BOARD OF ZONING APPEAL FOR THE CITY OF CAMBRIDGE

GENERAL HEARING
THURSDAY March 13, 2025

6:00 p.m.
Remote Meeting
via

831 Massachusetts Avenue Cambridge, Massachusetts 02139

Jim Monteverde, Chair
Steven Ng, Vice Chair
Virginia Keesler
Daniel Fernando Hidalgo
Carol Agate
Michael LaRosa

City Employees
Olivia Ratay



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	Page 2
I N D E X	PAGE
CONTINUED CASES	
BZA 1142420 18 CLINTON STREET Original Hearing Date: 12/12/24	5
BZA-1145011 527 GREEN STREET Original Hearing Date: 01/30/25	7
REGULAR AGENDA	
BZA-1147413 171 HURON AVENUE	28
BZA-1151091 103 SCHOOL STREET	41
BZA-1152107 12 HUBBARD PARK ROAD	68

1 PROCEEDINGS 2 3 (6:00 p.m.)4 Sitting Members: Jim Monteverde, Steven Ng, Virginia 5 Keesler, Daniel Hidalgo, and Carol Agate JIM MONTEVERDE: Welcome to the March 13, 2025 6 7 meeting of the Cambridge Board of Zoning Appeal. My name is 8 Jim Monteverde, and I am the Chair. Pursuant to Chapter 2 of the Acts of 2023 adopted 9 10 by Massachusetts General Court, and approved by the 11 Governor, the City is authorized to use remote participation 12 at meetings of the Cambridge Board of Zoning Appeal. 13 This meeting is being video and audio recorded and is broadcast on cable television Channel 22 within 14 15 Cambridge. 16 There will also be a transcript of the 17 proceedings. 18 All Board Members, applicants, and members of the public will state their name before speaking. All votes 19 20 will be taken by roll call. 21 Members of the public will be kept on mute until 22 it is time for public comment. I will give instructions for

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    public comment at that time, and you can also find
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     instructions on the City's webpage for remote BZA meetings.
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     Generally, you will have up to three minutes to speak.
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               I'll start by asking Staff to take Board Members
 5
     attendance and verify that all members are audible.
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               OLIVIA RATAY: Steven Ng?
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               STEVEN NG: Present.
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               OLIVIA RATAY: Daniel Hidalgo?
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               DANIEL HIDALGO: Present.
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               OLIVIA RATAY: Carol Agate?
               CAROL AGATE: Present.
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               OLIVIA RATAY: Virginia Keesler?
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               VIRGINIA KEESLER: Present.
               OLIVIA RATAY: Jim Monteverde?
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               JIM MONTEVERDE: Present.
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1 2 (6:02 p.m.)3 Sitting Members: Jim Monteverde, Steven Ng, Virginia 4 Keesler, Daniel Hidalgo, and Carol Agate JIM MONTEVERDE: First case is a continued case, 5 and that is Case 1142420 -- 18 Clinton Street. And we have 6 a letter from Sarah Rhatigan, dated March 10, reading: 7 8 "On behalf of the petitioner, we have a request 9 for withdrawal without prejudice of the above-referenced 10 case." 11 This one I'd like to read. The last paragraph is 12 an interesting one. We'll see how more of these come to us 13 as reasons. 14 "Therefore, the petitioners state that further 15 modifications to the design have been made in order to 16 conform both aspects of the Cambridge Zoning Ordinance as 17 recently amended. We believe that no relief from this Board 18 will be required subject to final review by City staff." 19 So that's an interesting one. We'll see how, if any other cases go away that were pending in front of us 20 because of the new ordinance. 21 22 But anyway, on the motion to withdraw without

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prejudice on a voice vote, please?
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               Steven?
               STEVEN NG: In favor.
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               JIM MONTEVERDE: Virginia?
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               VIRGINIA KEESLER: In favor.
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               JIM MONTEVERDE: Thank you. Steven?
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               STEVEN NG: In favor.
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               JIM MONTEVERDE: Thank you.
               Carol?
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               CAROL AGATE: In favor.
               JIM MONTEVERDE: And Jim Monteverde in favor.
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               [All vote YES]
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               JIM MONTEVERDE: That's five in favor; the matter
     is withdrawn.
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               SARAH RHATIGAN: Thank you.
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               JIM MONTEVERDE: Thank you.
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1 2 (6:03 p.m.)3 Sitting Members: Jim Monteverde, Steven Ng, Virginia 4 Keesler, Daniel Hidalgo, and Carol Agate 5 JIM MONTEVERDE: Next case is BZA-1145011 -- 527 6 Green Street. Is there anyone calling in to -- Mr. 7 Rafferty, are you with us this evening? 8 JAMES RAFFERTY: Good evening, Mr. Chair, and Members of the Board. 9 10 JIM MONTEVERDE: Hi. 11 JAMES RAFFERTY: Hi. For the record, James 12 Rafferty, on behalf of the applicants. I'm an attorney with offices located at 907 Massachusetts Avenue in Cambridge, 13 14 appearing this evening on behalf of Marc Schwartz and 15 Jennifer Trieu, T-r-i-e-u, and I believe both Dr. Schwartz 16 and Dr. Trieu are in the meeting. I don't know if they --17 oh, I see Dr. Schwartz at the bottom, so. 18 Dr. Trieu and Dr. Schwartz purchased this house 19 last year on Green Street, but they're longtime residents of 20 Green Street. They're raising their three children there; 21 in fact, all three children were born on Green Street. And 22 all three children attend the King School, and they've been

very active in their neighborhood.

The one thing that they are desiring, however, is to be able to have a driveway. Many homes on the street do have a driveway, and they have sufficient frontage for the driveway, but from a dimensional perspective, their challenge is that the location of the parking space in the driveway is within the front setback of the zoning district.

If you look at the site plan of the survey we've submitted -- I wonder if that could be put up -- the reality, however, is that the actual front setback here is less than the required setback, given where the house is located.

And if survey could be enlarged to see --

The actual house has a setback closer than 10' and the vehicle will be parked beyond the face of the house.

But it's not within -- it's still within the 10' of the driveway. The applicants went to a good deal of effort to develop a driveway that has more than the average landscape and curb appeal.

I wonder if the landscape plan from Verdant could be shown. There it is, yes.

On the left, you can see they've chosen a design

for the driveway, which the Ordinance allows for two paved strips with green down the middle that meet the side yard setback, that meet the Open Space requirements.

The reason they need to zoning relief is they're not going to be -- the parking space to the vehicle is not going to be able to clear the 10' requirement.

The truth of the matter is, and probably most people are aware of that, the 10' requirement or the front setback requirement, is one that is candidly not often accommodated with. People more often than not park their vehicle in their driveway in cases where they are able to fit the car.

So it would not be an unusual condition on the street; this street or any other street in Cambridge that this vehicle will be parked closer to the curbline than the zoning requires. But it is intended to serve as a visual open space when the vehicle isn't there.

Both doctors work locally, and the car is an important element in their daily family life, transporting the kids — the kids walk to school, but transporting the kids to all kinds of activity is something that any busy family would know about.

Page 10

Dr. Schwartz is a Pediatric Oncologist doing research at Amgen in Cambridge. Dr. Trieu runs a Family Medicine Clinic in Roslindale, part of the Community Health Center. So they find they need to access the vehicle at often odd times of the day and night. So this parking space will truly be a benefit to them.

Like most parking spaces in Cambridge, it will result in the reduction of one on-street parking space, because there is parking in the area with drivers now, and candidly, there's been a few letters submitted in the file that bemoan the loss of the space, somewhat understandably.

But none of those letters speak to the issue that's before the Board, and that is whether the relief on the front setback is detrimental in any way. We're hoping that the Board would conclude that the green nature of this driveway and the fact that it is minimal hardscape would be seen as mitigating factors to support the application.

There have been several thoughtful letters submitted in support of the application from nearby neighbors that reflects the family's long-standing involvement in the neighborhood.

The reality is that this driveway will be one of

Page 11

many driveways on the street. It's noted in one of the letters that by removing the parking spaces here, actually the site lines from the nearby crosswalk can improve because the vehicle will no longer be parked where this driveway is.

This section of Green Street is right at the corner of Hancock Street. So the photos would show that it really involves a single vehicle. And the photo that's before you now, you can actually see the family vehicle parked there. It's the vehicle on the left.

So if that vehicle -- if the curb cut were to be allowed -- the driveway I should say -- were to be allowed, that's -- that space would no longer be on the street, but similarly that vehicle would no longer be on the street.

That's the family car that would be able to go into the space.

There's adequate setbacks on the side; the open spaces I noted remains unchanged. And there have been significant attempts to mitigate the impact.

So the hardship is related to the fact that the setback for the existing house is actually nonconforming already. So while it's not within the zoning setback, it is actually not the case that the car will be parked in the

actual setback.

And I think that's the unique circumstance in this case that would support the applicant's request for a variance and demonstrate the hardship on the lot. But the existing or actual setback is actually less than the zoning required setback of 10'.

