

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JULY 24, 2014

7:30 p.m.

in

Senior Center

806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Thomas Scott, Member
Janet Green, Member

Sean O'Grady, Zoning Specialist

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INDEX

<u>CASE</u>	<u>PAGE</u>
BZA-003670-2014 -- 241-243 Walden Street	3
BZA-003695-2014 -- 50 Spring Street	7
BZA-003855-2014 -- 2269 Massachusetts Avenue	48
BZA-004194-2014 -- 1052-1058 Cambridge Street	56
BZA-004120-2014 -- 10 Fawcett Street	65
BZA-004270-2014 -- 195 Lexington Avenue	73
BZA-004125-2014 -- 1815 Massachusetts Avenue	69
BZA-004332-2014 -- 35-55 Clarendon Avenue	104
BZA-004369-2014 -- 5 Exeter Park	200
BZA-004401-2014 -- 660-674 Cambridge Street	220
BZA-004363-2014 -- 39 May Street	242

KeyWord Index

P R O C E E D I N G S

(7:30 p.m.)

(Sitting Members Case #BZA-003670-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call this meeting of the Zoning Board of
Appeals to order. And the first case I'm
going to call is case No. 003670, 241-243
Walden Street.

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 a letter from Bruce J. Embry,
counsel for the Petitioner. The letter
states: Our office represents 249 Walden
Street, LLC, David W. Masse, manager, in the

above noted case. We respectfully request that the case originally scheduled to be heard on May 22nd -- this is an old letter.

SEAN O'GRADY: Oh.

CONSTANTINE ALEXANDER: Continued until June 26th.

SEAN O'GRADY: Should be another letter in there.

TIMOTHY HUGHES: And then June 26th was continued to July 24th.

CONSTANTINE ALEXANDER: ...case be continued until the August 14, 2014, the next meeting of the Board.

And the Chair would note for the record that on that date the Petitioner has filed a new application as well. So this case is going to be -- the reason for the request for the continuance is to hold it in abeyance until their new case is considered by this

Board.

So I move that we, we continue this case until seven p.m. on August 14th on the conditions that this being a case heard, we have a waiver of time for a decision.

On the condition that the posting sign, which apparently is not up right now, is reposted and the change to reflect the new time, seven p.m. and the new date, August 14th.

And to the extent with regard to this Petition, the Petitioner proposes to submit new or revised plans or dimensional forms, that they must be in our files no later than five p.m. on the Monday before August 14th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Case continued.

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

* * * * *

(7:30 p.m.)

(Sitting Members Case #BZA-003695-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will next call case No. 003695, 50 Spring
Street.

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

For the record.

KELLY SPEAKMAN: My name is Kelly
Speakman and the address is 30 Bowes Street
in Somerville, Massachusetts.

GREGORY GOLDING: Gregory Golding,
89 Front Street, Marblehead, Massachusetts.

KELLY SPEAKMAN: So since we were
here last time, Greg has made some great
strides in communicating with his neighbors.
We've been in front of the East Cambridge

Planning Team. And we also produced this streetscape which is one of the things that was requested at our last hearing. And the major change we've made between then and now after speaking with the neighbors is we've completely removed the roof deck. So there's no roof deck in this scheme at all. Although we still, the roof profile is the same as we had presented before, the plan is to take out the current second floor plate, raise it up a little bit, and then raise the roof ridge by 4.8 feet at the same time as spreading the roof out to give a little bit more room to the third floor. And we're still, our construction is still within our footprint.

And the deck that we had proposed --

JANET GREEN: I think there are some people who are looking to see it.

CONSTANTINE ALEXANDER: Thank you.

Anybody who wants to come and see the plans, come around and behind us as long as you don't hit us over the head or anything.

TIMOTHY HUGHES: You can bring a chair over and sit behind us if you want.

KELLY SPEAKMAN: So our proposed floor plan remains unchanged except there used to be a door going out on to this part of the second floor with the roof deck which has been removed to be replaced with two windows and no roof deck.

CONSTANTINE ALEXANDER: What's the hardship? Considering the fact that you bought the building knowing exactly how it's configured. It's not like you were in a building and circumstances have changed; growing family, elderly member of the family needs downstairs living accommodations.

You know, you bought a house that -- this house and now you're asking us, it seems to me, to increase the value of your investment by allowing you to modify the house in a way that doesn't comply with our Zoning Ordinance.

Let me point out that the FAR in this district is 0.75. Your currently, your building currently is at 1.46, which is twice at what is permitted, and you want to go to 1.68. That's a lot of relief. And when we do consider relief of this sort, of this extreme sort, again, it's to -- because we have people who are committed to the neighborhood who have lived in that home or the structure for many years and something has come up. As I said, another child, an elderly family member that requires a need for additional space. You bought this house

knowing what the space is. Why -- you've got to -- it's a legal standard here. You've got to satisfy the legal standard. And one that's a hardship, and I don't understand it.

KELLY SPEAKMAN: So, the hardship is that this house is in really poor structural shape currently. It's got way undersized framing. And in order to get the structure where it needs to be to level the house out, you'd have to thicken the floor plate between the second and third floor and come either further down into the ceiling height which -- which encroaches even more on the living space. So as we do this, we'll cure all the structural problems that are currently in the house.

CONSTANTINE ALEXANDER: But there's an as-of-right solution that will do the same thing. Convert it to a single-family home.

Why can't you convert this to a single-family home? All the same structural work will go into that. You'll have even more living space. You'll have more living space than you'll have with this raising the roof and you'll not, you'll not change the -- make the house even more non-conforming than it is today. That's my problem. And I'm only one of five members obviously. My problem is you have an as-of-right solution, you bought into something, you knew what you were getting when you bought it, and you're asking us to increase the value of your investment. And I don't have any sense of commitment to the neighborhood. You knew -- you may be there for 40 years, but you may not. Anyway.

Why can't you convert it to a single-family home? I know you lose your rental income from the unit, but I don't think

that's a very big size a matter of rental unit because it's a very small unit. And I suspect that's not a deal breaker for you in terms of owning that property.

GREGORY GOLDING: Well, it will be a hardship to convert it to a single-family.

JANET GREEN: Speak up so they can hear you.

GREGORY GOLDING: As I intend to live there for a while. And going into this I would be able to live in the section of the house, either first floor or second floor, and be able to supplement my income and be able to help myself stay there by having a second unit.

Another part of why I like the idea of keeping it as a multi-family is, you know, I'm very interested in the idea of urbanism and people being able to live in a denser

community and already a difficult issue in this neighborhood is housing. If I convert it to a single-family --

CONSTANTINE ALEXANDER: Excuse me. Can you hear?

UNIDENTIFIED AUDIENCE MEMBER: No.

TIMOTHY HUGHES: It's going to feedback that's why I turned it off. It was start to go feed --

CONSTANTINE ALEXANDER: Maybe if you came around to the side it might help. I know it's tough.

TIMOTHY HUGHES: Show me where the amplifier is and I'll set it up so it works.

CONSTANTINE ALEXANDER: This is not an ideal setup.

JANET GREEN: And you should make that point again.

CONSTANTINE ALEXANDER: Start from

the beginning.

GREGORY GOLDING: Well, what I was saying is um, when I -- my idea of -- my thing about purchasing this house was in order to for me to stay there for a long period of time, I was thinking while I do have city work and office work and I plan to live there for years to come, you know, and somebody to help me to be able to bring this house up to code, up to where I can raise my hands up all the way so I can comfortably live there and bring furniture in and out. Being able to rent one of the units in the house as part of that, either the first floor or second floor, first unit or second unit. And in this case I'd ideally live on the upper floors, but what I was going on to say was another concept that I believe in is the idea of more of -- well, I guess urbanism and an idea that an issue

that I've seen a lot in the City of Cambridge and that I see in meetings and things that I read of often is that there's a struggle for more housing in the neighborhood. And if I had a family right now, obviously I would be very interested in a single-family, but knowing that there's myself and people like myself are very interested into moving into Cambridge but they can't afford it and convert it into an already multi-family house into a single-family house where I guess converting it the other way can always be done. But it's harder to do going this way. It just sort of goes against what I feel is needed and what's the best use of the house.

CONSTANTINE ALEXANDER: Thank you.

Anyway, anything further? Or members of the Board have questions at this point? Questions?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: Keep going.

KELLY SPEAKMAN: I don't, if there is no questions, I guess we can --

CONSTANTINE ALEXANDER: Well, people in the audience.

KELLY SPEAKMAN: Okay.

CONSTANTINE ALEXANDER: If you want to reserve your comments until after you hear the questions, that's fine.

KELLY SPEAKMAN: Yes.

GREGORY GOLDING: As I was going to say additional hardship, one of which we mentioned, is stairs and raising the ceiling height on the second floor is, you know, I can't bring anything in -- inside or out of the house right now. The previous owner took out the whole back wall to bring in a refrigerator and to bring the furniture.

And at my height if I raise my hands on the second floor, it gets cut off right about here.

CONSTANTINE ALEXANDER: Okay. I am going to open the matter up to public testimony since you want to reserve any further comments.

Ma'am.

PAULA DUGGAN: Yeah, I'm Paula Duggan. I live at 46 Spring Street which is right next-door. I'm sorry if my -- if I'm not up to speed on this. This is the first time I've been here, but you mentioned bringing the building up to code? Is the building not at code now?

KELLY SPEAKMAN: The building is a very old building, and when it was built there were not building codes. So it's got a very steep, twisty sort of uncomfortable stair all

the way through. And the ceiling heights are very low. If you were to build a new building now, you wouldn't be able to build as tight and as narrow and scrunched both ceiling height and for the stair now. So it's not, it's not that it's not complying with code, because you're grandfathered in if it was built so long ago, but it's certainly not to the standards that we're held to today with new construction.

CONSTANTINE ALEXANDER: And am I right, though, that, and I don't want to push this, if you did convert to a single-family home, you could solve all of these problems? I know there's a price --

KELLY SPEAKMAN: It doesn't solve the ceiling height issue on the second floor which is still very low.

CONSTANTINE ALEXANDER: Okay.

KELLY SPEAKMAN: But you could, you could build a new stair anyway, yes.

CONSTANTINE ALEXANDER: Okay.

Anything further, Ma'am?

PAULA DUGGAN: No.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

MARY ELLEN DORAN: My name is Mary Ellen Doran, D-o-r-a-n. I live at 48 Spring Street below Paula. I testified last time they presented and I'd like to repeat myself and say that there are children living on all sides of the house. When they do the gut-reno, I want lead paint and all of that taken care of. I've talked with Greg about the egress and we've -- were discussing permission from -- for us to give to him to use -- to take his garbage in and out. Currently people that are living in the house

have their garbage next to mine and I want it moved so that we're not combining garbage cans.

The FAR rule is the Board's decision. I don't want the house any bigger on the lot because he's got --

CONSTANTINE ALEXANDER: It's going to go up, though, bigger higher. That's the relief they're seeking to raise the roof.

MARY ELLEN DORAN: I wanted it to go on record that we use the backyard and we use the walkway on the houses so while the construction is going on, if we could still have access to our property line, we'd appreciate that.

Right now our fire escape is there. So it's -- we need to make sure that we have access to the fire escape while they're doing construction.

CONSTANTINE ALEXANDER: I only point out that every time we have cases where people want to do additions, there's always issues about construction and dislocations in the neighborhood. That's not a Zoning issue. You should understand that. I believe the Traffic Department, you can go to them if there are problems. But generally it's for the people involved to work it out as best they can. We don't turn things down because it's going to be disruptive, and we can't impose really any restrictions that would minimize the disruptions, just so you understand that.

MARY ELLEN DORAN: Absolutely.

KELLY SPEAKMAN: And in the end during construction we're required to stay on our own property, and Greg will certainly make every effort to make sure that you've got

all the access you need at all times.

MARY ELLEN DORAN: Great.

GREGORY GOLDING: And if they find lead paint, it's taken out.

KELLY SPEAKMAN: Yes, I'm sure your house probably has lead paint in it somewhere. But we're doing a full gut inside and out and there will be none of the old stuff left. While we're doing construction, there's very strict laws about lead paint and demolition and all of which --

MARY ELLEN DORAN: I agree. We've just had issues where those laws were not, you know, followed on our street very recently. I just want to make sure that that's there.

CONSTANTINE ALEXANDER: Whichever the two of you want to speak.

BARBARA BROUSSARD: You wanted to speak first.

ROBERTA GOTO: Roberta Goto,
G-o-t-o. Where are the new windows going in?
I just wanted to see where the windows are
going in.

KELLY SPEAKMAN: So this property is
so close to both side lot lines that we're not
allowed to change anything on this side by the
Building Code.

There is some, these windows will get
a little bigger facing the street which is,
would be allowed as of right anyway. And
then these windows along the back get
enlarged slightly, and then there's two new
windows here facing the back. I believe
there's one smaller window now. So
there's -- there's a door gets shifted a
little, these windows get a little bigger.
Both sides stay exactly as they always were
by law. And the back gets a little bigger,

but not more windows, just a little taller.

CONSTANTINE ALEXANDER: Do you have the elevations before and after? That may be most you helpful to her.

KELLY SPEAKMAN: I do. Sorry.

So, this is the after. Here's the -- this is before. So you can see these windows are very small here. We're making them bigger along the street. There's a skylight up at the front which doesn't exist now. This dormer actually goes away and the window up along this side where the condos on that side will go away. So there will be no windows that you can look out along that side. And then at the back, which is, this is the back. So there will be two windows here facing the back. These windows, which are these, will get enlarged. A double window here where now there's the wall. And the

sides stay exactly the same.

PAULA DUGGAN: What happens to the basement area that is now open and, you know, kind of --

KELLY SPEAKMAN: This will get a full foundation put underneath it. Now there's a post here. This used to be a three-season porch that got enclosed and not very well at the time. And they didn't bother to put anything underneath. So now critters can get under there and walk around and stuff like that.

PAULA DUGGAN: Yes.

KELLY SPEAKMAN: We're going to put a full foundation wall under here but no basement space. So a slab on grade. It doesn't make the area any bigger, but that let's this be insulated on the borderline like it's supposed to be and it keeps out any

pests.

PAULA DUGGAN: Right now there's a brick -- there's a brick facing, there's a brick facing on the Third -- as you walk down Third Street, it's brick. That's it. Is that gonna get reinforced? I mean, that's --

KELLY SPEAKMAN: That is the existing stairwell and they built it that way to keep -- for fire, because brick doesn't burn as easily as wood would in case of an emergency. And we are going to keep that brick there. If there's any structural issues with it, it will certainly be re-pointed as required, as the structural engineer who hasn't yet started working will do a thorough investigation.

PAULA DUGGAN: Do you anticipate that you will condoize these two?

GREGORY GOLDING: No, I wouldn't.
No.

PAULA DUGGAN: No.

CONSTANTINE ALEXANDER: Now you
have a chance.

BARBARA BROUSSARD: Barbara
Broussard, 138 Third Street. I'm behind
you. Now I need for Tim -- he lives here, we
need what he's working. There will be no new
windows here?

KELLY SPEAKMAN: They're not
allowed new windows on that opening. It's
right on the property line.

BARBARA BROUSSARD: In the back my
ladies come, they're right beside me.
They're at 146 Third Street. We have an
invasion of privacy right now with
Doctor Groll's (phonetic) building,
literally, because he keeps the lights on in

the garage all night and they are in my face 24/7 whether I like it or not. I want to make sure that I'm not having any more in my face because this is my backyard.

Also I noticed that I went around, you don't even have six inches and I can't even go on your property back on this side.

KELLY SPEAKMAN: No.

BARBARA BROUSSARD: So I'm thinking what if there was a fire, where would you go, because you don't have a backyard?

KELLY SPEAKMAN: If there is a fire --

BARBARA BROUSSARD: Two by four.

KELLY SPEAKMAN: Here's the plan.

BARBARA BROUSSARD: That is my concern. Because I know there are kids in there now and God forbid....

KELLY SPEAKMAN: So if ever -- it's

true, this side of the property is right on the property line. And even here it's slightly over by an inch or so, existing. If there is a fire and you needed to egress out the back of the building -- so there's this existing stair that stays there. If you needed to get out during a fire, you go out to the backyard and then down this side of the property and there is enough room to get through there.

CONSTANTINE ALEXANDER: But there is not for fire trucks or the like to get in the back?

BARBARA BROUSSARD: No. Oh, God no.

KELLY SPEAKMAN: No. And that won't change. It's been like that forever.

BARBARA BROUSSARD: That will never change.

CONSTANTINE ALEXANDER: That's right. That won't change.

BARBARA BROUSSARD: Everybody overbuilds.

KELLY SPEAKMAN: Yeah, but you're not trapped back here in the fenced-in backyard if you had to come out this back door.

BARBARA BROUSSARD: Because I know there's a lot of fences. Everyone's got a fence on their property so it makes it very difficult.

These guys, this condo does not have a fence, but I notice where the property line was and you literally can't -- you can't squeeze through.

PAULA DUGGAN: Hi, Paula Duggan. Um, do you have -- where is your fire escape for the second floor?

KELLY SPEAKMAN: There's no fire escape. There's a stair inside that exists now. So it's where that break is. That stair goes all the way to the first floor into a little shared space. The first floor can come out this way and then the second floor unit can come out this way as well as the second means of egress.

PAULA DUGGAN: Thank you.

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

(No Response.)

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

We are in receipt of some correspondence.

We have a letter from the East Cambridge Planning Team dated July 9th. (Reading) On

June 25th members of the East Cambridge Planning Team met with Greg Golding owner, and Kelly Speakman, architect with Boyes-Watson Architects, to discuss plans or alterations to 50 Spring Street. They are requesting a Variance to raise the existing roof to get full GFA on the second and third floors, install new front stairs in the setback, and repair the foundation. In addition, they're requesting a Special Permit to install new windows and a skylight. We appreciate your referring them to us and hope our comments have been helpful. This is a two-family house. Mr. Golding plans to rent the first floor and live on the second and third floors. Renovations will be within the existing footprint but raise the eave up five feet which will make the roof appear less steep. A new foundation will be

dug under the porch of the house, which has none, but by hand, not with equipment that can damage abutting properties. The building will still be under the 35-foot height limit required by Zoning. It is considered a non-conforming structure but they feel it may be under -- but they feel it may be under the allowed GFA. To the relief of all, the second floor roof deck has been eliminated. It is not clear where the second means of egress is located, however, and there is some lead paint to be removed. Because of an overcrowded agenda, no vote was taken at our meeting. However, the abutters who attended seemed to be satisfied with the changes made. No doubt they will make any remaining concerns they have known to the Board at the BZA hearing. Please give priority to their wishes in your final decision. With all good

wishes.

There's a comment here about doing the excavation by hand and not by machine.

KELLY SPEAKMAN: That was a question that came up while we were there. And you physically can't even get one of those tiny little back loaders because of the proximity of the building. So any -- they'll need to dig, this is the part that needs a new foundation. It will all need to be hand dug just because of site access.

CONSTANTINE ALEXANDER: Okay.

And we also have a letter from Jeffrey S. DaSilva, D-a-S-i-l-v-a. (Reading) As a direct abutter -- he resides at 44 1/2 Spring Street -- as a direct abutter to 50 Spring Street, Greg Golding has my support with the planned renovations and requested Variances. He presented a plan to the East Cambridge

Planning Team in June which was revised from what he originally proposed at the initial city board meeting. This updated plan had the roof deck removed, which is the only reason that I was originally opposed to the plan. I am okay with the currently planned changes to raise the roof, increase the gross floor area, and build out new front stairs. Most of the houses on the block have been updated considerably in the past 12 years that I have been in the neighborhood, and in my opinion it would be a welcome to most of our neighbors to have this house modernized with the rest.

And that's it.

So I'm going to close public testimony.

Do you have any final comments?

KELLY SPEAKMAN: No.

CONSTANTINE ALEXANDER: Okay.

Discussion by Members of the Board or do you want to go to a vote? I've expressed my views.

TIMOTHY HUGHES: I'm actually good with it. I think it needs -- the property needs some improvement and so I'm ready for the tradeoff.

JANET GREEN: And I think that considerable effort's been made to address each one of the concerns by the neighbors and we've heard them speak tonight so I'm in favor of it.

CONSTANTINE ALEXANDER: Okay.

THOMAS SCOTT: Yes, elimination of the roof deck is definitely a plus. And I mean, certainly the configuration of the lot and the house on the lot seems to me to be a hardship to do anything on this particular piece of property, so.... And I think in

terms of the scale of the building, relative to the adjacent buildings, which is one of the things we brought up last time, it's appropriate in my view anyway. I think it kind of creates a scaled streetscape, which is nice, rather than having this kind of short, stubby little thing in the middle there. So I like it.

CONSTANTINE ALEXANDER: Okay.

Do you want to?

Okay, I'm going to make a motion. The Chair moves that this Board make the following findings with regard to the Variance being sought. We also have to consider a Special Permit for the windows, but that's not part of this first vote.

KELLY SPEAKMAN: Yes.

CONSTANTINE ALEXANDER: So, the Chair moves that we make the following

findings with respect to the findings being sought:

That a literal enforcement of the provisions of the Ordinance involve a substantial hardship to the Petitioner. Such hardship being that the Petitioner needs additional living space within the portions of the structure that he's going to inhabit. And otherwise work needs to be internally in regards to improving the staircase and the height of the ceiling.

That the hardship is owing to the shape of the house itself. As Tom has pointed out, the house is such that any modification, serious modifications other than going up, requires Zoning relief.

And the relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from

the intent or purpose of the Ordinance.

In this regard what the Petitioner's proposing to do will improve the quality of the housing stock of the City of Cambridge.

All of this on the basis of these findings, the Chair moves that we grant the Petitioner the Variance that's being sought on the condition that the work proceed in accordance with plans submitted by the Petitioner, prepared by Boyes-Watson Architects. There are numerous pages or plans. I'm just going to initial the first page. So it's in accordance with these plans. You're not going to change it?

KELLY SPEAKMAN: No.

CONSTANTINE ALEXANDER: All right. On the basis of this, on the basis of this motion with the condition I've just enumerated, all those in favor of granting

the Variance please say "Aye."

(Aye.)

(Hughes, Sullivan, Scott, Green.)

CONSTANTINE ALEXANDER: Four in favor. I'm opposed.

Relief granted for this Variance.

Now to go to the Special Permit start all over again.

KELLY SPEAKMAN: So the Special Permit is to change fenestration within the setback. There's two sides. Fenestration remains unchanged due to the Building Code restrictions.

The front would be allowed to change as of right, and it's just this back section of windows which is easiest to see --

CONSTANTINE ALEXANDER: Those are the windows you showed to one of the abutters?

KELLY SPEAKMAN: Yeah. It's this

row in which -- the back -- this is not in the setback because it's on this face. These windows are to be enlarged, although there's already five windows, they're just a little smaller.

This window's existing. The door's existing. And this pair of windows and these five are the ones in question. So these two windows are new. There are five windows here already, they're just a little smaller. So our Special Permit is to enlarge these windows and add two on a non-conforming elevation.

TIMOTHY HUGHES: And the skylights?

KELLY SPEAKMAN: Oh, the skylight is here. You're right about that. We've removed a window and a dormer in this section. And in order to get some of that light back on to the third floor, we've added a skylight

and the skylight is in the setback. So one skylight and then some windows on the back.

CONSTANTINE ALEXANDER: That's part of these plans?

KELLY SPEAKMAN: Yes, that's all the same.

THOMAS SCOTT: And you said you're changing the windows in the bay in the front?

KELLY SPEAKMAN: We're enlarging -- now they're very small windows.

THOMAS SCOTT: But that's not in the setback?

KELLY SPEAKMAN: You're allowed to change the front.

CONSTANTINE ALEXANDER: In the front.

KELLY SPEAKMAN: Yeah, that's the only time you're allowed to make fenestration changes without -- I mean, as of right.

CONSTANTINE ALEXANDER: Right.

KELLY SPEAKMAN: And so those -- and we are making them bigger. The house will look much better with the proportion -- the large proportion of the windows. Now they're sort of low and you're looking at the head of the window. It's a little bit uncomfortable. So those would be allowed as of right. So it's just this back elevation and one skylight.

CONSTANTINE ALEXANDER: Questions?

TIMOTHY HUGHES: I'm good.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to speak with regard to the Special Permit on the windows and skylight?

ROBERTA GOTO: Roberta Goto. I think the windows as shown on her plan is a

great improvement to what's there now.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: There's no correspondence in the file related to the Special Permit. The correspondence I read with regard to the Variance also includes I think the Special Permit being sought.

So unless you have any final comments?

KELLY SPEAKMAN: No.

CONSTANTINE ALEXANDER: Okay.

Go for a vote?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay, the Chair moves that we make the following findings with regard to the Special Permit being sought:

That what is being proposed will not

cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by this window and skylight proposal.

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 the -- 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.

So on the basis of these findings, the Chair moves that we grant the Special Permit being requested on the condition that the

work proceed again in accordance with the plans identified with regard to the Variance that was just granted.

All those in favor of granting the Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

Good luck.

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

* * * * *

(8:05 p.m.)

(Sitting Members Case #BZA-003855-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 003855, 2269 Mass. Avenue.

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

ATTORNEY SEAN HOPE: Good evening,
Mr. Chair, Members of the Board. For the
record, attorney Sean Hope, Hope Legal
Offices in Cambridge. I'm here tonight with
the owner of 2269 Mass. Avenue, Mr. Gary
O'Neil and also project architect Mr. Milton
Yu.

Spell that.

MILTON YU: Y-u.

ATTORNEY SEAN HOPE: From Peter

Quinn Architects.

This was an application, this is a continued case requesting a Variance to cover an existing stairwell at the corner on Dover Street facing the street. The Variance request was for additional FAR because it exceeds the allowed FAR.

At the last hearing, after review of the plans, the Board suggested that we revise the plan, there were some existing windows that had some prominence on the street and it seemed like to achieve our goal which was to mitigate a hardship that's caused by a stairwell with the drain at the bottom and flooding that happens when debris and other issues that have flooded the basement in the past. We revised the plans so that the existing windows would remain. We did take a fresh look at the, at the covering when we

did pull it back so that relief is decreased. But also Mr. Yu is prepared to answer any questions from the Board about the design itself. It still is an enclosure over the stairs, but we do feel that with this bit of reduction, it still achieves the purpose and I think it also preserves these windows which I know are an amenity to the restaurant and probably the streetscape as well.

So I don't know if you wanted to ask any questions to Mr. Yu or you want to walk through a little bit the design.

MILTON YU: So where I started with the reduction was with the comment from the Board that we want to keep the windows uninterrupted. So if you look at some of the sketches, particularly the elevation. So what we did was, we extend the structure from the existing staircase, but immediately

start going on an angle so that we clear the window and then startup from there. So this portion will be a low roof and then pitched in a way that deters people from sitting on it or, you know, putting anything on there.

And the rest towards the back is similar how we had it in the first hearing.

CONSTANTINE ALEXANDER: What happens when rain hits that sloping on a big rainstorm?

MILTON YU: It would shed this way.

CONSTANTINE ALEXANDER: It will what?

MILTON YU: It will shed this way.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

TIMOTHY HUGHES: No, all set with the plans.

CONSTANTINE ALEXANDER: I'm going

to open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

There don't appear to be any correspondence one way or the other.

BRENDAN SULLIVAN: Was this lady interested?

CONSTANTINE ALEXANDER: She's here on the telecom case.

BRENDAN SULLIVAN: Sorry.

CONSTANTINE ALEXANDER: So anyway, I was saying there's nothing in the file. I will close public testimony.

Ready for a vote or do we want further discussion?

THOMAS SCOTT: Yes, for one I'm just

pleased that you were able to take our suggestions and make a modification. I think it's definitely an improvement not only for the streetscape but probably for the restaurant, too. So I think it looks good.

CONSTANTINE ALEXANDER: I agree.

Okay. 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 to the Petitioner. Such hardship being that the Petitioner will be left with an exposed staircase to the basement level which has -- health, certainly occupational effects on the ability to use the basement area and to use the structure.

The hardship is owing to basically the

shape of the lot and the location. There's no other way of solving the problem other than to do what is being proposed.

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

In this regard the Chair would note that the relief being sought is rather modest. That the Petitioner has been very cooperative in responding to comments from the Members of the Board with regard to the best means of effecting this enclosure of the staircase and that's it.

So, on the basis of these findings, the Chair moves we grant the Variance being sought on the condition that the work proceed in accordance with the plans submitted by the Petitioner. There are several pages in

length. The first page is marked T1.0.
Initialed by the Chair. Prepared by Peter
Quinn Architects and revised as of July 21,
2014.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

BRENDAN SULLIVAN: Four.

CONSTANTINE ALEXANDER: Oh, I'm
sorry. Four in favor.

(Alexander, Hughes, Scott, Green.)

ATTORNEY SEAN HOPE: Thank you.

* * * * *

(8:10 p.m.)

(Sitting Members Case #BZA-004194-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 004194, 1052-1058
Cambridge Street.

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

SEAN O'GRADY: I think I'm the guy.
I spoke with the Petitioner around 4:30. He
was going to ask for a continuance. There
was some late information that perhaps there
might be an as-of-right solution that didn't
require the enlargement of the deck. We're
looking into that right now. He said that he

was going to e-mail me a letter, but he said he had trouble with e-mail, and the fact that at 6:30 it wasn't there.

CONSTANTINE ALEXANDER: Did he have a requested date for the continuance?

SEAN O'GRADY: No. I mean --

CONSTANTINE ALEXANDER: If not, what date is good on our calendar? You wanted to give him enough time to pursue his as-of-right solution?

SEAN O'GRADY: Right.

I'd say we turn right around, because by August 14th we'll know just positively if it is going to happen. I don't want to penalize him any more than we have to.

BRENDAN SULLIVAN: Now, are you not here on the 14th?

CONSTANTINE ALEXANDER: It's a case not heard.

BRENDAN SULLIVAN: We did not hear this?

SEAN O'GRADY: That's right.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Now, there were two neighbors that showed up the last time.

LARRY TURNER: We're here.

CONSTANTINE ALEXANDER: Oh, okay. I'm sorry, I didn't recognize you.

LARRY TURNER: Larry Turner and Jose Barada (phonetic). We live basically right behind where he wants to make the change.

CONSTANTINE ALEXANDER: I remember you pointed that out last time.

LARRY TURNER: It would be nice to hear the change.

CONSTANTINE ALEXANDER: What Mr. O'Grady has said is what they're pursuing

is not changing the staircase or doing it -- I don't know what they'll do, but they'll -- they're trying to figure out a way to do it that will not require any relief from us. They can do it what we call as a matter of right. I don't know what that solution is, whether they can come up with that solution. But that's what they're exploring right now.

LARRY TURNER: I know my father-in-law went to look at the plans and it was kind of an encroaching and kind of getting bigger.

CONSTANTINE ALEXANDER: I know. That's the reason --

LARRY TURNER: So, I don't know if that's maybe as a result of why he's maybe changing it because it's -- very little space between our houses.

CONSTANTINE ALEXANDER: I understand that. You can see that from the file. Right now there's eight feet of space between the two houses and it will go to four feet under their proposal.

LARRY TURNER: Yes.

CONSTANTINE ALEXANDER: That's the issue.

BRENDAN SULLIVAN: The issue is basically whether the building inspector will allow them to rebuild, repair the existing wood part of it and not do any further expansion, that he could consider it somewhat grandfathered in and a repair/replacement of rotted members. So that has not been fully explored, but that will then save all of this additional work to repair what's there now. So that's -- the Commissioner has not had a chance to chime in

on it basically.

CONSTANTINE ALEXANDER: So if we continue the case to the 14th, is that all right with you? Can you make it?

LARRY TURNER: The 14th of August? Yeah, that's fine.

JOSE BARADA: Again?

LARRY TURNER: Unless they get something they want I guess.

CONSTANTINE ALEXANDER: Yes, we're not going to continue it indefinitely.

LARRY TURNER: It's a rental property. It's a large rental property. And with it comes a lot of tenants and comes a lot of people in and out. And it's quite a bit of noise obviously because we're close. So getting even more, you know, adding more space to that it's just gonna make the problem more.

CONSTANTINE ALEXANDER: Well, we're going to see on the 14th whether they need that.

LARRY TURNER: Well, we'll come back.

CONSTANTINE ALEXANDER: That's the issue.

Okay, the Chair moves that we continue this case as a case not heard until seven p.m. on August 14th.

A waiver of time for decision being in our files.

On the conditions that:

One, that the sign that's now posted has to be modified to reflect the new date, August 14th, new time, seven p.m. If they don't do that, we're not going to hear the case on the 14th. And they've got to do it for the period of time required by our Ordinance which is two

weeks.

And further, if they come up with new plans beyond what's now in our files, and a dimensional form, that have to be in our files by no later than five p.m. on the Monday before August 14th.

You might want to check after five p.m. before the 14th if anything new has come in the file. Because if they don't put it in the file by then and they bring it to the hearing, we're not going to hear the case either.

All those in favor?

SEAN O'GRADY: I want to say before you come on August 14th, just call the office to make sure it's actually on, because I think it probably won't be.

LARRY TURNER: Okay.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on this basis

say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Case continued.

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

* * * * *

(8:15 p.m.)

(Sitting Members Case #BZA-004120-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
call case No. 004120, 10 Fawcett Street.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair
notes there appears no one wishes to be heard.

We are in receipt of a letter from
Ricardo M. Sousa, counsel for the Petitioner.
(Reading) By this letter the applicant

respectfully requests the Board to continue the public hearing for the above-referenced matter scheduled for this evening, July 24th, seven p.m. to its next available public hearing date. The applicant is requesting a continuance in order to repost the notice boards which were removed prematurely.

Based on this request we understand that the applicant's representative did not appear at tonight's hearing and that is the point, the case is being continued because upon inspection there were no signs posted as required by our Ordinance.

So next date is what, August 14th?

SEAN O'GRADY: No, we're done there. We're off to September 4th now.

CONSTANTINE ALEXANDER: We're not having a second hearing in August, right?

SEAN O'GRADY: We have two hearings

in September, 4th and 18th.

TIMOTHY HUGHES: This is a case not heard. I'm not around.

CONSTANTINE ALEXANDER: The Chair moves that in accordance with the request from the Petitioner and reflecting the fact that the case cannot go forward tonight because of a failure to post, that this case be continued until seven p.m. on September 4th on the condition, subject to the conditions that the Petitioner sign a waiver of time for decision.

That the Petitioner this time around post the required signage for the 14-day period reflecting the new date, September 4th, and the new time, seven p.m. And I parenthetically add that the Petitioner should understand that given the configuration of the property that the sign

has to be posted on the lawn in the front and not on the -- behind the glass doors which are set farther back from the street than 20 feet as our Zoning Ordinance requires.

And then lastly, to the extent that the Petitioner proposes to modify the plans or specs that have been submitted to date, these modified plans and specs be in our files no later than five p.m. on the Monday before September 4th.

That's Labor Day. No later than five p.m. on the Friday before September 4th.

TIMOTHY HUGHES: You close at noon.

CONSTANTINE ALEXANDER: They close at noontime. Noon on the Friday before September 4th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

* * * * *

(8:20 p.m.)

(Sitting Members Case #BZA-004125-2014: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Thomas Scott, Janet Green.)

CONSTANTINE ALEXANDER: The Chair is going to call case No. 004125, 1815 Mass. Mass. Avenue.

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

The Chair would call or point out that the request for the continuation results from

a correspondence or a memo from the Planning Board which I'll read into the record at this point:

(Reading) The Planning Board reviewed the proposed installation and requests that the applicant work with the landlord, Lesley University, and the Historical Commission staff to develop a plan that will minimize the visual chaos created by having multiple carriers on such a prominent building feature. The location of the antennas on the red sections of the tower does not go far enough to improve the situation. The Planning Board suggested that the tower element be studied for opportunities for screening or locating the antennas in a less visible way.

So they need to have time, the applicant does, to meet with Lesley and meet with the

Historical Commission staff and come up with a plan. Did they suggest a time they think they would be ready?

SEAN O'GRADY: No, they didn't. I'm sure they're anxious.

CONSTANTINE ALEXANDER: They have to be ready by September 4th. We'll move to September 4th. We have room on the calendar?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued as a case not heard until seven p.m. on September 4th on the conditions that the Petitioner sign a waiver for time for decision.

That any -- that the signage for the property be modified to reflect the new date, September 4th, the new time, seven p.m. And that this modified sign be maintained in the premises that's required by our Ordinance,

and that to the extent that the Petitioner proposes to -- and I think they may, modify the plans and dimensional requirements in our file. That these revised plans and dimensional plan be in our files no later than noon on the Friday before September 4th.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

* * * * *

(8:20 p.m.)

(Sitting Members Case #BZA-004270-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 004270, 195 Lexington
Avenue.

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

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chair, Members of the Board.
For the record, my name is James Rafferty.
I'm an attorney with offices at 675

Massachusetts Avenue appearing on behalf of the Eric and Cindy Hoagland, H-o-a-g-l-a-n-d, seated to my right.

This is a two-family home owned by Mr. and Mrs. Hoagland. They occupy the second and third floor. And Mr. Hoagland's parents reside on the first floor.

The application comes about as a result of some interior work that the Hoaglands are planning at their home. The principal driver was to create a ground floor porch for his parents who live there. And his father, unfortunately, has limited mobility. In there, if you had a chance to see the photos, that you just step out down now into the yard. There's no deck.

So there's an existing second floor porch that's kind of small, so the whole porch was to be reworked. And there's an

alteration, the size of the windows. So there's a Special Permit related to the windows.

There's also a proposal to allow for a dormer on the third floor. It's a very modest dormer. It meets the dormer guidelines. It's about nine and a half feet wide. It will result in about less than 50 feet additional, but it helps with a third floor bedroom to give it some head height.

I became aware today that a neighbor, two neighbors had written to the Board --

CONSTANTINE ALEXANDER: Two.

ATTORNEY JAMES RAFFERTY: -- and expressed concern about the size of the second floor deck, but indicated they didn't have any difficulty with the dormer or the first floor deck. So I was able to reach the architect today and of course I'm very

mindful of the Board's rule on changes, but this is a change that we're doing in direct response to a request of the neighbor. So in working this out the former deck had a greater depth and length than the deck below it. And the neighbors suggest well, why don't the decks be equally sized?

And so we've modified the second floor deck and I have a plan here that shows that modification. The former length of that deck was about --

CONSTANTINE ALEXANDER: Does the new deck or the proposed new deck extend farther into the setback from the current deck? Because that was a crux of the issue from the neighbors. It was getting -- putting on the second -- they didn't have a problem with the first floor. The second floor is visible it's bulky and

it's getting closer to the property.

ATTORNEY JAMES RAFFERTY: Right. So the neighbor is here today so I imagine she can articulate that. But -- I do think it does, but I think it's -- I'm looking at the site plan. It's two feet less. It was proposed at nine feet. And in our discussions with the neighbor she said that she and her neighbor felt seven feet which was the depth of her deck would be acceptable.

CONSTANTINE ALEXANDER: How deep is the deck now?

ATTORNEY JAMES RAFFERTY: The current deck is probably five is my guess. I'll check the plan.

ERIC HOAGLAND: Five is a good guess. I don't know.

ATTORNEY JAMES RAFFERTY: I do have a photo of it.

ERIC HOAGLAND: Yes, we do have a photo.

ATTORNEY JAMES RAFFERTY: But it is an existing condition.

CONSTANTINE ALEXANDER: You must have it in your plans somewhere.

BRENDAN SULLIVAN: Do you have the dimensional form there, Gus?

CONSTANTINE ALEXANDER: Yes. The dimensional form will show setback intrusion.

ERIC HOAGLAND: Five feet.

CONSTANTINE ALEXANDER: It is five feet. You're proposing to go to nine and now seven.

ATTORNEY JAMES RAFFERTY: We come back at seven which would be the same depth as the ground floor deck. So the columns would line up. So it is a setback question.

It's not a setback at the ground floor as you know because the deck has less than three feet in height off the ground. It's not -- but there is a GFA implication on the ground floor deck because the roof of the -- the floor of the second floor deck is counted as a roof for the first floor. So there's, there's no GFA associated with the second floor deck porch because it doesn't have a roof on it. So there's a GFA implication on the first floor. But there is a -- the second floor deck has a setback implication for which we're seeking relief.

CONSTANTINE ALEXANDER: And that's under your original proposal and the new proposal, you've got a setback issue either way.

ATTORNEY JAMES RAFFERTY: Correct, either way.

CONSTANTINE ALEXANDER: With regard to the first floor porch --

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: -- you're now going to add less GFA to the properties because the, if you will, the roof of the second floor is not going to be as big, right? Aren't you reducing the --

ATTORNEY JAMES RAFFERTY: Well, no, because --

JANET GREEN: There's no floor under, is it?

CONSTANTINE ALEXANDER: You're going to make a floor. No, I guess there is no floor.

ATTORNEY JAMES RAFFERTY: The first floor deck stays the same.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: It was the

same, but the second floor deck extended beyond the edge of the first floor deck.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: So the area on the first floor that was not porch we were not including in GFA. Only the area of the first floor deck -- yeah, only the area of the first floor deck, but the first floor deck, thank you.

CONSTANTINE ALEXANDER: That's exactly the number.

TIMOTHY HUGHES: There's no change.

BRENDAN SULLIVAN: Currently you're requesting a 15-foot --

CONSTANTINE ALEXANDER: The original proposal, according to your dimensional form --

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: -- showing

that you're going to be in the rear yard -- resulting in rear yard would be 15 feet. You're going to go from 18 feet, 5 inches to 15 feet, 2 inches, and the Ordinance requires 25-foot rear yard according to the dimensional form.

ATTORNEY JAMES RAFFERTY: Right.

BRENDAN SULLIVAN: So now they're reducing it by two, that number goes to 17.2.

ATTORNEY JAMES RAFFERTY: That's right.

BRENDAN SULLIVAN: It's exactly two feet.

CONSTANTINE ALEXANDER: Exactly.

ATTORNEY JAMES RAFFERTY: Right.

And if it had been a nine, it was proposed at nine feet and the neighbor ex --

CONSTANTINE ALEXANDER: 16.5.

You're at 18.5 now -- no, no.

ERIC HOAGLAND: That's depth.

CONSTANTINE ALEXANDER: Sorry,
sorry.

ATTORNEY JAMES RAFFERTY: No.
There's a two foot -- it's a two-foot change
in the depth of the deck which means two feet
less impact on the rear setback.

CONSTANTINE ALEXANDER: All right.

ATTORNEY JAMES RAFFERTY: So, yes,
for the deck it's relief for the rear setback.

CONSTANTINE ALEXANDER: And the
hardship, to justify granting relief?

ATTORNEY JAMES RAFFERTY: Well, the
hardship is really related to the
reconstruction of the decks themselves and
the desire to create something on the first
floor and to have them structurally aligned.
So at nine feet it was cantilevering beyond
the first floor deck. In this case, by

pulling it back, they're going to be consistent with the ground floor deck. In the setback, the setback issue is somewhat mitigated by the fact that the -- it's a comparable condition that other properties have as well, even the rear abutter, as she pointed out to us, she had a seven-foot deck as well. So, certainly the GFA is modest on both the first floor deck and the dormer.

CONSTANTINE ALEXANDER: The problem with the GFA, now that you bring it up, is that -- let me look at my notes. The house is substantially non-conforming now with GFA, it's 1.36 in a 0.5 district. And you're going to increase it even more. Not as much. You're going to be 1.41 so you cut back. It's going to be something like 1.39.

ATTORNEY JAMES RAFFERTY: Well, I don't think we're changing GFA.

CONSTANTINE ALEXANDER: You're right. I keep hearing this wrong. I'm sorry.

Anyway, that's the issue from a Zoning point of view.

ATTORNEY JAMES RAFFERTY: Right. There are two components to the additional GFA:

The first floor deck, the first floor porch is about 100 feet of it, and the dormer is about 40 feet of it in rough numbers, within two or three percent of that. So, if they constructed the ground floor -- they need to remove the existing deck, not they need to, but the existing deck kind of -- its lateral support sits in the area where they want to put the first floor deck. So it seemed logical to begin anew, if you will; take off the second floor deck, reconstruct

a new set of decks.

The neighbor's concerns, we understood, you can see from the plan, I think it was sized in a way to maybe make it accommodating -- they have children and they use the deck a lot. They think it would be a great amenity, but they understood and they quickly made the adjustment today to bring it to within the two feet.

