educational uses are dealt with and then what you can do. But it is just general, like colleges and universities. It's not an activity where it's an educational adjunct and that's what we're talking about here frankly. Is the bee -- the purpose of -- the use of these premises is not to run a beehive. It's to provide education.

RABBI STERN: Education, children and using bees --

CONSTANTINE ALEXANDER: Adjunct, just like a globe or maps or whatever or microscopes, and that would be the issue you can -- if you want to raise it, if we get to that, that can be one of the arguments you can

make, but not tonight.

RABBI STERN: All right. So we'll be happy to hold that meeting and hopefully we can resolve this amicably with our neighbors. That would be great.

CONSTANTINE ALEXANDER: Let me ask the Members of the Board. I've been shooting my mouth off so far. Do the Members of the Board feel differently? What's your view on this?

BRENDAN SULLIVAN: I agree with you. I think the suggestion was wonderful and I'm glad that the rabbi is receptive to it and the Council is receptive to it.

CONSTANTINE ALEXANDER: If we do continue -- one second, and I will recognize you. If we do continue the case to January 8th, which I'm going to suggest, we have to have the same five members here. Can

everybody make January 8th on the calendar?

I know I can.

BRENDAN SULLIVAN: Yes.

THOMAS SCOTT: Yes.

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: Before I get to the motion, sir, your hand is up. You have to come forward, please.

RABBI STERN: I'll relinquish my seat.

VIPUL CHITALIA: I was wondering if I can get a couple of minutes of time as I'm a physician Robert mentioned, and I have some personal experience of treating patients with bees.

CONSTANTINE ALEXANDER: Sir, that's not -- not relevant right now. If we're going to continue the case, you can make those points at the public -- at the hearing they

have or if we come back on January 8th we're going to continue the case you can speak then but not now.

VIPUL CHITALIA: Oh, but not now?

CONSTANTINE ALEXANDER: You're premature on that.

THE STENOGRAPHER: I'll need your name, please.

VIPUL CHITALIA: Doctor Vipul Chitalia.

THE STENOGRAPHER: Yes. Please spell that for me?

VIPUL CHITALIA: V-i-p-u-l
C-h-i-t-a-l-i-a.

CONSTANTINE ALEXANDER: Thank you very much.

There was another hand up right next to you. I guess not.

Okay. The Chair moves, unless you have

anything further, I'm going to make a motion to continue the case.

ATTORNEY HERBERT WEISS: I wanted to thank you for your attention and time and looking forward to seeing you.

CONSTANTINE ALEXANDER: I'm not looking forward to seeing you. I'm hoping we're going to get this resolved so we don't have to decide this case.

ATTORNEY HERBERT WEISS: I've been spurned by others.

CONSTANTINE ALEXANDER: Anyway, the Chair moves that this case be continued as a case heard until seven p.m. on -- it's going to be seven p.m., not 7:30 or 7:45, seven p.m. on January 8th on the condition that the petitioner signs a waiver of time for -- we have to ask Sean. Do we need a waiver for time of decision?

SEAN O'GRADY: Yes, we do. I have it ready.

CONSTANTINE ALEXANDER: Because, you know, by law we have to decide --

ATTORNEY HERBERT WEISS: I understand.

CONSTANTINE ALEXANDER: We have people regularly sign a waiver of time for decision that allows --

ATTORNEY HERBERT WEISS: There is no bee activity between now and then.

CONSTANTINE ALEXANDER: If there were, I wouldn't be pushing for the continuance. My understanding is, of course the rabbi knows better than me, is that there's no bee activity this being wintertime.

So on the condition that the petitioner sign a waiver of time for decision. All

those in favor, of -- even before I take a vote. Sean, I'm going to ask that you contact the neighbor who made the complaint who is not here tonight.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Some of the neighbors are, and advise them that we have urged the petitioner to have this public hearing. And we in turn urge this petitioner, this neighbor to attend that hearing and to hear, be part of an exchange of views to see if there is an amicable resolution can be made. In which case if it is, then the enforcement notice will be withdrawn and we'll go back to like every other beekeeper in the city where if nobody complains, nothing is going to be done.

Okay, so anyway, now it's time for the vote. So January 8th, seven p.m., all those

in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

(Alexander, Sullivan, Scott, Myers,
Anderson.)

ATTORNEY HERBERT WEISS: Thank you.

* * * * *

(8:35 p.m.)

(Sitting Members Case No. BZA-005332-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005332, 166 Elm Street, No.
2 North.

Is there anyone here wishing to be heard
on this matter?

EDRICK VAN BEUZEKOM: We are, yes.

CONSTANTINE ALEXANDER: Identify
yourself.

EDRICK VAN BEUZEKOM: My name is
Edrick Van Beuzekom. I'm the architect for
the project from EB Design.

JANET GREEN: I don't think they can
hear you if there's anyone here.

EDRICK VAN BEUZEKOM: My name is

Edrick Van Beuzekom. I'm the architect for the project. My clients are here, Steve Weller and Stefanie Haug are here also. I'm going to begin by letting them talk about why we're doing this project and then I will present exactly what we're doing.

CONSTANTINE ALEXANDER: Before they do that there's something you should know. You're well aware this project is a proposal that is woefully non-compliant with our former guidelines.

EDRICK VAN BEUZEKOM: Yes.

CONSTANTINE ALEXANDER: And I saw nothing in the submission that even addressed the issue, a written submission. I'm a little troubled -- more than a little troubled by that. I mean, you know, this is a practice we've seen more than once where people come down, lob up a significantly

non-dormer compliant proposal and see how flinging things against the wall and see whether it sticks. If it doesn't, then they coming back with a different proposal. And that takes up a lot of our time unnecessarily. And I would have been very appreciative if it had been addressed up front and not having us drag it out of you. Your clients can speak to that. That's my comment to you.

EDRICK VAN BEUZEKOM: Point well taken. I apologize. I expected to present why were doing the dormers the way we are, but I --

CONSTANTINE ALEXANDER: That's why we ask for a supporting statement. You know well enough that we have dormer guidelines, and you're well out of compliance. Anyway, I'm sorry if you could address -- if you want to address, go ahead.

STEFANIE HAUG: Hi, my name is Stefanie Haug. My last name is spelled H-a-u-g. And this is my husband Stephen. So thank you very much for your time. I'm a little nervous. We just wanted to share that we've lived in the Cambridge area for on and off for about 20 years and we just love it here. We've met as undergrads here. We returned to the mid-nineties here to live and work. We've owned our very small apartment since 1999. When our twin girls were born in 2002 at Mount Auburn Hospital, so they're Cambridge natives, we thought we would absolutely need to move. But we have managed to be creative as much as we can for all these years. They're now 12. But we've now met the limits of space. We have tried to make the most of a finished attic space that has a non-compliant staircase. And we are very

grateful to Ikea and my husband's incredible patience with their instructions, because we have no furniture in there that can't fit up those stairs and in that space. Everything has to be built in there so that we have a place to sleep.

So at this point we just can't imagine living anywhere else. We have looked for years. We've changed careers and have looked around to the best of our financial ability. But the other positives of why we just would love to stay is that we're just so very happy with our girls' education here. And we're very eager for them to go to the high school. They're currently in middle school. I switched jobs to work actually in Cambridge and to create a balance for our work between work and family. All our community of friends are here as well. In fact, we were

going to bring our twins here a little bit underdressed, but a friend very kindly offered for them to hang out with them, so that's where they are now. All our -- and I should also have mentioned prior to starting this, that we have spoken to all of our neighbors. We have a petition here that they've all signed. And I think some have actually sent letters. And the condo association next-door to us has given us a letter as well.

So, all our girls' friends, as well as all their extra-curricular activities, are here in Cambridge. When friends visit, we don't feel the need to leave Cambridge at all because of all the entertainment options here.

We have attended church here for over a decade, and all of our community service

efforts in Cambridge are organized through our church. We also have a hope that my mother, who is approaching retirement, may relocate to Cambridge and enjoy with us all that we ourselves cherish about Cambridge.

So thank you very much.

CONSTANTINE ALEXANDER: Thank you. I think what I should do, you heard me spat off about the dormer guidelines and probably wondering what am I talking about. Let me just explain what we are talking about so you understand certainly my peak about what's gone on with this petition and the problems that we have.

Community Development

Association -- we have many, many dormer cases coming before us as you might expect. All with the same kind of case that you have; need more space, young family, we want to put

a dormer on to get more living space.

Community Development developed guidelines to I think from an aesthetic point of view as to what dormers should do -- should be and shouldn't be. They're guidelines. They're not part of the Ordinance, but these are guidelines that we take very seriously. And we try to make sure that if the dormer doesn't comply with the guidelines, that there is, it gets pretty close to complying and/or there's a sufficient reason not to require compliance.

Your proposal, and there are certain reasons, the dormer guidelines are supposed to be sit down from the ridge line, they have to sit back from the face of the roof, but most importantly, they cannot be, they should not be more than 15 feet long. And if there's more than one dormer on a side of a house, you

add the dormers together and make sure -- and they can't be more than 15. The proposal that's being brought before us tonight, because you're going to put two dormers on one side, at least that's what you're expecting to do, they're going to be -- I thought it was the number. Yes, it's 27 feet, 11 inches. That's almost twice what our dormer guidelines provide. It's very, very rare that we would ever grant relief, if we ever granted relief, for this significant departure from the dormer guidelines. And that is why I'm a little bit annoyed about -- just speaking for myself. We haven't even addressed this. Not you. I don't expect you to know the dormer guidelines. You do know.

EDRICK VAN BEUZEKOM: I do know.

CONSTANTINE ALEXANDER: And to

expect us to approve these plans with this kind of dormers, frankly to me is a non-starter. It has nothing to do with your needs. And I really sincerely would like to accommodate you with your needs, but there's got to be something better than what's been proposed.

BRENDAN SULLIVAN: So let me -- yes, let me amplify that, because when I reviewed this, and I said, you know, Edrick, you should know better that -- and when a client comes to you and said, this is our space, this is what we need to do, and an architect designs to the person's needs. Then you say, well, however, this doesn't comply with Zoning. You're very well versed in Zoning. You also know, I think, how we operate because you've come here enough. And then and, again, I think going down the same road that Gus is,

and then to either mislead the client or say to the client well, yeah, it's way, way, over, it's beyond, but let's throw it on the paper and let's see how much they will pull off of it really irks me, too. And to come with a proposal that you know is -- has no chance of being approved, no chance at all, and I think either the client was ill advised or I'm not sure what the modus operandi is here. But there was just no way, and I've sat here for years, that we would ever approve anything like that. And I think you should know that. And I'm sure you knew that, and again, either the client has been ill advised.

EDRICK VAN BEUZEKOM: Well, I've been clear with them that we're not meeting the guidelines and that it's, you know, there are reasons why we did it this way. And I did not come in here thinking that there was no

way you would approve it. You know, I was just -- we did a project a few years ago that was approved by this Board which --

CONSTANTINE ALEXANDER: Where is that? What address?

EDRICK VAN BEUZEKOM: This was on Saint Mary Road, 23 Saint Mary Road.

CONSTANTINE ALEXANDER: That's by --way over by the Belmont line?

EDRICK VAN BEUZEKOM: No, no, no. This is right outside of Inman Square. In between Inman Street and Amory Street.

CONSTANTINE ALEXANDER: I don't remember this project.

EDRICK VAN BEUZEKOM: So on this project we basically did the same thing, tore the roof off, put a steeper pitch on it, went to the Mid-Cambridge Neighborhood Commission review. This was an exceptional case

because there was an existing very long dormer there. So I understood. And the reason that you granted us an exception there was because we needed -- there's a stair in the middle, and the only way to have the headroom coming up from the stair and connect the two spaces was to allow that. So I know that was an extraordinary situation and, you know, I appreciate the fact that we got that through. I felt like this is a similar sort of difficult situation where we have a narrow house where a dormer that fully complies with the guidelines and also we're limited with the height on the roof here that, you know, even when we go up to the maximum height of the allowable height, it's hard to get enough headroom. You know, unless we go to a very flat roof on the dormers, which also doesn't comply with the guidelines. So for me it was

a tradeoff do we go with flat roofs on the dormers or do we bring it up to the ridge to get the space? The length of the dormers, we limited them all to no more than 15 feet and the one in the rear is, on the, I know we have two dormers on this side. There's a 15-foot one and then we have a twelve-and-a-half-foot one which -- eleven-and-a-half feet. And so that one, you know, we talked about, again, it's, that's the narrow part of the house, we sort of need that. The one in the front we need because of this, of the stairs and in order to fit a bathroom there. There's all these things where there's no way to fit the space without this. I felt like the scale of what we were doing here was compatible with the neighborhood. I realize that, you know, we're pushing the dormer guidelines, but I felt like it was an appropriate case where

that worked and I, you know, rather than taking the roof off and putting on a flat roof or, you know, doing something that I think would kill the historical character of the house, I was trying to do something that was a more sympathetic and also still kept, you know, keeps the scale in with the neighborhood. So, I'm just -- I don't want you to think that I was expecting to just throw this out and see if anything stuck. I mean, I seriously considered what we were doing here. We had a lot of discussions about the alternatives. It's tough to make enough space. Their current third floor has very little headroom. It's not really a legal habitable space up there. There's a very small spiral stair going up there which is dangerous. You get to the top of the stairs, there's a two-foot landing. You

have to duck to get around the edge of it. You know, it's all space that maybe should never have been finished out in the first place, but it is and it's used -- there's two bedrooms up there currently. So we're trying to --

CONSTANTINE ALEXANDER: Might there be a solution that doesn't give you all the space that you would have with these plans but does accommodate most of your clients' needs?

EDRICK VAN BEUZEKOM: It's possible.

CONSTANTINE ALEXANDER: Well, that's the -- that's why you should be going back --

EDRICK VAN BEUZEKOM: I mean there isn't one that gets them all the bedrooms that they want.

CONSTANTINE ALEXANDER: I

understand that. There are some houses that just can't have it. I mean, it's sad and unfortunate, but that's why we have a Zoning Ordinance and we have dormer guidelines. It goes to the ridge line, we waive that. That's not one that really gets this Board worked up. Size of the dormers does. And when you're coming in with twice the permitted the recommended size, hackles, at least mine and Mr. Sullivan's hackles.

EDRICK VAN BEUZEKOM: So let me ask something. If we did not have the rear dormer, for instance, and we just had these two dormers, is that something that would -- is that still -- I mean these don't, you know, again, we're pushing it -- because of the narrowness of the house we're pushing it out.

BRENDAN SULLIVAN: Here we go

redesigning this thing at the table.

CONSTANTINE ALEXANDER: That's right.

BRENDAN SULLIVAN: You know? And there's too much of this that's going on. And I think that --

EDRICK VAN BEUZEKOM: Right. Well, I don't want to waste more of your time and why don't we ask for a continuance?

DOUGLAS MYERS: That's the point. If we've entered into that kind of dialogue with you, you've won because you've come in --

EDRICK VAN BEUZEKOM: And that's not what I want to do. And I --

CONSTANTINE ALEXANDER: We're going to continue. I tell you coming into this hearing, to be frank, I was preparing to just move the question, vote it down because I was

frankly offended by what was proposed to us. But if we did that, it would be two years before you could come back with another proposal. After hearing your comments, I don't want to do that. But I do want to suggest that we continue this case. Give you a chance to sit with your clients, come up with another solution, and get them as much as you can for what they want but a much more dormer guideline compliant, if not sufficiently entirely dormer guideline compliant, because that's what we do in the city.

EDRICK VAN BEUZEKOM: Okay.

CONSTANTINE ALEXANDER: Other members of the Board feel differently?

BRENDAN SULLIVAN: Well, I would opt not to continue personally myself.

CONSTANTINE ALEXANDER: You don't

want to continue the case? We'll take a vote on the merits tonight.

BRENDAN SULLIVAN: Correct, on what's before us.

JANET GREEN: I'm comfortable continuing.

CONSTANTINE ALEXANDER: I'm sorry?

JANET GREEN: I'm comfortable continuing.

DOUGLAS MYERS: I would favor a continuance, also. But I'd also ask you to pay attention to the effect of whatever plan you have on the increase of gross floor area in a building that is already substantially in excess of FAR requirements. Just keep in mind the proportionality of what you may seek at the continued hearing to an increase in a building that's already non-compliant.

CONSTANTINE ALEXANDER: Okay.

When is the next time we can hear this case?
You have to find out whether you need more
time.

SEAN O'GRADY: December 18th is the
earliest.

CONSTANTINE ALEXANDER: You want
more time than that?

EDRICK VAN BEUZEKOM: That's enough
time.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be
continued as a case heard, which means could
all five of us make it on the 18th?

JANET GREEN: Can you make it.

STEPHEN WELLER: Yes.

STEFANIE HAUG: It's very important
to us, we'll make it possible.

CONSTANTINE ALEXANDER: Whatever
meets your schedule. The reason I ask is by

law the five of us have to sit on the case again.

STEPHEN WELLER: Continue the case?

EDRICK VAN BEUZEKOM: It could be January, too.

CONSTANTINE ALEXANDER: January 8th could be the next time, too. We can't do it after the 8th. It's got to be the 8th or the December date. Mr. Sullivan is not available and he has to be on the case.

STEPHEN WELLER: Okay, the 18th would be acceptable, yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case heard until seven p.m., seven p.m. on December 18th on the following conditions:

That you sign a waiver of time for a decision.

That you sign, the posting sign that you

have now -- you have to sign that. It's a matter of law otherwise we have to turn you down tonight. That gives us a right to continue the case.

STEPHEN WELLER: Yes.

CONSTANTINE ALEXANDER: On the further condition that the sign, the posting sign must be maintained, must be modified with a magic marker, change the new date, put a new date, December 18th, new time, seven p.m., and that the sign be maintained for the 14 days as required under our Ordinance.

And lastly, to the extent that there are going to be new plans and there will, and the new plans and the dimensional form that goes with it, must be in our files no later than the Monday -- five p.m. on the Monday before the 18th. Because we have to have time to look at them and let the public look at them.

If you don't do that, we're just going to continue the case further or we may turn you down. Or we might not do that anymore.

But anyway, those -- you know the rules. Those are the rules that we apply all the time on cases like this.

All those in favor of continuing the case on the basis of this motion say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Alexander, Scott, Green, Myers.)

CONSTANTINE ALEXANDER: Opposed?

(Sullivan.)

CONSTANTINE ALEXANDER: One opposed. The motion carries.

EDRICK VAN BEUZEKOM: Thank you. And my apologies, that was not my intention.

STEPHEN WELLER: Actually, sorry,

we should keep the petitions for the time being, the signatures from the neighbors?

CONSTANTINE ALEXANDER: Bring it to the next meeting. And if you're going to have different plans, you probably should show the people the new plans and get new letters if you will. Probably makes more sense because we want them to endorse something that we're going to be considering.

STEPHEN WELLER: Thank you very much.

CONSTANTINE ALEXANDER: Thank you.

* * * * *

(8:55 p.m.)

(Sitting Members Case No. BZA-005437-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: We're going
to take your Harvard Street next.

EDRICK VAN BEUZEKOM: I submitted a
letter asking for a continuance.

CONSTANTINE ALEXANDER: The Chair
will call case No. 005437, 324 Harvard
Street, No. 2A.

Is there anyone here wishing to be heard
on this matter?

EDRICK VAN BEUZEKOM: Yes. Edrick
Van Beuzekom, architect for the project.
We've had to apply for an opinion from the
Mid-Cambridge Neighborhood Association. So
we couldn't get a hearing date until December

1st. So if we could get the next available.

CONSTANTINE ALEXANDER: The next available would be the 18th?

EDRICK VAN BEUZEKOM: That would be acceptable.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that this case be continued as a case not heard until seven p.m. on December 18th on the conditions that the petitioner or representative sign a waiver of time for a decision.

That the posting sign be modified to reflect the new date and time. Make sure both. And it be maintained for the 14 days required under our Ordinance.

And to the extent that the plans and dimensional form that are in our files now are going to change, change plans and dimensional form must be in our files no later than five

p.m. than the Monday before.

All those in favor of continuing the
case say "Aye."

(Aye.)

(Alexander, Sullivan, Scott, Green,
Myers.)

EDRICK VAN BEUZEKOM: Thank you. I
already signed the forms.

* * * * *

(8:55 p.m.)

(Sitting Members Case No. BZA-005395-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: And now the
case we've all been waiting for, case No.
005395, 1430 Massachusetts Avenue.

Is there anyone here wishing to be heard
on this matter? You know the drill,
Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chairman, Members of the Board.
For the record, my name is James Rafferty.
I'm an attorney with law offices at 675 Mass.
Avenue in Cambridge. I'm appearing this
evening on behalf of Liquiteria Mass. Ave.,
LLC, the applicant. Seated to my right is
Daniel Sullivan. Mr. Sullivan is a Vice

President with the company.

CONSTANTINE ALEXANDER: Are there multiple stores?

DANIEL SULLIVAN: There are none in Massachusetts. This would be the first one in Massachusetts.

CONSTANTINE ALEXANDER: Just curious.

ATTORNEY JAMES RAFFERTY: In fact there are four stores in New York City. The history of Liquiteria -- I'm just showing the Board the location. It's the Body Shop.

CONSTANTINE ALEXANDER: It's the Body Shop, yeah.

ATTORNEY JAMES RAFFERTY: Yes, it's the Body Shop at the corner of Mass. Ave. and Church Street. It's about an 800 square foot retail location.

Liquiteria first opened in 1996 in New

York City and was a single outlet operation until about 2012, and there have been two or three --

CONSTANTINE ALEXANDER: I'm listening.

ATTORNEY JAMES

RAFFERTY: -- additional stores open since that time. Really is a very unique retail offering, and I -- Mr. Sullivan was good enough to bring me photographs of their New York store. And this is going to, this is reflective of what I have -- I have five.

CONSTANTINE ALEXANDER: Is this in the file? No.

ATTORNEY JAMES RAFFERTY: No, I don't think these -- these are better than what might be in the file.

CONSTANTINE ALEXANDER: Yes, they are.

ATTORNEY JAMES RAFFERTY: I've got one more set.

CONSTANTINE ALEXANDER: You didn't bring any drinks with you tonight?

ATTORNEY JAMES RAFFERTY: Well, I saw how the honey went over. So I was regretting I didn't bring that.

But....

BRENDAN SULLIVAN: We don't take money, but we do take honey.

ATTORNEY JAMES RAFFERTY: There's some adage about getting more with honey than with vinegar. I got plenty of vinegar here over the years.

I would say that the exciting, unique product that's offered here, cold pressed juices; things like kale and what else?

DANIEL SULLIVAN: Spinach.

ATTORNEY JAMES RAFFERTY: Spinach.

JANET GREEN: Beets.

ATTORNEY JAMES RAFFERTY: Beets.

Cold presses juices, because I learned so much about this when the juice is pressed through a hot process, all the nutrients, the valuable nutrients are lost. So these are cold pressed juices and they're -- and the other thing are the smoothies. Now these are not your sugary smoothies that you see at these lovely chain operations. These are very healthy, natural ingredients smoothies, and it attracts a very health-minded consumer. And frankly, there is nothing quite like it in Harvard Square. And to Mr. Sullivan's thinking, there isn't anything quite like it anywhere other than New York City.

CONSTANTINE ALEXANDER: So you're saying that the establishment will fulfill a

need for such a service in the neighborhood, is that you're saying?

ATTORNEY JAMES RAFFERTY: You know, I think that's a logical connection to the point I'm trying to make, and I appreciate your addressing that. Because I've heard it said often that that is a high hurdle for some board members in Harvard Square. So when I saw this case, I was quite enthusiastic.

So, all kidding aside, it really is an exciting, different type of operation. It's heavy focussed on healthy food and a healthy approach. It's a great location from their perspective right across from the Harvard Yard. Right in front of the T station. Very appealing to the demographic that has made this shop such a success in New York City. They're in the West Village and the East Village.

DANIEL SULLIVAN: Chelsea.

ATTORNEY JAMES RAFFERTY: Chelsea.

DANIEL SULLIVAN: Union Square.

ATTORNEY JAMES RAFFERTY: So that they feel very excited that this, this location, it's got nice prominence. It's got a glass front there.

CONSTANTINE ALEXANDER: It does.

ATTORNEY JAMES RAFFERTY: And the whole experience in the store, Mr. Sullivan was explaining to me, is very high energy; the lighting, the setting, the music. You just feel better when you go there. So it's going to be quite, quite a contribution to Harvard Square. And they're excited about coming here. I believe I've seen correspondence from the Mayor welcoming them and encouraging the Board to approve the Special Permit. And we believe the -- I told Mr. Sullivan that

the history of the fast food ordinance really had its genesis and focus on traffic impacts, that the importance of walk-in trade not affecting -- and it's the first criteria as you know under 11.30 whether traffic will be impacted, double parking and things like that. This is nearly 100 percent walk-in trade. People will be coming from their offices walking there. No one drives to a location like this for this product. These are people that don't even drive cars they're so health conscious, they walk and run everywhere.

BRENDAN SULLIVAN: You'll be walking up Mass. Ave. everyday at lunchtime, will you?

ATTORNEY JAMES RAFFERTY: I only regret it won't be close enough. I'll have to stick with Life Alive. And the next time

I buy a sandwich there, will be the first time. But I've been told that's also a wonderful, healthy option. But this, this I think is quite unique. And I know Mr. Sullivan and his team are really excited.

The landlord is present this evening. And I -- Mr. Mank (phonetic) and his team. And it's probably worth noting that there's competition for these spaces when they become available. And I think there was careful -- I know there was careful attention paid to getting something that really would not be your run-of-the-mill Harvard Square operation. So the landlord is here tonight for the hearing, that's how strongly he feels about this use and why he thinks it would be great for his building. It's a very handsome building. It's a historical landmark building. They have a preservation award.

They added that small addition a few years ago. It's handsomely maintained. The brick has been re-pointed.

CONSTANTINE ALEXANDER: Do you Historical Commission approval?

ATTORNEY JAMES RAFFERTY: Only if we were making exterior alterations. There are no exterior alterations being proposed.

Signage is subject to Historical Commission in the Harvard Square Overlay District. So it's either going to be a blade sign. It would be a Zoning compliant sign, but I think the details of that are still up in the air. But, you know, we're not seeking any relief on signage.

The facade itself is largely unchanged. It will have the same glass front, same entry. There will be less clutter in the window, frankly, at least on the Mass. Ave. side, you

will be able to see in. Part of the attraction is for the patrons and those walking by to be able to visualize and see what's happening inside and to draw patrons into the space. So it will have a very active and open storefront on the Mass. Avenue side.

CONSTANTINE ALEXANDER: Some of the other things we have to touch on. Will the establishment, to the greatest extent feasible, use biodegradable materials in packaging the food and in the utensils and other items provided for consumption?

DANIEL SULLIVAN: We don't -- absolutely. We don't have a plan laid out.

CONSTANTINE ALEXANDER: You will use biodegradable materials?

DANIEL SULLIVAN: Absolutely.

CONSTANTINE ALEXANDER: You must

provide convenient, suitable, and well-marked waste receptacles?

DANIEL SULLIVAN: Yes.

CONSTANTINE ALEXANDER: To encourage patrons to properly dispose of all packaging. You will do that?

DANIEL SULLIVAN: Absolutely.

CONSTANTINE ALEXANDER: Will your establishment comply with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons?

DANIEL SULLIVAN: Absolutely.

CONSTANTINE ALEXANDER:
Handicapped compliant?

JANET GREEN: Can people sit down and -- or you can just come in and buy something and leave?

ATTORNEY JAMES RAFFERTY: There is a

counter area, but for the most part -- along that line, though, it's interesting, because if you are look at the way the store operates, it's really just the counter portion that -- where the smoothies are prepared that really one would argue is subject to the fast food. This is more straight retail grocery. The cold pressed juices and the food products are packaged and sitting on shelves. They're not prepared there. So if this were the only aspect of the operation, I would suggest they wouldn't even need the fast food. So that product is nearly entirely out the door, but it's consumed elsewhere. The smoothie, we all know, like a coffee shop, people buy it and they'll walk out with it.

CONSTANTINE ALEXANDER: That's my concern. Not -- that's one concern I have, is that people will be walking out with their

containers and are we going to have a waste problem in that part of Harvard Square where people finish their smoothie and off to the sidewalk and throw it in the street? It is something that's going to have a lot of stuff being taken from the premises to the public areas of the city of Cambridge.

ATTORNEY JAMES RAFFERTY: Well, that is true and that is -- I mean the risk of that exists, but I think it has a lot to do with educating patrons. I would --

CONSTANTINE ALEXANDER: Exactly.

ATTORNEY JAMES

RAFFERTY: -- suggest that the consumer that is focussed on the healthy benefits of this product also have a high sensitivity to the environment and it would not be consistent with their product of their customer base to find people indiscriminately throwing

things.

CONSTANTINE ALEXANDER: So you think -- so you think -- my point is I urge you to think hard and long about the kind of receptacles and any kind of instructions in the premises so that we can minimize maybe a non-existent risk, but minimize the risk. Because that area of Harvard Square is full of trash.

DANIEL SULLIVAN: Well, we have just reintroduced or just introduced reusable tumblers as well.

JANET GREEN: Really? Good.

DANIEL SULLIVAN: For that very reason. So, and to keep people coming back. And so we started the use and reusable. A lot of people get into a habit every morning, this is what they do every morning, this is what they do every afternoon. It gets to be a

habit and hopefully a healthy addiction.

JANET GREEN: It's expensive, isn't it, the way they cold press it?

DANIEL SULLIVAN: Well, it's a very expensive operation. A typical green juice may have five pounds of vegetables in it, so you can imagine that's a very long process to be able to create that. But it's, an affordable -- as far as the meal replacement, if you look at it for meal replacements, it's about the same price as if you had a cheeseburger.

CONSTANTINE ALEXANDER: Put that in the record? Are you guaranteeing that?

ATTORNEY JAMES RAFFERTY: We can make it a condition of the permit.

CONSTANTINE ALEXANDER: A condition.

Any other questions from Members of the

Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one wishing to be heard. I don't believe we're in receipt of any -- oh, yes, we are. I'm sorry.

We are in receipt of a letter from the Mayor, David P. Maher. (Reading) I am writing to you to voice my support for Liquiteria's application for a fast food Special Permit to operate in Harvard Square. Liquiteria's unique focus on serving pressed juices and smoothies stands out as a healthy option for the residents, workers, and residents of Harvard Square. Their

offerings will provide options to vegetarians and those with dietary restrictions, including allergies to dairy and gluten. I believe that their presence will help expand the diversity that currently exists in the square. I don't know where he's been. Of the diversity that currently exists in the square, and I urge the Board to approve their application.

We also, believe it or not, have a letter from the Harvard Square Advisory Committee which is required under our Ordinance that we do receive advice from the Harvard Square Advisory Committee. But it's -- it is a committee that is somewhat defunct. But in any event, it's addressed to this Board from Liz Paden, P-a-d-e-n on behalf of the Harvard Square Advisory Committee. (Reading) On behalf of the

Harvard Square Advisory Committee, I am forwarding comments in support of the Liquiteria Special Permit request for a fast order food establishment in the Harvard Square Overlay District. There was support for an active and engaging operation located directly at the MBTA entrance and support of appropriate hours of operation that take advantage of this location.

And that raises a question. We never talked about hours of operation. What are your plans?

DANIEL SULLIVAN: Our preliminary is seven a.m. to give breakfast, and then in the evening to eleven p.m. and that will --

CONSTANTINE ALEXANDER:
Seven-eleven.

DANIEL SULLIVAN: Yes,
seven-eleven. So, it's very -- as you get

into -- it is very transit oriented for somebody coming off and then walking, they will come off of the train and walk in and go to work.

ATTORNEY JAMES RAFFERTY: I think, Mr. Chair, we will need a Common Victualler license from the License Commission, and I think we would finalize the hours if the Board was comfortable with that.

CONSTANTINE ALEXANDER: Just as a matter of curiosity from a Zoning point of view.

Questions from Members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I didn't see anyone that has comments. We can close unless you have any further comments?

ATTORNEY JAMES RAFFERTY: No, thank you.

CONSTANTINE ALEXANDER: Discussion or ready for a vote?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Okay. We have to make a whole group of findings for a fast order food establishment, so please bear with me.

The chair moves that we make the following findings:

That the operation of the establishment shall not create traffic problems, reduce available parking, threaten the public safety in the streets and sidewalks, or encourage or produce double parking on the adjacent public streets. As the petitioner has identified for us, almost surely the patronage of this store will be people on foot, perhaps bicycles, but certainly it's not going to have double parking or

exacerbate parking issues in the square.

The physical design, including color and use of materials, in the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces, and uses in the particular location. In that regard the petitioner has submitted -- what do you call these? Photographs? Or are these renderings?

ATTORNEY JAMES RAFFERTY: Those are photographs of existing locations.

CONSTANTINE ALEXANDER: Of existing locations which, I think in my mind, enable us to make that finding.

That the establishment fulfils a need for such a service in the neighborhood or in the city. In this regard there is nothing like Liquiteria products available in the

square.

That the establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile-related trade, and we've already addressed that I think and you've addressed that in your presentation.

That the establishment will, to the greatest extent feasible, utilize biodegradable materials in packaging the food and the utensils and other items provided for consumption thereof.

That the establishment is going to provide convenient, suitable, and well-marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils, and other items provided with the sale of food. And this, again, I would reiterate pay close attention

to the receptacle issues for trash.

And lastly, it is your position that your establishment will comply with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons.

The Chair moves the Board make the further findings required for any Special Permit, some of these are repetitive, that we've already dealt with specifically for fast order food enterprises, but I'm going to mention them anyway.

That traffic generated or patterns of access or egress from the store will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of development of adjacent uses will not be

adversely affected by what you're proposing.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city.

And that what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

On the basis of all these findings, the Chair moves that we grant the Special Permit being sought to operate this fast food, fast food -- fast order food establishment at 1430 Massachusetts Avenue.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Scott, Green,
Myers.)

ATTORNEY JAMES RAFFERTY: I'll
explain to you the significance of the fifth
vote.

CONSTANTINE ALEXANDER: It's very
significant. But there is a need. You
persuaded me there's a need for this type of
an operation.

Thank you.

ATTORNEY JAMES RAFFERTY: Thank you
very much. Have a good evening. Have a nice
holiday.

CONSTANTINE ALEXANDER: Good night.

* * * * *

(9:15 p.m.)

(Sitting Members Case No. BZA-005419-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005419, 59 Market Street.

Is there anyone here looking to be heard
on this matter? As you must know by now,
please give your name and address to the
stenographer.

ATTORNEY SEAN HOPE: Good evening,
Mr. Chairman, Members of the Board. For the
record, attorney Sean Hope, Hope Legal
Offices in Cambridge. Tonight I have with me
the petitioners, Mr. James Wildash and Sonia
Kowal.

Good evening.

This is an application requesting various relief to site one car located in the front yard setback. The owners and the petitioners are here tonight. This is an application -- property that was before the Board previously.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: About a year and a half ago.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: The petitioners purchased the property, and at that time the property was in distress. And as part of the renovation of the property, they received Variance relief to raise the existing roof. At the time because of the distressed condition of property, they didn't live in the unit. And so the nature

of the Variance request tonight is to site the car, one parking on the front yard setback. I just want the Board to understand, so this is not a Zoning two-step or to come and ask for relief and to later come back and ask for another relief.

Part of living in the home, realizing the parking condition at the property was something they didn't fully appreciate when they were here last time, and so if they had known that, I think they would have come with a complete package.

So as I said before, at the time they didn't realize. And I think there's a myriad of factors that are not individually, but when they look at together, take what is a challenging parking situation, and I think as the Board knows, there are challenging parking situations all throughout Cambridge.

But the challenging parking situation was largely exacerbated by several factors, and I would like to walk through those.

So, one, the property is located about 60 feet from the Cambridgeport school, which is on Elm Street. So it's about one property away. So the first factor is the Cambridgeport school takes about almost half the block of Elm Street in terms of the frontage if you look at Hampshire Street and Broadway. This is a parking that would normally be available to area residents for parking through metered parking or permit parking that's no longer available to park for health and safety reasons for the school.

The second thing is that even though there's a parking lot at the school, there is not enough available parking. Some of that parking lot is used for after school programs

in addition to the park. So some years ago the City Council actually changed the parking regulations on the -- particularly this section of Market Street, removing the parking protection which would be permit parking from the street. There were obviously intended consequences. One was to allow the school staff and teachers to be able to park on that street. I think part of the unattended consequences was that this section specifically of Market Street has become a parking lot for unregistered vehicles throughout the neighborhood. We submitted in the file, and we also have pictures today of several vehicles with out-of-state plates that actually park there. If this was something that just happened during the day, it would be like any other challenging situation in Cambridge.