Plus, it's not derogating from the intent of the Ordinance. Both of the property owners are here and present and happy to address the Board and they've asked if -- well, one of them at least might explain to you the personal hardship of the impact of the value of having this driveway would be.

With the Board's indulgence, I would ask if Dr. Schwartz might be allowed to speak to the curb cut.

MARC SCHWARTZ: Sure. Can I go ahead, or am I waiting for approval?

JIM MONTEVERDE: Just tell us your name and go right ahead.

MARC SCHWARTZ: Sure. I'm Marc Schwartz, and one of the owners of 527 Green Street. So thanks for the introduction, James, and thanks everybody for listening to our application for a variance.

You know, as he said, we've lived on the street for almost 10 years now. We've got a few kids. We're a pretty busy family. We're both physicians with variable work hours. So the driveway would certainly be very helpful.

I think the strongest opposition has been from neighbors that worry about the loss of street parking.

We've tried to be as thoughtful as possible with the design, and we are pretty confident that we would lose one spot from the street and then put our car in the driveway instead.

Just a quick note that that's -- that wasn't actually our family car in that picture. Our family car is a little bit bigger, so we take our large SUV that we use for the three kids and take that off the street and put it in the driveway.

We do try to be very active on the street. We've hosted a couple of block parties on Green Street last year. And during one of them, we grilled for the street in the doorway. So we try to make use of our driveway in lots of ways.

And one other thing we would love to do if we're able to put a driveway in is we'd like to put solar panels

1 on our house, and based on our current estimates, we'd be 2 able to produce renewable energy both for our house and have 3 enough access to charge a car as well. So that would be 4 another nice benefit of being able to put the driveway in 5 our yard. 6 So thank you for considering. JAMES RAFFERTY: I just want to clarify one thing. 7 8 When Dr. Schwartz was referring to the block party in the 9 driveway, their perioperative home further down Green Street 10 had a driveway. Obviously, they don't have a driveway 11 currently. But if you're wondering what driveway he was referring to, it's in their prior home. 12 13 So they moved here about a year ago, as I recall, Dr. Schwartz? 14 15 MARC SCHWARTZ: About a year ago, yeah, from about 16 a block and a half away. 17 JIM MONTEVERDE: All right. Thank you. 18 Any questions from Members of the Board? If not, 19 let me ask a question. We're just going to bring up the 20 plot plan. Is it up? 21 JAMES RAFFERTY: Yep.

JIM MONTEVERDE: What is it that determines the

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location of the parking space such that it can't be -- that it has to be within the front yard setback? Why can't you make the front yard setback work?

JAMES RAFFERTY: The short answer is there would be -- the driver would have to go further into the yard and reduce the open space. So this was a case where in determining what zoning relief to seek, it -- we'd either need a request, a reduction, the required amount of open space, or a reduction in the front setback.

And knowing how valuable open space is, we elected to seek relief from the front setback, recognizing that the actual setback is different -- the existing house has a nonconforming front setback.

JIM MONTEVERDE: That's not my question, Mr.

Rafferty. I think you answered it with your first part; the second part is we heard you say that previously.

JAMES RAFFERTY: Oh, okay.

JIM MONTEVERDE: So you don't have to give up any of the back yard space; what's listed on this drawing is existing patio?

JAMES RAFFERTY: Yes. That's right.

JIM MONTEVERDE: Okay.

1 JAMES RAFFERTY: And it's counting towards the --2 we -- it's counting towards the required open space. 3 JIM MONTEVERDE: Open space, understood. Thank 4 you. 5 JAMES RAFFERTY: Thank you. 6 JIM MONTEVERDE: Secondly, just to make sure we're 7 clear, this is a Variance Request. The Variance Request is 8 you have to meet all of the following: that A literal enforcement of the provisions of the 9 10 ordinance would involve a substantial hardship. 11 And the hardship is owing to the circumstances 12 relating to soil conditions, shape, or topography of such land or structures, 13 14 And lastly, desirable relief may be granted 15 without either substantial detriment to the public good or 16 nullifying or substantially derogating from the intent or 17 purpose of the Ordinance. 18 So Mr. Rafferty, do you want to speak for a second 19 about the substantial hardship involved here? 20 JAMES RAFFERTY: Well, yes. The hardship is 21 related to the layout of the lot. They bought this house as 22 it was redeveloped.

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So there is this patio area that prevents bringing
the driveway further into the lot. It's a somewhat not
asymmetrical lot, given its angle, so there is just no other
place for the vehicle to go. So the lot is constrained in
terms of its depth.
          And I think the fact of the matter is that the
existing -- I think it's somewhat questionable whether the
policy issue -- and I'm moving beyond hardship, so that's
why I was, I moved onto not detrimental to the intent of the
ordinance -- the hardship is the size of the lot. The depth
of the lot doesn't allow a vehicle to go in there without
losing open space.
          JIM MONTEVERDE: Mm-hm. And I think you said that
the owners took possession of this a year ago?
          JAMES RAFFERTY: Around that time, yes.
          JIM MONTEVERDE: Yep. That whole discussion
didn't figure into that discussions before the purchase?
                                                          Ι
mean, they did this willing -- or knowing what they --
          JAMES RAFFERTY: No, I --
          JIM MONTEVERDE: -- had.
          JAMES RAFFERTY: No, it's -- it was done
knowingly, and correct.
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               JIM MONTEVERDE: Yeah. Okay.
               JAMES RAFFERTY: And we're not suggesting this was
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    a surprise. But --
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               JIM MONTEVERDE: Yep.
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               JAMES RAFFERTY: There are a number of homes on
     the street that have similar conditions that enjoy
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     driveways. And granted, they predate, I'm sure, most of the
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    restrictions from 1962 that established the Dimensional
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    Requirements for the driveway.
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               Yes, they were not --
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               JIM MONTEVERDE: Right.
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               JAMES RAFFERTY: -- unmindful of the fact that the
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    property did not have.
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              JIM MONTEVERDE: Thank you.
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              Any other questions from Members of the Board?
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    not --
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              CAROL AGATE: Yes.
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               JIM MONTEVERDE: Yep.
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              CAROL AGATE: I have one. You have a fence there
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    now; is that correct?
               JIM MONTEVERDE: Yes. There's a fence across the
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    face of it.
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               CAROL AGATE: Would the car be extending out
     further than the fence does? In other words --
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               JAMES RAFFERTY: No, the fence is --
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              CAROL AGATE: -- I gather -- the fence will be
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     removed. When the car is parked, will it extend further
     towards the sidewalk than the fence does now?
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7
               JIM MONTEVERDE: No.
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              CAROL AGATE: No. Okay.
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               JIM MONTEVERDE: So if I read the drawing
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    correctly -- Carol, the fence is on the property line so --
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               JAMES RAFFERTY: That's correct.
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               JIM MONTEVERDE: -- the vehicle couldn't in any
    circumstance be beyond the property line.
13
14
              CAROL AGATE: Okay.
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               JIM MONTEVERDE: Anyway, does that answer your
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    question, Carol?
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              CAROL AGATE: Yes.
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               JIM MONTEVERDE: Very good. Anyone else have any
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    question? We'll open it to public comment.
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              And in the file, we have by my count four speaking
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     in favor, two objecting. We have one from Atkins Noyes
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    dated today, who lives on Green Street. This was speaking
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-- objecting -- not in support.

see it addressed. They are speaking in support. Sophia and Rem Koning from 45A Hancock Street speaking in support.

Lauren and Matt Crowe, 515 Green Street, in support; Heather Caramello, 551 Green Street in opposition; and a group 1 from the residence of 521 Green Street in opposition.

We have Meg Rithmire and David Hampton -- I don't

I think my count was wrong; I think that's three against, four in favor. But that's what we have in the file at the moment.

So any member of the public who wishes to speak should now click the icon at the bottom of your Zoom screen that reads, "Raise hand."

If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6.

I'll now ask Staff to unmute speakers one at a time. You should begin by saying your name and address, and Staff will confirm that we can hear you. After that you will have up to three minutes to speak before I ask you to wrap up.

No one out there? So we'll close public testimony. Any discussion among Members of the Board? Or

are you ready for a vote?

DANIEL HIDALGO: I guess I'm finding myself somewhat reluctant to vote in favor. Just, I don't find the argument for the variance very compelling -- you know, given that, I don't know I don't see anything really particular to this property that merits, you know, extraordinary relief.

And I -- yeah. I'm just struggling to accept the -- you know, higher standards of the variance.

JIM MONTEVERDE: All right. Thank you, Daniel. Anybody else?

CAROL AGATE: I also have a slight problem in that it is a choice of two problems. And patio versus the car sticking out, but it seems the car isn't really going to be sticking out, and because of the neighborhood it's in, I would wind up being in favor.

JIM MONTEVERDE: Okay.

VIRGINIA KEESLER: I would say that I don't find the request to be detrimental. It sounds like there's been a lot of consideration around only impacting the one-street parking space. And I do think there is an argument to be made about the shape of the lot and the space that's available. And so, I would be in favor.