CONSTANTINE ALEXANDER: Do you have the new the adjusted plans?

ATTORNEY JAMES RAFFERTY: Yes, I have the adjusted plan both in floor plan and in elevation.

CONSTANTINE ALEXANDER: Let me ask --

ATTORNEY JAMES RAFFERTY: The one thing the architect pointed out that I said I would draw to the Board's attention, he said

because he was working quickly, he thinks those are conforming windows, but he thinks probably those two windows should line up on top of each other, but by the time he cut back the deck, you'll notice he said, you know, I probably -- if there was tolerance for those windows, if you can see the window I'm referring to? He pointed out to me that that, that window in the elevation probably wants to be lined up with the first floor window. But he didn't have time to slide it over.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Yes.

Let me ask the members of the Board a question: Are you comfortable, are we comfortable with proceeding on the basis of plans submitted, revised plans submitted this evening by Mr. Rafferty on behalf of his

clients, recognizing the nature of the revision and the reason for them?

TIMOTHY HUGHES: Yeah, I'm comfortable since it is a correction based on an abutter's opinion about how it should go and she happens to be here. And if she's comfortable with it, I'm comfortable with it.

CONSTANTINE ALEXANDER: Everybody else feel the same way?

JANET GREEN: I do.

BRENDAN SULLIVAN: Yes. If we had opened it to public comment and the neighbor had made the comment, we would probably at the table make that change.

CONSTANTINE ALEXANDER: I think that's right. I just wanted to get it on the record that we thought through the issue and we're comfortable with it.

Anything further?

ATTORNEY JAMES RAFFERTY: No.

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

Is there anyone here wishing to be heard on this matter? Please come forward.

LEE EUSTIS: I'm Lee Eustis, E-u-s-t-i-s, 431 Huron Avenue. My backyard abuts their backyard. And I'm speaking for myself and my downstairs neighbor. We are a condo association.

We think that most of their plan is fine. We were concerned about the depth of the upstairs porch or deck. The one they have is very puny right now and I can understand wanting to enlarge it, but we felt that nine feet was too intrusive with the proximity of our yards and the size of their yard. I didn't know what the regulation is in setback, but it seemed like it was really

coming far into the small amount of yard that they have back there. So, that was our concern. The seven feet is very acceptable to us as opposed to nine feet.

And as far as windows and dormers and everything else, that's fine with us, too. We were concerned about space being enclosed now or in the future and didn't really want to see that. Although the first floor isn't as bad as the upper, you know, in terms of creating a wall out there that's really close. I think you know what I mean.

ERIC HOAGLAND: Uh-huh.

LEE EUSTIS: So that's where we stand.

CONSTANTINE ALEXANDER: Good.

Thank you for taking the time to come down. And in view of your testimony, I'm not going to read your letter.

LEE EUSTIS: Right, because it's pretty much the same. Yeah.

CONSTANTINE ALEXANDER: Thank you.

We also are in receipt of a letter from Gaylen, G-a-y -- I'm sorry, is there anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: -- from Gaylen, G-a-y-l-e-n Morgan. Resides 197 and 199 Lexington Avenue. (Reading) I'm writing in response to a notice received regarding this case because I will be out of the Commonwealth on the date of the hearing. I am a next-door neighbor and these non-compliant requests will definitely impact us and no doubt other neighbors as well. I am in general not opposed to most of their requests, however, and I think they're reasonable given the need they have to

improve the back of their house. Below are parts of the requests which I approve as given and one point of disapproval. Eric Hoagland has kindly shared elevations with me and his architect has shared the dimensions with me. And the ones he's in favor of or he has no objection to: (Reading) The new windows are fine with me. The dormer is fine with me mainly because I won't see it. The lower porch at a depth of 16 feet, 8 inches wide and 6 feet, 3 inches deep is also a good dimension from my perspective. My one objection is the depth of the upper porch. This will actually cause quite a visual obstruction and I imagine even more so for the neighbors on Huron Avenue. I propose that the depth of the upper porch be reduced to the same as the lower porch. I would also like assurance that this owner or any other will not one day

enclose this upper porch. That would be a concern if it were to protrude any further than the existing five feet of the current little deck at that upper level. Thank you for hearing my opinions.

I think what he's spoken to --

ERIC HOAGLAND: She, she.

CONSTANTINE ALEXANDER: She?

Gaylen?

ERIC HOAGLAND: Gaylen is a she.

CONSTANTINE ALEXANDER: You addressed it -- she addressed it. And it looks like Ms. Morgan's not here anyway.

And anybody else have comments?

(No Response.)

CONSTANTINE ALEXANDER: We'll close public testimony.

Comments or questions from members of the Board?

TIMOTHY HUGHES: I'm good.

JANET GREEN: Good.

THOMAS SCOTT: Good.

CONSTANTINE ALEXANDER: We have two forms of relief so we're going to start with the Variance. I guess we'll work from -- where's the one you did? Here it is.

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

That the literal provisions -- that the literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the Petitioner. Such hardship that the Petitioner needs to better utilize the rear yard, otherwise modify the structure to increase the living space for the area in which the owner lives in.

That the hardship is owing to

the -- basically the shape of the lot. It's sort of narrow lot. And the current shape of the building which requires any, any exterior modification to require Zoning relief.

And 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 Petitioner has been sensitive to the requirements and requests from neighbors, and that the result will be to improve the housing stock of the City of Cambridge by improving the inhabitability of the structure for those who reside in the second and third floor and the first floor, too.

It will be noted that as requested by Ms. Morgan, that to the extent that anyone wants to enclose the first floor porch in the

future, that would require Zoning relief in any event, but I think whoever does that, should be aware that we will not look favorably on that type of relief.

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 the plans submitted by the Petitioner and as modified at the hearing tonight in the plans prepared by Black River Architects. It has a date of July 24th. It's numbered A-201. And in any event has been initialled by the Chair.

THOMAS SCOTT: Mr. Rafferty, could we have the plan that matches this elevation? I don't think we have that.

ATTORNEY JAMES RAFFERTY: My apologies.

CONSTANTINE ALEXANDER: And this

plan.

ATTORNEY JAMES RAFFERTY: Is that
it?

THOMAS SCOTT: The seven foot.

CONSTANTINE ALEXANDER: It shows
seven feet here.

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: And also
the plan also initialled by the Chair
prepared by Black River Architects dated July
24th and numbered A-101.

Those are the two?

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: All those
in favor of granting relief, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Variance granted.

(Alexander, Hughes, Sullivan,

Scott, Green.)

CONSTANTINE ALEXANDER: All right, let's turn to the Special Permit.

You want to say anything more on the Special Permit?

ATTORNEY JAMES RAFFERTY: Oh, the Special Permit is related to the non-conforming wall. There are some --

CONSTANTINE ALEXANDER: Enlarge some windows.

ATTORNEY JAMES RAFFERTY: Enlarge some windows. It will bring light and air into the kitchen area both above and below.

CONSTANTINE ALEXANDER: It's on the rear wall.

ATTORNEY JAMES RAFFERTY: All located on the rear wall. And I think the change in existing -- I think it's essentially enlarging, enlarging windows.

There are, there are smaller windows in the existing rear elevation.

CONSTANTINE ALEXANDER: You understand, I'm going to speak to your abutters who abut in the rear. They're going to change, to a modest extent, the windows on the rear wall.

LEE EUSTIS: Right.

CONSTANTINE ALEXANDER: Some of them, not all.

LEE EUSTIS: That's fine.

CONSTANTINE ALEXANDER: I'm going to close public discussion.

ATTORNEY JAMES RAFFERTY: That's it there. Those windows are being enlarged, those ones in the middle.

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Any comments or ready for a vote?

TIMOTHY HUGHES: Ready.

CONSTANTINE ALEXANDER: Ready for a vote.

The Chair moves that this Board make the following finding with regard to the Special Permit being sought:

This permit being to enlarge windows on a non-conforming rear wall.

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

The continued operation of adjacent uses will not be adversely affected by the nature of the proposed use. In this regard the person most directly affected or the persons who have expressed their non-opposition to what is being proposed.

That no nuisance or hazard will be

created to the detriment of the health, safety, and welfare of the occupant or the citizens of the city.

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

On the basis of these findings, the Chair moves that we grant the Special Permit sought on the condition that the work proceed in accordance with those same plans that I identified on the motion for the Variance.

All those in favor of the granting the Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

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

ATTORNEY JAMES RAFFERTY: Mr. Chair, so the plan as modified has the potential of relocation of that second floor window, is that acceptable to you?

CONSTANTINE ALEXANDER: It is.

ATTORNEY JAMES RAFFERTY: Thank you.

BRENDAN SULLIVAN: The granting of the Variance does change as per the new plan, the dimensional form, two numbers. Maybe a new --

ATTORNEY JAMES RAFFERTY:
Dimensional form.

BRENDAN SULLIVAN: The GFA will go down, the setback number goes up.

CONSTANTINE ALEXANDER: Put it in our files after the fact.

ATTORNEY JAMES RAFFERTY: I'll make a note.

BRENDAN SULLIVAN: Just so it's
clean.

ATTORNEY JAMES RAFFERTY: Do you
want me to make it by hand now?

CONSTANTINE ALEXANDER: If you can
do it by hand why not?

ATTORNEY JAMES RAFFERTY: Well, I
can do the setback.

BRENDAN SULLIVAN: You'll need the
calculator for the other.

* * * * *

(8:40 p.m.)

(Sitting Members Case #BZA-004332-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 004332, 35-55 Clarendon
Avenue.

Is anyone here wishing to be heard on
this matter? Please come forward.

Ma'am, you might want to come forward.
I know you're interested in this case and you
may hear better if you're a little closer to

the action. And anyone else, by the way, who is interested in this case would like to move to the front of the room, please feel free to do so.

ATTORNEY ARTHUR KREIGER: Good evening, Mr. Chairman, members of the Board. My name is Art Kreiger from Anderson and Kreiger representing AT&T. With me is David Ford from Centerline, consultant for AT&T, whom you've seen on a number of other matters. Amjad Md is a representative.

UNIDENTIFIED AUDIENCE MEMBER:
Can't hear you.

CONSTANTINE ALEXANDER: You may want to come here and sit on the side. The room is not well configured for this kind of discussion.

ATTORNEY ARTHUR KREIGER: Amjad Md is the RF engineer, and Don Haes is an

emissions consultant, emissions exposure health consultant. I know I didn't get your title right. That will do for now.

What you have before you is an application dated June 13th, together with all of exhibits listed on pages 2 and 3, seeking the usual relief as it were, the Special Permit for a rooftop installation of the wireless facility.

This application followed an RFP issued by the Cambridge Housing Authority, the Daniel F. Burns apartments at 35-55 Clarendon, a public housing facility. One of the buildings that was (inaudible) apartments.

They issued an RFP. AT&T was awarded the contract, and so we're here --

CONSTANTINE ALEXANDER: So they sought you out basically?

ATTORNEY ARTHUR KREIGER: No. AT&T may have asked them to do that having identified the site, but they were willing to issue the RFP to put it on the roof.

DAVID FORD: They issued a Cambridge-wide RFP for the facilities.

UNIDENTIFIED AUDIENCE MEMBER: Can you translate RFP?

ATTORNEY ARTHUR KREIGER: Requests for proposal. Carriers compete to --

CONSTANTINE ALEXANDER: It's for anybody.

UNIDENTIFIED AUDIENCE MEMBER: Cambridge-wide. Not just for this facility?

CONSTANTINE ALEXANDER: Cambridge-wide.

TIMOTHY HUGHES: On Cambridge housing.

DAVID FORD: Only on Cambridge

Housing Authority.

ATTORNEY ARTHUR KREIGER: It's a public bidding requirement because the lease space to whoever carriers wins the contract.

CONSTANTINE ALEXANDER: It's not limited to carriers. Whenever the city does anything like this, they put out RFPs.

UNIDENTIFIED AUDIENCE MEMBER:
Thank you.

ATTORNEY ARTHUR KREIGER: The Housing Authority required two community meetings, one for residents, occupants of the building and one for neighbors. The residents' one was well attended and there were discussions of the various issues. The community one no one came. But we met the requirements on all the community meetings by the Housing Authority.

Then of course we went to the Planning

Board, and the Planning Board met two nights ago and you should have their recommendation in front of you. It's a positive recommendation. It actually goes beyond the usual positive recommendation to praise AT&T for raising the bar on the design. And I think, I hope that you will be pleased with the design tonight.

Let me start with the coverage issue. So you have the coverage map in your package. The location is between Teele Square and Mass. Ave. near the Somerville line. I can actually pass these out. I'm going to use it for a different purpose, but I can do that.

So the first two pages are current and then with the facility. So right in the middle of the pink dot on the first page is this number 2324. You can see it's north of Mass. Ave. near Matignon High School if I've

got the pronunciation correct. Largely pink which is unacceptable level of coverage even outside with pockets of white.

CONSTANTINE ALEXANDER: What does white mean?

ATTORNEY ARTHUR KREIGER: White is even less coverage than that I guess, virtually no coverage.

The second page shows it, the coverage that this site would provide. So the center area right, a number of blocks around it is green which is good in-building coverage which is the most difficult to achieve.

CONSTANTINE ALEXANDER: So I take it from this that the next time we're going to see you, maybe not the next time, is going to be for the yellow and pink area below? You've still got a big area below.

ATTORNEY ARTHUR KREIGER: The pink?

Well, there's another -- you see another orange dot on the second page, 2852.

CONSTANTINE ALEXANDER: Yes.

DAVID FORD: That was already approved. It hasn't been on-line yet.

ATTORNEY ARTHUR KREIGER: Correct.

CONSTANTINE ALEXANDER: Same with the other one, 2384?

TIMOTHY HUGHES: 2384.

CONSTANTINE ALEXANDER: That's been approved, too. On the top upper left --

ATTORNEY ARTHUR KREIGER: That's in Arlington. I don't know the answer to that.

CONSTANTINE ALEXANDER: We don't care.

ATTORNEY ARTHUR KREIGER: So, when, when the one at the bottom, 2852, is on-line with this one, that will pretty much cover the area. I can't say there wouldn't be any

in-fill, but that would provide most of the coverage needed. This one will provide the green area in-building coverage, a wider area of in-vehicle coverage that's the blue and eliminate the areas of the white and most of the pink. And the rest is yellow which is acceptable on-street coverage with some coverage on the other, in areas.

So there's a need for the facility and this facility would actually cover a fairly wide area. In fact, if you compare it to some of the other sites on the second page that are on-line, it's providing a wider area of coverage in the existing places. So this is a good location in that sense.

CONSTANTINE ALEXANDER: How have you sort of survived over these years and months without having coverage in this area? I mean, what brought, just curiosity, what

brought on now doing something about this in response to an RFP from the Housing Authority? You didn't go out and, I gather, seek them out or maybe you did.

DAVID FORD: That's how it started.

CONSTANTINE ALEXANDER: You sought them out and they started the RFP?

DAVID FORD: Right.

CONSTANTINE ALEXANDER: Anyway, are you just catching up or why?

DAVID FORD: You want to answer that.

AMJAD MD: I'm sorry, I didn't get your question.

CONSTANTINE ALEXANDER: You have had to have coverage in this area now for this map. I don't know how long this has existed, but it must have existed for a while. Why now are you dealing with the issue? Why were you

able to live without the relief before now?

AMJAD MD: Until now what we were doing is as you see the only sites around and they were overshooting and giving little bit coverage on Mass. Avenue and Route 2A. But as you know, the technology needs, we are going in a phase where we need high speed internet, LTE, and we were coming with the VOLTE technology, the voice over LTE technology. So because of this new technology has just come in recent years. And we want in-building coverage, which are basically the residential areas near Mass. Ave. So on the Clarendon Avenue on these sides, these on the sidewalk we have right now, they're not doing much in this area. So that's how the search ring came up and, okay, we have a -- we need a coverage near Route 2A and we need a coverage in this residential

area.

CONSTANTINE ALEXANDER: Why do you need 12 antennas? Every time you guys come before us you need 12 antennas. I mean -- and then we push a little bit and in some cases all of a sudden he don't need 12. Why do you need 12 here?

ATTORNEY ARTHUR KREIGER: Because we've compromised with fewer. But, go ahead, why is standard the array?

AMJAD MD: As, again, the reason is the increased of technology, the LD and VOLT which is coming. AT&T has been assigned by the FCC, the new frequencies, which the 1900 and (inaudible) frequencies. One antenna can support like one 850 and one 1900. So in order to accommodate all of the future LTE and future VOLT frequencies, we need minimum of four. So that from each antenna we can give

different frequencies, and that goes through the main radios and that radio supports and then it goes to the main unit. So the short answer is for -- to accommodate the new LTE frequencies, we need the four antennas.

ATTORNEY ARTHUR KREIGER: AT&T is --

DAVID FORD: Per sector. Total of 12.

AMJAD MD: Yes.

CONSTANTINE ALEXANDER: You said you have compromised in the past. We know, for example, Concord Avenue.

DAVID FORD: Concord Avenue.

CONSTANTINE ALEXANDER: That wasn't your property?

ATTORNEY ARTHUR KREIGER: It was, but we were denied that one.

CONSTANTINE ALEXANDER: I know we

did but you started out with 12 and then you went down to eight --

ATTORNEY ARTHUR KREIGER:

(Inaudible).

DAVID FORD: As we explained at that hearing, we were sacrificing coverage.

CONSTANTINE ALEXANDER: You don't want to sacrifice coverage here?

ATTORNEY ARTHUR KREIGER: And sacrifice frequencies with fewer antennas. We sacrifice particular services.

The general answer to your question of why now, how we did the antenna? As you know, we're trying to roll these out pretty quickly. We've been in front of you a number of times. And rolling them out across Massachusetts as well as in Cambridge. But as fast as these can be lined up and the lease is obtained, the RFPs, and the documents

prepared and we're here --

CONSTANTINE ALEXANDER: And you have not thought about, not you personally, the company has not maybe thought of alternative ways of providing the services without having the obtrusive affects of these antennas sitting on rooftops?

ATTORNEY ARTHUR KREIGER: Well, if you're refer to DAS?

CONSTANTINE ALEXANDER: Well, that's one or anything else.

ATTORNEY ARTHUR KREIGER: Well, AT&T like any company would take the least expensive solution that worked in the marketplace and provided to grow with the coverage that they need.

CONSTANTINE ALEXANDER: I applaud your frankness.

ATTORNEY ARTHUR KREIGER: I don't

think I gave away a company secret there. That's how most businesses would operate. So if there was an easier, if there was a, you know, faster --

CONSTANTINE ALEXANDER: Cheaper.

ATTORNEY ARTHUR KREIGER: Well, cheaper or simpler or regulatory alternative or something to let them get permission quickly or something, they would do it. And the answer is this is what they need to do for the network.

CONSTANTINE ALEXANDER: And DAS, distributed antenna system, why doesn't that work?

ATTORNEY ARTHUR KREIGER: Well, you know what, I was going to do that later --

CONSTANTINE ALEXANDER: No, no, do whatever you want.

ATTORNEY ARTHUR KREIGER: Since you

raised it and since it's in the document I gave you. Take a look at pages 3 and 4 of this document. And --

CONSTANTINE ALEXANDER: Oh, that's nodes. I was wondering what nodes were.

ATTORNEY ARTHUR KREIGER: Nodes are places where the DAS antennas have to be hung on the poles. You've got a depiction of 22 nodes there and the street, this thing is on the following page. And so these would be mounted on existing poles. The 22 nodes would essentially provide -- well, they are -- they are designed to approximate the green area. So they would only give you that area of coverage. So less coverage, No. 1.

And No. 2, is this number of nodes is sort of gives you an idea, but it is not the number that would actually provide sufficient coverage even in that green area.

Because, for example, if you look -- yeah, near where Route 16 and Mass. Ave. meet, so there are two nodes on Madison, which is right below that intersection. Then none on Magoon and one on Brookline it looks like. In general there's not a node on every street. And because of the way DAS works and again, Amjad can describe this in more detail, provide the equipment coverage you'd actually need nodes on virtually on every street. Because DAS antennas won't go through trees, through buildings. They basically go up and down the street.

So, for example, when Boston has them on Newbury Street, Boston also has macro sites, that is the full site. And then for additional data offload on Newbury Street, on that corridor, they have DAS units on that street. But even those units don't provide

any -- don't provide that data capability on the cross street, on Clarendon and crossroads, etcetera, etcetera. So that's an example where DAS works, but as a supplement to a full system.

Here, where you're just trying to cover a whole area, you'd need 30, 40 however many nodes just for that green area. More outside of that for the blue. And more for the others. So you're talking dozens of nodes for that kind of coverage which has its own visual intrusions having these things hanging on poles, etcetera.

I think that's the explanation on DAS. If you have more questions, we'd be happy to answer those.

CONSTANTINE ALEXANDER: I don't.

ATTORNEY ARTHUR KREIGER: Okay.

Okay, so let me just turn quickly to the

issue of alternatives because that will be -- it's an important issue in general and it's particularly important when you're in a residential zone that's part of the criteria.

The alternatives are addressed in the RF report which is Exhibit 6. It's about two-thirds of the way through. And in general the answer is that there was a thorough search done on Mass. Ave. primarily because Mass. Ave. -- there's a Mass. Ave. Overlay District. So that actually is an underlying residential district with a commercial overlay, but will get us out of that problem. But the problem that David described is that none of the Mass. Ave. building, which is much lower, would provide the coverage. So why don't I just have him, if you want this level of detail or if you go to that page, and I'll ask David to walk

through the alternatives.

DAVID FORD: So slight correction, some actually do provide the coverage needed, the majority do not. And I'll walk through that.

So just to follow along on the alternate side analysis (inaudible) -- so for about candidate A.

So (inaudible) 2000 Mass. Ave. This is a doctor's park. And T-Mobile is existing on this rooftop. So as we do every time, try to co-locate on existing sites. T-Mobile has exclusive rights over that rooftop so no one else can join. So that was automatically stricken (sic) from my list.

And candidate B is not listed on the map or on the report rather because candidate B is our primary candidate.

Candidate C is also the Cambridge

Housing Authority building. On the property there's two lots. On this one lot there's two buildings, front building and back building. The back building was rejected. The front building was approved.

Move on to candidate D.

JANET GREEN: Was rejected by you or by them?

DAVID FORD: Our RF engineer. It was too far back from Mass. Ave. Out of those two available buildings on that lot we needed to use the front one to get the coverage to Mass. Ave.

Candidate D, 34-54 Mass. Ave. right next to Dunkin' Donuts. This was not approved because the building to the south is taller and it's blocking the signal going south towards Porter Square.

And this one's candidate E. E is 2443

Mass. Avenue. This is directly across the street from Dunkin' Donuts. It was approved from an RF standpoint, but after we came up with a design, the landlord rejected the proposal and told us to move on.

And candidate F is One Alewife Center. This is another building that we always look at to manage sites, telecom manages. America tower, American tower. Mass (inaudible).

UNIDENTIFIED AUDIENCE MEMBER: Can you say those names again?

DAVID FORD: Sure. One Alewife Center. American Tower managed rooftop. They're looking to get an (inaudible) tenant meaning carrier on there. But it was rejected again by RF. It's too far away from the Mass. Ave. This is to the west of Mass. Ave. Alewife.

Candidate G is 2456-2460 Mass. Ave. This is only a four-story, so it's rejected. Too low.

And candidate H, 2390 Mass. Ave. Again, three-story. Rejected. Too low.

Candidate I, 2353 Mass. Ave. This was approved because it's a nine-story condominium, but it's too close to the existing AT&T sites in Porter Square. There's one existing AT&T site on Mass. Ave. Porter Square intersection and also AT&T site on Winslow Park. So putting that at I, 2353 Mass. Ave. is too close to the existing sites and duplicating coverage.

And finally candidate J, 22 Cottage Park, again, too low. Four-story.

So everything that's -- every commercial property especially that Art --

UNIDENTIFIED AUDIENCE MEMBER: What

was the last address, please?

DAVID FORD: 22 Cottage Park. So every building, commercial property that fronted Mass. Ave. was evaluated and we did look at it, and actually this building that we have in front of us right now is the last available option for this.

ATTORNEY ARTHUR KREIGER: If there are no questions about alternatives, then I'm going to ask David to talk about the design and the photo sims.

One thing I'll note about the design just to, just to take care of this topic, there's no generator being proposed on this one. So there's no noise issues. The building has an existing generator.

DAVID FORD: Existing generator, correct.

CONSTANTINE ALEXANDER: You're not

going to have a gas-fired generator on the roof of this building?

DAVID FORD: No. Since it's already exists, a generator on the site. Cambridge Housing Authority didn't wanted to permit an extra generator. There's a generator plug at grade. So if there is an event of power outage, (inaudible) drive it up, plug it in, and keep it there.

CONSTANTINE ALEXANDER: And that's obviously okay from your perspective?

DAVID FORD: Yes.

CONSTANTINE ALEXANDER: All right, good.

Does that mean that you're going to be firing, for your own purposes, this generator at times when the generator would not be fired and would impose some noise in the area?

DAVID FORD: What generator?

ATTORNEY ARTHUR KREIGER: You mean to test the building generator?

DAVID FORD: No.

ATTORNEY ARTHUR KREIGER: They test it.

CONSTANTINE ALEXANDER: They test it.

DAVID FORD: Our generator plug has nothing to do with the generator. Totally different systems. We don't have any control over their generator. We have nothing to do with it.

CONSTANTINE ALEXANDER: If they let their generator go in disrepair and stop working theoretically, you're relying on them not to do that basically?

DAVID FORD: No, no. I don't want to get this confused. Their generator, that's already existing, is not going

to -- say there's a power outage, is not going to turn on the AT&T facility.

CONSTANTINE ALEXANDER: Okay.

DAVID FORD: So say the power went out, and that generator kicked on and it would power the building, it would not power the AT&T facility because AT&T has their own direct line. The generator plug that I just mentioned, if there is a power outage because AT&T is not proposing their own generator here, they have to physically drive, pull up a generator during a power outage, plug it into that plug, and use it for, you know, hours that the power outage.

CONSTANTINE ALEXANDER:

UNIDENTIFIED AUDIENCE MEMBER: Can you explain? I'm asking thinking the same question that you are, what does that mean? Is there a big truck outside or is it in the

basement, is it on the roof? What, what is this? Generators can be really loud.

DAVID FORD: There's no generator proposed. It's a generator plug --

UNIDENTIFIED AUDIENCE MEMBER:
Except for emergency. And we have an emergency.

CONSTANTINE ALEXANDER: Let me explain.

In other buildings as part of putting the equipment on the rooftop, they also put on a gas generator in case of power outages. And one of the concerns, then, that generators make noise, particularly several times. Well, I don't know how often they have to fire it just to make sure it's operating. And that's a matter of concern to this Board. But what we're hearing tonight is that is not an issue on this property

because of the way -- there's a generator already on the building.

UNIDENTIFIED AUDIENCE MEMBER:

Unless there's a power outage?

CONSTANTINE ALEXANDER: Well, then a truck's going to pull up and plug in a new generator. But that will be that. It's not going to be once a week a truck's going to be pulling up. Am I right?

ATTORNEY ARTHUR KREIGER: We're required to have a backup.

CONSTANTINE ALEXANDER: You have to have a backup. But it's not a backup that's -- that adds to the potential problems of the site unlike other places where they do.

ATTORNEY ARTHUR KREIGER: Let me actually see if I can just, if you don't mind, explain, because it's not obvious from the photo sims or the plans.

There's an existing penthouse on the roof that -- looking vertically it's a square, but what's not obvious is that half of it is lower than the other half. And so on the high half will be one sector and on the low half a screen wall bringing it up so that --

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ARTHUR KREIGER: Okay. It makes essentially.

TIMOTHY HUGHES: So that's where it accounts for the fact that some of them are facade mounted and you can see them and the others are behind the screen.

ATTORNEY ARTHUR KREIGER: That's right.

TIMOTHY HUGHES: That's what I was curious about.

ATTORNEY ARTHUR KREIGER: Okay.

(Inaudible). Let's look at the pictures.

CONSTANTINE ALEXANDER: Also citizens wants to know any more?

DAVID FORD: I'll describe the design. So out of the twelve proposed antennas, eight are going on top of the existing penthouse that will then screen in so when it's all said and done, it will look like this. So eight are going to go behind this wall. So what we see right now is this, an L-shaped half penthouse, enclose that in. It proposed eight antennas behind the screen wall and then the final four facade mounted. Look at photo 2C, 2A versus 2B shows proposed and 2C shows the zoomed up version just to give you a better look. But this really looks at 2A and 2B because that's the true version not the --

CONSTANTINE ALEXANDER: Okay.

DAVID FORD: All the associated equipment is in the basement unlike all proposals, no rooftop, no shelter proposed, etcetera.

ATTORNEY ARTHUR KREIGER: These are --

CONSTANTINE ALEXANDER: We have to make a finding that non-residential uses predominate in the vicinity on the proposed location.

ATTORNEY ARTHUR KREIGER: And that's my next topic.

TIMOTHY HUGHES: I've got one important question about the design before we get to that.

On photo 3C I see at least one antenna that seems to be obvious that's sticking out.

DAVID FORD: We had got the same question at the Planning Board, and I called

the engineer after the Planning Board hearing. And what it is it is a concerted estimate because looking diagonally that they put it there just to be conservative.

TIMOTHY HUGHES: Okay, so that's --

DAVID FORD: It's not going to be visible. Only way to see that antenna is if you're on Churchill looking diagonal if you're more or less up here.

TIMOTHY HUGHES: So it's one of these that are on 2C but it's exaggerated a few --

DAVID FORD: Exactly.

ATTORNEY ARTHUR KREIGER: 2C is accurate.

TIMOTHY HUGHES: It's almost impossible to see that on any angle to me.

DAVID FORD: That's the Planning Board, and I called the engineer the next

morning and they're being conservative.

ATTORNEY ARTHUR KREIGER: 2C is accurate. It shows it's mounted in from the corner so you won't see it.

TIMOTHY HUGHES: Okay.

ATTORNEY ARTHUR KREIGER: Okay.

TIMOTHY HUGHES: And actually I like, it looks like an architectural detail rather than, you know, a bunch of antennas stuck on it.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ARTHUR KREIGER: Exactly how we think of it.

CONSTANTINE ALEXANDER: That's how the Planning Board thought of it, too.

ATTORNEY ARTHUR KREIGER: Okay.

The photo sims, I think the only other real issue or issues that I want to address is the non-residential issue. I think you

have before you a two-page document. Is it in the same package?

CONSTANTINE ALEXANDER: I think it was.

ATTORNEY ARTHUR KREIGER: One page is AT&T letterhead and logo and the other page. You got a double sided one.

Okay, so what we did is we actually canvassed the neighborhood. We defined the neighborhood in what we thought was a sensible way. We had this discussion before of what's the relevant vicinity. This building or this, the Daniel Burns apartment are their own residential zone. It didn't make much sense to stop there. Around it is residential, and with the Mass. Ave. Overlay District to the south to the bottom of the picture. So we bounded the, the canvassing of facilities by the Arlington line

essentially on the west, the Somerville line on the north, the -- near Goldstar Road, as you can see a little bit beyond that on the east, and across Mass. Ave. So Mass. Ave. and then essentially the buildings on the other side of Mass. Ave. is considered this part of this neighborhood because they're the ones who might see it or have a view of the building at least. So there's what we thought was one way to look at the vicinity.

So, A, B, and C are you your big institutional uses there: Matignon, International School of Boston, and the church. And then -- to the northwest.

And then the other yellow pins are purely non-residential uses, various businesses that are listed on the document.

Green are mixed use, which are typically commercial on the first floor and

maybe the second floor and maybe apartments above.

And then red is also non-residential but has an existing telecommunications facility.

CONSTANTINE ALEXANDER: Do you have a copy of this?

UNIDENTIFIED AUDIENCE MEMBER: I don't, no.

CONSTANTINE ALEXANDER: We're going into, just so you understand, that one of the things that we have to find to grant relief, they've got to demonstrate to us, is that non-residential uses predominate in the vicinity of where they're going. Vicinity is not defined.

UNIDENTIFIED AUDIENCE MEMBER: And you could make a different rectangle that had more residential?

CONSTANTINE ALEXANDER: You could, you could.

ATTORNEY ARTHUR KREIGER: More or less.

DAVID FORD: Just to clarify, how we got here we did the exact same thing with Brookline Street.

CONSTANTINE ALEXANDER: Yes, I remember that.

DAVID FORD: But where the coverage actually extends in the vicinity as we defined.

CONSTANTINE ALEXANDER: Well, that was our own interpretation of the word vicinity.

DAVID FORD: That's right.

ATTORNEY ARTHUR KREIGER: You can enlarge or reduce the rectangle. You could have a different shape. We thought this was

a fair representation of the area given the purpose of the Ordinance to protect the character of the neighborhood essentially. Now you could say that because this is not visible, the relevant neighborhood is actually much smaller. In fact, it's almost nothing to protect because there's no impact at all. In any event, to satisfy the Ordinance this is how we did it. And this shows that there are a number of non-residential uses, including some large ones right around. So we think the criteria are satisfied as follows:

The -- demonstrate as public need for the facility. We think we've demonstrated that.

The existence of alternative and functionally suitable sites in non-residential locations. You know.

The character of the prevailing uses. The prevalence of other mechanical systems and rooftop structures, etcetera.

And then the finding that, Mr. Chairman, you mentioned that non-residential uses predominate and that the facility is not inconsistent with the character. I think it's clear that this facility being visible is consistent with the character, and I think the Board should find that given all the uses on Mass. Ave. and actually overlay district there and the other uses that we meets all the tests.

TIMOTHY HUGHES: I liked everything about this except that you didn't identify the actual site on this thing where you were going to put the facility. And if that had been done, I wouldn't have had to cross reference with another page.

ATTORNEY ARTHUR KREIGER: Sorry.

You see where it is now?

TIMOTHY HUGHES: I do now.

DAVID FORD: That was my fault.

CONSTANTINE ALEXANDER: I had the same exact reaction.

TIMOTHY HUGHES: Yes. But otherwise this is a great piece of information.

Thank you.

CONSTANTINE ALEXANDER: Yes. We have not seen this kind of presentation before.

ATTORNEY ARTHUR KREIGER: Well, we've decided that obviously a lot of blocks with houses and we ought to put this on here.

UNIDENTIFIED AUDIENCE MEMBER: Can you circle the actual part of the building?

UNIDENTIFIED AUDIENCE MEMBER: What

is non-residential use? Can you explain that?

ATTORNEY ARTHUR KREIGER:

Non-residential is business, school, anything that where people are living. Even an open park, could be a non-residential use. It's the Board's decision to qualify.

CONSTANTINE ALEXANDER: I think that's correct.

UNIDENTIFIED AUDIENCE MEMBER: It's on the Churchill Ave. side even though it's 33-35 Clarendon, the side of Burns --

CONSTANTINE ALEXANDER: Well, the address of the building, though, is --

ATTORNEY ARTHUR KREIGER: The existing penthouse is at the Churchill.

CONSTANTINE ALEXANDER: You're right.

ATTORNEY ARTHUR KREIGER: That's, I

think, all the issues that I wanted to go through. Obviously there are all the other criteria of the by-law of the Ordinance but as usual those aren't issues here so I'll stop for questions.

CONSTANTINE ALEXANDER: Questions?
Any questions from members of the Board?

TIMOTHY HUGHES: No, I'm good.

CONSTANTINE ALEXANDER: Okay.
I'll open the matter up to public testimony.

Do you have any further questions, either of you, or anyone else? I'll start with the folks sitting up here.

UNIDENTIFIED AUDIENCE MEMBER: I do, yeah.

THE STENOGRAPHER: Okay, I'm going to need your name, because you haven't given that to me yet.

GWEN SPEETH: Yes. Gwen Speeth.

Last name is S-p-e-e-t-h.

THE STENOGRAPHER: Thank you.

GWEN SPEETH: And I live on Churchill Ave., a couple of -- I have concerns about I guess what I would call the hazard and nuisance of health, safety, and welfare. Particularly given this has been adjacent to a playground. I understand you have an expert here who is probably here to refute any claims that I might make about the health and safety issues. But my primary question to you, like, just technically is about the notification issue. When I went by Clarendon to try to find 33-35, there are no such numbers and there was a sign, there was a notification sign, it was folded over. It was not visible.

CONSTANTINE ALEXANDER: I had the same problem because I checked the -- I don't

think we can hold -- I mean, the Petitioner did the best they could. They strapped the sign to the pole and the weather elements I think just bent it over.

GWEN SPEETH: Yes, if you're not tall enough to lift it up, you can't see it. Also, I --

UNIDENTIFIED AUDIENCE MEMBER: Why did it say Clarendon because of Church --

GWEN SPEETH: The official address.

CONSTANTINE ALEXANDER: I think there was a sign on Churchill as well. There is a sign on Churchill.

GWEN SPEETH: Why did it say Clarendon when the building, the official address is Churchill.

ATTORNEY ARTHUR KREIGER: The official address is Clarendon.

GWEN SPEETH: They have two

addresses or the address --

ATTORNEY ARTHUR KREIGER: 35-55

Clarendon --

DAVID FORD: 35-55 Clarendon.

GWEN SPEETH: Of the entire
facility?

CONSTANTINE ALEXANDER: This
building. This building does not have
access on Churchill, the legal address is
Clarendon, 33-35.

GWEN SPEETH: The Petitioner said
there were two community meetings, one for
residents and one for neighbors. I am a
neighbor. I did receive the notification
about this meeting, but I certainly did not
receive any notification about a community
meeting, and none of my neighbors knew
anything about this issue. I don't believe
that my neighbors got notification of this

meeting.

Also, as I've heard from residents at the Burns that there was a community meeting held, that it was -- nobody knew that it was happening, very few people showed up, and the people that did show up got unsatisfactory answers to their questions. I don't think that the people in the neighborhood know about this, know that this is going on.

CONSTANTINE ALEXANDER: Let me go back and inform you on a couple of things.

Notice of this meeting or for this petition by statute is sent to any abutters of Clarendon --

GWEN SPEETH: That's what I'm talking about, abutters.

CONSTANTINE ALEXANDER: -- within so many feet of the property. And then the signage posting and the newspaper

advertisement is supposed to provide notice on the larger scale. That's the way the Ordinance works. So if you're not -- if someone who is not an abutter or an abutter to an abutter --

GWEN SPEETH: Yeah -- no, I asked somebody, because I'm an abutter of an abutter. I asked the abutter and they haven't been notified. But I'm wondering about the community meetings that took place.

CONSTANTINE ALEXANDER: I want to ask you about that, too.

GWEN SPEETH: I think that would be very useful. I don't know if that's required. But I think it would be particularly given because it's a senior citizens housing facility and that there is a day care center. I mean, there are many day care centers that use that playground all the

time and they're the closest -- they're the people who are going to be closest to the facility.

CONSTANTINE ALEXANDER: What about creating your guest list for the abutters. How did you notify them?

DAVID FORD: As we opened up, it was a requirement for Cambridge Housing Authority for us to hold two; one internal with the actual tenants of the residential building.

CONSTANTINE ALEXANDER: Yes.

DAVID FORD: And then one community-wide. We started with the residential tenants. We gave all the flyers to Cambridge Housing Authority. They hung them up throughout the building itself. There was upwards of I say 30 people in attendance. Many questions were asked, many

questions were answered. At the end of the day there were no unanswered or unsatisfactory questions that I was aware. We even gave our business cards actually to the leader of the residential I guess association and she was gonna reach out any further inquiries or issues and never reached out.

Secondly, to -- due to the community-wide meeting requirement, 5/13 we rented a space at the senior center, right here. We gave notice to every direct abutter via mailing as well as I afterwards, the day before the community meeting, just to remind people, I went and leafletted properties as well.

GWEN SPEETH: Just the abutters?

CONSTANTINE ALEXANDER: Yes, why did you limit it to just direct abutters?

DAVID FORD: I don't know if I should say direct abutters.

CONSTANTINE ALEXANDER: Those are your words.

DAVID FORD: Up and down Clarendon Ave. here.

CONSTANTINE ALEXANDER: Churchill.

DAVID FORD: It was covered as well with leaflets.

CONSTANTINE ALEXANDER: Did you send letters out?

DAVID FORD: Yes.

GWEN SPEETH: I did not see the --

DAVID FORD: Notify (inaudible) case were direct abutters. Leaflets were given community-wide.

CONSTANTINE ALEXANDER: I think in the future, and I think whether you're putting a facility on the Cambridge Housing

Authority building or otherwise, I think notification of the neighborhood, I'm using the word neighborhood for now, should be part and parcel of what you do.

DAVID FORD: I personally dropped off maybe over 100 letters in the neighborhood.

CONSTANTINE ALEXANDER: Well, mail them out.

DAVID FORD: We did mail them out. Both.

CONSTANTINE ALEXANDER: Just don't do abutters, a wide scope. I know you don't want to hear people come in and complain, but those are the people that live in the city and who are affected by what you want to do. So, you know, just like I wanted you to talk about a DAS, which you have, I want you now, in the future, to reach out to the neighborhood.

And I'm not going to try to define it.

JANET GREEN: But they defined it.

CONSTANTINE ALEXANDER: It's not a bad idea. It's on the plan.

ATTORNEY ARTHUR KREIGER: We're not mailing a thousand letters to people for --

GWEN SPEETH: How about the people who can actually -- I live on Churchill Ave. And my neighbors who did not know about it, I guess they don't constitute -- they're in the picture here somewhere across the street. But we are the ones that are exactly where you're describing that will see, you know, if there's something that can be seen, we're the ones that are going to see it.

CONSTANTINE ALEXANDER: At least two blocks, two or three blocks all around the building in every direction. Those people should receive something in the mail just

like they receive in the mail, some of them, the notice of this hearing before us.

ATTORNEY ARTHUR KREIGER: Well, you said whether it's CHA property or not. If it wasn't CHA property, there would be no requirement for community meeting at all.

CONSTANTINE ALEXANDER: But what we're saying as a Board --

ATTORNEY ARTHUR KREIGER: You're not saying to hold a community meeting and then we --

CONSTANTINE ALEXANDER: You don't have to hold a meeting. I'd like you to at least notify the community. Why wouldn't you hold a community meeting?

DAVID FORD: We usually do. We typically do as you know.

CONSTANTINE ALEXANDER: So do it. So I'm saying that we're going to ask this

question -- I'll let you speak. Every time you -- next time you come before us we're going to want to know whether you held a community meeting and who you notified. And that's going to play a role in our decision.

ATTORNEY ARTHUR KREIGER: And you, are you requesting us to do that even in a non-residential zone?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ARTHUR KREIGER: Or only residential.

CONSTANTINE ALEXANDER: Yes. Because everybody who lives, who is in the area, office workers --

ATTORNEY ARTHUR KREIGER: So regardless of the zone?

CONSTANTINE ALEXANDER: Yes. So more so, more important to do it in a residential district for the obvious

reasons, but why not hold or to hold a community meeting? I'm sorry, now you.

GWEN SPEETH: Yes, my question was just I appreciate that you're putting this forward for future cases, but I'm wondering if it would be possible to hold the community meeting again with people in the community actually knowing about it? I mean, as I said I --

CONSTANTINE ALEXANDER: I'll poll members of the Board, but I think that would be a little much at this point. They did make a good faith effort how effective the effort was, but it was a good faith effort.

GWEN SPEETH: Not according to the people that I've spoken to who've spoken to the person that you referred to as the coordinator.

CONSTANTINE ALEXANDER: I've got to

point out there's no legal requirement to do that except for the Cambridge Housing Authority, it was a community-wide notification.

GWEN SPEETH: You mean for the residents but not for the community?

ATTORNEY ARTHUR KREIGER: For either one, the CHA had us do those meetings.

CONSTANTINE ALEXANDER: It's not required. All they're required to notify by the Ordinance, like any other person who comes before us, notify by mail every abutter, and every abutter to an abutter I think within 300 feet of the site. That's all. And then the rest is reliance on the newspaper advertisement and the public posting.

TIMOTHY HUGHES: Those are the statutory requirements for a Petitioner for

a Variance.

BRENDAN SULLIVAN: When we say abutter, we're saying property owner are the only ones that we would know of.

GWEN SPEETH: Right as opposed to rentals.

CONSTANTINE ALEXANDER: Tenants don't get notice.