What's happened, and not all the time, but enough that it's really created this hardship, is that people will park their cars there for days on end. And in addition to just individual vehicles, we also have cabs and other commercial vehicles that would normally have to be parking off street, but they come from different areas and they park on this street. That particularly, that consequence in addition to the fact that on that street there's actually parking on both sides. So functionally when petitioners would come to come home after work, if they even would look for off street parking, sometimes you would pull on the side, unload your vehicles, do offloading and then find parking. Because there's parking on both sides of the street, on a busy evening effectively you can't even stop in front of

the house, put the hazard lights on because there's parking on both sides of the street. So there's, you know, the petitioners have so circle the block. But it really creates a condition where they aren't able to reasonably be able to do some offloading and loading at the property. This is a combination between the extra vehicles there, the lack of available parking, and the fact that there's parking on both sides of the street. That condition is not only for this in terms of parking on both sides of the street, it's actually on Elm Street, on Market Street, on Columbia Street, and Hampshire. And so, I think there is a uniqueness to this condition that's different from other challenging parking --

CONSTANTINE ALEXANDER: Why all those points argued for not giving you the

relief you're seeking. You're going to take, and this is the problem we have with front yard parking, you're going to take a parking space away from the citizens of the city and dedicate themselves entirely to your use in an area that's very tight for parking. In an area where the streetscape is such where the houses are all virtually on the street. To take one parking space, those folks who are lucky enough to have front yard parking now because of non-conformance are going to be okay, but everybody else is going to be disadvantaged. They're not going to have an ability to park on the space that you're going to be taking, and it will be in perpetuity. You're going to be gone for a long time and there is still going to be a curb cut there, and there's going to be front yard parking.

ATTORNEY SEAN HOPE: I would say,

and just distinguish for the Board we're not applying for a Variance for a curb cut.

That, as the Board knows, the curb cuts are approved through the City Council. We're just trying to focus this on just parking in the front yard setback.

To the Chair's point, without a curb cut there would be another car in the street. They would have to find a car and hopefully find parking on their street. I think there's a net zero loss. You take -- you're taking a car off the street and you're taking a parking space, a ten-foot parking space off the street and you're going to be putting a car off the street.

CONSTANTINE ALEXANDER: There is a net to be sure. I mean the simple analysis, one for one swap. The fact you're getting a monopoly on that one space. You're getting

and taking that away from the citizens of the city. It's not a simplistic one for one swap.

ATTORNEY SEAN HOPE: I understand. But I do think the fact that you're going to have another car on the street, it is going to take up a space. We are as petitioners are looking at our unique hardship and not necessarily trying to solve a hardship from the city.

We did contact Traffic and Parking just about the lack of permit parking which is a customary protection, and they explained to us that this is really for the benefit of the school that was there. So I do feel like, you know, not just the petitioners, but other members of the street have to absorb this hardship.

I do understand your point that a curb

cut is permanent, but I do think also looking at the context of the street, and I think we also pointed at various houses in the neighborhood, that having parking within that front yard setback, the curb cut aside, is something that is compatible with the existing neighborhood. I think it's also a condition that exists on this particular street as well as some adjacent streets.

I did count the number of properties that have, that abut this section of Market Street. So there are ten properties that abut this section of Market Street; six of those ten have off street parking. They're not all of them are within the front yard setback, but they're all visible from the street. Oftentimes people design -- the Board and other Boards will say, you know, it decreases from the pedestrian streetscape.

And oftentimes when you see a car parked in front of that setback, it's average. It's something that doesn't fit. I would say in the context of this street, this is something that it happens. I think it actually fits with the street. And I think it's also significant that the abutters who would be most closely affected by either the lack of parking and/or the pedestrian streetscape, have unanimously supported this application. So I would just --

CONSTANTINE ALEXANDER: If we were to grant relief, are you going to have to remove a tree?

ATTORNEY SEAN HOPE: Yes. We are going to remove a tree.

JAMES WILDASH: So you want me to address that? Yes, so forgive me if there are any arborists here. There is a --

SONIA KOWAL: The tree of life
(pronunciation).

JAMES WILDASH: It's called
(pronunciation), the tree of heaven. It's a
Chinese wheat tree. It's not native. And
the speed they grow. It's clearly a weak
tree. And if you actually look, the major
limb that actually hangs over the street
is -- there's some carpenter ants inside it
and they've burrowed. That tree is coming
out irrespective of whether this application
goes forward because it's not only not
native, and we'd much rather put in a maple
or whatever, and that's actually what we're
proposing to do on the other side of the house
to replace that tree. But it would have to
come out anyway just for safety reasons.
It's not a healthy tree.

DOUGLAS MYERS: What steps, if any,

can you take to remove the unregistered and the permanently parked cars from the street?

ATTORNEY SEAN HOPE: Well, I think it's probably a balance by the city looking at --

BRENDAN SULLIVAN: When you say they're unregistered, they don't have resident stickers?

ATTORNEY SEAN HOPE: They don't have resident stickers. But intentionally even cars that are not registered in Massachusetts, as we can see from the pictures --

BRENDAN SULLIVAN: They're legally registered, they don't happen to be registered in the city.

THOMAS SCOTT: Why couldn't you petition the city to change the regulation so that it's resident parking except for the

hours, say, between seven and three, Monday through Friday? That way that whole issue would go away.

BRENDAN SULLIVAN: Beacon Hill does that. That's quite common in Boston.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY SEAN HOPE: Yes. I think one, you know, if you look at the houses on the street, as I said, out the ten houses, six of them already have off street parking.

CONSTANTINE ALEXANDER: To me, that carries no weight whatsoever. Just because there are -- there's a -- these are legally there, we're not going to extend -- and now the Zoning Ordinance doesn't allow front yard parking. Our Board has got a consistent policy of discouraging and voting against front yard parking. The Planning Board, and they've expressed their views in writing,

have a policy in regard to front yard parking.

ATTORNEY SEAN HOPE: I saw a copy of that. And I think what it says they talk about the pedestrian streetscape unless there are unique characteristics or unique factors. And I think there are enough unique factors. I think if you look throughout the city, I think the proximity to a public school that specifically is looking to alleviate its parking conditions specifically on Market Street, that's a condition that does not, does not exist throughout the city of Cambridge. And I also think, too, that the parking conditions that are out there on both sides of the street combined together, creates I think a unique enough factor and takes a challenging situation, which I admit happens throughout Cambridge, but I think it raises this level and it's created this

hardship functionally to be able to use that. I also do think in terms of petitioning the city, I will think, I'm not on City Council obviously, they have to balance that. And so you have the factors of having the school that needs extra parking, and maybe that would be a suggestion of the City Council or the petitioners, they could change it so that the regulations would have it if they could, maybe it's only permit parking, you know, until five o'clock and then after that it's not permit parking. But this has existed I believe a little over 20 years. And so this is a condition that I don't think can easily change, and they can't add more parking to the school.

THOMAS SCOTT: But this condition affects every neighbor adjacent to you, and it seems to me why wouldn't you, you know, get

a petition together and have everybody on the block sign it, and then go to the Traffic and Parking or whomever and try to change that.

ATTORNEY SEAN HOPE: I would just that to even an attempt -- I think it would be pretty hard to do. And I'm not saying that that has been done. But when we talked to Traffic and Parking and they expressed the condition, this wasn't something that they said oh, okay, well, why don't you go to your neighbors and try to change that. This is a condition that is going alleviate a citywide benefit. I mean having schools, having teachers and staff being able to park, is citywide. I think if you weigh the balance, the city is not going to take the side of some petitioners as opposed to --

THOMAS SCOTT: But they've created a problem whereby out of state people know that

that block has this advantage and they're taking advantage of it. I mean, if you, if you really pointed that out to them and said, look, you know, we've got out of state plates here that sit here for days at a time, I think they would probably look at it a little more seriously.

ATTORNEY SEAN HOPE: I think they might. But I still think that that doesn't change the facts of there are curb cuts on that street already. That do limit the available parking. But I do think that this individual house and this individual situation lends itself, I think, to have a parking space where it's located. I think there are several other properties on the street that are closer to the property line that can't have -- can't have opportunity.

CONSTANTINE ALEXANDER: We heard

this argument throughout the city about the special circumstances; got to unload groceries, we haven't bought that argument frankly.

DOUGLAS MYERS: What would be the parking situation on the street if the other three houses aside from yours that do not have off street parking came in and advanced the exact same, advanced the exact same arguments that you did, and this Board being principled and if it accepted your argument tonight, granted those three people off street parking, then what would remain of the available parking that now exists on Market Street?

ATTORNEY SEAN HOPE: I think if you actually look at the plan, there are -- on this section of Market Street there are very few properties that have sufficient room with

the front yard setback to be able to pull a car to be able to move that ten foot buffer. I don't think there's actually a lot of opportunities from any other property on this section of Market Street to come before the Board to be able to park.

The other properties are almost on the property line. And the ones that actually have room either have parking, have a curb cut, or have parking in the front yard setback. I don't think there's a lot of opportunities for anyone else on this section of Market Street who are dealing with this specific effect.

I think if you go down further down Market Street that there are several properties that come in and ask for Zoning relief to park in the front yard setback. But I think if we focus on this specific

section of Market Street, I think what makes this different than anyone else is the fact that there is no parking regulations on there. This is something that is not done blindly with the City Council. It was done intentionally. I think there are parked cars parking on the street, they may ask Traffic and Parking to go and regulate it. I don't know if they would go and limit the availability of parking from the staff. This was an intentional regulation that they did to alleviate an issue, and it's lasted for over 30 years. So it's not something that is new, that I don't think is blindly. And when we talked to Traffic and Parking, it wasn't given to us that all you would need to do is get your neighbors and abutters to join together to change this parking regulation. And I'd also say that the challenge of parking

for schools is not limited to the Cambridgeport school.

Also on Cherry -- there's a lot on Cherry Street that was once to be used of -- what used to be the Tobin -- not the Tobin, the Roberts School that's on Hampshire Street. So parking for schools is a challenge in Cambridge, and this is one way the City Council has chose to alleviate that, which has actually created a hardship on us. And I think what we're asking for is relief to be able to park within the front yard setback.

Now if the City Council says, you know, a curb cut doesn't make sense for this lot for all the reasons that the Board has said then we won't get a curb cut. What we would need, though, is the relief to be able to say there's enough of a hardship given the

factors that we have, to be able to allow you to park in the front yard setback given the context of the neighborhood. And if the City Council chooses that this is not a good idea for the lack of parking --

CONSTANTINE ALEXANDER: If we grant the relief tonight, the City Council is not going to turn down the curb cut. Because you'll go to the City Council and say the Zoning Board considered this, they found it a hardship, blah, blah, blah, please give us the curb cut. The City Council will grant the curb cut.

ATTORNEY SEAN HOPE: I wouldn't say they're going to necessarily grant it. And they do grant it, I think it's going to be probably for the same reason about the context of the neighborhood looking at our specific case. And also, too, at the City

Council, you know, if you don't walk by the property, you may not see the sign, you may not even though that we have a Zoning --

BRENDAN SULLIVAN: I have watched debates on City Council and curb cuts where abutting neighbors have gone down and opposed the curb cut, have not come before this Board, but everything else was legal except for the curb cut, and the City Council just passed the curb cuts.

CONSTANTINE ALEXANDER: Sure, they do.

BRENDAN SULLIVAN: And again, vehement and quite strenuous objection from abutting properties. So, anyhow, I --

ATTORNEY SEAN HOPE: I take your point, Mr. Chair.

BRENDAN SULLIVAN: -- I really, and you know, again, the Fletcher School whatever

school, it used to be the Fletcher, whatever school is there now, has been there for a number of years. Even though you purchased the property and you said this is a wonderful house that we can afford, we can put some money into it, it will serve our needs. The only drawback to this thing is that we don't have parking, and we really would like to have a parking space. That has either allowed people to move on to a place where we really need off street parking. You look at the conditions, the neighborhood really hasn't changed at all in the past year and a half, and so I think you accept it. This is going to be not ideal. Maybe you were not totally aware of the it's going to be a real problem, but I think it probably should have been somewhat cognizant of the fact that it's going to be very tight and it's going to be

somewhat --well, I was going to say an annoyance, but more than an annoyance. And, but I, again, that other people have curb cuts, have maybe front yard parking, and that's why at some point somebody decided that the Planning Board and City Council voted in and it's not a good idea to have front yard parking.

CONSTANTINE ALEXANDER: I think especially true in a very crowded streetscape. Everything is right on the street.

BRENDAN SULLIVAN: And again to go to Traffic and Parking you're going to get a boilerplate response from them, the only one that moves traffic and parking is an order from the City Council. And the only thing that does that is to petition individual City Councillors to put it on the agenda and have

them drill Traffic and Parking to say this is a real problem, not just for you people, but for the adjoining neighborhoods. And this is one way to address it. And I think the off hour of permit parking works. It gives the teachers, the staff their time that they can park there during the daytime when possibly you people are at work. So you're alternating. But then comes six o'clock it's permit parking only. It works in other communities, Beacon Hill or whatever.

CONSTANTINE ALEXANDER: Brookline.

BRENDAN SULLIVAN: Brookline it works.

JANET GREEN: I see those signs around Cambridge, too.

BRENDAN SULLIVAN: Correct, right. So anyhow, I think -- but to allow front yard parking is somewhat (inaudible) with me not

to permit it.

ATTORNEY SEAN HOPE: I would only say that I agree. And when we met, you know, this is something that the Board takes a very closely density, putting density, the pedestrian streetscape, but I do think that there are unique enough factors and there is -- there may be potentially a remedy outside of this, but that's not a guarantee. And I would really like to focus just on the parking in the front yard setback. And I think when the Board does grant a Variance outside of the Ordinance, they do need extraordinary factors. And I think there has been a condition on the street that has been there to serve the city. I don't think that's going to be easily changed. They're not the home owners that used to be in Cambridge where you have people that have

been there for 30 years who are buying together. It's a much more transient population than it used to be. You know, the petitioners are looking to buy the home and have a family and to live there for a long time. I think that this request really would allow them to do that. I'd also say, too, that, you know, the Ordinance calls for the most rational use of land. And I would say that this front yard area is not an area that's prime for open space, a big component of parking in the front yard setback in addition to the visual --

BRENDAN SULLIVAN: Oh, I would strenuously disagree on that. I wouldn't go there with me on that. To take up a lawn area with a tree in the front and potential open space and to replace it with a paved area and a car, no.

ATTORNEY SEAN HOPE: I would only say for this specific property, this specific property has very large backyard. And so if this house was shifted over to the right, you may be able to have a driveway, you could park in the backyard. I think for the neighbors and abutters who enjoy that open backyard vista, I don't think it's the case that people would rather put the car closer to the property line or in the backyard. I think in this specific case if you look at what's most enjoyable in terms of private open space, it's not in the front, it really is in the back. And they have a beautiful backyard. The neighbors and abutters who supported this also talked about overlooking the backyard and enjoying that open space. I do think in most cases people would rather the car not in the front, in the back. I think this is a

unique case where if you were going to have a car in this location, I think that this in terms of preserving the open space and enjoying the open space, I think it's more appropriate in this area than the back. And also, you know, this is a non-conforming structure and so it's in the front yard setback, a car or any construction would need to be Zoning relief. If this car was ten feet further back, we'd still have to go through the curb cut process but we wouldn't have this front yard setback issue, I still think that it would be the appropriate location for the car. It's proximity how close it is. I'd also say, too, it's a portion of the car, it still is some of the car, but it's not the whole car within the front yard setback. It is a condition that, you know, the Board has seen before when you have an existing

non-conforming condition, you have to work with that condition. But I do think, again, I'm repeating myself, but I think the conditions on the ground, if they can't change at this desk, I think do create a substantial hardship to the petitioners. And they can speak to that better than I can about just loading and unloading. And I do think when you have a full support by all your neighbors and abutters, which normally doesn't happen. The neighbors and abutters are pretty adamant about protecting the streetscape that they enjoy, there is no opposition. There was no opposition when -- and actually because they weren't aware of the front yard setback issue, they went and applied for the curb cut first. And when they applied to Mr. O'Grady, they realized they had the front yard setback

violation. So there's been extensive outreach on this application, and I think the fact that there's full support speaks volumes about what the neighbors and abutters feel about the streetscape. And I do think the Planning Board, they normally don't like parking in the front yard, but there's an unless clause. Unless there are specific circumstances. And I think that's what we are trying to appeal to you about.

I'd also like to add anecdotally, this may not be germane, but the petitioners are committed to sustainable living and sustainable energy, and one of their desires is to have a hybrid vehicle with a charging station. Now there are charging stations --

CONSTANTINE ALEXANDER: If we grant relief, it's forever. You'll move on to another community and we'll still have the

front yard parking. That doesn't move me one bit.

ATTORNEY SEAN HOPE: I just --

JANET GREEN: I have to say that I'm actually hearing what I think of as unique conditions in this situation.

CONSTANTINE ALEXANDER: What did you say?

JANET GREEN: I'm hearing what I think are unique conditions in this situation. I think that particular block is different than the rest that I see around. The cars that I saw that were -- had front yard parking, you know, I just -- I usually am very against front yard parking, but when I looked in that neighborhood, I really did feel like there was a substantial hardship for that house.

CONSTANTINE ALEXANDER: Let me open

the matter up to public testimony unless we have questions of the petitioner.

(No Response.)

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one.

The Chair would report that we are in receipt of written communications. One from the Planning Board. (Reading) The Planning Board reviewed the plans and does not support front yard parking as it detracts from the neighborhood character of residential streets. The Planning Board is concerned that if the parking space is going to replace an existing tree as well as remove the on-street parking space, unless there are

particular circumstances to the residents of 59 Market Street or a particular street pattern exists, the Planning Board does not recommend granting this Variance.

We have a letter from Susan Hartnett, H-a-r-t-n-e-t-t and Wayne Raila, R-a-i-l-a, who reside at 88 Elm Street. (Reading) We are writing to express our support for the Variance application 59 Market Street to allow for parking in a small portion of the front yard setback. From the northern windows of our property at 88 Elm Street we look directly across Market Street to where the proposed parking space would be. We have lived at this property on the corner of Elm Street and Market Street for over 25 years. We know it is hard to find street parking especially during the evening hours. This parking situation is worse than other areas

of Cambridge, as many non-permitted vehicles routinely park on Market Street for extended periods of time. We've reviewed the plans and believe the improved landscaping curb cut and parking are consistent with other properties on the street and in the immediate area. We also believe that parking in the front yard setback is consistent with the patterns -- there's a typo -- with the pattern of development for similarly situated properties in the neighborhood. Further impact on the availability of street parking will be minimal as the petitioners will be removing a car from the street. We strongly urge you to support this Variance and allow the petitioners to have a small portion of the proposed parking space in the front yard setback.

There's a letter from Horris Francis,

F-r-a-n-c-i-s. (Reading) I am writing to lend me support of the Variance application at 59 Market Street to allow for parking in a small portion of the front yard setback. I live at 110 Elm Street which is located directly to the rear of 59 Market Street. Having spent many years in the neighborhood -- in this neighborhood, I have seen the challenges of finding street parking in and around Elm Street and Market Street. I have seen the amount of time and effort that the owners at 59 Market Street have put into renovating their property which marks a big improvement relative to the prior state of the property. I think that the proposed Variance would not detract from the neighborhood or the block. I strongly urge you to support this Variance and allow the petitioners to park in their front yard area,

especially as the proposed parking area is small.

And last there is -- two more letters. A letter from Sheila Jewett, J-e-w-e-t-t, I believe. It's a handwritten so I may have misread it. 57 Market Street, No. 2.

(Reading) I am writing this letter in support of the Variance of 59 Market Street to allow for a parking space on the premises. The residents of 59 Market Street have been great neighbors, a nice addition to the neighborhood. If you would like to contact me, blah, blah, blah.

And lastly, and this is last, a letter from Dianna, D-i-a-n-n-a, Ploss, P-l-o-s-s. (Reading) I am writing to lend my support for the Variance application at 59 Market Street to allow for parking in a small portion of the front yard setback. I have owned and lived

at 61 Market Street for nearly 12 years and I've also witnessed the lack of street parking. My property at 61 Market Street directly abuts the location of the proposed parking space and driveway. I am pleased to see improvements that the new owners have made to 59 Market Street and think that the proposed Variance would not detract from the neighborhood or the block. I strongly urge you to support this Variance and allow the petitioners to park in their front yard especially as the proposed area is small.

And that's it in terms of written communications.

I will close public testimony. Any further comments?

ATTORNEY SEAN HOPE: Not at this time.

CONSTANTINE ALEXANDER: This is the

only time you have.

ATTORNEY SEAN HOPE: I don't have any closing statement. I'll be brief.

CONSTANTINE ALEXANDER: As I said, I'll close public testimony.

Any comments or discussion from the Members of the Board or are we ready for a vote?

ATTORNEY SEAN HOPE: I think the petitioners would just like to --

CONSTANTINE ALEXANDER: Go ahead.

JAMES WILDASH: First we thank you for your time. We appreciate you considering this application. We, as you know, came before the Board before. We just wanted to back up on what Sean said. This wasn't done as a kind of two-step process. We're not kind of, you know, finding ourselves under water and wanting to increase

the value of the house or anything like that. Prior to buying this house we lived in the Back Bay right on Beacon Street, and that was a pretty challenging parking situation, so that's something that we were looking to avoid when we came to Cambridge, the idea of having cars whizzing by you.

CONSTANTINE ALEXANDER: Well, then I would think at the time you bought this property you would be especially sensitive to the parking issues and you would have sought Zoning relief as part of the other Zoning relief. I think your argument goes just to the wrong way.

JAMES WILDASH: Well, the reason that we came before the Board because what happened with the top of the house was --

CONSTANTINE ALEXANDER: I know that. We approved it. I was sitting here

and so were most of the members.

JAMES WILDASH: Yep, absolutely. And we greatly appreciate that and it's turned out beautifully. So thank you for that.

The situation that we found ourselves in, the contractor and the architect did not do a good job of problem solving what we knew was a big issue, I couldn't get up the third floor stairs. We found ourselves horribly behind. I said, wait, if you're taking the whole roof off, is there no way that you can raise the knee wall, and they just went and looked at each other and said oh, gee, that's -- yeah. Maybe we should try and look into that. So this wasn't something that we planned when we got stuck into this project. We went way over budget because of it, but it was the right thing to do and that's obviously

not for your consideration, but we were trying to get that done as quickly as possible. So all of our attention was focussed on getting our house finished, getting the building project --

CONSTANTINE ALEXANDER: Even though you were sensitive to parking issues coming from the Back Bay, you still ignored those concerns?

JAMES WILDASH: Had we appreciated it at that time. Obviously the house was completely unlivable. We weren't living in the neighborhood at that point. If we had appreciated it at that time exactly how challenging -- I would go as far to say if we had appreciated how challenging the parking situation was on this particular block in Cambridge, I think we would have seriously reconsidered actually purchasing the house.

When we purchased the house, we were told that oh, it's real easy to park because we have this -- essentially an unrestricted block. Well, it turns out that the lady who was living there originally, she never drove anywhere. So she didn't have a driving license.

SONIA KOWAL: She lived there. She was born there.

JAMES WILDASH: She was born in the house. So it was kind of like, I walked everywhere, I never had a car.

Life has changed since then. And so that was one thing. And I really genuinely mean it, if we appreciated exactly how tiresome it is -- we have plenty of friends in Cambridge who live, you know, all over. That was the reason we came here. We wanted to be closer to our friends and we wanted to

have a neighborhood feel. And if we appreciated it at the time, how much more difficult it is to park right where we live and, you know, shame on us for not realizing but it's very, very hard to get a good since of how regularly spaces open up unless you actually live in the neighborhood. And so you've noticed our friends down in Cambridgeport or up on Danehy Hill they have a better situation. I'm not saying it's easy. I know everybody at this table, everybody in this room realizes that this is not an easy city to park in and it never will be. But I think had we known about these special conditions, we didn't really consider the school and the fact that the teachers all park on the street, the fact that there are -- I counted, there are 18 available parking spaces I think on the block. And on

the worst day I saw six out of state license plates. That's not even counting the cars from Massachusetts that are, you know, non-resident in Cambridge as well. And I was just like, this is, this is crazy.

So, the other thing that I would say is that just -- I do worry that it is a safety concern. There is no way that you can get another car passed where we have to pull up and unload. You can't park on the corner. There's a fire hydrant there. There really are no other options. There's no, like, neighbor's driveway that we can just pull into. There's literally nothing. The only space is kind of opposite. So I feel that we really are in a pretty unique situation.

The other thing that I'd like to stress is and, again, this is your decision obviously to make, but it's really only a very

small portion of the parking space that would be in that front yard setback. Most of it is actually going to be hidden because of the shape of the house. It's actually an L-shape, so we would be parking hard up against that. And I think that, you know, if we were asking to pull the car right in and dump it right in front of the house, I can really appreciate why this, why these rules exist. We're asking for a Variance on a very, very small portion of the parking space and so -- yeah, is there anything else you wanted to add?

ATTORNEY SEAN HOPE: I would like to ask briefly one more thing. If the Board was -- I know the Board it's important to have consistency with how it looks at certain cases and especially cases like the front yard setback, and we appreciate that. I do

think if the Board would find in favor of granting this Variance, I don't think that it would be inconsistent because of the uniqueness of the circumstance. And I've talked about that before, and I know things can change over time, but I have seen the Board grant Variances for people having small children or things that can change over time, but I still think the hardship can obviously change and grow. But I think in this case the school is not going anywhere. And from I guess from the last 20 years neighbors have all had to deal with the same issue and it hasn't been changed. I would ask that if the curb cut is a concern, that we let the City Council make that decision. And then if it's about the front yard setback, usually things like context of the neighborhood, which we have, neighborhood support, and

compatibility with the existing streetscape, those are all there. So I appreciate the idea that what may come after is important to the Board. But I do think there is enough here that I don't think you're going to see a flood of curb cut applications on tight streets because I don't think this isn't -- you couldn't create this type of living situation.

CONSTANTINE ALEXANDER: Every front yard setback, set parking case, everybody claims to have something, unique circumstances.

ATTORNEY SEAN HOPE: I do think as a school and overflow parking and no regulations --

CONSTANTINE ALEXANDER: But there is, as you pointed out, there are alternative approaches to solving that, like petitioning

the City Council to get the --

DOUGLAS MYERS: How --

CONSTANTINE ALEXANDER: Go ahead.

DOUGLAS MYERS: How much would the car intrude into the setback as if the Board were to grant the Variance? The car were parked as far back, as far away from the street as possible?

CONSTANTINE ALEXANDER: You can take a look anyway.

DOUGLAS MYERS: The answer is there in the file? Okay.

ATTORNEY SEAN HOPE: The minimum setback would be ten feet.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SEAN HOPE: And so, the parking space is 18 feet deep. And so --

CONSTANTINE ALEXANDER: Roughly half, roughly.

DOUGLAS MYERS: The front of the car would be four or five feet from the street?

ATTORNEY SEAN HOPE: The rear of the car, if you drove it -- yeah, the rear of the car.

DOUGLAS MYERS: Okay.

CONSTANTINE ALEXANDER: Okay. Is that it?

ATTORNEY SEAN HOPE: That's it.

JAMES WILDASH: Just one more comment from me if I may, sorry.

CONSTANTINE ALEXANDER: No, that's all right.

JAMES WILDASH: The other thing I'd like to stress is that this isn't a house -- we've put a lot of effort and time in. This is, this is where we're gonna live. This isn't the kind of, you know, next couple of years we're gonna kind of move.

SONIA KOWAL: We bought the house from a family that bought it in the 20s. You know, we'd like to keep it in the family. We're stuck. We love it and that's why we moved to Cambridge for the neighborhood and for that feeling. So, you know, we're really excited about it.

JAMES WILDASH: I work down by the Galleria. I love my 20-minute walk to work. I've had the misery of commuting from Concord to the Galleria. I hated it. I just can't think of anything worse. This is where we want to be. And we hope to have a family. Our family is going to be raised here. It's not a kind of, you know, we're gonna be done and off and moving on to our next project. This is our home and we've invested a lot of time and this would alleviate the hardship we would be very grateful if you consider.

CONSTANTINE ALEXANDER: Thank you. And thank you for taking the time. Obviously you have a heartfelt view on this issue, but we have our own responsibilities as Members of the Zoning Board.

But in any event, discussion or we ready for a vote?

DOUGLAS MYERS: I'd like to make a statement which I think relates to kind of the unique circumstances of this case. I find this a very close and very difficult case, and I really want to commend Mr. Hope for making a very persistent and resourceful argument that certainly brought to my attention a lot of factors that I had not considered before, and I think the applicants here make a very sympathetic presentation and appearance. There's no question on a personal basis that relief would be a great convenience to you and

that there are unique and specific factors that relate to it. Ultimately I've decided I'm going to vote against the application because, I mean I have to weigh the private factors with the public good. And that clearly, and off street parking is a problem that affects the -- it's citywide in its implications. And I just feel that -- with respect to Market Street, the -- to grant the relief here makes the general parking situation on Market Street that much worse, and that is the bottom line and that is, that is in derogation of the Zoning Ordinance. And for that reason -- despite everything I said before, I mean I really -- I thought long and hard about this and I appreciated Janet's comments, and I was on the fence and ultimately I have decided I have to vote against it for the reasons I say.

CONSTANTINE ALEXANDER: All set?

Any other comments or should we go right to the vote?

(No Response.)

CONSTANTINE ALEXANDER: Vote?

Okay, the Chair moves that this Board make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that given the current regulations relating to the street, that the petitioner is having difficulty finding parking for premises they own.

That the hardship is owing to the shape of the lot and the structure. It is being very close to the street with no access to the backyard. If there is to be off street

parking, it has to be in the front yard.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogate from the intent and purpose of this Ordinance.

On the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with four pages of plans, all of which have been initialled by the Chair.

All those in favor of granting the Variance, please say "Aye."

JANET GREEN: Aye.

CONSTANTINE ALEXANDER: One in favor.

All those opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Four opposed. The motion does not carry.

(Alexander, Sullivan, Scott, Myers.)

JAMES WILDASH: Thank you for your time.

CONSTANTINE ALEXANDER: We have to take another vote. You don't have to stay here if you don't want. We have to take a further vote as to why we voted as we did, those who voted against it.

And I will move that we voted against it because we do not believe -- we do believe that the relief that's being sought would nullify or substantially derogate from the intent and purpose of this Ordinance.

In this regard we have longstanding policy supported and also maybe originated by the Planning Board against front street parking. That there is, there appears to be other methods of getting relief that the petitioner has not pursued; namely, the

things that Brendan has identified in terms of petitioning the City Council.

And for those reasons, that is the reason why the vote has been made against granting the Variance.

Anybody want to add to that or is that sufficient?

BRENDAN SULLIVAN: I think to incorporate some of Mr. Myers' comments there about how it would exacerbate an even more difficult situation on the -- as far as parking on the street.

CONSTANTINE ALEXANDER: Add that to the -- that it would not -- may make things better for the petitioner, but exacerbate parking on the street, and that in fact is the basis why both the Planning Board and this Board has consistently been opposed to front yard parking.

All those in favor of that motion say
"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in
favor. So that's to be recorded as to why we
voted against it.

(Alexander, Sullivan, Scott, Myers.)

CONSTANTINE ALEXANDER: Sorry.
That's how we decided.

* * * * *

(9:55 p.m.)

(Sitting Members Case No. BZA-005363-2014:
Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005363, 25 Alpine Street.

Is there anyone here wishing to be heard
on this matter? As you heard, you need to
give your name and address to the
stenographer.

ROBIN LUBBOCK: Robin Lubbock, 25
Alpine Street.

WILLIAM SIMMERS: My name is William
Simmers. I happen to live at 8 Alpine
Street. I'm also the architect of the
project.

CONSTANTINE ALEXANDER: Floor is
yours.

WILLIAM SIMMERS: Where to begin?
This is a case from -- we're trying to put a

bay window on the front of the house. This, the reason why we're before the Board is because the front facade of the house happens to be four inches in front of the setback line. And so if you follow the strict rules of the Zoning Code, you cannot alter -- except for window openings, you cannot alter the facade of the building if it's non-conforming.

Now, our argument is this: It's only four inches. That's No. 1.

The official setback is 15 feet from the street. In fact, it's more than 15 feet from the sidewalk line which of course fooled me at first, but it's in fact, according to the survey, only 14 feet. 14.17 feet. 0.3 feet comes down to four inches in length in the landscape surveys.

The second reason is that we would be

able to do this if the houses on the left and the right-hand side of the house were either forward or in exact alignment. Now, the house on the right-hand side is in exact alignment as is the next house down in exact alignment. It just so happens because of the design of the street, which was a development in 1947 for veterans that there was a deliberate staggering of setbacks. So that half the houses on the street are this supposedly, I argue, 15 feet back which they made a mistake about, and the others were set back farther. It just so happens that we don't have a house on either side that's exactly in alignment supporting that. I actually have -- I gave you in the, in the submission the recent, the recent Assessor's map. The original Assessor's map shows the whole street pattern and the original

alignment and it gives you an idea that all the houses, in fact, were in direct alignment and that I can only surmise that it was just a mistake that they meant to put it 15 feet back. But for some reason they didn't put it 15 feet back. These things happen.

But the houses are all in alignment. All you have to do is sit, you know, site down the street and they're all, and they're in alignment.

So the third thing I want to emphasize is the fact that even though we are four inches in violation of the front setback, the bay window that we're proposing is in fact back from the line that we would be allowed to go out to if we were in full -- if we were in full conformance. So in fact, we're back from the line that we would have been able to do even if we had been in conformance. So

I -- if other people aren't bothered by it and
I -- it's hard for me to believe that people
actually are bothered by the four-inch
difference. It actually is only three
inches. They happened to re-side the house
with aluminum siding so it's out another inch
beyond what it originally was. So it's hard
for me to believe that anybody is truly
affected by this.

CONSTANTINE ALEXANDER: Can I ask
you a question? Where is that front door
going to be?

WILLIAM SIMMERS: The front door is
on the side.

CONSTANTINE ALEXANDER: On the side
of the house?

WILLIAM SIMMERS: They only
use -- it used to be a two-family. The side,
the entrance that we're substituting the bay

window for, they never use.

BRENDAN SULLIVAN: That's this door here?

WILLIAM SIMMERS: Yes, that's right.

BRENDAN SULLIVAN: So that door is basically coming out?

CONSTANTINE ALEXANDER: Yes, that door is coming out.

BRENDAN SULLIVAN: And that's going to be replaced with the bay window? And the purpose of the bay window?

WILLIAM SIMMERS: To let more light and space into the living room.

CONSTANTINE ALEXANDER: Family room I thought on the second floor. Isn't the family room on the second floor?

WILLIAM SIMMERS: There's also a family room on the second floor that they want

to let more light into.

CONSTANTINE ALEXANDER: Did you say there is a door right now on the side of the house which is going to become the front door?

DOUGLAS MYERS: The driveway, the back door.

WILLIAM SIMMERS: There is no driveway. There are no driveways on Alpine Street.

CONSTANTINE ALEXANDER: I'm sorry, it's been a long night.

WILLIAM SIMMERS: Yeah, I know.

CONSTANTINE ALEXANDER: How are you going to get to the front door?

WILLIAM SIMMERS: Well, the front door is on the side. It's the one they use --

CONSTANTINE ALEXANDER: I'm a mailman, I'm a postman or I'm U.P.S. I pull up to the house, this is the address, and they

go to the door and I see no door. How do I know where the front door is?

WILLIAM SIMMERS: It's the side main entrance. A lot of houses on the street have it.

BRENDAN SULLIVAN: Is this it on the side?

JANET GREEN: Oh, it's on that side?

ROBIN LUBBOCK: Yes.

BRENDAN SULLIVAN: So this is the entry to one unit. This was the entry to the other unit.

WILLIAM SIMMERS: Exactly, but it's a single-family.

BRENDAN SULLIVAN: It's now a single-family, so they don't use this, they use that.

CONSTANTINE ALEXANDER: Yes.

DOUGLAS MYERS: Like in a rural

area, you enter the house through the back door all the time?

WILLIAM SIMMERS: Well, it's not a back door. It's a side door.

DOUGLAS MYERS: Side door.

WILLIAM SIMMERS: It's visible. And it's only 15 feet back from the street. It's not a mystery.

BRENDAN SULLIVAN: I'm just wondering if it could not have been a little bit less imposing looking? It seemed like an awful lot going on there. I guess maybe the connection from one to the other is maybe a little bit more difficult. It's a 0.30 requesting 0.31 in a 0.5 or a 0.35 according to your calculation. So it's not an FAR issue, it's really a setback.

WILLIAM SIMMERS: No, nowhere near the FAR.

DOUGLAS MYERS: How much additional, if you call what you did, the bay bump out, the bay --

WILLIAM SIMMERS: Yeah.

DOUGLAS MYERS: -- how much further toward the street will the nearest part of the bay be than the existing front door structures are now?

WILLIAM SIMMERS: The actual front facade of the bay is like 45 degrees. It's just under 30 inches from the front facade and you subtract 307 inches or 15 feet. Now there is a slight roof overhang which comes out an additional four inches. I calculated to the roof overhang. So it's actually 34 inches out from the facade of the building. If the building had been set back -- well, I went through the math of the thing. If it had been set back four inches, we would have been

able to come out 42 inches, so --

DOUGLAS MYERS: Ten inches.

ROBIN LUBBOCK: The current structure that's there, I would think the bays must come out further than that?

WILLIAM SIMMERS: Yeah, yeah, the base does. I mean, but that doesn't count in terms of ratio.

THOMAS SCOTT: The roof does. How far does the roof come out?

WILLIAM SIMMERS: It doesn't come out. It covers the flat form in front of the old door. But it doesn't -- to tell you the truth, I didn't measure it. But I don't think it comes out that far. I think it only comes out something like two feet.