1 JIM MONTEVERDE: Okay. Thank you, Virginia. 2 STEVEN NG: Yeah. I think most of the properties 3 on Green Street that have the driveway, they've got the benefit of a full depth of the properties. 4 But I think for 527 Green they've got I think it's 5 50 Hancock Street is right behind them, so they lose that --6 the benefit of that extra site depth. 7 8 But I mean, they've got the patio back there that 9 could get to the 10', but I'm kind of satisfied as long as 10 the vehicle's behind the gate or the fence. 11 I -- yeah, I'm kind of leaning towards approval. 12 JIM MONTEVERDE: Okay. One quick question, since you mentioned, Steven, the vehicle being behind the gate. 13 14 Can you go back to the site plan, please, Olivia? It's not what I read on the site plan. I don't see the 15 16 fence continuing. I see the notes that say, "Remove 17 existing wall." 18 So Mr. Rafferty, could you confirm does the fence 19 go back? 20 JAMES RAFFERTY: Well, no, the --21 JIM MONTEVERDE: In the --22 JAMES RAFFERTY: -- fence goes --

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1
               JIM MONTEVERDE: -- driveway?
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               JAMES RAFFERTY: -- the fence goes across the
 3
     front of the property. So obviously to access the property,
 4
     the fence -- now whether the fence turns into a gate, I'd
    have to ask my client, but obviously that's the point --
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 6
               JIM MONTEVERDE: Ask your client, please? because
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     the note says, "Remove existing wall" which I can
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    understand, but the question for your client is whether this
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     intention is to put a gate here or not, to drive through.
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     So basically, when it's -- when the car is parked, the view
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     is exactly what the photograph shows.
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               That's -- did you ask?
               STEVEN NG: Yeah, it's not --
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               JIM MONTEVERDE: Is the client still here? Can
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     they --
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               JAMES RAFFERTY: Yes.
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               JIM MONTEVERDE: -- respond?
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               STEVEN NG: Yeah.
               JAMES RAFFERTY: Yes, Marc, could you address what
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     your intention is once the portion of fence across -- do you
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     intend to replace that with any kind of a gate?
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              MARC SCHWARTZ: You know, my first comment would
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be if there's something that the Board prefers, we'd be happy to do that. We hadn't gotten to that stage since we did not yet have the variance approval.
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So if the Board would prefer that we put a gate back in front of the driveway, we'd be happy to do that. We had not planned on it previously.

JIM MONTEVERDE: Okay. Steven, would that help you?

STEVEN NG: Yeah, no, I appreciate the response.

But I bet if you have two swinging gates there, like two panels, it probably -- the sidewalk's probably not wide enough to help you out with that. But it's not -- it wasn't a requirement for me; it's more there's room for the vehicle to be within side that boundary line, I would still be inclined to grant approval.

JIM MONTEVERDE: Okay. So --

JAMES RAFFERTY: Mr. Chair, I don't know if it was made clear in my presentation, but we're talking here the difference between the 10' required setback. There's still going to be a setback, so it's going to be about 3' shy of the 10' requirement.

JIM MONTEVERDE: It says, "4'3." It's going to be

1 5.7' off, correct? 2 JAMES RAFFERTY: I think it's been determined --3 we looked at it that the space could go a little further --4 I thought that the Verdant plan showed that; I've been 5 looking at it; I don't see it. 6 JIM MONTEVERDE: All I have to -- all we have to 7 react to is the drawing that's on the screen, and that says 8 "4.3" to the -- I'm sorry, feet -- to the nearest corner. 9 All right. Board Members, are we ready for a 10 motion? 11 COLLECTIVE: Yes. 12 JIM MONTEVERDE: Take that as a yes. The Chair makes a motion to grant relief from the requirements of the 13 Ordinance under Sections 5.31 and 6.44.1.c, Layout of Off-14 15 Street Parking Spaces; specifically the vehicle being closer 16 -- within the front yard setback and 10.30 for a variance. And that article that we're -- is 10.31. 17 18 We find all of the following: 19 The literal enforcement of the provisions of the ordinance would involve a substantial hardship. 20 21 And that the hardship is owing to really the shape 22 and size of the lot.

And desirable relief may be granted without either substantial detriment or nullifying or substantially derogating from the intent or purpose of the Ordinance.

On the condition that the work proposed conforms to the drawings entitled -- sorry, I had it a second ago - "527 Green Street," prepared by Peter Nolan and Associates, Land Surveyors, dated 10/21/24.

JAMES RAFFERTY: Mr. Chair, do you wish to include the landscape plan as well as a condition?

JIM MONTEVERDE: Happy to do that. Let me grab that.

JAMES RAFFERTY: Yeah. I think it's a mitigating factor for the relief.

JIM MONTEVERDE: That's okay. I'll mention it as a condition. Initialed and dated by the Chair.

And further that we incorporate the supporting statements and dimensional forms submitted as part of the application.

Further, that the variance is granted incorporating the following conditions. And that is recognizing that the work will include what is illustrated in the drawing called, "Landscape Plan Driveway, 527 Green

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Street," prepared January 13, 2024, prepared by Verdant.
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               Board Members, on a voice vote, please? Steven?
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               STEVEN NG: In favor.
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               JIM MONTEVERDE: Virginia?
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               VIRGINIA KEESLER: In favor.
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               JIM MONTEVERDE: Daniel?
 7
               DANIEL HIDALGO: In favor.
 8
               JIM MONTEVERDE: Carol?
               CAROL AGATE: In favor.
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10
               JIM MONTEVERDE: Jim Monteverde opposed.
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               [FOUR vote YES, ONE vote NO]
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               JIM MONTEVERDE: That's four in favor, one
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     opposed. The relief is granted. Thank you.
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               JAMES RAFFERTY: Thank you very much. Have a good
15
     evening.
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     (6:30 p.m.)
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     Sitting Members: Jim Monteverde, Steven Ng, Virginia
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                       Keesler, Daniel Hidalgo, and Michael
 5
                       LaRosa
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               JIM MONTEVERDE: Next on the Regular Agenda is
     Case BZA-1147413 -- 17--
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               CAROL AGATE: Uh, do --
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               JIM MONTEVERDE: Oh.
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               CAROL AGATE: -- I'm -- there are only five of us,
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     and I was supposed to be just a fill-in for the continued
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     case.
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               JIM MONTEVERDE: Yeah, I think if --
               OLIVIA RATAY: Sitting for the Regular Agenda is
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     Michael LaRosa, Steven Ng, Daniel Hidalgo --
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               CAROL AGATE: Oh.
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               OLIVIA RATAY: -- Virginia Keesler and Jim.
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               So Carol, you can --
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               CAROL AGATE: Okay.
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               JIM MONTEVERDE: So you're all done, Carol.
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               CAROL AGATE: Okay.
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               JIM MONTEVERDE: Thank you.
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CAROL AGATE: Bye, goodnight.

MARTHA PENZENIK: Good evening. My name is Martha Penzenik, of Martha Penzenik Architects in Arlington. And I'm here to represent Elizabeth's Day Care and Preschool Center, which is located at 171 Huron Avenue.

I would like to say first of all that the reason that we are here is because part of the building is in the Business District and part of it is in Residential.

And the way that this happened was that when the -- in the initial zoning map of 1924, it showed that the full lot was in the Business District.

And then by 1943, the districts had been redrawn, and the district lines are parallel to Concord Ave and then parallel to Huron Ave -- perpendicular to Huron Ave. And so, -- and they just meet in the funny spot in the building.

So this building was built in 1942, and as you can see in the photo, it was always a commercial building.

Everybody thought that it wasn't a commercial building all this time.

And in putting in a nursery school, construction has begun, is ongoing, and hopefully the facility will be open soon. And it's being constructed in the part of the

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1
    building that is a business.
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               If we could go to the second --
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               Okay. So here you see --
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               JIM MONTEVERDE: Can you talk to us about the
     zoning relief you're requesting?
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               MARTHA PENZENIK: Okay. So we want to move the
     line -- the zoning line -- by 25', which you can see in
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    Number 3. In pink is the business and the yellow is the
     residential.
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               And the requirement is that the more restrictive
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     area, the less than 50 percent of the total lot area, which
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     this is -- the total lot area is 13,538 square feet -- the
     residential portion is 1,942 and the business area within
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     the building itself is 4,369.
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               And so you can see the peculiar way that the
    building is divided up. It's a triangle reflecting the
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    parallel line from --
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               JIM MONTEVERDE: Yep. Can I --
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               MARTHA PENZENIK: -- Concord Ave.
20
               JIM MONTEVERDE: -- interrupt you? Can I
     interrupt you for one second?
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22
               MARTHA PENZENIK: Of course.
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1 JIM MONTEVERDE: We're -- what's before us tonight 2 is not to move the line between the two -- the Business 3 District and the Residential District; it's to what your 4 application is requesting, a special permit, is in -- I'll 5 call it an exemption -- and it showed on that particular 6 screen if you can go back to that one, that basically -that Ordinance Section 3.33.1 in your illustration on the 7 8 left -- basically allows you to strike a line 25' into the 9 more restrictive area. 10 MARTHA PENZENIK: Correct. Yes. 11 JIM MONTEVERDE: Which I think is what you've done 12 in the graphic to the right-hand side that leaves that small triangle of yellow, which is still in the more restrictive 13 zone. So --14 15 MARTHA PENZENIK: Correct. 16 JIM MONTEVERDE: -- in no way are we moving the 17 zoning line. 18 MARTHA PENZENIK: Yes. I'm sorry I misspoke. 19 JIM MONTEVERDE: That's okay. But that -- just so we're clear for the Board Members what we're voting for. 20 21 MARTHA PENZENIK: Yeah. 22 JIM MONTEVERDE: So we're really giving you the