GWEN SPEETH: If the Cambridge Housing Authority said they had to do a community meeting and the community meeting did not adequately inform the meeting, they said nobody attended. I promise you I would have been there if I known about it. But I didn't know about it. And as I said, the neighbors that I have spoken to didn't know about it.

CONSTANTINE ALEXANDER: I would acknowledge, in my view personal view, I

think their community notification was less than stellar, but I don't think it's a basis for us not -- for not going forward tonight. I mean, this is -- there are business concerns, issues here, and I mean there is notice out and they did comply with the Zoning notices. And unless you can hear, I'm imploring them and requiring them to do better next time as Chair. I don't know about members of the Board. I'm not ready to stop this hearing because of that and to force them to have now a community meeting that you would like to have had. I'm sorry.

ATTORNEY ARTHUR KREIGER: If any of these neighbors has questions tonight, obviously we can address them.

CONSTANTINE ALEXANDER: And as you point out, a lot of people were unhappy with the answers that they got, no one's took the

time to write a letter to us.

GWEN SPEETH: Yeah, I don't --

CONSTANTINE ALEXANDER: And no one's come down tonight. I mean, I hear you and I believe you. But I've got to weigh into how troublesome their problems were if they didn't make any effort to deal with it.

GWEN SPEETH: I understand. They may not feel -- I mean, they went to the meeting and asked questions but did not -- felt empowered to tell their community about it but didn't feel like they knew what the next step was unfortunately.

Did you want to speak?

TIMOTHY HUGHES: I think you need to identify yourself.

UNIDENTIFIED AUDIENCE MEMBER: I came to one prior.

TIMOTHY HUGHES: I need a name and

address before you can continue. Your name and address for the stenographer.

UNIDENTIFIED AUDIENCE MEMBER: I'm an elderly woman. I have a heart condition. They both became issue --

CONSTANTINE ALEXANDER: Ma'am, I'm not going to let you speak any further. If you want to speak, you must identify yourself.

UNIDENTIFIED AUDIENCE MEMBER: Can I tell her and she can say it?

CONSTANTINE ALEXANDER: Yes, you can do that.

(Statements made off the record.)

GWEN SPEETH: Just give them the name.

UNIDENTIFIED AUDIENCE MEMBER:
She's identified. She can say it.

(Statements made off the record.)

GWEN SPEETH: The announcement had the wrong address of your previous proposal on Concord Avenue and not the Clarendon address.

ATTORNEY ARTHUR KREIGER: This is the first I heard this.

CONSTANTINE ALEXANDER: I'm going to bring this -- I'm going to bring --

TIMOTHY HUGHES: Is there a Concord Avenue, Cambridge Housing Authority?

CONSTANTINE ALEXANDER: I'm going to bring this discussion about the notice and the community meeting to a close.

They did what the Cambridge Housing Authority required them to do. It may not have been a perfect way of doing it.

(Statement made off the record.)

CONSTANTINE ALEXANDER: It may not be a good thing. I think it could be better

in the future as I tried to inquire tonight. But I don't think we're going to. This isn't fruitful any longer to go down this road. The facts are what they are. And so I think if you have anything else you want to address or questions you wanted to ask, go ahead.

GWEN SPEETH: I do. I'm concerned about the health and safety issues.

CONSTANTINE ALEXANDER: Let me just address that, please.

You should know that by federal law the Zoning Boards cannot take into account health effects of these telecommunications facilities.

That the Federal Government has made a determination that they are not harmful and that they are there for no reason or no ability of communities to prevent these sites from doing -- from doing what they want to do.

There are Zoning issues, most of which are related to aesthetics and the impact, the visual impact, but it is off the table.

That's a federal requirement. It's not our decision. That's how the law is. So I don't want to go -- I don't want to talk about this.

I know your concerns and we're going to require as a condition later, that to the extent that they file reports about the emissions with the Federal Government, they must file them with the City of Cambridge which you'll be able to find out.

GWEN SPEETH: Through a different body? Through you or through the Planning Board?

CONSTANTINE ALEXANDER: Through the Inspectional Services.

GWEN SPEETH: Inspectional Services, okay.

And just the regulation that states that -- just so that I can understand whose responsible. Is it the FCC or --

ATTORNEY ARTHUR KREIGER: The FCC.

CONSTANTINE ALEXANDER: The FCC regulates telecommunications carriers. It's been an act of Congress dealing with regulation of carriers and the issue of safety issues, health issues, saying that at least at one point there is no right for communities to deny relief based upon concerns about health impact.

GWEN SPEETH: Regardless of residential versus commercial?

CONSTANTINE ALEXANDER: No different. Residential, commercial, whatever.

This issue of health impact is a matter of continuing concern and investigation, but

until -- and the rules may change in the future, but until the Federal Government changes the law, we can't get involved in that. We have no right to deny this petition. If we want to otherwise, wanted to because of health concerns.

GWEN SPEETH: Would any of you guys like to have an antenna facility right next to your house?

CONSTANTINE ALEXANDER: Let's keep moving on. We want to finish this sometime this evening.

Any other questions?

UNIDENTIFIED AUDIENCE MEMBER: No.

So how soon would I be able to -- are you going to be monitoring the emissions?

ATTORNEY ARTHUR KREIGER: We'll get into that issue. We need to have a discussion about that proposed condition.

I'm going to object to this continued allegations by someone that won't give her name.

CONSTANTINE ALEXANDER: I am.

TIMOTHY HUGHES: Her discussions --

CONSTANTINE ALEXANDER: Anything she has said has not been made a part of the record. I'm trying to be patient but our patience has ended. Is coming to a limit as it is. Okay? We've gone -- if you won't identify yourself and you won't address issues, then we don't -- we have a lot of other cases. We have a lot of people sitting in the audience that have other things to do besides listen to us haggle over this. So let's move on.

ATTORNEY ARTHUR KREIGER: We're --

CONSTANTINE ALEXANDER: Anybody else in the audience want to speak on this

matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. Okay.

ATTORNEY ARTHUR KREIGER: That's the presentation, Mr. Chairman, Members of the Board. We request the relief. We understand the typical usual conditions. The condition about monitoring is a troublesome one because there are not regular reports, certainly not site specific reports to the FCC. Don Haes can describe what the reporting scheme is. But it's, it will be very cumbersome. And the way I heard the -- you describe the condition last time, I haven't seen the written decision.

CONSTANTINE ALEXANDER: We're going to do a new version this time.

ATTORNEY ARTHUR KREIGER: Maybe

I'll be presently surprised.

CONSTANTINE ALEXANDER: No, no. Your comments last time were taken into account.

ATTORNEY ARTHUR KREIGER: The motion of terminated if we miss the filing deadline is a difficult one.

CONSTANTINE ALEXANDER: We imposed this condition with other carriers and they have not objected. You may object, but we're going to impose the condition assuming the Board wants to do it and if you want to take us to court, take us to court.

ATTORNEY ARTHUR KREIGER: Well....

CONSTANTINE ALEXANDER: I mean it, that's.

ATTORNEY ARTHUR KREIGER: If you want to hear about what the reporting scheme is --

JANET GREEN: I would.

ATTORNEY ARTHUR KREIGER: -- it
might help.

DON HAES: Good evening.

CONSTANTINE ALEXANDER: Name and
address.

DON HAES: Name is Don Haes. I have
an office in Hudson, New Hampshire.

I'm here as an independent consultant.
The only requirements for reporting to the
FCC would be for as they're doing now, a new
application or with a licensed renewal. For
example, every ten years for a personal
license. That is the only reporting that's
required by the FCC.

CONSTANTINE ALEXANDER: As of right
now. That may change.

DON HAES: Correct.

There's no notice of proposed rule

making for change.

CONSTANTINE ALEXANDER: Wait a minute, there's no -- you're required to file copies of reports you file with the FCC with the Inspectional Services Department, and you have no report to file, then you have no problem complying with the condition. Am I right?

DON HAES: Well, I'm just telling you what the FCC requirements are. I have no --

CONSTANTINE ALEXANDER: Okay.

DON HAES: -- nothing to do with --

CONSTANTINE ALEXANDER: Whatever they are, and they may change from time to time, I think we as a community -- I feel strongly about this, we want the citizens of Cambridge to be getting access to those reports on a timely basis. And the only way

I can put some teeth to that timeliness is to put a termination provision and that's why we do that.

DON HAES: Just for clarification, what report would that be?

CONSTANTINE ALEXANDER: Whatever reports regarding -- we'll get to the condition. (Reading) Any report you file with the federal authorities regarding electromagnetic energy waves emissions emanating from your equipment on the site.

ATTORNEY ARTHUR KREIGER: On this site?

CONSTANTINE ALEXANDER: This site.

ATTORNEY ARTHUR KREIGER: Do you mean if we file a national report, that includes this site, but there are no site specific reports.

CONSTANTINE ALEXANDER: If there's

no site specific report and there's no way of determining from the global or the national report that you file would involve this site, then there is no -- then you don't have to meet the requirement. I'll make it clearer in the provision.

ATTORNEY ARTHUR KREIGER: Okay.

CONSTANTINE ALEXANDER: But the fact of the matter is if you can determine from the, from a national report, if there's a section that deals with Clarendon Avenue in Cambridge or Cambridge in general, that report, I want it filed with the Inspectional Services Department so that the citizens of Cambridge can get access to it.

TIMOTHY HUGHES: You don't actually test sites? You just file a report based on what your antenna manufacturers' say is the output of these antennas; is that correct?

DON HAES: Yes.

TIMOTHY HUGHES: Thank you.

GWEN SPEETH: Is that something that would be on file, the amount of anticipated radiation from the --

DAVID FORD: That was filed with the application.

ATTORNEY ARTHUR KREIGER: So there is a report in the application about emissions.

GWEN SPEETH: About anticipated emissions and that's something that's available to me?

DAVID FORD: I'll give you a copy right now.

CONSTANTINE ALEXANDER: They have a copy that they're filing right now, and then if there's anything new in the future, we want them to file that as well.

GWEN SPEETH: The unlikelihood of being anything in the future ten years --

CONSTANTINE ALEXANDER: That's what we've heard. That's what we've been told.

GWEN SPEETH: Okay. Unless the FCC requires something.

TIMOTHY HUGHES: Unless the rules change.

CONSTANTINE ALEXANDER: Unless the rules change.

TIMOTHY HUGHES: Right now it will be on their re-applying for a license or renewing their license which will be in ten years. Is that what I'm hearing?

CONSTANTINE ALEXANDER: That's what I've heard.

GWEN SPEETH: Sorry, you said when there's a new application or when that -- when you're filing after ten years, so you're

saying there's no actual measurement even when you're filing a new report? It's not like you built it, measure it, and then you don't have to do that. You're doing what the gentleman said, which is filing a theoretical; is that correct?

DON HAES: That's correct.

GWEN SPEETH: Based on manufacturer specifications not reality of --

DON HAES: Right. The only time you would require measurements if you go over a certain level if, for example, Massachusetts, they have state level laws. If you go over a certain level, I believe, it's 30 percent of the allowable limit, then you have to perform conformity measurements.

TIMOTHY HUGHES: And that being not a site specific, that would mean if you go over a certain level of installations and

then --

DON HAES: No, no, that's at each site.

TIMOTHY HUGHES: How would you even know that if you don't test?

DON HAES: Well, you do it -- you're theoretical.

TIMOTHY HUGHES: Theoretical, right.

DON HAES: Right.

TIMOTHY HUGHES: So if you know you're only putting 12 antennas there and you never put more than 12 antennas there, you'll never go over.

DAVID FORD: Multiple carriers.

TIMOTHY HUGHES: So then who's responsible to test --

DAVID FORD: The next carrier.

TIMOTHY HUGHES: -- the next carrier

that comes in, okay.

DAVID FORD: The next one that would come. The next would one come and do --

TIMOTHY HUGHES: All right, all right. So it builds up on a rooftop but then the last guy, the last company is the one that has to test, has to do an actual measurement?

DON HAES: It could end up that way, yes.

TIMOTHY HUGHES: It could.

GWEN SPEETH: And only on their actual same site, on the roof itself, not in the neighborhood, correct?

DON HAES: Correct.

GWEN SPEETH: The same address?

DON HAES: The installation site, the whole site.

CONSTANTINE ALEXANDER: The whole site.

ATTORNEY ARTHUR KREIGER: My view is I have no problem agreeing voluntarily to provide documents to the city to provide to the FCC if the rules change. But administratively it's not so simple. You think well, this is important, AT&T should pay attention. We're talking about thousands of sites. We're talking about a different part of AT&T with federal filings then it wouldn't be done at the local level. It's a level of coordination of communication and just administrative follow through that's unreasonable to expect -- it's not unreasonable to hope for, but it's unreasonable to say that the Special Permit will terminate if there's an administrative slip up.

CONSTANTINE ALEXANDER: Come back and reapply. Just reapply.

ATTORNEY ARTHUR KREIGER: Well,
that's --

CONSTANTINE ALEXANDER: Just
reapply.

ATTORNEY ARTHUR KREIGER: Let me
just make this if I may.

Where we're talking about an issue that
you can't regulate on, to regulate on the
reports on that issue, I think is the same
as -- has the same legal problem as trying to
regulate indirectly in an area that the Board
has acknowledged. It cannot regulate
indirectly.

JANET GREEN: One thing I didn't
understand is you mentioned that there are
regulations for the state. Does the state
have regulations for the amount that can be
on any one rooftop?

DON HAES: Yes.

JANET GREEN: So it is regulated?

DON HAES: Yes. State and federal.

JANET GREEN: State and federal?

DON HAES: Right. The limit would be 100 percent of the allowable limit, right.

TIMOTHY HUGHES: What percentage is just a 12-antenna installation?

DAVID FORD: For this site we are 0.35.

TIMOTHY HUGHES: Thank you.

GWEN SPEETH: And that's regardless of residential?

JANET GREEN: That's just the power outage.

DAVID FORD: It's like you're standing on the street, what it would be.

TIMOTHY HUGHES: Can I ask you a question? You're the expert. I have this OET Bulletin in front of me. Is that the most

current analysis of biological effects of potential hazards of radiofrequency of electromagnetic fields?

DON HAES: From the FCC more or less.

TIMOTHY HUGHES: That the FCC's most current document?

DON HAES: Yeah. They -- I mean, you have to keep an eye on the federal register and look at their proposed rule making and so on, but....

TIMOTHY HUGHES: Because this is dated in August of 1999 that's why I asked.

DON HAES: Right, right.

TIMOTHY HUGHES: That's the most current?

DON HAES: They're in the process of publishing another one once they get the reviews back of the latest proposed rule making that went out in January of 2013.

TIMOTHY HUGHES: Okay.

ATTORNEY ARTHUR KREIGER: 56 that you just mentioned, is basically a Q&A.

DON HAES: 56 is a health effects. That's the --

ATTORNEY ARTHUR KREIGER: 65 is the larger document --

DON HAES: OET, right.

ATTORNEY ARTHUR KREIGER: 65, that you may want to peruse.

TIMOTHY HUGHES: I don't think so. I haven't got through this 36 pages yet.

ATTORNEY ARTHUR KREIGER: Don't read it on your own.

DON HAES: That's not determined compliance.

ATTORNEY ARTHUR KREIGER: I think you had a discussion with Brian Grossman from my office about 56 versus 65. They're two

different documents.

TIMOTHY HUGHES: That's what it was. We thought maybe he was just dyslexic.

ATTORNEY ARTHUR KREIGER: No, I asked him.

TIMOTHY HUGHES: I get it now. I know why we were talking about two different things, but transposed the numbers.

ATTORNEY ARTHUR KREIGER: So voluntarily, I don't have a problem with, but to make it an automatic determination, I would object to. If you impose it, you impose it. That's my position.

CONSTANTINE ALEXANDER: Any further discussion or more questions?

Ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: I'm sorry, one thing I should mention to make sure it was

part of the public record. We have -- we do have correspondence from the Planning Board which I will read into the record. It's a memo from the Planning Board addressed to this Board. (Reading) The Planning Board reviewed the proposed installation and found it to be appropriate. Most of the antennas have been placed using a screen wall with the remainder to be mounted on a facade and finished to blend with the surface using low profile mounts and will be barely visible from the public way. The equipment will be located in the basement and not visible. The Planning Board also appreciates the proponent's efforts -- the word "to" is missing. The proponent's efforts to blend the installation in this location. Also the application of materials were thoughtful and well done.

I would personally concur with that. In terms of the materials you did go through a lot more trouble than most other cases that we've heard about this. And you do have good photo sims for a change.

ATTORNEY ARTHUR KREIGER: Thank you.

JANET GREEN: Yes, really.

DAVID FORD: They're revised.

TIMOTHY HUGHES: You keep practicing this, you'll get it right eventually.

ATTORNEY ARTHUR KREIGER: We'll be in some other town by then.

TIMOTHY HUGHES: We'll be saturated.

CONSTANTINE ALEXANDER: Okay, the Chair moves -- I assume we're ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: I think you are.

The Chair moves that we make the following findings with regard to the Special Permit being sought by the Petitioner:

That the Petitioner has submitted evidence demonstrating a -- a demonstrated public need for the facility at the proposed location, such the map that was submitted showing the, basically the dead spots in this area or the lack of coverage in this area.

That there are no alternative functionally suitable sites in non-residential locations.

The character of the prevailing uses in the area is such that what is being proposed is not inconsistent.

And that we make a specific finding that

non-residential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

The Petitioner, again, in this regard has submitted maps and textual commentary to deal with these issues, and we've heard nothing that would suggest otherwise, and we believe they have satisfied that condition.

Further, we have to make further findings generally for Special Permits, Mr. Kreiger alluded to. That erecting these antennas on the rooftop will not cause congestion or hazard or substantial change in established neighborhood character or effect patterns of access or egress.

That the continued operation of, or

development of adjacent uses, will not be adversely affected by what is being proposed.

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

Other proposed use would be the residents of the facility or the citizens of the city generally.

And that the proposed use 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 to grant the Special Permit being sought subject to the following conditions:

That all work be done in a manner in terms of minimizing the visual impact at the color of the stuff to be constructed on the

building be matched in color to the extent possible with the existing texture and color of the -- what's on the building now.

That should the Petitioner discontinue the use of these antennas on the rooftop or on the building, that they be for a period of six months or more.

That they be promptly, the equipment be promptly removed and the building restored to its prior condition to the extent possible.

And any other general conditions that -- I think those are the ones. We don't have to worry about generators, because you're not going to have a generator on the building.

I think that's it.

And then finally, a final condition that which is an informative one; namely, that inasmuch as the health effects of the

transmission of electromagnetic energy waves as a matter of ongoing societal concern and scientific study, a Special Permit is also subject to the following conditions:

That the Petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all reports and files that specifically deal with electromagnetic energy waves submissions emanating from the equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to grant any -- to timely file any such report with the Inspectional Services Department shall ipso facto terminate the

Special Permit granted tonight.

Two, in the event that at any time the federal authorities notify the Petitioner that its equipment on the site, including but not limited to, the equipment permitted by the Special Permit granted tonight, fails to comply with requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, Petitioner shall, within ten business days of receipt of notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure. And 60 calendar days for receipt by Petitioner of such notification of failure, a Special Permit granted tonight shall ipso facto terminate.

And to the extent the Special Permit has terminated pursuant to the foregoing items that I've identified, the Petitioner may apply to the Board for a new Special Permit provided for public notice concerning such application discloses a reasonable detail that the application has been filed because of the termination Special Permit pursuant to the items I've identified.

And the Petitioner's objection to these portion of the special conditions has been duly noted.

ATTORNEY ARTHUR KREIGER: And may I ask a question about the last part?

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY ARTHUR KREIGER: I take it that there wouldn't be two-year bar under Section 16 or any other delay in reapplying?

CONSTANTINE ALEXANDER: In my

opinion, and I'll put it on the record, no is the answer to that question. This is not a new -- it's a new permit but it's for a specific purpose. It's because the old one was terminated for failure to --

ATTORNEY ARTHUR KREIGER: I just want to make sure we can come right back in if it's an oversight and this happens.

CONSTANTINE ALEXANDER: I can't bind I guess future Boards. In my opinion and this Board as of now --

ATTORNEY ARTHUR KREIGER: You can build it into the petition that we may reapply without delay.

CONSTANTINE ALEXANDER: And with regard to the extent that the Petitioner has to reapply because of a termination of Special Permit as such, reapplication or new application would not be deemed a repetitive

petition and therefore not subject to the two-year period that prohibits repetitive petition.

ATTORNEY ARTHUR KREIGER: Thank you.

CONSTANTINE ALEXANDER: All those in favor of granting the Special Permit on this basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

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

CONSTANTINE ALEXANDER: Good presentation.

* * * * *

(9:45 p.m.)

(Sitting Members Case #BZA-004369-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 004369, 5 Exeter Park.

Is there anyone here wishing to be heard on this matter? Okay, let's start. You know the drill.

MARK BOYES-WATSON: Mark Boyes-Watson, Boyes-Watson Architects, 30 Bowes Street, Somerville.

LAUREN HARDER: Lauren Harder, H-a-r-d-e-r.

MARTIN HILL: Martin Hill.

MARK BOYES-WATSON: We are here today for 5 Exeter Street. It's --

CONSTANTINE ALEXANDER: Exeter Park.

MARK BOYES-WATSON: Exeter Park. It's on a cul-de-sac, and it's this house. And --

CONSTANTINE ALEXANDER: And the street, Mass. Avenue is on the left, my left, your right.

MARK BOYES-WATSON: This is Mass. Ave. right here. And so the name -- it's somewhere right here. And the house is an existing non-conforming building. It's been rehabbed. The owners want to make some changes on the elevations that are a non-conforming for setback, and those changes require a Special Permit from the Board.

They are -- I'm actually going to -- I'm going to walk around the house. The front elevation, you're allowed to make changes. So I'm going to talk first about the right side elevation.

JANET GREEN: Is there anybody trying to hear in the audience?

CONSTANTINE ALEXANDER: Is there anyone here in the audience from this case? We have letters in the file. I can't see. I

take it no one is here. It's all right.

Okay.

MARK BOYES-WATSON: So, on the -- so I'm going to talk to -- this is the right side elevation. And on this elevation there's an existing door, and -- it's hard to do this upside down -- and a window and a window. What we're doing is --

CONSTANTINE ALEXANDER: Why don't you hold that so it makes it a little easier.

MARK BOYES-WATSON: And I wanted to make sure I can see.

So, basically this door is getting altered, brought down to grade. So it's just a relocation of existing door. This window slightly changes location, and the basement window is eliminated.

The -- if you look here, those two windows are proposed. Not here currently.

CONSTANTINE ALEXANDER: And the purpose of putting those windows there?

MARK BOYES-WATSON: Just improves the functionality of that room.

So on the rear elevation, right now what's on the rear elevation is that there's sort of a -- sort of pop-out piece here. And this, this stoop gets you out of the back stair. What's going on here is that we are going to remove that --

CONSTANTINE ALEXANDER: Bump out.

MARK BOYES-WATSON: -- that little bump out. And the stoop configuration. There's that same little stoop, but now there's a way out to the garden from that back unit. So this fenestration is not the same as it was. The stoop's added and the fenestration's changed.

Up here is just a small reconfiguration

of the way the windows work. Here they are now.

Then on the -- as you face the house on the left side elevation, we -- which is where this bay is, we are opening a window well here for the basement, and here, which you see if you look at the same thing here's elevation.

CONSTANTINE ALEXANDER: And the purpose of doing that is?

MARK BOYES-WATSON: To give light to the basement. The basement is over seven feet high.

CONSTANTINE ALEXANDER: Habitable basement?

MARK BOYES-WATSON: Habitable basement. It is being -- this improves the lighting to that basement. And that's, that's basically the windows changed in non-conforming setbacks that require a

Special Permit, too.

CONSTANTINE ALEXANDER: Are you adding a front door on the front?

MARK BOYES-WATSON: We are on the front elevation. We are -- there's an upstairs and downstairs, so we're giving them a separate entrance, each one.

CONSTANTINE ALEXANDER: You're aware there's a letter in opposition. I'm going to read them into the file, but I wanted to make sure you know.

MARTIN HILL: Yes, we are aware.

MARK BOYES-WATSON: Yeah.

TIMOTHY HUGHES: Do you need relief for the front door?

MARK BOYES-WATSON: You don't need relief. I think it's already permitted that way not withstanding.

CONSTANTINE ALEXANDER: And that's

all she wrote?

MARK BOYES-WATSON: Yeah.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIMOTHY HUGHES: No, I just asked my question.

CONSTANTINE ALEXANDER: You have to wait for me to recognize you, though.

Anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one.

As I have indicated, we do have letters in the file regarding this matter.

We have a letter from Deena, D-e-e-n-a Daes, D-a-e-s Roiux, R-o-i-u-x and Phillipe Roiux, R-i-o-u-x, who reside at 6 Exeter Park. Owners since 1968 according to their

letter. (Reading) Dear BZA: We may be unable to attend the public hearing on Thursday, July 24th, and are writing to oppose part of the Special Permit requested in this case. We have lived in Exeter Park since 1979 or earlier and have always enjoyed the harmony of the design of the houses here. The street elevations of the houses on the north side of Exeter Park, numbers 1, 3, 5, and 7, are almost identical and adds greatly to the unity of the streetscape. The street elevations of these four houses have identical window and door openings on the basement, floor 1, and floor 2 levels. They are slightly different at the roof level. We are opposed to any changes being made in the location and the size of the openings in the street elevation at 5 Exeter Park at basement, floor 1, and floor 2 levels. If

changes need to be made, they could be made on the side and back elevations where they would not be so obvious from the street and would not destroy the unity of the facades of the four houses. All seven houses on Exeter Park have their original front doors. Each house is only one front door even though houses 1, 2, 3, 5, and 7 have more than one living unit. We oppose the installation of another front door at 5 Exeter Park. There is to be no increase in the number of living units, three, so another front door is unnecessary. We understand that some changes have to be made to the street elevation of 5 Exeter Park (balcony, railing height, etcetera), to bring the house up to 2014 Building Code and this makes it even more important to preserve other remaining original features. The houses on the corner

of Exeter Park and Massachusetts Avenue (1759, 1751, and 1753 Mass. Ave.) were built at the same time by the same builder as the seven houses on Exeter Park. They have, they have been altered in many inappropriate ways and it is now impossible to see them as part of the Exeter Park route. It would be a disaster if this happened to the houses on Exeter Park and the architectural integrity of one of the few remaining recognizable groups of modern Victorian houses in Cambridge was destroyed.

And then we have a letter -- I want to ask you to speak to these comments and we can go through the letters first -- signed by the residents of 4 Exeter Park, 2 Exeter Park, 1 Exeter Park, 3 Exeter Park. And it says -- in fact, it's the same letter I just noticed so I'm not going to read it again. So we have

this letter that I've read from the people at 6 Exeter Park, 4, 2, 1, and 3.

So, you heard their comments or maybe you want me to repeat it, I would be happy to do so. What's your response to this?

MARK BOYES-WATSON: I think that -- I'll let Martin and Lauren respond, but I think that the -- just to be clear what is being proposed for changes on the front elevation -- so, which is that there are none except for within the porch which is already set back. And the porch, right now there's this door, and the proposal is to add a door. That's the only change. Otherwise we intend to restore the building and keep it as it is.

LAUREN HARDER: We've spoken with all of the neighbors on all sides. They all obviously are not happy with the front door. I think that we're very sympathetic to their

concerns. They're open to all of the other changes that are being made that we are here to request today, specifically 7 Exeter with the door being moved down to grade, remove a stoop that's on the lot line. That's an advantageous change. The window wells for light. The left side of the building also are fine. So I think that we feel, you know, we're open to their concerns and --

CONSTANTINE ALEXANDER: Well, what about the concern about the door? But you're not open the second front door?

MARTIN HILL: We're open to it. We feel it was nice to have a separate entrance.

CONSTANTINE ALEXANDER: Did you want to eliminate it? I want to understand what relief you're seeking? Should we eliminate it or not?

LAUREN HARDER: I'm not --

CONSTANTINE ALEXANDER: Let them speak.

MARK BOYES-WATSON: Relief is not required.

CONSTANTINE ALEXANDER: I know, I know that. But to give as a condition of granting the relief, we could condition it --

MARK BOYES-WATSON: Right. You could condition it.

CONSTANTINE ALEXANDER: -- to removing the front door or you could voluntarily remove it.

MARK BOYES-WATSON: Right.

CONSTANTINE ALEXANDER: I want to know what your reaction is.

TIMOTHY HUGHES: Can I ask them, what's the layout inside that single front door now, and what would improve by adding that second door?

LAUREN HARDER: Currently it's a common entry.

TIMOTHY HUGHES: So a small foyer and a stairwell that immediately starts up the stairs?

LAUREN HARDER: Two unit doors inside the front. This would provide a private entrance for one of --

TIMOTHY HUGHES: Is there an open stair and then --

MARTIN HILL: Yes.

LAUREN HARDER: Yes.

MARK BOYES-WATSON: It is actually -- it's closed now. So you go through the door -- it's like this. So it is -- where are we? Here. So right now you come in here and in, in here and in here. Right?

TIMOTHY HUGHES: Before you even see

a staircase. There's two doors before you see a staircase?

MARK BOYES-WATSON: Exactly.

TIMOTHY HUGHES: And there's no character where they see an open stair coming down?

MARTIN HILL: No.

MARK BOYES-WATSON: No, no. All you're doing is providing the, you know, if I own this, I would kick my boots off here before I get into the stair.

LAUREN HARDER: And in fact you could open up this one door so that you do walk in and see a stair.

MARK BOYES-WATSON: Right.

TIMOTHY HUGHES: I see.

LAUREN HARDER: It was -- with that it would be slightly more gracious for the entrance of that unit. On the other hand,

the front porch is a nice front porch. By adding a door, you do lose the ability to use the porch, the table and chairs there. So that would be an amenity that would be preserved if we did not have a front door. So I think we're, we're open to -- yeah.

MARTIN HILL: We don't have to do this.

CONSTANTINE ALEXANDER: It's your petition. What do you want to do? Do you want to eliminate the front door and make peace with the neighbors or not?

LAUREN HARDER: Yeah, I think so.

MARTIN HILL: We don't feel like we're having a fight with the neighbors. We'd like to accommodate their concerns. I think we're -- it's prudent for us and we tend to go that way to eliminate that front door.

CONSTANTINE ALEXANDER: That's

fine. That's very neighborly of you.

MARTIN HILL: Thank you.

JANET GREEN: Yes, very.

MARTIN HILL: Let them know that.

LAUREN HARDER: Yeah, and I've been pleased that they're all supportive of everything that we're doing.

CONSTANTINE ALEXANDER: I guess I did ask for public comments and there was none. I read the letters. I'll close public testimony.

Any discussion on the proposal that's being made before us with the elimination -- these are the plans, with the elimination of a second front door or should we go for a vote?

TIMOTHY HUGHES: No, I'm good. I was good with the door so I'm good without it.

CONSTANTINE ALEXANDER: I thought

you were going to require them to put the door in.

Okay.

This is a Special Permit, so I've got to go through the criteria for Special Permit.

The Chair moves that we make the following findings as what's being proposed, traffic generated or patterns of access or egress will result from the changes being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed.

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 for other reasons the proposed use will, 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 these findings, the Chair moves that we grant the Special Permit being sought on the condition that the work proceed in accordance with the plans submitted by the Petitioner, prepared by Boyes-Watson -- Mark Boyes-Watson, Boyes-Watson Architects. There are several pages in number. The first page A101, and the date issued is 7/16/14. Except that to the extent the plans show two front doors on the street, that there will only be one. You'll take away the one door, the new door

that you're proposing to add.

All those in favor of granting the
Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Good luck.

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

* * * * *

(10:00 p.m.)

(Sitting Members Case #BZA-004401-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 004401, 660-674 Cambridge Street.

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

ATTORNEY KEVIN CRANE: Good evening, Mr. Chairman, Members of the Board. My name is Kevin Crane, C-r-a-n-e. I'm the attorney for the Petitioner. My office is located at 104 Mount Auburn Street in Cambridge. And my two clients, they can identify themselves for the record.

DANIEL MYERS: Daniel Myers, M-y-e-r-s. And we live at 175 Tremont Street in Somerville.

REBECCA THERIS: Rebecca Theris. That's T-h-e-r-i-s at 175 Tremont Street.

ATTORNEY KEVIN CRANE:
Mr. Chairman, the relief that we're requesting is from the parking requirement at

this particular site. The present requirement is that there be one parking space per five seats, and the proposal's for 160 seats which would translate into 32 parking spaces with the first four spaces --

CONSTANTINE ALEXANDER: Missing it by a few.

ATTORNEY KEVIN CRANE: The first four are exempt, so we're down to 28.

The history of this building is that, yes, there was a package store located here for many, many years. There was a fire at this location in the late 1980s and the owner did receive an early 1990 Board of Zoning Appeal approval for the present structure which consists of retail on the first floor. And it's been -- the package store returned there, and then there's 12 residential units on the three floors above the retail. The

old liquor store closed in the winter of 2012/2013 so this space has been vacant for a year and a half.

The plans that we submitted show that there are 160 seats, 32 of the seats would be outside in the patio area to the right of the west end of the building. There's a garage storage area there right in inside, an old garage storage area, which would be a cafe type.

CONSTANTINE ALEXANDER: It's a large restaurant you're talking about, 160 seats.

ATTORNEY KEVIN CRANE: It's a big space. It would be 25 seats there and then 103 seats inside.

As you mentioned, we've submitted a menu. I'm sure you're familiar with the theory, generally. I would say that this

section of Cambridge Street is tired. It's not like the Inman Square section of Cambridge Street.

CONSTANTINE ALEXANDER: You going to take offense to that?

TIMOTHY HUGHES: No, I don't live in this section. I live in the Inman Square section that's not tired.

ATTORNEY KEVIN CRANE: That's the untired section. You guys never sleep up there.

TIMOTHY HUGHES: We're being invigorated of every single moment of every single day.

ATTORNEY KEVIN CRANE: This section I would say unfortunately is sort of tired. I think there's a lot of turn over in the retail commercial area. There's -- there are a number of vacancies, significant

vacancies, on this stretch of Cambridge Street.

As far as the parking issue in particular, my clients' hope is that it will be a real neighborhood type attraction and that we will have people coming by foot or by bike. As in many other sections of the city, we've seen new restaurants go in that really do become neighborhood establishments.

CONSTANTINE ALEXANDER: To grant the relief you're seeking, the Ordinance 6.35.1 requires that we determine and cite evidence in our decision. So I want you to address this. That the lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses or otherwise adversely impact the neighborhood. So why don't you make sure you cover that.

ATTORNEY KEVIN CRANE: Okay.

On that issue, Mr. Chairman, I would note that the meters on Cambridge Street are underutilized right now. They go off at six o'clock when the restaurant would be at its peak.

CONSTANTINE ALEXANDER: Or starting to.

ATTORNEY KEVIN CRANE: Starting.

Also there is a bus stop directly in front of this building for the Lechmere line. And I think most importantly, as far as -- significantly, as far as a finding in this particular area, is that there is a city parking lot around the corner on Warren Street. Now, it's literally, I would say, 250 feet around the corner. There are 35 parking spaces there. It is very underutilized.

I have some pictures which my client did take at various times in the past two weeks, which I'd like to submit to the Board, which evidence that there are --

CONSTANTINE ALEXANDER: So people who live in the area don't use this to park?

ATTORNEY KEVIN CRANE: As far as we can tell, no, Mr. Chairman. There's residential parking on the streets and there might be some businesses that use it, but the overnight, even on Thursday, Friday, Saturday night, there have to be at least 15 spaces that are vacant there.

The meters go off there at six o'clock as well. During the day it is sort of an odd time that they have. I don't think I've seen any other place in the city, it's a four hour meter, from eight to six o'clock. But, again, the lot is -- it's almost like they're

having a private lot, your own lot really, and it is literally around the corner.

As far as traffic congestion is concerned, again we hope there will be foot traffic, the bike traffic. And as far as increased traffic congestion, I would submit that the restaurant use would be -- produced less traffic congestion than the package store where there were probably people stopping, going in very quickly, making a purchase and coming out. Whereas the restaurant, you have people going in and staying there for quite a while. We would submit that the early night activity of the restaurant will complement the residential neighborhood as well. As you know, it is a mixed commercial/residential neighborhood.

CONSTANTINE ALEXANDER: What's your proposal? Excuse me, your proposed hours of

operation.

DANIEL MYERS: We're looking at operating the cafe eight a.m. daily and close at four p.m. and open the restaurant 5:30, 5:00 p.m. A lot of us work in the area. I work for the Puritan and Company. It would be along those lines, closing around 10:00, 11:00 p.m. in the kitchen and shortly after.

CONSTANTINE ALEXANDER: Is this your first operation?

DANIEL MYERS: First ownership operation.

ATTORNEY KEVIN CRANE:

Mr. Chairman, I know there are a number of letters of support in the file, and I must say that my clients, I think, have done a wonderful job reaching out and touching all the bases. Many instances I have to do a lot of hand holding with clients through this

processes, and these two young people learned it very quick, and they were very effective I think. And that reflects on them, hopefully their operation would be such that there would be a whole lot of cars -- if there were they could find a parking space.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board or I'll open it to public testimony?

TIMOTHY HUGHES: No. Do you think that parking lot is underutilized because Joe Mack's customers had all their licenses taken away from them?

ATTORNEY KEVIN CRANE: That could be.

TIMOTHY HUGHES: Did you represent any --

ATTORNEY KEVIN CRANE: No, no.

It's closed, isn't it?

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

We are in receipt of several pieces of correspondence. In no particular order, we have a letter from the East Cambridge Planning Team. (Reading) On June 11th Dan Myers, Rebecca Theris, and David Bellow (phonetic) along with attorney Kevin Crane attended our ECPT meeting to explain their plans for a new restaurant to be constructed in a building formerly occupied by University Liquors on Cambridge Street. It is already Zoned for restaurant use, but must be made ADA accessible. They plan to have seating for 90 to 100 with a small bar area, seating nine or ten. The kitchen will be open to view and all

food served will be made from scratch on the premises. Servings will be small plates to be shared to encourage a sense of community among diners. The menu will feature locally grown New England produce, seafood, and meats. They're asking for a Special Permit for relief from the parking requirement. In response to several questions, they indicated that the requirement of one parking space for every five seats in the restaurant was a concern. A bike rack and bus stop occupy much of the Cambridge Street frontage. They will probably have to rely on valet parking. A driveway 18 feet wide along one side of the building will provide space for delivery trucks, most of which won't be large since most of their vendors will be locally owned farms and businesses. A dedicated trash area is behind the building.

Eventually they hope to have some outdoor seating beside the railroad tracks. The restaurant will be called Loyal 9 after some of our earliest patrons. Because of an overly-crowded agenda, no formal vote was taken on this new restaurant. However, those present seemed to be very positive about it and pleased that the building, which has been vacant for nearly a year, will once again be occupied. We hope you will support their plans also.

We have a letter from the Mayor -- city Mayor, David Maher. (Reading) I am writing in support of the Loyal 9 Group's application for a Special Permit to reduce the number of required parking spots at the location of their proposed restaurant. The Loyal 9 Restaurant Group seeks to open a cafe during the day and a full service restaurant in the

evening. The applicants are locally based, and currently work at other successful Cambridge restaurants, including Puritan and Company, Bondir, and Hungry Mother. The Loyal 9 Group would occupy a formerly troubled storefront and transform it into a lively, welcoming dining destination. I believe this type of vibrant atmosphere will benefit this stretch of Cambridge Street. There are signed ample meters and current parking in the area as well an on-street public parking lot across the street from their proposed location. I believe the requested parking relief is reasonable and would clear the way for Loyal 9 to enliven an underutilized section of Cambridge Street. In addition, Loyal 9 strongly encourages patrons to take public transportation to the restaurant and plans to install a bike rack

for short-term parking. This aligns with the city's goals of encouraging sustainable transportation and reducing vehicular trips. To close, I encourage the Board to grant Loyal 9 a Special Permit to produce a number of required parking spaces. I am confident in the applicant's ability to open a successful restaurant that will be a welcome addition to the neighborhood.

We have a letter from the City Councilor Timothy J. Toomey, Jr. (Reading) I am writing to lend my support to BZA case 004401 requesting parking relief for a new business. The owners of Loyal 9, a new restaurant at 660-674 Cambridge Street had a meeting with neighborhood groups and abutters to advance their attempt to inform you about their new endeavor at this location. It is my understanding that they have received a lot

of positive feedback. Additionally this retail location has been vacant for a number of months and the vacancy has a negative impact on this area of Cambridge Street. Allowing the owners will Loyal 9 to revitalize the storefront will bring much needed activity to this area. Thank you for your attention to this matter. I hope you will find favor with the Petitioner's request.

And last but not least we have a letter from the East Cambridge Business Association. Sent by Patrick Magee, M-a-g-e-e, President. (Reading) I am writing on behalf of the East Cambridge Business Association to lend our support for the application by Loyal 9 to open a cafe and restaurant at 660 Cambridge Street. The applicants have reached out to the ECBA and

explained the concept at a recent meeting. Since then they have reached out to abutters and others in the community and have received positive support. This stretch of Cambridge Street has struggled with numerous vacancies. Being near the railroad tracks, this vacancy becomes more prominent. An active use at this location, such as a cafe and restaurant, will dramatically improve the atmosphere in this area. Many business owners and landlords understand that parking needs and improving business along the corridor will go hand in hand. Parking for sure is an issue that all Cambridge businesses struggle with. In this particular case they will source their clients the same way they source their food, locally. This approach will hopefully have minimal impact on the adjacent parking

supply. With our support and supportive residents, we hope you will find favor with this application.

[And] that's all she wrote. All very positive.

Any further comments, Mr. Crane?

ATTORNEY KEVIN CRANE: No, Mr. Chairman.

CONSTANTINE ALEXANDER: Commentary from members of the Board or we ready for a vote?

TIMOTHY HUGHES: I'm good with it.

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: Okay. We have to make a number of points with respect to the Special Permit being sought.

This Board has a -- proposes that we find that the lesser amount of parking that's the result from this project will not cause

excessive congestion, endanger public safety, substantially reduce parking availability from other uses, or otherwise adversely impact the neighborhood.

In this regard the Petitioner has submitted evidence which has not been contradicted and which we accept as being accurate.

That there is -- there is off-street parking on Warren Street which provides -- is underutilized and will provide parking.

That Cambridge Street is well served by public transportation, and so there's no need necessarily need to drive to this restaurant, the restaurant/cafe.

That the Petitioner's proposed to have a bicycle rack which will also encourage people to come to the restaurant and not drive.

And that generally in this area, many of the restaurants rely heavily on walk-in trade which again minimizes the need for parking.

In short, this is not Weston, the place by walking or taking the bus.

We have to make further findings, general findings with regard to a Special Permit.

That what is being proposed will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of adjacent uses will not be adversely affected by the nature of the proposed use. I would rely on the letter from the East Cambridge Business Association which represents adjacent uses, and also the city officials

who have written to us. All of whom demonstrated or suggested to us or pointed out to us that there would be no impact, adverse impact on adjacent uses.

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

And that the proposed use will not derogate from the integrity of the district or adjoining districts or otherwise derogate from the intent and purpose of this Ordinance.

Based upon these findings, the Chair moves that we grant the Special Permit being sought to reduce the parking requirements for a restaurant as required under our Zoning Ordinance.

All those in fair of granting the

Special Permit say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Congratulations. Good luck.

ATTORNEY KEVIN CRANE: Thank you.

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

* * * * *

(10:20 p.m.)

(Sitting Members Case #BZA-004363-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Thomas Scott, Janet
Green.)

CONSTANTINE ALEXANDER: We'll open
the case.

Ms. Rhatigan, you can start.

ATTORNEY SARAH RHATIGAN: Good
evening, Mr. Chairman and Members of the
Board. I'm Sarah Rhatigan of Trilogy Law, 12
Marshal Street in Boston. And, do you want
to --

BRUCE MILLER: Yeah. I'm Bruce
Miller. I'm an architect. 46 Waltham
Street, Boston, Massachusetts.

SALLY PRASAD: And I'm Sally Prasad.

RAJIV PRASAD: I'm Rajiv, R-a-j-i-v
Prasad. We're both Lee Street.

ATTORNEY ANDREW BRAM: I'm Andrew

Bram here also representing the Petitioners.