ROBIN LUBBOCK: Yes.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open it to public testimony.

Is there anyone wishing to be heard in this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We are in receipt of written communications. We are in receipt of a letter from Doris Engelman, E-n-g-e-l-m-a-n who resides at 29 Alpine Street. (Reading) Dear Zoning Board, this is to say that I enthusiastically support a Variance be granted for the above work. The above work that she's referring to is in the notice that she received describing what is being sought. The relief being sought.

There is a written note from, looks like

Jodie, J-o-d-i-e Siegel, S-i-e-g-e-l 21 Alpine Street. (Reading) I think this will be a very positive and aesthetic improvement to 25 Alpine Street. Thank you for your consideration.

And lastly, there's one more, I know.

ROBIN LOBBUCK: Just to note because of the numbering on the street there's the two neighbors on each side. Even though the numbering is a little further away, they're two adjoining.

CONSTANTINE ALEXANDER: We have a note from Janet Domentiz, D-o-m-e-n-t-i-z and Jon, J-o-n Scarlett, S-c-a-r-l-e-t-t. And they reside at 22 Alpine Street. They simply say we are in support of this Variance. And that's it.

WILLIAM SIMMERS: They're the people who face the facade.

CONSTANTINE ALEXANDER: Okay. I'm going to close public testimony unless you have any further comments you want to make.

THOMAS SCOTT: Are you cantilevering the structure?

WILLIAM SIMMERS: Yes.

THOMAS SCOTT: You're not building a foundation?

WILLIAM SIMMERS: It doesn't touch the ground. If it touched the ground, we wouldn't be allowed to do it. Well, not without a more, a more vigorous argument shall we say. But this comes within the rubric of allowed projections as long as they don't touch the ground. You're allowed roof eaves, bay windows, other projections that do not have a foundation on them.

CONSTANTINE ALEXANDER: Comments or are we ready for a vote? I'm ready, but is

everybody else?

The Chair moves that this Board make the following findings with respect to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. The hardship being is that the petitioner needs additional light and space that would be provided by what is -- the bay window that is being sought.

The hardship is owing to basically the shape of the structure and where it's located on the lot as represented by the petitioner that the, the building is located four inches by mistake apparently, four inches too close to the lot line which triggers the need for Zoning relief. Not the lot line, where the front lot line.

And relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard the Chair would note that the relief being sought is modest in nature. It apparently has unanimous support of those neighbors who have chosen to comment on the relief being sought.

So on the basis of these findings the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with three pages of plans submitted by the petitioner, all of which have been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Scott, Green,
Myers.)

CONSTANTINE ALEXANDER: Relief
granted.

ROBIN LUBBOCK: Thank you very much.

WILLIAM SIMMERS: Thank you.

* * * * *

(10:10 p.m.)

(Sitting Members Case No. BZA-005313-2014:

Constantine Alexander, Brendan Sullivan,
Thomas Scott, Janet Green, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 005313, 41-45 Alewife
Brook Parkway No. C.

Is there anyone here wishing to be heard
on this matter? Give your name and address
to the stenographer.

TIM SULLIVAN: Good evening. For
the record, my name is Tim Sullivan. I'm an
employee of Barlo Signs out of Hudson, New
Hampshire and I'm here this evening
representing the, representing the now is it
Lessee or Lessay (phonetic).

CONSTANTINE ALEXANDER: Lessay.

TIM SULLIVAN: Lessay School at
their property at 41-45 Alewife Brook Parkway
here in Cambridge.

We're seeking relief here this evening

for multiple freestanding directional signs, and an additional parking sign, if you will. Everybody has the site plan. I can give my large prop.

CONSTANTINE ALEXANDER: Let's be specific. I'm sorry, I want to move this along.

TIM SULLIVAN: Sure.

CONSTANTINE ALEXANDER: The Ordinance allows you to have two freestanding signs, up to two.

TIM SULLIVAN: Correct.

CONSTANTINE ALEXANDER: How many will you have?

TIM SULLIVAN: Three, freestanding directional signs. The fourth one is a parking identification sign.

CONSTANTINE ALEXANDER: Right.

TIM SULLIVAN: That because it has

the Lessay logo on it, we need relief for that. And because of the overall height being eight foot as opposed to I believe it's four foot, we need relief for that as well.

CONSTANTINE ALEXANDER: So you have relief for four signs?

TIM SULLIVAN: Correct.

CONSTANTINE ALEXANDER: Not the two.

TIM SULLIVAN: Right.

CONSTANTINE ALEXANDER: And you're saying the parking sign -- there's a limit, supposed to be no more than four feet. You want eight feet?

TIM SULLIVAN: Correct.

CONSTANTINE ALEXANDER: The other signs -- 15 feet is the height for the other sign?

TIM SULLIVAN: Yes, we're not

exceeding the 15 feet.

CONSTANTINE ALEXANDER: And the total amount of square footage for the signs you're supposed to have under the Ordinance is no more than 30 square feet? How many square feet?

TIM SULLIVAN: Total -- we have one at 29, one at 35, and one at 24.

CONSTANTINE ALEXANDER: So you're significantly, in terms of the square footage of the total area of the signs almost twice what the Ordinance would permit?

TIM SULLIVAN: Correct.

And, again, it's a fairly large property. It's basically three rambling buildings, if you will, all interconnected with several different entrances into the property, into the building, and we're looking to identify which driveway is

appropriate for which part of the building.

The sign number item B, which is the first one in the package, is basically replacing the sign right now that's parallel to Alewife Brook. That sign will be turned perpendicular, and it's basically a size for size with what's existing there.

CONSTANTINE ALEXANDER:

Perpendicular would mean, of course, if you're going, I guess, if you're driving from Fresh Pond area up Route 16.

TIM SULLIVAN: Yep.

CONSTANTINE ALEXANDER: You would see that. It would be perpendicular. What about if you're driving in the other direction?

TIM SULLIVAN: That's perpendicular. I'm sorry perpendicular to -- presently that sign is parallel.

CONSTANTINE ALEXANDER: Parallel, yes.

TIM SULLIVAN: To Alewife. We're going to turn it 90 degrees so you can see it from both directions.

CONSTANTINE ALEXANDER: Markings on both sides of the sign?

TIM SULLIVAN: Correct. It would be a double base sign.

CONSTANTINE ALEXANDER: Got it.

TIM SULLIVAN: And that will also have an events panel that's changeable. Presently now I believe there's a banner hanging on that sign, so that will eliminate the need to do these kind of banners to advertise events if you will. They'll have an actual advertising panel, part of the sign that they'll slide --

BRENDAN SULLIVAN: A stationary

one, though?

TIM SULLIVAN: Yes, yes. No blinking, no flashing.

CONSTANTINE ALEXANDER: The only lighting I see from your application is external --

TIM SULLIVAN: External spotlights.

CONSTANTINE ALEXANDER: Which is permitted -- which is consistent with our Zoning Ordinance.

TIM SULLIVAN: Correct.

So that's the first sign, item B.

This item -- well, item C is basically at the other end of the property as you're coming down to, again, identify that you're at the campus and to direct people to the gymnasium which is, which is further down.

CONSTANTINE ALEXANDER: How do you get on the property from the Alewife Brook

Parkway?

TIM SULLIVAN: You're not supposed to. There's do not enter signs down here.

CONSTANTINE ALEXANDER: I know.

TIM SULLIVAN: But they say do not enter with exception of entering into the church parking lot. However, when I was there this afternoon, there's cars basically lining the street in the opposite direction. So I think a lot of that are residents on this side of the property which tend to come in that way. But, you know, I kind of made my way, looped all the way around, and came in the other direction, which I believe is the proper way to enter it. But, I think some residents coming down in that other direction.

JANET GREEN: So this is the church?

TIM SULLIVAN: Yes.

JANET GREEN: Right here?

TIM SULLIVAN: That's the church.

JANET GREEN: And then what's on the -- just on the other side of the church? Because it seemed to me like the sign, the notification sign was on a little stick down more toward that building.

TIM SULLIVAN: I think because they centered it on the property frontage, which would make it further down here.

JANET GREEN: Right.

TIM SULLIVAN: As opposed to, you know, where it's actually -- the signs are actually going to be located. And I don't know if that's part of the Ordinance that was there to center it on the frontage.

CONSTANTINE ALEXANDER: There's no requirement to --

TIM SULLIVAN: Okay. Well, I think

that's probably what they did.

JANET GREEN: Okay.

TIM SULLIVAN: So then the second sign we're proposing is at this location to properly identify the --

DOUGLAS MYERS: Item C would be the sign that's going to be eight feet high?

TIM SULLIVAN: No. Item C is seven foot. That's to notify that this is a reception area to the school. There's some limited parking spaces here, and then to notify you that there's further parking down below and the gymnasium is down below.

DOUGLAS MYERS: How high? Is there a sign there at present?

TIM SULLIVAN: No, this would be a new sign.

BRENDAN SULLIVAN: Do you have additional copies of the --

TIM SULLIVAN: Will full-colored ones?

BRENDAN SULLIVAN: Yes.

TIM SULLIVAN: No. But you could have mine. I have some black and white ones.

CONSTANTINE ALEXANDER: I can give you the file if you want.

BRENDAN SULLIVAN: Yes, I reviewed it.

The letters don't mean much to me unless I can relate them to the actual sign.

TIM SULLIVAN: Sure.

THOMAS SCOTT: Can you explain to me why sign D is required?

TIM SULLIVAN: Sign D is required so if you're approaching from this direction, that informs you that there's parking in here for the school and that that is the entrance to the gymnasium and also the business office

and admissions for the school.

BRENDAN SULLIVAN: So, item B is actually going to be on Alewife Brook Parkway?

TIM SULLIVAN: Correct.

BRENDAN SULLIVAN: Perpendicular to it, seven feet high and --

JANET GREEN: It's same size as it is now.

BRENDAN SULLIVAN: -- and seven foot wide?

TIM SULLIVAN: Correct.

JANET GREEN: That's seven feet high?

TIM SULLIVAN: The existing sign I believe is lower, but as Code allows us to go seven foot, we'd like to get it raised up so you can see it.

JANET GREEN: Oh, I thought you said

it was going to be the same size as the one that's there now.

TIM SULLIVAN: The area of the sign is actually close to what's there, it's just the sign is going to be raised up because of snow piles --

JANET GREEN: The signage part?

DOUGLAS MYERS: It's going to be parallel to Alewife Brook Parkway, correct?

TIM SULLIVAN: Perpendicular.

DOUGLAS MYERS: Perpendicular.
It's going to face the house across the street?

JANET GREEN: No, no.

TIM SULLIVAN: Yes, yes. The present sign -- this is Alewife. The present sign goes in this direction. So we're proposing it's going to be in this direction. So we'll have visibility coming from both

ways.

BRENDAN SULLIVAN: There's the current sign. Parallel with it.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Basically they're going to take --

CONSTANTINE ALEXANDER: Flip it.

BRENDAN SULLIVAN: -- and then flip it. And it's a little bit high for my liking.

CONSTANTINE ALEXANDER: Yes, that's my sort of reaction, too. You're asking for an awful lot of signage relief, but on the other hand this is a complex, it's an educational area, it's an area that needs some identification off the main streets. I can understand the need for the amount of parking -- I mean, the amount of signage and the kind of signage that you're seeking. I'm sympathetic to your position frankly. I

might not have been in a different kind of set of circumstances.

JANET GREEN: Right, I agree. I'm just surprised, though, that the one on Alewife needs to be so high. I mean, the sign itself, once you know it's there, it's not invisible because of that, you know, because it's invisible because it's flush to the street. If it's turned at an angle to the street, you'll be able to see it coming forward easily enough.

TIM SULLIVAN: Well, I think one of the concerns is A, the snow buildup along the side of Alewife, you know, from the plows, from the sidewalk clearing, and that type of thing. And second, it sits back fairly far from Alewife because you have a strip of grass, you have a sidewalk, and then it sets back further. So with the traffic and,

again, potential snow buildup, we feel it's important to get it up high enough to be visible. I mean, we're still only two feet clearance underneath the sign.

DOUGLAS MYERS: I would accept your arguments about the height of that sign because people are going to be driving along the Alewife Brook Parkway at a fairly high rate of speed. You want a sign to maximize your visibility. I would like to hear about the eight-foot sign inside the property because there, it seems to me, on the inside people aren't driving around so fast and they have time to look around or back up even. There's -- no one's in jeopardy there, so I'm questioning about an eight-foot sign.

TIM SULLIVAN: Sure. The eight-foot sign is that blue visitor parking sign that you have in front of you.

DOUGLAS MYERS: Could you just say which of the items it is --

TIM SULLIVAN: It's located here. If you go to the last photo in the packet that I just handed out today, that shows where the vehicles are parked in that package. Correct. The very last page is vehicles parked along the fence line. So the sign will actually be up enough to properly identify the visitor parking spaces. They will be tight up against the fence to properly identify the visitor parking spaces when there are cars actually parked there. That's why we're seeking the eight-foot high.

THOMAS SCOTT: Is it that tall if an SUV is parked there you can see it over the top of the SUV?

TIM SULLIVAN: SUV? Just about any car. You know, I mean except for a Maserati

that's low to the ground, any vehicle that's a substantial height that will allow that -- this stretch of parking which is very limited anyways to be identified. And we need relief for that basically because we have the school logo on that sign.

CONSTANTINE ALEXANDER: Which you don't have to have.

TIM SULLIVAN: We don't have to have, but it helps reinforce that parking is in fact for the school.

JANET GREEN: Belongs to the school.

CONSTANTINE ALEXANDER: Good point.

JANET GREEN: Yes. Well, I agree --

BRENDAN SULLIVAN: I'm just surprised the neighbors -- I guess if I lived on that stretch across from the school, I would want to tone down the signs, but they're

not here.

CONSTANTINE ALEXANDER: Well,
there's no letters in the file.

BRENDAN SULLIVAN: And they
obviously know about it.

CONSTANTINE ALEXANDER: We have a
letter from the Planning Board which I'll
read at an appropriate time. It's the only
written communication in our files that I can
see.

TIM SULLIVAN: And again, so, you
know, based on the size of the campus, based
on the size of the many entrances, that's why
we're seeking relief this evening for the
additional signs.

CONSTANTINE ALEXANDER: Thank you.

TIM SULLIVAN: You're welcome.

CONSTANTINE ALEXANDER: Questions
or --

JANET GREEN: No.

CONSTANTINE ALEXANDER: Is anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No, I guess not.

We are in receipt of a memo from the Planning Board. (Reading) The Planning Board reviewed and discussed the sign variances for the Lessay School of Boston and does not object to the granting of these Variances. The Planning Board reviewed the submittal for the multiple freestanding signs and the directional sign with logo, and find that because the school is located on the very busy parkway on a very large lot with multiple structures to connected to make it one building, the proposal is appropriate. Each freestanding sign is modest and sensibly

located to facilitate access to the school building.

Okay, and that's it.

I'm going to close public testimony. Do you have anything further you wanted to add?

TIM SULLIVAN: No, I don't.

CONSTANTINE ALEXANDER: Discussion or you want to have a vote?

JANET GREEN: Ready for a vote.

CONSTANTINE ALEXANDER: I'm ready for a vote.

BRENDAN SULLIVAN: I'm not -- it's one of these that's hold your nose. I mean, I I'm not necessarily enamored by it, but I don't have a good alternative.

CONSTANTINE ALEXANDER: The Chair moves that this Board make the following findings with regard to the Variances being

sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner would not be able to sufficiently identify its location and internal traffic directions without the relief being sought.

The hardship is owing to circumstances relating to the shape of the lot. This is a very large -- as pointed out by the Planning Board, a very large lot with multiple structures that are connected and which are somewhat unusual, certainly unusual for a residential district where this is located.

And that the relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the

Ordinance.

With regard these signs would facilitate the operation of the school, which is very popular school in the city of Cambridge.

That this petition has the support of the Planning Board, and that there appears to be from what we can see in our files no objection from the neighborhood.

So on the basis of all of these findings the Chair moves that we grant the Variances being sought on the condition that the work proceed in accordance with the plans submitted by the petitioner, all of which have been initialled by the Chair.

All those in favor of granting the Variance say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Variance granted.

(Alexander, Sullivan, Scott, Green,
Myers.)

TIM SULLIVAN: Thank you very much.

(Whereupon, at 10:30 p.m., the
Zoning Board of Appeals
Adjourned.)

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IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2014.

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#2A^[1] - 2:11

0

0.3^[1] - 210:170.30^[1] - 217:160.31^[1] - 217:170.35^[1] - 217:170.5^[1] - 217:17003764^[1] - 12:9003934^[1] - 3:16004610^[1] - 7:6005313^[1] - 226:6005332^[1] - 94:6005363^[1] - 209:6005393^[1] - 16:10005395^[1] - 122:7005419^[1] - 148:6005420^[1] - 35:7005437^[1] - 119:1002139^[1] - 1:7

1

1^[3] - 21:9, 38:19,
210:1210^[3] - 2:4, 5:2, 7:6100^[1] - 129:810:10^[1] - 226:110:30^[1] - 249:511^[1] - 102:711.30^[1] - 129:511/20/2014^[1] - 251:1110^[1] - 186:5119^[1] - 2:1112^[3] - 2:5, 97:16,
188:1120^[1] - 18:11122^[1] - 2:10125^[1] - 36:2132^[1] - 61:6134^[3] - 2:8, 35:7,
45:114^[4] - 19:12, 116:10,
120:13, 210:1714.17^[1] - 210:171430^[3] - 2:10, 122:7,
146:11147703^[1] - 252:15148^[1] - 2:1315^[13] - 68:19,
101:17, 102:1,

107:3, 210:13,
 210:14, 211:12,
 212:5, 212:7, 217:9,
 218:14, 228:18,
 229:2
15-foot^[1] - 107:6
16^[2] - 2:6, 230:12
166^[2] - 2:9, 94:6
18^[2] - 194:18, 199:17
186^[1] - 27:16
188^[1] - 27:11
18th^[9] - 73:4, 114:2,
 114:11, 115:9,
 115:14, 116:8,
 116:16, 120:2,
 120:8
1905^[1] - 7:15
1924^[1] - 18:3
194^[1] - 27:7
1947^[1] - 211:9
195^[1] - 27:18
197^[1] - 28:2
1979^[1] - 18:5
1996^[1] - 123:18
1999^[1] - 97:11
19th^[1] - 252:11
1st^[1] - 119:19

2

2^[4] - 2:9, 21:11, 94:7,
 187:6
20^[4] - 1:5, 97:7,
 164:11, 197:12
20-minute^[1] - 201:9
200-202^[2] - 2:6,
 16:10
2002^[1] - 97:12
2012^[1] - 124:1
2014^[2] - 1:5, 252:11
2015^[1] - 252:16
202^[1] - 17:5
205^[2] - 25:18, 28:6
206^[1] - 28:16
207^[1] - 28:8
209^[2] - 2:14, 28:12
20s^[1] - 201:2
20th^[1] - 13:7
21^[1] - 221:3
210^[2] - 23:5, 29:1
211-213^[1] - 29:11
216^[1] - 29:3
217^[2] - 23:14, 29:8
22^[1] - 221:17

226 ^[1] - 2:15
23 ^[2] - 105:6, 252:16
230 ^[1] - 29:5
24 ^[1] - 229:9
25 ^[5] - 2:14, 184:16,
 209:6, 209:11,
 221:6
250 ^[1] - 251:7
27 ^[1] - 102:7
29 ^[2] - 220:14, 229:9
29th ^[3] - 9:2, 9:17,
 10:15
2A ^[1] - 119:11

3

3 ^[1] - 2:3
30 ^[4] - 169:12,
 176:19, 218:13,
 229:6
307 ^[1] - 218:14
31 ^[1] - 18:13
324 ^[2] - 2:11, 119:10
34 ^[1] - 218:17
35 ^[3] - 2:8, 17:14,
 229:9
38 ^[1] - 18:12
381 ^[1] - 25:7

4

4 ^[1] - 45:2
4.13 ^[8] - 45:13, 46:1,
 46:12, 46:17, 47:6,
 47:10, 49:19, 84:19
4.30 ^[7] - 45:2, 45:14,
 46:3, 47:2, 47:5,
 47:9, 49:16
40 ^[1] - 17:13
41-45 ^[3] - 2:15, 226:6,
 226:19
42 ^[1] - 219:3
45 ^[2] - 24:6, 218:12

5

57 ^[1] - 187:6
59 ^[11] - 2:13, 148:6,
 184:2, 184:9, 186:3,
 186:6, 186:12,
 187:8, 187:10,
 187:17, 188:7

6

60 ^[1] - 151:2

61 [2] - 188:1, 188:3
617.786.7783/617.63
9.0396 [1] - 1:17
650 [2] - 2:5, 12:10
675 [1] - 122:14

7
7 [4] - 2:3, 2:4, 3:16,
4:9
72 [1] - 36:3
7:05 [3] - 1:5, 3:2, 7:1
7:10 [1] - 12:1
7:30 [3] - 3:11, 16:1,
90:14
7:45 [2] - 35:1, 90:14

8
8 [1] - 209:14
800 [1] - 123:16
806 [1] - 1:7
82 [1] - 18:12
88 [2] - 184:7, 184:12
8:15 [1] - 74:19
8:20 [1] - 75:1
8:35 [1] - 94:1
8:55 [2] - 119:1, 122:1
8th [13] - 5:12, 6:1,
6:7, 82:16, 83:3,
87:17, 87:19, 88:19,
90:15, 92:18, 115:4,
115:6

9
90 [1] - 231:5
94 [1] - 2:9
9:15 [1] - 148:1
9:55 [1] - 209:1

A
a.m [1] - 140:13
ability [5] - 52:12,
84:10, 98:10,
155:10, 252:10
able [22] - 4:14, 48:2,
132:1, 132:3, 137:8,
152:6, 154:2,
163:18, 165:13,
167:19, 168:1,
168:5, 170:11,
170:17, 170:19,
178:4, 211:2,
212:19, 219:3,

240:11, 247:6
absolutely ^[6] - 97:14,
 132:15, 132:18,
 133:7, 133:13,
 191:2
absorb ^[1] - 157:14
abut ^[2] - 158:8,
 158:10
abuts ^[1] - 188:4
abutter ^[1] - 66:2
abutters ^[12] - 18:17,
 19:8, 21:17, 68:12,
 77:5, 159:4, 169:16,
 178:6, 178:14,
 180:10, 180:11,
 181:4
abutting ^[2] - 172:5,
 172:14
accept ^[4] - 15:7, 43:7,
 173:13, 241:6
acceptable
^[2] - 115:10, 120:4
accepted ^[1] - 167:10
access ^[5] - 20:6,
 20:9, 145:13,
 204:19, 246:1
accidental ^[1] - 62:12
accommodate
^[3] - 31:16, 103:3,
 109:10
accommodation
^[2] - 54:1, 57:3
accordance
^[5] - 30:15, 33:6,
 205:10, 224:15,
 248:13
according
^[2] - 210:16, 217:17
account ^[1] - 64:9
accurate ^[2] - 251:17,
 252:9
act ^[1] - 38:17
acted ^[2] - 80:17,
 80:18
action ^[2] - 37:19,
 38:11
active ^[2] - 132:6,
 140:5
activities ^[2] - 39:11,
 99:13
activity ^[4] - 45:5,
 86:7, 91:10, 91:15
acts ^[1] - 37:18

actual ^[4] - 77:5,
 218:11, 231:18,
 236:12

adage ^[1] - 125:11

adamant ^[1] - 180:12

add ^[9] - 9:7, 30:4,
 101:19, 164:13,
 181:11, 196:13,
 207:7, 207:14,
 246:6

added ^[1] - 131:1

addiction ^[1] - 137:1

adding ^[1] - 18:11

addition ^[7] - 23:8,
 131:1, 151:17,
 153:1, 153:7,
 177:12, 187:11

additional ^[7] - 124:6,
 218:3, 218:16,
 223:11, 227:4,
 236:1, 244:15

additions ^[1] - 23:6

address ^[16] - 7:13,
 17:2, 23:2, 35:17,
 36:12, 37:7, 41:18,
 96:18, 96:19, 105:4,
 148:9, 159:15,
 175:3, 209:9, 216:2,
 226:10

addressed ^[10] - 4:6,
 12:19, 44:17, 65:17,
 95:13, 96:6, 102:14,
 139:15, 144:3,
 144:4

addressing ^[1] - 127:5

adjacent ^[4] - 142:12,
 145:17, 158:6,
 164:16

adjoined ^[1] - 65:10

adjoining ^[3] - 146:6,
 175:2, 221:13

Adjourned ^[1] - 249:6

adjunct ^[1] - 86:7

Adjunct ^[1] - 86:14

admissions
^[1] - 237:2

admit ^[2] - 79:16,
 163:15

adopted ^[1] - 84:3

adult ^[1] - 24:9

adults ^[1] - 73:17

advanced ^[2] - 167:7,
 167:8

advantage ^[3] - 140:8,
165:19, 166:1

adversely ^[1] - 145:18

advertise ^[2] - 5:6,
231:17

advertised ^[1] - 4:17

advertisement
^[1] - 37:9

advertising
^[1] - 231:18

advice ^[1] - 139:12

advise ^[1] - 92:6

advised ^[2] - 104:7,
104:13

Advisory ^[4] - 139:10,
139:13, 139:17,
139:19

aesthetic ^[2] - 101:3,
221:5

affected ^[3] - 145:18,
159:5, 213:10

affecting ^[1] - 129:4

affects ^[2] - 164:16,
203:7

afford ^[1] - 173:4

affordable ^[1] - 137:9

afternoon
^[2] - 136:19, 233:9

agenda ^[3] - 3:12,
16:9, 174:18

agitated ^[1] - 63:6

ago ^[5] - 63:12, 105:1,
131:2, 149:7,
151:17

agree ^[7] - 14:14,
55:9, 81:2, 87:10,
176:2, 240:4,
243:15

agreed ^[1] - 71:15

agricultural ^[2] - 46:5,
62:5

ahead ^[7] - 19:6, 43:3,
43:5, 47:17, 96:19,
189:11, 199:3

air ^[1] - 131:14

Alain ^[1] - 27:17

ALAIN ^[1] - 27:17

alarmed ^[1] - 63:3

Alewife ^[13] - 2:15,
226:6, 226:19,
230:6, 231:4, 233:1,
237:4, 238:10,
238:16, 240:6,

240:15, 240:18,
 241:9
Alexander [24] - 1:8,
 3:4, 6:13, 7:3, 11:17,
 12:3, 15:12, 16:3,
 33:15, 35:3, 93:4,
 94:3, 117:11, 119:3,
 121:4, 122:3,
 146:17, 148:3,
 206:2, 208:8, 209:3,
 225:3, 226:3, 249:2

ALEXANDER

[296] - 3:6, 4:2, 6:11,
 7:5, 7:11, 7:18, 8:13,
 9:1, 9:4, 9:10, 9:14,
 10:6, 11:2, 11:5,
 11:9, 11:13, 12:5,
 12:14, 15:1, 15:10,
 16:5, 16:14, 16:17,
 17:1, 19:1, 19:5,
 20:18, 21:11, 21:19,
 22:4, 22:8, 22:11,
 22:15, 23:10, 23:19,
 24:3, 24:13, 25:4,
 25:12, 26:4, 26:7,
 29:17, 30:10, 31:4,
 33:13, 33:17, 35:6,
 35:13, 35:15, 36:5,
 36:9, 36:14, 36:18,
 40:5, 42:9, 42:14,
 43:4, 43:12, 43:16,
 45:17, 46:9, 46:15,
 47:12, 47:16, 49:4,
 49:9, 51:1, 51:5,
 52:16, 54:6, 56:3,
 56:13, 56:16, 57:9,
 57:14, 58:2, 58:7,
 58:15, 58:19, 59:5,
 59:10, 59:19, 60:5,
 60:10, 60:18, 61:2,
 61:10, 61:16, 64:16,
 64:19, 65:5, 66:4,
 66:6, 66:9, 66:12,
 67:13, 70:4, 70:9,
 70:13, 71:11, 73:2,
 74:7, 74:10, 74:16,
 75:12, 75:17, 76:3,
 76:9, 79:4, 79:19,
 80:14, 81:14, 82:2,
 82:12, 85:11, 85:15,
 86:2, 86:14, 87:5,
 87:14, 88:5, 88:15,
 89:4, 89:14, 90:5,

90:11, 91:2, 91:6,
91:11, 92:5, 93:2,
94:5, 94:11, 95:6,
95:12, 96:14, 100:7,
102:17, 105:3,
105:7, 105:12,
109:7, 109:13,
109:18, 111:1,
111:15, 112:14,
112:18, 113:6,
113:18, 114:4,
114:8, 114:16,
115:4, 115:11,
116:4, 117:9,
117:12, 117:14,
118:2, 118:11,
119:5, 119:9, 120:1,
120:5, 122:5, 123:1,
123:6, 123:12,
124:3, 124:12,
124:17, 125:2,
126:17, 128:8,
131:4, 132:8,
132:16, 132:19,
133:4, 133:8,
133:14, 134:18,
135:13, 136:2,
137:13, 137:17,
138:2, 138:6,
140:15, 141:8,
141:13, 141:18,
142:2, 143:11,
146:15, 147:3,
147:11, 148:5,
149:5, 149:8,
154:14, 156:13,
159:9, 162:3, 162:8,
166:18, 171:5,
172:10, 174:8,
175:11, 181:17,
182:7, 182:19,
183:4, 183:8,
188:19, 189:4,
189:11, 190:8,
190:18, 192:6,
198:10, 198:17,
199:3, 199:9,
199:15, 199:18,
200:7, 200:12,
202:1, 204:2, 204:6,
205:15, 205:19,
206:5, 207:14,
208:5, 208:9, 209:5,

209:17, 213:11,
 213:16, 214:8,
 214:15, 215:2,
 215:11, 215:14,
 215:19, 217:1,
 220:1, 220:4, 220:9,
 221:14, 222:3,
 223:1, 225:1, 225:5,
 226:5, 226:17,
 227:7, 227:11,
 227:15, 228:1,
 228:7, 228:10,
 228:12, 228:17,
 229:3, 229:10,
 230:9, 230:14,
 231:2, 231:7,
 231:11, 232:5,
 232:9, 232:19,
 233:5, 234:18,
 236:7, 239:4, 239:7,
 239:11, 243:8,
 243:14, 244:2,
 244:6, 244:16,
 244:18, 245:2,
 245:5, 246:8,
 246:11, 246:17,
 248:19

alienate ^[1] - 78:9

alignment ^[8] - 211:4,
 211:6, 211:7,
 211:16, 212:2,
 212:3, 212:8,
 212:11

Alive ^[1] - 129:19

allergic ^[1] - 65:15

allergies ^[1] - 139:2

alleviate ^[5] - 163:7,
 165:11, 169:11,
 170:8, 201:18

ALLFATHER

^[3] - 25:17, 25:18,
 28:6

Allfather ^[2] - 25:18,
 28:5

allow ^[20] - 20:8,
 67:14, 68:8, 83:16,
 83:17, 83:19, 106:6,
 152:5, 162:12,
 170:19, 175:17,
 177:6, 184:10,
 185:15, 186:3,
 186:18, 187:8,
 187:18, 188:10,

243:3
allowable ^[1] - 106:15
allowed ^[15] - 18:14,
 45:4, 46:3, 46:8,
 50:12, 50:18, 50:19,
 68:17, 72:5, 84:15,
 173:9, 212:16,
 222:13, 222:16,
 222:17
allows ^[5] - 83:15,
 84:4, 91:8, 227:12,
 237:17
almost ^[6] - 42:4,
 102:7, 142:14,
 151:5, 168:6,
 229:12
Alpine ^[9] - 2:14,
 209:6, 209:12,
 209:14, 215:9,
 220:14, 221:4,
 221:6, 221:17
alter ^[2] - 210:7, 210:8
alterations ^[2] - 131:7,
 131:8
alternating ^[1] - 175:8
alternative ^[3] - 13:12,
 198:18, 246:16
alternatives ^[3] - 84:1,
 108:13
Altman ^[1] - 27:15
aluminum ^[1] - 213:7
Amendment
^[2] - 39:13, 39:16
amicable ^[1] - 92:11
amicably ^[1] - 87:3
Amory ^[1] - 105:11
amount ^[4] - 186:11,
 229:4, 239:17,
 239:18
amplify ^[1] - 103:7
analysis ^[1] - 156:14
AND ^[2] - 250:1,
 250:18
AND/OR ^[1] - 252:19
Anderson ^[2] - 35:5,
 93:5
Andrew ^[3] - 68:15,
 71:18, 72:16
anecdotally
^[1] - 181:11
angle ^[1] - 240:10
animal ^[1] - 71:14
animals ^[1] - 71:16

Ann ^[1] - 28:7
announce ^[1] - 55:1
annoyance ^[2] - 174:1
annoyed ^[1] - 102:12
answer ^[3] - 66:7,
 84:8, 199:11
anticipated ^[1] - 44:1
ants ^[1] - 160:6
ANY ^[2] - 252:18,
 252:18
anyhow ^[2] - 172:14,
 175:17
anyway ^[8] - 27:6,
 90:11, 92:17, 96:17,
 117:3, 145:11,
 160:14, 199:10
anyways ^[1] - 243:5
apart ^[1] - 5:3
apartment ^[1] - 97:10
apiary ^[1] - 63:13
apologies ^[1] - 117:17
apologize ^[5] - 19:6,
 56:4, 61:17, 77:6,
 96:11
APPEAL ^[1] - 1:2
appeal ^[4] - 51:9,
 51:10, 54:14, 181:9
appealing ^[1] - 127:16
Appeals ^[6] - 3:8,
 16:8, 249:6, 250:13,
 251:4, 251:16
APPEALS ^[1] - 251:1
appear ^[1] - 46:4
appearance
^[1] - 202:18
appearing ^[1] - 122:15
appellant ^[1] - 61:12
appellant's ^[1] - 64:11
applaud ^[1] - 25:8
applauded ^[1] - 30:7
applicable
^[2] - 133:10, 145:2
applicant ^[2] - 13:2,
 122:17
applicants
^[1] - 202:16
application ^[17] - 4:9,
 4:11, 13:5, 14:2,
 138:13, 139:8,
 148:18, 149:3,
 159:7, 160:8, 181:2,
 184:9, 186:2,
 187:17, 189:14,

203:4, 232:6

applications

[1] - 198:6

applied [2] - 180:17,
180:18

APPLY [1] - 252:18

apply [2] - 117:4,
119:16

applying [1] - 155:18

appreciate

[10] - 36:12, 74:15,
106:8, 127:4, 150:6,
189:13, 191:3,
196:9, 196:19,
198:2

appreciated

[6] - 192:10, 192:14,
192:16, 193:15,
194:2, 203:17

appreciation

[1] - 41:8

appreciative [1] - 96:6

approach [1] - 127:13

approaches

[1] - 198:19

approaching

[2] - 100:3, 236:17

appropriate [9] - 38:1,
53:3, 107:19, 140:7,
179:4, 179:13,
230:2, 244:8,
245:18

approval [1] - 131:5

approve [7] - 30:13,
30:14, 102:18,
104:10, 104:19,
128:18, 139:7

approved [4] - 104:5,
105:2, 156:1,
190:19

april [1] - 252:16

arbitrary [1] - 49:2

arborists [1] - 159:16

architect [9] - 12:19,
30:13, 30:19, 94:14,
94:19, 103:11,
119:15, 191:7,
209:15

area [25] - 18:11,
18:14, 97:6, 113:12,
134:1, 136:8, 151:9,
155:2, 155:3, 177:9,
177:16, 177:18,

179:4, 185:7,
 186:19, 187:1,
 188:12, 217:3,
 229:12, 230:12,
 235:11, 238:4,
 239:15
areas ^[3] - 135:8,
 153:5, 184:19
argue ^[2] - 134:6,
 211:12
argued ^[1] - 154:15
argument ^[10] - 39:13,
 51:14, 51:15,
 166:19, 167:2,
 167:10, 190:13,
 202:14, 210:11,
 222:14
arguments ^[4] - 40:6,
 86:18, 167:9, 241:7
arthritis ^[1] - 71:5
Article ^[2] - 45:2, 46:3
article ^[1] - 46:1
articles ^[1] - 4:9
artwork ^[1] - 73:10
ASAP ^[1] - 4:11
aside ^[3] - 127:10,
 158:2, 167:6
aspect ^[1] - 134:11
Assessor's
^[2] - 211:18, 211:19
Associate ^[1] - 1:10
association
^[1] - 99:10
Association
^[2] - 100:15, 119:17
ATTACH ^[1] - 251:1
attempt ^[3] - 54:9,
 59:8, 165:4
attempted ^[1] - 55:12
attend ^[2] - 81:11,
 92:9
attended ^[1] - 99:18
attending ^[1] - 13:9
attention ^[8] - 34:1,
 70:5, 90:3, 113:11,
 130:11, 144:17,
 192:3, 202:15
attic ^[1] - 97:18
ATTORNEY
^[100] - 35:11, 35:14,
 35:18, 36:7, 36:11,
 36:17, 42:1, 42:11,
 42:16, 43:10, 43:15,