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1
     allowance, which the Ordinance does allow to --
 2
               MARTHA PENZENIK: Yeah.
               JIM MONTEVERDE: -- allow the use within that 25'
 3
 4
     zone. Right? Okay.
 5
               Go ahead.
 6
               MARTHA PENZENIK: Okay. So then, if we move down
 7
     to Number 4, please.
 8
               Here we go.
               You can see that what we've done is in order to
 9
10
     move forward with the construction of the nursery school
11
     that a wall was built -- a dividing wall -- along that
12
     diagonal, so that construction is taking place on one side,
13
     and then nothing is happening on the other. But it shows
     what we would do in the future.
14
15
               And there's --
16
               JIM MONTEVERDE: So if I understand you correctly,
17
     when you said the facility's under construction now --
18
               MARTHA PENZENIK: Yes?
19
               JIM MONTEVERDE: -- it's actually the area to the
20
     right of that --
21
               MARTHA PENZENIK: Correct.
22
               JIM MONTEVERDE: -- new line, that --
```

1 MARTHA PENZENIK: Correct. 2 JIM MONTEVERDE: -- where we basically can do that 3 as-of-right? 4 MARTHA PENZENIK: Correct. 5 JIM MONTEVERDE: Correct? Okay. Thanks. 6 MARTHA PENZENIK: Yep. And then the next one, Number 5, shows again the angled wall and what we're 7 8 proposing to do -- put in three classrooms. And then the next one is the furnishings -- so you 9 10 can see what the actual nursery school will look like -- and 11 there is a playground in the back and two parking spaces 12 that are assigned to the nursery school. 13 And then there are some trash barrels and a dumpster for the businesses that are there; one of which is 14 15 a pizza shop; the other a dry cleaner, and then the bakery. 16 And we -- in terms of the reasons for -- oh, yes, 17 these are the neighborhood buildings here -- there is a 18 large demand for childcare facilities in Cambridge, as it is 19 true in many places. 20 And this will provide a substantial number of 21 spaces adding to what's available in Cambridge. 22 And there have been parents who would have liked

to have been here, but instead have come all the way into Arlington to the original facility of Elizabeth's Day Care and Preschool Center, and are anxiously awaiting the opening of this nursery school on Huron Avenue because this is the neighborhood that they live in.

So we have received letters from those people.

And then in the fall, the owners of Elizabeth's had a neighborhood ice cream social, so that -- you know, passersby and neighbors and so on could come and learn about what was coming for them in the way of the first phase of the nursery school.

And then also asking them for support of the special permit to be able to have use of the whole building, except for that one little spot.

And so, we got over 80 signatures. It was a very nice response.

And let's see. So that the benefits to the neighborhood in granting the special permit is that it eliminates an empty storefront in the village. The city of Cambridge gains 41 universal pre-K spaces. It eases the shortage of day care centers, and families will increase foot traffic to the local businesses. So there's -- that's

Page 35

a nice benefit for those shops.

In terms of traffic and parking controls, they -we had approached the City about having the metered spaces
in front of the building have -- you know, no stopping, no
parking during the times of drop-off and pickup, although
those times will be staggered to help control the traffic.

And the town ended up taking the meters out, so -you know, we have three spots where people can just come and
turn in, drop their children off, the staff will meet the
children, and so the -- it's a very short-term time that a
parent will be parked in front of the building.

And otherwise, if parents have to stay for meetings or whatever, there are the metered spaces. But also, the owner of the building has offered additional spaces in some of the other properties that they own, so that, you know, there's other off-street parking that can be made available.

And we found through surveys and questionnaires that both in Arlington and here on Huron Avenue, that a substantial number of people will be walking, will be riding bikes, will be sort of bicycle pooling with -- you know, the large trailers that they have and put multiple children in.

1 There are bus stops that are nearby.

And so, there's plenty of public transportation and ways to get there by foot or wheel, beyond cars.

JIM MONTEVERDE: All right. Thank you.

MARTHA PENZENIK: You're welcome.

JIM MONTEVERDE: Any questions from Members of the Board?

So -- just so we're all clear, as it's stated on the application form, and I'll quote this, "What we're looking to do here is to grant per Article 3, Section 3.23.1 is to extend by 25' the less restrictive use -- a Business A-1 District into the more restrictive use -- Residence B, which is assume now is Residence C-1, to accommodate an Institutional, Educational Use for a daycare and preschool." That is what's before us with this one.

 $\hbox{ If there are no questions from Members of the } \\ \\ \hbox{ Board, I'll open it up to public comment.}$

And there are by my count 83 signatures speaking for. Most of these by -- this is a from letter that was filled out; people just signed up their name and address -- most of these, there are a few that are in fact neighbors.

There are a good number of those 83 that are not here from

Cambridge, but they're otherwise in other locations.

And then there are some specific ones; Karima

Lamani in support; Margaret Laws and Missael Garcia in

strong support; Carlos and Liz Loya 21 Field Street, in

support, writing to emphasize the crucial importance of

allowing Elizabeth's Day Care and Preschool Center to fully

utilize the space at 171 Huron. This is a form letter.

I have the same one from Esther Loayza, and that's the correspondence we have in the file.

So any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand." If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6.

I'll now ask Staff to unmute speakers one at a time. You should begin by saying your name and address, and Staff will confirm that we can hear you. After that you will have up to three minutes to speak before I ask you to wrap up.

Nobody calling in. So I'll close public testimony.

Any discussion among Members of the Board? If

not, this is a Special Permit. So we'll make a motion.

The Chair makes a motion to grant relief from the requirements of the Ordinance under Sections -- as I said, as it's stated on the application form from Section 3.32.1, which again allows the extension of the less restrictive use 25' past the demarcation line for the zone.

And as the advertisement states, Section 3.30; 4.33.b.2; 4.30; 4.50; 4.55.1.2; 4.56.c.1; and then the Requirements for the Special Permit. And that criteria is -- and that's Section 10.43 -- the criteria are:

- a) It appears the requirements of this ordinance cannot or will not be met. That is correct.
- b) Traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change. It will not.
- c) The continued operation of or the development of the adjacent uses as permitted in the zoning ordinance would be adversely affected. It will not.
- d) Nuisance or hazard would be created to the detriment of the health, safety, or welfare of the occupant or citizens of the city. It will not. And lastly,
 - e) For other reasons, the proposed use would

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1
     impair the integrity of the district or adjoining district.
    And it will not.
2
               So it meets all the criteria of Section 10.43 for
 3
 4
    a Special Permit.
 5
               On the condition that the work proposed conform to
     the drawings entitled, "Elizabeth's Daycare and Preschool
 6
7
    Center 171 Huron Avenue," prepared by Martha Penzenik,
8
    Architect, dated March 13, 2025; initialed and dated by the
    Chair.
9
10
               And further, that we incorporate the supporting
     statements and Dimensional Form submitted as part of the
11
12
     application.
13
               On a voice vote, please?
               Virginia?
14
15
               VIRGINIA KEESLER: In favor.
16
               DANIEL HIDALGO: Thank you. Daniel?
17
               DANIEL HIDALGO: In favor.
18
               JIM MONTEVERDE: Thank you. Steven?
19
               STEVEN NG: In favor.
20
               JIM MONTEVERDE: Thank you. Michael?
               MICHAEL LAROSA: In favor.
21
               JIM MONTEVERDE: And Jim Monteverde in favor.
22
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[All vote YES] JIM MONTEVERDE: That's five in favor. The relief is granted. MARTHA PENZENIK: Thank you --JIM MONTEVERDE: You're welcome. MARTHA PENZENIK: -- Board Members, thank you, Mr. Chairman.