ATTORNEY SARAH RHATIGAN: Thanks. We're here before you today with an application for a Variance. And the Prasads purchased this house on May Street in Cambridge. It's a single-family house, and it's in need of some updates and improvements in order to make it suitable for them to raise a family.

They're currently renting in a one-bedroom apartment with a three-year-old which we commend them for, but this is, this is going to be a needed change.

They do have a three-year-old. They have elderly parents who are wanting to come and visit and see their child.

And additionally Mrs. Prasad is an artist, is a painter, and so the renovation

to the attic space is to create a studio that could also serve as a guest room when needed.

So, the situation that they have is that they have a relatively large lot. So they own actually over 5,000 square feet of land and they're taxed on that basis, but because of the Zoning Ordinance definition of a lot, which excludes an easement that's used for drive purposes for access to the neighbor's building, there's about, I believe, 660 square feet of their lot which is not counted for calculating, you know, for Zoning purposes and for calculations. And so they've gone to some great lengths to try to modify the house to fix some sort of oddities, I would say, with the interior layout and try to keep their addition to a modest size within the setbacks. So there aren't any setback violations. But the reason for the required

Variance is that the increase in the square footage, when using that reduced lot size, which is what we're required to do, puts them just over the Ordinance requirement of 0.5.

CONSTANTINE ALEXANDER: Right.

Right now it's a conforming structure.

ATTORNEY SARAH RHATIGAN: Right now FAR is conforming.

CONSTANTINE ALEXANDER: And it's 0.51 --

ATTORNEY SARAH RHATIGAN: 0.51.

CONSTANTINE ALEXANDER: -- and it's 0.5 in this district.

ATTORNEY SARAH RHATIGAN: That's right.

CONSTANTINE ALEXANDER: You are set back a couple of inches if I remember.

ATTORNEY SARAH RHATIGAN: I think there's, but there's no change to the front

yard setback with the revised plans unless --

CONSTANTINE ALEXANDER: Yes, you do. You have a slight --

ATTORNEY ANDREW BRAM: You're correct. They're in the front yard setback, does not meet the requirements of the district presently.

ATTORNEY SARAH RHATIGAN: You know, I think, I'm sorry, I think what the Chairman is trying to say you think the revised plans do --

CONSTANTINE ALEXANDER: I'm reading from your dimensional form. The dimensional form says (inaudible) front yard setback, currently five feet, 26 inches. And you're going to go to five feet, 20 inches.

ATTORNEY SARAH RHATIGAN: No, I'm sorry. The other oddity of the lot is because there's an easement and there's May

Street, there actually are technically two front yards and two side yards. So I'm sorry. I was trying to show in the dimensional table is the -- there's a -- the front yard from May Street is five feet set back from the lot, and the front yard on the easement side is 26 feet set back from the front.

CONSTANTINE ALEXANDER: Oh, okay.

ATTORNEY SARAH RHATIGAN: So these are both measured in feet, and these are two separate measurements for the two fronts. You know, with the new on-line system there's no way notate this if I were to -- not to complain. But that's the reason for that.

And then, again, sort of the two side yards are the other sides --

CONSTANTINE ALEXANDER: Got it.

ATTORNEY SARAH RHATIGAN: -- of the

structure.

So the modifications are the, or the changes that we're proposing don't, don't further intrude in the front yard setback. Because there's a slight rise in the pitch of the house that's proposed in order to make the attic space usable, there's an extension of that non-conforming wall. So that's also another reason for a need for a Variance. It's pretty minor. I think the ridge height goes up by just about three feet or just under three feet.

And Mr. Miller's here to be able to sort of address any concerns or questions that the Board may have about the reasons for why they did what they did. But the effort has really been to allow them both liveable space that they need. They do have this unique situation with both the siting of the house

being at the front of May Street, and then also not being able to take into consideration land that -- yeah.

CONSTANTINE ALEXANDER: I take it the easement is being actively used by your neighbor, it must be a driveway to the park?

ATTORNEY SARAH RHATIGAN: Yes. There's a driveway -- an eight-unit apartment building that uses that driveway.

And the one other thing I would mention is -- so the on the third floor is a proposed dormer and it's a shed dormer that is -- we were careful to look through the dormer guidelines and try to conform to those, and we believe that the dormer does conform. It's 15 feet and, you know, the window --

CONSTANTINE ALEXANDER: Set back from the ridge line and set back from the front --

ATTORNEY SARAH RHATIGAN: It's actually not set back from the top ridge line.

And, Bruce, would you mind just mentioning the thinking on this?

BRUCE MILLER: Yeah. I mean in order to make the attic usable space, we had to really raise the ridge and put in a dormer. Otherwise you really, there wouldn't be enough space to use the space that's there. And we kept the ridge as low as we could, but it -- by doing that, I don't think it really allows for the dormer to have enough of a pitch to be aesthetically, you know, pleasing. I mean, I think it's probably better to have the pitch of the dormer be steep enough and then it hits the ridge is basically -- it's a judgment call.

CONSTANTINE ALEXANDER: Yes, exactly.

ATTORNEY SARAH RHATIGAN: And it's one that --

CONSTANTINE ALEXANDER: We don't pay as much attention to the size of the dormer. Your size-wise you're dormer guideline compliant.

ATTORNEY SARAH RHATIGAN: Right. And the dormer also, in terms of the use of that attic space it's critical for Ms. Prasad's work because light, air -- I mean, she's a painter and needs to be able to open the windows.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SARAH RHATIGAN: I'm sorry, one other thing I did want to mention. Prior to the hearing we sent a Dear Neighbor letter out to everyone in the -- who was on -- well, not every single person who was on our list because we did catch some very

large buildings on Fresh Pond I believe. But we sent letters out to almost everyone on the notice list. And in addition, the Prasads haven't heard from anybody so they knocked on neighbors' doors and met with most of the people in the neighborhood and didn't hear any objections.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board at this point?

TIMOTHY HUGHES: No.

CONSTANTINE ALEXANDER: I'm going to open it up to public testimony.

Is there anyone here wishing to be heard on this matter? You've been waiting so patiently all night.

LIZ MERRILL: My name is Liz Merrill, M-e-r-r-i-l-l. I live at 31 Vineyard Street. My house is on the corner

of Vineyard and May. I've lived there for 26 years. And the neighborhood, when I moved in, was full of senior citizens and we've been losing them and young families have been moving in. And it's a very healthy, wonderful Strawberry Hill area.

The house behind me has been empty for a little while. We lost the owner who was just a treasure. And we were looking forward to have a family move in. And so I'm here to enthusiastically to support the rehab of a building that is quite odd inside and thank heavens these people can afford to make it liveable. I -- my backyard abuts the dormer side of their house. I endorse the dormer. I want them to move in. I support the construction. I'll put up with the mess. I'm so happy to have this empty house be filled with a family and it's been so personal

and so caring and thoughtful.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and to persevere this whole night.

LIZ MERRILL: This was quite something.

CONSTANTINE ALEXANDER: It speaks to your enthusiasm. Thank you very much.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: I'm going to close public testimony. That we have no, nothing in the file, no written letters. No letters written or otherwise.

Any final comments?

ATTORNEY SARAH RHATIGAN: No, thank you.

CONSTANTINE ALEXANDER:
Discussions? I think the -- if I can

volunteer, I think what they're doing is very good to improve the house and it's a nice design and I see no reason not to approve it.

Anyone else have any comments?

TIMOTHY HUGHES: No, I'm good.

CONSTANTINE ALEXANDER: Okay.

With regard to -- the Chair moves that we make the following findings with respect to the Variance being sought:

That a literal enforcement of the provision of the Ordinance would involve a substantial hardship to the Petitioner. Such hardship being is this is an older home that needs reconfiguration for a family to occupy it.

That the hardship is owing to the, basically the shape of the lot which is odd, and also the fact that there is an easement running on the lot which affects, from a

Zoning point of view, the computation of the various technical requirements of our Ordinance regarding -- particularly regarding FAR.

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

In this regard the Chair would note that there is no opposition to this proposal from the neighborhood. In fact, there is at least one enthusiastic neighbor in support.

That what will be done will improve the condition of this house and further cause younger families to move into the area and to the city which is a goal I think of the city generally.

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 plans prepared by Bruce Miller architect. They're numbered A1 -- they're dated 6/27/14 -- A2, A3, A4, A5, A6, and A7, the first page of which has been initialled by the Chair.

In this regard, these are the final plans. If you change them, you're going to have to come back before us. So you're comfortable this is it?

BRUCE MILLER: Yes.

CONSTANTINE ALEXANDER: All those in favor of granting the Variance with the conditions I just state, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Good luck.

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

(Whereupon, at 10:35 p.m., the
Board of Zoning Appeal
Adjourned.)

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IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of August, 2014.

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#BZA-003670-2014

[1] - 3:3

#BZA-003695-2014

[1] - 7:2

#BZA-003855-2014

[1] - 48:2

#BZA-004120-2014

[1] - 65:2

#BZA-004125-2014

[1] - 69:2

#BZA-004194-2014

[1] - 56:2

#BZA-004270-2014

[1] - 73:2

#BZA-004332-2014

[1] - 104:2

#BZA-004363-2014

[1] - 242:2

#BZA-004369-2014

[1] - 200:2

#BZA-004401-2014

[1] - 220:2

0

0.35 [1] - 185:2**0.5** [3] - 84:9, 245:4,

245:13

0.51 [2] - 245:10,

245:11

0.75 [1] - 10:7**003670** [1] - 3:9**003695** [1] - 7:6**003855** [1] - 48:6**004120** [1] - 65:6**004125** [1] - 69:6**004194** [1] - 56:6**004270** [1] - 73:6**004332** [1] - 104:6**004369** [1] - 200:6**004401** [2] - 220:6,

234:16

02139 [1] - 1:7**07/24/2014** [1] - 260:1

1

1 [7] - 120:9, 207:14,

207:19, 208:5,

208:13, 210:2,

210:7

1.36 [1] - 84:9

1.39 ^[1] - 84:12
1.41 ^[1] - 84:11
1.46 ^[1] - 10:8
1.68 ^[1] - 10:10
1/2 ^[1] - 35:14
10 ^[2] - 2:8, 65:6
100 ^[4] - 85:5, 155:18,
 184:17, 231:2
103 ^[1] - 223:1
104 ^[2] - 2:12, 220:14
1052-1058 ^[2] - 2:7,
 56:6
10:00 ^[2] - 220:1,
 228:10
10:20 ^[1] - 242:1
10:35 ^[1] - 258:6
11:00 ^[1] - 228:11
11th ^[1] - 230:12
12 ^[11] - 36:9, 114:16,
 114:17, 114:19,
 115:1, 116:3,
 116:14, 181:4,
 181:5, 222:4,
 242:10
12-antenna
^[1] - 184:19
138 ^[1] - 28:7
13th ^[1] - 105:17
14 ^[1] - 4:13
14-day ^[1] - 67:10
146 ^[1] - 28:16
147703 ^[1] - 261:14
14th ^[15] - 5:4, 5:11,
 5:16, 57:10, 57:14,
 60:17, 60:19, 61:16,
 62:5, 62:11, 62:13,
 63:1, 63:3, 63:10,
 66:10
15 ^[4] - 81:15, 81:17,
 226:15, 249:16
15-foot ^[1] - 81:8
16 ^[3] - 92:5, 120:15,
 197:7
16.5 ^[1] - 82:12
160 ^[3] - 221:8,
 222:10, 222:17
17.2 ^[1] - 82:3
175 ^[2] - 220:18, 221:2
1751 ^[1] - 209:7
1753 ^[1] - 209:7
1759 ^[1] - 209:7
18 ^[2] - 81:16, 231:18
18.5 ^[1] - 82:13

1815 [2] - 2:10, 69:6
18th [1] - 66:16
1900 [2] - 115:8,
 115:10
195 [2] - 2:9, 73:6
1968 [1] - 207:5
197 [1] - 91:4
1979 [1] - 207:11
1980s [1] - 221:18
199 [1] - 91:5
1990 [1] - 221:19
1999 [1] - 186:6
1st [1] - 261:11

2

2 [8] - 81:17, 105:18,
 120:10, 207:19,
 208:5, 208:13,
 210:2, 210:7
20 [2] - 67:18, 246:16
200 [1] - 2:13
2000 [1] - 124:3
2012/2013 [1] - 222:7
2013 [1] - 186:13
2014 [5] - 1:5, 4:13,
 55:2, 209:2, 261:11
2015 [1] - 261:16
21 [1] - 55:1
22 [4] - 120:2, 120:5,
 127:8, 127:14
220 [1] - 2:14
2269 [3] - 2:5, 48:6,
 48:13
22nd [1] - 4:4
23 [1] - 261:16
2324 [1] - 109:11
2353 [2] - 126:18,
 127:5
2384 [2] - 111:1, 111:2
2390 [1] - 126:16
24 [1] - 1:5
24/7 [1] - 29:2
241-243 [2] - 2:3, 3:9
242 [1] - 2:15
2443 [1] - 125:13
2456-2460 [1] - 126:13
249 [1] - 3:19
24th [5] - 4:11, 65:18,
 96:6, 97:5, 207:8
25 [1] - 222:19
25-foot [1] - 81:18
250 [1] - 226:1
259 [1] - 260:7

25th ^[1] - 32:19
26 ^[3] - 246:15, 247:7,
 253:2
26th ^[2] - 4:7, 4:10
28 ^[1] - 221:14
2852 ^[2] - 110:14,
 111:10
2A ^[4] - 113:18,
 114:12, 135:9,
 135:12
2B ^[2] - 135:9, 135:12
2C ^[5] - 135:9, 135:10,
 137:6, 137:9,
 137:16

3

3 ^[8] - 2:3, 92:6,
 105:18, 119:15,
 207:14, 208:13,
 210:3, 210:7
30 ^[5] - 7:12, 122:1,
 153:11, 180:7,
 200:11
300 ^[1] - 161:8
31 ^[1] - 252:19
32 ^[2] - 221:9, 222:10
33-35 ^[3] - 146:6,
 148:8, 150:4
34-54 ^[1] - 125:8
35 ^[1] - 226:1
35-55 ^[5] - 2:12, 104:6,
 106:5, 149:15,
 149:17
35-foot ^[1] - 34:3
36 ^[1] - 187:6
39 ^[1] - 2:15
3C ^[1] - 136:11

4

4 ^[3] - 119:15, 210:2,
 210:7
4.8 ^[1] - 8:12
40 ^[3] - 12:15, 85:6,
 122:1
431 ^[1] - 89:2
44 ^[1] - 35:14
46 ^[2] - 18:10, 242:14
48 ^[2] - 2:5, 20:9
4:30 ^[1] - 56:11
4th ^[12] - 66:12, 66:16,
 67:6, 67:12, 68:6,
 68:8, 68:12, 71:2,
 71:3, 71:7, 71:12,

72:1

5

5^[9] - 2:13, 81:16,
 200:6, 200:17,
 207:14, 208:4,
 208:13, 208:15,
 208:19
5,000^[1] - 244:4
5/13^[1] - 154:3
50^[5] - 2:4, 7:6, 33:4,
 35:15, 75:2
56^[4] - 2:7, 186:15,
 186:17, 187:13
5:00^[1] - 228:8
5:30^[1] - 228:7

6

6^[4] - 92:6, 122:19,
 207:4, 210:7
6.35.1^[1] - 224:14
6/27/14^[1] - 257:5
60^[1] - 196:5
617.786.7783/617.63
9.0396^[1] - 1:17
65^[4] - 2:8, 186:19,
 187:3, 187:13
660^[2] - 236:1, 244:10
660-674^[3] - 2:14,
 220:6, 234:18
675^[1] - 73:13
69^[1] - 2:10
6:30^[1] - 56:19

7

7^[4] - 2:4, 207:15,
 208:13, 211:8
7/16/14^[1] - 219:3
73^[1] - 2:9
7:30^[3] - 1:5, 3:2, 7:1

8

8^[1] - 92:5
806^[1] - 1:7
850^[1] - 115:10
89^[1] - 7:15
8:05^[1] - 48:1
8:10^[1] - 56:1
8:15^[1] - 65:1
8:20^[2] - 69:1, 73:1
8:40^[1] - 104:1

9

9 ^[10] - 232:7, 232:17,
 233:1, 233:8,
 233:18, 234:1,
 234:8, 234:17,
 235:8, 235:19
90 ^[1] - 231:2
9:45 ^[1] - 200:1
9th ^[1] - 32:18

A

A-101 ^[1] - 97:6
A-201 ^[1] - 96:7
a.m ^[1] - 228:6
A1 ^[1] - 257:4
A101 ^[1] - 219:2
A2 ^[1] - 257:5
A3 ^[1] - 257:5
A4 ^[1] - 257:5
A5 ^[1] - 257:5
A6 ^[1] - 257:5
A7 ^[1] - 257:6
abeyance ^[1] - 4:19
ability ^[5] - 53:15,
 167:12, 215:7,
 234:10, 261:10
able ^[15] - 13:10,
 13:12, 13:13, 13:18,
 15:8, 15:12, 19:3,
 52:19, 75:12,
 113:13, 168:6,
 170:9, 248:13,
 249:2, 251:12
above-referenced
^[1] - 65:17
absolutely ^[1] - 22:15
abut ^[1] - 98:19
abuts ^[2] - 89:3,
 253:15
abutter ^[14] - 35:14,
 35:15, 84:1, 151:17,
 151:18, 152:1,
 152:2, 154:5, 161:7,
 161:16
abutter's ^[1] - 87:19
abutters ^[13] - 34:13,
 41:18, 98:19, 151:7,
 151:10, 152:18,
 154:10, 154:12,
 154:14, 155:8,
 156:6, 234:19,
 236:5
abutting ^[1] - 34:2

accept [1] - 238:9
acceptable [4] - 77:5,
 89:17, 101:18,
 111:19
access [11] - 21:14,
 21:18, 23:1, 35:10,
 100:5, 150:2,
 175:11, 177:8,
 192:8, 217:16,
 244:8
accessible [1] - 231:1
accommodate
 [3] - 115:11, 115:17,
 216:2
accommodating
 [1] - 85:19
accommodations
 [1] - 9:18
accordance [9] - 40:8,
 40:12, 47:1, 54:16,
 67:1, 96:3, 101:6,
 218:17, 257:3
according [4] - 81:10,
 81:18, 160:9, 207:5
account [2] - 167:6,
 172:16
accounts [1] - 134:7
accurate [5] - 137:10,
 137:17, 238:10,
 260:17, 261:9
achieve [2] - 49:11,
 110:6
achieves [1] - 50:5
acknowledge
 [1] - 162:13
acknowledged
 [1] - 184:5
act [1] - 169:1
action [1] - 104:13
active [1] - 236:10
actively [1] - 249:5
activity [2] - 227:17,
 235:10
actual [6] - 144:11,
 145:12, 153:4,
 179:13, 181:18,
 182:5
ADA [1] - 231:1
add [5] - 42:12, 67:13,
 79:18, 210:18,
 219:7
added [2] - 42:19,
 204:2

adding [4] - 61:12,
205:8, 213:4, 215:7

addition [5] - 33:9,
234:1, 234:12,
244:16, 252:4

additional [8] - 10:18,
17:13, 39:6, 49:5,
60:13, 75:3, 85:2,
121:11

additionally
[2] - 235:4, 243:17

additions [1] - 22:3

address [22] - 7:12,
37:8, 127:13,
138:13, 146:8,
149:4, 149:10,
149:12, 149:14,
150:3, 163:10,
164:14, 164:15,
165:15, 165:17,
166:18, 167:4,
171:5, 173:18,
182:8, 224:16,
248:14

addressed [4] - 93:7,
122:18, 188:17

addresses
[1] - 149:14

adds [2] - 133:8,
207:15

adequately [1] - 162:6

adjacent [10] - 38:1,
46:5, 100:8, 148:2,
192:10, 218:3,
237:2, 239:16,
240:1, 240:5

adjoining [5] - 46:14,
101:1, 193:1,
218:12, 240:12

Adjourned [1] - 258:7

adjusted [2] - 86:6,
86:8

adjustment [1] - 86:3

administrative
[2] - 183:5, 183:9

administratively
[1] - 182:17

advance [1] - 235:1

advantageous
[1] - 211:11

adverse [1] - 240:5

adversely [7] - 46:6,
100:9, 192:11,

218:4, 225:2, 238:5,
239:16

advertisement

[2] - 151:14, 161:10

aesthetically

[1] - 250:14

aesthetics

[1] - 167:15

affected [7] - 46:6,

100:9, 100:11,

156:9, 192:11,

218:4, 239:16

affects [2] - 117:19,

256:1

afford [2] - 16:9,

253:14

afterwards [1] - 154:6

agenda [2] - 34:12,

232:9

ago [2] - 19:8, 108:14

agree [2] - 23:12, 53:5

agreeing [1] - 182:14

ahead [3] - 115:3,

166:19, 197:4

air [2] - 98:7, 251:11

Alewife [3] - 125:19,

126:6, 126:12

Alexander [22] - 1:8,

3:4, 6:3, 7:3, 47:10,

48:3, 55:11, 56:3,

64:1, 65:3, 69:3,

73:3, 97:14, 101:13,

104:3, 198:19,

200:3, 219:12,

220:3, 241:7, 242:3,

258:3

ALEXANDER

[338] - 3:6, 3:14, 4:6,

4:12, 6:1, 7:5, 8:19,

9:12, 11:16, 14:3,

14:9, 14:14, 14:18,

16:16, 17:2, 17:5,

17:8, 18:4, 19:11,

19:19, 20:3, 20:6,

21:7, 22:1, 23:17,

25:3, 28:4, 30:11,

30:19, 32:9, 32:12,

35:11, 36:18, 37:12,

38:8, 38:17, 40:15,

41:3, 41:16, 43:4,

43:16, 44:2, 44:12,

44:14, 45:3, 45:6,

45:13, 45:16, 47:7,

48:5, 51:7, 51:11,
51:14, 51:18, 52:4,
52:10, 52:13, 53:5,
55:6, 55:9, 56:5,
57:1, 57:4, 57:15,
58:2, 58:6, 58:11,
58:15, 59:10, 59:16,
60:3, 60:16, 61:5,
61:15, 62:1, 63:14,
63:18, 65:5, 65:10,
66:13, 66:19, 68:10,
68:16, 69:5, 69:11,
71:1, 71:5, 72:5,
73:5, 75:7, 76:6,
77:6, 77:19, 78:4,
78:7, 79:8, 79:14,
79:17, 80:7, 80:12,
80:16, 81:4, 81:9,
81:13, 82:8, 82:12,
82:15, 83:2, 83:6,
84:5, 84:15, 86:5,
86:10, 87:9, 88:3,
88:10, 88:16, 90:11,
90:17, 91:3, 93:3,
93:6, 93:11, 93:18,
96:14, 96:19, 97:3,
97:9, 97:12, 97:16,
98:4, 98:9, 98:17,
99:4, 99:7, 99:13,
99:16, 101:11,
101:19, 102:10,
102:18, 104:5,
105:7, 106:11,
107:4, 107:8,
107:17, 109:16,
110:7, 110:15,
110:19, 111:3,
111:7, 112:9,
112:18, 113:2,
113:8, 114:15,
116:5, 116:9,
116:13, 117:1,
117:15, 118:4,
118:11, 118:18,
119:6, 119:11,
119:17, 122:11,
128:12, 129:3,
129:6, 129:19,
130:7, 130:16,
131:9, 132:2,
132:18, 133:6,
134:3, 134:16,
135:14, 136:2,

138:6, 138:9,
138:17, 141:1,
141:5, 141:15,
142:3, 142:8,
144:19, 145:5,
146:2, 146:7,
146:11, 146:19,
147:3, 148:12,
149:5, 150:1, 151:4,
151:11, 152:5,
152:17, 153:5,
154:11, 154:15,
154:19, 155:3,
155:10, 156:1,
156:5, 156:16,
157:10, 158:1,
158:6, 158:12,
159:3, 159:6,
159:11, 160:4,
160:13, 161:3,
162:1, 162:12,
163:11, 163:16,
164:19, 165:6,
166:1, 166:5,
166:12, 167:3,
168:10, 168:18,
169:9, 170:4,
170:17, 170:19,
171:12, 171:15,
172:10, 172:14,
173:1, 173:8,
173:17, 174:9,
174:14, 175:5,
175:7, 175:18,
176:7, 176:12,
177:1, 178:9,
178:15, 179:2,
179:8, 182:11,
183:11, 183:15,
188:8, 188:12,
190:8, 190:12,
197:4, 197:8,
197:17, 198:4,
198:13, 198:17,
199:2, 200:5,
200:18, 201:3,
202:2, 202:13,
203:5, 203:15,
204:13, 204:18,
205:7, 205:13,
206:5, 206:8,
206:12, 206:17,
211:15, 212:1,

212:6, 212:10,
 212:15, 212:19,
 215:14, 216:6,
 216:14, 217:7,
 219:11, 220:5,
 221:11, 222:16,
 223:8, 224:13,
 225:10, 226:8,
 228:2, 228:12,
 229:10, 230:4,
 230:7, 237:11,
 237:16, 241:4,
 242:5, 245:5, 245:9,
 245:12, 245:16,
 246:2, 246:12,
 247:9, 247:18,
 249:4, 249:17,
 250:19, 251:4,
 251:14, 252:9,
 252:13, 254:3,
 254:8, 254:12,
 254:19, 255:7,
 257:15, 258:1
aligned ^[1] - 83:12
aligns ^[1] - 234:4
allegations
^[1] - 170:15
allow ^[3] - 60:7, 74:17,
 248:17
allowable ^[2] - 180:8,
 184:17
allowed ^[10] - 24:8,
 24:12, 28:11, 34:6,
 41:13, 43:14, 43:19,
 44:9, 49:6, 201:16
allowing ^[2] - 10:3,
 235:8
allows ^[1] - 250:13
alluded ^[1] - 192:4
almost ^[5] - 137:11,
 143:1, 207:15,
 227:3, 252:3
alteration ^[1] - 74:14
alterations ^[1] - 33:4
altered ^[2] - 202:18,
 209:10
alternate ^[1] - 124:1
alternative
^[4] - 117:17, 119:1,
 143:12, 191:4
alternatives
^[4] - 122:14, 122:18,
 123:14, 128:2

amenity ^[3] - 50:7,
 86:2, 215:9
America ^[1] - 126:2
American ^[2] - 126:3,
 126:7
AMJAD ^[4] - 113:6,
 113:15, 115:5,
 116:4
Amjad ^[3] - 105:4,
 105:11, 121:1
amount ^[5] - 89:15,
 177:16, 184:10,
 224:17, 238:1
ample ^[1] - 233:13
amplifier ^[1] - 14:13
analysis ^[2] - 124:1,
 185:13
AND ^[2] - 259:1,
 259:17
AND/OR ^[1] - 261:18
Anderson ^[1] - 104:19
ANDREW ^[2] - 242:19,
 246:4
Andrew ^[1] - 242:19
anew ^[1] - 85:13
angle ^[2] - 50:19,
 137:12
announcement
^[1] - 165:14
answer ^[9] - 50:1,
 111:6, 113:4,
 115:17, 117:6,
 119:4, 122:10,
 123:2, 197:10
answered ^[1] - 153:13
answers ^[2] - 151:1,
 163:13
antenna ^[8] - 115:9,
 115:13, 117:7,
 119:7, 136:11,
 137:2, 170:2,
 177:11
antennas ^[18] - 70:6,
 70:11, 114:16,
 114:17, 115:19,
 117:4, 117:19,
 120:1, 121:5, 135:1,
 135:7, 138:4,
 177:12, 181:4,
 181:5, 189:1, 192:5,
 193:13
anticipate ^[1] - 27:18
anticipated

[2] - 177:16, 178:4
anxious [1] - 70:19
ANY [2] - 261:17,
 261:18
anyway [9] - 12:15,
 16:17, 20:2, 24:12,
 38:3, 52:13, 84:18,
 93:8, 113:2
apartment [3] - 139:8,
 243:11, 249:8
apartments
 [3] - 106:5, 106:8,
 140:15
apologies [1] - 96:13
Appeal [2] - 222:1,
 258:7
APPEAL [1] - 1:2
APPEALS [1] - 260:1
Appeals [4] - 3:8,
 259:12, 260:4,
 260:16
appear [3] - 33:17,
 52:6, 66:6
appearing [1] - 73:14
applaud [1] - 118:11
applicant [4] - 65:15,
 66:1, 70:1, 70:14
applicant's [2] - 66:5,
 234:10
applicants [2] - 233:4,
 236:2
application
 [17] - 4:17, 49:1,
 74:2, 105:17, 106:3,
 174:5, 177:19,
 178:2, 179:11,
 189:12, 196:14,
 196:15, 198:8,
 232:17, 235:19,
 237:5, 243:4
APPLY [1] - 261:17
apply [1] - 196:12
applying [1] - 179:5
appreciate [3] - 21:15,
 33:11, 159:17
appreciates
 [1] - 189:8
approach [1] - 237:1
appropriate [2] - 38:3,
 189:1
approval [1] - 222:1
approve [2] - 91:16,
 255:4

approved [6] - 110:17,
111:4, 124:18,
125:10, 125:15,
126:19

approximate
[1] - 120:7

april [1] - 261:16

architect [7] - 33:2,
48:14, 75:13, 86:13,
91:19, 242:14,
257:4

Architects [8] - 33:3,
40:10, 48:19, 55:1,
96:6, 97:5, 200:11,
219:1

architectural
[2] - 138:3, 209:14

area [50] - 26:4, 26:18,
36:7, 53:16, 80:18,
80:19, 81:1, 85:11,
94:12, 98:8, 110:4,
110:10, 110:11,
111:12, 111:15,
112:4, 112:6,
112:11, 113:9,
114:10, 114:14,
120:8, 120:9,
120:13, 122:1,
122:2, 129:12,
142:15, 159:8,
184:4, 191:3, 191:8,
222:11, 222:13,
222:14, 224:3,
225:17, 226:9,
228:8, 231:2, 232:3,
233:14, 235:7,
235:10, 236:13,
239:3, 253:7,
256:16

areas [3] - 111:17,
112:1, 114:7

Arlington [2] - 111:6,
139:14

array [1] - 115:4

Art [2] - 104:19,
127:11

ARTHUR
[88] - 104:17, 105:11,
106:13, 107:2,
107:14, 108:3,
109:18, 110:12,
110:18, 111:5,
111:9, 115:2, 116:1,

116:11, 116:16,
 117:3, 118:2, 118:6,
 118:13, 118:19,
 119:9, 119:13,
 119:19, 122:12,
 128:1, 129:14,
 129:17, 133:4,
 133:11, 134:4,
 134:10, 134:14,
 135:19, 136:6,
 137:9, 137:16,
 138:1, 138:7,
 138:11, 138:19,
 141:17, 142:12,
 144:15, 145:8,
 145:16, 146:9,
 146:13, 149:11,
 149:15, 156:18,
 157:16, 158:3,
 158:19, 159:4,
 159:9, 161:1, 163:8,
 165:18, 168:17,
 170:11, 171:11,
 171:17, 172:12,
 172:17, 173:7,
 173:10, 173:14,
 176:5, 176:8,
 176:19, 178:1,
 182:13, 183:13,
 183:17, 186:15,
 186:19, 187:3,
 187:7, 187:11,
 187:17, 188:3,
 189:19, 190:5,
 197:2, 197:5,
 197:14, 198:1,
 198:12

articulate ^[1] - 76:17

artist ^[1] - 243:18

as-of-right ^[4] - 11:17,
 12:9, 56:14, 57:7

assigned ^[1] - 115:7

associated ^[2] - 79:2,
 135:15

Association

^[3] - 235:15, 235:18,
 239:19

association ^[2] - 89:5,
 153:18

assume ^[1] - 190:9

assuming ^[1] - 173:4

assurance ^[1] - 92:14

AT&T ^[18] - 105:1,

105:2, 106:9,
 106:13, 108:17,
 115:7, 116:1, 118:6,
 127:2, 127:3, 127:4,
 130:15, 131:1,
 131:4, 139:1,
 182:18, 183:2

atmosphere

[2] - 233:11, 236:12

ATTACH [1] - 260:1

attempt [1] - 235:1

attend [1] - 207:7

attendance

[1] - 153:12

attended [4] - 34:13,

108:7, 162:7,

230:15

attention [4] - 86:14,

182:19, 235:11,

251:5

attic [4] - 243:19,

248:7, 250:7,

251:10

ATTORNEY

[161] - 48:9, 48:18,

55:12, 73:10, 75:8,

76:15, 77:8, 77:13,

77:17, 78:10, 79:12,

79:16, 80:3, 80:10,

80:13, 80:17, 81:12,

82:1, 82:4, 82:9,

82:17, 83:3, 83:8,

84:13, 85:1, 86:7,

86:12, 88:15, 96:12,

96:16, 97:2, 98:1,

98:6, 98:11, 99:9,

101:15, 102:1,

102:6, 102:12,

102:16, 103:1,

104:17, 105:11,

106:13, 107:2,

107:14, 108:3,

109:18, 110:12,

110:18, 111:5,

111:9, 115:2, 116:1,

116:11, 116:16,

117:3, 118:2, 118:6,

118:13, 118:19,

119:9, 119:13,

119:19, 122:12,

128:1, 129:14,

129:17, 133:4,

133:11, 134:4,

134:10, 134:14,
 135:19, 136:6,
 137:9, 137:16,
 138:1, 138:7,
 138:11, 138:19,
 141:17, 142:12,
 144:15, 145:8,
 145:16, 146:9,
 146:13, 149:11,
 149:15, 156:18,
 157:16, 158:3,
 158:19, 159:4,
 159:9, 161:1, 163:8,
 165:18, 168:17,
 170:11, 171:11,
 171:17, 172:12,
 172:17, 173:7,
 173:10, 173:14,
 176:5, 176:8,
 176:19, 178:1,
 182:13, 183:13,
 183:17, 186:15,
 186:19, 187:3,
 187:7, 187:11,
 187:17, 188:3,
 189:19, 190:5,
 197:2, 197:5,
 197:14, 198:1,
 198:12, 220:10,
 221:3, 221:13,
 222:18, 223:13,
 223:19, 225:4,
 225:12, 226:10,
 228:16, 229:17,
 230:2, 237:9, 241:6,
 242:8, 242:19,
 243:2, 245:7,
 245:11, 245:14,
 245:18, 246:4,
 246:8, 246:17,
 247:10, 247:19,
 249:7, 250:1, 251:2,
 251:8, 251:15,
 254:17

attorney ^[4] - 48:11,
 73:13, 220:12,
 230:14

attraction ^[1] - 224:8

Auburn ^[1] - 220:14

AUDIENCE

^[22] - 14:5, 105:5,
 106:19, 107:6,
 108:1, 126:4,

127:12, 131:10,
 131:18, 132:16,
 141:3, 141:12,
 145:11, 145:13,
 146:4, 147:8, 149:2,
 164:11, 164:16,
 165:4, 165:11,
 170:8

audience ^[5] - 17:6,
 171:8, 171:13,
 202:1, 202:3

August ^[14] - 4:13,
 5:4, 5:10, 5:16,
 57:10, 60:19, 62:5,
 62:11, 63:1, 63:10,
 66:10, 66:14, 186:6,
 261:11

authorities
^[4] - 176:2, 194:15,
 195:5, 195:11

Authority ^[14] - 106:4,
 107:13, 108:4,
 108:11, 112:15,
 124:14, 128:17,
 153:2, 153:9,
 155:13, 160:16,
 162:4, 166:4, 166:9

automatic ^[1] - 188:5

automatically
^[1] - 124:8

availability
^[2] - 225:1, 238:4

available ^[4] - 65:19,
 125:5, 127:19,
 178:6

Ave ^[31] - 109:5,
 109:12, 114:8,
 120:15, 123:3,
 123:4, 123:9, 124:3,
 125:4, 125:7, 125:8,
 126:11, 126:12,
 126:13, 126:16,
 126:18, 127:3,
 127:6, 127:16,
 139:11, 139:18,
 140:1, 144:6, 146:5,
 147:17, 154:18,
 157:2, 201:7, 209:7

Avenue ^[24] - 1:7, 2:5,
 2:9, 2:10, 2:12, 48:6,
 48:13, 69:7, 73:7,
 73:14, 89:2, 91:5,
 92:11, 104:7,

113:18, 114:8,
116:7, 116:8,
125:14, 165:16,
166:4, 177:4, 201:4,
209:6

awarded ^[1] - 106:9

aware ^[5] - 75:5,
95:17, 153:15,
205:13, 205:17

Aye ^[26] - 5:18, 5:19,
40:19, 41:1, 47:5,
47:6, 55:4, 55:5,
63:16, 63:17, 68:14,
68:15, 72:3, 72:4,
97:10, 97:11, 101:9,
101:10, 198:15,
198:16, 219:9,
219:10, 241:2,
241:3, 257:17,
257:19

B

backup ^[3] - 133:5,
133:7

backyard ^[8] - 21:11,
29:4, 29:11, 30:8,
31:6, 89:2, 89:3,
253:15

bad ^[2] - 90:5, 156:17

balcony ^[1] - 209:1

bar ^[3] - 108:18,
197:6, 231:2

Barada ^[1] - 58:9

BARADA ^[1] - 61:2

Barbara ^[1] - 28:6

BARBARA
^[10] - 23:19, 28:6,
28:14, 29:9, 29:14,
29:16, 30:14, 30:17,
31:2, 31:8

barely ^[1] - 189:5

based ^[7] - 66:4,
87:18, 169:5,
177:10, 180:1,
233:4, 240:15

basement ^[17] - 26:4,
26:17, 49:15, 53:14,
53:16, 131:14,
135:16, 189:7,
203:1, 204:10,
204:16, 204:19,
205:2, 205:3,
207:19, 208:5

bases ^[1] - 229:1
basis ^[21] - 5:18, 40:4,
 40:16, 46:17, 54:13,
 55:4, 63:15, 68:14,
 72:3, 87:12, 95:19,
 101:3, 162:15,
 175:12, 193:3,
 196:4, 198:15,
 218:14, 244:5,
 256:19
bay ^[2] - 43:9, 204:9
became ^[2] - 75:5,
 164:18
become ^[1] - 224:12
becomes ^[1] - 236:9
bedroom ^[2] - 75:4,
 243:11
begin ^[1] - 85:13
beginning ^[1] - 14:19
behalf ^[3] - 73:14,
 87:14, 235:17
behind ^[10] - 9:2, 9:5,
 28:7, 58:10, 67:17,
 134:9, 135:4, 135:7,
 232:4, 253:8
Bellow ^[1] - 230:13
below ^[7] - 20:10,
 75:18, 91:15, 98:8,
 110:10, 110:11,
 120:16
benefit ^[1] - 233:12
bent ^[1] - 148:17
beside ^[2] - 28:15,
 232:5
best ^[5] - 16:15, 22:9,
 54:11, 148:15,
 261:10
better ^[7] - 44:5,
 94:10, 104:12,
 135:11, 163:3,
 166:13, 250:16
between ^[5] - 8:4,
 11:9, 59:15, 59:18,
 109:4
beyond ^[5] - 62:17,
 80:15, 83:13,
 108:16, 139:17
bicycle ^[1] - 238:19
bidding ^[1] - 107:15
big ^[7] - 12:19, 51:8,
 80:1, 110:11,
 131:13, 140:6,
 222:18

bigger [9] - 21:5, 21:8,
24:11, 24:18, 25:1,
25:10, 26:18, 44:4,
59:9

bike [4] - 224:10,
227:8, 231:15,
234:3

bind [1] - 197:17

biological [1] - 185:13

bit [9] - 8:11, 8:13,
44:8, 50:4, 50:11,
61:11, 113:17,
114:18, 139:17

Black [2] - 96:5, 97:5

blend [2] - 189:4,
189:10

block [1] - 36:8

blocking [1] - 125:11

blocks [4] - 110:4,
145:9, 157:11

blood [1] - 261:6

blue [2] - 111:16,
122:3

BOARD [2] - 1:2,
260:1

board [1] - 36:2

Board [63] - 3:7, 4:14,
5:2, 16:18, 34:16,
36:19, 38:11, 48:10,
49:8, 50:2, 50:14,
51:15, 54:10, 65:16,
69:16, 69:18, 70:9,
73:11, 75:6, 87:10,
93:14, 94:3, 99:18,
104:18, 108:13,
132:12, 136:14,
136:15, 137:14,
138:10, 144:5,
147:1, 158:2, 160:5,
163:4, 168:9,
171:19, 173:5,
184:4, 188:16,
188:17, 188:18,
189:8, 196:12,
197:19, 201:13,
206:9, 220:11,
221:19, 226:6,
229:11, 234:7,
237:12, 237:19,
242:10, 248:15,
252:10, 258:7,
259:12, 260:4,
260:16

Board's [4] - 21:4,
75:14, 86:14, 146:1

Boards [2] - 167:6,
197:18

boards [1] - 66:3

body [1] - 168:8

Bondir [1] - 233:7

boots [1] - 214:15

borderline [1] - 26:19

Boston [5] - 121:8,
121:9, 140:8,
242:11, 242:15

bother [1] - 26:11

bottom [3] - 49:13,
111:10, 139:12

bought [5] - 9:14,
9:19, 10:18, 12:9,
12:11

bounded [1] - 139:13

Bowes [2] - 7:12,
200:12

Boyes [7] - 33:3, 40:9,
200:11, 218:19,
219:1

BOYES [22] - 200:10,
200:16, 200:19,
201:6, 202:7,
202:15, 203:7,
203:16, 204:15,
205:1, 205:9,
205:18, 206:2,
206:7, 210:11,
212:8, 212:13,
212:18, 213:18,
214:8, 214:13,
215:1

Boyes-Watson
[7] - 33:3, 40:9,
200:11, 218:19,
219:1

BOYES-WATSON
[22] - 200:10, 200:16,
200:19, 201:6,
202:7, 202:15,
203:7, 203:16,
204:15, 205:1,
205:9, 205:18,
206:2, 206:7,
210:11, 212:8,
212:13, 212:18,
213:18, 214:8,
214:13, 215:1

BRAM [2] - 242:19,

246:4

Bram ^[1] - 243:1

break ^[1] - 32:2

breaker ^[1] - 13:2

Brendan ^[12] - 1:9,

3:5, 7:4, 48:4, 56:4,

65:4, 69:4, 73:4,

104:4, 200:4, 220:4,

242:4

BRENDAN ^[17] - 52:8,

52:12, 55:8, 57:13,

57:17, 58:1, 60:5,

78:2, 81:7, 82:2,

82:6, 88:6, 102:2,

102:8, 102:14,

103:3, 161:15

Brian ^[1] - 187:12

brick ^[6] - 27:4, 27:5,

27:6, 27:10, 27:13

bring ^[15] - 9:4, 15:8,

15:11, 17:16, 17:18,

17:19, 63:5, 84:6,

86:3, 98:7, 166:2,

166:6, 209:2, 235:9

bringing ^[2] - 18:14,

134:1

BRISTOL ^[1] - 261:3

Brookline

^[2] - 120:18, 142:2

brought ^[4] - 38:2,

112:12, 112:13,

202:18

Broussard ^[1] - 28:7

BROUSSARD

^[10] - 23:19, 28:6,

28:14, 29:9, 29:14,

29:16, 30:14, 30:17,

31:2, 31:8

BRUCE ^[3] - 242:13,

250:6, 257:13

Bruce ^[4] - 3:17,

242:13, 250:4,

257:3

build ^[5] - 19:2, 19:4,

20:2, 36:7, 198:2

builder ^[1] - 209:8

building ^[65] - 9:14,

9:16, 10:8, 18:14,

18:15, 18:16, 18:17,

18:18, 19:3, 28:18,

30:5, 34:2, 35:7,

37:19, 60:6, 70:5,

94:17, 108:6, 110:5,

111:15, 114:6,
 123:10, 124:14,
 124:16, 124:17,
 124:18, 125:10,
 126:1, 127:15,
 127:17, 128:9,
 128:14, 129:15,
 130:19, 132:15,
 139:8, 140:4,
 145:12, 146:8,
 149:9, 150:2, 153:4,
 153:10, 155:13,
 157:12, 193:9,
 193:11, 193:14,
 193:17, 194:4,
 201:9, 211:1,
 211:12, 221:15,
 222:12, 225:14,
 230:17, 231:19,
 232:4, 232:12,
 244:9, 249:9,
 253:13
Building ^[3] - 24:9,
 41:11, 209:3
buildings ^[8] - 38:1,
 106:7, 121:6,
 124:16, 125:5,
 132:4, 139:19,
 252:2
builds ^[1] - 181:16
built ^[5] - 18:17, 19:8,
 27:9, 179:15, 209:7
bulky ^[1] - 76:13
Bulletin ^[1] - 185:12
bump ^[2] - 203:15,
 203:17
bunch ^[1] - 138:4
burn ^[1] - 27:11
burns ^[1] - 106:5
Burns ^[3] - 139:8,
 146:6, 150:16
bus ^[3] - 225:13,
 231:15, 239:8
business ^[8] - 145:17,
 153:16, 162:17,
 195:4, 195:19,
 234:17, 236:13,
 236:15
Business ^[3] - 235:15,
 235:18, 239:19
businesses
^[5] - 118:15, 140:12,
 226:13, 232:3,