47:14, 47:18, 49:8,
 50:3, 51:3, 51:13,
 54:4, 55:8, 56:2,
 56:5, 56:15, 57:6,
 57:11, 57:19, 58:4,
 58:11, 58:18, 59:3,
 59:7, 59:12, 60:2,
 60:9, 60:16, 61:8,
 61:15, 67:11, 74:14,
 75:3, 75:6, 75:10,
 75:15, 75:19, 90:2,
 90:9, 91:4, 91:9,
 93:6, 122:11, 123:8,
 123:14, 124:5,
 124:14, 124:19,
 125:4, 125:10,
 125:18, 126:1,
 127:2, 128:2, 128:4,
 128:9, 129:17,
 131:6, 133:19,
 135:9, 135:14,
 137:15, 141:3,
 141:16, 143:9,
 146:19, 147:8,
 148:11, 149:6,
 149:9, 155:16,
 157:1, 159:12,
 160:19, 161:6,
 162:4, 162:19,
 165:3, 166:7,
 167:15, 171:13,
 172:15, 176:1,
 177:19, 182:3,
 188:17, 189:2,
 189:9, 196:14,
 198:14, 199:13,
 199:16, 200:3,
 200:9

attorney ^[4] - 36:1,
 56:9, 122:14,
 148:13

attract ^[1] - 143:19

attraction ^[1] - 132:2

attracts ^[1] - 126:11

Aubrey ^[1] - 28:7

AUBREY ^[1] - 28:8

Auburn ^[1] - 97:12

AUDIENCE

^[6] - 24:17, 42:7,
 45:15, 45:19, 66:1,
 66:3

audience ^[3] - 46:11,
 60:6, 84:9

automobile ^[1] - 144:2

automobile-related

^[1] - 144:2

availability

^[2] - 169:9, 185:12

available ^[13] - 115:7,

119:19, 120:2,

130:10, 142:10,

143:17, 151:9,

151:11, 151:15,

154:5, 166:11,

167:13, 194:18

Ave ^[4] - 122:16,

123:15, 129:15,

131:19

Avenue ^[27] - 1:7, 2:4,

2:6, 2:10, 7:7, 16:10,

19:17, 23:14, 25:19,

27:8, 27:11, 27:16,

27:19, 28:3, 28:6,

28:8, 28:13, 28:17,

29:1, 29:3, 29:6,

29:8, 29:11, 122:7,

122:15, 132:7,

146:12

average ^[1] - 158:18

avoid ^[1] - 190:5

award ^[1] - 130:19

aware ^[7] - 14:16,

14:19, 62:17, 78:17,

95:8, 173:15,

180:15

awful ^[2] - 217:14,

239:13

Aye ^[24] - 6:9, 6:10,

11:7, 11:8, 15:8,

15:9, 33:11, 33:12,

92:19, 93:1, 117:7,

117:8, 121:2, 121:3,

146:13, 146:14,

205:13, 205:14,

208:3, 208:4,

224:18, 224:19,

248:17, 248:18

B

backyard ^[11] - 23:15,

62:9, 67:5, 69:4,

178:2, 178:5, 178:7,

178:9, 178:14,

178:16, 205:1

backyards ^[1] - 38:16

bad ^[1] - 80:17

badly ^[1] - 17:16
bags ^[1] - 63:8
balance ^[4] - 98:17,
 161:1, 164:2,
 165:14
banner ^[1] - 231:14
banners ^[1] - 231:16
Barbara ^[2] - 13:16,
 28:1
Barlo ^[1] - 226:13
base ^[3] - 135:19,
 219:9, 231:10
based ^[4] - 48:5, 51:3,
 244:12
basis ^[16] - 5:8, 6:9,
 11:6, 33:3, 33:11,
 41:4, 41:17, 43:8,
 45:9, 117:7, 146:8,
 202:19, 205:7,
 207:18, 224:12,
 248:10
bathroom ^[1] - 107:13
Bay ^[2] - 190:2, 192:8
bay ^[11] - 210:2,
 212:15, 214:1,
 214:11, 214:12,
 218:4, 218:5, 218:9,
 218:12, 222:18,
 223:12
bays ^[1] - 219:7
Beacon ^[3] - 162:1,
 175:10, 190:3
bear ^[1] - 142:4
beautiful ^[3] - 23:16,
 26:2, 178:13
beautifully ^[1] - 191:4
became ^[1] - 62:18
become ^[3] - 130:9,
 152:9, 215:4
bedroom ^[1] - 20:5
bedrooms ^[2] - 109:5,
 109:16
bee ^[10] - 24:15,
 51:17, 62:4, 64:6,
 69:16, 69:17, 73:17,
 86:9, 91:10, 91:15
Bee ^[1] - 76:8
beehive ^[3] - 51:17,
 76:13, 86:11
beehives ^[6] - 50:5,
 64:5, 65:11, 76:15,
 76:17, 77:5
beekeeper ^[2] - 71:3,

92:15

beekeepers ^[1] - 38:6

beekeeping ^[4] - 46:7,
62:13, 62:17, 71:1

bees ^[49] - 25:2, 38:9,
39:8, 45:1, 45:4,
46:3, 46:5, 47:9,
48:1, 48:7, 48:13,
49:18, 50:4, 52:2,
53:14, 54:11, 55:3,
55:5, 62:2, 62:19,
63:2, 63:6, 63:11,
63:16, 63:19, 64:8,
65:9, 67:5, 68:3,
69:15, 71:4, 77:9,
77:12, 77:16, 78:17,
79:9, 80:5, 80:7,
80:10, 82:11, 83:13,
83:19, 84:3, 84:15,
84:17, 85:1, 85:9,
86:13, 88:14

beets ^[2] - 125:19,
126:1

begin ^[2] - 95:3,
209:19

behalf ^[4] - 13:1,
122:16, 139:17,
139:18

behind ^[2] - 45:10,
191:11

Belmont ^[1] - 105:8

belongs ^[1] - 243:13

below ^[2] - 235:14

benefit ^[6] - 4:15,
45:10, 79:9, 84:9,
157:11, 165:12

benefits ^[2] - 82:11,
135:16

benefitted ^[2] - 79:10,
79:11

Bernard ^[1] - 60:15

best ^[3] - 64:10, 98:10,
252:10

better ^[9] - 54:16,
91:14, 103:4, 103:9,
124:15, 128:13,
180:7, 194:10,
207:16

between ^[8] - 5:8,
52:4, 53:14, 91:10,
98:17, 105:11,
154:4, 161:17

BEUZEKOM

[23] - 94:10, 94:13,
 94:18, 95:11, 96:10,
 102:16, 104:14,
 105:5, 105:9,
 105:14, 109:12,
 109:15, 110:10,
 111:6, 111:13,
 112:13, 114:6,
 115:2, 117:16,
 119:7, 119:14,
 120:3, 121:6

Beuzekom [3] - 94:14,
 94:19, 119:15

beyond [3] - 26:2,
 104:1, 213:8

bicycles [1] - 142:16

big [3] - 177:10,
 186:13, 191:9

biodegradable
 [3] - 132:11, 132:17,
 144:8

Biosigns [1] - 13:2

bit [8] - 20:1, 21:12,
 99:1, 102:12, 182:2,
 217:13, 217:16,
 239:9

black [1] - 236:6

blade [1] - 131:11

blah [10] - 72:17,
 171:10, 187:13

blindly [2] - 169:4,
 169:13

blinking [1] - 232:4

block [10] - 151:6,
 153:19, 164:19,
 165:19, 182:11,
 186:17, 188:9,
 192:17, 193:4,
 194:19

blood [1] - 252:6

blue [1] - 241:19

board [1] - 127:7

Board [79] - 3:8, 4:15,
 13:11, 14:12, 16:8,
 22:12, 29:19, 36:13,
 40:1, 52:11, 61:5,
 64:9, 81:1, 87:6,
 87:8, 105:2, 110:5,
 112:15, 122:12,
 123:11, 128:18,
 137:19, 139:7,
 139:16, 141:7,
 141:11, 145:6,

148:12, 149:4,
 149:19, 150:15,
 155:17, 155:19,
 158:15, 162:13,
 162:15, 167:9,
 168:5, 170:15,
 171:9, 172:7, 174:5,
 176:3, 176:11,
 179:18, 181:6,
 183:12, 183:13,
 183:16, 184:3,
 189:7, 189:15,
 190:16, 196:15,
 196:16, 197:1,
 197:7, 198:3, 199:5,
 202:5, 204:7,
 206:17, 207:18,
 207:19, 210:3,
 220:2, 220:15,
 223:4, 244:7, 245:8,
 245:12, 246:18,
 247:12, 248:7,
 249:6, 250:13,
 251:4, 251:16
BOARD ^[2] - 1:2,
 251:1
Board's ^[1] - 13:15
Boards ^[1] - 158:15
Body ^[3] - 123:11,
 123:13, 123:15
boilerplate
^[1] - 174:14
Bonrigio ^[1] - 60:16
bonrigio ^[1] - 60:19
Boothe ^[1] - 28:14
BOOTHE ^[1] - 28:15
born ^[4] - 24:8, 97:11,
 193:9, 193:10
Boston ^[5] - 36:2,
 36:4, 73:9, 162:2,
 245:10
bothered ^[2] - 213:2,
 213:4
bottom ^[3] - 17:13,
 18:13, 203:13
bought ^[5] - 18:5,
 167:2, 190:9, 201:1,
 201:2
breakfast ^[1] - 140:13
Brendan ^[13] - 1:9,
 3:4, 7:3, 12:3, 16:3,
 35:3, 94:3, 119:3,
 122:3, 148:3, 207:2,

209:3, 226:3

BRENDAN ^[43] - 30:2,
59:16, 87:10, 88:2,
103:6, 110:18,
111:3, 112:16,
113:2, 125:8,
129:14, 142:1,
161:3, 161:11,
162:1, 172:3,
172:12, 172:17,
174:12, 175:12,
175:16, 177:13,
207:9, 214:3, 214:6,
214:10, 216:8,
216:12, 216:17,
217:11, 232:1,
235:19, 236:4,
236:9, 237:3, 237:7,
237:11, 239:2,
239:5, 239:8,
243:16, 244:4,
246:13

bribe ^[1] - 76:6

brick ^[1] - 131:2

brief ^[2] - 44:16, 189:3

briefly ^[1] - 196:15

bring ^[7] - 8:11, 99:1,
107:1, 118:2, 124:8,
125:3, 125:6

BRISTOL ^[1] - 252:3

Broadway ^[1] - 151:8

Brook ^[8] - 2:15,
226:7, 226:19,
230:6, 233:1, 237:4,
238:10, 241:9

Brookline

^[2] - 175:11, 175:12

brought ^[5] - 14:7,
70:5, 77:8, 102:2,
202:14

Broussard ^[1] - 13:16

budget ^[1] - 191:18

buffer ^[1] - 168:1

Building ^[1] - 37:17

building ^[19] - 31:18,
46:18, 77:1, 113:13,
113:17, 130:17,
130:18, 130:19,
192:5, 210:9,
218:18, 218:19,
222:9, 223:17,
229:19, 230:2,
234:8, 245:18,

246:2
buildings ^[4] - 5:1,
 5:8, 143:4, 229:17
buildup ^[2] - 240:14,
 241:2
built ^[2] - 18:3, 98:5
bump ^[1] - 218:4
Burns ^[1] - 36:1
burrowed ^[1] - 160:7
business ^[2] - 24:11,
 237:1
busy ^[2] - 153:15,
 245:16
but... ^[1] - 125:7
buy ^[4] - 130:1,
 133:17, 134:16,
 177:3
buying ^[2] - 176:19,
 190:2
BY ^[1] - 252:18
By-law ^[1] - 5:2
BZA ^[1] - 13:19
BZA-003764-2014
^[2] - 2:5, 12:2
BZA-003934-2014
^[2] - 2:3, 3:3
BZA-004610-2014
^[2] - 2:4, 7:2
BZA-005313-2014
^[1] - 226:2
BZA-005313-2015
^[1] - 2:15
BZA-005332-2014
^[2] - 2:9, 94:2
BZA-005363-2014
^[2] - 2:14, 209:2
BZA-005393-2014
^[2] - 2:6, 16:2
BZA-005395-2014
^[2] - 2:10, 122:2
BZA-005419-2014
^[2] - 2:12, 148:2
BZA-005420-2014
^[2] - 2:7, 35:2
BZA-005437-2014
^[2] - 2:11, 119:2

C

C-h-i-t-a-l-i-a
^[1] - 89:13
cabs ^[1] - 153:2
calculated
^[1] - 218:16

calculation

[1] - 217:18

calendar [1] - 87:19**CAMBRIDGE** [1] - 1:3**Cambridge** [47] - 1:7,

7:16, 8:5, 8:11,

13:17, 17:8, 17:13,

20:12, 24:7, 24:8,

32:15, 38:14, 45:3,

48:18, 50:5, 53:8,

65:12, 80:6, 97:6,

97:13, 98:16, 99:14,

99:15, 100:1, 100:4,

100:5, 105:17,

119:17, 122:15,

135:8, 148:14,

150:16, 152:16,

163:11, 163:16,

170:7, 175:15,

176:18, 185:1,

190:6, 192:18,

193:17, 195:4,

201:5, 227:1, 248:5

Cambridgeport

[4] - 151:2, 151:5,

170:1, 194:9

campus [2] - 232:17,

244:12

CANEEN [4] - 24:5,

24:6, 24:16, 24:19

Caneen [1] - 24:6**CANNING** [4] - 24:5,

24:6, 24:16, 24:19

Canning [1] - 24:6**cannot** [4] - 14:7,

101:16, 210:7,

210:8

cantilevering

[1] - 222:6

capacity [1] - 77:12**CAPTURING**

[1] - 1:16

car [29] - 148:19,

149:17, 156:5,

156:6, 156:9,

156:12, 157:3,

158:17, 168:1,

177:18, 178:8,

178:18, 179:1,

179:7, 179:8,

179:13, 179:15,

179:16, 185:14,

193:12, 195:9,

196:7, 199:5, 199:6,
200:1, 200:4, 200:5,
243:1

care ^[1] - 65:15

careers ^[1] - 98:9

careful ^[2] - 130:10,
130:11

CAROL ^[2] - 25:17,
28:4

Carol ^[3] - 13:17,
25:17, 28:4

carpenter ^[1] - 160:6

carries ^[2] - 117:15,
162:9

carry ^[1] - 206:1

cars ^[10] - 129:12,
152:19, 160:18,
161:8, 169:5,
182:13, 190:6,
195:2, 233:9,
242:14

Case ^[11] - 3:3, 7:2,
12:2, 16:2, 35:2,
94:2, 119:2, 122:2,
148:2, 209:2, 226:2

case ^[98] - 3:16, 4:11,
5:9, 5:11, 6:9, 6:11,
7:6, 8:14, 9:16, 9:18,
10:16, 10:18, 11:6,
12:6, 12:9, 14:16,
15:11, 16:8, 16:9,
20:19, 24:12, 24:14,
24:15, 25:16, 35:7,
37:3, 37:4, 40:7,
40:17, 41:1, 41:11,
41:12, 44:2, 44:3,
44:4, 44:16, 52:15,
53:5, 53:6, 53:17,
56:17, 57:4, 57:15,
58:3, 71:19, 72:14,
81:18, 82:3, 82:16,
83:8, 83:17, 85:6,
87:16, 88:17, 89:1,
90:1, 90:8, 90:12,
90:13, 92:12, 94:6,
100:18, 105:18,
107:19, 112:5,
112:19, 113:19,
114:9, 114:10,
114:18, 115:1,
115:8, 115:12,
116:2, 116:19,
117:7, 119:10,

120:6, 120:7, 121:2,
 122:6, 127:8, 148:6,
 171:18, 178:7,
 178:10, 178:19,
 197:10, 198:11,
 202:10, 202:12,
 209:6, 210:1, 226:6
CASE ^[1] - 2:2
cases ^[9] - 3:10, 3:11,
 55:7, 100:16, 117:5,
 178:17, 196:18
Caswell ^[1] - 28:11
CASWELL ^[1] - 28:12
Catherine ^[2] - 252:4,
 252:13
CAZ ^[1] - 251:2
cease ^[5] - 45:5, 51:4,
 51:6, 51:16, 56:7
center ^[1] - 234:17
Center ^[1] - 1:6
centered ^[1] - 234:10
ceremonies
^[1] - 39:10
certain ^[3] - 14:18,
 101:12, 196:17
certainly ^[5] - 36:17,
 100:12, 142:16,
 202:14, 247:14
CERTIFICATION
^[1] - 252:17
Certified ^[2] - 252:4,
 252:14
certify ^[2] - 252:5,
 252:8
CERTIFYING
^[1] - 252:19
Chaim ^[3] - 61:13,
 61:15, 61:16
chain ^[1] - 126:9
chair ^[3] - 141:4,
 142:6, 172:16
Chair ^[42] - 1:8, 3:7,
 3:15, 4:2, 4:4, 5:10,
 7:5, 9:16, 12:9,
 12:14, 12:17, 26:8,
 31:7, 32:10, 33:4,
 33:8, 35:6, 89:18,
 90:12, 94:5, 114:9,
 115:11, 119:9,
 120:6, 138:6, 145:6,
 146:9, 148:5, 183:8,
 183:10, 204:7,
 205:8, 205:11,

209:5, 223:4, 224:7,
224:13, 224:17,
226:5, 246:17,
248:11, 248:15

Chair's ^[1] - 156:4

Chairman ^[6] - 7:17,
50:4, 55:9, 60:3,
122:12, 148:12

Chairs ^[1] - 15:6

challenge

^[2] - 169:18, 170:7

challenges ^[1] - 186:9

challenging

^[9] - 150:14, 150:15,
150:17, 152:16,
154:13, 163:15,
190:4, 192:15,
192:16

chance ^[3] - 104:5,
112:6

change ^[17] - 30:17,
116:7, 120:17,
145:15, 161:15,
164:6, 164:13,
165:1, 165:10,
166:9, 169:17,
180:5, 197:6, 197:8,
197:10, 251:4

CHANGE ^[6] - 251:9,
251:10, 251:11,
251:12, 251:13,
251:14

changeable

^[1] - 231:13

changed ^[6] - 98:9,
151:18, 173:12,
176:16, 193:13,
197:14

changes ^[2] - 250:14,
251:17

character ^[4] - 18:16,
108:4, 145:15,
183:15

characteristics

^[2] - 143:3, 163:3

charging ^[2] - 181:15,
181:16

Charles ^[1] - 29:10

cheeseburger

^[1] - 137:12

Chelsea ^[2] - 128:1,
128:2

cherish ^[1] - 100:5

Cherry ^[2] - 170:2,
170:3

Chestnut ^[3] - 63:14,
64:3, 68:1

children ^[7] - 65:14,
69:3, 69:7, 72:9,
79:10, 86:12, 197:8

Children's ^[1] - 44:18

Chinese ^[1] - 160:2

CHITALIA ^[4] - 88:10,
89:3, 89:8, 89:12

Chitalia ^[1] - 89:9

chooses ^[1] - 171:3

chose ^[1] - 170:8

chosen ^[1] - 224:10

Christmas ^[1] - 4:13

church ^[6] - 99:18,
100:2, 233:8,
233:19, 234:3,
234:5

Church ^[1] - 123:16

Cindy ^[1] - 28:19

circle ^[1] - 153:19

circumstance
^[1] - 197:4

circumstances
^[8] - 32:1, 167:1,
181:8, 184:1,
198:13, 202:10,
240:3, 247:9

cite ^[1] - 4:8

cited ^[2] - 38:7, 85:18

cities ^[1] - 68:7

citizen ^[3] - 37:18,
51:8, 55:13

citizens ^[5] - 38:18,
56:19, 146:3,
154:19, 156:17

CITY ^[1] - 1:3

city ^[37] - 32:15,
32:17, 32:18, 36:3,
37:11, 38:6, 38:14,
38:15, 38:19, 45:4,
48:8, 48:15, 50:15,
51:9, 52:12, 53:7,
53:8, 56:19, 92:15,
112:12, 135:8,
143:16, 146:3,
154:19, 156:18,
157:7, 161:1,
161:13, 161:15,
163:5, 163:10,
164:1, 165:15,

166:19, 176:15,
 194:13, 248:4
City ^[29] - 66:19, 73:5,
 84:2, 84:14, 84:15,
 123:9, 123:19,
 126:16, 127:17,
 151:18, 156:1,
 164:1, 164:5, 169:4,
 170:8, 170:13,
 171:2, 171:6, 171:8,
 171:11, 171:18,
 172:4, 172:8, 174:5,
 174:16, 174:17,
 197:15, 199:1,
 207:3
citywide ^[3] - 165:11,
 165:14, 203:8
claims ^[1] - 198:12
Claudia ^[1] - 28:15
clause ^[1] - 181:7
clear ^[3] - 74:6, 80:16,
 104:15
clearance ^[1] - 241:5
clearing ^[1] - 240:16
clearly ^[2] - 160:3,
 203:6
client ^[10] - 54:10,
 54:11, 54:18, 59:11,
 59:13, 103:9,
 103:19, 104:6,
 104:12
clients ^[3] - 95:1, 96:8,
 112:6
clients' ^[1] - 109:10
close ^[14] - 29:18,
 101:10, 129:18,
 141:14, 144:17,
 179:14, 188:15,
 189:5, 202:11,
 204:19, 222:4,
 223:18, 238:5,
 246:4
closely ^[2] - 159:5,
 176:4
closer ^[3] - 166:16,
 178:8, 193:19
closing ^[1] - 189:3
clutter ^[1] - 131:18
co ^[1] - 24:10
co-owner ^[1] - 24:10
Code ^[3] - 37:17,
 210:7, 237:17
coffee ^[1] - 134:16

cogent ^[1] - 20:19
cognizant ^[1] - 173:17
cold ^[5] - 125:15,
 126:2, 126:6, 134:8,
 137:3
colleges ^[1] - 86:6
colonies ^[1] - 62:4
color ^[1] - 142:19
colored ^[1] - 236:2
Columbia ^[1] - 154:10
combination
^[1] - 154:4
combined ^[1] - 163:13
comfort ^[1] - 20:13
comfortable
^[4] - 30:19, 113:4,
 113:7, 141:7
coming ^[18] - 33:18,
 96:3, 100:16, 106:4,
 110:6, 111:16,
 128:16, 129:9,
 136:15, 140:19,
 160:7, 192:7, 214:7,
 214:9, 232:16,
 233:17, 238:19,
 240:11
commend ^[1] - 202:12
comment ^[4] - 25:7,
 96:9, 200:11,
 224:10
comments
^[24] - 13:10, 13:15,
 29:18, 36:16, 36:19,
 39:2, 40:14, 40:15,
 40:16, 43:19, 49:6,
 52:17, 76:1, 112:3,
 140:1, 141:14,
 141:15, 188:16,
 189:6, 203:18,
 204:3, 207:10,
 222:5, 223:1
commercial
^[1] - 153:3
Commission
^[5] - 105:17, 131:5,
 131:10, 141:5,
 252:16
commissioner
^[1] - 65:19
committed
^[1] - 181:13
Committee
^[4] - 139:11, 139:13,

139:18, 139:19
committee ^[2] - 77:1,
 139:14
Common ^[1] - 141:4
common ^[2] - 61:11,
 162:2
Commonwealth
^[2] - 68:10, 84:7
COMMONWEALTH
^[1] - 252:2
communicate
^[1] - 54:10
communication
^[3] - 27:9, 70:10,
 244:9
communications
^[3] - 183:11, 188:14,
 220:12
communities
^[2] - 84:6, 175:10
Community
^[2] - 100:15, 101:1
community ^[5] - 80:3,
 81:9, 98:18, 99:19,
 181:19
commuting
^[1] - 201:10
company ^[1] - 122:19
compatibility
^[1] - 197:19
compatible
^[4] - 18:16, 107:16,
 143:2, 158:3
competition
^[1] - 130:9
complainant
^[1] - 81:18
complained ^[6] - 38:9,
 42:5, 43:11, 52:10,
 56:11, 56:12
complainer ^[2] - 58:6,
 58:8
complains ^[1] - 92:16
complaint
^[13] - 37:17, 37:18,
 38:1, 38:10, 43:13,
 51:19, 52:9, 52:19,
 55:17, 59:1, 64:13,
 82:5, 92:2
complaints ^[1] - 44:19
complete ^[1] - 150:9
completed ^[1] - 250:6
COMPLETED

[1] - 250:18

completely

[1] - 192:12

complex [1] - 239:14

compliance

[2] - 96:17, 101:11

compliant [8] - 95:9,

95:19, 97:19, 112:9,

112:11, 113:17,

131:12, 133:15

complies [1] - 106:11

comply [7] - 45:6,

68:18, 101:8,

103:13, 106:18,

133:9, 145:1

complying

[1] - 101:10

component

[1] - 177:10

concept [1] - 71:1

concern [7] - 38:17,

52:6, 52:11, 134:19,

195:8, 197:15

Concern [1] - 44:19

concerned [4] - 77:11,

77:17, 79:15,

183:16

concerns [4] - 54:10,

78:2, 192:9, 240:14

conclusion [1] - 57:5

Concord [1] - 201:10

condition [25] - 30:14,

33:5, 90:15, 91:17,

116:5, 137:16,

137:17, 149:15,

150:5, 154:1, 154:7,

154:12, 158:5,

163:9, 164:12,

164:15, 165:8,

165:11, 176:14,

179:18, 180:1,

180:2, 205:9,

224:14, 248:12

conditions [11] - 5:13,

10:2, 115:14, 120:8,

163:8, 163:12,

173:11, 180:4,

182:6, 182:10,

194:15

condo [1] - 99:9

conformance

[3] - 155:7, 212:18,

213:1

conforming ^[6] - 21:6,
32:2, 47:3, 179:6,
180:1, 210:10

confusion ^[1] - 52:3

congestion

^[1] - 145:14

congratulated

^[1] - 29:13

Congregation

^[1] - 61:13

congregation

^[3] - 65:10, 77:2,
79:10

connect ^[1] - 106:5

connected

^[2] - 245:17, 247:13

connection

^[2] - 127:3, 217:15

conscious

^[1] - 129:12

consequence

^[1] - 153:6

consequences

^[2] - 152:4, 152:7

consider ^[4] - 14:15,

48:3, 194:15,
201:19

consideration

^[2] - 192:1, 221:7

considered

^[3] - 108:11, 171:9,
202:16

considering

^[4] - 13:12, 64:10,
118:8, 189:13

consistency

^[1] - 196:17

consistent

^[5] - 135:18, 162:13,
185:5, 185:8,
232:10

consistently

^[1] - 207:19

CONSTANTINE

^[296] - 3:6, 4:2, 6:11,
7:5, 7:11, 7:18, 8:13,
9:1, 9:4, 9:10, 9:14,
10:6, 11:2, 11:5,
11:9, 11:13, 12:5,
12:14, 15:1, 15:10,
16:5, 16:14, 16:17,
17:1, 19:1, 19:5,
20:18, 21:11, 21:19,

22:4, 22:8, 22:11,
22:15, 23:10, 23:19,
24:3, 24:13, 25:4,
25:12, 26:4, 26:7,
29:17, 30:10, 31:4,
33:13, 33:17, 35:6,
35:13, 35:15, 36:5,
36:9, 36:14, 36:18,
40:5, 42:9, 42:14,
43:4, 43:12, 43:16,
45:17, 46:9, 46:15,
47:12, 47:16, 49:4,
49:9, 51:1, 51:5,
52:16, 54:6, 56:3,
56:13, 56:16, 57:9,
57:14, 58:2, 58:7,
58:15, 58:19, 59:5,
59:10, 59:19, 60:5,
60:10, 60:18, 61:2,
61:10, 61:16, 64:16,
64:19, 65:5, 66:4,
66:6, 66:9, 66:12,
67:13, 70:4, 70:9,
70:13, 71:11, 73:2,
74:7, 74:10, 74:16,
75:12, 75:17, 76:3,
76:9, 79:4, 79:19,
80:14, 81:14, 82:2,
82:12, 85:11, 85:15,
86:2, 86:14, 87:5,
87:14, 88:5, 88:15,
89:4, 89:14, 90:5,
90:11, 91:2, 91:6,
91:11, 92:5, 93:2,
94:5, 94:11, 95:6,
95:12, 96:14, 100:7,
102:17, 105:3,
105:7, 105:12,
109:7, 109:13,
109:18, 111:1,
111:15, 112:14,
112:18, 113:6,
113:18, 114:4,
114:8, 114:16,
115:4, 115:11,
116:4, 117:9,
117:12, 117:14,
118:2, 118:11,
119:5, 119:9, 120:1,
120:5, 122:5, 123:1,
123:6, 123:12,
124:3, 124:12,
124:17, 125:2,

126:17, 128:8,
131:4, 132:8,
132:16, 132:19,
133:4, 133:8,
133:14, 134:18,
135:13, 136:2,
137:13, 137:17,
138:2, 138:6,
140:15, 141:8,
141:13, 141:18,
142:2, 143:11,
146:15, 147:3,
147:11, 148:5,
149:5, 149:8,
154:14, 156:13,
159:9, 162:3, 162:8,
166:18, 171:5,
172:10, 174:8,
175:11, 181:17,
182:7, 182:19,
183:4, 183:8,
188:19, 189:4,
189:11, 190:8,
190:18, 192:6,
198:10, 198:17,
199:3, 199:9,
199:15, 199:18,
200:7, 200:12,
202:1, 204:2, 204:6,
205:15, 205:19,
206:5, 207:14,
208:5, 208:9, 209:5,
209:17, 213:11,
213:16, 214:8,
214:15, 215:2,
215:11, 215:14,
215:19, 217:1,
220:1, 220:4, 220:9,
221:14, 222:3,
223:1, 225:1, 225:5,
226:5, 226:17,
227:7, 227:11,
227:15, 228:1,
228:7, 228:10,
228:12, 228:17,
229:3, 229:10,
230:9, 230:14,
231:2, 231:7,
231:11, 232:5,
232:9, 232:19,
233:5, 234:18,
236:7, 239:4, 239:7,
239:11, 243:8,

243:14, 244:2,
 244:6, 244:16,
 244:18, 245:2,
 245:5, 246:8,
 246:11, 246:17,
 248:19
Constantine ^[12] - 1:8,
 3:4, 7:3, 12:3, 16:3,
 35:3, 94:3, 119:3,
 122:3, 148:3, 209:3,
 226:3
Constitution ^[1] - 40:2
Constitutional
^[2] - 39:17, 39:18
construction
^[1] - 179:7
consultant ^[1] - 13:3
consumed
^[1] - 134:15
consumer
^[2] - 126:12, 135:15
consumption
^[2] - 132:13, 144:10
contact ^[3] - 92:2,
 157:8, 187:12
containers ^[1] - 135:2
context ^[5] - 157:18,
 159:1, 171:2,
 171:17, 197:18
continuance
^[7] - 4:10, 8:4, 8:9,
 91:13, 111:8,
 113:10, 119:8
continuations
^[1] - 13:8
continue ^[18] - 5:10,
 10:16, 44:4, 56:17,
 82:15, 83:19, 87:15,
 87:16, 88:17, 89:1,
 90:1, 111:16, 112:5,
 112:17, 112:19,
 115:1, 116:2,
 116:19
continued ^[12] - 3:10,
 3:16, 6:12, 8:15,
 9:17, 12:6, 90:12,
 113:16, 114:10,
 115:12, 120:7,
 145:16
continuing ^[7] - 6:8,
 11:6, 53:17, 113:5,
 113:8, 117:6, 121:1
contractor ^[1] - 191:7

contributing ^[1] - 63:2

contribution

^[1] - 128:14

control ^[1] - 71:14

CONTROL

^[1] - 252:19

convenience

^[2] - 42:2, 203:1

convenient

^[2] - 133:1, 144:12

conversation ^[1] - 4:7

copies ^[1] - 236:1

copy ^[2] - 162:19,

250:6

corner ^[6] - 30:9,

63:13, 64:2, 123:15,

184:15, 195:10

correct ^[13] - 49:6,

113:2, 175:16,

227:14, 228:9,

228:16, 229:14,

231:9, 232:12,

237:6, 237:13,

238:10, 242:8

correction ^[1] - 251:5

corrections

^[2] - 250:13, 251:17

correspondence

^[2] - 60:12, 128:17

cost ^[1] - 72:6

Council ^[23] - 84:2,

84:14, 84:15, 87:13,

151:18, 156:1,

164:1, 164:5, 169:4,

170:8, 170:13,

171:3, 171:6, 171:8,

171:11, 171:19,

172:4, 172:8, 174:5,

174:16, 197:16,

199:1, 207:3

Councillors

^[1] - 174:18

counsel ^[1] - 59:18

count ^[2] - 158:7,

219:9

counted ^[1] - 194:18

counter ^[2] - 134:1,

134:4

counting ^[1] - 195:2

couple ^[4] - 17:18,

52:17, 88:11,

200:18

course ^[3] - 91:13,

210:15, 230:10
court ^[4] - 39:19, 40:7,
 54:14
covers ^[1] - 219:14
Coyle ^[1] - 29:5
COYLE ^[1] - 29:5
crazy ^[2] - 69:5, 195:5
create ^[6] - 77:19,
 98:17, 137:8, 142:9,
 180:5, 198:8
created ^[5] - 146:1,
 152:18, 163:17,
 165:17, 170:9
creates ^[4] - 21:5,
 50:14, 154:1,
 163:14
creative ^[1] - 97:15
credit ^[1] - 70:14
criteria ^[1] - 129:5
cross ^[1] - 67:15
cross-examination
^[1] - 67:15
crowded ^[1] - 174:9
cryptic ^[1] - 45:8
CRYSTAL
^[15] - 16:13, 16:16,
 16:18, 17:4, 19:3,
 19:7, 21:10, 21:16,
 22:2, 22:7, 22:10,
 25:2, 29:16, 31:2,
 33:19
Crystal ^[1] - 25:8
crystal ^[1] - 17:5
Crystal's ^[2] - 23:15,
 25:19
culture ^[1] - 62:7
curb ^[23] - 155:14,
 155:18, 155:19,
 156:4, 157:16,
 158:2, 166:9, 168:8,
 170:14, 170:16,
 171:7, 171:11,
 171:12, 172:4,
 172:6, 172:8, 172:9,
 174:2, 179:10,
 180:17, 185:4,
 197:15, 198:6
curiosity ^[1] - 141:9
curious ^[1] - 123:7
current ^[5] - 13:5,
 108:14, 204:13,
 219:5, 239:3
curricular ^[1] - 99:13

custom ^[1] - 3:9
customary
^[1] - 157:10
customer ^[1] - 135:19
cut ^[18] - 155:14,
 155:18, 156:5,
 157:17, 158:2,
 168:9, 170:14,
 170:16, 171:7,
 171:11, 171:12,
 172:6, 172:8,
 179:10, 180:17,
 185:4, 197:15,
 198:6
cuts ^[5] - 155:19,
 166:9, 172:4, 172:9,
 174:3

D

dairy ^[1] - 139:2
Dan ^[1] - 12:18
Danehy ^[1] - 194:9
dangerous
^[2] - 77:12, 108:18
Daniel ^[1] - 122:18
DANIEL ^[14] - 123:3,
 125:17, 128:1,
 128:3, 132:14,
 132:18, 133:3,
 133:7, 133:13,
 136:10, 136:14,
 137:4, 140:12,
 140:17
date ^[10] - 5:17, 5:19,
 10:4, 13:13, 115:7,
 116:7, 116:8,
 119:18, 120:12,
 251:6
DATE ^[1] - 251:1
dated ^[1] - 13:7
daughter ^[1] - 67:2
David ^[1] - 138:11
days ^[4] - 116:10,
 120:13, 153:1,
 166:4
daytime ^[1] - 175:6
deal ^[5] - 37:3, 39:6,
 39:16, 43:19,
 197:13
dealing ^[4] - 44:7,
 71:18, 85:5, 168:12
deals ^[2] - 84:3, 84:16
dealt ^[2] - 86:4, 145:9

Dear ^[1] - 220:15
debate ^[1] - 38:3
debates ^[1] - 172:4
decade ^[1] - 99:19
December ^[7] - 114:2,
 115:7, 115:14,
 116:8, 119:18,
 120:8, 252:11
decide ^[3] - 83:18,
 90:8, 91:3
decided ^[6] - 85:1,
 85:3, 174:4, 203:3,
 203:19, 208:10
decision ^[15] - 5:15,
 9:15, 10:1, 13:18,
 41:4, 43:9, 45:11,
 83:8, 90:18, 91:8,
 91:18, 115:16,
 120:10, 195:18,
 197:16
decreases
^[1] - 158:16
dedicate ^[1] - 155:1
deemed ^[1] - 14:5
deep ^[1] - 199:17
defer ^[2] - 41:15, 76:2
define ^[1] - 81:8
definitely ^[1] - 40:4
definition ^[2] - 48:10,
 48:11
defunct ^[1] - 139:15
degrees ^[2] - 218:12,
 231:5
delayed ^[1] - 8:7
deliberate ^[1] - 211:10
delicious ^[2] - 76:7,
 79:13
delighted ^[1] - 82:7
delipidated
^[2] - 31:13, 31:14
delivered ^[4] - 250:4,
 250:7, 250:8,
 250:10
demographic
^[1] - 127:16
demonstrates
^[1] - 18:18
denial ^[2] - 14:6
densely ^[1] - 62:7
density ^[2] - 176:4
Department ^[3] - 6:5,
 37:15, 84:18
departure ^[3] - 21:8,