1 2 (6:48 p.m.)3 Sitting Members: Jim Monteverde, Steven Ng, Virginia 4 Keesler, Daniel Hidalgo, and Michael 5 LaRosa 6 JIM MONTEVERDE: Next case is BZA-1151091 -- 103 7 School Street. And this is a two-part. There's a Variance 8 and then a Special Permit. And we have a letter in the file 9 from Sarah Rhatigan, asking -- requesting to accept this 10 withdrawal without prejudice of the Special Permit only. 11 And I'll mention later in this letter it says --12 and this affects the Variance Request -- and then just so we all keep in mind, "The new zoning also reduces the scope of 13 14 the Variance Request; the proposed vertical addition of the 15 fourth story is now permissible as-of-right under the newly 16 amended Zoning Ordinance, except with respect to the portion 17 of the addition that lies within the front 10' of the lot. 18 See our architectural plans." 19 So that's what we are here for tonight. 20 Sarah, are you with us? 21 SARAH RHATIGAN: I am. Good evening, Mr. 22 Chairman. Sarah Rhatigan, for the record, Trilogy Law LLC,

Page 42

at 12 Marshall Street in Boston. Thanks very much for hearing our case this evening.

I'm here for the petitioner, who's the owner of this building, which we'll put a photo up on the screen.

But just briefly, the history of this: This is a building that has been used historically as a boarding house with four- -- it was described as a four-unit boarding house but essentially has been a boarding house in pretty significant disrepair over a number of years.

And the owner has purchased this with the intention of doing a major renovation of the existing structure and adding to it, as you've seen from the plans.

And the goal here is to create some modern, you know, solid, livable residential rental property, and the proposed unit count is eight units once the construction is complete at this point, and we'll run through those plans with you.

When we initially filed the application -- you'll see the initial application was filed before the zoning change had been fully ordained, although -- you know, the team was sort of watching the zoning and expectation that their proposal was going to be in line with what the current

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     zoning proposal was trying to achieve in terms of allowing
     for multifamily residential construction to improve housing
 2
     within the city of Cambridge.
 3
 4
               We filed -- again, we filed before the zoning
     change occurred, and then revised the application, which
 5
     then resulted in us being able to take advantage of some of
 6
     the new provisions of the Zoning Ordinance, which I know
 7
 8
     will be -- it's taking all of us some time getting used to
 9
     these things, but we spent some time with Staff at
10
     Inspectional Services to make sure that we were fully
11
     conforming as much as possible with the new zoning.
12
               And what we discovered is that there was really
     one element of the project that does require a variance,
13
     which we'll describe better with a visual.
14
15
               Olivia, would you mind putting the slides --
16
               JIM MONTEVERDE: We're pulling that up.
17
               SARAH RHATIGAN: -- up on the screen for us?
               JIM MONTEVERDE: Yep.
18
19
               SARAH RHATIGAN: Great. Thank you so much.
                                                             So,
20
     if you don't mind --
               JIM MONTEVERDE: I think it's the lower right
21
22
     diagram that kind of gets to the point?
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SARAH RHATIGAN: Yeah, the lower right would be helpful. Yep. Yep. So if you Zoom out just a tinge.

So you can see the lot is an irregular shaped lot, and the -- it's a structure that sits, you know, pretty tight on the lot. There's not a lot of space in terms of setbacks. And it does have some yard space in the rear, which is helpful.

And do you have a page that has the -- just a photo of building, just so we can see what the massing looks like? There we go, perfect. Thank you. That's exactly what I'm looking for.

So as you can see, the image on the left is the house as it looks today. So there's some sort of interesting but odd features of the historic feature.

So it looks like a two-story, and it is a two-story effectively, although the basement level, which is unimproved right now, is high enough off the average grade that it's categorized as a story above grade.

So under the new zoning, we're allowed to construct up to four stories or 45 feet -- no nigher than 45 feet. So the proposal for this project -- as you can see, the image on the right side, is that the sort of -- I'm

going to call it the garden level, the basement level, which is really raised -- you know -- quite a bit off the ground, will actually be livable space with two apartments: one on the right, one on the left.

And then we add a story on the top of the structure that will match it and, you know, the architectural intent is to be consistent with what the apartment building looked like previously, just one story higher.

And the element that requires relief -- when the City of Cambridge Ordinance was revised, they made allowances for side setbacks that were preexisting, nonconforming. So it allows for vertical extensions straight up that are within setbacks.

So everything about that top floor is permissible under the new zoning that allows the additional height, except that they didn't factor in front setbacks -- preexisting, nonconforming front setbacks.

And as you'll see from -- or as we saw from the survey and we'll see again -- the front of this house sits right -- and you can see it in that image -- that it sits right on the lot line, with essentially a zero setback at

1 the front. So to the extent our fourth story -- it looks like 2 3 a third story, but our fourth story of the house -- sits within 10 feet of the front of the lot, that whole portion 4 is a nonconformity that's not permissible without a 5 variance. 6 7 And that's the reason to be here before you today. 8 And then just briefly, and I wanted to just sort 9 of explain the removal of the special permit -- so 10 previously we needed a special permit to allow for 11 additional windows on the side setbacks, which were nonconforming. But now that they are conforming under the 12 new zoning, we're not required to have that special permit 13 for those windows. 14 15 So you'll see the --16 JIM MONTEVERDE: Thank you. 17 SARAH RHATIGAN: -- as I mentioned, the plans 18 again are all otherwise as-of-right. 19 JIM MONTEVERDE: Thank you. 20 SARAH RHATIGAN: I think -- I hope --21 JIM MONTEVERDE: Can I ask you one question --22 SARAH RHATIGAN: That's helpful.

1 JIM MONTEVERDE: -- just so I'm clear? 2 SARAH RHATIGAN: Sure. Yes. 3 JIM MONTEVERDE: On -- sorry, the diagram that was 4 on my screen a second ago, in that lower right-hand corner 5 diagram -- and as you just said, the fact that the side yard 6 setbacks now -- or the Ordinance now allows someone to go 7 one, go to the four-story height and allows the outside wall 8 to track exactly along the face of the existing wall, 9 correct? And so, you no longer need any --10 SARAH RHATIGAN: Correct. 11 JIM MONTEVERDE: -- variance for the side yard 12 setbacks; you're not doing anything in the back, so that's not affected. And really the only thing you need now is 13 that front -- the setback in the front, correct? 14 15 SARAH RHATIGAN: That's correct. 16 JIM MONTEVERDE: That's the only thing here. 17 SARAH RHATIGAN: That's correct. Now, just to 18 clarify, we are actually making some changes at the rear of 19 the building, but they're all within the area, you know --20 JIM MONTEVERDE: Right. 21 SARAH RHATIGAN: -- outside of --22 JIM MONTEVERDE: Correct.

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1
               SARAH RHATIGAN: -- outside of --
 2
               JIM MONTEVERDE: Correct.
 3
               SARAH RHATIGAN: -- setbacks. Yep.
 4
               JIM MONTEVERDE: There's nothing --
 5
               SARAH RHATIGAN: Exactly.
               JIM MONTEVERDE: -- that needs any zoning relief.
 6
 7
    Okay.
 8
               SARAH RHATIGAN: Correct. Yeah.
 9
               JIM MONTEVERDE: So that's --
10
               SARAH RHATIGAN: Yeah.
11
               JIM MONTEVERDE: -- the narrow ledge that we have
    to walk on to make our determination.
12
13
               SARAH RHATIGAN: Exactly. Exactly.
14
               JIM MONTEVERDE: Okay.
15
               SARAH RHATIGAN: What I think -- if it's all
16
     right, and I'm sorry that I didn't introduce him being on
17
    the screen here, but Steve Hoheb from SKA is our architect.
18
    And Steve, do you -- are you -- you're with us, right?
19
               STEVE HOHEB: Yes, and I didn't take off --
20
               SARAH RHATIGAN: Excellent. There you are.
               STEVE HOHEB: I'm here.
21
22
              SARAH RHATIGAN: Great.
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1
               STEVE HOHEB: And --
2
               SARAH RHATIGAN: So Steve will walk us through the
 3
    plans --
 4
               JIM MONTEVERDE: Steve?
               SARAH RHATIGAN: -- the plans, just to make sure
 5
 6
     that everybody's got --
7
               JIM MONTEVERDE: If you could help the Board,
    please, and address any comments you'd like to make to the
8
9
    piece that you're actually requesting the variance for, and
10
     that being the setback in front, and why that setback can't
11