236:17
but... [1] - 186:4
BY [1] - 261:18
by-law [1] - 146:16
BZA [3] - 34:17, 207:6,
 234:15
BZA-003670-2014
 [1] - 2:3
BZA-003695-2014
 [1] - 2:4
BZA-003855-2014
 [1] - 2:5
BZA-004120-2014
 [1] - 2:8
BZA-004125-2014
 [1] - 2:10
BZA-004194-2014
 [1] - 2:6
BZA-004270-2014
 [1] - 2:9
BZA-004332-2014
 [1] - 2:11
BZA-004363-2014
 [1] - 2:15
BZA-004369-2014
 [1] - 2:13
BZA-004401-2014
 [1] - 2:14

C

C-r-a-n-e [1] - 220:12
cafe [5] - 222:14,
 228:6, 233:2, 236:1,
 236:11
calculating
 [1] - 244:11
calculations
 [1] - 244:12
calculator [1] - 103:4
calendar [3] - 57:5,
 71:3, 196:5
CAMBRIDGE [1] - 1:3
Cambridge [57] - 1:7,
 2:7, 2:14, 7:19, 16:1,
 16:9, 32:18, 33:1,
 35:18, 40:3, 48:12,
 56:7, 95:8, 106:4,
 106:18, 107:7,
 107:9, 107:10,
 107:12, 117:11,
 124:13, 128:16,
 153:2, 153:9,
 155:12, 160:15,

162:3, 166:4, 166:8,
 168:5, 175:11,
 177:5, 177:8,
 209:17, 220:6,
 220:14, 223:5,
 223:7, 224:5, 225:6,
 230:11, 230:18,
 231:16, 233:6,
 233:12, 233:19,
 234:18, 235:7,
 235:15, 235:18,
 236:1, 236:7,
 236:17, 238:14,
 239:18, 243:6

Cambridge-wide

[3] - 106:18, 107:7,
 107:9

candidate

[13] - 124:2, 124:10,
 124:11, 124:12,
 124:13, 124:19,
 125:8, 125:13,
 125:19, 126:13,
 126:16, 126:18,
 127:8

cannot [3] - 67:3,

167:6, 184:5

cans [1] - 21:3

cantilevering

[1] - 83:13

canvassed [1] - 139:4

canvassing

[1] - 139:13

capability [1] - 121:14

CAPTURING

[1] - 1:16

cards [1] - 153:16

care [5] - 20:15, 111:8,

128:6, 152:12,
 152:13

careful [1] - 249:13

caring [1] - 254:2

carrier [3] - 126:9,

181:10, 181:11

carriers [8] - 70:5,

107:3, 107:16,
 107:18, 168:19,
 169:2, 173:2, 181:7

cars [1] - 229:8

Case [11] - 3:3, 7:2,

48:2, 56:2, 65:2,
 69:2, 73:2, 104:2,
 200:2, 220:2, 242:2

CASE [1] - 2:2
case [53] - 3:8, 3:9,
 4:2, 4:3, 4:12, 4:17,
 5:1, 5:4, 5:5, 5:18,
 6:2, 7:6, 15:15,
 27:11, 48:6, 49:2,
 52:11, 56:6, 57:15,
 60:17, 62:4, 62:13,
 63:6, 63:15, 63:19,
 65:6, 66:7, 66:17,
 67:3, 67:4, 68:14,
 68:17, 69:6, 71:6,
 72:3, 72:6, 73:6,
 83:14, 91:7, 104:6,
 104:11, 104:14,
 132:6, 155:7, 200:6,
 202:3, 207:10,
 220:6, 234:15,
 236:18, 242:6
cases [5] - 22:2,
 114:19, 159:18,
 171:7, 189:16
catch [1] - 252:1
catching [1] - 113:3
Catherine [2] - 261:4,
 261:13
caused [1] - 49:12
CAZ [1] - 260:2
ceiling [6] - 11:11,
 17:14, 19:1, 19:5,
 19:17, 39:10
center [3] - 110:3,
 152:12, 154:4
Center [3] - 1:6,
 125:19, 126:7
Centerline [1] - 105:2
centers [1] - 152:13
certain [3] - 180:5,
 180:7, 180:12
certainly [8] - 19:8,
 22:18, 27:14, 37:15,
 53:14, 84:3, 150:9,
 172:3
CERTIFICATION
 [1] - 261:17
Certified [2] - 261:4,
 261:14
certify [2] - 261:5,
 261:8
CERTIFYING
 [1] - 261:19
CHA [3] - 157:17,
 157:18, 161:2

chair [3] - 9:5, 48:10,
73:11

Chair [51] - 1:8, 1:9,
3:6, 3:14, 3:16, 4:15,
7:5, 32:12, 38:11,
38:18, 40:5, 45:17,
46:18, 48:5, 52:4,
53:6, 54:6, 54:14,
54:19, 56:5, 62:3,
65:5, 65:10, 66:19,
69:5, 69:13, 71:5,
73:5, 94:3, 95:4,
96:1, 96:8, 97:4,
99:18, 101:4,
101:15, 104:5,
163:3, 190:9,
190:14, 200:5,
206:17, 217:14,
218:15, 220:5,
230:7, 240:15,
255:8, 256:10,
257:1, 257:7

Chairman

[11] - 104:18, 143:19,
171:18, 220:11,
221:3, 225:5,
226:11, 228:16,
237:10, 242:9,
246:9

chairs [1] - 215:8

chance [3] - 28:5,
60:15, 74:8

change [39] - 5:9, 8:4,
12:5, 24:8, 30:16,
30:18, 31:1, 40:13,
41:9, 41:13, 43:15,
46:3, 58:10, 58:14,
75:15, 81:6, 82:18,
88:9, 98:13, 99:1,
100:6, 102:3,
169:14, 174:10,
174:13, 175:8,
179:1, 179:3,
182:16, 189:18,
192:6, 210:19,
211:11, 217:19,
239:14, 243:13,
245:19, 257:9,
260:4

CHANGE [6] - 260:9,
260:10, 260:11,
260:12, 260:13,
260:14

changed [3] - 9:16,
 204:3, 205:4
changes [19] - 34:14,
 36:6, 44:1, 75:14,
 100:18, 169:16,
 201:11, 201:12,
 201:17, 203:1,
 208:2, 208:6,
 208:18, 210:14,
 211:7, 217:17,
 248:3, 259:13,
 260:17
changing [4] - 43:9,
 58:17, 59:14, 84:14
chaos [1] - 70:4
character [12] - 46:3,
 100:7, 142:17,
 143:15, 144:3,
 144:5, 191:7,
 191:14, 192:7,
 214:10, 218:1,
 239:14
cheaper [2] - 118:18,
 119:1
check [2] - 63:2, 77:10
checked [1] - 148:13
child [2] - 10:16,
 243:16
children [2] - 20:12,
 85:19
chime [1] - 60:15
Church [1] - 149:3
church [1] - 140:9
churchill [1] - 154:19
Churchill [9] - 137:3,
 146:5, 146:10,
 147:17, 149:6,
 149:7, 149:10,
 150:3, 157:2
Cindy [1] - 73:15
circle [1] - 145:12
circumstances
 [1] - 9:16
cite [1] - 224:15
citizens [10] - 46:11,
 100:17, 134:17,
 152:11, 175:10,
 177:7, 192:16,
 218:8, 240:9, 253:4
CITY [1] - 1:3
city [17] - 15:6, 36:2,
 46:11, 100:17,
 107:18, 156:8,

182:15, 192:17,
 218:8, 224:10,
 225:17, 227:1,
 232:15, 240:1,
 240:9, 256:17
City ^[5] - 16:1, 40:3,
 95:8, 168:5, 234:13
city's ^[1] - 234:5
claimed ^[1] - 196:5
claims ^[1] - 148:4
Clarendon ^[17] - 2:12,
 104:6, 106:6, 114:8,
 121:15, 146:6,
 148:8, 149:3, 149:9,
 149:12, 149:16,
 149:17, 150:3,
 151:8, 154:17,
 165:16, 177:4
clarification
^[1] - 175:16
clarify ^[1] - 141:19
clean ^[1] - 102:15
clear ^[5] - 34:9, 50:19,
 144:3, 210:13,
 233:18
clearer ^[1] - 176:17
client ^[1] - 226:4
clients ^[5] - 87:15,
 220:15, 228:19,
 229:3, 236:19
clients' ^[1] - 224:7
close ^[16] - 24:7,
 36:15, 52:15, 61:11,
 68:9, 68:10, 90:7,
 93:11, 99:8, 127:1,
 127:6, 166:7,
 216:16, 228:6,
 234:7, 254:13
closed ^[3] - 213:19,
 222:6, 230:3
closer ^[2] - 76:13,
 104:12
closest ^[2] - 152:14,
 152:15
closing ^[1] - 228:10
co ^[1] - 124:6
co-locate ^[1] - 124:6
code ^[4] - 15:9, 18:14,
 18:15, 19:7
Code ^[3] - 24:9, 41:11,
 209:3
codes ^[1] - 18:18
color ^[3] - 193:8,

193:9, 193:10
columns ^[1] - 78:12
combining ^[1] - 21:2
comfortable
^[7] - 87:11, 87:12,
87:18, 88:2, 88:13,
257:11
comfortably
^[1] - 15:10
coming ^[7] - 89:15,
114:2, 115:7, 171:3,
214:10, 224:9,
227:14
commend ^[1] - 243:12
comment ^[4] - 35:1,
50:13, 88:7, 88:8
commentary
^[2] - 191:17, 237:11
comments ^[16] - 17:9,
18:7, 33:12, 36:16,
45:11, 54:9, 93:9,
93:13, 99:13,
172:15, 209:19,
210:8, 216:15,
237:8, 254:16,
255:5
commercial
^[7] - 123:7, 127:11,
127:15, 140:14,
169:8, 169:10,
224:3
**commercial/residen
tial** ^[1] - 228:1
Commission
^[3] - 70:2, 70:15,
261:15
Commissioner
^[1] - 60:14
commitment
^[1] - 12:13
committed ^[1] - 10:13
common ^[1] - 213:7
Commonwealth
^[1] - 91:8
COMMONWEALTH
^[1] - 261:2
communicating
^[1] - 7:18
communication
^[1] - 183:4
communities
^[2] - 167:12, 169:5
community

[31] - 13:19, 108:4,
 108:9, 108:10,
 150:6, 150:10,
 150:16, 152:4,
 153:7, 154:3, 154:7,
 155:9, 157:19,
 158:4, 158:8, 158:9,
 158:17, 159:14,
 159:19, 160:1,
 160:16, 160:19,
 162:5, 162:14,
 163:6, 164:5, 166:7,
 175:9, 231:7, 236:5

community-wide

[4] - 153:7, 154:3,
 155:9, 160:16

company [4] - 117:17,
 118:7, 118:14,
 181:17

Company [2] - 228:9,
 233:7

comparable

[1] - 83:19

compare [1] - 112:4

compete [1] - 107:3

complain [2] - 156:7,
 247:15

complement

[1] - 227:18

completed [1] - 259:5

COMPLETED

[1] - 259:17

completely [1] - 8:6

compliance

[1] - 187:10

compliant [2] - 91:10,
 251:7

comply [3] - 10:4,
 162:19, 195:15

complying [2] - 19:6,
 174:19

components

[1] - 85:2

compromised

[2] - 115:3, 116:6

computation

[1] - 256:2

concept [2] - 15:17,
 236:3

concern [9] - 29:17,
 75:9, 89:17, 92:16,
 132:11, 169:13,
 194:10, 211:16,

231:14
concerned [4] - 89:7,
 90:2, 167:1, 227:7
concerning
 [1] - 196:13
concerns [13] - 34:16,
 37:9, 85:16, 132:7,
 147:18, 162:18,
 168:1, 169:6,
 169:19, 211:6,
 211:14, 216:2,
 248:14
concerted [1] - 136:16
Concord [4] - 116:7,
 116:8, 165:16,
 166:3
concur [1] - 189:14
condition [28] - 5:7,
 40:7, 40:17, 46:19,
 54:15, 67:6, 77:18,
 83:19, 96:2, 101:5,
 164:17, 168:2,
 170:13, 172:1,
 172:8, 173:2, 173:4,
 174:19, 176:1,
 192:1, 193:18,
 194:6, 212:11,
 212:12, 212:14,
 218:16, 256:15,
 257:2
conditions [10] - 5:5,
 62:8, 67:7, 71:8,
 172:1, 193:5,
 193:19, 194:12,
 196:19, 257:17
condo [2] - 31:12,
 89:5
condoize [1] - 27:19
condominium
 [1] - 127:1
condos [1] - 25:13
confident [1] - 234:9
configuration
 [3] - 37:15, 67:15,
 203:17
configured [2] - 9:15,
 105:9
conform [2] - 249:14,
 249:15
conforming
 [13] - 12:6, 34:4,
 42:12, 84:8, 86:16,
 98:3, 100:3, 201:9,

201:12, 205:5,
245:6, 245:8, 248:8

conformity [1] - 180:9

confused [1] - 130:12

congestion

[10] - 46:2, 100:5,
192:6, 217:18,
224:18, 227:6,
227:9, 227:11,
238:3, 239:13

congratulations

[1] - 241:5

Congress [1] - 169:1

conservative

[2] - 136:18, 137:15

consider [3] - 10:11,

38:14, 60:9

considerable

[1] - 37:8

considerably

[1] - 36:9

consideration

[1] - 249:3

considered [3] - 5:1,

34:4, 140:1

considering [1] - 9:13

consistent [2] - 83:16,

144:4

consists [1] - 222:2

Constantine [12] - 1:8,

3:4, 7:3, 48:3, 56:3,

65:3, 69:3, 73:3,

104:3, 200:3, 220:3,

242:3

CONSTANTINE

[338] - 3:6, 3:14, 4:6,

4:12, 6:1, 7:5, 8:19,

9:12, 11:16, 14:3,

14:9, 14:14, 14:18,

16:16, 17:2, 17:5,

17:8, 18:4, 19:11,

19:19, 20:3, 20:6,

21:7, 22:1, 23:17,

25:3, 28:4, 30:11,

30:19, 32:9, 32:12,

35:11, 36:18, 37:12,

38:8, 38:17, 40:15,

41:3, 41:16, 43:4,

43:16, 44:2, 44:12,

44:14, 45:3, 45:6,

45:13, 45:16, 47:7,

48:5, 51:7, 51:11,

51:14, 51:18, 52:4,

52:10, 52:13, 53:5,
55:6, 55:9, 56:5,
57:1, 57:4, 57:15,
58:2, 58:6, 58:11,
58:15, 59:10, 59:16,
60:3, 60:16, 61:5,
61:15, 62:1, 63:14,
63:18, 65:5, 65:10,
66:13, 66:19, 68:10,
68:16, 69:5, 69:11,
71:1, 71:5, 72:5,
73:5, 75:7, 76:6,
77:6, 77:19, 78:4,
78:7, 79:8, 79:14,
79:17, 80:7, 80:12,
80:16, 81:4, 81:9,
81:13, 82:8, 82:12,
82:15, 83:2, 83:6,
84:5, 84:15, 86:5,
86:10, 87:9, 88:3,
88:10, 88:16, 90:11,
90:17, 91:3, 93:3,
93:6, 93:11, 93:18,
96:14, 96:19, 97:3,
97:9, 97:12, 97:16,
98:4, 98:9, 98:17,
99:4, 99:7, 99:13,
99:16, 101:11,
101:19, 102:10,
102:18, 104:5,
105:7, 106:11,
107:4, 107:8,
107:17, 109:16,
110:7, 110:15,
110:19, 111:3,
111:7, 112:9,
112:18, 113:2,
113:8, 114:15,
116:5, 116:9,
116:13, 117:1,
117:15, 118:4,
118:11, 118:18,
119:6, 119:11,
119:17, 122:11,
128:12, 129:3,
129:6, 129:19,
130:7, 130:16,
131:9, 132:2,
132:18, 133:6,
134:3, 134:16,
135:14, 136:2,
138:6, 138:9,
138:17, 141:1,

141:5, 141:15,
142:3, 142:8,
144:19, 145:5,
146:2, 146:7,
146:11, 146:19,
147:3, 148:12,
149:5, 150:1, 151:4,
151:11, 152:5,
152:17, 153:5,
154:11, 154:15,
154:19, 155:3,
155:10, 156:1,
156:5, 156:16,
157:10, 158:1,
158:6, 158:12,
159:3, 159:6,
159:11, 160:4,
160:13, 161:3,
162:1, 162:12,
163:11, 163:16,
164:19, 165:6,
166:1, 166:5,
166:12, 167:3,
168:10, 168:18,
169:9, 170:4,
170:17, 170:19,
171:12, 171:15,
172:10, 172:14,
173:1, 173:8,
173:17, 174:9,
174:14, 175:5,
175:7, 175:18,
176:7, 176:12,
177:1, 178:9,
178:15, 179:2,
179:8, 182:11,
183:11, 183:15,
188:8, 188:12,
190:8, 190:12,
197:4, 197:8,
197:17, 198:4,
198:13, 198:17,
199:2, 200:5,
200:18, 201:3,
202:2, 202:13,
203:5, 203:15,
204:13, 204:18,
205:7, 205:13,
206:5, 206:8,
206:12, 206:17,
211:15, 212:1,
212:6, 212:10,
212:15, 212:19,

215:14, 216:6,
 216:14, 217:7,
 219:11, 220:5,
 221:11, 222:16,
 223:8, 224:13,
 225:10, 226:8,
 228:2, 228:12,
 229:10, 230:4,
 230:7, 237:11,
 237:16, 241:4,
 242:5, 245:5, 245:9,
 245:12, 245:16,
 246:2, 246:12,
 247:9, 247:18,
 249:4, 249:17,
 250:19, 251:4,
 251:14, 252:9,
 252:13, 254:3,
 254:8, 254:12,
 254:19, 255:7,
 257:15, 258:1

constitute [1] - 157:4

constructed

[3] - 85:8, 193:8,
 230:16

construction

[8] - 8:15, 19:10,
 21:13, 21:19, 22:4,
 22:17, 23:9, 253:18

consultant [4] - 105:2,

105:13, 105:14,
 174:2

continuance

[4] - 4:19, 56:12,
 57:2, 66:2

continuation

[1] - 69:14

continue [6] - 5:3,

60:17, 61:6, 62:3,
 65:16, 164:14

continued [17] - 4:6,

4:11, 4:13, 6:2, 46:4,
 49:2, 63:19, 66:7,
 67:5, 68:17, 71:6,
 72:6, 100:8, 170:14,
 192:9, 218:2,
 239:15

continuing [5] - 5:17,

63:15, 68:13, 72:2,
 169:13

contract [2] - 106:10,

107:16

contradicted

[1] - 238:9
control [1] - 130:4
CONTROL
 [1] - 261:18
convert [7] - 11:18,
 11:19, 12:16, 13:5,
 14:1, 16:10, 19:13
converting [1] - 16:12
cooperative [1] - 54:9
coordination
 [1] - 183:4
coordinator
 [1] - 160:12
copies [1] - 174:16
copy [4] - 141:2,
 178:7, 178:10,
 259:5
corner [7] - 49:3,
 137:18, 209:5,
 225:18, 226:1,
 227:5, 253:1
correct [12] - 79:12,
 109:13, 110:18,
 128:11, 146:3,
 174:11, 177:12,
 179:18, 179:19,
 182:6, 182:7, 246:5
correction [3] - 87:18,
 123:15, 260:5
corrections
 [2] - 259:12, 260:17
correspondence
 [7] - 32:16, 45:7,
 45:8, 52:7, 69:15,
 188:15, 230:10
corridor [2] - 121:12,
 236:15
Cottage [2] - 127:8,
 127:14
Councilor [1] - 234:14
counsel [2] - 3:18,
 65:14
counted [2] - 78:19,
 244:11
couple [3] - 147:17,
 151:5, 245:17
course [2] - 75:13,
 108:12
court [2] - 173:6
cover [5] - 49:2,
 111:11, 112:3,
 121:19, 225:3
coverage [33] - 109:2,

109:3, 109:14,
 109:19, 110:1,
 110:2, 110:5,
 111:14, 111:15,
 111:16, 111:19,
 112:1, 112:7,
 112:11, 113:9,
 113:18, 114:6,
 114:12, 114:13,
 116:19, 117:2,
 118:10, 120:9,
 120:13, 121:3,
 122:5, 123:11,
 123:16, 125:7,
 127:7, 142:5, 191:3
covered ^[1] - 155:1
covering ^[1] - 49:18
CRANE ^[14] - 220:10,
 221:3, 221:13,
 222:18, 223:13,
 223:19, 225:4,
 225:12, 226:10,
 228:16, 229:17,
 230:2, 237:9, 241:6
crane ^[1] - 237:8
Crane ^[2] - 220:12,
 230:14
create ^[3] - 74:5,
 83:11, 243:19
created ^[6] - 46:9,
 70:4, 100:15,
 192:13, 218:6,
 240:7
creates ^[1] - 38:4
creating ^[2] - 90:6,
 152:18
criteria ^[4] - 122:17,
 143:7, 146:16,
 217:12
critical ^[1] - 251:10
critters ^[1] - 26:12
cross ^[2] - 121:15,
 144:13
crossroads
^[1] - 121:16
crowded ^[1] - 232:8
crux ^[1] - 76:9
cul ^[1] - 201:1
cul-de-sac ^[1] - 201:1
cumbersome
^[1] - 172:6
cure ^[1] - 11:13
curiosity ^[1] - 112:12

curious [1] - 134:13

current [10] - 8:10,
76:8, 77:9, 92:18,
94:16, 109:8,
185:13, 185:19,
186:9, 233:13

customers

[1] - 229:15

cut [3] - 18:2, 84:11,
86:18

D

D-a-S-i-l-v-a

[1] - 35:13

D-o-r-a-n [1] - 20:9

Daes [1] - 207:3

DAES [1] - 207:3

daily [1] - 228:6

damage [1] - 34:1

Dan [1] - 230:12

DANIEL [3] - 220:17,
228:5, 228:14

Daniel [2] - 106:5,
139:8

daniel [1] - 220:17

DAS [9] - 118:3,
119:6, 120:1, 121:1,
121:4, 121:12,
121:17, 122:8,
156:11

DaSilva [1] - 35:13

data [2] - 121:11,
121:14

date [14] - 4:16, 5:10,
57:2, 57:5, 62:10,
66:1, 66:10, 67:11,
68:3, 71:11, 91:8,
96:6, 219:3, 260:6

DATE [1] - 260:1

dated [5] - 32:18,
97:5, 105:17, 186:6,
257:5

David [7] - 4:1, 105:1,
123:8, 123:13,
128:3, 230:13,
232:16

DAVID [51] - 106:17,
107:12, 110:16,
112:17, 113:1,
113:4, 116:2, 116:8,
116:18, 123:15,
125:3, 126:6,
127:14, 128:10,

128:15, 129:5,
 129:13, 129:16,
 130:2, 130:11,
 130:17, 131:16,
 134:18, 135:15,
 136:13, 137:1,
 137:8, 137:13,
 141:19, 142:5,
 142:11, 144:18,
 149:17, 153:1,
 153:6, 154:13,
 154:17, 155:1,
 155:5, 155:7,
 155:17, 156:3,
 158:10, 177:18,
 178:7, 181:7,
 181:10, 181:13,
 185:1, 185:8, 190:2
days [3] - 195:4,
 195:19, 196:5
de [1] - 201:1
dead [1] - 191:2
deadline [1] - 172:18
deal [4] - 13:2, 164:1,
 191:18, 194:18
dealing [2] - 113:12,
 169:1
deals [1] - 177:4
Dear [2] - 207:6,
 251:17
debris [1] - 49:14
decided [1] - 145:9
decision [11] - 5:6,
 21:4, 34:18, 62:6,
 67:8, 71:9, 146:1,
 158:18, 167:18,
 172:9, 224:16
deck [49] - 8:6, 8:7,
 8:16, 9:9, 9:11, 34:8,
 36:3, 37:14, 56:15,
 74:10, 75:10, 75:12,
 75:17, 75:18, 76:3,
 76:4, 76:7, 76:8,
 77:4, 77:7, 77:9,
 78:12, 78:15, 78:18,
 78:19, 79:3, 79:6,
 80:11, 80:14, 80:15,
 81:1, 81:2, 81:3,
 82:19, 83:4, 83:14,
 83:16, 84:2, 84:4,
 85:4, 85:9, 85:10,
 85:12, 85:14, 86:1,
 86:19, 89:8, 92:18

decks [3] - 76:1,
 83:10, 85:15
decreased [1] - 49:19
dedicated [1] - 232:3
deemed [1] - 198:8
Deena [1] - 207:2
DEENA [1] - 207:2
deep [2] - 77:6, 92:6
define [1] - 156:14
defined [4] - 139:4,
 141:11, 142:7,
 156:15
definitely [3] - 37:14,
 53:2, 91:10
definition [1] - 244:6
delay [2] - 197:7,
 198:3
delivered [4] - 259:3,
 259:6, 259:7, 259:9
delivery [1] - 231:19
demolition [1] - 23:11
demonstrate
 [2] - 141:8, 143:9
demonstrated
 [3] - 143:10, 190:18,
 240:3
demonstrating
 [1] - 190:18
denied [1] - 116:12
denser [1] - 13:18
deny [2] - 169:5,
 169:17
Department [7] - 22:7,
 174:17, 177:7,
 194:14, 195:3,
 195:8, 196:2
depiction [1] - 120:2
depth [9] - 75:18,
 77:4, 78:11, 82:14,
 82:19, 89:7, 92:5,
 92:8, 92:12
derogate [6] - 46:14,
 101:1, 193:1,
 218:12, 240:11,
 240:12
derogating
 [4] - 39:18, 54:4,
 95:2, 256:8
describe [4] - 121:2,
 134:18, 172:5,
 172:7
described [1] - 123:9
describing [1] - 157:7

design ^[11] - 50:2,
 50:11, 108:18,
 109:1, 125:17,
 128:3, 128:5,
 134:19, 136:9,
 207:12, 255:3
designed ^[1] - 120:7
desire ^[1] - 83:11
destination
^[1] - 233:10
destroy ^[1] - 208:9
destroyed ^[1] - 209:17
detail ^[5] - 121:2,
 123:12, 138:3,
 196:3, 196:15
determination
^[2] - 167:10, 188:5
determine ^[2] - 177:2,
 224:15
determined
^[1] - 187:9
determining
^[1] - 176:14
deters ^[1] - 51:3
detriment ^[9] - 39:17,
 46:9, 54:3, 95:1,
 100:15, 192:13,
 218:6, 240:7, 256:7
develop ^[1] - 70:3
development
^[3] - 46:5, 192:10,
 218:3
diagonal ^[1] - 137:3
diagonally
^[1] - 136:17
different ^[11] - 109:7,
 115:14, 130:4,
 141:13, 142:14,
 168:7, 169:10,
 183:1, 187:14,
 188:1, 208:1
difficult ^[4] - 13:19,
 31:11, 110:6,
 172:19
difficulty ^[1] - 75:11
dig ^[1] - 35:8
dimension ^[1] - 92:7
dimensional
^[13] - 5:14, 62:18,
 71:17, 71:19, 78:3,
 78:5, 81:10, 81:19,
 102:4, 102:7,
 246:13, 247:4

dimensions

[1] - 91:19

diners [1] - 231:7

dining [1] - 233:10

direct [8] - 35:14,
35:15, 75:15, 131:2,
154:5, 154:12,
154:14, 155:8

DIRECT [1] - 261:18

direction [1] - 157:12

DIRECTION

[1] - 261:18

directly [3] - 100:11,
125:14, 225:13

disapproval

[1] - 91:17

disaster [1] - 209:13

discloses [1] - 196:14

disclosing [1] - 196:3

discontinue

[1] - 193:12

discuss [1] - 33:3

discussing [1] - 20:16

discussion

[10] - 36:19, 52:17,
99:8, 105:10, 139:6,
166:6, 170:13,
187:12, 188:9,
216:18

discussions

[4] - 77:2, 108:8,
170:18, 254:19

dislocations [1] - 22:4

disrepair [1] - 130:8

disruptions

[1] - 22:13

disruptive [1] - 22:11

distributed [1] - 119:7

distribution

[1] - 260:8

District [2] - 123:5,

139:12

district [16] - 10:7,

46:13, 46:14, 84:9,
100:19, 101:1,
123:6, 144:7,
159:13, 192:19,
193:1, 218:11,
218:12, 240:11,
245:13, 246:7

districts [1] - 240:12

DO [1] - 260:5

Doctor [1] - 28:18

doctor's ^[1] - 124:4

document

^[6] - 119:14, 119:16,
138:15, 140:12,
185:19, 187:1

documents

^[3] - 117:14, 182:15,
187:14

DOES ^[1] - 261:17

DON ^[25] - 173:16,

173:19, 174:11,
175:2, 175:6,
175:16, 177:13,
179:19, 180:3,
180:14, 180:18,
181:2, 182:1, 182:7,
182:9, 184:12,
184:14, 184:16,
185:16, 186:1,
186:7, 186:10,
186:17, 187:2,
187:9

Don ^[3] - 105:12,

172:4, 173:19

done ^[10] - 16:13,

66:11, 123:3, 135:3,
144:13, 183:3,
189:13, 193:6,
228:19, 256:14

Donuts ^[2] - 125:9,

125:15

door ^[34] - 9:8, 18:11,

24:17, 31:7, 91:9,
202:10, 202:17,
202:19, 205:8,
206:1, 207:18,
208:12, 208:15,
208:17, 210:18,
211:4, 211:9,
211:16, 211:17,
212:16, 213:4,
213:5, 214:1,
214:18, 215:7,
215:10, 215:16,
216:5, 217:2, 217:5,
217:9, 219:6

door's ^[1] - 42:6

doors ^[6] - 67:17,

208:11, 213:11,
214:6, 219:4, 252:6

DORAN ^[5] - 20:8,

21:10, 22:15, 23:2,
23:12

Doran ^[1] - 20:9
dormer ^[21] - 25:12,
 42:17, 74:18, 74:19,
 75:11, 84:4, 85:5,
 92:3, 249:12,
 249:13, 249:15,
 250:9, 250:13,
 250:17, 251:5,
 251:6, 251:9,
 253:15, 253:16
dormers ^[1] - 89:19
dot ^[2] - 109:10,
 110:14
double ^[2] - 25:19,
 139:2
doubt ^[2] - 34:15,
 91:11
Dover ^[1] - 49:3
down ^[18] - 11:11,
 22:10, 27:5, 30:8,
 74:9, 90:12, 102:9,
 116:15, 121:6,
 154:17, 163:17,
 166:16, 202:11,
 202:18, 211:9,
 214:11, 221:14,
 254:4
downstairs ^[3] - 9:18,
 89:4, 205:11
dozens ^[1] - 122:4
drain ^[1] - 49:13
dramatically
^[1] - 236:12
draw ^[1] - 86:14
drill ^[1] - 200:9
drive ^[5] - 129:1,
 131:5, 238:16,
 239:2, 244:8
driver ^[1] - 74:4
driveway ^[4] - 231:18,
 249:6, 249:8, 249:9
dropped ^[1] - 155:17
due ^[2] - 41:11, 154:2
dug ^[2] - 33:18, 35:9
DUGGAN ^[9] - 18:9,
 20:5, 26:3, 26:14,
 27:3, 27:18, 28:3,
 31:16, 32:8
Duggan ^[2] - 18:10,
 31:16
duly ^[1] - 197:1
Dunkin' ^[2] - 125:9,
 125:15

duplicating ^[1] - 127:7
during ^[5] - 22:17,
 30:7, 131:6, 226:18,
 233:2
dyslexic ^[1] - 187:16

E

e-mail ^[2] - 56:17,
 56:18
earliest ^[1] - 232:7
early ^[2] - 221:19,
 227:17
easement ^[5] - 244:7,
 246:19, 247:7,
 249:5, 255:19
easier ^[2] - 118:16,
 202:14
easiest ^[1] - 41:15
easily ^[1] - 27:11
east ^[1] - 139:18
East ^[8] - 7:19, 32:17,
 32:19, 35:18,
 230:11, 235:15,
 235:17, 239:18
eave ^[1] - 33:16
ECBA ^[1] - 236:3
ECPT ^[1] - 230:15
edge ^[1] - 80:15
effect ^[1] - 192:7
effecting ^[1] - 54:11
effective ^[2] - 160:7,
 229:5
effects ^[5] - 53:15,
 167:7, 185:13,
 186:17, 194:8
effort ^[6] - 22:19,
 160:7, 160:8, 164:1,
 248:16
effort's ^[1] - 37:8
efforts ^[2] - 189:9,
 189:10
egress ^[7] - 20:16,
 30:4, 32:7, 34:9,
 100:5, 192:8,
 217:17
eight ^[8] - 59:18,
 116:15, 135:1,
 135:4, 135:7, 227:2,
 228:6, 249:8
eight-unit ^[1] - 249:8
either ^[8] - 11:10,
 13:11, 15:13, 63:7,
 79:10, 79:13, 147:6,

161:1

elderly [4] - 9:17,
10:17, 164:17,
243:15

electromagnetic
[6] - 176:3, 185:15,
194:9, 194:16,
194:19, 195:17

element [1] - 70:10
elements [1] - 148:16

elevation [19] - 42:13,
44:10, 50:16, 86:9,
87:4, 96:10, 98:16,
201:16, 201:18,
202:9, 203:9,
203:10, 204:8,
204:12, 205:10,
208:4, 208:19,
210:15

elevations [6] - 25:4,
91:18, 201:11,
207:13, 207:17,
208:7

eliminate [5] - 111:17,
212:2, 212:3,
215:16, 216:4

eliminated [2] - 34:8,
203:2

elimination
[3] - 37:13, 216:19,
217:1

ELLEN [5] - 20:8,
21:10, 22:15, 23:2,
23:12

Ellen [1] - 20:9

emanating [3] - 176:4,
194:17, 195:1

Embry [1] - 3:17

emergency
[3] - 27:12, 131:19,
132:1

emissions
[9] - 105:13, 168:4,
170:10, 176:3,
178:3, 178:5,
194:17, 195:17

empowered
[1] - 164:5

empty [2] - 253:8,
253:19

enclose [3] - 92:15,
95:14, 135:6

enclosed [2] - 26:9,

90:2
enclosure [2] - 50:3,
54:11
encourage [3] - 231:6,
234:7, 238:19
encourages
[1] - 234:1
encouraging
[1] - 234:5
encroaches
[1] - 11:12
encroaching
[1] - 59:8
end [4] - 22:16,
153:13, 182:1,
222:12
endanger [2] - 224:18,
238:3
endeavor [1] - 235:2
ended [1] - 171:3
endorse [1] - 253:16
energy [5] - 176:3,
194:9, 194:16,
194:19, 195:17
enforcement
[4] - 39:2, 53:9, 94:7,
255:11
engineer [5] - 27:16,
105:12, 125:3,
136:15, 137:14
England [1] - 231:8
enjoyed [1] - 207:11
enlarge [6] - 42:11,
89:10, 98:4, 98:6,
100:2, 142:13
enlarged [4] - 24:14,
25:19, 42:3, 99:10
enlargement
[1] - 56:15
enlarging [3] - 43:10,
98:14
enliven [1] - 233:18
enthusiasm
[1] - 254:9
enthusiastic
[1] - 256:13
enthusiastically
[1] - 253:12
entire [1] - 149:18
entrance [4] - 205:12,
211:19, 213:13,
215:5
entry [1] - 213:7

enumerated

[1] - 40:18

equally [1] - 76:1**equipment** [10] - 34:1,

121:3, 132:5,

135:16, 176:4,

189:6, 193:16,

195:1, 195:12,

195:13

erecting [1] - 192:4**ERIC** [7] - 77:11,

77:15, 78:6, 82:14,

90:8, 93:2, 93:5

Eric [2] - 73:15, 91:17**ERRATA** [3] - 259:1,

259:17, 260:3

Errata [4] - 259:2,

259:4, 259:13,

260:7

errata [1] - 260:6**escape** [4] - 21:16,

21:18, 31:17, 32:1

especially [1] - 127:11**essentially**

[6] - 98:14, 120:6,

134:5, 139:15,

139:19, 142:17

established [5] - 46:3,

100:6, 192:7,

217:19, 239:14

establishments

[1] - 224:12

estimate [1] - 136:17**etcetera** [6] - 121:16,

122:7, 135:18,

143:17, 209:2

Eustis [1] - 89:1**EUSTIS** [6] - 89:1,

89:2, 90:9, 90:15,

99:3, 99:6

evaluated [1] - 127:16**evening** [10] - 48:9,

65:18, 73:11, 87:14,

104:18, 170:6,

173:16, 220:10,

233:4, 242:9

event [5] - 95:16, 96:7,

128:19, 143:3,

195:10

eventually [2] - 190:4,

232:4

evidence [4] - 190:18,

224:15, 226:7,

238:8
ex ^[1] - 82:11
exact ^[2] - 142:1,
 145:1
exactly ^[11] - 9:14,
 24:19, 26:2, 81:5,
 82:6, 82:8, 137:8,
 138:7, 157:6, 214:8,
 251:1
exaggerated
^[1] - 137:6
example ^[6] - 116:7,
 120:14, 121:8,
 121:17, 174:6,
 180:5
excavation ^[1] - 35:2
exceeds ^[1] - 49:6
except ^[7] - 9:7,
 131:19, 144:10,
 160:15, 210:16,
 219:3, 260:16
excessive
^[2] - 224:18, 238:3
excludes ^[1] - 244:7
exclusive ^[1] - 124:7
excuse ^[2] - 14:3,
 228:3
exempt ^[1] - 221:14
Exeter ^[21] - 2:13,
 200:6, 200:17,
 200:19, 207:4,
 207:10, 207:14,
 208:4, 208:10,
 208:15, 209:1,
 209:6, 209:9,
 209:12, 209:14,
 210:2, 210:3, 210:7,
 211:8
exeter ^[1] - 200:18
Exhibit ^[1] - 122:19
exhibits ^[1] - 105:18
exist ^[1] - 25:11
existed ^[2] - 113:10,
 113:11
existence ^[1] - 143:12
existing ^[37] - 27:9,
 30:3, 30:6, 33:5,
 33:16, 42:6, 42:7,
 49:3, 49:9, 49:17,
 50:18, 60:7, 74:11,
 77:18, 85:9, 85:10,
 92:17, 98:13, 98:16,
 112:7, 120:5, 124:4,

124:6, 127:2, 127:3,
 127:6, 128:9,
 128:10, 130:13,
 133:15, 135:2,
 140:18, 146:10,
 193:10, 201:9,
 202:10, 202:19

exists [2] - 32:1,
 128:16

expansion [1] - 60:9

expect [1] - 183:6

expensive [1] - 118:8

expert [2] - 148:3,
 185:11

Expires [1] - 261:15

explain [5] - 131:11,
 132:3, 133:13,
 145:14, 230:15

explained

[2] - 116:18, 236:3

explanation

[1] - 122:8

explored [1] - 60:12

exploring [1] - 59:5

exposed [1] - 53:13

exposure [1] - 105:13

expressed [3] - 37:1,
 75:9, 100:12

extend [2] - 50:17,
 76:7

extended [1] - 80:14

extends [1] - 142:6

extension [1] - 248:7

extent [11] - 5:12,
 68:1, 71:15, 95:13,
 99:1, 168:3, 193:9,
 193:18, 196:9,
 198:5, 219:4

exterior [1] - 94:17

extra [1] - 128:18

extreme [1] - 10:12

eye [1] - 186:2

F

facade [3] - 134:8,
 135:8, 189:3

facades [1] - 208:9

face [4] - 29:1, 29:4,
 42:2, 204:7

facilities [3] - 106:18,
 139:14, 167:8

facility [21] - 106:2,
 106:6, 107:7, 109:9,

112:2, 112:3,
 130:15, 131:1,
 140:19, 143:10,
 144:2, 144:4,
 144:12, 149:19,
 152:11, 152:16,
 155:12, 170:2,
 190:19, 191:13,
 192:16
facility's [1] - 191:12
facing [6] - 24:11,
 24:15, 25:18, 27:4,
 27:5, 49:4
fact [13] - 9:13, 56:18,
 67:2, 83:18, 102:11,
 112:4, 134:7, 143:1,
 177:1, 210:4,
 214:17, 255:19,
 256:12
facto [2] - 195:8,
 196:8
facts [1] - 166:17
fails [1] - 195:14
failure [6] - 67:4,
 196:1, 196:4, 196:5,
 196:7, 197:13
Failure [1] - 195:6
fair [2] - 142:15, 241:1
fairly [1] - 112:3
faith [2] - 160:7, 160:8
familiar [1] - 223:3
families [2] - 253:5,
 256:16
family [21] - 9:17,
 10:17, 11:18, 11:19,
 12:17, 13:5, 13:16,
 14:2, 16:4, 16:6,
 16:10, 16:11, 19:13,
 33:13, 73:17, 243:6,
 243:9, 253:11,
 254:1, 255:15
far [11] - 70:7, 89:15,
 89:19, 125:4,
 126:10, 224:6,
 225:15, 225:16,
 226:10, 227:6,
 227:8
FAR [6] - 10:6, 21:4,
 49:5, 49:6, 245:8,
 256:5
farms [1] - 232:3
fast [1] - 117:12
faster [1] - 118:17

father [2] - 59:7, 74:6

father-in-law

[1] - 59:7

fault [1] - 144:18

favor [29] - 5:17, 6:2,
37:11, 40:18, 41:4,
47:4, 47:8, 55:3,
55:7, 55:10, 63:8,
63:15, 63:19, 68:13,
68:17, 72:2, 72:6,
92:1, 97:10, 97:13,
101:8, 101:12,
198:14, 198:18,
219:8, 235:12,
237:4, 241:5,
257:16

favorably [1] - 95:18

Fawcett [2] - 2:8, 65:6

Fax [1] - 1:17

FCC [12] - 115:8,
168:16, 168:17,
168:18, 172:4,
174:4, 174:8,
174:16, 175:3,
178:17, 182:16,
185:16

FCC's [1] - 185:18

feature [2] - 70:6,
231:8

features [1] - 209:5

federal [10] - 167:5,
167:17, 176:2,
183:2, 184:14,
184:15, 186:2,
194:15, 195:5,
195:11

Federal [3] - 167:9,

168:4, 169:15

feed [1] - 14:8

feedback [2] - 14:7,
235:4

feet [45] - 8:12, 33:17,
59:18, 59:19, 67:19,
75:1, 75:3, 76:19,
77:1, 77:3, 78:6,
78:8, 78:16, 81:15,
81:16, 81:17, 82:7,
82:11, 82:19, 83:13,
85:5, 85:6, 86:4,
89:11, 89:17, 89:18,
92:5, 92:6, 92:18,
97:1, 151:12, 161:8,
204:17, 226:1,