32:12, 102:11
derogate ^[3] - 146:6,
 205:5, 206:13
derogating ^[3] - 32:8,
 224:5, 247:19
derogation
^[1] - 203:14
describing
^[1] - 220:19
Design ^[1] - 94:15
design ^[3] - 142:19,
 158:14, 211:8
designation ^[1] - 64:8
designed ^[2] - 18:3,
 47:1
designs ^[1] - 103:12
desires ^[1] - 181:14
desist ^[5] - 45:5, 51:4,
 51:6, 51:16, 56:7
desk ^[3] - 71:9, 71:11,
 180:5
despite ^[1] - 203:15
destroyed ^[2] - 76:15,
 76:18
details ^[1] - 131:13
determination
^[8] - 14:11, 14:13,
 14:14, 48:5, 49:2,
 50:9, 50:16, 51:16
determinations
^[1] - 52:13
determined ^[1] - 46:7
detract ^[2] - 186:16,
 188:8
detracts ^[1] - 183:14
detriment ^[5] - 32:7,
 146:1, 205:4, 224:4,
 247:17
developed ^[1] - 101:2
developer ^[1] - 76:17
Development
^[2] - 100:15, 101:1
development
^[3] - 145:17, 185:10,
 211:8
dialogue ^[4] - 54:12,
 57:2, 81:15, 111:10
Dianna ^[1] - 187:15
DIANNA ^[1] - 187:15
dietary ^[1] - 139:1
difference ^[1] - 213:5
different ^[13] - 9:5,
 14:8, 14:15, 26:13,

96:3, 118:4, 127:11,
 153:5, 154:12,
 169:1, 182:12,
 229:18, 240:2
differently ^[2] - 87:8,
 112:15
difficult ^[6] - 18:7,
 106:10, 194:3,
 202:11, 207:12,
 217:16
difficulty ^[1] - 204:15
dimensional ^[5] - 6:3,
 10:13, 116:13,
 120:16, 120:18
DIRECT ^[1] - 252:19
direct ^[2] - 212:3,
 232:17
DIRECTION
^[1] - 252:19
direction ^[7] - 230:17,
 233:10, 233:15,
 233:18, 236:17,
 238:17, 238:18
directional ^[3] - 227:3,
 227:18, 245:14
directions ^[3] - 40:19,
 231:6, 247:7
directly ^[4] - 140:6,
 184:13, 186:6,
 188:4
disabled ^[2] - 133:12,
 145:4
disadvantaged
^[1] - 155:9
disagree ^[1] - 177:14
discarded ^[1] - 63:8
disconnect ^[1] - 41:6
discouraging
^[1] - 162:14
discover ^[1] - 63:4
discuss ^[1] - 79:18
discussed ^[2] - 19:9,
 245:9
discussion
^[7] - 36:19, 42:15,
 50:17, 141:18,
 189:6, 202:6, 246:8
discussions
^[1] - 108:12
dismiss ^[1] - 10:17
dispose ^[2] - 133:5,
 144:14
dispute ^[1] - 78:12

distinguish

[1] - 155:17

distress [1] - 149:11**distressed**

[1] - 149:14

distribution

[1] - 251:8

District [2] - 131:11,

140:4

district [4] - 46:19,

146:5, 146:6,

247:15

diverse [1] - 38:15**diversity** [2] - 139:4,

139:6

DO [1] - 251:5**Doctor** [1] - 89:8**doctor** [2] - 69:8, 74:4**DOES** [1] - 252:18**dog** [3] - 67:3, 72:9,

73:19

dogs [1] - 69:7**Domentiz** [1] - 221:15**DOMENTIZ**

[1] - 221:15

done [14] - 12:8,

39:14, 54:19, 55:6,

55:7, 65:9, 83:2,

92:16, 165:6, 169:3,

169:4, 189:16,

192:2, 201:15

door [24] - 67:4,

69:19, 78:11, 99:10,

134:14, 213:12,

213:14, 214:3,

214:6, 214:9, 215:3,

215:5, 215:7,

215:15, 215:17,

216:3, 216:4, 217:4,

217:6, 217:7, 218:9,

219:15

Doris [1] - 220:13**dormer** [19] - 95:10,

95:19, 96:16, 100:9,

100:16, 100:19,

101:8, 101:13,

101:18, 102:8,

102:11, 102:15,

105:19, 106:11,

107:18, 110:3,

110:12, 112:9,

112:10

dormers [11] - 96:12,

101:3, 101:19,
 102:4, 102:19,
 106:17, 107:1,
 107:2, 107:5, 110:6,
 110:13

double ^[4] - 129:6,
 142:12, 142:17,
 231:10

Douglas ^[12] - 1:10,
 3:5, 7:4, 12:4, 16:4,
 35:4, 94:4, 119:4,
 122:4, 148:4, 209:4,
 226:4

DOUGLAS ^[24] - 40:4,
 88:4, 111:9, 113:9,
 160:16, 167:4,
 199:2, 199:4,
 199:11, 200:1,
 200:6, 202:8, 215:6,
 217:2, 217:7, 218:3,
 218:7, 219:4, 235:7,
 235:15, 238:9,
 238:12, 241:6,
 242:2

down ^[36] - 11:14,
 20:4, 20:16, 23:11,
 25:14, 33:18, 53:18,
 68:5, 68:14, 71:8,
 74:11, 95:18,
 101:14, 103:17,
 111:18, 116:1,
 117:1, 133:16,
 168:14, 171:7,
 172:5, 194:8, 201:8,
 210:18, 211:6,
 212:10, 232:16,
 232:18, 233:4,
 233:17, 234:7,
 234:11, 235:13,
 235:14, 243:19

dozens ^[1] - 50:6

drag ^[1] - 96:7

draw ^[1] - 132:4

drawback ^[1] - 173:6

drill ^[2] - 122:9,
 174:19

drinks ^[1] - 125:3

drive ^[3] - 24:11,
 129:12, 144:2

drive-in ^[1] - 144:2

drives ^[1] - 129:10

driveway ^[6] - 178:4,
 188:5, 195:13,

215:6, 215:9, 230:1

driveways ^[1] - 215:9

driving ^[5] - 193:6,

230:11, 230:16,

241:8, 241:14

drove ^[2] - 193:5,

200:4

duck ^[1] - 109:1

dump ^[1] - 196:8

during ^[5] - 51:10,

82:18, 152:15,

175:6, 184:18

E

e-mail ^[8] - 4:5, 8:2,

11:15, 27:9, 27:13,

65:6, 65:17, 66:15

eager ^[1] - 98:14

earliest ^[1] - 114:3

easily ^[3] - 164:12,

176:16, 240:12

East ^[6] - 2:5, 8:5,

8:11, 12:10, 13:16,

127:18

easy ^[3] - 193:2,

194:11, 194:13

eaves ^[1] - 222:18

EB ^[1] - 94:15

edge ^[2] - 78:17, 109:1

EDRICK ^[23] - 94:10,

94:13, 94:18, 95:11,

96:10, 102:16,

104:14, 105:5,

105:9, 105:14,

109:12, 109:15,

110:10, 111:6,

111:13, 112:13,

114:6, 115:2,

117:16, 119:7,

119:14, 120:3,

121:6

Edrick ^[4] - 94:14,

94:19, 103:8,

119:14

educating ^[1] - 135:12

education ^[3] - 86:11,

86:12, 98:13

educational

^[5] - 85:14, 85:19,

86:4, 86:7, 239:15

effect ^[2] - 113:11,

168:13

effectively

[1] - 153:15
efficient [1] - 37:2
effort [2] - 186:11, 200:16
efforts [1] - 100:1
egress [3] - 133:10, 145:3, 145:13
eight [7] - 228:5, 228:15, 235:8, 241:12, 241:17, 241:18, 242:15
eight-foot
 [4] - 241:12, 241:17, 241:18, 242:15
either [11] - 21:5, 72:14, 103:18, 104:6, 104:12, 131:11, 159:5, 168:8, 173:8, 211:3, 211:15
Eitz [3] - 61:13, 61:15, 61:16
elaborate [1] - 45:9
eleven [4] - 107:8, 140:14, 140:16, 140:17
eleven-and-a-half
 [1] - 107:8
eliminate [1] - 231:15
Elisabeth [1] - 27:14
Elm [10] - 2:9, 94:6, 151:3, 151:6, 154:9, 184:7, 184:12, 184:15, 186:5, 186:10
elsewhere
 [1] - 134:15
Emergency [1] - 70:2
empathize [1] - 73:16
emphasize
 [1] - 212:12
employee [1] - 226:13
enable [2] - 32:16, 143:12
enamored [1] - 246:15
encounters
 [1] - 62:12
encourage [3] - 133:4, 142:11, 144:13
encouraging
 [1] - 128:18
end [5] - 8:6, 40:7, 52:15, 153:1,

232:15
endorse ^[1] - 118:7
energy ^[2] - 128:11,
 181:14
enforce ^[3] - 37:16,
 52:14, 82:4
enforcement
^[11] - 31:10, 37:8,
 37:12, 39:3, 42:19,
 50:8, 73:3, 92:13,
 204:10, 223:7,
 247:2
engaged ^[1] - 37:12
engaging ^[1] - 140:5
Engelman ^[1] - 220:13
ENGELMAN
^[1] - 220:13
enjoy ^[4] - 23:17,
 100:4, 178:6,
 180:13
enjoyable ^[1] - 178:11
enjoying ^[3] - 20:13,
 178:16, 179:3
enter ^[4] - 217:3,
 233:4, 233:7,
 233:16
entered ^[1] - 111:10
entering ^[1] - 233:7
enterprises
^[1] - 145:10
entertain ^[1] - 44:4
entertainment
^[1] - 99:16
enthusiastic
^[1] - 127:9
enthusiastically
^[1] - 220:16
entirely ^[3] - 112:10,
 134:14, 155:1
entrance ^[4] - 140:6,
 214:1, 216:6,
 236:19
entrances
^[2] - 229:18, 244:13
entry ^[3] - 131:18,
 216:13
environment
^[2] - 83:14, 135:17
environments
^[1] - 62:5
Epi ^[1] - 70:1
EpiPen ^[1] - 69:17
erected ^[1] - 46:19

ERRATA ^[3] - 250:1,
250:18, 251:3

Errata ^[4] - 250:3,
250:5, 250:14,
251:7

errata ^[1] - 251:6

especially ^[8] - 65:13,
69:5, 174:9, 184:18,
187:1, 188:12,
190:10, 196:18

essential ^[1] - 39:8

essentially ^[3] - 39:9,
39:12, 193:3

established
^[1] - 145:15

establishment
^[13] - 126:18, 132:10,
133:9, 140:3, 142:4,
142:8, 143:1,
143:14, 143:19,
144:6, 144:11,
145:1, 146:11

evening ^[14] - 7:10,
122:12, 122:16,
130:6, 140:14,
147:9, 148:11,
148:17, 153:15,
184:18, 226:11,
226:14, 227:2,
244:14

evening's ^[1] - 8:1

event ^[4] - 15:2, 70:5,
139:15, 202:6

events ^[2] - 231:13,
231:17

everyday ^[1] - 129:15

everywhere
^[2] - 129:13, 193:12

evolving ^[1] - 31:16

exacerbate
^[3] - 142:17, 207:11,
207:16

exacerbated
^[1] - 150:18

exact ^[5] - 167:8,
211:4, 211:5, 211:6

exactly ^[9] - 18:13,
47:11, 83:3, 95:5,
135:13, 192:14,
193:15, 211:16,
216:15

examination
^[3] - 4:18, 63:9, 67:15

exceeding ^[1] - 229:2
except ^[6] - 47:2,
 161:16, 172:7,
 210:8, 243:1,
 251:16
exception ^[3] - 85:19,
 106:2, 233:7
exceptional
^[1] - 105:18
exceptions ^[1] - 86:3
excess ^[1] - 113:14
exchange ^[1] - 92:10
excited ^[5] - 63:11,
 128:5, 128:15,
 130:5, 201:7
exciting ^[2] - 125:14,
 127:11
excuse ^[2] - 62:11,
 67:13
exercise ^[1] - 36:15
exist ^[3] - 48:17,
 163:10, 196:10
existed ^[1] - 164:10
existent ^[1] - 136:7
existing ^[11] - 105:19,
 143:10, 143:11,
 149:13, 158:4,
 179:19, 183:18,
 198:1, 218:9, 230:8,
 237:16
exists ^[6] - 135:11,
 139:4, 139:6, 158:5,
 167:13, 184:3
expand ^[1] - 139:3
expanded ^[1] - 31:16
expansion ^[1] - 23:7
expect ^[3] - 100:17,
 102:14, 102:18
expected ^[1] - 96:11
expecting ^[3] - 73:8,
 102:5, 108:9
expensive ^[2] - 137:2,
 137:5
experience
^[2] - 88:13, 128:10
experienced ^[1] - 69:6
experts ^[1] - 39:18
Expires ^[1] - 252:16
explain ^[5] - 41:17,
 55:4, 100:11, 147:1,
 236:14
explained ^[2] - 69:14,
 157:10

explaining

[1] - 128:11

explanation

[1] - 20:19

express [1] - 184:8**expressed**

[2] - 162:16, 165:7

expression [1] - 39:14**extend** [1] - 162:11**extended** [1] - 185:2**extensive** [1] - 181:1**extent** [8] - 6:2, 10:9,

40:12, 83:16,

116:11, 120:15,

132:10, 144:7

exterior [2] - 131:7,

131:8

external [2] - 232:7,

232:8

extra [3] - 99:13,

154:4, 164:4

extra-curricular

[1] - 99:13

extraordinary

[2] - 106:7, 176:13

extravagance

[1] - 62:19

F**F-r-a-n-c-i-s**

[1] - 186:1

facade [7] - 131:16,

210:4, 210:9,

218:12, 218:13,

218:18, 222:2

face [4] - 67:4, 101:15,

222:2, 238:13

faced [2] - 51:18, 56:7**faces** [1] - 68:1**facilitate** [2] - 246:1,

248:3

facilities [2] - 133:11,

145:3

facility [1] - 55:1**fact** [25] - 32:1, 39:4,

48:6, 55:10, 55:16,

98:19, 106:8, 123:8,

153:7, 154:6,

156:15, 157:2,

169:1, 173:17,

181:2, 194:16,

194:17, 207:17,

210:14, 210:16,

212:3, 212:13,
 212:15, 212:18,
 243:12
factor ^[2] - 151:4,
 163:14
factors ^[11] - 150:12,
 150:18, 163:3,
 163:4, 164:3,
 170:19, 176:6,
 176:13, 202:15,
 203:2, 203:5
facts ^[1] - 166:9
failed ^[1] - 4:8
failure ^[1] - 45:6
fair ^[2] - 23:18, 44:10
fairly ^[5] - 14:18,
 62:16, 229:15,
 240:17, 241:9
faith ^[1] - 80:17
family ^[14] - 17:9,
 98:18, 100:19,
 177:4, 201:2, 201:3,
 201:13, 201:14,
 213:19, 214:15,
 214:17, 214:19,
 216:16, 216:18
far ^[12] - 31:2, 41:3,
 77:4, 87:7, 137:9,
 192:15, 199:7,
 207:12, 219:12,
 219:17, 240:17
FAR ^[3] - 113:14,
 217:18, 218:2
farm ^[1] - 76:16
farmer ^[1] - 76:16
fashioned ^[1] - 17:19
fast ^[12] - 3:12, 129:1,
 134:7, 134:13,
 138:13, 140:2,
 142:4, 145:10,
 146:10, 146:11,
 241:14
fatal ^[3] - 65:14, 69:7,
 74:4
favor ^[25] - 6:8, 11:6,
 11:10, 15:8, 15:11,
 33:10, 33:14, 91:19,
 92:19, 93:3, 113:9,
 117:6, 117:10,
 121:1, 146:13,
 146:16, 197:1,
 205:12, 205:16,
 208:2, 208:6,

224:18, 225:2,
248:16, 249:1

Fax ^[1] - 1:17

fear ^[1] - 52:8

feasible ^[2] - 132:11,
144:7

feet ^[36] - 5:3, 5:4,
18:11, 18:12, 18:13,
18:14, 101:17,
102:7, 107:3, 107:8,
151:2, 179:9,
199:14, 199:17,
200:2, 210:13,
210:14, 210:17,
210:18, 211:12,
212:5, 212:7, 217:9,
218:14, 219:18,
228:14, 228:15,
228:18, 229:2,
229:6, 229:7, 235:8,
237:8, 237:14,
241:4

fellow ^[1] - 81:1

felt ^[3] - 106:9, 107:15,
107:19

fence ^[3] - 203:18,
242:9, 242:12

few ^[5] - 36:16, 60:11,
105:1, 131:1,
167:18

fifth ^[1] - 147:1

fight ^[1] - 53:14

file ^[12] - 4:11, 19:2,
54:9, 58:16, 59:17,
60:12, 124:13,
124:16, 152:11,
199:12, 236:8,
244:3

filed ^[2] - 38:1, 51:4

files ^[12] - 6:4, 6:5, 6:6,
10:12, 10:14, 26:9,
52:19, 116:14,
120:16, 120:18,
244:9, 248:8

filled ^[1] - 77:14

final ^[1] - 30:19

finalize ^[1] - 141:6

financial ^[1] - 98:10

findings ^[12] - 31:8,
33:3, 142:3, 142:7,
145:7, 146:8, 204:8,
205:7, 223:5,
224:12, 246:19,

248:11
fine ^[5] - 7:18, 7:19,
 8:1, 11:15, 66:14
finish ^[4] - 49:10,
 53:11, 85:2, 135:4
finished ^[4] - 54:5,
 97:18, 109:3, 192:4
fire ^[1] - 195:11
firm ^[1] - 36:1
first ^[27] - 3:11, 3:15,
 8:18, 14:10, 16:8,
 17:2, 37:7, 41:16,
 42:12, 53:12, 60:1,
 63:15, 71:15, 76:12,
 78:10, 82:16, 109:3,
 123:4, 123:18,
 129:5, 130:1, 151:4,
 180:17, 189:12,
 210:16, 230:4,
 232:13
First ^[2] - 39:12, 39:15
fit ^[4] - 98:4, 107:12,
 107:14, 158:19
fits ^[2] - 8:16, 159:2
fitting ^[1] - 63:18
five ^[34] - 6:6, 10:14,
 11:9, 15:10, 18:2,
 19:14, 19:16, 33:13,
 40:1, 57:8, 57:12,
 57:16, 57:18, 57:19,
 58:3, 63:7, 73:15,
 74:12, 74:13, 74:18,
 75:4, 87:18, 93:2,
 114:11, 114:18,
 116:15, 120:19,
 124:11, 137:6,
 146:15, 164:9,
 200:2, 225:1,
 248:19
five-and-a-half-by-t
welve ^[1] - 18:2
five-year-old
^[1] - 73:15
Flaherty ^[1] - 29:10
flashing ^[1] - 232:4
flat ^[5] - 77:2, 106:17,
 106:19, 108:2,
 219:14
Fletcher ^[2] - 172:18,
 172:19
flight ^[1] - 20:4
flinging ^[1] - 96:1
flip ^[2] - 239:7, 239:8

flood ^[1] - 198:5
floor ^[14] - 17:10,
 17:13, 18:11, 18:14,
 20:5, 20:14, 68:1,
 108:14, 113:12,
 191:10, 209:17,
 214:16, 214:17,
 214:19
flush ^[1] - 240:9
Flynn ^[1] - 29:2
focus ^[6] - 36:19,
 129:3, 138:15,
 156:2, 168:18,
 176:9
focussed ^[4] - 44:11,
 127:12, 135:15,
 192:4
folks ^[2] - 53:18, 155:5
follow ^[1] - 210:6
Follow ^[1] - 24:10
followed ^[1] - 72:13
following ^[8] - 5:12,
 10:2, 31:8, 115:14,
 142:7, 204:8, 223:5,
 246:18
food ^[15] - 127:12,
 129:2, 132:12,
 134:7, 134:9,
 134:13, 138:13,
 140:3, 142:4, 144:8,
 144:16, 145:10,
 146:10, 146:11
fool ^[1] - 12:7
fooled ^[1] - 210:15
foot ^[15] - 107:7,
 108:19, 123:16,
 142:15, 156:10,
 168:1, 228:5, 228:6,
 235:10, 237:11,
 237:18, 241:12,
 241:17, 241:18,
 242:15
footage ^[2] - 229:4,
 229:11
FOR ^[1] - 1:2
foregoing ^[1] - 251:16
FOREGOING
^[1] - 252:17
forestall ^[1] - 13:19
forever ^[2] - 40:18,
 181:18
forgive ^[2] - 55:15,
 159:15

form ^[8] - 6:3, 10:13,
 26:14, 26:15,
 116:13, 120:16,
 120:18, 219:14

forms ^[1] - 121:7

forth ^[1] - 252:9

forum ^[1] - 8:5

forward ^[9] - 20:12,
 66:13, 66:16, 88:7,
 90:4, 90:6, 160:9,
 211:4, 240:12

forwarding ^[1] - 140:1

foundation
^[2] - 222:10, 222:19

four ^[22] - 19:14, 33:8,
 33:9, 61:18, 117:9,
 123:9, 200:2,
 205:10, 205:19,
 208:5, 210:5,
 210:12, 210:18,
 212:13, 213:4,
 218:16, 219:2,
 223:17, 223:18,
 228:6, 228:8,
 228:14

four-inch ^[1] - 213:4

fourth ^[1] - 227:18

frame ^[1] - 63:16

Francis ^[1] - 185:19

frank ^[1] - 111:17

frankly ^[10] - 37:4,
 38:12, 39:1, 86:9,
 102:19, 111:19,
 126:12, 131:19,
 167:3, 240:1

free ^[2] - 39:14, 71:7

freestanding
^[5] - 227:3, 227:12,
 227:17, 245:13,
 245:19

freeze ^[1] - 73:18

frequently ^[1] - 64:7

Fresh ^[1] - 230:12

Friday ^[1] - 161:18

Friedman ^[1] - 28:19

FRIEDMAN ^[1] - 28:19

friend ^[3] - 17:10,
 71:3, 99:2

friends ^[7] - 70:19,
 98:19, 99:12, 99:14,
 193:16, 193:19,
 194:8

FROM ^[6] - 24:17,

42:7, 45:15, 45:19,
 66:1, 66:3
front ^[75] - 46:16,
 96:7, 107:11,
 127:15, 128:7,
 131:17, 149:1,
 149:18, 153:16,
 154:17, 155:6,
 155:14, 156:3,
 158:2, 158:12,
 158:18, 162:12,
 162:15, 162:17,
 167:19, 168:9,
 168:17, 170:11,
 171:1, 174:3, 174:7,
 175:17, 176:10,
 177:9, 177:11,
 177:16, 178:12,
 178:18, 179:7,
 179:11, 179:17,
 180:16, 180:19,
 181:7, 182:1,
 182:13, 182:15,
 183:14, 184:11,
 185:8, 185:17,
 186:4, 186:19,
 187:19, 188:11,
 196:2, 196:8,
 196:18, 197:17,
 198:10, 200:1,
 205:2, 206:17,
 208:1, 210:2, 210:4,
 210:5, 212:14,
 213:12, 213:14,
 215:4, 215:15,
 215:16, 216:4,
 218:9, 218:11,
 218:13, 219:14,
 224:2, 242:1
frontage ^[3] - 151:7,
 234:10, 234:17
fulfill ^[1] - 126:18
fulfils ^[1] - 143:14
full ^[8] - 26:1, 41:8,
 136:8, 180:9, 181:3,
 212:17, 212:18,
 236:2
full-colored
^[1] - 236:2
fully ^[4] - 27:2, 30:9,
 106:11, 150:6
functionally
^[2] - 153:9, 163:18

furniture ^[1] - 98:3

future ^[1] - 20:3

G

G-o-s-s ^[1] - 65:6

Galleria ^[2] - 201:9,
201:11

gallon ^[1] - 63:7

garage ^[2] - 5:5, 67:6

garden ^[7] - 20:14,
20:15, 23:16, 25:3,
25:9, 26:1, 62:18

gardening ^[1] - 63:17

gardens ^[1] - 25:1

gee ^[1] - 191:14

GENERAL ^[1] - 1:4

general ^[2] - 86:5,
203:11

generated ^[1] - 145:12

genesis ^[1] - 129:2

Genevieve ^[1] - 29:4

gentleman ^[1] - 65:3

genuinely ^[1] - 193:14

gerbils ^[1] - 48:15

germane ^[1] - 181:12

gesture ^[1] - 76:7

girls ^[1] - 97:11

girls' ^[2] - 98:13, 99:12

given ^[9] - 26:9, 62:8,
76:11, 84:13, 99:10,
169:15, 170:18,
171:1, 204:13

glad ^[1] - 87:12

glass ^[2] - 128:7,
131:17

Glassworks ^[2] - 2:4,
7:6

Globe ^[1] - 73:9

globe ^[1] - 86:15

gluten ^[1] - 139:2

God ^[1] - 71:10

GOLMER ^[2] - 25:6,
25:7

Golmer ^[1] - 25:7

gonna ^[13] - 69:16,
69:19, 70:1, 74:1,
74:2, 79:11, 79:12,
79:13, 80:9, 200:17,
200:19, 201:15

Goss ^[6] - 65:4, 65:5,
65:6, 66:10, 79:14,
82:9

goss ^[1] - 79:16

GOSS ^[11] - 66:5,
66:8, 66:11, 66:18,
67:16, 70:7, 70:11,
70:16, 71:13, 73:7,
74:9

grant ^[17] - 33:4, 83:5,
102:9, 146:9,
159:10, 171:5,
171:11, 171:14,
171:15, 176:11,
181:17, 197:7,
199:6, 203:10,
205:8, 224:13,
248:11

granted ^[10] - 32:6,
102:10, 106:2,
167:11, 205:3,
220:17, 224:3,
225:6, 247:16,
249:1

granting ^[9] - 33:10,
53:2, 59:2, 184:4,
197:2, 205:12,
207:6, 245:11,
248:16

grass ^[1] - 240:19

grateful ^[3] - 77:8,
98:1, 201:19

gratefully ^[1] - 80:3

great ^[10] - 23:8, 63:6,
78:5, 81:12, 82:1,
87:4, 127:13,
130:17, 187:10,
202:19

greatest ^[2] - 132:10,
144:7

greatly ^[1] - 191:3

Green ^[20] - 1:10, 3:5,
6:13, 7:4, 11:17,
12:4, 15:12, 16:4,
33:15, 94:4, 117:11,
119:4, 121:4, 122:4,
146:17, 148:4,
209:4, 225:3, 226:4,
249:2

green ^[1] - 137:5

GREEN ^[29] - 24:12,
94:16, 113:4, 113:7,
114:12, 125:19,
133:16, 136:13,
137:2, 175:14,
182:4, 182:9,
205:14, 216:10,

233:19, 234:2,
 234:4, 234:12,
 235:3, 237:9,
 237:14, 238:1,
 238:8, 238:14,
 240:4, 243:13,
 243:15, 245:1,
 246:10
groceries ^[1] - 167:2
grocery ^[1] - 134:8
gross ^[1] - 113:12
ground ^[5] - 180:4,
 222:12, 222:17,
 243:2
group ^[1] - 142:3
grow ^[2] - 160:3,
 197:10
guarantee ^[1] - 176:8
guaranteeing
^[1] - 137:14
guess ^[8] - 16:12,
 69:11, 89:17,
 197:12, 217:14,
 230:11, 243:17,
 245:5
guideline ^[2] - 112:9,
 112:10
guidelines ^[20] - 68:9,
 68:10, 72:5, 72:13,
 95:10, 96:16, 100:9,
 101:2, 101:5, 101:6,
 101:9, 101:13,
 102:8, 102:11,
 102:15, 104:16,
 106:12, 106:18,
 107:18, 110:3
Gunnel ^[1] - 27:10
GUNNEL ^[1] - 27:10
Gus ^[1] - 103:18
guy ^[1] - 68:14
gymnasium
^[3] - 232:18, 235:14,
 237:1

H

H-a-u-g ^[1] - 97:3
habit ^[2] - 136:17,
 137:1
habitable ^[1] - 108:16
hackles ^[2] - 110:8,
 110:9
half ^[10] - 5:4, 18:2,
 30:8, 107:7, 107:8,

149:7, 151:5,
 173:13, 199:19,
 211:11
Hall ^[2] - 66:19, 73:6
hall ^[2] - 81:3, 81:6
halls ^[1] - 56:18
Hampshire
^[4] - 151:7, 154:11,
 170:5, 226:14
Hancock ^[1] - 24:7
hand ^[6] - 88:6, 89:16,
 211:3, 211:5,
 239:14, 252:11
handed ^[1] - 242:6
handicapped
^[3] - 133:12, 133:14,
 145:4
handing ^[1] - 76:5
handling ^[1] - 37:2
hands ^[1] - 205:18
handsome
^[1] - 130:17
handsomely
^[1] - 131:2
handwritten
^[1] - 187:5
hang ^[2] - 79:17, 99:3
hanging ^[1] - 231:15
hangs ^[1] - 160:5
happy ^[6] - 42:1,
 42:12, 44:3, 60:8,
 87:2, 98:12
hard ^[9] - 106:15,
 136:4, 165:5,
 184:17, 194:5,
 196:5, 203:17,
 213:3, 213:8
hardship ^[24] - 31:12,
 31:19, 152:18,
 157:5, 157:6,
 157:15, 163:18,
 170:9, 170:18,
 171:10, 180:6,
 182:17, 197:9,
 201:18, 204:12,
 204:13, 204:17,
 223:9, 223:10,
 223:14, 247:4,
 247:5, 247:9
Hartnett ^[1] - 184:5
HARTNETT
^[1] - 184:6
Harvard ^[20] - 2:11,

44:17, 61:12, 119:6,
 119:10, 126:13,
 127:7, 127:14,
 128:15, 130:13,
 131:10, 135:3,
 136:8, 138:14,
 138:18, 139:10,
 139:13, 139:17,
 139:19, 140:3
harvest ^[1] - 78:2
harvested ^[1] - 78:15
hated ^[1] - 201:11
Haug ^[2] - 95:2, 97:2
HAUG ^[2] - 97:1,
 114:14
HAWKINSON
^[1] - 75:8
hazard ^[3] - 145:14,
 145:19, 153:16
head ^[2] - 75:16, 77:1
headroom ^[3] - 106:4,
 106:16, 108:15
health ^[4] - 126:11,
 129:12, 146:1,
 151:12
health-minded
^[1] - 126:11
healthy ^[9] - 62:4,
 126:10, 127:12,
 130:3, 135:16,
 137:1, 138:16,
 160:15
hear ^[17] - 10:17, 39:1,
 39:12, 40:8, 40:14,
 42:7, 42:10, 43:17,
 45:16, 45:18, 55:5,
 75:11, 77:10, 92:10,
 94:17, 113:19,
 241:11
heard ^[39] - 3:14, 3:19,
 5:11, 7:9, 9:18,
 12:12, 12:16, 16:12,
 23:1, 24:1, 25:1,
 25:5, 25:15, 35:10,
 35:16, 79:15, 80:2,
 81:1, 84:14, 90:13,
 94:9, 100:8, 114:10,
 115:13, 119:13,
 120:7, 122:9, 127:5,
 138:3, 138:8, 148:8,
 166:18, 183:5,
 209:8, 220:6,
 220:10, 226:9,

245:3

HEARING ^[1] - 1:4

hearing ^[21] - 13:6,
50:18, 51:2, 51:12,
52:6, 55:1, 56:18,
78:5, 80:4, 81:5,
84:13, 88:18, 92:8,
92:10, 111:17,
112:3, 113:16,
119:18, 130:15,
182:5, 182:9

hears ^[1] - 60:6

heartfelt ^[1] - 202:3

heaven ^[1] - 160:1

heavy ^[1] - 127:12

height ^[7] - 106:13,
106:14, 106:15,
228:4, 228:18,
241:7, 243:3

Hello ^[1] - 65:8

help ^[4] - 13:13, 70:3,
85:7, 139:3

helps ^[2] - 25:11,
243:11

HERBERT

^[48] - 35:11, 35:14,
35:18, 36:7, 36:11,
36:17, 42:1, 42:11,
42:16, 43:10, 43:15,
47:14, 47:18, 49:8,
50:3, 51:3, 51:13,
54:4, 55:8, 56:2,
56:5, 56:15, 57:6,
57:11, 57:19, 58:4,
58:11, 58:18, 59:3,
59:7, 59:12, 60:2,
60:9, 60:16, 61:8,
61:15, 67:11, 74:14,
75:3, 75:6, 75:10,
75:15, 75:19, 90:2,
90:9, 91:4, 91:9,
93:6

Herbert ^[1] - 35:19

hereby ^[1] - 251:17

hereinbefore
^[1] - 252:9

hereunto ^[1] - 252:11

herring ^[1] - 49:5

herself ^[2] - 54:8, 58:9

hi ^[3] - 23:13, 24:5,
97:1

hidden ^[1] - 196:3

high ^[13] - 98:14,

127:6, 128:11,
 135:17, 235:8,
 235:15, 237:8,
 237:15, 239:9,
 240:6, 241:3, 241:9,
 242:15
Hill ^[3] - 162:1,
 175:10, 194:9
Hillel ^[2] - 44:17,
 61:12
himself ^[2] - 54:8,
 61:3
Historical ^[2] - 131:5,
 131:9
historical ^[2] - 108:4,
 130:18
history ^[2] - 123:10,
 129:1
hives ^[4] - 61:19, 62:1,
 62:8, 80:9
hold ^[2] - 87:2, 246:14
holiday ^[2] - 82:14,
 147:10
home ^[10] - 19:19,
 20:14, 25:10, 64:4,
 79:12, 150:4,
 153:10, 176:17,
 177:3, 201:17
homework ^[1] - 12:8
honestly ^[1] - 77:6
Honey ^[1] - 24:10
honey ^[14] - 62:1,
 63:10, 65:10, 71:2,
 76:6, 77:14, 77:18,
 78:2, 78:15, 79:11,
 83:12, 125:5, 125:9,
 125:11
honeybee ^[1] - 61:18
honeybees ^[3] - 52:3,
 52:4, 62:13
honeycomb
^[1] - 63:11
HOPE ^[27] - 148:11,
 149:6, 149:9,
 155:16, 157:1,
 159:12, 160:19,
 161:6, 162:4,
 162:19, 165:3,
 166:7, 167:15,
 171:13, 172:15,
 176:1, 177:19,
 182:3, 188:17,
 189:2, 189:9,

196:14, 198:14,
 199:13, 199:16,
 200:3, 200:9
hope ^[6] - 48:2, 53:5,
 82:8, 100:2, 201:13,
 202:12
Hope ^[2] - 148:13
hopefully ^[3] - 87:2,
 137:1, 156:6
hoping ^[4] - 20:7,
 81:15, 81:16, 90:6
horrible ^[1] - 20:7
horribly ^[1] - 191:10
horrified ^[1] - 71:10
Horris ^[1] - 185:19
Hospital ^[1] - 97:12
hot ^[1] - 126:4
hour ^[1] - 175:4
hours ^[6] - 27:3,
 140:7, 140:10,
 141:6, 161:17,
 184:18
house ^[40] - 17:14,
 18:3, 18:5, 67:7,
 68:1, 101:19,
 106:11, 107:10,
 108:5, 110:16,
 153:16, 160:12,
 166:12, 173:4,
 178:3, 182:18,
 190:1, 190:2,
 190:17, 192:4,
 192:11, 192:19,
 193:1, 193:11,
 196:4, 196:8,
 200:15, 201:1,
 210:2, 210:4, 211:3,
 211:5, 211:6,
 211:15, 213:6,
 213:17, 215:4,
 216:2, 217:3,
 238:13
houses ^[11] - 109:19,
 155:4, 157:19,
 162:5, 162:6, 167:6,
 211:2, 211:11,
 212:3, 212:8, 216:6
housing ^[1] - 32:14
Hudson ^[1] - 226:13
hundreds ^[1] - 62:2
hurdle ^[1] - 127:6
Huron ^[2] - 25:8, 30:8
husband ^[1] - 97:3

husband's ^[1] - 98:1

hybrid ^[1] - 181:15

hydrant ^[1] - 195:11

I

idea ^[9] - 78:6, 80:6,
80:12, 81:13, 171:3,
174:6, 190:6, 198:2,
212:2

ideal ^[1] - 173:14

identification

^[2] - 227:19, 239:16

identified ^[3] - 142:13,
207:2, 243:5

identify ^[10] - 26:12,
26:17, 58:9, 94:11,
230:1, 232:16,
235:6, 242:11,
242:13, 247:6

ignorance ^[1] - 52:8

ignored ^[1] - 192:8

Ikea ^[1] - 98:1

ill ^[2] - 104:6, 104:13

imagine ^[3] - 62:1,
98:7, 137:7

immediate ^[2] - 21:17,
185:6

immediately

^[4] - 45:6, 76:19,
78:19, 79:1

impact ^[2] - 55:4,
185:12

impacted ^[1] - 129:6

impacts ^[1] - 129:3

impair ^[1] - 146:5

implications

^[1] - 203:8

importance ^[2] - 62:3,
129:3

important ^[8] - 5:18,
43:3, 79:7, 80:1,
114:14, 196:16,
198:3, 241:3

importantly

^[1] - 101:16

imposing ^[1] - 217:13

improve ^[1] - 32:14

improved ^[1] - 185:4

improvement

^[2] - 186:14, 221:5

improvements

^[2] - 25:10, 188:6

IN ^[1] - 252:11

inappropriate

[1] - 62:14

inaudible [1] - 175:18**Inc** [1] - 13:2**INC** [1] - 1:16**inch** [2] - 213:4, 213:7**inches** [15] - 102:7,