    be 10 feet from the property line, and why it is where it
     is? That's -- that's basically the issue in front of us.
12
     So if you could enlighten us on that, that would be helpful.
13
14
               STEVE HOHEB: Sure. Then, Olivia, could you
15
     actually go to the [unclear]; I believe it's the page
16
    before.
17
               And so on our site currently, the building, as
18
     Sarah had mentioned, is currently on the property line. We
19
    had looked at options where we were on our third-floor
     addition pushing back into -- to be in conformance with the
20
     10' setback.
21
22
               But it just didn't really fit the neighborhood.
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Page 50

And it would have been kind of like this postmodern building in an otherwise fairly traditional neighborhood.

And so, we looked to kind of keep some of the improvements of the building as in line with the neighborhood as we could. We sat the addition on the property line and just extended everything up.

And as we started working through some of the circulation issues -- we could actually pan down over to the third-floor level, I believe it's on the twelfth sheet -- you'll see here essentially that the circulation kind of became a big component to the project, where we essentially needed a central corridor.

Increasing it up to eight units also requires us to kind of meet the Commercial Building Code instead of the residential, so this became more of a constraint, based on what we could use as per Code reasons, along with kind of the request from the client to improve the density of the neighborhood. We looked to kind of keep that front area as cohesive with the building as we could.

And I just -- just for some clarity, I believe when we were looking at the setback requirements, because our -- essentially our, for all intents and purposes, our

neighbor to the north is a parking lot. There is no setback.

And I believe there was an average of the two adjacent lots: the parking lot which has a 10' setback, and then the preexisting neighbor to the south, which is essentially a mirroring of this image is also a lot, so we came up with five. Particularly this is what we're allowed -- this is our condition on this lot.

But we'd love to try to keep most of the improvements as minimal and as undisruptive as we could to kind of make the project work within these guidelines.

JIM MONTEVERDE: All right. Thank you. Any questions from Members of the Board?

STEVEN NG: So there is -- these are all going to be market-rate units, but there's no affordable units in this particular project?

SARAH RHATIGAN: That's right. That's right, Mr.

Ng. There are no deed-restricted units in the project. In

terms of the marketing, I'm not sure that they have price

points, but the unit sizes are relatively -- I mean, I don't

want to say modest; I mean, they're nice units.

But, you know, the size is such that we would

expect that it would be a good sort of middle product.

STEVEN NG: Thank you.

JIM MONTEVERDE: Any other questions from Members of the Board? If not, public comment. Let me just look in the file.

Yes, we have one piece of correspondence from Jacquelyn Arbuckle (phonetic), a neighbor at 1 Pine Street who wrote in support. And that's all we have for correspondence in the file.

So I'll open it up to public comment.

Any members of the public who wish to speak should now click the icon at the bottom of your Zoom screen that says, "Raise hand." If you're calling in by phone, you can raise your hand by pressing *9 and unmute or mute by pressing *6.

I'll now ask Staff to unmute speakers one at a time. You should begin by saying your name and address, and Staff will confirm that we can hear you. After that you will have up to three minutes to speak before I ask you to wrap up.

Nobody calling in, so I will close public testimony. Any discussion among Members of the Board?

1 DANIEL HIDALGO: So given that the existing 2 setback is essentially to the property line, it strikes me 3 as kind of just a natural way of making the building larger. I live fairly close to that area, and I think it 4 would be consistent with the neighborhood. So I'm happy to 5 6 support it. JIM MONTEVERDE: Very good. Thank you. Any other 7 8 discussion from Members of the Board? 9 MICHAEL LAROSA: Hi, Jim. I'm not necessarily 10 against it, but my only concern is, with this relatively new 11 Zoning Ordinance, obviously there's mixed feelings about it 12 across the city. 13 But I feel like the front setback was for a 14 reason, so that we don't have towering boxes everywhere now. 15 And I understand they did their best to match the façade 16 that's there now. But I don't know that I'm convinced that 17 there's any special reasoning for the lot to ask for a 18 variance. 19 JIM MONTEVERDE: No, I can --20 MICHAEL LAROSA: Now, if you can convince me --21 JIM MONTEVERDE: Because the variance --

MICHAEL LAROSA: I don't see any difference than

22

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1
     any other developer that's going to try to go four stories
2
     right to the sidewalk.
 3
               JIM MONTEVERDE: Okay. Thank you. Yeah, I think,
 4
    Mike, it's a Variance Request. So you want to be able to
 5
     speak to the substantial hardship.
 6
               Okay. Anyone?
7
               SARAH RHATIGAN: Mr. Chairman, did you -- oh, I'm
8
     sorry.
9
               JIM MONTEVERDE: No, that's -- you don't need to
10
     address that. Thank you.
11
               Any other discussion from Members of the Board?
               STEVEN NG: Yeah, I'm kind of agree -- I agree
12
    with Mike that with the new bylaw, you know, zoning changes,
13
14
     I mean, I don't -- I think the hardship there is, you know,
15
     I'm not that convinced to support that, especially with --
16
    you know, it's kind of a new situation and to suddenly --
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VIRGINIA KEESLER: I'm in agreement with Daniel that this seems like the most -- the, I guess the cleanest way to me to expand the building to just add another story,

brand-new, I think I need to be convinced if others on the

you know, to support a variance of that type when it's

17

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22

Board feel otherwise.

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1
     keeping the same setback as the existing building. So I'm
     inclined to support.
 2
 3
               JIM MONTEVERDE: Okay. Here -- yeah, I
    misunderstood what you were saying in the beginning and
 4
     initially. So you're inclined to support. Steven, you've
 5
 6
     got a question, and Michael, were you -- where did you fall
 7
     on this?
               MICHAEL LAROSA: Well, as I was saying, I'm not
 8
     necessarily against it at the moment; I just don't know.
 9
     This is a relatively new Zoning Ordinance, and I feel like,
10
     as I said I know there's mixed feelings about it across the
11
12
     city, but there was a lot of thought put into it.
               And I think there was a reason for not including
13
     the front setbacks.
14
15
               So I don't know what -- I mean, Sarah, you're
16
     welcome to sway me, I just don't know what the --
17
               SARAH RHATIGAN: Mm-hm.
18
               MICHAEL LAROSA: -- hardship is here, other than
19
     they want an eighth unit --
20
               JIM MONTEVERDE: Yeah.
21
               MICHAEL LAROSA: -- not seven units with a
22
     setback.
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1
               JIM MONTEVERDE: Yeah. At the moment, this
     discussion is really among Members of the Board. So let me
 2
     just --
 3
 4
               MICHAEL LAROSA: I'm sorry.
               JIM MONTEVERDE: -- I'll refer back to the --
 5
 6
     there's a supporting statement --
 7
               SARAH RHATIGAN: Mr. --
 8
               JIM MONTEVERDE: -- for the variance.
               SARAH RHATIGAN: -- Mr. Chairman, could -- do --
 9
10
               JIM MONTEVERDE: Yeah?
11
               SARAH RHATIGAN: If you don't -- if you don't
12
    mind, I just wanted to augment something or sort of point
    out something that Mr. Hoheb mentioned about the
13
     architectural elements of this --
14
15
               JIM MONTEVERDE: Yeah --
16
               SARAH RHATIGAN: -- just to --
17
               JIM MONTEVERDE: -- can you give me one --
18
               SARAH RHATIGAN: -- assist you, and then --
19
               JIM MONTEVERDE: -- Sarah, can you give me one
20
    moment and let me finish my comment --
21
               SARAH RHATIGAN: Oh, absolutely.
22
               JIM MONTEVERDE: -- to the other Board Members?
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1 SARAH RHATIGAN: Yeah.

2 JIM MONTEVERDE: So --

3 SARAH RHATIGAN: Yes.

JIM MONTEVERDE: Michael, I think specifically about -- I've struggled with the same thing about the hardship. Because we've seen -- the Board has seen a number of issues like this, and anyway, similar to what this description is, it basically reads that this is a description of what the hardship is, and:

"The building is in significant disrepair and requires extensive work. Construction costs will be substantial, and additional residential units are necessary to make the project financially feasible."

In years past, that has not been an argument that swayed the Board that there was a hardship, in that the owners, the proponents, knew full well what they were getting into in terms of the building that they were buying, and that if they find that they need to do -- in order for their own financial benefit significant repair, and do extensive work. And therefore, they need to add additional residential units, which they're going to do in the basement anyway as-of-right, that there's really a strong case for

the hardship with doing the units above.

That said, the addition of the fourth floor is asof-right. So really the only issue is, is that enough of a
rationale, is there a hardship for not being able to
maintain the 10' setback -- front yard setback?

Thank you.

Sarah? You wanted to comment?

SARAH RHATIGAN: Thank you. Yeah. My comment -I appreciate the care that the Board is taking with the
issue and with the case.

As I see it, when I look at the internal layout of the proposed additional floor, and if you see what happens to the stair and the ability to get the full set of stairs, you know, code-compliant stairs up to the proposed additional level, that's what renders the -- that's what -- it's the structure. It's like sort of the, the internal elements of the structure that are causing the hardship in this case.

JIM MONTEVERDE: Yeah.

SARAH RHATIGAN: There's probably also some element of if you're trying to build an additional story on this type of historic structure, that building vertically

1 straight up on the front portion of the building, as opposed 2 to having it notched back, I'm not sure what type of 3 additional structural elements they might need to add to be 4 able to, you know, to support an addition that's sort of 5 staggered back. 6 JIM MONTEVERDE: I think --SARAH RHATIGAN: But I think that the loss is not 7 8 just, you know, losing a bit of bedroom space, but it's 9 going to require an entire reworking of stairs. 10 So thinking back to -- I realize, you know, the 11 hardship argument is always a difficult legal standard. But 12 in this case, when you think about the practicalities of how the construction would happen, and what it does to the 13 14 project if you are not allowing for this additional sort of 15 sliver of building to occur, it really will be a financial 16 hardship on the project, making that top floor much less 17 usable, practical. 18 JIM MONTEVERDE: Thank you. 19 SARAH RHATIGAN: Hoping that that's a little bit 20 helpful in your --JIM MONTEVERDE: Yep. 21

SARAH RHATIGAN: -- thinking.

22

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1
               JIM MONTEVERDE: Any other discussion among
2
    Members of the Board?
3
               VIRGINIA KEESLER: So Jim, I'm just curious
4
     whether -- so for you and Michael, would it be a preferred
     outcome if there were a few fourth floor, but it were
5
    notched back?
6
7
               JIM MONTEVERDE: That would help quite a bit.
8
              VIRGINIA KEESLER: Hm.
                                       Okay.
9
               JIM MONTEVERDE: It would be compliant. They
10
    wouldn't be here.
11
               SAM KACHMAR: Mr. Chairman?
12
               JIM MONTEVERDE:
                                Sam.
               SAM KACHMAR: Sam Kachmar from SKA.
13
               JIM MONTEVERDE: I'm sorry. No. This is for
14
15
    Members of the Board. So please.
16
               SAM KACHMAR: Oops, sorry.
17
               JIM MONTEVERDE: Do not interject. So in the
18
    discussion about the -- now, the architects among us, the
19
    designers, there's a way to carry the front load of the
20
     façade if it's set back 10'. There's a way to have the
     stair. Even if that were the only element that protruded
21
22
    from the roof, that would be a different assembly than
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what's shown.

So yeah, simply it's -- there's a way to be compliant and yes, what you do is you lose two out of -- right now I counted 24 bedrooms if I counted correctly -- six per floor times four floors. So you lose two bedrooms.

And if that financially -- again, the Board has never been sensitive to a proponent coming in saying, "Geez, you know, I bought this property and now I have to do all this work, and the only way I can get the money back is if I build all this additional space." The two bedrooms I'm not sure I can see that.

So yeah, that's my concern. My concern. I don't know if Michael or Steven are in the same boat.

MICHAEL LAROSA: It's partly that. And Virginia, it's not -- it's actually aesthetically it looks nice.

VIRGINIA KEESLER: Mm-hm.

MICHAEL LAROSA: The concern is all the thought that just went into this new Zoning Ordinance, which is a massive change, we're already, like, "Okay, now you can have four floors, and you can go further."

I mean, we're only a couple weeks in and we're already -- everybody's already pulling applications and

coming back with -- asking for even more, basically. And I don't know now that it's a precedent as a hardship.

So again, I'm not -- I can probably be swayed; I just, I don't know. It's so fairly new that I feel like to already be asking for a variance to go even further is a big ask, basically.

JIM MONTEVERDE: Yep.

VIRGINIA KEESLER: I guess kind of in keeping with -- I believe what Daniel said in his initial comment, I'm not an architect, but to me it just seems like it's more aesthetically pleasing for the building --

MICHAEL LAROSA: Yep.

VIRGINIA KEESLER: -- to go straight up, versus being notched back. So that was I guess my initial reaction.

I do feel like we hear cases where the deterioration of the building is a grounds for a variance. You know, maybe the frack pattern is not exactly the same as it is here, but in my mind, I do think that that contributes as well, and that -- you know, there is a public interest as well in not having deteriorating buildings throughout the city.

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JIM MONTEVERDE: Thank you. I just -- I follow
1
2
    Mike's discussion about the precedent this sets. Because if
 3
     you look not at this lot -- even the lot we just did a
 4
     little while ago go on School Street, all of these
    properties that we've seen, residential units that sit
 5
 6
     closer to the property line than 10' with the new order
7
     revised Ordinance, if all the proponents start to come in
8
    wanting to add up to four floors on top of their buildings
9
     that sit closer to the property line in the front -- and the
10
     only setback requirement actually is front and back, but
11
     front -- and come in trying to do the same thing where we
     don't think architecturally or for the neighborhood it's as
12
13
     appropriate, it's just setting the precedent for it, that's
     all.
14
15
               That's the conundrum for me.
16
               SAM KACHMAR: Mr. Chairman --
17
               JIM MONTEVERDE: Any other --
18
               SAM KACHMAR: -- can I address that?
19
               JIM MONTEVERDE: Sorry?
20
               SAM KACHMAR: May I address that, Mr. Chairman?
     This is Sam Kachmar from SKA.
21
22
               JIM MONTEVERDE: Who's speaking?
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SAM KACHMAR: Sam Kachmar, from Sam Kachmar 1 2 Architects, the architect in the project. 3 JIM MONTEVERDE: Sam, no, sorry. This is a discussion among Members of the Board, please. 4 5 SAM KACHMAR: No problem. I just wanted to 6 address the architectural part. 7 JIM MONTEVERDE: Any other discussion among Members of the Board? Or are we ready for a motion? Motion 8 it is. And this is a variance. 9 10 The Chair makes a motion to grant relief from the 11 requirements of the Ordinance under Sections 5.31, Table of 12 Dimensional Requirements, and that is specifically for the front yard setback at the added third level; Section 8.22.3, 13 14 Alterations of Nonconforming Structure; and the Section 15 10.31, the Conditions for a Variance, which read that the 16 Board will find all of the following: 17 One, a literal enforcement of the provisions of 18 the Ordinance would involve a substantial hardship, 19 financial or otherwise to the petitioner. 20 Two, the hardship is owing to the circumstances 21 relating to the soil conditions, shape, or topography of

such land or structures, not affecting generally the zoning

22

1 district in which it is located. And, 2 Third, desirable relief may be granted without 3 either substantial detriment to the public good, or nullifying or substantially derogating from the intent or 4 purpose of this Ordinance. 5 On the condition that the work proposed conforms 6 7 to the drawings entitled, "103-109 School Street," prepared 8 by SKA and dated 03/05/2025; initialed and dated by the Chair. 9 10 And further, that we incorporate the supporting statements and dimensional form submitted as part of the 11 12 application. 13 On a voice vote, please? Steven? 14 STEVEN NG: Opposed. 15 JIM MONTEVERDE: Virginia? 16 VIRGINIA KEESLER: In favor. 17 JIM MONTEVERDE: Daniel? 18 DANIEL HIDALGO: In favor. 19 JIM MONTEVERDE: Michael? MICHAEL LAROSA: Opposed. 20 21 JIM MONTEVERDE: Sorry, was that opposed? 22 MICHAEL LAROSA: Sorry, my volume was --