231:18, 244:4,
 244:10, 246:15,
 246:16, 247:5,
 247:7, 247:11,
 248:11, 248:12,
 249:16
felt [3] - 77:3, 89:10,
 164:5
fence [2] - 31:10,
 31:13
fenced [1] - 31:5
fenced-in [1] - 31:5
fences [1] - 31:9
fenestration
 [4] - 41:9, 41:10,
 43:19, 204:1
fenestration's
 [1] - 204:3
few [4] - 137:7,
 150:18, 209:15,
 221:12
fewer [2] - 115:3,
 117:4
fields [1] - 185:15
fight [1] - 216:1
figure [1] - 58:19
file [25] - 45:7, 52:14,
 59:17, 63:4, 63:5,
 71:18, 168:3, 168:5,
 174:15, 174:16,
 174:18, 176:1,
 176:9, 176:15,
 177:10, 177:16,
 178:12, 194:13,
 195:6, 196:1, 202:4,
 205:15, 207:1,
 228:18, 254:14
filed [6] - 4:16, 177:6,
 177:18, 195:2,
 195:5, 196:15
files [9] - 5:15, 62:7,
 62:17, 62:19, 68:4,
 71:19, 102:11,
 194:15, 194:18
filing [5] - 172:18,
 178:10, 179:12,
 179:14, 179:17
filings [1] - 183:2
fill [1] - 111:13
filled [1] - 254:1
final [7] - 34:18, 36:16,
 45:11, 135:8, 194:6,
 254:16, 257:8

finally [2] - 127:8,
194:6

findings [21] - 38:12,
38:19, 40:5, 45:18,
46:17, 53:7, 54:13,
94:4, 95:19, 101:3,
190:15, 192:3,
193:3, 217:15,
218:14, 239:9,
239:10, 240:15,
255:9, 256:19

fine [9] - 17:10, 61:1,
89:7, 90:1, 92:3,
99:6, 211:13, 216:6

finish [1] - 170:5

finished [1] - 189:4

fire [12] - 21:16, 21:18,
27:10, 29:10, 29:13,
30:4, 30:7, 30:12,
31:17, 31:19,
132:10, 221:17

fired [2] - 128:13,
129:11

firing [1] - 129:9

first [48] - 3:8, 13:11,
15:13, 15:14, 18:12,
24:1, 32:3, 32:4,
33:14, 38:15, 40:11,
51:6, 54:18, 74:1,
75:12, 76:12, 79:1,
79:5, 79:15, 80:10,
80:15, 80:18, 81:1,
81:2, 83:11, 83:14,
84:4, 85:4, 85:12,
87:5, 90:4, 95:11,
95:14, 109:8,
109:10, 140:14,
165:19, 201:17,
210:1, 219:2,
221:10, 221:13,
222:2, 228:13,
228:14, 257:6

five [30] - 5:16, 6:1,
12:8, 33:16, 42:4,
42:8, 42:9, 47:7,
55:6, 62:19, 63:2,
63:18, 68:5, 68:7,
68:16, 72:5, 77:9,
77:11, 78:6, 78:7,
92:17, 97:12,
101:11, 198:17,
221:7, 231:14,
241:4, 246:15,

246:16, 247:5
fix ^[1] - 244:14
flooded ^[1] - 49:15
flooding ^[1] - 49:14
floor ^[77] - 8:10, 8:14,
 9:7, 9:9, 11:9, 11:10,
 13:11, 15:13, 15:14,
 17:15, 18:2, 19:17,
 31:18, 32:3, 32:4,
 32:6, 33:14, 34:7,
 36:7, 42:19, 73:19,
 74:1, 74:5, 74:11,
 74:18, 75:4, 75:10,
 75:12, 76:2, 76:12,
 78:12, 78:14, 78:18,
 78:19, 79:1, 79:3,
 79:5, 79:6, 79:15,
 80:1, 80:5, 80:8,
 80:9, 80:11, 80:14,
 80:15, 80:18, 81:1,
 81:2, 83:12, 83:14,
 83:16, 84:4, 85:4,
 85:8, 85:12, 85:14,
 86:8, 87:5, 90:4,
 95:11, 95:14,
 101:17, 140:14,
 140:15, 207:19,
 208:5, 222:2,
 249:11
floors ^[4] - 15:16,
 33:7, 33:15, 222:5
flyers ^[1] - 153:8
folded ^[1] - 148:10
folks ^[1] - 147:7
follow ^[2] - 123:19,
 183:5
followed ^[2] - 23:14,
 106:3
following ^[12] - 38:12,
 38:18, 45:17, 53:7,
 94:4, 99:19, 120:4,
 190:15, 193:5,
 194:12, 217:15,
 255:9
follows ^[1] - 143:8
food ^[2] - 231:4,
 236:19
foot ^[6] - 82:18, 84:2,
 96:18, 224:9, 227:7
footage ^[1] - 245:1
footprint ^[2] - 8:15,
 33:16
FOR ^[1] - 1:2

forbid... [1] - 29:18
force [1] - 163:6
FORD [51] - 106:17,
 107:12, 110:16,
 112:17, 113:1,
 113:4, 116:2, 116:8,
 116:18, 123:15,
 125:3, 126:6,
 127:14, 128:10,
 128:15, 129:5,
 129:13, 129:16,
 130:2, 130:11,
 130:17, 131:16,
 134:18, 135:15,
 136:13, 137:1,
 137:8, 137:13,
 141:19, 142:5,
 142:11, 144:18,
 149:17, 153:1,
 153:6, 154:13,
 154:17, 155:1,
 155:5, 155:7,
 155:17, 156:3,
 158:10, 177:18,
 178:7, 181:7,
 181:10, 181:13,
 185:1, 185:8, 190:2
Ford [1] - 105:2
foregoing
 [2] - 196:10, 260:16
FOREGOING
 [1] - 261:17
forever [1] - 30:16
form [9] - 62:18, 78:3,
 78:5, 81:11, 81:19,
 102:4, 102:7,
 246:13, 246:14
formal [1] - 232:9
former [2] - 75:17,
 76:4
formerly [2] - 230:17,
 233:8
forms [2] - 5:14, 93:19
forth [1] - 261:9
forward [7] - 67:3,
 88:19, 104:9,
 104:10, 159:18,
 162:16, 253:10
foundation [5] - 26:7,
 26:16, 33:8, 33:18,
 35:9
four [15] - 29:14, 41:3,
 55:8, 59:19, 115:13,

115:18, 126:14,
 127:9, 135:8,
 207:17, 208:10,
 221:10, 221:14,
 227:1, 228:7
Four ^[1] - 55:10
four-story
^[2] - 126:14, 127:9
foyer ^[1] - 213:8
framing ^[1] - 11:7
frankness ^[1] - 118:12
free ^[1] - 104:15
frequencies
^[6] - 115:8, 115:9,
 115:12, 115:14,
 115:18, 117:4
fresh ^[1] - 49:18
Fresh ^[1] - 252:2
Friday ^[4] - 68:8,
 68:11, 72:1, 226:14
Front ^[1] - 7:15
front ^[50] - 7:19,
 25:11, 33:7, 36:7,
 41:13, 43:9, 43:15,
 43:17, 67:16,
 104:15, 108:15,
 117:9, 124:16,
 124:18, 125:6,
 127:18, 185:12,
 201:16, 205:8,
 205:10, 206:1,
 208:11, 208:12,
 208:15, 208:17,
 210:14, 211:4,
 211:17, 212:16,
 213:3, 213:12,
 215:6, 215:10,
 215:16, 216:4,
 217:2, 219:4,
 225:14, 245:19,
 246:5, 246:14,
 247:2, 247:5, 247:6,
 247:8, 248:4, 249:1,
 249:19
frontage ^[1] - 231:16
fronted ^[1] - 127:16
fronts ^[1] - 247:12
fruitful ^[1] - 166:16
full ^[8] - 23:7, 26:7,
 26:16, 33:6, 121:10,
 121:18, 233:3,
 253:4
fully ^[1] - 60:11

functionality

[1] - 203:8

functionally

[2] - 143:13, 191:5

furniture [2] - 15:11,
17:19

future [12] - 90:3,

95:15, 115:11,

115:12, 155:11,

156:12, 159:18,

166:14, 169:15,

178:11, 178:14,

197:18

G

G-o-t-o [1] - 24:3

garage [3] - 29:1,

222:12, 222:14

garbage [3] - 20:18,

21:1, 21:2

garden [1] - 203:19

Gary [1] - 48:13

gas [2] - 128:13, 132:6

gas-fired [1] - 128:13

gather [1] - 112:15

GAY [1] - 90:19

Gaylen [2] - 90:19,

91:4

GAYLEN [1] - 91:4

gaylen [2] - 93:4, 93:5

GENERAL [1] - 1:4

general [8] - 91:12,

117:6, 120:18,

122:15, 123:2,

177:5, 193:19,

239:10

generally [6] - 22:8,

192:3, 192:17,

223:4, 239:3,

256:18

generated [2] - 100:4,

217:16

generator [26] - 128:7,

128:9, 128:10,

128:13, 128:16,

128:18, 129:9,

129:10, 129:13,

129:15, 130:2,

130:3, 130:5, 130:8,

130:12, 130:18,

131:2, 131:4, 131:6,

131:16, 131:17,

132:6, 132:14,

133:1, 194:3

generators

[3] - 131:15, 132:8,
194:2

gentleman

[1] - 179:17

GFA [13] - 33:6, 34:7,

78:17, 79:2, 79:4,
79:18, 80:19, 84:3,
84:6, 84:8, 84:14,
85:3, 102:8

given [9] - 67:14,

91:14, 91:17,
142:15, 144:6,
147:11, 148:1,
152:10, 155:8

glass [1] - 67:17

global [1] - 176:14

goal [2] - 49:11,

256:17

goals [1] - 234:5

God [2] - 29:18, 30:14

GOLDING [7] - 7:14,

13:4, 13:8, 15:1,
17:12, 23:3, 28:1

golding [1] - 33:13

Golding [3] - 7:14,

33:1, 35:16

Goldstar [1] - 139:16

gonna [3] - 27:7,

61:13, 153:18

GOTO [2] - 24:2,

44:19

Goto [2] - 24:2, 44:19

Government

[3] - 167:9, 168:4,
169:15

governmental

[1] - 195:16

gracious [1] - 215:4

grade [4] - 26:17,

128:19, 202:18,
211:9

grandfathered

[2] - 19:7, 60:10

grant [13] - 40:5,

46:18, 54:14, 96:1,
101:4, 141:7, 193:4,
195:6, 218:15,
224:13, 234:7,
240:16, 257:1

granted [12] - 39:16,

41:5, 47:3, 47:8,

54:2, 94:19, 97:13,
 195:9, 195:14,
 196:7, 198:18,
 256:6

granting ^[12] - 40:18,
 47:4, 55:3, 83:7,
 97:10, 101:8, 102:2,
 198:14, 212:12,
 219:8, 241:1,
 257:16

great ^[6] - 7:17, 23:2,
 45:2, 86:2, 145:3,
 244:13

greater ^[1] - 75:18

greatly ^[1] - 207:15

GREEN ^[19] - 8:17,
 13:6, 14:16, 37:7,
 45:15, 80:5, 88:5,
 93:16, 125:1,
 156:15, 173:13,
 184:7, 184:13,
 184:15, 185:6,
 190:1, 201:19,
 216:9, 237:15

green ^[6] - 110:5,
 111:15, 120:8,
 120:13, 122:2,
 140:13

Green ^[23] - 1:10, 3:5,
 6:4, 7:4, 41:2, 47:11,
 48:4, 55:11, 56:4,
 64:2, 65:4, 69:4,
 73:4, 97:15, 101:14,
 104:4, 199:1, 200:4,
 219:13, 220:4,
 241:8, 242:4, 258:4

Greg ^[5] - 7:17, 20:15,
 22:18, 33:1, 35:16

GREGORY ^[7] - 7:14,
 13:4, 13:8, 15:1,
 17:12, 23:3, 28:1

Gregory ^[1] - 7:14

Groll's ^[1] - 28:18

gross ^[1] - 36:6

Grossman
^[1] - 187:12

ground ^[7] - 74:5,
 78:12, 78:14, 78:16,
 78:17, 83:16, 85:8

Group ^[2] - 233:2,
 233:8

Group's ^[1] - 232:17

groups ^[2] - 209:16,

234:19
grow [1] - 118:9
growing [1] - 9:17
grown [1] - 231:8
guess [14] - 15:18,
 16:11, 17:4, 61:4,
 77:9, 77:12, 80:8,
 94:1, 109:19,
 147:18, 153:17,
 157:4, 197:18,
 216:14
guest [2] - 152:18,
 244:1
guideline [1] - 251:6
guidelines [2] - 75:1,
 249:14
Gus [1] - 78:3
gut [2] - 20:14, 23:7
gut-reno [1] - 20:14
guy [2] - 56:10, 181:17
guys [4] - 31:12,
 114:16, 170:1,
 223:14
GWEN [37] - 147:13,
 147:16, 148:18,
 149:4, 149:8,
 149:13, 149:18,
 150:5, 151:9,
 151:19, 152:7,
 154:10, 155:6,
 157:1, 159:16,
 160:9, 160:18,
 161:18, 162:3,
 163:15, 164:2,
 165:9, 165:14,
 167:1, 168:7,
 168:12, 169:7,
 170:1, 177:15,
 178:4, 178:13,
 178:17, 179:10,
 180:1, 182:4, 182:8,
 185:4
Gwen [1] - 147:13

H

H-a-r-d-e-r
 [1] - 200:14
habitable [2] - 204:18,
 205:1
Haes [3] - 105:12,
 172:4, 173:19
HAES [25] - 173:16,
 173:19, 174:11,

175:2, 175:6,
 175:16, 177:13,
 179:19, 180:3,
 180:14, 180:18,
 181:2, 182:1, 182:7,
 182:9, 184:12,
 184:14, 184:16,
 185:16, 186:1,
 186:7, 186:10,
 186:17, 187:2,
 187:9

haggle ^[1] - 171:9

half ^[7] - 75:1, 133:17,
 133:18, 133:19,
 134:1, 135:6, 222:8

Hampshire ^[1] - 174:1

hand ^[10] - 34:1, 35:2,
 35:9, 102:17,
 102:19, 215:5,
 229:2, 236:15,
 236:16, 261:11

hands ^[2] - 15:10,
 18:1

hanging ^[1] - 122:6

happy ^[4] - 122:9,
 210:9, 211:4,
 253:19

hard ^[1] - 202:10

harder ^[1] - 16:13

HARDER

^[10] - 200:13, 211:2,
 212:5, 213:6,
 213:11, 213:17,
 214:17, 215:3,
 215:18, 216:11

Harder ^[1] - 200:13

hardship ^[21] - 9:13,
 11:3, 11:4, 13:5,
 17:13, 37:17, 39:4,
 39:5, 39:11, 49:12,
 53:11, 53:12, 53:17,
 83:7, 83:9, 94:8,
 94:9, 94:14, 255:13,
 255:14, 255:17

harmful ^[1] - 167:10

harmony ^[1] - 207:12

hazard ^[11] - 46:2,
 46:8, 100:6, 100:14,
 147:19, 192:6,
 192:12, 217:18,
 218:5, 239:13,
 240:6

hazards ^[1] - 185:14

head [3] - 9:3, 44:7,
 75:4
health [17] - 46:9,
 53:14, 100:15,
 105:14, 147:19,
 148:5, 167:2, 167:6,
 169:3, 169:6,
 169:12, 169:19,
 186:17, 192:13,
 194:8, 218:6, 240:7
healthy [1] - 253:6
hear [15] - 13:7, 14:4,
 17:9, 57:17, 58:14,
 62:12, 63:6, 104:12,
 105:6, 156:7, 163:1,
 163:17, 173:11,
 202:1, 252:7
heard [40] - 3:12, 4:4,
 5:5, 7:9, 20:7, 32:10,
 32:14, 37:10, 45:4,
 48:8, 52:2, 52:5,
 56:9, 57:16, 62:4,
 65:8, 65:12, 66:18,
 69:9, 69:12, 71:7,
 73:9, 88:19, 91:1,
 104:8, 150:15,
 165:19, 172:7,
 178:16, 179:9,
 189:17, 191:18,
 200:8, 206:14,
 210:8, 220:9, 230:5,
 230:8, 252:5,
 252:16
hearing [21] - 8:3,
 34:17, 49:7, 51:6,
 63:6, 65:17, 66:1,
 66:6, 66:14, 84:16,
 91:8, 92:19, 96:4,
 116:19, 132:12,
 136:16, 157:15,
 163:5, 179:7, 207:7,
 251:17
HEARING [1] - 1:4
hearings [1] - 66:15
heart [1] - 164:17
heavens [1] - 253:14
heavily [1] - 239:4
height [11] - 11:11,
 17:15, 18:1, 19:5,
 19:17, 34:3, 39:10,
 75:4, 78:16, 209:1,
 248:10
heights [1] - 19:2

held ^[3] - 19:9, 150:17,
 158:16
help ^[4] - 13:13, 14:10,
 15:8, 173:15
helpful ^[2] - 25:5,
 33:12
helps ^[1] - 75:3
hereby ^[1] - 260:17
hereinbefore
^[1] - 261:9
hereunto ^[1] - 261:11
Hi ^[1] - 31:16
high ^[3] - 114:1,
 133:19, 204:17
High ^[1] - 109:12
higher ^[1] - 21:8
HILL ^[9] - 200:15,
 205:17, 211:18,
 213:16, 214:12,
 215:12, 215:19,
 216:8, 216:10
Hill ^[2] - 200:15, 253:7
Historical ^[2] - 70:2,
 70:15
history ^[1] - 221:15
hit ^[1] - 9:3
hits ^[2] - 51:8, 250:17
Hoagland ^[3] - 73:15,
 73:18, 91:18
HOAGLAND
^[8] - 73:15, 77:11,
 77:15, 78:6, 82:14,
 90:8, 93:2, 93:5
Hoagland's ^[1] - 73:19
Hoaglands ^[1] - 74:3
hold ^[10] - 4:19,
 148:14, 153:3,
 158:4, 158:7, 158:9,
 159:14, 159:19,
 202:14
holding ^[1] - 229:3
home ^[8] - 10:14,
 11:18, 12:1, 12:17,
 19:14, 73:17, 74:4,
 255:14
hope ^[9] - 33:11,
 108:19, 183:7,
 224:7, 227:7, 232:4,
 232:14, 235:11,
 237:4
Hope ^[2] - 48:11
HOPE ^[3] - 48:9,
 48:18, 55:12

hopefully [2] - 229:6,
237:1

hour [1] - 227:1

hours [2] - 131:8,
228:3

house [47] - 9:19,
10:3, 10:18, 11:5,
11:8, 11:15, 12:6,
13:11, 15:3, 15:9,
15:13, 16:10, 16:11,
16:15, 17:17, 20:13,
20:19, 21:5, 23:6,
33:13, 33:19, 36:12,
37:16, 39:12, 39:13,
44:4, 84:7, 91:15,
170:3, 201:1, 201:8,
201:15, 204:7,
208:12, 209:2,
243:5, 243:6,
244:14, 248:6,
249:1, 253:1, 253:8,
253:16, 253:19,
255:3, 256:15

houses [15] - 21:12,
36:8, 59:15, 59:19,
145:10, 207:12,
207:13, 207:17,
208:10, 208:13,
209:5, 209:9,
209:13, 209:16

housing [7] - 14:1,
16:3, 40:3, 95:8,
106:6, 107:11,
152:11

Housing [14] - 106:4,
107:13, 108:4,
108:11, 112:14,
124:14, 128:17,
153:2, 153:9,
155:12, 160:15,
162:4, 166:4, 166:8

Hudson [1] - 174:1

HUGHES [76] - 4:10,
9:4, 14:6, 14:12,
17:1, 37:3, 42:14,
44:13, 51:16, 66:17,
68:9, 81:6, 87:17,
93:15, 99:15,
107:10, 111:2,
134:6, 134:12,
136:8, 136:19,
137:5, 137:11,
137:19, 138:2,

144:9, 144:17,
 145:2, 147:2,
 161:12, 164:9,
 164:13, 166:3,
 170:18, 177:9,
 177:14, 178:19,
 179:4, 180:10,
 180:16, 181:1,
 181:3, 181:8,
 181:11, 181:15,
 182:3, 184:18,
 185:3, 185:10,
 185:18, 186:5,
 186:8, 186:14,
 187:5, 187:15,
 187:19, 188:11,
 190:3, 190:7,
 190:11, 205:19,
 206:10, 213:2,
 213:8, 213:14,
 214:5, 214:9, 215:2,
 217:4, 223:10,
 223:16, 229:13,
 229:19, 237:14,
 252:12, 255:6

Hughes ^[23] - 1:9, 3:4,
 6:3, 7:3, 41:2, 47:10,
 48:3, 55:11, 56:3,
 64:1, 65:3, 69:3,
 73:3, 97:14, 101:13,
 104:3, 198:19,
 200:3, 219:12,
 220:3, 241:7, 242:3,
 258:3

hung ^[2] - 120:1,
 153:9

Hungry ^[1] - 233:7

Huron ^[2] - 89:2,
 92:11

I

idea ^[7] - 13:15, 13:17,
 15:2, 15:18, 15:19,
 120:11, 156:17

ideal ^[1] - 14:15

ideally ^[1] - 15:15

identical ^[2] - 207:15,
 207:18

identified ^[6] - 47:2,
 101:7, 106:15,
 165:12, 196:11,
 196:17

identify ^[5] - 144:10,

164:10, 165:2,
171:5, 220:15

imagine [2] - 76:16,
92:10

immediately

[2] - 50:18, 213:9

impact [14] - 83:1,

91:10, 143:2,
167:15, 167:16,
169:6, 169:12,
193:7, 225:2, 235:7,
237:2, 238:6, 240:4,
240:5

impair [4] - 46:13,

100:19, 192:19,
218:11

implication

[3] - 78:17, 79:4, 79:6

imploring [1] - 163:2

important

[6] - 122:15, 122:16,
136:9, 159:12,
182:18, 209:4

importantly

[1] - 225:15

impose [5] - 22:12,

129:11, 173:4,
188:6, 188:7

imposed [1] - 173:1

impossible

[2] - 137:12, 209:11

improve [8] - 40:2,

70:8, 91:15, 95:7,
213:4, 236:12,
255:2, 256:14

improvement

[3] - 37:5, 45:2, 53:2

improvements

[1] - 243:7

improves [2] - 203:7,

205:2

improving [3] - 39:9,

95:9, 236:14

IN [1] - 261:11

in-building

[3] - 110:5, 111:15,
114:6

in-fill [1] - 111:13

in-vehicle [1] - 111:16

inappropriate

[1] - 209:10

inasmuch [1] - 194:8

inaudible [8] - 106:7,

115:9, 124:1, 124:3,
126:8, 129:1, 155:7,
246:14

inaudible)

[3] - 116:17, 126:3,
134:15

INC [1] - 1:16

inch [1] - 30:3

inches [8] - 29:6,

81:16, 81:17, 92:5,
92:6, 245:17,
246:15, 246:16

includes [2] - 45:9,
176:10

including [4] - 80:19,
143:6, 195:12,
233:6

income [2] - 12:18,
13:12

inconsistent

[3] - 144:2, 191:9,
191:14

increase [7] - 10:2,
12:12, 36:6, 84:10,
94:12, 208:16,
245:1

increased [2] - 115:6,
227:9

indefinitely [1] - 61:6

independent

[1] - 174:2

Index [1] - 2:17

indicate [1] - 259:12

indicated [3] - 75:10,
206:19, 231:12

indirectly [2] - 184:4,
184:6

inform [3] - 151:5,
162:6, 235:1

information

[2] - 56:13, 145:3

informative

[1] - 194:7

inhabit [1] - 39:7

inhabitability

[1] - 95:9

initial [2] - 36:1, 40:11

initialled [4] - 54:19,
96:8, 97:4, 257:7

Inman [2] - 223:6,
223:11

inquire [1] - 166:14

inquiries [1] - 153:19

inside [8] - 17:16,
 23:7, 32:1, 213:3,
 213:12, 222:13,
 223:1, 253:13

inspection [1] - 66:8

Inspectional
 [10] - 168:11, 168:12,
 174:17, 177:6,
 194:14, 195:3,
 195:7, 196:2, 259:3,
 259:7

inspector [1] - 60:6

install [3] - 33:7,
 33:10, 234:3

installation
 [7] - 69:19, 106:1,
 182:9, 184:19,
 188:19, 189:11,
 208:14

installations
 [1] - 180:12

instances [1] - 229:2

institutional
 [1] - 140:7

INSTRUCTIONS
 [3] - 259:1, 259:11,
 260:4

instructions
 [1] - 260:8

insulated [1] - 26:19

integrity [6] - 46:13,
 100:19, 192:19,
 209:14, 218:11,
 240:11

intend [2] - 13:8,
 210:19

intent [9] - 39:19,
 46:15, 54:5, 95:3,
 101:2, 193:2,
 218:13, 240:13,
 256:9

interested [7] - 13:17,
 16:6, 16:8, 52:9,
 104:11, 104:14,
 261:7

interior [2] - 74:3,
 244:15

internal [1] - 153:3

internally [1] - 39:8

International
 [1] - 140:8

internet [1] - 114:2

interpretation

[1] - 142:9
intersection
 [2] - 120:17, 127:4
intrude [1] - 248:4
intrusion [1] - 78:5
intrusions [1] - 122:6
intrusive [1] - 89:11
invasion [1] - 28:17
investigation
 [2] - 27:17, 169:13
investment [2] - 10:2,
 12:12
invigorated
 [1] - 223:17
involve [5] - 39:3,
 53:10, 94:8, 176:15,
 255:12
involved [2] - 22:9,
 169:16
ipso [2] - 195:8, 196:8
issue [31] - 13:19,
 15:19, 19:17, 22:5,
 60:4, 60:5, 62:2,
 76:9, 79:10, 83:17,
 84:18, 88:12,
 106:16, 109:2,
 113:12, 122:14,
 122:15, 132:13,
 138:13, 138:14,
 148:7, 150:12,
 164:18, 169:2,
 169:12, 170:12,
 183:19, 184:2,
 224:6, 225:5,
 236:16
issued [4] - 106:3,
 106:9, 106:17,
 219:3
issues [18] - 22:4,
 23:13, 27:14, 49:15,
 108:8, 128:8,
 138:13, 146:14,
 146:17, 148:5,
 153:19, 162:18,
 167:2, 167:14,
 169:3, 171:6,
 191:18
items [2] - 196:11,
 196:17
itself [6] - 39:12, 50:3,
 153:10, 182:5,
 259:14, 260:6

J

JAMES ^[38] - 73:10,
 75:8, 76:15, 77:8,
 77:13, 77:17, 78:10,
 79:12, 79:16, 80:3,
 80:10, 80:13, 80:17,
 81:12, 82:1, 82:4,
 82:9, 82:17, 83:3,
 83:8, 84:13, 85:1,
 86:7, 86:12, 88:15,
 96:12, 96:16, 97:2,
 98:1, 98:6, 98:11,
 99:9, 101:15, 102:1,
 102:6, 102:12,
 102:16, 103:1

James ^[1] - 73:12

Janet ^[12] - 1:10, 3:5,
 7:4, 48:4, 56:4, 65:4,
 69:4, 73:4, 104:4,
 200:4, 220:4, 242:4

JANET ^[19] - 8:17,
 13:6, 14:16, 37:7,
 45:15, 80:5, 88:5,
 93:16, 125:1,
 156:15, 173:13,
 184:7, 184:13,
 184:15, 185:6,
 190:1, 201:19,
 216:9, 237:15

January ^[1] - 186:13

Jeffrey ^[1] - 35:12

job ^[1] - 228:19

Joe ^[1] - 229:14

join ^[1] - 124:8

JOSE ^[1] - 61:2

Jose ^[1] - 58:8

Jr ^[1] - 234:14

judgment ^[1] - 250:18

July ^[7] - 4:11, 32:18,
 55:1, 65:18, 96:6,
 97:5, 207:8

JULY ^[1] - 1:5

June ^[6] - 4:7, 4:10,
 32:19, 35:19,
 105:17, 230:12

justify ^[1] - 83:7

K

keep ^[11] - 17:2,
 27:10, 27:12, 50:14,
 84:16, 129:2, 170:4,
 186:2, 190:3, 211:1,
 244:16

keeping ^[1] - 13:16
keeps ^[2] - 27:1, 28:19
Kelly ^[2] - 7:11, 33:2
KELLY ^[38] - 7:11,
 7:16, 9:6, 11:4, 17:3,
 17:7, 17:11, 18:16,
 19:16, 20:1, 22:16,
 23:5, 24:6, 25:6,
 26:6, 26:15, 27:8,
 28:11, 29:8, 29:12,
 29:15, 29:19, 30:15,
 31:4, 31:19, 35:3,
 36:17, 38:16, 40:14,
 41:8, 41:19, 42:15,
 43:6, 43:10, 43:14,
 43:18, 44:3, 45:12
kept ^[1] - 250:11
KEVIN ^[14] - 220:10,
 221:3, 221:13,
 222:18, 223:13,
 223:19, 225:4,
 225:12, 226:10,
 228:16, 229:17,
 230:2, 237:9, 241:6
Kevin ^[2] - 220:12,
 230:14
Keyword ^[1] - 2:17
kick ^[1] - 214:15
kicked ^[1] - 130:18
kids ^[1] - 29:17
kind ^[10] - 26:5, 38:4,
 38:5, 59:8, 74:12,
 85:10, 105:9, 122:5,
 145:6
kindly ^[1] - 91:18
kitchen ^[3] - 98:8,
 228:11, 231:3
knocked ^[1] - 252:5
knowing ^[4] - 9:14,
 10:19, 16:6, 160:2
knowledge
^[1] - 261:10
known ^[2] - 34:16,
 162:8
KREIGER
^[88] - 104:17, 105:11,
 106:13, 107:2,
 107:14, 108:3,
 109:18, 110:12,
 110:18, 111:5,
 111:9, 115:2, 116:1,
 116:11, 116:16,
 117:3, 118:2, 118:6,

118:13, 118:19,
 119:9, 119:13,
 119:19, 122:12,
 128:1, 129:14,
 129:17, 133:4,
 133:11, 134:4,
 134:10, 134:14,
 135:19, 136:6,
 137:9, 137:16,
 138:1, 138:7,
 138:11, 138:19,
 141:17, 142:12,
 144:15, 145:8,
 145:16, 146:9,
 146:13, 149:11,
 149:15, 156:18,
 157:16, 158:3,
 158:19, 159:4,
 159:9, 161:1, 163:8,
 165:18, 168:17,
 170:11, 171:11,
 171:17, 172:12,
 172:17, 173:7,
 173:10, 173:14,
 176:5, 176:8,
 176:19, 178:1,
 182:13, 183:13,
 183:17, 186:15,
 186:19, 187:3,
 187:7, 187:11,
 187:17, 188:3,
 189:19, 190:5,
 197:2, 197:5,
 197:14, 198:1,
 198:12
Kreiger ^[3] - 104:19,
 105:1, 192:4

L

L-shaped ^[1] - 135:6
Labor ^[1] - 68:7
lack ^[1] - 191:3
ladies ^[1] - 28:15
lady ^[1] - 52:8
land ^[2] - 244:5, 249:3
landlord ^[2] - 70:1,
 125:17
landlords ^[1] - 236:13
large ^[7] - 44:6, 61:8,
 143:6, 222:16,
 232:1, 244:3, 252:1
largely ^[1] - 109:13
larger ^[2] - 151:15,

187:1

LARRY ^[11] - 58:5,
58:8, 58:13, 59:6,
59:12, 60:2, 60:19,
61:3, 61:7, 61:18,
63:13

Larry ^[1] - 58:8

last ^[16] - 7:17, 8:3,
20:10, 38:2, 49:7,
58:3, 58:12, 127:13,
127:18, 147:14,
172:8, 172:15,
181:17, 197:3,
235:14

lastly ^[1] - 68:1

late ^[2] - 56:13, 221:18

lateral ^[1] - 85:11

latest ^[1] - 186:12

LAUREN

^[10] - 200:13, 211:2,
212:5, 213:6,
213:11, 213:17,
214:17, 215:3,
215:18, 216:11

Lauren ^[2] - 200:13,
210:12

law ^[7] - 25:1, 59:7,
146:16, 167:5,
167:18, 169:16,
195:15

Law ^[1] - 242:10

lawn ^[1] - 67:16

laws ^[3] - 23:10,
23:13, 180:6

Lawson ^[1] - 261:4

layout ^[2] - 213:3,
244:16

LD ^[1] - 115:6

lead ^[5] - 20:14, 23:4,
23:6, 23:10, 34:10

leader ^[1] - 153:17

leaflets ^[2] - 155:2,
155:8

leafletted ^[1] - 154:8

learned ^[1] - 229:4

lease ^[2] - 107:15,
117:13

least ^[9] - 118:7,
136:11, 140:4,
157:10, 158:8,
169:4, 226:15,
235:14, 256:13

Lechmere ^[1] - 225:14

Lee [2] - 89:1, 242:18
LEE [5] - 89:1, 90:9,
 90:15, 99:3, 99:6
left [7] - 23:9, 53:13,
 111:4, 201:4, 204:8,
 211:12
legal [5] - 11:1, 11:2,
 150:3, 160:14,
 184:3
Legal [1] - 48:11
lend [2] - 234:15,
 235:18
length [3] - 54:18,
 75:18, 76:4
lengths [1] - 244:13
Lesley [2] - 70:1,
 70:14
less [14] - 33:17,
 70:11, 75:2, 76:19,
 78:15, 79:18, 83:1,
 109:19, 120:9,
 137:4, 141:18,
 162:14, 185:17,
 227:11
lesser [2] - 224:17,
 238:1
letter [24] - 3:17, 3:18,
 4:4, 4:9, 32:17,
 35:12, 56:17, 65:13,
 65:15, 90:14, 90:18,
 163:14, 205:14,
 207:2, 207:6,
 209:18, 210:4,
 210:6, 230:11,
 232:15, 234:13,
 235:14, 239:18,
 251:17
letterhead [1] - 139:1
letters [11] - 155:4,
 155:18, 156:19,
 202:4, 206:19,
 210:1, 216:16,
 228:17, 252:3,
 254:14, 254:15
level [12] - 11:8,
 53:14, 92:19,
 109:14, 123:12,
 180:5, 180:6, 180:7,
 180:12, 183:3,
 183:4, 208:1
levels [2] - 207:19,
 208:5
Lexington [3] - 2:9,

73:6, 91:5
License [1] - 261:14
license [3] - 174:7,
 179:5, 179:6
licensed [1] - 174:5
licenses [1] - 229:15
lift [1] - 148:19
light [5] - 42:19, 98:7,
 204:15, 211:12,
 251:11
lighting [1] - 205:3
lights [1] - 28:19
limit [6] - 34:3, 154:12,
 171:3, 180:8,
 184:16, 184:17
limited [3] - 74:7,
 107:18, 195:13
line [18] - 21:14,
 28:13, 30:2, 31:13,
 78:13, 86:17, 109:5,
 110:17, 111:10,
 112:6, 131:2,
 139:14, 139:15,
 211:10, 225:14,
 247:13, 249:18,
 250:3
LINE [1] - 260:9
lined [2] - 87:5, 117:12
lines [2] - 24:7, 228:10
liquor [1] - 222:6
Liquors [1] - 230:18
list [4] - 124:9, 152:18,
 251:19, 252:4
listed [3] - 105:18,
 124:10, 140:12
listen [1] - 171:9
literal [5] - 39:2, 53:9,
 94:6, 94:7, 255:11
literally [4] - 28:19,
 31:14, 225:19,
 227:5
live [20] - 13:9, 13:10,
 13:18, 15:7, 15:11,
 15:15, 18:10, 20:9,
 33:14, 58:9, 74:6,
 113:13, 147:16,
 156:8, 157:2,
 220:18, 223:10,
 223:11, 226:9,
 252:19
liveable [2] - 248:17,
 253:15
lived [3] - 10:14,

207:10, 253:2
lively [1] - 233:10
lives [3] - 28:8, 94:13, 159:7
living [11] - 9:18, 11:12, 12:2, 12:3, 20:12, 20:19, 39:6, 94:12, 145:18, 208:14, 208:16
LIZ [2] - 252:18, 254:6
Liz [1] - 252:18
LLC [1] - 4:1
loaders [1] - 35:6
local [1] - 183:3
locally [4] - 231:8, 232:2, 233:4, 237:1
locate [1] - 124:6
located [5] - 34:10, 98:12, 189:7, 220:13, 221:16
locating [1] - 70:11
location [16] - 53:18, 70:6, 109:4, 112:8, 136:5, 189:11, 191:1, 191:12, 203:1, 208:3, 221:18, 232:19, 233:16, 235:2, 235:5, 236:10
locations [2] - 143:14, 191:6
logical [1] - 85:13
logo [1] - 139:1
look [20] - 25:15, 44:5, 49:18, 50:15, 59:7, 84:7, 95:17, 119:15, 120:14, 126:1, 127:17, 134:15, 135:3, 135:9, 135:11, 140:5, 186:3, 203:3, 204:11, 249:13
looking [10] - 8:18, 44:7, 56:16, 76:18, 126:8, 133:16, 136:17, 137:3, 228:5, 253:10
looks [5] - 53:4, 93:8, 120:18, 135:12, 138:3
lose [2] - 12:17, 215:7
losing [1] - 253:5
lost [1] - 253:9

loud ^[1] - 131:15
low ^[10] - 19:2, 19:18,
 44:7, 51:2, 126:15,
 126:17, 127:9,
 134:1, 189:4,
 250:11
lower ^[4] - 92:5, 92:13,
 123:10, 133:18
Loyal ^[10] - 232:7,
 232:17, 233:1,
 233:8, 233:18,
 234:1, 234:8,
 234:17, 235:8,
 235:19
LTE ^[4] - 114:2, 114:3,
 115:11, 115:18
luck ^[4] - 47:9, 219:11,
 241:5, 258:1

M

M-e-r-r-i-l
^[1] - 252:19
M-y-e-r-s ^[1] - 220:18
Ma'am ^[4] - 18:8, 20:4,
 104:10, 164:19
machine ^[1] - 35:2
Mack's ^[1] - 229:15
macro ^[1] - 121:9
Madison ^[1] - 120:16
Magee ^[1] - 235:16
MAGEE ^[1] - 235:16
Magoon ^[1] - 120:17
Maher ^[1] - 232:16
mail ^[7] - 56:17, 56:18,
 156:1, 156:3,
 157:13, 157:14,
 161:6
mailing ^[2] - 154:6,
 156:19
main ^[2] - 115:15,
 115:16
maintained ^[1] - 71:13
major ^[1] - 8:4
majority ^[1] - 123:17
manage ^[1] - 126:2
managed ^[1] - 126:7
manager ^[1] - 4:1
manages ^[1] - 126:2
manner ^[1] - 193:6
manufacturer
^[1] - 180:1
manufacturers'
^[1] - 177:11

map ^[4] - 109:3,
 113:10, 124:11,
 191:1
maps ^[1] - 191:17
Marblehead ^[1] - 7:15
MARK ^[22] - 200:10,
 200:16, 200:19,
 201:6, 202:7,
 202:15, 203:7,
 203:16, 204:15,
 205:1, 205:9,
 205:18, 206:2,
 206:7, 210:11,
 212:8, 212:13,
 212:18, 213:18,
 214:8, 214:13,
 215:1
Mark ^[1] - 218:19
mark ^[1] - 200:10
marked ^[1] - 54:18
marketplace
^[1] - 118:9
marks ^[2] - 259:14,
 260:6
marriage ^[1] - 261:6
Marshal ^[1] - 242:11
MARTIN ^[9] - 200:15,
 205:17, 211:18,
 213:16, 214:12,
 215:12, 215:19,
 216:8, 216:10
Martin ^[2] - 200:15,
 210:12
MARY ^[5] - 20:8,
 21:10, 22:15, 23:2,
 23:12
Mary ^[1] - 20:8
Mass ^[34] - 48:6,
 48:13, 69:6, 69:7,
 109:5, 109:12,
 113:18, 114:7,
 120:15, 123:3,
 123:4, 123:9, 124:3,
 125:4, 125:7, 125:8,
 125:14, 126:11,
 126:13, 126:16,
 126:18, 127:3,
 127:6, 127:16,
 139:11, 139:18,
 140:1, 144:6, 201:4,
 201:6, 209:7
mass ^[1] - 126:3
Massachusetts

[11] - 1:7, 1:7, 2:5,
2:10, 7:13, 7:15,
73:14, 117:11,
180:5, 209:6,
242:15

MASSACHUSETTS

[1] - 261:2

masse [1] - 4:1

matched [1] - 193:9

matches [1] - 96:10

materials [2] - 189:12,
189:15

Matignon [2] - 109:12,
140:7

matter [34] - 3:12, 7:9,
12:19, 18:5, 32:10,
44:15, 48:8, 51:19,
52:2, 56:9, 59:2,
65:8, 65:18, 69:9,
73:9, 88:17, 88:19,
91:1, 104:9, 132:11,
147:4, 169:12,
171:13, 177:2,
194:10, 200:8,
206:15, 207:1,
220:9, 230:5,
235:11, 252:16,
261:6, 261:7

matters [1] - 105:4

Mayor [2] - 232:15,
232:16

Md [2] - 105:4, 105:11

MD [4] - 113:6,
113:15, 115:5,
116:4

mean [26] - 27:7,
37:15, 44:1, 57:3,
90:7, 109:17,
112:12, 114:17,
129:8, 129:14,
131:12, 148:14,
152:12, 160:2,
160:18, 162:17,
162:18, 163:17,
164:3, 173:8, 176:9,
180:11, 186:1,
250:6, 250:15,
251:12

meaning [1] - 126:9

means [4] - 32:7, 34:9,
54:11, 82:19

MEANS [1] - 261:18

measure [1] - 179:15

measured [1] - 247:11

measurement

[2] - 179:13, 181:19

measurements

[3] - 180:4, 180:9,
247:12

meats [1] - 231:9

mechanical

[1] - 143:16

meet [5] - 70:14,

120:15, 176:17,
246:6

meeting [27] - 3:7,

4:14, 34:13, 36:2,
150:9, 150:11,
150:14, 150:16,
151:6, 154:3, 154:7,
157:19, 158:4,
158:7, 158:9,
158:17, 159:15,
160:1, 162:5, 162:6,
163:6, 164:4, 166:7,
230:15, 234:19,
236:4

meetings [6] - 16:2,

108:5, 108:10,
150:6, 152:4, 161:2

meets [2] - 74:19,

144:8

MEMBER [22] - 14:5,

105:5, 106:19,
107:6, 108:1, 126:4,
127:12, 131:10,
131:18, 132:16,
141:3, 141:12,
145:11, 145:13,
146:4, 147:8, 149:2,
164:11, 164:16,
165:4, 165:11,
170:8

Member [3] - 1:9,

1:10, 1:10

member [2] - 9:17,

10:17

members [15] - 12:8,

16:17, 32:19, 51:15,
60:11, 87:10, 93:13,
104:18, 147:1,
160:5, 163:4, 206:9,
229:11, 237:12,
252:10

Members [18] - 3:3,

7:2, 36:19, 48:2,

48:10, 54:10, 56:2,
65:2, 69:2, 73:2,
73:11, 104:2,
171:18, 200:2,
220:2, 220:11,
242:2, 242:9

memo [2] - 69:15,
188:17

mention [3] - 188:13,
249:10, 251:16

mentioned [7] - 17:14,
18:13, 131:3,
143:19, 184:8,
186:16, 223:2

mentioning
[1] - 250:5

menu [2] - 223:3,
231:7

MERRILL [2] - 252:18,
254:6

Merrill [1] - 252:19

mess [1] - 253:18

met [4] - 33:1, 108:9,
108:13, 252:6

meter [1] - 227:2

meters [3] - 225:6,
226:17, 233:13

middle [3] - 38:6,
99:11, 109:10

might [8] - 14:10,
56:14, 63:2, 104:10,
140:3, 148:4,
173:15, 226:13

MILLER [3] - 242:13,
250:6, 257:13

Miller [2] - 242:14,
257:4

miller's [1] - 248:13

Milton [1] - 48:14

MILTON [4] - 48:17,
50:12, 51:10, 51:13

mind [2] - 133:13,
250:4

mindful [1] - 75:14

mine [1] - 21:1

minimal [1] - 237:2

minimize [2] - 22:13,
70:3

minimizes [1] - 239:5

minimizing [1] - 193:7

minimum [1] - 115:12

minor [1] - 248:10

minute [1] - 174:15

miss ^[1] - 172:18
missing ^[2] - 189:10,
 221:11
mitigate ^[1] - 49:12
mitigated ^[1] - 83:18
mixed ^[2] - 140:13,
 228:1
Mobile ^[2] - 124:4,
 124:6
mobility ^[1] - 74:7
modern ^[1] - 209:16
modernized
^[1] - 36:12
modest ^[5] - 54:8,
 74:19, 84:3, 99:1,
 244:17
modification
^[4] - 39:13, 53:1,
 76:4, 94:18
modifications
^[2] - 39:14, 248:2
modified ^[7] - 62:10,
 68:4, 71:11, 71:13,
 76:2, 96:4, 101:16
modify ^[5] - 10:3,
 68:2, 71:16, 94:11,
 244:14
moment ^[1] - 223:17
Monday ^[3] - 5:16,
 63:1, 68:5
monitoring
^[2] - 170:10, 172:2
months ^[3] - 112:10,
 193:15, 235:6
Morgan ^[2] - 91:4,
 95:13
Morgan's ^[1] - 93:8
morning ^[1] - 137:15
most ^[20] - 25:5, 36:8,
 36:11, 89:6, 91:12,
 100:11, 110:6,
 111:13, 111:17,
 118:15, 167:14,
 185:13, 185:18,
 186:8, 189:1,
 189:16, 225:15,
 232:1, 232:2, 252:6
Mother ^[1] - 233:7
motion ^[4] - 38:10,
 40:17, 101:7,
 172:17
Mount ^[1] - 220:14
mounted ^[5] - 120:5,