210:5, 210:12,

210:18, 212:14,

213:6, 218:13,

218:14, 218:16,

218:18, 219:2,

219:3, 219:4,

223:17, 223:18

including [3] - 45:4,

139:1, 142:19

inconsistent

[1] - 197:3

incorporate

[1] - 207:10

incorporated

[1] - 27:1

increase [4] - 18:10,

113:12, 113:16,

189:19

increased [2] - 20:8,

21:4

incredible [1] - 98:2**Index** [1] - 2:16**indicate** [2] - 14:1,

250:13

indiscriminately

[1] - 136:1

individual [5] - 52:12,

153:2, 166:12,

174:17

individually

[1] - 150:12

influenced [1] - 78:13**information** [7] - 42:4,

55:16, 55:18, 56:1,

58:12, 69:9, 74:5

informed [2] - 42:15,

44:5

informs [1] - 236:18**ingredients**

[1] - 126:10

ingress [2] - 133:10,

145:2

initial [1] - 14:11**initialled** [4] - 33:7,

205:11, 224:17,

248:15

Inman ^[2] - 105:10,
105:11

inside ^[4] - 132:4,
160:6, 241:12,
241:13

insisting ^[1] - 83:5

Inspectional
^[10] - 37:15, 50:10,
56:8, 64:7, 65:18,
71:13, 71:17, 84:18,
250:4, 250:8

inspector ^[1] - 67:8

instance ^[1] - 110:12

instead ^[1] - 9:9

instruction ^[1] - 32:4

INSTRUCTIONS
^[3] - 250:1, 250:12,
251:4

instructions
^[3] - 98:2, 136:5,
251:8

integrity ^[1] - 146:5

intended ^[1] - 152:4

intent ^[6] - 32:9,
146:7, 205:6,
206:14, 224:6,
247:19

intention ^[2] - 42:18,
117:17

intentional
^[1] - 169:10

intentionally
^[2] - 161:7, 169:5

intentions ^[1] - 80:18

interconnected
^[1] - 229:17

interest ^[1] - 64:10

interested ^[1] - 252:7

interesting ^[1] - 134:2

internal ^[1] - 247:7

interpret ^[1] - 84:13

interrupted ^[1] - 56:4

introduced
^[1] - 136:11

intrude ^[1] - 199:5

invested ^[1] - 201:17

investigate ^[1] - 63:5

investigates
^[1] - 37:19

invisible ^[2] - 240:8,
240:9

invitations ^[1] - 81:7

invite ^[1] - 56:19

involve ^[4] - 31:11,
 204:11, 223:8,
 247:3

lpsen ^[3] - 13:1, 13:4,
 13:11

lpsen's ^[1] - 13:18

irks ^[1] - 104:3

irrespective
^[1] - 160:8

ISD ^[3] - 6:5, 38:5,
 38:10

ISD's ^[1] - 38:13

issue ^[30] - 21:4, 21:5,
 37:7, 38:19, 39:6,
 40:8, 40:9, 43:2,
 47:13, 47:15, 49:13,
 50:1, 50:8, 52:2,
 52:7, 53:13, 83:11,
 84:14, 85:4, 86:16,
 95:14, 161:18,
 169:11, 179:11,
 180:16, 191:9,
 197:13, 202:3,
 217:19

issued ^[1] - 41:9

issues ^[14] - 37:1,
 37:6, 39:17, 39:18,
 42:19, 48:4, 51:10,
 53:10, 53:14, 62:15,
 142:18, 144:18,
 190:11, 192:7

item ^[9] - 48:19, 49:1,
 230:3, 232:13,
 232:14, 235:7,
 235:9, 237:3

items ^[4] - 132:13,
 144:9, 144:15,
 242:3

itself ^[5] - 131:16,
 166:13, 240:7,
 250:15, 251:6

J

jackets ^[1] - 52:4

JAMES ^[36] - 122:11,
 123:8, 123:14,
 124:5, 124:14,
 124:19, 125:4,
 125:10, 125:18,
 126:1, 127:2, 128:2,
 128:4, 128:9,
 129:17, 131:6,
 133:19, 135:9,

135:14, 137:15,
 141:3, 141:16,
 143:9, 146:19,
 147:8, 159:14,
 159:19, 189:12,
 190:15, 191:2,
 192:10, 193:10,
 200:10, 200:14,
 201:8, 206:3

James ^[2] - 122:13,
 148:15

JANET ^[29] - 24:12,
 94:16, 113:4, 113:7,
 114:12, 125:19,
 133:16, 136:13,
 137:2, 175:14,
 182:4, 182:9,
 205:14, 216:10,
 233:19, 234:2,
 234:4, 234:12,
 235:3, 237:9,
 237:14, 238:1,
 238:8, 238:14,
 240:4, 243:13,
 243:15, 245:1,
 246:10

Janet ^[12] - 1:10, 3:5,
 7:4, 12:4, 16:4, 94:4,
 119:4, 122:4, 148:4,
 209:4, 221:15,
 226:4

Janet's ^[1] - 203:17

January ^[16] - 5:12,
 6:1, 6:7, 8:19, 9:17,
 10:15, 82:16, 82:17,
 83:3, 87:16, 87:19,
 88:19, 90:15, 92:18,
 115:3, 115:4

jeopardy ^[1] - 241:16

Jewett ^[1] - 187:4

JEWETT ^[1] - 187:4

JOAN ^[1] - 23:13

Joan ^[2] - 23:13, 29:7

job ^[1] - 191:8

jobs ^[1] - 98:16

Jodie ^[1] - 221:3

JODIE ^[1] - 221:3

Joelle ^[1] - 29:2

JOHN ^[2] - 23:4, 75:8

John ^[2] - 23:4, 28:18

join ^[1] - 169:16

Jon ^[1] - 221:16

JON ^[1] - 221:16

Joseph ^[1] - 29:4
juice ^[2] - 126:3, 137:5
juices ^[5] - 125:16,
 126:2, 126:6, 134:9,
 138:16

K

kale ^[1] - 125:16
KAREN ^[1] - 25:6
Karen ^[1] - 25:7
keep ^[5] - 40:17,
 113:14, 117:19,
 136:15, 201:3
keeping ^[1] - 45:1
keeps ^[1] - 108:7
Kendall ^[2] - 2:5,
 12:10
Kennedy ^[2] - 27:7
kept ^[2] - 72:15, 108:6
Keyword ^[1] - 2:16
kidding ^[1] - 127:10
kids ^[1] - 69:18
kill ^[1] - 108:4
kind ^[22] - 18:18,
 53:13, 71:7, 72:11,
 73:18, 100:17,
 102:19, 111:10,
 136:4, 136:5,
 189:17, 189:18,
 193:11, 195:15,
 200:18, 200:19,
 201:15, 202:9,
 231:16, 233:13,
 239:19, 240:2
kindly ^[2] - 45:5, 99:2
kinds ^[1] - 86:3
Kirkland ^[3] - 2:3,
 3:17, 4:9
knee ^[2] - 71:4, 191:13
knocking ^[1] - 69:19
knowing ^[1] - 44:6
knowledge
^[1] - 252:10
known ^[2] - 150:8,
 194:14
knows ^[4] - 79:8,
 91:14, 150:15,
 155:19
Kowal ^[1] - 148:16
KOWAL ^[3] - 159:17,
 193:8, 201:1

L

L-shape ^[1] - 196:5
lack ^[5] - 154:5, 157:9,
 159:5, 171:4, 188:2
lady ^[1] - 193:4
laid ^[1] - 132:15
Lakeview ^[17] - 2:6,
 16:10, 17:5, 23:5,
 25:18, 27:7, 27:11,
 27:16, 27:19, 28:2,
 28:6, 28:8, 28:12,
 28:16, 29:1, 29:3,
 29:5
land ^[2] - 46:19, 177:8
landing ^[1] - 108:19
landlord ^[2] - 130:6,
 130:14
landmark ^[1] - 130:18
landscape
^[1] - 210:19
landscaping
^[1] - 185:4
large ^[9] - 63:4, 63:8,
 81:9, 178:2, 227:6,
 229:15, 245:16,
 247:11, 247:12
largely ^[2] - 131:16,
 150:18
Lars ^[1] - 28:5
LARS ^[1] - 28:5
last ^[11] - 8:6, 17:18,
 29:9, 78:8, 97:2,
 150:7, 187:3,
 187:14, 197:12,
 242:5, 242:8
lasted ^[1] - 169:11
lastly ^[4] - 116:11,
 144:19, 187:14,
 221:8
late ^[1] - 63:3
law ^[6] - 5:2, 39:19,
 91:3, 114:18,
 115:19, 122:14
Law ^[1] - 40:10
lawn ^[1] - 177:15
Laws ^[1] - 65:12
Lawson ^[1] - 252:4
lawyer ^[1] - 85:8
lawyers ^[2] - 40:1,
 40:2
learned ^[1] - 126:2
least ^[5] - 5:2, 29:9,
 102:4, 110:8,
 131:19

leave ^[2] - 99:15,
 133:18
leaving ^[1] - 50:14
left ^[3] - 19:14, 78:15,
 211:2
Legal ^[1] - 148:13
legal ^[5] - 48:4, 51:14,
 57:5, 108:16, 172:7
legally ^[2] - 161:11,
 162:10
legitimacy ^[1] - 51:15
Leighton ^[1] - 7:15
lend ^[2] - 186:2,
 187:16
lends ^[1] - 166:13
length ^[2] - 107:2,
 210:18
LESLIE ^[15] - 16:13,
 16:16, 16:18, 17:4,
 19:3, 19:7, 21:10,
 21:16, 22:2, 22:7,
 22:10, 25:2, 29:16,
 31:2, 33:19
Leslie ^[1] - 17:5
Leslie's ^[1] - 23:6
less ^[4] - 18:7, 20:3,
 131:18, 217:13
Lessay ^[5] - 226:16,
 226:17, 226:18,
 228:3, 245:10
Lessee ^[1] - 226:16
letter ^[46] - 12:18,
 13:7, 21:13, 26:14,
 26:17, 27:6, 27:12,
 27:17, 28:1, 28:4,
 28:7, 28:9, 28:14,
 28:18, 29:2, 29:4,
 29:7, 29:9, 41:9,
 41:18, 44:15, 45:10,
 52:18, 52:19, 58:9,
 58:16, 60:1, 60:6,
 60:13, 61:4, 64:17,
 65:1, 73:3, 78:10,
 78:14, 99:11, 119:8,
 138:10, 139:10,
 184:5, 185:19,
 187:4, 187:7,
 187:14, 220:13,
 244:7
letters ^[15] - 19:12,
 19:16, 21:13, 26:8,
 26:11, 26:18, 26:19,
 27:3, 29:14, 37:10,

99:9, 118:6, 187:3,
 236:11, 244:3
letting ^[1] - 95:3
level ^[1] - 163:17
Levinson ^[1] - 36:1
Lexington ^[4] - 19:17,
 23:14, 29:8, 29:11
license ^[3] - 141:5,
 193:7, 195:1
License ^[2] - 141:5,
 252:15
life ^[3] - 30:5, 159:17,
 193:13
Life ^[1] - 129:19
lifecycle ^[1] - 31:17
Light ^[1] - 76:8
light ^[3] - 214:13,
 215:1, 223:11
lighting ^[2] - 128:12,
 232:6
lights ^[1] - 153:17
limb ^[1] - 160:5
limit ^[3] - 166:10,
 169:8, 228:13
limited ^[6] - 85:17,
 106:12, 107:3,
 169:19, 235:12,
 243:4
limiting ^[1] - 42:17
limits ^[1] - 97:17
Linda ^[1] - 28:11
LINE ^[1] - 251:9
line ^[20] - 61:11, 63:9,
 68:7, 72:3, 101:14,
 105:8, 110:4, 134:2,
 166:16, 168:7,
 178:9, 203:13,
 210:6, 210:15,
 212:16, 212:19,
 223:19, 224:1,
 224:2, 242:9
lining ^[1] - 233:10
Liquiteria ^[5] - 122:16,
 123:10, 123:18,
 140:2, 143:17
Liquiteria's
^[2] - 138:13, 138:15
list ^[1] - 19:8
listed ^[12] - 45:14,
 46:2, 46:6, 46:8,
 47:2, 47:5, 47:9,
 48:14, 48:16, 48:18,
 48:19

listening ^[1] - 124:4

literal ^[4] - 31:10,
204:10, 223:7,
247:2

literally ^[1] - 195:14

live ^[15] - 17:5, 17:7,
17:8, 17:9, 23:5,
28:2, 97:9, 149:15,
177:4, 186:5,
193:17, 194:3,
194:7, 200:17,
209:14

lived ^[7] - 17:13, 97:6,
184:15, 188:1,
190:2, 193:8,
243:17

lives ^[2] - 17:12, 27:11

livestock ^[12] - 45:3,
46:5, 48:7, 48:11,
48:13, 49:3, 49:5,
49:6, 49:12, 49:13,
50:2, 64:8

living ^[9] - 18:5, 98:8,
101:1, 150:4,
181:13, 192:12,
193:5, 198:8,
214:14

Liz ^[1] - 139:16

LLC ^[1] - 122:17

loading ^[2] - 154:3,
180:8

lob ^[1] - 95:18

LOBBUCK ^[1] - 221:9

local ^[2] - 133:9, 145:2

located ^[13] - 64:5,
140:5, 148:19,
151:1, 166:14,
186:5, 223:15,
223:17, 234:15,
242:4, 245:15,
246:1, 247:15

location ^[13] - 62:15,
123:11, 123:17,
127:13, 128:6,
129:10, 140:8,
143:5, 179:1,
179:13, 188:4,
235:5, 247:6

locations ^[2] - 143:10,
143:12

logical ^[1] - 127:3

logo ^[3] - 228:3,
243:7, 245:14

long-term ^[1] - 20:11

long-time ^[1] - 32:16

longstanding

^[2] - 37:14, 206:15

look ^[19] - 116:17,

134:3, 137:10,

150:13, 151:7,

153:10, 160:4,

162:5, 163:5, 166:3,

166:5, 167:16,

173:10, 178:10,

184:13, 191:15,

199:10, 241:15

looked ^[6] - 68:6,

72:3, 98:8, 98:9,

182:16, 191:14

looking ^[16] - 20:2,

20:12, 41:2, 41:3,

90:4, 90:6, 148:7,

157:5, 157:17,

161:1, 163:7,

171:17, 177:3,

190:5, 217:13,

230:1

looks ^[2] - 196:17,

221:2

looped ^[1] - 233:14

loose ^[1] - 63:18

loss ^[1] - 156:8

lost ^[1] - 126:5

love ^[6] - 24:9, 79:13,

97:7, 98:12, 201:4,

201:9

lovely ^[2] - 25:9, 126:9

loves ^[1] - 24:11

low ^[1] - 243:2

lower ^[1] - 237:17

LUBBOCK

^[5] - 209:11, 216:11,

219:5, 219:19,

225:7

Lubbock ^[1] - 209:11

luck ^[2] - 33:17,

146:16

lucky ^[1] - 155:6

lunchtime ^[1] - 129:15

M

ma'am ^[1] - 23:12

Ma'am ^[1] - 24:13

Magazine ^[6] - 2:8,

35:7, 45:1, 61:7,

63:14, 64:2

magic ^[1] - 116:7
Maher ^[1] - 138:11
mail ^[8] - 4:5, 8:2,
 11:15, 27:9, 27:13,
 65:6, 65:17, 66:15
mailman ^[1] - 216:1
main ^[2] - 216:5,
 239:16
maintain ^[1] - 61:17
maintained ^[6] - 10:7,
 63:13, 116:6, 116:9,
 120:13, 131:2
maintaining ^[1] - 55:3
major ^[1] - 160:4
Malcolm ^[1] - 28:2
managed ^[1] - 97:14
Mank ^[1] - 130:7
map ^[2] - 211:19
maple ^[1] - 160:10
maps ^[1] - 86:15
Maria ^[3] - 4:6, 8:3,
 12:19
marked ^[2] - 133:1,
 144:12
marker ^[1] - 116:7
Market ^[32] - 2:13,
 148:6, 152:1, 152:8,
 154:10, 158:8,
 158:10, 163:8,
 167:13, 167:17,
 168:4, 168:12,
 168:15, 168:19,
 184:2, 184:9,
 184:13, 184:16,
 185:2, 186:3, 186:6,
 186:10, 186:12,
 187:6, 187:8,
 187:10, 187:17,
 188:1, 188:3, 188:7,
 203:9, 203:11
markings ^[1] - 231:7
marks ^[3] - 186:13,
 250:15, 251:6
marriage ^[1] - 252:6
Mary ^[2] - 105:6
Maserati ^[1] - 243:1
Mass ^[9] - 2:10, 7:16,
 24:7, 122:14,
 122:16, 123:15,
 129:15, 131:19,
 132:6
Massachusetts
^[8] - 1:7, 1:7, 122:7,

123:4, 123:5,
146:12, 161:9,
195:3

MASSACHUSETTS

[1] - 252:2

material [1] - 78:16

materials [5] - 132:11,
132:17, 143:1,
144:8, 144:15

math [1] - 219:1

matter [24] - 3:19, 7:9,
12:12, 13:14, 16:12,
22:17, 23:1, 25:5,
35:10, 94:9, 115:19,
119:13, 122:9,
138:4, 141:9, 148:8,
183:1, 183:6, 209:8,
220:7, 226:9, 245:3,
252:6, 252:7

matters [1] - 11:1

maximize [1] - 241:10

maximum [1] - 106:14

Mayor [2] - 128:17,
138:11

MBTA [1] - 140:6

McDermott [1] - 29:10

McKinnon [12] - 7:10,
7:14, 7:15, 8:2, 8:17,
9:3, 9:6, 9:13, 10:5,
10:19, 11:4, 11:11

meal [2] - 137:9,
137:10

mean [21] - 21:17,
95:16, 108:11,
109:15, 110:1,
110:14, 135:10,
156:14, 165:12,
166:1, 193:15,
203:4, 203:16,
219:9, 230:10,
236:11, 239:18,
240:6, 241:4, 243:1,
246:14

meaning [1] - 62:14

means [6] - 8:14, 55:4,
76:4, 83:18, 84:19,
114:10

MEANS [1] - 252:18

meant [1] - 212:5

measure [1] - 219:16

meeting [11] - 3:7,
13:9, 16:6, 16:7,
81:4, 81:6, 82:17,

83:1, 87:2, 104:15,
118:3

meetings ^[1] - 83:1

meets ^[1] - 114:17

Member ^[4] - 1:9, 1:9,
1:10, 1:10

members ^[8] - 22:12,
40:1, 87:18, 112:15,
127:7, 157:14,
191:1, 220:2

Members ^[21] - 3:3,
7:2, 12:2, 16:2,
29:19, 35:2, 81:1,
87:6, 87:7, 94:2,
119:2, 122:2,
122:12, 137:18,
141:11, 148:2,
148:12, 189:7,
202:4, 209:2, 226:2

memo ^[1] - 245:7

mention ^[1] - 145:11

mentioned ^[4] - 85:9,
85:10, 88:12, 99:5

merits ^[2] - 14:16,
113:1

message ^[1] - 65:8

met ^[3] - 97:8, 97:17,
176:2

metered ^[1] - 151:10

methods ^[1] - 206:19

mic ^[2] - 45:18, 66:17

microphone ^[1] - 75:9

microscopes
^[1] - 86:16

mics ^[1] - 12:7

Mid ^[2] - 105:17,
119:17

mid ^[1] - 97:9

Mid-Cambridge
^[2] - 105:17, 119:17

mid-nineties ^[1] - 97:9

middle ^[2] - 98:15,
106:3

might ^[10] - 9:7, 47:15,
63:1, 81:10, 100:17,
109:7, 117:1,
124:16, 166:8,
240:2

mill ^[1] - 130:13

mind ^[4] - 31:14,
80:15, 113:15,
143:12

minded ^[1] - 126:11

mine ^[2] - 110:8, 236:6
minimal ^[1] - 185:13
minimize ^[2] - 136:6, 136:7
minimum ^[1] - 199:13
minute ^[1] - 57:8
minutes ^[9] - 57:13, 57:17, 57:18, 58:1, 58:3, 74:12, 74:13, 74:18, 88:11
misery ^[1] - 201:10
mislead ^[1] - 103:18
mispronounce ^[2] - 28:10, 60:14
misquote ^[1] - 55:15
misread ^[1] - 187:6
missing ^[1] - 19:2
mistake ^[3] - 211:13, 212:5, 223:18
misunderstandings ^[1] - 53:15
mobility ^[1] - 20:3
modern ^[1] - 18:4
modest ^[6] - 18:10, 21:3, 30:3, 32:11, 224:8, 245:19
modification ^[1] - 10:11
modified ^[3] - 10:3, 116:6, 120:11
modify ^[1] - 5:16
modus ^[1] - 104:7
Monday ^[6] - 6:6, 10:14, 116:15, 120:19, 161:17
money ^[2] - 125:9, 173:5
monopoly ^[1] - 156:16
month ^[2] - 8:6, 8:8
months ^[2] - 80:10
mood ^[1] - 79:17
morning ^[3] - 71:2, 136:17, 136:18
most ^[10] - 97:18, 101:16, 109:10, 134:1, 159:5, 177:8, 178:11, 178:17, 191:1, 196:2
mother ^[2] - 17:11, 100:3
motion ^[7] - 44:4, 88:6, 89:19, 117:7, 117:15, 206:1,

208:2

Mount ^[2] - 36:3,

97:12

mouth ^[2] - 47:9, 87:7

move ^[10] - 20:4,

97:14, 111:18,

168:1, 173:9,

181:18, 182:1,

200:19, 206:10,

227:8

moved ^[2] - 63:13,

201:5

moves ^[20] - 5:10,

9:16, 15:6, 31:7,

33:4, 89:18, 90:12,

114:9, 115:12,

120:6, 142:6, 145:6,

146:9, 174:15,

204:7, 205:8, 223:4,

224:13, 246:18,

248:11

moving ^[1] - 201:16

multiple ^[5] - 123:2,

227:3, 245:13,

245:17, 247:12

music ^[1] - 128:12

must ^[9] - 6:5, 10:13,

116:6, 116:14,

120:18, 132:19,

148:8, 219:7

MYERS ^[24] - 40:4,

88:4, 111:9, 113:9,

160:16, 167:4,

199:2, 199:4,

199:11, 200:1,

200:6, 202:8, 215:6,

217:2, 217:7, 218:3,

218:7, 219:4, 235:7,

235:15, 238:9,

238:12, 241:6,

242:2

Myers ^[24] - 1:10, 3:5,

6:14, 7:4, 11:18,

12:4, 15:13, 16:4,

33:16, 35:4, 93:4,

94:4, 117:11, 119:4,

121:5, 122:4,

146:18, 148:4,

206:2, 208:8, 209:4,

225:4, 226:4, 249:3

Myers' ^[1] - 207:10

myriad ^[1] - 150:11

mystery ^[1] - 217:10

N

name ^[23] - 7:12, 17:2,
17:4, 23:2, 23:4,
24:5, 35:16, 35:19,
58:5, 60:14, 69:11,
73:13, 89:7, 94:13,
94:18, 97:1, 97:2,
122:13, 148:9,
209:9, 209:13,
226:9, 226:12

named ^[1] - 65:3

namely ^[1] - 207:1

names ^[1] - 42:6

narrow ^[8] - 37:5,
40:9, 40:18, 83:11,
85:3, 85:18, 106:10,
107:10

narrowness

^[1] - 110:16

nascent ^[1] - 39:12

native ^[2] - 160:2,
160:9

natives ^[1] - 97:13

natural ^[2] - 62:4,
126:10

nature ^[2] - 149:16,
224:9

near ^[3] - 63:13,
78:16, 218:1

nearby ^[1] - 63:12

nearest ^[2] - 63:1,
218:8

nearly ^[3] - 129:7,
134:14, 188:1

necessarily

^[3] - 157:6, 171:14,
246:15

necessary ^[2] - 82:19,
83:2

need ^[38] - 4:19,
11:14, 17:16, 31:15,
35:16, 38:15, 38:17,
43:18, 75:1, 83:12,
89:6, 90:17, 97:14,
99:15, 100:18,
103:11, 107:10,
107:11, 114:1,
126:19, 134:13,
141:4, 143:14,
147:4, 147:5,
169:15, 170:17,
173:10, 176:12,

179:8, 209:8,
 223:19, 228:3,
 228:6, 231:16,
 239:17, 243:5
needed ^[2] - 76:19,
 106:3
needs ^[11] - 31:13,
 65:13, 103:2, 103:3,
 103:12, 109:11,
 164:4, 173:5,
 223:10, 239:15,
 240:6
neighbor ^[16] - 53:1,
 53:4, 54:6, 55:13,
 58:17, 63:1, 63:12,
 64:3, 64:12, 67:19,
 71:7, 78:11, 78:13,
 92:2, 92:9, 164:16
neighbor's ^[2] - 62:17,
 195:13
Neighborhood
^[2] - 105:17, 119:17
neighborhood
^[36] - 23:8, 33:1,
 38:18, 53:9, 55:2,
 57:1, 77:9, 79:9,
 80:13, 81:7, 107:17,
 108:8, 126:19,
 143:15, 145:15,
 152:10, 158:1,
 158:4, 171:2,
 171:17, 173:11,
 182:16, 183:15,
 185:11, 186:7,
 186:8, 186:17,
 187:12, 188:9,
 192:13, 194:1,
 194:7, 197:18,
 197:19, 201:5,
 248:9
neighborhoods
^[1] - 175:2
neighboring
^[1] - 18:16
neighbors ^[31] - 53:9,
 53:10, 53:15, 53:18,
 67:1, 69:2, 69:8,
 72:8, 72:10, 76:10,
 76:12, 77:10, 78:10,
 83:4, 87:4, 92:6,
 99:7, 118:1, 165:10,
 169:16, 172:5,
 178:6, 178:14,

180:10, 180:11,
 181:4, 187:11,
 197:12, 221:11,
 224:10, 243:17
nervous ^[2] - 69:3,
 97:5
net ^[2] - 156:8, 156:14
netting ^[1] - 72:6
never ^[8] - 18:4, 77:6,
 109:2, 140:9, 193:5,
 193:12, 194:13,
 214:2
new ^[21] - 4:11, 4:12,
 5:17, 5:18, 6:2, 6:3,
 10:4, 14:6, 18:15,
 116:7, 116:8,
 116:12, 116:13,
 118:5, 120:12,
 169:13, 188:6,
 235:18
New ^[6] - 123:9,
 123:18, 124:9,
 126:15, 127:17,
 226:13
Newton ^[1] - 84:5
next ^[13] - 78:11,
 89:16, 99:10,
 113:19, 115:5,
 118:3, 119:6,
 119:19, 120:1,
 129:19, 200:18,
 201:16, 211:6
next-door ^[2] - 78:11,
 99:10
nice ^[8] - 11:15, 20:15,
 68:13, 73:11, 73:12,
 128:6, 147:9,
 187:11
night ^[2] - 147:11,
 215:12
nimble ^[1] - 18:7
nineties ^[1] - 97:9
nobody ^[1] - 92:15
non ^[15] - 21:6, 32:2,
 47:3, 95:9, 95:19,
 97:19, 103:1,
 113:17, 136:7,
 155:7, 179:6, 180:1,
 185:1, 195:4,
 210:10
non-compliant
^[3] - 95:9, 97:19,
 113:17

non-conformance

[1] - 155:7

non-conforming[6] - 21:6, 32:2, 47:3,
179:6, 180:1,
210:10**non-dormer**

[1] - 95:19

non-existent

[1] - 136:7

non-permitted

[1] - 185:1

non-resident

[1] - 195:4

non-starter [1] - 103:1**none** [1] - 123:3**normally** [4] - 151:9,153:3, 180:10,
181:6**North** [2] - 2:9, 94:7**northern** [1] - 184:11**nose** [1] - 246:14**NOT** [3] - 250:15,

251:5, 252:18

Notary [3] - 251:7,

252:5, 252:14

notations [2] - 250:15,

251:6

note [7] - 20:2, 32:10,221:2, 221:9,
221:15, 224:7,
251:4**noted** [1] - 251:17**notes** [5] - 4:3, 12:15,

138:7, 183:9, 252:9

nothing [10] - 46:4,63:15, 65:9, 84:16,
92:16, 95:13, 103:1,
126:12, 143:16,
195:14**notice** [2] - 92:13,

220:18

noticed [1] - 194:8**notification**

[1] - 234:7

notified [1] - 13:16**notify** [2] - 235:10,

235:13

notifying [1] - 68:11**noting** [1] - 130:8**NOVEMBER** [1] - 1:5**November** [1] - 13:7**nowhere** [1] - 218:1

nuisance ^[1] - 145:19

nullify ^[1] - 206:13

nullifying ^[4] - 32:8,
205:5, 224:5,
247:18

number ^[11] - 29:14,
55:7, 59:13, 63:6,
68:10, 72:5, 77:3,
102:6, 158:7, 173:2,
230:3

numbering
^[2] - 221:10, 221:12

numerous ^[2] - 21:13,
26:10

nutrients ^[2] - 126:4,
126:5

O

o'clock ^[2] - 164:9,
175:8

O'Grady ^[15] - 1:13,
4:7, 41:5, 41:9,
41:12, 41:16, 42:3,
42:12, 43:3, 43:4,
44:14, 47:7, 49:15,
55:14, 180:18

O'GRADY ^[12] - 14:18,
45:12, 46:1, 46:14,
47:11, 55:19, 64:14,
64:18, 65:3, 90:19,
92:4, 114:2

O'Grady's ^[4] - 43:9,
43:17, 44:15, 48:5

O'Hare ^[1] - 13:17

object ^[1] - 245:11

objection ^[2] - 172:13,
248:9

objections ^[1] - 81:19

obviously ^[9] - 47:19,
152:4, 164:2, 192:1,
192:11, 195:19,
197:9, 202:2, 244:5

occasion ^[1] - 63:17

occupant ^[1] - 146:2

occur ^[2] - 77:7, 78:7

occurred ^[1] - 77:6

occurs ^[1] - 14:4

OF ^[8] - 1:2, 1:3,
250:17, 251:1,
252:2, 252:17,
252:18, 252:19

offended ^[1] - 111:19

offered ^[3] - 77:18,

99:3, 125:15
offering ^[1] - 124:7
offerings ^[1] - 138:18
office ^[2] - 37:18,
 237:1
offices ^[2] - 122:14,
 129:9
Offices ^[1] - 148:14
official ^[2] - 50:15,
 210:13
OFFICIAL ^[1] - 1:16
officials ^[1] - 52:12
offloading
^[2] - 153:13, 154:3
often ^[2] - 53:12,
 127:6
oftentimes
^[2] - 158:14, 158:17
old ^[5] - 17:8, 17:18,
 73:14, 73:15,
 219:15
older ^[2] - 20:1, 20:11
on-line ^[2] - 68:7, 72:3
on-street ^[1] - 183:19
once ^[3] - 95:17,
 170:3, 240:7
One ^[1] - 7:15
one ^[86] - 3:13, 4:3,
 9:9, 12:15, 25:6,
 26:7, 33:8, 38:8,
 38:14, 41:2, 43:1,
 43:6, 51:19, 53:5,
 53:6, 53:16, 58:5,
 63:2, 64:15, 65:13,
 69:7, 69:16, 69:18,
 78:14, 80:16, 81:10,
 83:1, 85:8, 86:18,
 87:15, 101:18,
 102:4, 107:4, 107:6,
 107:7, 107:8,
 107:11, 109:16,
 110:4, 117:14,
 123:4, 125:1,
 129:10, 134:6,
 134:19, 138:7,
 148:19, 149:17,
 151:1, 151:3, 152:4,
 155:5, 156:15,
 156:16, 156:18,
 162:5, 170:7,
 174:14, 175:3,
 181:14, 182:1,
 183:9, 183:11,

193:14, 196:15,
 200:10, 205:15,
 215:17, 216:13,
 217:15, 220:9,
 221:8, 227:18,
 229:8, 229:9, 230:4,
 232:1, 238:2, 240:5,
 240:13, 245:18,
 246:14
one's ^[1] - 241:16
ones ^[4] - 21:15,
 168:7, 236:3, 236:6
open ^[13] - 22:17,
 124:6, 132:6,
 177:10, 177:17,
 178:6, 178:12,
 178:16, 179:2,
 179:3, 182:19,
 194:6, 220:4
opened ^[1] - 123:18
openings ^[1] - 210:8
operandi ^[1] - 104:8
operate ^[3] - 103:15,
 138:14, 146:10
operates ^[1] - 134:4
operation
^[12] - 123:19, 127:11,
 130:14, 134:12,
 137:5, 140:5, 140:7,
 140:10, 142:8,
 145:16, 147:6,
 248:3
operations ^[1] - 126:9
opinion ^[3] - 27:5,
 50:17, 119:16
opportunities
^[2] - 168:3, 168:11
opportunity
^[8] - 36:12, 36:15,
 44:9, 44:12, 49:11,
 78:1, 80:4, 166:17
opposed ^[11] - 53:2,
 117:12, 117:14,
 144:2, 165:16,
 172:5, 205:17,
 206:1, 207:19,
 228:5, 234:13
opposing ^[1] - 59:2
opposite ^[2] - 195:15,
 233:10
opposition
^[2] - 180:14
opt ^[1] - 112:16

option ^[4] - 13:12,
78:8, 130:3, 138:17

options ^[3] - 99:16,
138:19, 195:12

order ^[15] - 3:8, 16:7,
39:2, 40:16, 45:7,
51:4, 51:7, 51:16,
56:8, 107:12, 140:3,
142:4, 145:10,
146:11, 174:15

ordinance ^[1] - 129:2

Ordinance ^[38] - 10:8,
15:3, 21:8, 31:11,
32:9, 32:13, 37:16,
45:3, 45:13, 46:12,
47:6, 83:15, 84:3,
84:12, 84:16, 85:18,
101:6, 110:2,
116:10, 120:14,
139:12, 146:7,
162:12, 176:12,
177:7, 203:14,
204:11, 205:6,
206:14, 223:8,
224:6, 227:12,
229:5, 229:13,
232:11, 234:16,
247:3, 248:1

organized ^[1] - 100:1

oriented ^[1] - 140:19

ORIGINAL ^[1] - 250:8

original ^[4] - 211:19,
212:1, 250:3, 250:9

originally ^[2] - 193:5,
213:8

originated
^[1] - 206:16

otherwise ^[3] - 40:18,
115:19, 146:6

ourselves ^[5] - 30:6,
100:5, 189:18,
191:6, 191:10

out-of-state
^[1] - 152:13

outcome ^[1] - 252:7

outdoors ^[1] - 20:13

outlet ^[1] - 123:19

outreach ^[3] - 55:11,
58:13, 181:1

outset ^[1] - 39:7

outside ^[3] - 105:10,
176:8, 176:12

overall ^[1] - 228:4

overflow ^[1] - 198:15
overhang ^[2] - 218:15,
 218:17
Overlay ^[2] - 131:10,
 140:4
overlooking
^[1] - 178:15
owing ^[4] - 31:19,
 204:17, 223:14,
 247:9
own ^[5] - 69:4, 72:9,
 72:11, 202:4,
 204:16
owned ^[2] - 97:10,
 187:19
owner ^[3] - 19:8,
 24:10, 51:17
owners ^[4] - 149:1,
 176:17, 186:12,
 188:6

P

P-I-o-s-s ^[1] - 187:15
p.m ^[29] - 1:5, 3:2,
 5:11, 5:19, 6:6, 7:1,
 9:17, 10:14, 12:1,
 16:1, 35:1, 90:13,
 90:14, 90:15, 92:18,
 94:1, 115:13, 116:9,
 116:15, 119:1,
 120:8, 120:19,
 122:1, 140:14,
 148:1, 209:1, 226:1,
 249:5
Pacheco ^[2] - 4:6,
 13:1
package ^[3] - 150:9,
 230:4, 242:8
packaged ^[1] - 134:9
packaging
^[4] - 132:12, 133:5,
 144:8, 144:14
packet ^[1] - 242:5
Paden ^[1] - 139:16
PADEN ^[1] - 139:16
PAGE ^[5] - 2:2, 23:4,
 28:18, 250:17,
 251:9
Page ^[2] - 23:4, 251:7
page ^[3] - 28:18,
 82:10, 242:8
pages ^[3] - 33:9,
 205:10, 224:15

paid ^[1] - 130:11
panel ^[2] - 231:13,
 231:18
paper ^[1] - 104:2
parallel ^[5] - 230:5,
 231:1, 231:2,
 238:10, 239:3
park ^[22] - 151:11,
 151:17, 152:6,
 152:13, 152:19,
 153:5, 155:10,
 165:13, 168:5,
 168:17, 170:11,
 171:1, 175:6, 178:5,
 185:2, 186:19,
 188:11, 193:2,
 194:3, 194:13,
 194:17, 195:10
parked ^[9] - 67:8,
 158:17, 160:18,
 169:5, 199:7, 242:7,
 242:9, 242:14,
 242:17
Parking ^[7] - 157:8,
 165:1, 165:7, 169:7,
 169:14, 174:13,
 174:19
parking ^[136] - 129:7,
 142:10, 142:12,
 142:17, 149:18,
 150:5, 150:14,
 150:16, 150:17,
 151:8, 151:10,
 151:11, 151:14,
 151:15, 151:16,
 151:18, 152:2,
 152:3, 152:9, 153:4,
 153:8, 153:11,
 153:13, 153:14,
 153:17, 154:5,
 154:6, 154:8,
 154:13, 154:18,
 155:2, 155:5, 155:6,
 155:15, 156:2,
 156:7, 156:10,
 157:9, 158:1,
 158:11, 159:6,
 161:16, 162:7,
 162:13, 162:15,
 162:18, 163:8,
 163:12, 164:4,
 164:8, 164:10,
 164:13, 166:11,