134:8, 135:8,
137:17, 189:3
mounts [1] - 189:5
move [9] - 5:3, 71:2,
104:14, 124:19,
125:18, 171:10,
253:11, 253:17,
256:16
moved [3] - 21:2,
211:9, 253:3
moves [21] - 38:11,
38:18, 40:5, 45:17,
46:18, 53:6, 54:14,
62:3, 67:1, 71:6,
94:3, 96:1, 99:18,
101:4, 190:9,
190:14, 217:14,
218:15, 240:16,
255:8, 257:1
moving [3] - 16:8,
170:5, 253:6
multi [2] - 13:16,
16:10
multi-family
[2] - 13:16, 16:10
multiple [2] - 70:4,
181:7
must [8] - 5:15, 77:19,
113:11, 165:2,
168:5, 228:18,
230:19, 249:6
MYERS [3] - 220:17,
228:5, 228:14
Myers [2] - 220:17,
230:13

N

name [15] - 7:11, 20:8,
73:12, 104:19,
147:11, 147:14,
164:13, 164:14,
165:10, 170:16,
173:17, 173:19,
201:7, 220:11,
252:18
namely [1] - 194:7
names [1] - 126:5
narrow [2] - 19:4,
94:16
national [3] - 176:9,
176:14, 177:3
nature [3] - 87:15,
100:10, 239:17

near [7] - 109:5,
 109:12, 114:7,
 114:12, 120:14,
 139:16, 236:8

nearly [1] - 232:13

necessarily
 [1] - 238:16

need [42] - 10:17,
 21:17, 23:1, 28:8,
 35:7, 35:9, 61:16,
 70:13, 85:9, 85:10,
 91:14, 103:3, 112:2,
 114:1, 114:12,
 114:13, 114:16,
 114:17, 114:19,
 115:1, 115:12,
 115:18, 118:10,
 119:4, 121:3, 122:1,
 143:9, 147:11,
 164:9, 164:13,
 170:12, 190:19,
 205:19, 206:2,
 208:6, 238:15,
 238:16, 239:5,
 243:7, 248:9,
 248:18

needed [9] - 16:15,
 30:4, 30:7, 111:14,
 123:16, 125:6,
 235:10, 243:13,
 244:1

needs [12] - 9:18,
 11:8, 35:8, 37:4,
 37:5, 39:5, 39:8,
 94:10, 113:19,
 236:14, 251:12,
 255:15

negative [1] - 235:6

Neighbor [1] - 251:17

neighbor [12] - 75:5,
 75:16, 76:16, 77:2,
 77:3, 82:11, 88:7,
 89:4, 91:9, 150:8,
 249:6, 256:13

neighbor's [2] - 85:16,
 244:9

neighborhood
 [34] - 10:14, 12:14,
 14:1, 16:4, 22:5,
 36:10, 46:3, 100:7,
 139:4, 139:5, 140:2,
 142:17, 142:19,
 151:2, 155:14,

155:15, 155:19,
 156:13, 182:6,
 191:15, 192:7,
 218:1, 224:8,
 224:12, 225:2,
 227:19, 228:1,
 234:12, 234:19,
 238:6, 239:14,
 252:7, 253:3,
 256:12
neighborly ^[1] - 216:7
neighbors ^[21] - 7:18,
 8:5, 36:12, 37:9,
 58:3, 75:6, 75:19,
 76:10, 91:11, 92:11,
 95:6, 108:6, 150:7,
 150:11, 150:13,
 157:3, 162:10,
 163:9, 211:3,
 215:17, 216:1
neighbors' ^[1] - 252:6
network ^[1] - 119:5
never ^[5] - 30:17,
 153:19, 181:5,
 181:6, 223:14
New ^[2] - 174:1, 231:8
new ^[55] - 4:17, 5:1,
 5:9, 5:10, 5:14, 19:3,
 19:10, 20:2, 24:3,
 24:14, 28:9, 28:12,
 33:7, 33:10, 33:18,
 35:8, 36:7, 42:9,
 62:10, 62:11, 62:16,
 63:3, 67:11, 67:12,
 71:11, 71:12, 76:6,
 76:7, 79:9, 85:15,
 86:6, 92:2, 102:3,
 102:5, 114:4, 115:8,
 115:18, 132:19,
 172:11, 174:4,
 178:11, 179:11,
 179:14, 196:12,
 197:11, 198:7,
 219:6, 224:11,
 230:16, 232:9,
 234:16, 234:17,
 235:2, 247:13
Newbury ^[2] - 121:9,
 121:11
newspaper
^[2] - 151:13, 161:10
next ^[20] - 4:13, 7:6,
 18:11, 21:1, 65:19,

66:10, 91:9, 110:8,
110:9, 125:9, 136:7,
137:14, 158:15,
163:3, 164:7, 170:2,
181:10, 181:11,
181:13, 181:14

next-door [2] - 18:11,
91:9

nice [5] - 38:5, 58:13,
211:19, 215:6,
255:3

night [5] - 29:1,
226:15, 227:17,
252:17, 254:5

nights [1] - 108:13

nine [10] - 75:1, 77:1,
78:8, 82:10, 82:11,
83:13, 89:11, 89:18,
126:19, 231:3

nine-story
[1] - 126:19

nobody [2] - 150:17,
162:7

node [1] - 120:19

nodes [10] - 119:18,
119:19, 120:3,
120:5, 120:10,
120:16, 121:3,
122:2, 122:4

noise [4] - 61:11,
128:8, 129:11,
132:8

non [26] - 12:6, 34:4,
42:12, 84:8, 91:10,
98:3, 100:3, 100:13,
136:3, 138:14,
140:11, 140:17,
141:9, 143:6,
143:14, 144:1,
145:14, 145:17,
145:19, 159:2,
191:6, 191:11,
201:9, 201:12,
205:5, 248:8

non-compliant
[1] - 91:10

non-conforming
[10] - 12:6, 34:4,
42:12, 84:8, 98:3,
100:3, 201:9,
201:12, 205:5,
248:8

non-opposition

[1] - 100:13

non-residential

[14] - 136:3, 138:14,
140:11, 140:17,
141:9, 143:6,
143:14, 144:1,
145:14, 145:17,
145:19, 159:2,
191:6, 191:11

none [7] - 23:8, 33:19,
120:17, 123:9,
150:11, 210:15,
216:16

noon [3] - 68:9, 68:11,
72:1

noontime [1] - 68:11

north [3] - 109:11,
139:16, 207:14

northwest [1] - 140:9

NOT [3] - 259:14,
260:5, 261:17

Notary [3] - 260:7,
261:5, 261:13

notate [1] - 247:14

notations [2] - 259:14,
260:6

note [8] - 4:15, 54:6,
95:4, 102:13, 128:5,
225:6, 256:10,
260:4

noted [4] - 4:2, 95:12,
197:1, 260:17

notes [8] - 3:15,
32:13, 52:5, 65:11,
84:7, 206:18, 230:8,
261:9

nothing [7] - 52:14,
130:3, 130:5, 143:2,
175:6, 191:19,
254:14

notice [14] - 31:13,
66:2, 86:19, 91:6,
151:6, 151:14,
154:5, 157:15,
162:2, 162:19,
166:6, 174:12,
196:13, 252:4

noticed [2] - 29:5,
210:4

notices [1] - 163:1

notification

[10] - 148:7, 148:10,
150:8, 150:10,

150:13, 155:14,
 160:17, 162:14,
 195:19, 196:6
notified [2] - 152:3,
 158:17
notify [6] - 152:19,
 155:7, 158:8, 161:4,
 161:6, 195:11
nuisance [6] - 46:8,
 100:14, 147:19,
 192:12, 218:5,
 240:6
nullifying [4] - 39:18,
 54:4, 95:2, 256:8
number [18] - 81:5,
 82:3, 102:9, 105:3,
 109:11, 110:4,
 117:9, 120:10,
 120:12, 143:5,
 208:16, 219:2,
 224:4, 228:17,
 232:18, 234:8,
 235:5, 237:17
numbered [3] - 96:7,
 97:6, 257:4
numbers [5] - 85:6,
 102:4, 148:9, 188:2,
 207:14
numerous [2] - 40:10,
 236:8

O

o'clock [3] - 225:8,
 226:17, 227:2
O'Grady [2] - 1:12,
 58:16
O'GRADY [11] - 4:5,
 4:8, 56:10, 57:3,
 57:8, 57:19, 63:9,
 66:11, 66:15, 70:18,
 71:4
O'Neil [1] - 48:14
object [3] - 170:14,
 173:3, 188:6
objected [1] - 173:3
objection [3] - 92:2,
 92:8, 196:18
objections [1] - 252:8
obstruction
 [1] - 92:10
obtained [1] - 117:13
obtrusive [1] - 117:19
obvious [5] - 133:13,

133:17, 136:12,
159:13, 208:8

obviously [8] - 12:8,
16:5, 61:11, 129:4,
145:9, 146:15,
163:10, 211:4

occupant [5] - 46:10,
100:16, 192:14,
218:7, 240:8

occupants [1] - 108:5

occupational
[1] - 53:15

occupied [2] - 230:17,
232:13

occupy [4] - 73:18,
231:15, 233:8,
255:15

occurred [1] - 196:4

odd [3] - 226:18,
253:13, 255:18

oddities [1] - 244:15

oddity [1] - 246:18

OET [2] - 185:12,
187:2

OF [8] - 1:2, 1:3,
259:16, 260:1,
261:2, 261:17,
261:18, 261:18

off-street [1] - 238:11

offense [1] - 223:9

office [7] - 3:19, 15:6,
63:10, 159:8, 174:1,
187:13, 220:13

Offices [1] - 48:12

offices [1] - 73:13

OFFICIAL [1] - 1:16

official [3] - 149:4,
149:9, 149:12

officials [1] - 240:1

offload [1] - 121:11

often [2] - 16:2, 132:9

old [8] - 4:4, 18:17,
23:8, 197:12, 222:6,
222:13, 243:11,
243:14

older [1] - 255:14

on-line [4] - 110:17,
111:10, 112:6,
247:13

on-street [2] - 111:19,
233:14

once [3] - 133:2,
186:11, 232:13

one ^[95] - 3:15, 8:2,
 11:2, 12:7, 15:12,
 17:13, 24:16, 32:13,
 35:5, 37:9, 38:1,
 41:17, 43:2, 44:10,
 52:5, 52:7, 52:18,
 62:9, 65:11, 69:11,
 86:12, 89:8, 91:17,
 92:7, 92:15, 94:2,
 106:6, 108:5, 108:6,
 108:7, 108:9, 111:1,
 111:10, 111:11,
 111:14, 115:9,
 115:10, 116:12,
 118:5, 120:18,
 124:7, 124:15,
 125:6, 126:6, 127:3,
 128:5, 128:8, 132:7,
 133:19, 136:8,
 136:11, 137:5,
 138:19, 139:2,
 140:5, 141:6, 150:6,
 150:7, 153:3, 153:6,
 161:2, 164:12,
 169:4, 172:2,
 172:19, 181:13,
 181:14, 181:17,
 184:7, 184:11,
 186:11, 188:13,
 194:7, 197:12,
 202:5, 205:12,
 206:18, 208:12,
 208:13, 209:15,
 213:13, 214:18,
 219:5, 219:6, 221:6,
 230:8, 231:13,
 231:18, 243:11,
 249:10, 251:3,
 251:16, 256:13

One ^[1] - 125:19

one's ^[3] - 125:13,
 163:13, 163:16

one-bedroom

^[1] - 243:11

ones ^[9] - 42:8, 92:1,
 99:11, 140:3, 143:7,
 157:6, 157:9,
 161:17, 194:1

ongoing ^[1] - 194:10

open ^[24] - 18:5, 26:4,
 44:14, 51:19, 88:17,
 145:18, 147:4,
 211:6, 211:14,

211:17, 211:18,
 213:14, 214:10,
 214:18, 215:11,
 228:7, 229:12,
 231:3, 233:2,
 234:10, 236:1,
 242:5, 251:13,
 252:14
opened ^[2] - 88:7,
 153:1
opening ^[2] - 28:12,
 204:9
openings ^[2] - 207:18,
 208:3
operate ^[1] - 118:15
operating
^[2] - 132:11, 228:6
operation ^[9] - 46:4,
 100:8, 192:9, 218:2,
 228:4, 228:13,
 228:15, 229:7,
 239:15
opinion ^[4] - 36:11,
 87:19, 197:9,
 197:18
opinions ^[1] - 92:19
opportunities
^[1] - 70:10
oppose ^[2] - 207:9,
 208:14
opposed ^[6] - 36:4,
 41:4, 89:18, 91:12,
 161:18, 208:2
opposition
^[3] - 100:13, 205:14,
 256:11
option ^[1] - 127:19
orange ^[1] - 110:14
order ^[10] - 3:8, 11:7,
 15:4, 42:18, 66:2,
 115:11, 230:10,
 243:8, 248:6, 250:7
Ordinance ^[29] - 10:5,
 39:3, 39:19, 46:16,
 53:10, 54:5, 62:15,
 66:9, 67:19, 71:14,
 81:17, 94:8, 95:3,
 101:2, 142:16,
 143:4, 146:16,
 151:16, 161:5,
 193:2, 218:13,
 224:14, 240:14,
 240:19, 244:6,

245:4, 255:12,
256:4, 256:9

original ^[6] - 79:9,
81:9, 208:11, 209:5,
259:2, 259:8

ORIGINAL ^[1] - 259:7

originally ^[3] - 4:3,
36:1, 36:4

otherwise ^[17] - 39:8,
46:14, 94:11, 101:1,
145:2, 155:13,
169:18, 191:19,
193:1, 195:18,
210:19, 218:12,
225:1, 238:5,
240:12, 250:9,
254:15

ought ^[1] - 145:10

outage ^[7] - 129:1,
130:14, 131:3,
131:6, 131:8,
132:17, 185:7

outages ^[1] - 132:6

outcome ^[1] - 261:7

outdoor ^[1] - 232:5

output ^[1] - 177:12

outside ^[4] - 109:15,
122:2, 131:13,
222:11

overbuilds ^[1] - 31:3

overcrowded
^[1] - 34:12

overlay ^[4] - 123:5,
123:7, 139:11,
144:7

overly ^[1] - 232:8

overly-crowded
^[1] - 232:8

overnight ^[1] - 226:14

overshooting
^[1] - 113:17

oversight ^[1] - 197:16

owing ^[4] - 39:11,
53:17, 94:14,
255:17

own ^[11] - 22:18,
122:5, 129:9, 131:1,
131:4, 139:9, 142:9,
187:8, 214:15,
227:4, 244:4

owned ^[2] - 73:17,
232:2

owner ^[8] - 17:17,

33:2, 48:13, 92:14,
94:13, 161:16,
221:18, 253:9

owners ^[5] - 201:10,
207:5, 234:17,
235:8, 236:13

ownership

^[1] - 228:14

owning ^[1] - 13:3

P

p.m ^[30] - 1:5, 3:2, 5:4,
5:10, 5:16, 7:1, 48:1,
56:1, 62:5, 62:11,
62:19, 63:2, 65:1,
65:19, 67:5, 67:12,
68:5, 68:8, 69:1,
71:7, 71:12, 73:1,
104:1, 200:1, 220:1,
228:7, 228:8,
228:11, 242:1,
258:6

package ^[5] - 109:3,
138:16, 221:16,
222:3, 227:11

page ^[14] - 40:12,
54:18, 109:10,
110:2, 110:14,
112:5, 120:4,
123:13, 138:15,
138:19, 139:2,
144:14, 219:2,
257:6

PAGE ^[3] - 2:2,
259:16, 260:9

Page ^[1] - 260:7

pages ^[7] - 40:10,
54:17, 105:18,
109:8, 119:15,
187:6, 219:2

paint ^[5] - 20:14, 23:4,
23:6, 23:10, 34:11

painter ^[2] - 243:18,
251:12

pair ^[1] - 42:7

parcel ^[1] - 155:16

parenthetically

^[1] - 67:13

parents ^[3] - 74:1,
74:6, 243:15

Park ^[23] - 2:13, 127:5,
127:9, 127:14,
200:6, 200:18,

200:19, 207:5,
 207:10, 207:14,
 208:4, 208:11,
 208:15, 209:1,
 209:6, 209:9,
 209:12, 209:14,
 210:2, 210:3, 210:7

park ^[4] - 124:4,
 145:19, 226:9,
 249:6

parking ^[30] - 221:5,
 221:7, 221:9, 224:6,
 224:17, 224:19,
 225:18, 226:2,
 226:12, 229:9,
 229:14, 231:11,
 231:13, 231:17,
 232:19, 233:14,
 233:15, 233:17,
 234:4, 234:9,
 234:16, 236:14,
 236:16, 237:2,
 238:1, 238:4,
 238:12, 238:13,
 239:6, 240:17

part ^[18] - 9:8, 13:15,
 15:13, 35:8, 38:15,
 43:4, 60:8, 122:17,
 132:4, 140:2,
 145:12, 155:15,
 171:1, 183:2,
 188:14, 197:3,
 207:9, 209:11

particular ^[7] - 37:17,
 117:5, 221:5, 224:7,
 225:17, 230:10,
 236:18

particularly
^[6] - 50:16, 122:16,
 132:8, 148:1,
 152:10, 256:4

parties ^[1] - 261:6

parts ^[1] - 91:16

party ^[1] - 259:6

pass ^[1] - 109:6

past ^[4] - 36:9, 49:16,
 116:6, 226:5

patience ^[1] - 171:3

patient ^[1] - 171:2

patiently ^[1] - 252:17

patio ^[1] - 222:11

Patrick ^[1] - 235:16

patrons ^[2] - 232:8,

234:2

patterns [3] - 100:4,
192:8, 217:16

PAULA [9] - 18:9,
20:5, 26:3, 26:14,
27:3, 27:18, 28:3,
31:16, 32:8

Paula [3] - 18:9,
20:10, 31:16

pay [2] - 182:19, 251:4

peace [1] - 215:17

peak [1] - 225:9

penalize [1] - 57:12

penthouse
[4] - 133:15, 135:2,
135:6, 146:10

people [35] - 8:18,
10:13, 13:18, 16:7,
17:5, 20:19, 22:3,
22:9, 51:3, 61:10,
145:18, 150:18,
150:19, 151:2,
152:15, 153:11,
154:8, 156:7, 156:8,
156:19, 157:1,
157:12, 160:1,
160:10, 163:12,
171:7, 210:7, 224:9,
226:8, 227:12,
227:15, 229:4,
239:1, 252:7,
253:14

per [3] - 102:3, 116:2,
221:7

percent [3] - 85:7,
180:7, 184:17

percentage
[1] - 184:18

perfect [1] - 166:10

perform [1] - 180:8

perhaps [1] - 56:13

period [5] - 15:5,
62:14, 67:11,
193:14, 198:10

permission
[2] - 20:17, 119:2

Permit [47] - 33:9,
38:14, 41:6, 41:9,
42:11, 44:17, 45:8,
45:10, 45:18, 46:18,
47:5, 47:8, 74:15,
97:17, 97:19, 98:2,
100:1, 101:4, 101:9,

106:1, 183:8,
 190:16, 193:4,
 194:11, 195:9,
 195:14, 196:7,
 196:9, 196:13,
 196:16, 198:7,
 198:14, 198:18,
 201:13, 205:6,
 207:9, 217:11,
 217:13, 218:15,
 219:9, 231:10,
 232:18, 234:8,
 237:18, 239:11,
 240:16, 241:2
permit ^[3] - 100:2,
 128:17, 197:11
Permits ^[1] - 192:3
permitted ^[3] - 10:9,
 195:13, 206:3
persevere ^[1] - 254:5
person ^[4] - 100:11,
 160:11, 161:5,
 251:19
personal ^[3] - 162:13,
 174:6, 254:2
personally
^[3] - 117:16, 155:17,
 189:14
persons ^[1] - 100:12
perspective ^[2] - 92:7,
 129:4
peruse ^[1] - 187:4
pests ^[1] - 27:2
Peter ^[2] - 48:18,
 54:19
petition ^[6] - 151:7,
 169:18, 198:2,
 198:9, 198:11,
 215:15
Petition ^[1] - 5:13
Petitioner ^[41] - 3:18,
 4:16, 5:13, 39:4,
 39:5, 40:6, 40:9,
 53:11, 53:12, 54:8,
 54:17, 56:11, 65:14,
 67:2, 67:7, 67:9,
 67:13, 68:2, 71:8,
 71:15, 94:9, 94:10,
 95:5, 96:4, 148:14,
 150:5, 161:13,
 190:16, 190:17,
 191:16, 193:12,
 194:13, 195:11,

195:18, 196:6,
 196:11, 198:5,
 218:18, 220:13,
 238:7, 255:13
Petitioner's [4] - 40:1,
 196:18, 235:12,
 238:18
Petitioners [1] - 243:1
phase [1] - 114:1
Phillipe [1] - 207:3
phonetic [2] - 28:18,
 230:14
phonetic [1] - 58:9
photo [8] - 77:14,
 77:16, 128:4,
 133:14, 135:9,
 136:11, 138:12,
 189:18
photos [1] - 74:8
physically [2] - 35:5,
 131:5
picture [2] - 139:13,
 157:5
pictures [2] - 134:15,
 226:4
piece [3] - 37:18,
 145:3, 203:11
pieces [1] - 230:9
pink [5] - 109:10,
 109:13, 110:10,
 110:12, 111:18
pins [1] - 140:10
pitch [3] - 248:5,
 250:14, 250:16
pitched [1] - 51:2
place [3] - 152:4,
 227:1, 239:7
placed [1] - 189:2
places [3] - 112:7,
 120:1, 133:9
plan [26] - 8:9, 9:7,
 15:6, 29:15, 35:18,
 36:2, 36:5, 45:1,
 49:9, 70:3, 70:16,
 71:19, 76:3, 76:19,
 77:10, 85:17, 86:8,
 89:6, 96:10, 96:15,
 97:4, 101:16, 102:3,
 156:17, 231:1
planned [2] - 35:17,
 36:5
planning [1] - 74:4
Planning [19] - 8:1,

32:18, 33:1, 35:19,
 69:15, 69:18, 70:9,
 108:12, 108:13,
 136:14, 136:15,
 137:13, 138:10,
 168:8, 188:15,
 188:17, 188:18,
 189:8, 230:12

plans ^[38] - 5:14, 9:2,
 33:3, 33:13, 40:8,
 40:11, 40:13, 43:5,
 47:2, 49:8, 49:16,
 51:17, 54:16, 59:7,
 62:17, 68:2, 68:4,
 71:17, 71:18, 78:1,
 86:6, 87:13, 96:3,
 96:5, 101:6, 133:14,
 217:1, 218:17,
 219:4, 222:9,
 230:16, 232:14,
 234:3, 246:1,
 246:11, 257:3,
 257:9

plate ^[2] - 8:10, 11:9

plates ^[1] - 231:6

play ^[1] - 158:18

playground

^[2] - 148:2, 152:13

pleased ^[4] - 52:19,
 108:19, 216:12,
 232:11

pleasing ^[1] - 250:15

plug ^[8] - 128:18,
 129:1, 130:2, 131:2,
 131:6, 131:7,
 131:17, 132:19

plus ^[1] - 37:14

pockets ^[1] - 109:15

point ^[15] - 10:6,
 14:17, 16:18, 22:1,
 66:7, 69:13, 69:17,
 84:19, 91:17, 160:6,
 160:14, 163:12,
 169:4, 252:11,
 256:2

pointed ^[7] - 27:15,
 39:12, 58:12, 84:2,
 86:13, 87:3, 240:3

points ^[1] - 237:17

pole ^[1] - 148:16

poles ^[3] - 120:2,
 120:5, 122:7

poll ^[1] - 160:4

Pond ^[1] - 252:2
poor ^[1] - 11:5
pop ^[1] - 203:11
pop-out ^[1] - 203:11
porch ^[21] - 26:9,
 33:19, 74:5, 74:12,
 74:13, 79:3, 79:15,
 80:18, 85:5, 89:8,
 92:5, 92:8, 92:12,
 92:13, 92:15, 95:14,
 210:16, 210:17,
 215:6, 215:8
Porter ^[2] - 125:12,
 127:2
porter ^[1] - 127:4
portion ^[2] - 51:1,
 196:19
portions ^[1] - 39:6
position ^[1] - 188:7
positive ^[6] - 108:15,
 108:17, 232:11,
 235:4, 236:6, 237:7
positively ^[1] - 57:10
possible ^[3] - 159:19,
 193:10, 193:18
post ^[3] - 26:8, 67:4,
 67:10
posted ^[3] - 62:9,
 66:8, 67:16
posting ^[3] - 5:7,
 151:13, 161:11
potential ^[3] - 101:16,
 133:8, 185:14
power ^[11] - 128:19,
 130:14, 130:17,
 130:19, 131:3,
 131:6, 131:8, 132:6,
 132:17, 185:6
practicing ^[1] - 190:3
praise ^[1] - 108:17
PRASAD ^[2] - 242:16,
 242:17
Prasad ^[3] - 242:16,
 242:18, 243:17
Prasad's ^[1] - 251:11
Prasads ^[2] - 243:4,
 252:4
predominate
^[4] - 136:4, 141:9,
 144:1, 191:11
prematurely ^[1] - 66:3
premises ^[2] - 71:14,
 231:5

prepared [8] - 40:9,
 50:1, 54:19, 96:5,
 97:4, 117:14,
 218:18, 257:3
present [3] - 221:6,
 222:1, 232:10
presentation
 [3] - 145:6, 171:18,
 199:3
presented [3] - 8:9,
 20:11, 35:18
presently [2] - 172:13,
 246:7
preserve [1] - 209:4
preserved [1] - 215:10
preserves [1] - 50:6
President [1] - 235:16
pretty [4] - 90:16,
 111:11, 117:8,
 248:10
prevail [1] - 191:15
prevailing
 [2] - 143:15, 191:7
prevalence
 [1] - 143:16
prevent [1] - 167:12
previous [2] - 17:17,
 165:15
price [1] - 19:15
primarily [1] - 123:3
primary [2] - 124:12,
 148:5
principal [1] - 74:4
priority [1] - 34:17
privacy [1] - 28:17
private [2] - 213:13,
 227:4
problem [13] - 12:7,
 12:8, 53:19, 61:14,
 76:11, 84:5, 123:8,
 148:13, 174:19,
 182:14, 184:3,
 188:4
problems [5] - 11:14,
 19:14, 22:8, 133:8,
 163:19
proceed [7] - 40:7,
 47:1, 54:15, 96:2,
 101:5, 218:17,
 257:2
proceeding
 [1] - 87:12
process [1] - 186:10

processes ^[1] - 229:3
produce ^[2] - 231:9,
 234:8
produced ^[2] - 8:1,
 227:10
profile ^[2] - 8:8, 189:5
prohibits ^[1] - 198:10
project ^[2] - 48:14,
 238:2
prominence
^[1] - 49:10
prominent ^[2] - 70:5,
 236:10
promise ^[1] - 162:7
promptly ^[2] - 193:16,
 193:17
pronunciation
^[1] - 109:13
properties ^[4] - 34:2,
 79:18, 83:19, 154:8
property ^[27] - 13:3,
 21:14, 22:18, 24:6,
 28:13, 29:7, 30:1,
 30:2, 30:9, 31:10,
 31:13, 37:4, 37:18,
 61:8, 67:15, 71:11,
 76:14, 116:10,
 124:14, 127:11,
 127:15, 132:13,
 151:12, 157:17,
 157:18, 161:16
proponent's
^[2] - 189:9, 189:10
proportion ^[2] - 44:5,
 44:6
proposal ^[13] - 46:7,
 60:1, 74:17, 79:9,
 79:10, 81:10, 107:3,
 125:18, 165:15,
 210:18, 216:18,
 228:3, 256:11
proposal's ^[1] - 221:8
proposals ^[1] - 135:17
propose ^[1] - 92:11
proposed ^[47] - 8:16,
 9:6, 36:1, 46:1,
 46:12, 54:1, 69:19,
 76:7, 77:1, 82:11,
 100:10, 100:13,
 100:18, 128:7,
 131:17, 134:19,
 135:7, 135:9,
 135:17, 136:4,

170:13, 174:12,
 186:3, 186:12,
 188:19, 190:19,
 191:8, 191:12,
 192:11, 192:15,
 192:18, 203:4,
 210:14, 217:15,
 217:18, 218:4,
 218:9, 218:10,
 228:3, 233:1,
 233:16, 238:18,
 239:12, 239:17,
 240:10, 248:6,
 249:11
proposes ^[4] - 5:13,
 68:2, 71:16, 237:19
proposing ^[5] - 40:2,
 78:8, 131:4, 219:7,
 248:3
protect ^[2] - 142:16,
 143:2
protrude ^[1] - 92:17
provide ^[16] - 110:3,
 111:13, 111:14,
 120:6, 120:12,
 121:2, 121:13,
 121:14, 123:10,
 123:16, 151:14,
 182:15, 213:12,
 231:19, 238:13
provided ^[2] - 118:9,
 196:13
provides ^[1] - 238:12
providing ^[3] - 112:6,
 117:18, 214:14
provision ^[3] - 175:14,
 176:18, 255:12
provisions ^[4] - 39:3,
 53:10, 94:6, 94:7
proximity ^[2] - 35:6,
 89:12
prudent ^[1] - 216:3
public ^[35] - 18:5,
 36:15, 39:17, 44:15,
 51:19, 52:15, 54:3,
 65:17, 65:19, 88:7,
 88:17, 93:12, 95:1,
 99:8, 106:6, 107:15,
 143:9, 147:4,
 161:10, 188:14,
 189:6, 190:19,
 196:13, 207:7,
 216:15, 216:16,

224:19, 229:12,
233:15, 234:2,
238:3, 238:15,
252:14, 254:13,
256:7

Public [3] - 260:7,
261:5, 261:13

publishing

[1] - 186:11

pull [3] - 49:19, 131:5,
132:19

pulling [2] - 83:15,
133:3

puny [1] - 89:9

purchase [1] - 227:14

purchased [1] - 243:5

purchasing [1] - 15:3

purely [1] - 140:11

Puritan [2] - 228:9,
233:6

purpose [15] - 39:19,
46:15, 50:5, 54:5,
95:3, 101:2, 109:7,
142:16, 193:2,
197:12, 203:6,
204:14, 218:13,
240:13, 256:9

purposes [3] - 129:9,
244:8, 244:12

pursuant [2] - 196:10,
196:17

pursue [1] - 57:6

pursuing [1] - 58:16

push [2] - 19:12,
114:18

put [19] - 26:7, 26:11,
26:15, 63:4, 85:12,
102:10, 106:16,
107:19, 132:5,
136:18, 144:12,
145:10, 175:13,
175:14, 181:5,
197:9, 217:8, 250:8,
253:18

puts [1] - 245:3

putting [8] - 51:4,
76:10, 127:5, 132:4,
155:12, 159:17,
181:4, 203:6

Q

Q&A [1] - 186:16

qualify [1] - 146:1

quality ^[1] - 40:2

questions

^[29] - 16:18, 16:19,
17:4, 17:10, 44:12,
50:2, 50:10, 51:15,
93:13, 122:9, 128:2,
146:18, 146:19,
147:1, 147:5, 151:1,
153:12, 153:13,
153:15, 163:9,
164:4, 166:19,
170:7, 188:9, 206:8,
229:11, 231:12,
248:14, 252:10

quick ^[1] - 229:5

quickly ^[6] - 86:3,

86:15, 117:9, 119:3,
122:13, 227:13

Quinn ^[2] - 48:19, 55:1

quite ^[5] - 61:10, 92:9,

227:16, 253:13,
254:6

R

rack ^[3] - 231:15,

234:3, 238:19

radiation ^[1] - 177:17

radio ^[1] - 115:15

radiofrequency

^[1] - 185:14

radios ^[1] - 115:15

RAFFERTY

^[38] - 73:10, 75:8,
76:15, 77:8, 77:13,
77:17, 78:10, 79:12,
79:16, 80:3, 80:10,
80:13, 80:17, 81:12,
82:1, 82:4, 82:9,
82:17, 83:3, 83:8,
84:13, 85:1, 86:7,
86:12, 88:15, 96:12,
96:16, 97:2, 98:1,
98:6, 98:11, 99:9,
101:15, 102:1,
102:6, 102:12,
102:16, 103:1

Rafferty ^[3] - 73:12,

87:14, 96:9

railing ^[1] - 209:1

railroad ^[2] - 232:6,

236:9

rain ^[1] - 51:8

rainstorm ^[1] - 51:9

raise ^[10] - 8:10, 8:11,
15:9, 18:1, 21:9,
33:5, 33:16, 36:6,
243:9, 250:8

raised ^[1] - 119:14

raising ^[3] - 12:4,
17:14, 108:18

RAJIV ^[2] - 242:17

Rajiv ^[1] - 242:17

rather ^[4] - 38:5, 54:7,
124:11, 138:4

re ^[2] - 27:15, 179:5

re-applying

^[1] - 179:5

re-pointed ^[1] - 27:15

reach ^[3] - 75:12,
153:18, 156:12

reached ^[3] - 153:19,
236:2, 236:4

reaching ^[1] - 229:1

reaction ^[2] - 145:1,
213:1

read ^[11] - 16:2, 45:8,
69:16, 90:13, 187:7,
188:16, 205:15,
210:5, 210:6,
216:16, 260:16

Reading ^[12] - 32:19,
35:13, 65:15, 69:18,
91:5, 92:2, 176:1,
207:6, 230:12,
232:16, 234:14,
235:17

reading ^[4] - 188:18,
246:12, 259:12,
260:4

ready ^[12] - 37:5,
52:16, 70:17, 71:2,
99:14, 99:15, 99:16,
163:4, 188:10,
190:9, 237:12,
237:15

real ^[2] - 138:13, 224:8

reality ^[1] - 180:2

really ^[15] - 11:5,
22:12, 83:9, 89:14,
90:3, 90:6, 131:15,
135:11, 190:1,
224:11, 227:4,
248:17, 250:8,
250:9, 250:13

reapplication

^[1] - 198:7

reply ^[5] - 183:12,
183:16, 198:3,
198:6

replying ^[1] - 197:7

rear ^[15] - 81:14,
81:15, 81:18, 83:1,
83:4, 84:1, 94:10,
98:10, 98:12, 98:16,
98:19, 99:2, 100:3,
203:9, 203:10

reason ^[11] - 4:18,
36:4, 59:11, 87:16,
115:5, 167:11,
244:19, 247:15,
248:9, 255:4, 260:5

REASON ^[6] - 260:10,
260:11, 260:12,
260:13, 260:14,
260:15

reasonable
^[4] - 91:14, 196:3,
196:14, 233:17

reasons ^[4] - 159:13,
218:9, 248:15,
259:13

REBECCA ^[1] - 221:1

Rebecca ^[2] - 221:1,
230:13

rebuild ^[1] - 60:7

receipt ^[7] - 3:17,
32:15, 65:13, 90:18,
195:19, 196:6,
230:9

receive ^[5] - 150:8,
150:10, 157:13,
157:14, 221:19

RECEIVED
^[1] - 259:18

received ^[3] - 91:6,
235:3, 236:6

recent ^[2] - 114:5,
236:4

recently ^[1] - 23:15

recognizable
^[1] - 209:15

recognize ^[2] - 58:7,
206:13

recognizing
^[1] - 87:15

recommendation
^[3] - 108:14, 108:16,
108:17

reconfiguration

[2] - 204:4, 255:15

reconstruct

[1] - 85:14

reconstruction

[1] - 83:10

record [17] - 4:15,

7:10, 21:11, 48:11,

69:16, 73:12, 88:12,

165:8, 165:13,

166:11, 171:2,

188:14, 188:16,

197:9, 220:16,

259:6, 260:18

RECORD [1] - 1:16

rectangle [2] - 141:13,

142:13

red [2] - 70:7, 140:17

reduce [5] - 142:13,

224:19, 232:18,

238:4, 240:17

reduced [2] - 92:12,

245:2

reducing [3] - 80:2,

82:3, 234:6

reduction [2] - 50:5,

50:13

Refer [1] - 260:7

refer [1] - 118:3

reference [1] - 144:14

referenced [1] - 65:17

referred [1] - 160:11

referring [2] - 33:11,

87:3

reflect [3] - 5:9, 62:10,

71:11

reflecting [2] - 67:2,

67:11

reflects [1] - 229:6

refrigerator

[1] - 17:19

refute [1] - 148:4

regard [24] - 5:12,

38:12, 40:1, 44:17,

45:9, 45:18, 47:2,

53:7, 54:6, 54:10,

79:14, 94:4, 95:4,

99:19, 100:10,

190:15, 191:16,

195:16, 198:5,

238:7, 239:10,

255:8, 256:10,

257:8

regarding [7] - 91:6,

175:19, 176:2,
194:16, 207:1,
256:4

regardless

[3] - 159:10, 169:7,
185:4

regards [1] - 39:9

register [1] - 186:3

regular [1] - 172:3

regulate [4] - 184:1,
184:4, 184:5

regulated [1] - 184:13

regulates [1] - 168:19

regulation [4] - 89:13,
168:14, 169:2,
195:16

regulations

[2] - 184:9, 184:10

regulatory [1] - 119:1

rehab [1] - 253:12

rehabbed [1] - 201:10

reinforced [1] - 27:7

rejected [6] - 124:17,
125:1, 125:17,
126:10, 126:14,
126:17

related [6] - 45:7,
74:15, 83:9, 98:2,
167:15, 261:6

relative [1] - 37:19

relatively [1] - 244:3

relevant [2] - 139:7,
142:19

reliance [1] - 161:9

relief [36] - 10:10,
10:11, 21:9, 34:7,
39:15, 39:16, 41:5,
49:19, 54:2, 54:7,
59:1, 79:7, 83:4,
83:7, 93:19, 94:18,
94:19, 95:15, 95:18,
97:10, 105:19,
113:13, 141:7,
169:5, 171:19,
205:19, 206:3,
212:3, 212:8,
212:12, 221:4,
224:14, 231:10,
233:17, 234:16,
256:6

relocation

[2] - 101:17, 202:19

rely [3] - 231:17,

239:4, 239:18
relying ^[1] - 130:9
remain ^[1] - 49:17
remainder ^[1] - 189:3
remaining ^[3] - 34:15,
 209:4, 209:15
remains ^[2] - 9:7,
 41:11
remember ^[3] - 58:11,
 142:4, 245:17
remind ^[1] - 154:7
remove ^[4] - 85:9,
 203:14, 211:9,
 212:17
removed ^[7] - 8:6,
 9:10, 34:11, 36:3,
 42:17, 66:3, 193:17
removing ^[1] - 212:16
renewal ^[1] - 174:5
renewing ^[1] - 179:6
reno ^[1] - 20:14
renovation
^[1] - 243:18
renovations
^[2] - 33:15, 35:17
rent ^[2] - 15:12, 33:13
rental ^[4] - 12:18,
 13:1, 61:7, 61:8
rentals ^[1] - 161:19
rented ^[1] - 154:4
renting ^[1] - 243:10
REP ^[1] - 260:2
repair ^[3] - 33:8, 60:7,
 60:13
repair/replacement
^[1] - 60:10
repeat ^[2] - 20:11,
 210:9
repetitive ^[2] - 198:8,
 198:10
REPLACE ^[1] - 259:16
replaced ^[1] - 9:10
report ^[19] - 3:16,
 122:19, 124:11,
 174:18, 175:17,
 176:1, 176:9,
 176:13, 176:15,
 177:3, 177:6,
 177:10, 178:2,
 179:14, 194:14,
 195:2, 195:4, 195:7,
 196:2
Reporter ^[2] - 261:4,

261:14

REPORTER

[1] - 261:19

REPORTERS

[1] - 1:16

reporting [4] - 172:5,
173:11, 174:3,
174:7

reports [9] - 168:3,
172:3, 172:4,
174:16, 175:12,
175:19, 176:11,
184:2, 194:17

repost [1] - 66:2

reposted [1] - 5:9

represent [1] - 229:19

representation

[1] - 142:15

representative

[2] - 66:5, 105:4

representing

[2] - 105:1, 243:1

represents [2] - 3:19,
239:19

REPRODUCTION

[1] - 261:17

request [10] - 4:2,
4:18, 49:5, 66:4,
67:1, 69:14, 75:16,
171:19, 211:8,
235:13

requested [7] - 8:3,
35:17, 46:19, 57:2,
95:12, 207:9,
233:17

requesting [8] - 33:5,
33:9, 49:2, 66:1,
81:8, 159:1, 221:4,
234:16

requests [7] - 65:16,
69:19, 91:10, 91:13,
91:16, 95:6, 107:2

require [9] - 56:15,
59:1, 94:18, 95:15,
168:2, 180:4,
201:13, 205:5,
217:8

required [21] - 22:17,
27:15, 34:3, 62:14,
66:9, 67:10, 71:14,
108:4, 133:5, 152:9,
161:4, 166:9, 174:8,
174:15, 212:9,

232:19, 234:9,
240:18, 244:19,
245:3

required ^[1] - 260:7

requirement

^[12] - 107:15, 153:2,
154:3, 157:19,
160:14, 167:17,
176:17, 221:5,
221:6, 231:11,
231:13, 245:4

requirements

^[10] - 71:17, 95:6,
108:10, 161:13,
174:3, 175:3,
195:15, 240:17,
246:6, 256:3

requires ^[7] - 10:17,

39:15, 67:19, 81:17,
94:17, 178:18,
224:15

requiring ^[1] - 163:2

reserve ^[2] - 17:9,

18:6

reside ^[3] - 74:1,

95:10, 207:4

residential

^[32] - 114:7, 114:13,
122:17, 123:6,
136:3, 138:14,
139:9, 139:11,
140:11, 140:17,
141:9, 141:14,
143:6, 143:14,
144:1, 145:14,
145:17, 145:19,
153:4, 153:8,
153:17, 159:2,
159:5, 159:13,
169:8, 169:10,
185:5, 191:6,
191:11, 222:4,
226:12, 227:18

residents ^[7] - 108:5,

150:7, 150:15,
160:19, 192:16,
210:2, 237:4

residents' ^[1] - 108:7

resides ^[2] - 35:14,

91:4

respect ^[3] - 38:19,

237:17, 255:9

respectfully ^[2] - 4:2,

65:16
respond [1] - 210:12
responding [1] - 54:9
Response [12] - 3:13,
 32:11, 45:5, 52:3,
 65:9, 69:10, 91:2,
 93:10, 171:14,
 206:16, 230:6,
 254:11
response [5] - 75:16,
 91:6, 112:14,
 210:10, 231:11
responsible
 [2] - 168:16, 181:9
rest [4] - 36:13, 51:5,
 111:18, 161:9
restaurant [23] - 50:7,
 53:4, 222:17, 225:8,
 227:10, 227:15,
 227:18, 228:7,
 230:16, 230:19,
 231:14, 232:6,
 232:10, 233:1,
 233:3, 234:3,
 234:11, 234:18,
 236:1, 236:11,
 238:16, 239:1,
 240:18
Restaurant [1] - 233:2
restaurant/cafe
 [1] - 238:17
restaurants
 [3] - 224:11, 233:6,
 239:4
restore [1] - 211:1
restored [1] - 193:17
restrictions
 [2] - 22:12, 41:12
result [6] - 59:13,
 74:2, 75:2, 95:7,
 217:17, 238:2
resulting [1] - 81:15
results [1] - 69:14
retail [4] - 222:2,
 222:5, 224:3, 235:5
returned [1] - 222:3
review [1] - 49:7
reviewed [2] - 69:18,
 188:19
reviews [1] - 186:12
revise [1] - 49:8
revised [9] - 5:14,
 35:19, 49:16, 55:1,