166:14, 167:5,
 167:7, 167:12,
 167:13, 168:8,
 168:9, 169:2, 169:6,
 169:9, 169:17,
 169:19, 170:6,
 171:4, 173:7, 173:8,
 173:10, 174:3,
 174:7, 174:15,
 175:4, 175:9,
 175:18, 176:10,
 177:11, 181:6,
 182:1, 182:14,
 182:15, 183:14,
 183:17, 183:19,
 184:10, 184:14,
 184:17, 184:19,
 185:5, 185:7,
 185:12, 185:17,
 186:3, 186:9, 187:1,
 187:9, 187:18,
 188:3, 188:5, 190:4,
 190:11, 192:7,
 192:16, 194:18,
 196:1, 196:5,
 196:11, 198:11,
 198:15, 199:17,
 203:7, 203:11,
 204:16, 205:2,
 206:18, 207:13,
 207:17, 208:1,
 227:4, 227:19,
 228:13, 233:8,
 235:12, 235:13,
 236:18, 239:18,
 241:19, 242:11,
 242:13, 243:4,
 243:11

Parkway ^[7] - 2:15,

226:7, 226:19,
 233:2, 237:5,
 238:10, 241:9

parkway ^[1] - 245:16

part ^[19] - 17:15, 22:5,

39:10, 47:1, 92:10,
 101:5, 107:10,
 132:1, 134:1, 135:3,
 149:11, 150:4,
 152:6, 190:12,
 218:8, 230:2,
 231:18, 234:16,
 238:8

particular ^[7] - 83:10,

143:5, 158:5,
182:11, 184:1,
184:2, 192:17

particularly

[3] - 73:11, 151:19,
153:6

parties [1] - 252:6

party [1] - 250:7

passed [2] - 172:9,
195:9

passiveness

[1] - 52:3

past [2] - 62:18,
173:12

path [1] - 40:18

patience [2] - 13:13,
98:2

patients [1] - 88:13

Patricia [1] - 29:10

patronage

[1] - 142:14

patrons [6] - 132:2,
132:4, 133:5,
135:12, 144:1,
144:13

pattern [3] - 184:3,
185:10, 212:1

patterns [2] - 145:12,
185:9

paved [1] - 177:17

pay [3] - 72:6, 113:11,
144:17

peak [1] - 100:12

pedestrian

[4] - 158:16, 159:6,
163:2, 176:5

people [47] - 18:6,
19:15, 19:16, 40:12,
47:19, 48:2, 59:14,
67:7, 68:5, 69:1,
71:9, 75:13, 77:3,
77:15, 78:1, 81:10,
91:7, 95:18, 118:5,
129:8, 129:11,
133:16, 134:16,
135:1, 135:4,
135:19, 136:15,
136:17, 142:15,
152:19, 158:14,
165:18, 167:11,
173:9, 174:2, 175:1,
175:7, 176:18,
178:8, 178:17,

197:7, 213:2, 213:4,
 222:1, 232:17,
 241:8, 241:14
people's ^[1] - 38:16
per ^[3] - 3:11, 16:9,
 47:10
Per ^[1] - 4:6
percent ^[1] - 129:8
perhaps ^[2] - 39:13,
 142:15
period ^[1] - 10:7
periods ^[1] - 185:3
Perlmutter ^[1] - 27:13
PERLMUTTER
^[1] - 27:14
permanent
^[1] - 157:17
permanently
^[1] - 160:18
permit ^[11] - 40:11,
 137:16, 151:10,
 152:2, 157:9, 164:8,
 164:10, 175:4,
 175:9, 175:19,
 229:13
Permit ^[5] - 128:19,
 138:14, 140:2,
 145:8, 146:9
permits ^[1] - 40:10
permitted ^[6] - 47:10,
 48:8, 50:11, 110:7,
 185:1, 232:10
perpendicular
^[8] - 230:7, 230:10,
 230:15, 230:18,
 230:19, 237:7,
 238:11, 238:12
perpetuity
^[1] - 155:12
persistent ^[1] - 202:13
person ^[7] - 59:1,
 59:6, 59:9, 59:15,
 74:4, 77:18
person's ^[1] - 103:12
personal ^[3] - 50:16,
 88:13, 202:19
personally ^[2] - 38:13,
 112:17
persons ^[2] - 133:12,
 145:5
perspective
^[1] - 127:14
persuaded ^[1] - 147:5

petition ^[9] - 14:7,
 14:15, 64:11, 99:7,
 100:13, 161:15,
 164:18, 174:17,
 248:6

petitioner ^[35] - 4:5,
 4:16, 5:14, 5:16,
 9:19, 17:6, 26:10,
 29:12, 31:13, 31:17,
 33:7, 37:11, 41:11,
 51:8, 60:7, 75:18,
 90:16, 91:17, 92:7,
 92:9, 120:9, 142:13,
 143:6, 183:2,
 204:12, 204:15,
 207:1, 207:16,
 223:9, 223:10,
 223:16, 224:16,
 247:4, 247:5,
 248:14

petitioners
^[17] - 148:15, 149:2,
 149:9, 153:9,
 153:19, 157:4,
 157:13, 164:6,
 165:16, 177:3,
 180:6, 181:12,
 185:13, 185:16,
 186:19, 188:11,
 189:10

petitioning
^[3] - 163:19, 198:19,
 207:3

petitions ^[1] - 117:19

pets ^[2] - 48:16, 69:3

Peyton ^[1] - 28:2

philosophy
^[4] - 37:14, 38:4,
 38:13

phone ^[1] - 70:11

phonetic ^[2] - 27:15,
 130:7

phonetic) ^[2] - 60:17,
 226:16

photo ^[1] - 242:5

photographs
^[5] - 17:16, 18:18,
 124:9, 143:7,
 143:10

physical ^[2] - 142:19,
 143:3

physician ^[1] - 88:12

picture ^[1] - 71:8

pictures ^[3] - 68:2,
 152:12, 161:10
piece ^[1] - 85:8
pieces ^[1] - 60:11
piles ^[1] - 238:7
pitch ^[1] - 105:16
placards ^[1] - 14:2
place ^[5] - 39:11,
 76:19, 98:6, 109:3,
 173:9
plan ^[5] - 18:9, 113:11,
 132:15, 167:16,
 227:5
planned ^[1] - 191:17
planning ^[1] - 20:4
Planning ^[20] - 8:11,
 13:11, 13:15, 13:17,
 14:12, 162:15,
 174:5, 181:5,
 183:12, 183:16,
 184:3, 206:17,
 207:18, 244:7,
 245:8, 245:12,
 247:11, 248:7
plans ^[23] - 4:18, 6:2,
 10:12, 19:9, 25:19,
 30:16, 30:17, 31:1,
 33:6, 102:18, 109:9,
 116:12, 116:13,
 118:4, 118:5,
 120:15, 120:17,
 140:11, 183:13,
 185:3, 205:10,
 224:15, 248:13
plastic ^[1] - 63:8
plates ^[3] - 152:13,
 166:3, 195:2
pleased ^[1] - 188:5
plenty ^[4] - 40:15,
 80:11, 125:12,
 193:16
Ploss ^[1] - 187:15
plows ^[1] - 240:15
plumb ^[1] - 49:16
point ^[21] - 22:13,
 41:2, 42:17, 43:17,
 52:6, 53:4, 71:19,
 96:10, 98:7, 101:3,
 111:9, 127:4, 136:3,
 137:19, 141:9,
 156:4, 157:16,
 172:16, 174:4,
 192:13, 243:14

pointed ^[5] - 131:3,
 157:19, 166:2,
 198:18, 247:11
points ^[2] - 88:18,
 154:15
police ^[1] - 38:16
policy ^[3] - 162:14,
 162:17, 206:16
Pond ^[1] - 230:12
pooled ^[1] - 63:10
popular ^[1] - 248:4
populated ^[1] - 62:7
population ^[1] - 177:2
porch ^[4] - 20:5, 20:8,
 23:6, 23:7
porches ^[5] - 17:16,
 18:1, 18:9, 18:15,
 31:15
portion ^[8] - 134:5,
 179:15, 184:10,
 185:16, 186:4,
 187:18, 196:1,
 196:11
poses ^[1] - 62:15
position ^[3] - 84:17,
 144:19, 240:1
positive ^[1] - 221:5
positives ^[1] - 98:11
possible ^[4] - 109:12,
 114:15, 192:3,
 199:8
possibly ^[1] - 175:6
posting ^[5] - 5:17,
 10:3, 115:17, 116:5,
 120:11
postman ^[1] - 216:1
postpone ^[1] - 57:12
postponement
^[1] - 78:5
potential ^[2] - 177:16,
 241:2
potentially ^[1] - 176:7
pounds ^[1] - 137:6
practice ^[1] - 95:17
prejudge ^[1] - 81:17
prejudging ^[1] - 83:17
preliminary
^[1] - 140:12
premature ^[1] - 89:5
premises ^[8] - 39:11,
 86:10, 133:11,
 135:7, 136:6, 145:4,
 187:9, 204:16

prepared ^[2] - 134:6,
134:10

preparing ^[1] - 111:17

presence ^[2] - 63:10,
139:3

present ^[7] - 41:12,
95:5, 96:11, 130:6,
235:16, 238:16

presentation
^[4] - 30:7, 44:6,
144:5, 202:17

presently ^[2] - 230:19,
231:14

preservation
^[1] - 130:19

preserving ^[1] - 179:2

President ^[1] - 122:19

press ^[2] - 57:4, 137:3

pressed ^[5] - 125:15,
126:3, 126:6, 134:8,
138:15

presses ^[1] - 126:2

presumably ^[1] - 81:3

pretty ^[6] - 77:4,
101:9, 165:5,
180:12, 190:3,
195:16

previously ^[2] - 9:19,
149:4

price ^[1] - 137:11

pride ^[1] - 30:5

primarily ^[1] - 144:1

prime ^[1] - 177:10

principled ^[1] - 167:10

private ^[2] - 178:11,
203:5

problem ^[13] - 4:16,
50:14, 51:18, 65:16,
69:13, 70:17, 135:3,
154:17, 165:18,
173:16, 175:1,
191:8, 203:7

problems ^[2] - 100:13,
142:9

procedure ^[1] - 14:9

proceed ^[5] - 30:15,
33:6, 205:9, 224:14,
248:13

process ^[7] - 9:8,
44:10, 44:11, 126:4,
137:7, 179:10,
189:17

produce ^[1] - 142:12

product ^[5] - 125:15,
 129:11, 134:13,
 135:16, 135:18

production ^[1] - 61:19

products ^[2] - 134:9,
 143:17

professional
^[1] - 77:15

programs ^[1] - 151:16

prohibited ^[1] - 39:15

project ^[13] - 33:2,
 94:15, 95:1, 95:4,
 95:8, 105:1, 105:13,
 105:15, 119:15,
 191:17, 192:5,
 201:16, 209:16

projections
^[2] - 222:16, 222:18

prominence
^[1] - 128:6

prompted ^[1] - 45:11

pronounce ^[1] - 61:13

pronounced ^[1] - 9:12

pronunciation
^[1] - 160:1

pronunciation)
^[1] - 159:18

prop ^[1] - 227:6

proper ^[1] - 233:16

properly ^[5] - 133:5,
 144:14, 235:6,
 242:10, 242:13

properties ^[9] - 158:7,
 158:9, 166:15,
 167:18, 168:6,
 168:16, 172:14,
 185:6, 185:11

property ^[36] - 55:3,
 61:11, 63:9, 78:12,
 78:17, 149:3,
 149:10, 149:11,
 149:12, 149:15,
 150:5, 151:1, 151:3,
 154:3, 166:16,
 168:3, 168:7, 172:1,
 173:3, 178:1, 178:2,
 178:9, 184:12,
 184:15, 186:13,
 186:15, 188:3,
 190:10, 226:19,
 229:16, 229:19,
 232:15, 233:1,
 233:12, 234:10,

241:12

proportionality

[1] - 113:15

proposal [8] - 95:8,
95:19, 96:3, 101:12,
102:2, 104:4, 112:3,
245:18

proposed [13] - 18:15,
23:6, 103:5, 111:19,
131:8, 146:4,
184:14, 185:17,
186:15, 187:1,
188:4, 188:8,
188:12

proposing [6] - 5:3,
145:18, 160:11,
212:15, 235:5,
238:18

protect [1] - 72:7

protecting

[1] - 180:12

protection [2] - 152:2,
157:10

protocol [1] - 45:7

provide [5] - 86:11,
102:8, 133:1,
138:19, 144:12

provided [4] - 132:13,
144:9, 144:15,
223:12

provisions [5] - 5:1,
31:11, 204:11,
223:8, 247:3

proximity [3] - 62:8,
163:6, 179:14

Public [3] - 251:7,
252:5, 252:14

public [38] - 13:6,
13:10, 22:18, 29:18,
32:7, 40:13, 40:15,
48:11, 50:18, 51:2,
54:19, 56:17, 59:16,
62:15, 69:12, 78:5,
80:4, 81:5, 82:19,
88:18, 92:7, 116:17,
135:7, 142:10,
142:12, 143:4,
163:6, 183:1,
188:15, 189:5,
203:6, 205:4, 220:5,
222:4, 224:4, 246:4,
247:17

public's [1] - 64:10

pull ^[8] - 3:12, 104:3,
153:12, 167:19,
195:9, 195:13,
196:7, 216:1

purchased
^[3] - 149:10, 173:2,
193:1

purchasing
^[1] - 192:19

purpose ^[10] - 32:9,
36:18, 51:11, 86:9,
146:7, 205:6,
206:14, 214:12,
224:6, 247:19

purposes ^[3] - 26:19,
85:14, 86:1

pursuant ^[1] - 45:2

pursue ^[1] - 83:6

pursued ^[1] - 207:1

pushing ^[4] - 91:12,
107:18, 110:15,
110:16

put ^[19] - 47:8, 49:18,
76:13, 77:5, 100:19,
102:3, 105:16,
116:7, 137:13,
153:16, 160:10,
173:4, 174:18,
178:8, 186:12,
200:16, 210:1,
212:5, 212:6

putting ^[3] - 108:2,
156:11, 176:4

Q

quality ^[1] - 30:4

questioning
^[1] - 241:17

questions ^[7] - 22:12,
22:16, 137:18,
141:11, 183:2,
220:2, 244:18

quickly ^[1] - 192:2

quite ^[10] - 30:3, 67:2,
126:13, 126:15,
127:8, 128:14,
130:4, 162:2,
172:13

quoted ^[1] - 48:6

R

rabbi ^[6] - 69:11, 70:6,
75:7, 75:15, 87:12,

91:14

Rabbi ^[2] - 75:7, 75:14

RABBI ^[13] - 76:5,

76:11, 79:6, 80:1,

81:12, 82:1, 82:6,

85:7, 85:12, 85:17,

86:12, 87:1, 88:8

Rafferty ^[2] - 122:10,

122:13

RAFFERTY

^[25] - 122:11, 123:8,

123:14, 124:5,

124:14, 124:19,

125:4, 125:10,

125:18, 126:1,

127:2, 128:2, 128:4,

128:9, 129:17,

131:6, 133:19,

135:9, 135:14,

137:15, 141:3,

141:16, 143:9,

146:19, 147:8

Raila ^[1] - 184:6

RAILA ^[1] - 184:6

raise ^[3] - 86:17,

149:13, 191:13

raised ^[5] - 24:8, 40:6,

201:14, 237:18,

238:6

raises ^[2] - 140:9,

163:17

rambling ^[1] - 229:16

Ranjit ^[2] - 65:17,

71:19

Ranjit's ^[1] - 72:18

rapidly ^[1] - 9:8

rare ^[1] - 102:9

rate ^[1] - 241:10

rather ^[10] - 21:3,

32:11, 37:5, 44:16,

57:4, 65:7, 108:1,

160:10, 178:8,

178:17

ratio ^[1] - 219:10

rational ^[1] - 177:8

raw ^[1] - 71:2

re ^[3] - 5:6, 131:3,

213:6

re-advertise ^[1] - 5:6

re-pointed ^[1] - 131:3

re-side ^[1] - 213:6

reach ^[2] - 54:11, 59:9

reached ^[4] - 45:11,

59:11, 59:13, 70:14

reaction ^[2] - 65:15,
239:12

read ^[19] - 26:11,
26:12, 27:2, 31:5,
43:13, 46:11, 53:3,
58:10, 60:1, 60:3,
61:4, 65:1, 66:15,
69:6, 73:4, 78:10,
244:8, 251:16

Reading ^[18] - 4:6,
13:1, 44:18, 46:18,
61:6, 61:10, 61:17,
65:8, 138:11,
139:18, 183:12,
184:7, 186:1, 187:7,
187:16, 220:14,
221:4, 245:8

reading ^[3] - 27:3,
250:13, 251:4

ready ^[10] - 3:14,
29:19, 91:1, 141:19,
189:7, 202:7, 223:2,
246:10, 246:11

real ^[5] - 50:14, 84:7,
173:15, 175:1,
193:2

realize ^[3] - 63:1,
107:17, 150:11

realized ^[1] - 180:18

realizes ^[1] - 194:12

realizing ^[2] - 150:4,
194:4

really ^[41] - 17:17,
18:4, 43:8, 48:3,
55:10, 72:14, 76:7,
103:2, 104:3,
108:15, 110:5,
124:7, 127:10,
129:2, 130:5,
130:12, 134:4,
134:6, 136:13,
152:18, 154:1,
157:11, 166:2,
172:17, 173:7,
173:10, 173:11,
176:9, 177:5,
178:12, 182:16,
193:14, 194:15,
195:11, 195:16,
195:19, 196:9,
201:6, 202:12,
203:16, 217:19

rear ^[6] - 31:14, 107:4,
110:11, 186:6,
200:3, 200:4

REASON ^[6] - 251:10,
251:11, 251:12,
251:13, 251:14,
251:15

reason ^[14] - 22:6,
101:11, 106:1,
114:17, 136:15,
171:16, 190:15,
193:18, 203:15,
207:5, 210:3, 211:1,
212:6, 251:5

reasonably ^[1] - 154:2

reasons ^[10] - 53:16,
62:6, 101:13,
104:17, 151:12,
160:14, 170:15,
204:1, 207:4,
250:14

rebuild ^[1] - 18:9

receipt ^[9] - 4:5,
12:18, 26:8, 138:8,
138:10, 183:11,
220:11, 220:12,
245:7

receive ^[1] - 139:12

received ^[5] - 29:15,
37:10, 42:3, 149:12,
220:19

RECEIVED

^[1] - 250:19

receiving ^[1] - 44:19

recent ^[2] - 211:18

recently ^[1] - 62:16

receptacle

^[1] - 144:18

receptacles

^[3] - 133:2, 136:5,
144:13

reception ^[1] - 235:11

receptive ^[2] - 87:12,
87:13

recess ^[3] - 58:3,
74:18, 75:5

recite ^[1] - 29:11

recognize ^[3] - 4:8,
62:3, 87:15

recommend

^[1] - 184:4

recommended

^[1] - 110:7

reconsidered

[1] - 192:19

record [15] - 21:2,

22:5, 27:1, 29:13,
58:10, 59:17, 69:12,
79:2, 79:3, 122:13,
137:14, 148:13,
226:12, 250:7,
251:18

RECORD [1] - 1:16**recorded** [1] - 208:6**red** [1] - 49:5**redesigning**

[1] - 110:19

redoing [1] - 8:10**reduce** [1] - 142:9**refer** [1] - 81:5**Refer** [1] - 251:7**referring** [1] - 220:18**reflect** [3] - 5:17, 10:4,
120:12**reflective** [1] - 124:10**refuge** [1] - 62:19**regard** [11] - 31:8,
32:10, 37:11, 143:5,
143:16, 162:17,
204:8, 206:15,
224:7, 246:19,
248:2**regarding** [1] - 45:1**registered** [3] - 161:8,
161:12, 161:13**regret** [1] - 129:18**regretting** [1] - 125:6**regular** [2] - 3:10, 16:7**regularly** [2] - 91:7,
194:6**regulate** [1] - 169:7**regulation**

[3] - 161:15, 169:10,
169:17

regulations

[5] - 151:19, 164:7,
169:2, 198:16,
204:14

reinforce [1] - 243:11**reintroduced**

[1] - 136:11

reiterate [1] - 144:17**relate** [2] - 203:2,
236:12**related** [2] - 144:2,
252:6

relates ^[1] - 202:9
relating ^[3] - 32:1,
 204:14, 247:10
relative ^[1] - 186:14
relevant ^[4] - 4:8,
 43:2, 47:3, 88:16
relief ^[50] - 4:17, 4:19,
 9:11, 21:1, 21:2,
 32:5, 32:6, 32:11,
 53:2, 59:2, 83:6,
 83:7, 102:9, 102:10,
 131:15, 148:19,
 149:13, 150:2,
 150:3, 154:16,
 159:10, 168:17,
 170:10, 170:17,
 171:6, 179:8,
 181:18, 190:12,
 190:13, 202:19,
 203:10, 205:3,
 206:12, 206:19,
 221:1, 224:1, 224:3,
 224:8, 224:11,
 225:5, 227:2, 228:3,
 228:6, 228:8,
 239:13, 243:5,
 244:14, 247:8,
 247:16
religion ^[1] - 39:15
religious ^[1] - 39:10
relinquish ^[1] - 88:8
relocate ^[1] - 100:4
remain ^[2] - 32:17,
 167:12
remarked ^[1] - 64:5
remedy ^[1] - 176:7
remember ^[3] - 72:1,
 73:13, 105:13
remind ^[1] - 83:9
remove ^[4] - 159:11,
 159:13, 160:17,
 183:18
removed ^[1] - 78:19
removing ^[2] - 152:1,
 185:14
renderings ^[1] - 143:8
renew ^[1] - 56:13
renovating
^[1] - 186:13
renovation
^[1] - 149:12
REP ^[1] - 251:2
repair ^[1] - 17:17

repaired ^[1] - 31:15
repeating ^[1] - 180:3
repetitive ^[1] - 145:8
REPLACE ^[1] - 250:17
replace ^[3] - 160:12,
 177:17, 183:17
replaced ^[1] - 214:11
replacement
^[1] - 137:9
replacements
^[1] - 137:10
replacing ^[1] - 230:5
report ^[3] - 4:4, 12:17,
 183:10
Reporter ^[2] - 252:4,
 252:14
REPORTER
^[1] - 252:19
REPORTERS
^[1] - 1:16
represent ^[1] - 67:1
representative
^[1] - 120:9
represented
^[1] - 223:16
representing
^[4] - 13:3, 68:19,
 226:15
REPRODUCTION
^[1] - 252:18
request ^[3] - 140:2,
 149:17, 177:5
requested ^[1] - 15:7
requesting ^[3] - 4:10,
 148:18, 217:17
require ^[1] - 101:11
required ^[7] - 10:7,
 116:10, 120:14,
 139:11, 145:7,
 236:15, 236:16
required) ^[1] - 251:7
requirement
^[1] - 234:19
requirements
^[3] - 113:14, 133:10,
 145:2
requires ^[1] - 32:4
reside ^[9] - 27:16,
 28:12, 28:16, 28:19,
 29:3, 29:5, 61:6,
 184:7, 221:17
residence ^[2] - 5:4,
 36:2

resident ^[7] - 20:12,
32:17, 161:5, 161:7,
161:16, 195:4

residential
^[2] - 183:15, 247:15

residents ^[7] - 138:17,
138:18, 151:9,
184:1, 187:10,
233:11, 233:17

resides ^[2] - 27:18,
220:14

resolution ^[2] - 81:16,
92:12

resolve ^[2] - 53:10,
87:3

resolved ^[1] - 90:7

resourceful
^[1] - 202:13

respect ^[2] - 203:9,
223:5

respond ^[2] - 56:10,
59:14

responding
^[1] - 72:17

response ^[2] - 13:10,
174:14

Response ^[15] - 4:1,
12:13, 22:14, 24:2,
26:6, 61:1, 138:1,
138:5, 141:12,
183:3, 183:7, 204:5,
220:3, 220:8, 245:4

responsibilities
^[1] - 202:4

responsive ^[1] - 79:2

rest ^[1] - 182:12

restrictions ^[2] - 84:5,
139:1

restricts ^[1] - 39:14

resume ^[1] - 74:19

resurface ^[1] - 63:16

retail ^[3] - 123:17,
124:7, 134:8

retirement ^[1] - 100:3

returned ^[1] - 97:9

reusable ^[2] - 136:11,
136:16

revealed ^[1] - 63:10

review ^[2] - 13:15,
105:18

reviewed ^[6] - 103:7,
183:13, 185:3,
236:9, 245:9,

245:12
reviews ^[1] - 73:10
rewrite ^[1] - 84:11
RICHARD ^[11] - 7:10,
 7:14, 8:2, 8:17, 9:3,
 9:6, 9:13, 10:5,
 10:19, 11:4, 11:11
Richard ^[2] - 7:14,
 60:13
ridge ^[3] - 101:14,
 107:1, 110:4
right-hand ^[2] - 211:3,
 211:5
rights ^[1] - 31:5
risk ^[3] - 135:10, 136:7
risky ^[1] - 62:12
road ^[1] - 103:17
Road ^[5] - 2:3, 3:17,
 4:10, 105:6
Robert ^[5] - 65:6,
 66:8, 66:10, 66:18,
 88:12
ROBERT ^[11] - 66:5,
 66:8, 66:11, 66:18,
 67:16, 70:7, 70:11,
 70:16, 71:13, 73:7,
 74:9
Roberts ^[1] - 170:5
ROBIN ^[6] - 209:11,
 216:11, 219:5,
 219:19, 221:9,
 225:7
Robin ^[1] - 209:11
Roger ^[2] - 28:9, 28:14
roof ^[18] - 65:10,
 65:11, 68:2, 76:14,
 77:2, 101:15,
 105:16, 106:13,
 106:17, 108:2,
 108:3, 149:13,
 191:12, 218:15,
 218:17, 219:11,
 219:12, 222:17
roofs ^[1] - 106:19
rooftop ^[1] - 61:18
room ^[8] - 74:17,
 167:18, 168:8,
 194:12, 214:14,
 214:15, 214:17,
 214:19
Room ^[1] - 70:2
roughly ^[2] - 199:18,
 199:19

Route ^[1] - 230:12
routinely ^[1] - 185:2
rubric ^[1] - 222:16
rule ^[2] - 39:2, 40:16
rules ^[6] - 10:18,
 67:14, 117:4, 196:9,
 210:6
run ^[3] - 86:10,
 129:13, 130:13
run-of-the-mill
^[1] - 130:13
rural ^[1] - 217:2
rush ^[1] - 3:13
ryely ^[1] - 64:5

S

S-c-a-r-l-e-t-t
^[1] - 221:16
sad ^[2] - 17:15, 110:1
safe ^[1] - 80:8
safety ^[7] - 62:15,
 72:6, 142:10, 146:2,
 151:12, 160:14,
 195:7
Saint ^[2] - 105:6
sale ^[1] - 144:16
SAME ^[1] - 252:18
sandwich ^[1] - 130:1
sat ^[1] - 104:9
save ^[1] - 76:14
saw ^[6] - 95:12, 125:5,
 127:8, 162:19,
 182:13, 195:1
SAWYER ^[1] - 23:13
Sawyer ^[2] - 23:13,
 29:7
scale ^[2] - 107:15,
 108:7
Scarlett ^[1] - 221:16
schedule ^[3] - 8:16,
 9:4, 114:17
scheduled ^[1] - 13:6
Schmidt ^[1] - 27:10
SCHMIDT ^[1] - 27:10
School ^[6] - 44:18,
 61:12, 170:5,
 172:18, 226:18,
 245:10
school ^[30] - 81:4,
 98:14, 98:15, 151:2,
 151:5, 151:12,
 151:14, 151:16,
 152:5, 157:12,

163:6, 164:3,
 164:14, 170:1,
 172:19, 173:1,
 194:16, 197:11,
 198:15, 235:11,
 236:19, 237:2,
 243:6, 243:12,
 243:13, 243:18,
 245:15, 246:1,
 248:3, 248:4
schools ^[3] - 165:12,
 169:19, 170:6
Schuster ^[1] - 27:18
SCHUSTER
^[1] - 27:18
scope ^[1] - 37:5
SCOTT ^[9] - 88:3,
 161:14, 164:15,
 165:17, 219:11,
 222:6, 222:9,
 236:14, 242:16
Scott ^[24] - 1:9, 3:5,
 6:13, 7:4, 11:17,
 12:4, 15:12, 16:4,
 33:15, 35:4, 93:4,
 94:4, 117:11, 119:4,
 121:4, 122:4,
 146:17, 148:4,
 206:2, 208:8, 209:4,
 225:3, 226:4, 249:2
SEAN ^[39] - 14:18,
 45:12, 46:1, 46:14,
 47:11, 55:19, 64:14,
 64:18, 65:3, 90:19,
 92:4, 114:2, 148:11,
 149:6, 149:9,
 155:16, 157:1,
 159:12, 160:19,
 161:6, 162:4,
 162:19, 165:3,
 166:7, 167:15,
 171:13, 172:15,
 176:1, 177:19,
 182:3, 188:17,
 189:2, 189:9,
 196:14, 198:14,
 199:13, 199:16,
 200:3, 200:9
Sean ^[12] - 1:13, 4:7,
 8:3, 8:19, 45:8,
 45:18, 46:10, 65:2,
 90:17, 92:1, 148:13,
 189:16

season ^[1] - 82:14
seat ^[2] - 36:6, 88:9
seated ^[1] - 122:17
second ^[17] - 5:6, 8:9,
 8:18, 17:9, 20:5,
 20:14, 39:6, 61:18,
 67:19, 87:15,
 151:13, 211:1,
 214:16, 214:17,
 214:19, 235:4,
 240:17
secondly ^[1] - 10:9
Section ^[7] - 45:2,
 45:13, 46:11, 46:12,
 47:2, 47:6, 84:18
section ^[8] - 152:1,
 152:8, 158:8,
 158:10, 167:17,
 168:4, 168:11,
 168:19
see ^[38] - 11:15, 15:5,
 17:15, 30:12, 37:4,
 49:17, 53:19, 54:9,
 54:17, 57:2, 77:3,
 80:10, 83:2, 92:11,
 95:19, 96:1, 104:2,
 108:10, 126:8,
 132:1, 132:3,
 141:13, 158:17,
 161:9, 172:1,
 175:14, 182:12,
 188:6, 198:5, 216:3,
 230:15, 231:5,
 232:6, 237:19,
 240:11, 242:17,
 244:10, 248:8
seeing ^[3] - 20:14,
 90:4, 90:6
seek ^[4] - 4:19, 5:6,
 38:2, 113:15
seeking ^[11] - 9:11,
 21:3, 21:9, 83:6,
 83:7, 131:14,
 154:16, 227:2,
 239:19, 242:15,
 244:14
seem ^[1] - 41:7
selective ^[5] - 37:8,
 37:12, 39:3, 42:18,
 50:8
selling ^[1] - 67:7
sending ^[1] - 81:6
Senior ^[1] - 1:6

sense ^[4] - 41:14,
 41:16, 118:7,
 170:14
sensible ^[1] - 62:6
sensibly ^[1] - 245:19
sensitive ^[3] - 143:2,
 190:10, 192:7
sensitivity
^[1] - 135:17
sent ^[3] - 8:2, 18:17,
 99:9
separate ^[1] - 26:16
separation ^[2] - 5:1,
 5:7
September ^[1] - 73:4
seriously ^[4] - 101:7,
 108:11, 166:6,
 192:18
serve ^[2] - 173:5,
 176:15
service ^[3] - 99:19,
 126:19, 143:15
Services ^[9] - 37:15,
 50:10, 56:8, 65:18,
 71:14, 71:17, 84:18,
 250:4, 250:8
Services' ^[1] - 64:8
serving ^[1] - 138:15
set ^[10] - 29:13, 125:1,
 198:11, 204:2,
 211:13, 218:19,
 219:2, 240:3, 252:9,
 252:11
setback ^[37] - 4:17,
 5:7, 21:4, 21:5,
 149:1, 149:18,
 156:3, 158:2,
 158:13, 158:18,
 167:19, 168:10,
 168:17, 170:12,
 171:1, 176:10,
 177:11, 179:7,
 179:11, 179:17,
 180:16, 180:19,
 184:11, 185:8,
 185:18, 186:4,
 187:19, 196:2,
 196:19, 197:17,
 198:11, 199:5,
 199:14, 210:5,
 210:13, 212:14,
 217:19
setbacks ^[3] - 21:7,

32:3, 211:10
sets ^[1] - 240:19
setting ^[1] - 128:12
settings ^[1] - 62:7
seven ^[21] - 5:11,
 5:19, 9:17, 17:12,
 90:13, 90:14, 92:18,
 115:13, 116:8,
 120:7, 140:13,
 140:16, 140:17,
 161:17, 235:9,
 237:8, 237:11,
 237:14, 237:18
seven-eleven
^[2] - 140:16, 140:17
several ^[7] - 44:11,
 63:7, 150:18,
 152:12, 166:15,
 168:15, 229:18
shall ^[3] - 142:9,
 143:2, 222:15
shame ^[1] - 194:4
shape ^[5] - 196:4,
 196:5, 204:17,
 223:15, 247:10
shaped ^[1] - 32:3
share ^[3] - 61:11,
 78:1, 97:5
SHEET ^[3] - 250:1,
 250:18, 251:3
Sheet ^[4] - 250:3,
 250:5, 250:14,
 251:8
sheet ^[2] - 251:5,
 251:6
Sheila ^[3] - 27:6, 27:7,
 187:4
shelves ^[1] - 134:10
shifted ^[1] - 178:3
shirt ^[2] - 63:18, 63:19
shooting ^[1] - 87:6
shop ^[2] - 127:17,
 134:16
Shop ^[3] - 123:11,
 123:13, 123:15
short ^[3] - 46:18, 65:7,
 75:5
Shorthand ^[2] - 252:4,
 252:14
shortly ^[1] - 75:4
Show ^[1] - 205:18
show ^[3] - 68:5, 79:6,
 118:5

showed ^[2] - 19:8,
 71:8
showing ^[1] - 123:10
shown ^[1] - 25:19
shows ^[2] - 211:19,
 242:6
shrinking ^[1] - 9:7
side ^[28] - 20:1, 21:6,
 101:18, 102:4,
 107:5, 132:1, 132:7,
 153:12, 160:12,
 165:15, 211:3,
 211:5, 211:15,
 213:6, 213:15,
 213:16, 213:19,
 215:3, 215:17,
 216:5, 216:9,
 216:10, 217:6,
 217:7, 221:11,
 233:12, 234:5,
 240:15
sides ^[8] - 19:13,
 153:8, 153:14,
 153:18, 154:6,
 154:8, 163:13,
 231:8
sidewalk ^[4] - 135:5,
 210:15, 240:16,
 240:19
sidewalks ^[1] - 142:11
siding ^[1] - 213:7
Siegel ^[1] - 221:3
SIEGEL ^[1] - 221:3
Sign ^[1] - 251:6
sign ^[63] - 5:17, 8:5,
 8:10, 9:9, 10:3, 15:4,
 91:7, 91:18, 115:15,
 115:17, 115:18,
 116:5, 116:6, 116:9,
 120:9, 120:11,
 131:12, 164:19,
 172:1, 227:4,
 227:19, 228:13,
 228:19, 230:3,
 230:5, 230:6, 231:1,
 231:8, 231:10,
 231:15, 231:18,
 232:13, 234:6,
 234:7, 235:5, 235:8,
 235:16, 235:18,
 236:12, 236:15,
 236:16, 237:16,
 238:4, 238:6,

238:16, 238:17,
 239:3, 240:7, 241:5,
 241:7, 241:10,
 241:12, 241:17,
 241:19, 242:10,
 243:7, 245:9,
 245:14, 245:19,
 250:14

signage ^[7] - 13:12,
 131:9, 131:15,
 238:8, 239:13,
 239:18, 239:19

SIGNATURE

^[1] - 250:1

signatures ^[1] - 118:1

signed ^[5] - 5:14,
 10:1, 99:8, 121:7,
 250:6

SIGNED ^[1] - 250:18

significance

^[1] - 147:1

significant ^[5] - 21:7,
 32:19, 102:10,
 147:4, 159:4

significantly

^[2] - 95:18, 229:11

signs ^[17] - 10:12,

26:15, 90:16,
 175:14, 227:3,
 227:13, 227:18,
 228:8, 228:18,
 229:4, 229:12,
 233:4, 234:14,
 243:19, 244:15,
 245:13, 248:2