71:18, 87:13, 190:2,
246:1, 246:10

revision ^[1] - 87:16

revitalize ^[1] - 235:9

reworked ^[1] - 74:13

RF ^[5] - 105:12,
122:19, 125:3,
125:16, 126:10

RFP ^[7] - 106:3, 106:9,
106:16, 106:18,
107:1, 112:14,
112:19

RFPs ^[2] - 107:19,
117:13

Rhatigan ^[2] - 242:7,
242:10

RHATIGAN

^[16] - 242:8, 243:2,
245:7, 245:11,
245:14, 245:18,
246:8, 246:17,
247:10, 247:19,
249:7, 250:1, 251:2,
251:8, 251:15,
254:17

Ricardo ^[1] - 65:14

ridge ^[7] - 8:11,
248:10, 249:18,
250:2, 250:8,
250:11, 250:18

rights ^[1] - 124:7

ring ^[1] - 114:11

RIOUX ^[1] - 207:4

rise ^[1] - 248:5

River ^[2] - 96:5, 97:5

road ^[1] - 166:16

Road ^[1] - 139:16

ROBERTA ^[2] - 24:2,
44:19

Roberta ^[2] - 24:2,
44:19

Roiux ^[2] - 207:3,
207:4

ROIUX ^[1] - 207:3

role ^[1] - 158:18

roll ^[1] - 117:8

rolling ^[1] - 117:10

roof ^[26] - 8:6, 8:7, 8:8,
8:11, 8:13, 9:9, 9:11,
12:4, 21:9, 33:6,
33:17, 34:8, 36:3,
36:6, 37:14, 51:2,
78:18, 79:1, 79:4,

79:19, 106:16,
 128:14, 131:14,
 133:16, 182:5,
 208:1
rooftop ^[11] - 106:1,
 124:5, 124:7, 126:7,
 132:5, 135:17,
 143:17, 181:16,
 184:11, 192:5,
 193:13
rooftops ^[1] - 118:1
room ^[7] - 8:13, 30:9,
 71:3, 104:15, 105:8,
 203:8, 244:1
rotted ^[1] - 60:11
rough ^[1] - 85:6
route ^[1] - 209:12
Route ^[3] - 113:18,
 114:12, 120:15
row ^[1] - 42:1
rule ^[5] - 21:4, 75:14,
 174:12, 186:3,
 186:12
rules ^[4] - 169:14,
 178:19, 179:3,
 182:16
running ^[1] - 256:1

S

S-p-e-e-t-h
^[1] - 147:14
sac ^[1] - 201:1
sacrifice ^[3] - 117:2,
 117:4, 117:5
sacrificing
^[1] - 116:19
safety ^[11] - 46:10,
 100:16, 147:19,
 148:5, 167:2, 169:3,
 192:14, 218:7,
 224:19, 238:3,
 240:8
SALLY ^[1] - 242:16
Sally ^[1] - 242:16
SAME ^[1] - 261:18
SARAH ^[16] - 242:8,
 243:2, 245:7,
 245:11, 245:14,
 245:18, 246:8,
 246:17, 247:10,
 247:19, 249:7,
 250:1, 251:2, 251:8,
 251:15, 254:17

Sarah ^[1] - 242:10
satisfied ^[3] - 34:14,
 143:8, 192:1
satisfy ^[2] - 11:2,
 143:3
saturated ^[1] - 190:7
Saturday ^[1] - 226:14
save ^[1] - 60:12
scale ^[2] - 37:19,
 151:15
scaled ^[1] - 38:4
scheduled ^[2] - 4:3,
 65:18
scheme ^[3] - 8:7,
 172:5, 173:11
school ^[1] - 145:17
School ^[2] - 109:12,
 140:8
scientific ^[1] - 194:11
scope ^[1] - 156:6
SCOTT ^[10] - 37:13,
 43:8, 43:12, 52:18,
 87:8, 93:17, 96:9,
 96:18, 97:8, 99:12
Scott ^[23] - 1:10, 3:5,
 6:3, 7:4, 41:2, 47:10,
 48:4, 55:11, 56:4,
 64:1, 65:4, 69:4,
 73:4, 97:14, 101:13,
 104:4, 198:19,
 200:4, 219:12,
 220:4, 241:7, 242:4,
 258:3
scratch ^[1] - 231:5
screen ^[5] - 134:1,
 134:9, 135:2, 135:7,
 189:2
screening ^[1] - 70:11
scrunched ^[1] - 19:4
seafood ^[1] - 231:9
SEAN ^[14] - 4:5, 4:8,
 48:9, 48:18, 55:12,
 56:10, 57:3, 57:8,
 57:19, 63:9, 66:11,
 66:15, 70:18, 71:4
Sean ^[2] - 1:12, 48:11
search ^[2] - 114:11,
 123:3
season ^[1] - 26:9
seated ^[1] - 73:16
seating ^[3] - 231:1,
 231:2, 232:5
seats ^[8] - 221:7,

221:8, 222:10,
 222:17, 222:19,
 223:1, 231:14
second ^[39] - 8:10,
 9:9, 11:10, 13:11,
 13:14, 15:14, 17:15,
 18:2, 19:17, 31:18,
 32:5, 32:7, 33:6,
 33:14, 34:7, 34:9,
 66:14, 73:19, 74:11,
 75:10, 76:2, 76:11,
 76:12, 78:19, 79:2,
 79:6, 80:1, 80:14,
 85:14, 95:10,
 101:17, 110:2,
 110:14, 112:5,
 140:15, 211:17,
 213:5, 217:2
secondly ^[1] - 154:2
secret ^[1] - 118:14
Section ^[1] - 197:7
section ^[11] - 13:10,
 41:14, 42:18, 177:4,
 223:5, 223:6,
 223:11, 223:12,
 223:14, 223:19,
 233:19
sections ^[2] - 70:7,
 224:10
sector ^[2] - 116:2,
 133:19
see ^[42] - 8:18, 9:1,
 16:1, 24:4, 25:8,
 41:15, 59:17, 61:16,
 74:8, 85:17, 87:2,
 90:4, 92:4, 109:11,
 110:9, 110:13,
 113:16, 133:12,
 134:8, 135:5,
 136:11, 137:2,
 137:12, 137:18,
 139:17, 140:3,
 144:16, 148:19,
 155:6, 157:7, 157:9,
 202:4, 202:16,
 204:11, 209:11,
 214:5, 214:7,
 214:10, 214:19,
 215:2, 243:16,
 255:3
seek ^[1] - 112:16
seeking ^[5] - 21:9,
 79:7, 105:19, 212:3,

224:14
seeks [1] - 233:2
send [1] - 155:3
Senior [1] - 1:6
senior [3] - 152:10,
 154:4, 253:4
sense [4] - 12:13,
 112:8, 139:10,
 231:7
sensible [1] - 139:6
sensitive [1] - 95:5
sent [4] - 151:7,
 235:16, 251:17,
 252:3
separate [3] - 205:12,
 211:19, 247:12
September
 [12] - 66:12, 66:16,
 67:5, 67:11, 68:6,
 68:8, 68:12, 71:2,
 71:3, 71:7, 71:12,
 72:1
serious [1] - 39:14
serve [1] - 244:1
served [2] - 231:4,
 238:14
service [1] - 233:3
Services
 [10] - 168:11, 168:12,
 174:17, 177:7,
 194:14, 195:3,
 195:7, 196:2, 259:3,
 259:7
services [2] - 117:5,
 117:18
servings [1] - 231:5
set [13] - 14:13, 51:16,
 67:18, 85:15,
 210:17, 245:16,
 247:5, 247:7,
 249:17, 249:18,
 250:2, 261:9,
 261:11
setback [24] - 33:8,
 41:10, 42:2, 43:2,
 43:13, 76:8, 78:5,
 78:13, 78:14, 79:6,
 79:10, 83:1, 83:5,
 83:17, 89:14, 102:9,
 103:2, 201:12,
 244:18, 246:1,
 246:5, 246:14,
 248:4

setbacks [2] - 205:5,
244:17

setup [1] - 14:15

seven [19] - 5:4, 5:10,
62:4, 62:11, 65:19,
67:5, 67:12, 71:7,
71:12, 77:3, 78:9,
78:11, 84:2, 89:17,
96:18, 97:1, 204:16,
208:10, 209:9

seven-foot [1] - 84:2

several [5] - 54:17,
132:8, 219:1, 230:9,
231:11

shall [6] - 194:13,
195:2, 195:8,
195:18, 196:1,
196:8

shape [7] - 11:6,
39:11, 53:18, 94:15,
94:16, 142:14,
255:18

shaped [1] - 135:6

shared [4] - 32:4,
91:18, 91:19, 231:6

shed [3] - 51:10,
51:13, 249:12

SHEET [3] - 259:1,
259:17, 260:3

Sheet [4] - 259:2,
259:4, 259:13,
260:8

sheet [2] - 260:5,
260:6

shelter [1] - 135:17

shifted [1] - 24:17

short [4] - 38:6,
115:17, 234:4,
239:7

short-term [1] - 234:4

Shorthand [2] - 261:4,
261:14

shortly [1] - 228:11

show [6] - 14:12, 78:5,
150:19, 219:4,
222:9, 247:3

showed [3] - 41:17,
58:3, 150:18

showing [2] - 81:13,
191:2

shown [1] - 45:1

shows [7] - 76:3,
96:19, 110:2, 135:9,

135:10, 137:17,
143:5

sic ^[1] - 124:9

side ^[25] - 14:10, 24:7,
24:8, 25:13, 25:14,
25:16, 29:7, 30:1,
30:8, 105:8, 124:1,
140:1, 146:5, 146:6,
201:18, 202:9,
204:8, 207:14,
208:7, 211:12,
231:18, 247:2,
247:7, 247:16,
253:16

sided ^[1] - 139:2

sides ^[7] - 20:13,
24:19, 26:2, 41:10,
114:9, 211:3,
247:17

sidewalk ^[1] - 114:9

sign ^[12] - 5:7, 62:9,
67:7, 67:15, 71:8,
71:13, 148:9,
148:10, 148:16,
149:6, 149:7,
259:13

Sign ^[1] - 260:6

signage ^[3] - 67:10,
71:10, 151:13

signal ^[1] - 125:11

SIGNATURE
^[1] - 259:1

signed ^[3] - 210:1,
233:13, 259:5

SIGNED ^[1] - 259:17

significant ^[1] - 224:4

significantly
^[1] - 225:16

signs ^[1] - 66:8

similar ^[1] - 51:6

simple ^[1] - 182:17

simpler ^[1] - 119:1

sims ^[4] - 128:4,
133:14, 138:12,
189:18

single ^[13] - 11:18,
11:19, 12:17, 13:5,
14:2, 16:6, 16:11,
19:13, 213:3,
223:17, 223:18,
243:6, 251:19

single-family
^[9] - 11:18, 11:19,

12:17, 13:5, 14:2,
 16:6, 16:11, 19:13,
 243:6

sit ^[2] - 9:5, 105:8

site ^[29] - 35:10,
 76:19, 106:15,
 110:3, 121:10,
 127:3, 127:4,
 128:16, 133:9,
 144:11, 161:8,
 172:4, 176:4, 176:6,
 176:7, 176:10,
 176:13, 176:15,
 180:11, 180:15,
 182:5, 182:9,
 182:10, 182:12,
 185:1, 195:1,
 195:12, 221:5

sites ^[12] - 112:5,
 113:16, 121:10,
 124:6, 126:2, 127:2,
 127:6, 143:13,
 167:12, 177:10,
 183:1, 191:5

siting ^[1] - 248:19

sits ^[1] - 85:11

Sitting ^[11] - 3:3, 7:2,
 48:2, 56:2, 65:2,
 69:2, 73:2, 104:2,
 200:2, 220:2, 242:2

sitting ^[4] - 51:3,
 118:1, 147:7, 171:7

situation ^[3] - 70:8,
 244:2, 248:19

six ^[5] - 29:6, 193:15,
 225:7, 226:17,
 227:2

size ^[9] - 12:19, 74:14,
 75:9, 89:12, 208:3,
 244:17, 245:2,
 251:5, 251:6

size-wise ^[1] - 251:6

sized ^[2] - 76:1, 85:18

sketches ^[1] - 50:16

skill ^[1] - 261:10

skylight ^[9] - 25:10,
 33:10, 42:15, 43:1,
 43:2, 44:11, 44:18,
 46:7

skylights ^[1] - 42:14

slab ^[1] - 26:17

sleep ^[1] - 223:14

slide ^[1] - 87:6

slight [3] - 123:15,
 246:3, 248:5
slightly [5] - 24:14,
 30:3, 203:1, 208:1,
 215:4
slip [1] - 183:10
sloping [1] - 51:8
small [9] - 13:1, 25:9,
 43:11, 74:12, 89:15,
 204:4, 213:8, 231:2,
 231:6
smaller [5] - 24:16,
 42:5, 42:10, 98:15,
 143:1
so... [1] - 37:18
societal [1] - 194:10
solution [7] - 11:17,
 12:9, 56:14, 57:7,
 59:3, 59:4, 118:8
solve [2] - 19:14,
 19:16
solving [1] - 53:19
someone [2] - 151:17,
 170:15
Somerville [5] - 7:13,
 109:5, 139:15,
 200:12, 220:19
sometime [1] - 170:5
somewhat [2] - 60:9,
 83:17
somewhere [4] - 23:7,
 78:1, 157:5, 201:8
soon [1] - 170:9
sorry [19] - 18:11,
 25:6, 52:12, 55:10,
 58:7, 82:15, 82:16,
 84:17, 90:19, 113:6,
 144:15, 159:15,
 163:7, 179:10,
 188:12, 246:9,
 246:18, 247:3,
 251:15
sort [15] - 10:11,
 10:12, 16:14, 18:19,
 44:7, 94:15, 112:10,
 120:11, 203:11,
 224:1, 226:18,
 244:14, 247:16,
 248:14
sought [21] - 38:13,
 39:1, 40:6, 45:10,
 45:19, 53:8, 54:7,
 54:15, 94:5, 96:2,

100:1, 101:5,
 106:12, 112:18,
 190:16, 193:4,
 218:16, 237:18,
 240:17, 255:10,
 257:2
source [2] - 236:18,
 236:19
Sousa [1] - 65:14
south [3] - 125:10,
 125:12, 139:12
space [28] - 10:18,
 10:19, 11:13, 12:3,
 26:17, 32:4, 39:6,
 59:14, 59:18, 61:13,
 90:2, 94:12, 107:16,
 154:4, 221:7, 222:7,
 222:19, 229:9,
 231:13, 231:19,
 243:19, 248:7,
 248:18, 250:7,
 250:10, 251:10
spaces [5] - 221:9,
 221:10, 226:2,
 226:15, 234:9
speaking [2] - 8:5,
 89:3

SPEAKMAN

[38] - 7:11, 7:16, 9:6,
 11:4, 17:3, 17:7,
 17:11, 18:16, 19:16,
 20:1, 22:16, 23:5,
 24:6, 25:6, 26:6,
 26:15, 27:8, 28:11,
 29:8, 29:12, 29:15,
 29:19, 30:15, 31:4,
 31:19, 35:3, 36:17,
 38:16, 40:14, 41:8,
 41:19, 42:15, 43:6,
 43:10, 43:14, 43:18,
 44:3, 45:12

Speakman [2] - 7:12,
 33:2

speaks [1] - 254:8

special [1] - 196:19

Special [48] - 33:9,
 38:14, 41:6, 41:8,
 42:11, 44:17, 45:8,
 45:10, 45:18, 46:18,
 47:5, 47:8, 74:15,
 97:17, 97:19, 98:2,
 100:1, 101:4, 101:9,
 106:1, 183:8,

190:15, 192:3,
 193:4, 194:11,
 195:9, 195:14,
 196:7, 196:9,
 196:12, 196:16,
 198:7, 198:14,
 198:18, 201:13,
 205:6, 207:9,
 217:11, 217:12,
 218:15, 219:9,
 231:10, 232:18,
 234:8, 237:18,
 239:10, 240:16,
 241:2
Specialist ^[1] - 1:12
specific ^[6] - 172:4,
 176:11, 176:13,
 180:11, 191:10,
 197:12
specifically
^[2] - 194:18, 211:8
specifications
^[1] - 180:2
specs ^[2] - 68:3, 68:4
speed ^[2] - 18:12,
 114:1
SPEETH ^[37] - 147:13,
 147:16, 148:18,
 149:4, 149:8,
 149:13, 149:18,
 150:5, 151:9,
 151:19, 152:7,
 154:10, 155:6,
 157:1, 159:16,
 160:9, 160:18,
 161:18, 162:3,
 163:15, 164:2,
 165:9, 165:14,
 167:1, 168:7,
 168:12, 169:7,
 170:1, 177:15,
 178:4, 178:13,
 178:17, 179:10,
 180:1, 182:4, 182:8,
 185:4
Speeth ^[1] - 147:13
spell ^[1] - 48:16
spoken ^[5] - 93:1,
 160:10, 162:10,
 211:2
spots ^[2] - 191:2,
 232:19
spreading ^[1] - 8:12

Spring [7] - 2:4, 7:6,
 18:10, 20:9, 33:4,
 35:14, 35:15
Square [6] - 109:4,
 125:12, 127:2,
 127:4, 223:6,
 223:11
square [4] - 133:17,
 244:4, 244:10,
 245:1
squeeze [1] - 31:15
SS [1] - 261:3
staff [2] - 70:3, 70:15
stair [11] - 19:1, 19:5,
 20:2, 30:6, 32:1,
 32:3, 203:13,
 213:15, 214:10,
 214:16, 214:19
staircase [7] - 39:9,
 50:18, 53:13, 54:12,
 58:17, 214:6, 214:7
stairs [5] - 17:14,
 33:7, 36:7, 50:4,
 213:10
stairwell [4] - 27:9,
 49:3, 49:13, 213:9
stand [1] - 90:10
standard [3] - 11:1,
 11:2, 115:4
standards [1] - 19:9
standing [1] - 185:9
standpoint
 [1] - 125:16
start [9] - 14:8, 14:18,
 41:6, 50:18, 93:19,
 109:2, 147:6, 200:8,
 242:7
started [6] - 27:16,
 50:12, 112:17,
 112:19, 116:14,
 153:7
starting [2] - 225:10,
 225:12
starts [1] - 213:9
startup [1] - 51:1
state [6] - 180:6,
 184:9, 184:14,
 184:15, 257:17
Statement
 [1] - 166:11
statements
 [1] - 260:18
Statements

[2] - 165:8, 165:13
states [2] - 3:19,
 168:14
statute [1] - 151:7
statutory [1] - 161:13
stay [5] - 13:13, 15:4,
 22:17, 24:19, 26:2
staying [1] - 227:16
stays [2] - 30:6, 80:11
steep [3] - 18:19,
 33:18, 250:17
stellar [1] - 162:15
STENOGRAPHER
 [2] - 147:10, 147:15
stenographer
 [1] - 164:15
stenographic
 [1] - 261:9
step [2] - 74:9, 164:7
sticking [1] - 136:12
still [9] - 8:8, 8:14,
 8:15, 19:18, 21:13,
 34:2, 50:3, 50:5,
 110:11
stock [2] - 40:3, 95:8
stoop [4] - 203:12,
 203:17, 203:18,
 211:10
stoop's [1] - 204:2
stop [6] - 130:8,
 139:10, 146:18,
 163:5, 225:13,
 231:15
stopping [1] - 227:13
storage [2] - 222:13,
 222:14
store [4] - 221:16,
 222:3, 222:6,
 227:12
storefront [2] - 233:9,
 235:9
story [4] - 126:14,
 126:17, 126:19,
 127:9
strapped [1] - 148:15
Strawberry [1] - 253:7
Street [54] - 2:3, 2:4,
 2:7, 2:8, 2:14, 2:15,
 3:10, 4:1, 7:7, 7:12,
 7:15, 18:10, 20:10,
 27:6, 28:7, 28:16,
 33:4, 35:15, 35:16,
 49:4, 56:7, 65:6,

121:9, 121:11,
 142:2, 200:12,
 200:17, 220:7,
 220:14, 220:18,
 221:2, 223:5, 223:7,
 224:5, 225:6,
 225:19, 230:18,
 231:16, 233:12,
 233:19, 234:18,
 235:7, 236:2, 236:7,
 238:12, 238:14,
 242:11, 242:15,
 242:18, 243:5,
 247:1, 247:5, 249:1,
 253:1

street ^[26] - 23:14,
 24:11, 25:10, 49:4,
 49:10, 67:18,
 111:19, 120:3,
 120:19, 121:4,
 121:7, 121:13,
 121:15, 125:15,
 157:5, 185:9, 201:4,
 207:13, 207:16,
 208:4, 208:8,
 208:19, 219:5,
 233:14, 233:15,
 238:11

streets ^[1] - 226:12

streetscape ^[5] - 8:2,
 38:4, 50:8, 53:3,
 207:16

stretch ^[3] - 224:5,
 233:12, 236:7

strict ^[1] - 23:10

strides ^[1] - 7:18

strongly ^[2] - 175:10,
 234:1

strucken ^[1] - 124:9

structural ^[5] - 11:5,
 11:14, 12:1, 27:13,
 27:15

structurally

^[1] - 83:12

structure ^[11] - 10:15,
 11:7, 34:5, 39:7,
 50:17, 53:16, 94:11,
 95:9, 222:1, 245:6,
 248:1

structures

^[1] - 143:17

struggle ^[2] - 16:3,
 236:17

struggled ^[1] - 236:7
stubby ^[1] - 38:6
stuck ^[1] - 138:5
studied ^[1] - 70:10
studio ^[1] - 243:19
study ^[1] - 194:11
stuff ^[3] - 23:9, 26:13,
 193:8
subject ^[4] - 67:6,
 193:4, 194:12,
 198:9
submissions
^[1] - 194:19
submit ^[4] - 5:13,
 226:6, 227:9,
 227:17
submitted ^[13] - 40:8,
 54:16, 68:3, 87:13,
 96:3, 190:17, 191:1,
 191:17, 218:18,
 222:9, 223:2, 238:8
subscribe ^[1] - 260:17
substantial
^[13] - 39:4, 39:17,
 46:2, 53:11, 54:3,
 94:8, 95:1, 100:6,
 192:6, 217:19,
 239:13, 255:13,
 256:7
substantially
^[7] - 39:18, 54:4,
 84:8, 95:2, 224:19,
 238:4, 256:8
successful
^[2] - 233:5, 234:11
sudden ^[1] - 114:19
sufficient ^[1] - 120:12
suggest ^[3] - 70:16,
 75:19, 191:19
suggested ^[3] - 49:8,
 70:9, 240:3
suggestions ^[1] - 53:1
suitable ^[3] - 143:13,
 191:5, 243:8
Sullivan ^[22] - 1:9, 3:5,
 6:3, 7:4, 41:2, 47:10,
 48:4, 56:4, 64:1,
 65:4, 69:4, 73:4,
 97:14, 101:13,
 104:4, 198:19,
 200:4, 219:12,
 220:4, 241:7, 242:4,
 258:3

SULLIVAN ^[17] - 52:8,
52:12, 55:8, 57:13,
57:17, 58:1, 60:5,
78:2, 81:7, 82:2,
82:6, 88:6, 102:2,
102:8, 102:14,
103:3, 161:15

supplement

^[2] - 13:12, 121:17

supplied ^[1] - 259:13

supply ^[1] - 237:3

support ^[13] - 35:16,

85:11, 115:10,

228:18, 232:14,

232:17, 234:15,

235:19, 236:6,

237:3, 253:12,

253:17, 256:13

supportive

^[2] - 216:12, 237:3

supports ^[1] - 115:16

supposed ^[2] - 27:1,

151:14

surface ^[1] - 189:4

surprised ^[1] - 172:13

surrounding

^[1] - 191:15

survived ^[1] - 112:10

suspect ^[1] - 13:2

sustainable

^[1] - 234:5

sympathetic

^[1] - 211:5

system ^[3] - 119:7,

121:18, 247:13

systems ^[2] - 130:4,

143:16

T

T-Mobile ^[2] - 124:4,

124:6

T1.0 ^[1] - 54:18

table ^[4] - 88:9,

167:16, 215:8,

247:4

tall ^[1] - 148:19

taller ^[2] - 25:2,

125:11

taxed ^[1] - 244:5

Team ^[5] - 8:1, 32:18,

33:1, 35:19, 230:12

technical ^[1] - 256:3

technically

[2] - 148:6, 247:1

technology

[5] - 113:19, 114:3,
114:4, 114:5, 115:6

Teele [1] - 109:4

teeth [1] - 175:13

telecom [2] - 52:11,
126:2

telecommunication

[1] - 191:13

telecommunication

s [3] - 140:18, 167:7,
168:19

ten [7] - 174:6, 178:14,
179:6, 179:12,
195:4, 195:19,
231:3

tenant [1] - 126:8

tenants [4] - 61:9,
153:4, 153:8, 162:1

tend [1] - 216:4

term [1] - 234:4

terminate [3] - 183:9,
195:8, 196:8

terminated

[3] - 172:18, 196:10,
197:13

termination

[3] - 175:14, 196:16,
198:6

terms [6] - 13:3,
37:19, 90:5, 189:15,
193:7, 251:9

test [7] - 129:15,
129:17, 129:19,
177:10, 180:17,
181:9, 181:18

testified [1] - 20:10

testimony [16] - 18:6,
36:15, 44:15, 51:19,
52:15, 88:17, 90:13,
93:12, 147:4,
216:17, 229:12,
252:14, 254:13,
259:13, 260:5,
261:8

tests [1] - 144:8

textual [1] - 191:17

texture [1] - 193:10

THE [10] - 1:2, 1:16,
147:10, 147:15,
259:16, 261:17,
261:18, 261:18

themselves

[2] - 83:10, 220:15

theoretical

[3] - 179:18, 180:19,
181:1

theoretically

[1] - 130:9

theory [1] - 223:4**therefor** [2] - 259:13,
260:5**therefore** [1] - 198:9**thereof** [1] - 259:5**THERIS** [2] - 221:1,
221:2**Theris** [2] - 221:1,
230:13**they've** [3] - 62:13,
141:8, 244:13**thicken** [1] - 11:9**thinking** [4] - 15:5,
29:9, 131:11, 250:5**thinks** [2] - 86:15,
86:16**Third** [4] - 27:5, 27:6,
28:7, 28:16**third** [10] - 8:14,
11:10, 33:6, 33:15,
42:19, 73:19, 74:18,
75:3, 95:10, 249:11**thirds** [1] - 123:1**THIS** [2] - 259:16,
261:17**THOMAS** [10] - 37:13,
43:8, 43:12, 52:18,
87:8, 93:17, 96:9,
96:18, 97:8, 99:12**Thomas** [12] - 1:10,
3:5, 7:4, 48:4, 56:4,
65:4, 69:4, 73:4,
104:4, 200:4, 220:4,
242:4**thorough** [2] - 27:17,
123:3**thoughtful**

[2] - 189:12, 254:2

thousand [1] - 156:19**thousands**

[1] - 182:19

three [11] - 26:9,
78:15, 85:7, 126:17,
157:11, 208:17,
222:5, 243:11,
243:14, 248:11,

248:12

three-season

[1] - 26:9

three-story

[1] - 126:17

three-year-old

[2] - 243:11, 243:14

throughout

[1] - 153:10

Thursday [2] - 207:8,

226:14

THURSDAY [1] - 1:5

tight [1] - 19:4

Tim [1] - 28:8

timeliness

[1] - 175:13

timely [2] - 175:12,

195:6

TIMOTHY [76] - 4:10,

9:4, 14:6, 14:12,

17:1, 37:3, 42:14,

44:13, 51:16, 66:17,

68:9, 81:6, 87:17,

93:15, 99:15,

107:10, 111:2,

134:6, 134:12,

136:8, 136:19,

137:5, 137:11,

137:19, 138:2,

144:9, 144:17,

145:2, 147:2,

161:12, 164:9,

164:13, 166:3,

170:18, 177:9,

177:14, 178:19,

179:4, 180:10,

180:16, 181:1,

181:3, 181:8,

181:11, 181:15,

182:3, 184:18,

185:3, 185:10,

185:18, 186:5,

186:8, 186:14,

187:5, 187:15,

187:19, 188:11,

190:3, 190:7,

190:11, 205:19,

206:10, 213:2,

213:8, 213:14,

214:5, 214:9, 215:2,

217:4, 223:10,

223:16, 229:13,

229:19, 237:14,

252:12, 255:6
Timothy^[13] - 1:9, 3:4,
 7:3, 48:3, 56:3, 65:3,
 69:3, 73:3, 104:3,
 200:3, 220:3,
 234:14, 242:3
tiny^[1] - 35:5
tired^[3] - 223:5,
 223:12, 224:1
title^[1] - 105:15
TO^[2] - 260:1, 261:17
today^[9] - 12:7, 19:9,
 75:5, 75:13, 76:16,
 86:3, 200:17, 211:8,
 243:3
together^[1] - 105:17
tolerance^[1] - 87:1
Tom^[1] - 39:12
tonight^[13] - 37:10,
 48:12, 67:3, 96:5,
 109:1, 132:12,
 162:16, 163:9,
 163:17, 166:14,
 195:9, 195:14,
 196:7
tonight's^[1] - 66:6
took^[3] - 17:17,
 152:4, 163:13
Toomey^[1] - 234:14
top^[4] - 86:18, 111:4,
 135:1, 250:2
topic^[2] - 128:6,
 136:7
total^[1] - 116:2
totally^[1] - 130:3
touching^[1] - 229:1
tough^[1] - 14:11
towards^[2] - 51:5,
 125:12
tower^[4] - 70:7, 70:9,
 126:3
Tower^[1] - 126:7
town^[1] - 190:6
tracks^[2] - 232:6,
 236:9
trade^[1] - 239:5
tradeoff^[1] - 37:6
Traffic^[1] - 22:7
traffic^[7] - 100:4,
 217:16, 227:6,
 227:8, 227:9,
 227:11
transcript^[7] - 259:8,

259:14, 260:4,
260:6, 260:7,
260:16, 260:17

TRANSCRIPT

[2] - 259:16, 261:17

transcription

[1] - 261:9

transform [1] - 233:9

translate [2] - 107:1,
221:9

transmission

[1] - 194:9

transportation

[3] - 234:2, 234:6,
238:15

transposed

[1] - 188:2

trapped [1] - 31:5

trash [1] - 232:3

treasure [1] - 253:10

trees [1] - 121:5

Tremont [2] - 220:18,
221:2

tried [1] - 166:14

Trilogy [1] - 242:10

trips [1] - 234:6

trouble [2] - 56:18,
189:16

troubled [1] - 233:9

troublesome

[2] - 163:19, 172:2

truck [1] - 131:13

truck's [2] - 132:19,
133:2

trucks [2] - 30:12,
232:1

true [3] - 30:1, 135:12,
261:9

try [6] - 124:5, 148:8,
156:13, 244:13,
244:16, 249:14

trying [8] - 58:19,

117:8, 121:19,
171:2, 184:3, 202:1,
246:10, 247:3

turn [6] - 22:10, 57:9,
97:17, 122:13,
130:15, 224:2

turned [1] - 14:7

TURNER [11] - 58:5,
58:8, 58:13, 59:6,
59:12, 60:2, 60:19,
61:3, 61:7, 61:18,

63:13

Turner ^[1] - 58:8

twelve ^[1] - 134:19

twice ^[1] - 10:8

twisty ^[1] - 18:19

two ^[61] - 9:10, 23:18,

24:14, 25:17, 27:19,

29:14, 33:13, 41:10,

42:8, 42:12, 58:3,

59:19, 62:15, 66:15,

73:17, 75:6, 75:7,

76:19, 82:3, 82:6,

82:18, 82:19, 85:2,

85:7, 86:4, 86:17,

93:18, 97:7, 102:4,

108:4, 108:13,

109:8, 120:16,

123:1, 124:15,

124:16, 125:5,

138:15, 149:13,

150:6, 153:3,

157:10, 157:11,

187:13, 188:1,

195:10, 197:6,

198:10, 203:3,

213:11, 214:6,

219:4, 220:15,

226:5, 229:4, 247:1,

247:2, 247:11,

247:12, 247:16

two-family ^[2] - 33:13,

73:17

two-foot ^[1] - 82:18

two-page ^[1] - 138:15

two-thirds ^[1] - 123:1

two-year ^[2] - 197:6,

198:10

type ^[4] - 95:18,

222:15, 224:8,

233:11

typical ^[1] - 172:1

typically ^[2] - 140:14,

158:11

U

unable ^[1] - 207:7

unacceptable

^[1] - 109:14

unanswered

^[1] - 153:14

unchanged ^[2] - 9:7,

41:11

uncomfortable

[2] - 18:19, 44:8
under [12] - 26:12,
 26:16, 33:18, 34:3,
 34:5, 34:6, 59:19,
 79:9, 80:6, 197:6,
 240:18, 248:12
UNDER [1] - 261:18
underlying [1] - 123:6
underneath [2] - 26:7,
 26:11
undersigned
 [1] - 261:4
undersized [1] - 11:6
understood
 [2] - 85:16, 86:2
underutilized
 [5] - 225:7, 226:3,
 229:14, 233:19,
 238:13
unfortunately
 [3] - 74:7, 164:7,
 224:1
unhappy [1] - 163:12
UNIDENTIFIED
 [22] - 14:5, 105:5,
 106:19, 107:6,
 108:1, 126:4,
 127:12, 131:10,
 131:18, 132:16,
 141:3, 141:12,
 145:11, 145:13,
 146:4, 147:8, 149:2,
 164:11, 164:16,
 165:4, 165:11,
 170:8
uninterrupted
 [1] - 50:15
unique [1] - 248:19
unit [13] - 12:18, 13:1,
 13:14, 15:14, 32:6,
 115:16, 204:1,
 208:14, 213:11,
 215:5, 249:8
units [5] - 15:12,
 121:12, 121:13,
 208:17, 222:4
unity [2] - 207:16,
 208:9
University [2] - 70:2,
 230:17
UNLESS [1] - 261:18
unless [8] - 45:11,
 61:3, 132:17, 163:1,

178:17, 178:19,
 179:2, 246:1

unlike [2] - 133:9,
 135:16

unlikelihood
 [1] - 178:13

unnecessary
 [1] - 208:18

unreasonable
 [3] - 183:6, 183:7,
 183:8

unsatisfactory
 [2] - 150:19, 153:15

untired [1] - 223:14

up [61] - 5:8, 8:10,
 10:16, 13:6, 14:13,
 15:9, 15:10, 18:5,
 18:12, 18:14, 21:8,
 25:11, 25:13, 33:16,
 35:4, 38:2, 39:14,
 44:15, 51:19, 58:3,
 59:4, 62:16, 70:16,
 78:13, 84:6, 86:17,
 87:5, 88:17, 102:9,
 113:3, 114:11,
 117:12, 121:6,
 125:16, 129:1,
 131:5, 132:19,
 133:3, 134:1,
 135:10, 137:4,
 147:4, 147:7,
 148:19, 150:18,
 150:19, 153:1,
 153:10, 154:17,
 181:16, 182:1,
 183:10, 204:4,
 209:2, 213:9,
 214:18, 223:14,
 248:11, 252:14,
 253:18

updated [2] - 36:2,
 36:9

updates [1] - 243:7

upper [7] - 15:16,
 90:5, 92:8, 92:12,
 92:15, 92:18, 111:4

upside [1] - 202:11

upstairs [2] - 89:8,
 205:11

upwards [1] - 153:11

urbanism [2] - 13:17,
 15:18

usable [2] - 248:7,

250:7
useful ^[1] - 152:8
uses ^[21] - 46:5,
 100:9, 136:3, 140:7,
 140:11, 141:9,
 143:6, 143:15,
 144:1, 144:6, 144:8,
 191:7, 191:11,
 192:10, 218:3,
 225:1, 238:5,
 239:16, 240:1,
 240:5, 249:9
usual ^[4] - 105:19,
 108:17, 146:17,
 172:1
utilize ^[1] - 94:10

V

vacancies ^[3] - 224:4,
 236:8
vacancy ^[2] - 235:6,
 236:9
vacant ^[4] - 222:7,
 226:16, 232:12,
 235:5
valet ^[1] - 231:17
value ^[2] - 10:2, 12:12
Variance ^[24] - 33:5,
 38:13, 40:6, 40:19,
 41:5, 45:9, 47:2,
 49:2, 49:4, 53:8,
 54:14, 55:4, 94:1,
 94:5, 96:1, 101:7,
 102:3, 161:14,
 243:4, 244:19,
 248:9, 255:10,
 257:1, 257:16
variance ^[1] - 97:13
Variances ^[1] - 35:17
various ^[4] - 108:8,
 140:11, 226:5,
 256:3
vehicle ^[1] - 111:16
vehicular ^[1] - 234:6
vendors ^[1] - 232:2
version ^[3] - 135:10,
 135:13, 172:11
versus ^[3] - 135:9,
 169:8, 187:13
vertically ^[1] - 133:16
via ^[1] - 154:6
vibrant ^[1] - 233:11
Vice ^[1] - 1:9

vicinity [8] - 136:4,
 139:7, 140:5,
 141:10, 142:6,
 142:10, 191:12

Victorian [1] - 209:16

view [9] - 38:3, 84:19,
 90:13, 140:3,
 162:13, 182:13,
 231:4, 256:2

views [1] - 37:2

Vineyard [2] - 253:1,
 253:2

violations [1] - 244:18

virtually [2] - 110:1,
 121:4

visible [8] - 70:12,
 76:12, 137:2,
 142:19, 144:4,
 148:11, 189:5,
 189:7

visit [1] - 243:16

visual [5] - 70:4, 92:9,
 122:6, 167:16,
 193:7

voice [1] - 114:3

VOLT [2] - 115:6,
 115:12

VOLTE [1] - 114:3

volume [3] - 259:12,
 259:14, 260:6

voluntarily
 [3] - 182:14, 188:4,
 212:17

volunteer [1] - 255:1

vote [12] - 34:12, 37:1,
 38:15, 45:14, 52:16,
 99:14, 99:17,
 188:10, 190:10,
 217:3, 232:9,
 237:13

W

wait [2] - 174:14,
 206:13

waiting [1] - 252:16

waiver [4] - 5:6, 62:6,
 67:7, 71:9

Walden [3] - 2:3, 3:10,
 3:19

walk [8] - 26:12, 27:5,
 50:10, 123:13,
 123:17, 201:15,
 214:19, 239:4

walk-in ^[1] - 239:4
walking ^[1] - 239:8
walkway ^[1] - 21:12
wall ^[14] - 17:18, 26:1, 26:16, 90:6, 98:3, 98:10, 98:12, 99:2, 100:3, 134:1, 135:5, 135:8, 189:2, 248:8
Waltham ^[1] - 242:14
wants ^[6] - 9:1, 58:10, 87:5, 95:14, 134:17, 173:5
Warren ^[2] - 225:18, 238:12
WATSON ^[22] - 200:10, 200:16, 200:19, 201:6, 202:7, 202:15, 203:7, 203:16, 204:15, 205:1, 205:9, 205:18, 206:2, 206:7, 210:11, 212:8, 212:13, 212:18, 213:18, 214:8, 214:13, 215:1
Watson ^[7] - 33:3, 40:9, 200:11, 218:19, 219:1
waves ^[5] - 176:3, 194:9, 194:16, 194:19, 195:18
ways ^[2] - 117:18, 209:10
weather ^[1] - 148:16
week ^[1] - 133:2
weeks ^[2] - 62:15, 226:6
weigh ^[1] - 163:18
welcome ^[2] - 36:11, 234:11
welcoming ^[1] - 233:10
welfare ^[6] - 46:10, 100:16, 148:1, 192:14, 218:7, 240:8
well... ^[1] - 173:7
wells ^[1] - 211:11
west ^[3] - 126:11, 139:15, 222:12
Weston ^[1] - 239:7
WHEN ^[1] - 259:17

whereas ^[1] - 227:14

WHEREOF

^[1] - 261:11

whichever ^[1] - 23:17

white ^[4] - 109:15,

109:17, 109:18,

111:17

who've ^[1] - 160:10

whole ^[7] - 17:18,

74:12, 122:1,

182:10, 182:11,

229:8, 254:5

wide ^[11] - 75:2, 92:6,

106:18, 107:7,

107:9, 112:4, 153:7,

154:3, 155:9, 156:6,

160:16

wider ^[2] - 111:15,

112:6

willing ^[1] - 106:15

window ^[19] - 24:16,

25:12, 26:1, 42:17,

44:8, 46:6, 50:19,

87:2, 87:4, 87:6,

101:17, 202:11,

202:12, 202:19,

203:2, 204:9,

207:18, 211:11,

249:16

window's ^[1] - 42:6

windows ^[53] - 9:11,

24:3, 24:4, 24:10,

24:13, 24:15, 24:18,

25:2, 25:8, 25:15,

25:17, 25:18, 28:10,

28:12, 33:10, 38:14,

41:15, 41:17, 42:3,

42:4, 42:7, 42:9,

42:12, 43:3, 43:9,

43:11, 44:6, 44:18,

45:1, 49:9, 49:17,

50:6, 50:14, 74:14,

74:16, 86:16, 86:17,

87:2, 89:19, 92:3,

98:5, 98:7, 98:14,

98:15, 99:1, 99:10,

100:2, 203:4, 203:6,

204:5, 205:4,

251:13

wins ^[1] - 107:16

Winslow ^[1] - 127:5

winter ^[1] - 222:6

wireless ^[1] - 106:2

wise ^[1] - 251:6
wishes ^[8] - 32:10,
 34:18, 34:19, 45:4,
 52:5, 65:11, 69:12,
 230:8
wishing ^[19] - 3:11,
 7:8, 20:7, 32:13,
 44:16, 48:7, 52:1,
 56:8, 65:7, 69:8,
 73:8, 88:18, 91:1,
 104:8, 200:7,
 206:14, 220:8,
 230:5, 252:15
WITH ^[1] - 259:16
withstanding
^[1] - 206:4
WITNESS ^[1] - 261:11
woman ^[1] - 164:17
wonderful
^[2] - 228:19, 253:7
wondering
^[3] - 119:18, 152:3,
 159:18
wood ^[3] - 27:11, 60:8,
 231:18
word ^[3] - 142:9,
 155:15, 189:9
words ^[1] - 154:16
workers ^[1] - 159:8
works ^[4] - 14:13,
 121:1, 121:17,
 151:16
worry ^[1] - 194:2
write ^[1] - 163:14
writing ^[5] - 91:5,
 207:8, 232:16,
 234:15, 235:17
written ^[5] - 75:6,
 172:9, 240:2,
 254:14, 254:15
wrote ^[2] - 206:6,
 237:6
www.reportersinc.c
om ^[1] - 1:17

Y

Y-u ^[1] - 48:17
yard ^[13] - 74:10,
 81:14, 81:15, 81:18,
 89:13, 89:15, 94:11,
 246:1, 246:5,
 246:14, 247:5,
 247:6, 248:4

yards ^[4] - 89:12,
247:2, 247:17

year ^[6] - 197:6,
198:10, 222:8,
232:13, 243:11,
243:14

years ^[12] - 10:15,
12:15, 15:7, 36:9,
112:10, 114:5,
174:6, 178:14,
179:7, 179:12,
221:17, 253:3

yellow ^[3] - 110:10,
111:18, 140:10

young ^[2] - 229:4,
253:5

younger ^[1] - 256:16

yourself ^[3] - 164:10,
165:3, 171:5

Yu ^[3] - 48:15, 50:1,
50:10

YU ^[4] - 48:17, 50:12,
51:10, 51:13

Z

Zelinski ^[2] - 261:4,
261:13

zone ^[4] - 122:17,
139:9, 159:2,
159:10

Zoned ^[1] - 230:19

ZONING ^[2] - 1:2,
260:1

Zoning ^[22] - 1:12, 3:7,
10:4, 22:5, 34:4,
39:15, 67:19, 84:18,
94:18, 95:15, 163:1,
167:6, 167:14,
221:19, 240:18,
244:6, 244:12,
256:2, 258:7,
259:12, 260:4,
260:16

zoomed ^[1] - 135:10