Signs ^[1] - 226:13

similar ^[1] - 106:9

similarly ^[2] - 63:15,
 185:10

SIMMERS

^[23] - 209:13, 209:19,
 213:14, 213:18,
 214:5, 214:13,
 214:18, 215:8,
 215:13, 215:16,
 216:5, 216:15,
 217:5, 217:8, 218:1,
 218:6, 218:11,
 219:8, 219:13,
 222:1, 222:8,
 222:11, 225:8

Simmers ^[1] - 209:14

simple ^[1] - 156:14

simplistic ^[1] - 156:18

simply ^[1] - 221:17

sincerely ^[1] - 103:2

Singanayagam

^[1] - 65:18

single ^[6] - 17:11,

51:17, 77:17,

123:19, 216:16,

216:18

single-family

^[2] - 216:16, 216:18

sit ^[8] - 53:18, 101:14,

101:15, 112:6,

114:18, 133:16,

166:4, 212:9

site ^[5] - 14:2, 148:19,

149:17, 212:9,

227:5

sits ^[1] - 240:17

Sitting ^[11] - 3:3, 7:2,

12:2, 16:2, 35:2,

94:2, 119:2, 122:2,

148:2, 209:2, 226:2

sitting ^[3] - 41:5,

134:10, 190:19

situated ^[1] - 185:10

situation ^[20] - 73:16,

106:7, 106:10,

150:14, 150:17,

152:16, 163:15,

166:13, 167:5,

182:6, 182:11,

184:19, 190:4,

191:6, 192:17,

194:10, 195:16,

198:9, 203:11,

207:12

situations ^[1] - 150:16

six ^[5] - 82:17, 158:10,

162:7, 175:8, 195:1

size ^[11] - 18:10,

18:15, 20:8, 110:5,

110:8, 230:7, 230:8,

237:9, 238:2,

244:12, 244:13

skill ^[1] - 252:10

Slater ^[1] - 35:4

sleep ^[2] - 80:8, 98:6

sleeping ^[1] - 17:19

slide ^[1] - 231:19

slight ^[1] - 218:15

slot ^[1] - 4:13

small ^[13] - 18:1,

97:10, 108:17,
 131:1, 184:10,
 185:16, 186:4,
 187:2, 187:18,
 188:12, 196:1,
 196:11, 197:7
smoothie ^[2] - 134:15,
 135:4
smoothies ^[5] - 126:7,
 126:8, 126:10,
 134:5, 138:16
snooping ^[1] - 38:16
snow ^[3] - 238:7,
 240:14, 241:2
sold ^[1] - 76:17
sole ^[1] - 52:5
solution ^[2] - 109:8,
 112:7
solve ^[1] - 157:6
solving ^[2] - 191:8,
 198:19
someone ^[3] - 43:10,
 50:10, 69:16
Somerville ^[2] - 72:4,
 84:5
sometime ^[1] - 63:12
sometimes
^[1] - 153:11
somewhat ^[6] - 20:3,
 139:14, 173:17,
 173:19, 175:18,
 247:14
Sonia ^[1] - 148:15
SONIA ^[3] - 159:17,
 193:8, 201:1
soon ^[2] - 60:1, 64:1
sorry ^[17] - 19:1,
 35:13, 42:11, 54:4,
 56:3, 71:12, 78:7,
 82:8, 96:18, 113:6,
 117:18, 138:9,
 200:11, 208:9,
 215:11, 227:8,
 230:19
sort ^[6] - 20:6, 57:2,
 81:16, 106:9,
 107:10, 239:12
sought ^[18] - 31:9,
 32:11, 33:5, 146:10,
 190:11, 204:9,
 205:9, 206:12,
 220:19, 221:1,
 223:6, 223:13,

224:8, 224:11,
 224:14, 247:1,
 247:8, 248:12
sounds ^[1] - 10:10
source ^[1] - 63:2
space ^[40] - 97:17,
 97:18, 98:4, 100:18,
 101:1, 103:10,
 107:2, 107:14,
 108:14, 108:16,
 109:2, 109:9, 132:5,
 154:19, 155:5,
 155:10, 156:10,
 156:16, 157:4,
 166:14, 173:8,
 177:10, 177:17,
 178:12, 178:16,
 179:3, 183:17,
 183:19, 184:14,
 185:17, 187:9,
 188:5, 195:15,
 196:1, 196:11,
 199:17, 214:14,
 223:11
spaces ^[8] - 106:5,
 130:9, 143:4, 194:6,
 194:19, 235:12,
 242:11, 242:13
spat ^[1] - 100:8
speaking ^[6] - 38:12,
 40:12, 42:18, 64:3,
 83:13, 102:13
speaks ^[1] - 181:3
special ^[2] - 167:1,
 194:15
Special ^[5] - 128:19,
 138:14, 140:2,
 145:7, 146:9
Specialist ^[1] - 1:13
specific ^[10] - 59:15,
 168:13, 168:18,
 171:18, 178:1,
 178:10, 181:8,
 203:2, 227:8
specifically
^[6] - 50:12, 50:13,
 145:9, 152:8, 163:7,
 163:8
speed ^[2] - 160:3,
 241:10
spell ^[1] - 89:11
spelled ^[2] - 27:14,
 97:2

spend ^[1] - 27:3
spent ^[1] - 186:7
spinach ^[2] - 125:17,
 125:18
spiral ^[1] - 108:17
spoken ^[1] - 99:6
spotlights ^[1] - 232:8
spurned ^[1] - 90:10
square ^[13] - 18:11,
 18:12, 18:14,
 123:16, 139:5,
 139:7, 142:18,
 143:18, 229:4,
 229:6, 229:7,
 229:11
Square ^[16] - 105:10,
 126:13, 127:7,
 128:3, 128:15,
 130:13, 131:10,
 135:3, 136:8,
 138:14, 138:18,
 139:10, 139:13,
 139:17, 139:19,
 140:4
SS ^[1] - 252:3
stackable ^[1] - 61:18
staff ^[4] - 152:5,
 165:13, 169:9,
 175:5
staggering
^[1] - 211:10
stair ^[3] - 106:3,
 106:5, 108:17
staircase ^[1] - 97:19
stairs ^[6] - 20:5,
 20:16, 98:4, 107:12,
 108:19, 191:10
standing ^[1] - 64:2
stands ^[1] - 138:16
start ^[5] - 3:9, 3:11,
 41:1, 43:14, 44:14
started ^[3] - 44:15,
 82:3, 136:16
starter ^[1] - 103:1
starting ^[1] - 99:5
state ^[9] - 68:9, 72:13,
 133:9, 145:1,
 152:13, 165:18,
 166:3, 186:14,
 195:1
statement ^[4] - 43:7,
 96:15, 189:3, 202:9
statements

[1] - 251:18
station [2] - 127:15,
 181:16
stationary [1] - 232:1
stations [1] - 181:16
stay [3] - 19:19, 98:12,
 206:6
staying [1] - 80:9
steeper [1] - 105:16
Stefanie [2] - 95:2,
 97:2
STEFANIE [2] - 97:1,
 114:14
stenographer
 [6] - 7:13, 17:3, 23:3,
 148:10, 209:10,
 226:10
STENOGRAPHER
 [2] - 89:6, 89:10
stenographic
 [1] - 252:9
step [2] - 150:1,
 189:17
STEPHEN
 [6] - 114:13, 115:1,
 115:9, 116:3,
 117:18, 118:9
Stephen [1] - 97:3
steps [2] - 82:19,
 160:16
Stern [3] - 75:7, 75:14,
 75:15
STERN [13] - 76:5,
 76:11, 79:6, 80:1,
 81:12, 82:1, 82:6,
 85:7, 85:12, 85:17,
 86:12, 87:1, 88:8
Steve [1] - 95:1
Steven [1] - 27:13
STEVEN [1] - 27:13
stick [2] - 129:19,
 234:7
stickers [2] - 161:5,
 161:7
sticks [1] - 96:2
still [14] - 54:17,
 80:19, 108:6,
 110:14, 131:13,
 155:13, 166:8,
 179:9, 179:12,
 179:15, 181:19,
 192:8, 197:9, 241:4
sting [3] - 64:6, 69:15,

77:13
stock ^[1] - 32:14
stomachs ^[1] - 77:14
stop ^[4] - 19:4, 40:15,
 65:13, 153:16
store ^[6] - 24:11,
 124:9, 128:10,
 134:3, 142:15,
 145:13
storefront ^[1] - 132:6
stores ^[3] - 123:2,
 123:9, 124:6
story ^[1] - 61:18
straight ^[2] - 40:17,
 134:8
strange ^[2] - 49:1,
 72:12
street ^[73] - 19:13,
 19:18, 64:4, 135:5,
 152:3, 152:6, 153:4,
 153:6, 153:7,
 153:11, 153:14,
 153:18, 154:7,
 154:9, 155:4, 156:5,
 156:7, 156:9,
 156:11, 156:12,
 157:3, 157:14,
 157:18, 158:6,
 158:11, 158:14,
 159:1, 159:3, 160:5,
 160:18, 162:6,
 162:7, 163:13,
 166:10, 166:16,
 167:5, 167:7,
 167:12, 169:6,
 173:10, 174:11,
 176:14, 183:19,
 184:2, 184:17,
 185:6, 185:12,
 185:14, 186:9,
 188:2, 194:17,
 199:8, 200:2, 203:7,
 204:14, 204:19,
 205:1, 206:17,
 207:13, 207:17,
 210:14, 211:8,
 211:11, 212:1,
 212:10, 216:6,
 217:9, 218:8,
 221:10, 233:10,
 238:13, 240:10,
 240:11
Street ^[72] - 2:5, 2:8,

2:9, 2:11, 2:13, 2:14,
 7:15, 12:10, 24:7,
 35:8, 36:2, 36:3,
 45:2, 61:7, 94:6,
 105:11, 119:6,
 119:11, 123:16,
 148:6, 151:3, 151:6,
 151:7, 152:1, 152:8,
 154:9, 154:10,
 158:9, 158:10,
 163:9, 167:14,
 167:17, 168:4,
 168:12, 168:15,
 168:19, 170:3,
 170:6, 184:2, 184:7,
 184:9, 184:12,
 184:13, 184:16,
 185:2, 186:3, 186:5,
 186:6, 186:10,
 186:12, 187:6,
 187:8, 187:10,
 187:17, 188:1,
 188:3, 188:7, 190:3,
 203:10, 203:12,
 209:6, 209:12,
 209:15, 215:10,
 220:14, 221:4,
 221:6, 221:17
streets ^[6] - 142:11,
 142:13, 158:6,
 183:16, 198:6,
 239:16
Streets ^[2] - 63:14,
 64:3
streetscape
^[9] - 155:3, 158:16,
 159:6, 163:2,
 174:10, 176:5,
 180:13, 181:5,
 198:1
strenuous
^[1] - 172:13
strenuously
^[1] - 177:14
stress ^[2] - 195:17,
 200:15
stretch ^[2] - 243:4,
 243:18
strict ^[3] - 68:8, 72:4,
 210:6
strip ^[1] - 240:18
strong ^[2] - 23:15,
 39:9

strongly ^[4] - 130:15,
185:14, 186:17,
188:9

structure ^[7] - 32:2,
46:18, 179:6,
204:18, 219:6,
222:7, 223:15

structures
^[3] - 218:10, 245:17,
247:13

stuck ^[3] - 108:10,
191:17, 201:4

stuff ^[2] - 68:3, 135:6

stung ^[7] - 63:19,
64:1, 65:14, 67:9,
69:18, 73:19, 74:3

subject ^[6] - 5:12,
9:18, 10:2, 84:4,
131:9, 134:7

submission
^[3] - 95:13, 95:14,
211:18

submittal ^[1] - 245:12

submitted ^[9] - 6:3,
30:16, 33:7, 41:3,
119:7, 143:6,
152:11, 224:16,
248:14

subscribe ^[1] - 251:17

substantial
^[12] - 31:12, 32:7,
145:14, 180:6,
182:17, 204:12,
205:4, 223:9, 224:4,
243:3, 247:4,
247:17

substantially
^[7] - 14:8, 32:8,
113:13, 205:5,
206:13, 224:5,
247:18

substituting
^[1] - 214:1

subtract ^[1] - 218:14

success ^[1] - 127:17

suddenly ^[1] - 63:18

suffers ^[1] - 65:14

sufficient ^[3] - 101:11,
167:18, 207:8

sufficiently
^[2] - 112:10, 247:6

sugary ^[1] - 126:8

suggest ^[8] - 53:17,

80:19, 81:3, 82:15,
87:17, 112:5,
134:12, 135:14

suggesting ^[3] - 44:2,
80:16, 80:19

suggestion ^[4] - 37:9,
56:14, 87:11, 164:5

suggestions
^[2] - 19:9, 39:7

suitable ^[3] - 18:4,
133:1, 144:12

SULLIVAN

^[106] - 30:2, 59:16,
87:10, 88:2, 103:6,
110:18, 111:3,
112:16, 113:2,
123:3, 125:8,
125:17, 128:1,
128:3, 129:14,
132:14, 132:18,
133:3, 133:7,
133:13, 136:10,
136:14, 137:4,
140:12, 140:17,
142:1, 161:3,
161:11, 162:1,
172:3, 172:12,
172:17, 174:12,
175:12, 175:16,
177:13, 207:9,
214:3, 214:6,
214:10, 216:8,
216:12, 216:17,
217:11, 226:11,
226:18, 227:10,
227:14, 227:17,
228:2, 228:9,
228:11, 228:16,
229:1, 229:8,
229:14, 230:13,
230:18, 231:4,
231:9, 231:12,
232:1, 232:3, 232:8,
232:12, 233:3,
233:6, 234:1, 234:3,
234:9, 234:13,
235:1, 235:4, 235:9,
235:17, 235:19,
236:2, 236:4, 236:5,
236:9, 236:13,
236:16, 237:3,
237:6, 237:7,
237:11, 237:13,

237:16, 238:4,
 238:11, 238:15,
 239:2, 239:5, 239:8,
 240:13, 241:18,
 242:4, 242:19,
 243:10, 243:16,
 244:4, 244:11,
 244:17, 246:7,
 246:13, 249:4
Sullivan ^[32] - 1:9, 3:4,
 6:13, 7:3, 11:17,
 12:3, 15:12, 16:3,
 33:15, 35:3, 93:4,
 94:3, 115:7, 117:13,
 119:3, 121:4, 122:3,
 122:18, 124:8,
 128:10, 129:1,
 130:5, 146:17,
 148:3, 206:2, 208:8,
 209:3, 225:3, 226:3,
 226:12, 249:2
Sullivan's ^[2] - 110:9,
 126:14
summary ^[1] - 20:11
summed ^[1] - 30:3
Summer ^[1] - 36:2
summer ^[6] - 62:18,
 63:3, 67:17, 72:2,
 73:5
supplied ^[1] - 250:14
support ^[30] - 19:13,
 21:14, 23:5, 26:1,
 29:14, 30:9, 33:1,
 62:2, 62:6, 64:7,
 71:1, 138:12, 140:1,
 140:4, 140:6, 180:9,
 181:3, 183:13,
 184:8, 185:15,
 186:2, 186:18,
 187:7, 187:16,
 188:10, 197:19,
 220:16, 221:18,
 224:9, 248:6
supported ^[3] - 159:7,
 178:15, 206:16
supporters ^[1] - 23:15
supporting
^[2] - 96:15, 211:16
supportive
^[2] - 19:11, 21:18
supposed
^[4] - 101:13, 228:14,
 229:5, 233:3

supposedly^[1] - 211:12**surely** ^[1] - 142:14**surmise** ^[1] - 212:4**surprised** ^[2] - 240:5,
243:17**survey** ^[1] - 210:17**surveys** ^[1] - 210:19**Susan** ^[1] - 184:5**susceptible**^[2] - 62:10, 62:11**suspect** ^[4] - 15:4,
15:5, 37:16, 38:6**sustainable**^[2] - 181:13, 181:14**sustaining** ^[1] - 62:3**SUV** ^[3] - 242:17,
242:18, 242:19**swap** ^[2] - 156:15,
156:19**swarm** ^[1] - 63:4**swarming** ^[3] - 63:6,
68:3, 77:13**swarms** ^[1] - 77:11**swat** ^[1] - 74:2**switched** ^[1] - 98:16**sympathetic**^[3] - 108:6, 202:17,
240:1**Synagogue**^[1] - 55:12**synagogue** ^[1] - 56:18**T****T-shirt** ^[1] - 63:18**Table** ^[5] - 45:14, 46:2,
46:4, 46:6, 49:14**table** ^[2] - 110:19,
194:11**tall** ^[1] - 242:16**tasteful** ^[1] - 83:12**teachers** ^[4] - 152:5,
165:13, 175:5,
194:16**team** ^[2] - 130:5, 130:7**Team** ^[2] - 8:12, 13:17**temple** ^[2] - 67:4,
76:14**ten** ^[8] - 156:10, 158:9,
158:11, 162:6,
168:1, 179:9,
199:14, 219:4**ten-foot** ^[1] - 156:10

tenant ^[2] - 17:11,
31:17

tend ^[1] - 233:12

term ^[1] - 20:11

terms ^[13] - 21:3,
21:12, 32:12, 37:5,
151:6, 154:8,
163:19, 178:11,
179:2, 188:13,
207:2, 219:10,
229:11

terrific ^[1] - 82:7

testimony
^[11] - 22:18, 29:18,
183:1, 188:15,
189:5, 220:5, 222:4,
246:4, 250:14,
251:5, 252:8

THE ^[16] - 1:2, 1:16,
24:17, 42:7, 45:15,
45:19, 66:1, 66:3,
89:6, 89:10, 250:17,
252:17, 252:18,
252:19

Theberge ^[1] - 28:10

THEBERGE
^[1] - 28:11

themselves
^[1] - 155:1

therefor ^[2] - 250:14,
251:5

therefore ^[6] - 13:8,
15:6, 47:10, 48:7,
50:11, 84:19

thereof ^[2] - 144:10,
250:6

they've ^[4] - 99:8,
160:7, 162:16,
165:17

thinking ^[2] - 104:18,
126:14

thinks ^[1] - 130:16

third ^[4] - 17:9,
108:14, 191:9,
212:12

THIS ^[2] - 250:17,
252:17

THOMAS ^[9] - 88:3,
161:14, 164:15,
165:17, 219:11,
222:6, 222:9,
236:14, 242:16

Thomas ^[13] - 1:9, 3:5,

7:4, 12:4, 16:4, 29:2,
35:4, 94:4, 119:4,
122:4, 148:4, 209:4,
226:4

Thompson ^[1] - 28:15

THOMPSON

^[1] - 28:16

thousands ^[1] - 62:2

thrashed ^[1] - 51:10

threaten ^[1] - 142:10

three ^[10] - 5:4, 33:8,

124:2, 161:17,

167:6, 167:11,

213:5, 224:15,

227:17, 229:16

throughout

^[6] - 150:16, 152:10,

163:5, 163:10,

163:16, 166:19

throw ^[3] - 104:1,

108:10, 135:5

throwing ^[1] - 136:1

THURSDAY ^[1] - 1:5

Thursday ^[1] - 4:14

tight ^[4] - 155:2,

173:18, 198:6,

242:12

TIM ^[49] - 226:11,

226:18, 227:10,

227:14, 227:17,

228:2, 228:9,

228:11, 228:16,

229:1, 229:8,

229:14, 230:13,

230:18, 231:4,

231:9, 231:12,

232:3, 232:8,

232:12, 233:3,

233:6, 234:1, 234:3,

234:9, 234:13,

235:1, 235:4, 235:9,

235:17, 236:2,

236:5, 236:13,

236:16, 237:6,

237:13, 237:16,

238:4, 238:11,

238:15, 240:13,

241:18, 242:4,

242:19, 243:10,

244:11, 244:17,

246:7, 249:4

Tim ^[1] - 226:12

Timothy ^[1] - 29:7

tiresome ^[1] - 193:16

TO ^[2] - 251:1, 252:18

Tobin ^[2] - 170:4

today ^[6] - 4:7, 49:13,
73:9, 83:4, 152:12,
242:6

toddler ^[1] - 73:19

together ^[6] - 101:19,
150:13, 163:13,
164:18, 169:17,
177:1

tone ^[1] - 243:19

tonight ^[28] - 13:6,
14:1, 15:2, 37:1,
39:4, 39:17, 40:8,
40:9, 47:13, 51:2,
53:2, 54:15, 57:5,
59:2, 60:19, 68:15,
86:19, 92:3, 102:3,
113:1, 116:1, 125:3,
130:14, 148:14,
149:2, 149:17,
167:11, 171:6

tonight's ^[2] - 13:9,
51:11

took ^[4] - 26:16,
38:10, 68:2, 71:19

top ^[4] - 18:12,
108:18, 190:17,
242:18

tore ^[1] - 105:15

total ^[3] - 229:4,
229:8, 229:12

totally ^[3] - 55:9, 79:1,
173:15

touch ^[3] - 132:9,
222:11, 222:17

touched ^[1] - 222:12

tough ^[3] - 82:13,
108:13

toward ^[2] - 218:8,
234:8

track ^[1] - 40:13

trade ^[4] - 129:4,
129:8, 144:1, 144:3

tradeoff ^[1] - 106:19

Traffic ^[7] - 157:8,
164:19, 165:7,
169:6, 169:14,
174:13, 174:19

traffic ^[7] - 129:3,
129:6, 142:9,
145:12, 174:15,

241:1, 247:7
tragedies ^[1] - 53:6
train ^[1] - 141:2
transcript ^[7] - 250:9,
 250:15, 251:4,
 251:6, 251:7,
 251:16, 251:17
TRANSCRIPT
^[2] - 250:17, 252:18
transcription
^[1] - 252:9
transient ^[1] - 177:1
transit ^[1] - 140:19
trash ^[3] - 63:8, 136:9,
 144:18
treating ^[1] - 88:13
tree ^[11] - 159:11,
 159:13, 159:17,
 160:1, 160:2, 160:4,
 160:7, 160:13,
 160:15, 177:16,
 183:18
tried ^[2] - 48:8, 97:17
tries ^[1] - 55:13
triggers ^[1] - 223:19
trips ^[1] - 13:19
troubled ^[2] - 95:15,
 95:16
true ^[4] - 39:5, 135:10,
 174:9, 252:9
truly ^[2] - 65:12, 213:9
trust ^[1] - 13:18
truth ^[1] - 219:16
try ^[8] - 53:10, 54:12,
 74:1, 101:7, 165:1,
 165:10, 191:15
trying ^[14] - 3:12,
 30:6, 49:7, 49:15,
 49:16, 57:4, 108:5,
 109:5, 127:4, 156:2,
 157:6, 181:9, 192:2,
 210:1
tubs ^[1] - 63:7
tumblers ^[1] - 136:12
turn ^[7] - 44:13, 59:17,
 92:8, 115:19, 117:1,
 171:7, 231:5
turned ^[3] - 191:4,
 230:6, 240:10
turns ^[1] - 193:4
TV ^[1] - 75:13
twelve ^[2] - 18:2,
 107:7

twelve-and-a-half-fo**ot** ^[1] - 107:7**twice** ^[3] - 102:7,
110:7, 229:12**twin** ^[1] - 97:11**twins** ^[1] - 99:1**two** ^[29] - 9:9, 10:7,
14:7, 17:9, 27:3,
33:8, 39:19, 40:19,
63:18, 73:14, 102:3,
106:5, 107:5,
108:19, 109:4,
110:13, 112:1,
124:1, 150:1, 187:3,
189:17, 213:19,
219:18, 221:11,
221:13, 227:12,
227:13, 228:10,
241:4**two-family** ^[2] - 17:9,
213:19**two-foot** ^[1] - 108:19**two-step** ^[2] - 150:1,
189:17**two-week** ^[1] - 10:7**two-year-old**
^[1] - 73:14**type** ^[5] - 17:8, 127:11,
147:5, 198:8,
240:16**typical** ^[1] - 137:5**typically** ^[3] - 26:11,
41:10, 61:19**typo** ^[1] - 185:9**U****U.P.S** ^[1] - 216:1**ultimately** ^[2] - 203:3,
203:19**unanimous** ^[2] - 33:1,
224:9**unanimously**
^[1] - 159:7**unattended**
^[1] - 152:7**unaware** ^[1] - 62:16**unchanged**
^[1] - 131:16**uncomfortable**
^[1] - 72:11**UNDER** ^[1] - 252:18**under** ^[9] - 49:18,
63:19, 116:10,

120:14, 129:5,
139:11, 189:18,
218:13, 229:5

underdressed

[1] - 99:2

undergrads [1] - 97:8

underneath

[1] - 241:5

undersigned

[1] - 252:4

understood

[1] - 106:1

unfamiliarity

[1] - 52:8

unfortunate

[1] - 110:1

unfortunately

[1] - 54:2

Union [1] - 128:3

unique [17] - 124:7,

125:14, 130:4,
138:15, 157:5,
163:3, 163:4,
163:14, 176:6,
178:19, 182:5,
182:10, 195:16,
198:12, 202:10,
203:1

uniqueness

[2] - 154:12, 197:4

unit [3] - 149:16,

216:13, 216:14

universities [1] - 86:6

unless [16] - 14:8,

53:4, 57:7, 57:17,
59:14, 89:18,
106:16, 141:15,
163:2, 181:7, 181:8,
183:1, 183:19,
194:6, 222:4,
236:12

UNLESS [1] - 252:18

unlivable [1] - 192:12

unload [3] - 153:12,

167:1, 195:10

unloading [1] - 180:8

unnecessarily

[1] - 96:5

unregistered

[3] - 152:9, 160:17,
161:4

unresponsive

[1] - 79:7

unrestricted

[1] - 193:3

unusual [3] - 26:14,
247:14

up [45] - 8:6, 20:16,
22:17, 30:3, 40:7,
42:8, 68:6, 72:3,
75:14, 77:5, 79:17,
88:6, 89:16, 95:18,
96:4, 96:6, 98:4,
106:4, 106:14,
107:1, 108:16,
108:17, 109:5,
110:5, 112:6,
129:15, 131:13,
157:4, 177:15,
183:1, 189:16,
191:9, 194:6, 194:9,
195:9, 196:5, 216:2,
227:13, 230:12,
237:18, 238:6,
241:3, 241:15,
242:10, 242:12

upset [1] - 69:1

urban [1] - 62:7

urge [7] - 53:18, 92:8,
136:3, 139:7,
185:15, 186:17,
188:9

urged [1] - 92:7

Uses [5] - 45:14, 46:2,
46:4, 46:6, 49:15

uses [8] - 46:3, 46:5,
46:6, 47:3, 86:3,
86:4, 143:4, 145:17

usual [2] - 9:5, 45:7

utensils [3] - 132:12,
144:9, 144:15

utilize [1] - 144:7

utmost [1] - 80:18

V

valuable [1] - 126:5

value [1] - 189:19

VAN [23] - 94:10,
94:13, 94:18, 95:11,
96:10, 102:16,
104:14, 105:5,
105:9, 105:14,
109:12, 109:15,
110:10, 111:6,
111:13, 112:13,
114:6, 115:2,

117:16, 119:7,
 119:14, 120:3,
 121:6
Van ^[3] - 94:14, 94:19,
 119:15
Variance ^[32] - 5:7,
 9:7, 13:5, 31:9, 33:4,
 33:11, 149:13,
 149:16, 155:18,
 176:11, 184:4,
 184:9, 185:15,
 186:2, 186:16,
 186:18, 187:8,
 187:17, 188:8,
 188:10, 196:10,
 197:2, 199:6, 204:9,
 205:8, 205:13,
 207:6, 220:16,
 221:18, 223:6,
 224:13, 248:17
variance ^[1] - 249:1
Variances ^[4] - 197:7,
 245:11, 246:19,
 248:12
variances ^[1] - 245:9
various ^[2] - 148:19,
 157:19
vegetables ^[1] - 137:6
vegetarians
^[1] - 138:19
vehement ^[1] - 172:13
vehicle ^[2] - 181:15,
 243:2
vehicles ^[9] - 152:10,
 152:12, 153:2,
 153:3, 153:12,
 154:4, 185:1, 242:7,
 242:9
venture ^[1] - 62:13
verbatim ^[1] - 46:17
Vernon ^[1] - 36:3
versed ^[1] - 103:14
veterans ^[1] - 211:9
Vice ^[1] - 122:18
Victualler ^[1] - 141:4
view ^[6] - 26:3, 81:10,
 87:8, 101:3, 141:10,
 202:3
views ^[3] - 55:5,
 92:11, 162:16
vigorous ^[1] - 222:14
Village ^[3] - 30:8,
 127:18, 127:19

vinegar ^[2] - 125:12
violates ^[1] - 32:3
violation ^[2] - 180:19,
 212:14
violations ^[2] - 38:3,
 38:8
VIPUL ^[5] - 88:10,
 89:3, 89:8, 89:12
Vipul ^[1] - 89:8
virtually ^[1] - 155:4
visibility ^[2] - 238:19,
 241:11
visible ^[3] - 158:13,
 217:8, 241:4
visit ^[1] - 99:14
visitor ^[3] - 241:19,
 242:11, 242:13
vista ^[1] - 178:7
visual ^[2] - 143:3,
 177:12
visualize ^[1] - 132:3
voice ^[1] - 138:12
volume ^[4] - 21:4,
 250:13, 250:15,
 251:6
volumes ^[1] - 181:3
vote ^[20] - 30:1, 92:1,
 92:18, 111:18,
 112:19, 141:19,
 147:2, 189:8, 202:7,
 203:3, 203:19,
 204:4, 204:6, 206:6,
 206:8, 207:5, 223:2,
 246:9, 246:10,
 246:12
voted ^[5] - 174:6,
 206:8, 206:9,
 206:10, 208:7
voting ^[1] - 162:14

W

W-e-i-s-s ^[1] - 35:19
wait ^[2] - 15:5, 191:11
waiting ^[1] - 122:6
waive ^[1] - 110:4
waiver ^[8] - 5:15, 10:1,
 90:16, 90:17, 91:7,
 91:18, 115:15,
 120:10
walk ^[10] - 67:3, 129:4,
 129:8, 129:13,
 134:17, 141:2,
 144:1, 150:19,

171:19, 201:9
walk-in ^[3] - 129:4,
129:8, 144:1
walked ^[1] - 193:11
walking ^[5] - 129:9,
129:14, 132:3,
135:1, 141:1
wall ^[2] - 96:1, 191:13
warm ^[1] - 80:9
wasps ^[1] - 52:5
waste ^[4] - 111:7,
133:2, 135:2,
144:13
wasted ^[1] - 13:19
watched ^[1] - 172:3
water ^[1] - 189:19
Wayne ^[1] - 184:6
ways ^[1] - 239:1
weak ^[1] - 160:3
wearing ^[1] - 63:17
week ^[4] - 4:13, 8:18,
10:7
weeks ^[1] - 82:17
weigh ^[2] - 165:14,
203:5
weight ^[1] - 162:9
WEISS ^[48] - 35:11,
35:14, 35:18, 36:7,
36:11, 36:17, 42:1,
42:11, 42:16, 43:10,
43:15, 47:14, 47:18,
49:8, 50:3, 51:3,
51:13, 54:4, 55:8,
56:2, 56:5, 56:15,
57:6, 57:11, 57:19,
58:4, 58:11, 58:18,
59:3, 59:7, 59:12,
60:2, 60:9, 60:16,
61:8, 61:15, 67:11,
74:14, 75:3, 75:6,
75:10, 75:15, 75:19,
90:2, 90:9, 91:4,
91:9, 93:6
Weiss ^[4] - 35:19,
67:14, 74:7, 75:1
welcome ^[3] - 26:2,
36:10, 244:17
welcoming
^[1] - 128:17
welfare ^[1] - 146:2
well-marked
^[2] - 133:1, 144:12
Weller ^[1] - 95:2

WELLER ^[6] - 114:13,
115:1, 115:9, 116:3,
117:18, 118:9

West ^[2] - 17:7,
127:18

whatsoever
^[1] - 162:9

wheat ^[1] - 160:2

wheelchair ^[1] - 20:9

WHEN ^[1] - 250:18

whereby ^[1] - 165:18

WHEREOF
^[1] - 252:11

white ^[1] - 236:6

whizzing ^[1] - 190:7

whole ^[11] - 44:15,
47:1, 48:4, 51:11,
71:1, 128:10, 142:3,
161:18, 179:16,
191:12, 212:1

wide ^[1] - 237:12

wife ^[3] - 61:6, 63:3,
64:1

Wildash ^[1] - 148:15

WILDASH
^[11] - 159:14, 159:19,
189:12, 190:15,
191:2, 192:10,
193:10, 200:10,
200:14, 201:8,
206:3

wildly ^[1] - 63:6

WILLIAM
^[23] - 209:13, 209:19,
213:14, 213:18,
214:5, 214:13,
214:18, 215:8,
215:13, 215:16,
216:5, 216:15,
217:5, 217:8, 218:1,
218:6, 218:11,
219:8, 219:13,
222:1, 222:8,
222:11, 225:8

William ^[1] - 209:13

Winchester ^[1] - 28:1

window ^[8] - 131:19,
210:2, 210:8,
212:15, 214:2,
214:11, 214:12,
223:12

windows ^[2] - 184:12,
222:18

winny ^[1] - 14:19
Winny ^[2] - 12:18,
 14:16
WINNY ^[1] - 12:19
winter ^[1] - 80:8
wintertime ^[1] - 91:16
wise ^[1] - 9:14
wishes ^[2] - 53:4,
 220:10
wishing ^[20] - 3:18,
 7:8, 12:11, 12:15,
 16:11, 22:19, 24:1,
 25:5, 25:15, 35:9,
 94:8, 119:12, 122:8,
 138:3, 138:7, 183:5,
 209:7, 220:6, 226:8,
 245:3
WITH ^[1] - 250:17
withdraw ^[2] - 13:4,
 81:19
withdrawal ^[2] - 14:5,
 15:7
withdrawn ^[3] - 14:3,
 15:11, 92:14
WITNESS ^[1] - 252:11
witnessed ^[1] - 188:2
woefully ^[1] - 95:9
won ^[1] - 111:11
wonder ^[1] - 63:11
wonderful ^[5] - 23:7,
 30:7, 87:11, 130:3,
 173:3
wondering ^[3] - 88:10,
 100:10, 217:12
word ^[1] - 39:9
words ^[1] - 47:8
workers ^[1] - 138:17
works ^[5] - 15:3, 51:6,
 175:4, 175:9,
 175:13
world ^[1] - 78:8
world's ^[1] - 29:13
worried ^[1] - 72:8
worry ^[1] - 195:7
worse ^[3] - 184:19,
 201:12, 203:12
worst ^[1] - 195:1
worth ^[1] - 130:8
wound ^[1] - 8:6
write ^[2] - 26:16, 26:18
writing ^[7] - 13:3,
 138:12, 162:16,
 184:8, 186:1, 187:7,

187:16
written ^[6] - 95:14,
 183:11, 188:13,
 220:11, 221:2,
 244:9
wrote ^[2] - 48:9, 61:4
www.reportersinc.c
om ^[1] - 1:17

Y

yard ^[47] - 63:5, 72:11,
 149:1, 149:18,
 154:18, 155:6,
 155:15, 156:3,
 158:2, 158:12,
 162:12, 162:15,
 162:17, 167:19,
 168:9, 168:17,
 170:11, 171:1,
 174:3, 174:7,
 175:17, 176:10,
 177:9, 177:11,
 179:7, 179:11,
 179:17, 180:16,
 180:19, 181:7,
 182:1, 182:14,
 182:15, 183:14,
 184:11, 185:8,
 185:17, 186:4,
 186:19, 187:19,
 188:11, 196:2,
 196:19, 197:17,
 198:11, 205:2,
 208:1
Yard ^[1] - 127:15
year ^[5] - 73:14, 73:15,
 82:14, 149:6,
 173:12
years ^[22] - 14:7,
 17:12, 17:14, 17:18,
 97:7, 97:16, 98:9,
 104:9, 105:1, 112:1,
 125:13, 131:1,
 151:17, 164:11,
 169:12, 173:2,
 176:19, 184:16,
 186:7, 188:1,
 197:12, 200:19
yellow ^[1] - 52:4
yesterday ^[1] - 13:14
York ^[5] - 123:9,
 123:19, 124:9,
 126:15, 127:17

young ^[3] - 24:8, 69:2,
100:18

yourself ^[1] - 94:12

Z

Zelinski ^[2] - 252:4,
252:13

zero ^[1] - 156:8

ZONING ^[2] - 1:2,
251:1

Zoning ^[48] - 1:13, 3:7,
5:2, 15:3, 16:7, 21:8,
32:4, 32:12, 37:6,
37:16, 38:2, 38:15,
40:9, 40:10, 45:3,
64:9, 65:12, 82:4,
83:11, 83:15, 84:11,
84:12, 85:4, 85:10,
85:14, 103:14,
110:2, 131:12,
141:9, 150:1,
162:12, 168:16,
171:9, 172:2, 179:8,
190:12, 202:5,
203:14, 210:7,
220:15, 224:1,
232:11, 249:6,
250:13, 251:4,
251:16