1 JIM MONTEVERDE: Michael, could you say that again? 2 3 MICHAEL LAROSA: Opposed. Thank you. And Jim Monteverde JIM MONTEVERDE: 4 opposed. 5 6 [THREE vote NO, Two vote YES] 7 JIM MONTEVERDE: That's three opposed, two in 8 favor, so the variance is denied. Now we have to vote on why it's denied. 9 10 And I will offer that it is being denied because 11 we're in the requirements of the variance, the Board --12 those members are not seeing the hardship that would allow the variance, and that requires the new construction to be 13 set intruding on that front yard setback. 14 JIM MONTEVERDE: Done. The motion is -- the 15 variance is denied. Now, do we have to vote on the special 16 17 permit? Withdrawn without prejudice? 18 All right; we're going to vote on the special 19 permit. And again, this is withdrawn without prejudice. 20 So on a motion to withdraw the request for a special permit for enlarging, relocating, and adding 21 22 windows, as it's no longer necessary by the revised

ordinance, it's being withdrawn without prejudice. 1 On a voice vote, please? 2 3 Michael? MICHAEL LAROSA: In favor of withdrawal. 4 5 JIM MONTEVERDE: Yep. Steven? STEVEN NG: In favor. 6 7 JIM MONTEVERDE: Virginia? 8 VIRGINIA KEESLER: In favor. 9 JIM MONTEVERDE: Daniel? DANIEL HIDALGO: In favor. 10 JIM MONTEVERDE: And Jim Monteverde in favor of 11 12 the withdrawal for the special permit. 13 [All vote YES] 14 15 16 17 18 19 20 21 22

1 2 (7:10 p.m.)3 Sitting Members: Jim Monteverde, Steven Ng, Virginia 4 Keesler, Daniel Hidalgo, and Michael 5 LaRosa JIM MONTEVERDE: Next case is BZA-1152107 -- 12 6 Hubbard Park Road. Is there anyone calling in who wishes to 7 8 -- oh, Sarah, you're back up. 9 SARAH RHATIGAN: I am. For the transcript: Sarah 10 Rhatigan, Trilogy Law LLC, 12 Marshall Street in Boston. 11 am here for the petitioner, the owner of the property. 12 We actually are requesting a continuance this 13 evening. And apologies that we were not able to get this determined and sent in as a letter earlier than now. 14 15 had been the hope to be able to pull things together for a 16 hearing this evening, but we were not able to do so. 17 JIM MONTEVERDE: Okay, that's --18 SARAH RHATIGAN: I wanted to ask --19 JIM MONTEVERDE: Go ahead, sorry. 20 SARAH RHATIGAN: -- as well if there were -- if 21 there were a discussion as to what date we might be able to 22 request for a continuance.

JIM MONTEVERDE: Yep. April 10?

SARAH RHATIGAN: April 10 works for our team, yes.

JIM MONTEVERDE: Does it work for the members of the Board? Oh no, case not heard. We're golden. All right.

Let me make a motion to continue this matter until April 10, 2025, on the condition that the petitioner change the posting sign to reflect the new date of April 10, 2025 and the new time of 6 p.m.

Also that the petitioner sign a waiver to the statutory requirements for the hearing. This waiver can be obtained from Maria Pacheco or Olivia Ratay at the Inspectional Services Department.

I ask that you sign the waiver and return it to the Inspectional Services Department by a week from this coming Monday. Failure to do so will de facto cause this Board to give an adverse ruling on this case.

Also, that if there are any new submittals, changes to the drawings, dimensional forms, or any supporting statements that those be in the file by 5 p.m. on the Monday prior to the continued meeting date.

On the motion to continue this matter until April

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1
     10, 2025, by a voice vote, Board Members please?
2
              Virginia?
 3
              VIRGINIA KEESLER: In favor.
 4
               JIM MONTEVERDE: Thank you. Daniel?
 5
              DANIEL HIDALGO: In favor.
 6
              JIM MONTEVERDE: Thank you. Steven?
7
               STEVEN NG: In favor.
              JIM MONTEVERDE: Thank you. Michael?
8
              MICHAEL LAROSA: In favor.
9
10
              JIM MONTEVERDE: Thank you. And Jim Monteverde in
11
    favor.
12
               [All vote YES]
13
               JIM MONTEVERDE: So the meeting is -- matter is
    continued. Thank you. And --
14
15
               SARAH RHATIGAN: Thank you.
16
              JIM MONTEVERDE: -- that's a wrap. Thank you for
17
    your help, Board Members.
18
              MICHAEL LAROSA: Thank you.
19
              JIM MONTEVERDE: See you next time.
20
               COLLECTIVE: Goodnight.
21
    [7:10 p.m. End of Proceedings]
22
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1	CERTIFICATE				
2	Commonwealth of Massachusetts				
3	Middlesex, ss.				
4	I, Elizabeth McAvoy, Notary Public in and for the				
5	Commonwealth of Massachusetts, do hereby certify that the				
6	above transcript is a true record, to the best of my				
7	ability, of the proceedings.				
8	I further certify that I am neither related to nor				
9	employed by any of the parties in or counsel to this action				
10	nor am I financially interested in the outcome of this				
11	action.				
12	In witness whereof, I have hereunto set my hand thi				
13	ninth day of April 2025.				
14	$C = A + C = A \wedge A \wedge A$				
15	Elizabet C. May				
16	Notary Public				
17	My commission expires:				
18	November 17, 2028				
19	ELIZABETH C. MCAVOY				
20	Notary Public COMMONWEALTH OF MASSACHUSETTS My Commission Expires				
21	November 17, 2028				

22

A	addressed 20:3	64:14	60:18 64:2	35:19 39:7
A-1 36:12	adequate 11:16	amended 5:17	architectural	average 8:18
ability 58:13	adjacent 38:17	41:16	41:18 45:7	44:17 51:3
71:7	51:4	Amgen 10:2	56:14 64:6	awaiting 34:3
able 8:3 9:6,11	adjoining 39:1	amount 15:8	architecturally	aware 9:8
11:14 13:22	adopted 3:9	angle 17:3	63:12	
14:2,4 34:13	advantage 43:6	angled 33:7	area 10:9 17:1	B
43:6 54:4 58:4	adverse 69:17	answer 15:4	30:11,11,12,13	b 36:12 38:13
59:4 68:13,15	adversely 38:18	19:15	31:9 32:19	back 15:19 22:8
68:16,21	advertisement	answered 15:15	47:19 50:18	22:14,19 24:5
above-referen	38:7	anxiously 34:3	53:4	31:6 33:11
5:9	aesthetically	Anybody 21:10	argument 21:4	47:12 49:20
absolutely 56:21	61:15 62:11	anyway 5:22	21:20 57:14	56:5 59:2,5,10
accept 21:7 41:9	affordable	19:15 57:7,22	59:11	60:6,20 61:9
access 10:4 14:3	51:15	apartment 45:8	Arlington 29:3	62:1,14 63:10
23:3 38:13	Agate 1:9 3:5	apartments 45:3	34:2 35:19	68:8
accommodate	4:10,11 5:4	apologies 68:13	article 25:17	bakery 33:15
36:13	6:10 7:4 18:17	appeal 1:1 3:7	36:10	barrels 33:13
accommodated	18:19 19:1,4,8	3:12 8:19	as- 58:2	based 14:1
9:10	19:14,17 21:11	appearing 7:14	as-of-right 33:3	50:15
achieve 43:1	27:9 28:8,10	appears 38:11	41:15 46:18	basement 44:16
action 71:9,11	28:16,19,21	applicant's 12:3	57:22	45:1 57:21
active 8:1 13:16	29:1	applicants 3:18	asked 12:9	basically 23:10
activity 9:21	Agenda 2:7 28:6	7:12 8:17	asking 4:4 34:12	31:6,8 33:2
Acts 3:9	28:14	application	41:9 62:1,5	49:12 57:8
actual 8:10,14	ago 14:13,15	10:17,19 12:22	aspects 5:16	62:1,6
12:1,5 15:12	17:14 26:5	26:18 31:4	assembly 60:22	bedroom 59:8
33:10	47:4 63:4	36:9 38:4	assigned 33:12	bedrooms 61:4
add 45:5 54:22	agree 54:12,12	39:12 42:18,19	assist 56:18	61:5,10
57:20 59:3	agreement	43:5 65:12	Associates 26:6	beginning 55:4
63:8	54:20	applications	assume 36:13	begun 29:21
added 64:13	ahead 12:15,18	61:22	asymmetrical	behalf 5:8 7:12
adding 33:21	32:5 68:19	appreciate 24:9	17:3	7:14
42:12 66:21	allow 17:11 32:1	58:9	Atkins 19:21	believe 5:17
addition 41:14	32:3 46:10	approached	attempts 11:18	7:15 49:15
41:17 49:20	66:12	35:3	attend 7:22	50:9,20 51:3
50:5 58:2 59:4	allowance 32:1	appropriate	attendance 4:5	62:9
additional 35:14	allowances	63:13	attorney 7:12	bemoan 10:11
45:16 46:11	45:12	approval 12:16	audible 4:5	benefit 10:6
57:12,20 58:12	allowed 11:11	22:11 24:3,15	audio 3:13	14:4 22:4,7
58:15,21 59:3	11:11 12:14	approved 3:10	augment 56:12	35:1 57:19
59:14 61:10	44:19 51:7	April 69:1,2,7,8	authorized 3:11	benefits 34:17
address 12:9	allowing 37:6	69:22 71:13	available 21:22	best 53:15 71:6
20:17 23:19	43:1 59:14	Arbuckle 52:7	33:21 35:17	bet 24:10
36:20 37:16	allows 9:1 31:8	architect 39:8	Ave 29:13,14,14	better 43:14
49:8 52:17	38:5 45:13,16	48:17 62:10	30:19	beyond 8:15
54:10 63:18,20	47:6,7	64:2	Avenue 1:5 2:8	17:8 19:13
64:6	Alterations	architects 29:3	7:13 29:5 34:4	36:3
J				
	1	1	1	I

	l	l	I	Ī
bicycle 35:21	29:16,17,18	10:2,7 33:18	certainly 13:4	clear 9:6 16:7
big 50:11 62:5	30:1,14,16	33:21 34:20	CERTIFICA	24:18 31:20
bigger 13:13	34:13 35:4,11	37:1 43:3	71:1	36:8 47:1
bikes 35:21	35:14 42:4,6	45:11	certify 71:5,8	click 20:12
bit 13:13 45:2	44:9 45:8	can't 15:1,2	Chair 1:7,7 3:8	37:11 52:12
59:8,19 60:7	47:19 49:17	49:10	7:8 24:17	client 23:5,6,8
block 13:17 14:8	50:1,4,14,19	candidly 9:9	25:12 26:8,15	23:14 50:17
14:16	53:3 54:22	10:10	38:2 39:9	Clinic 10:3
Board 1:1 3:7	55:1 57:10,17	car 9:12,18	64:10 65:9	Clinton 2:4 5:6
3:12,18 4:4	58:22 59:1,15	11:14,22 13:10	Chairman 40:7	close 20:21
5:17 7:9 10:13	62:11,17	13:12,12 14:3	41:22 54:7	37:20 52:21
10:15 12:9	buildings 33:17	19:1,5 21:12	56:9 60:11	53:4
14:18 18:15	62:21 63:8	21:13 23:10	63:16,20	closer 8:14 9:15
20:22 24:1,4	built 29:16	Caramello 20:6	challenge 8:6	25:15 63:6,9
25:9 27:2	32:11	care 29:4 34:2	change 38:15	Code 50:14,16
31:20 36:7,17	bus 36:1	34:21 37:6	42:20 43:5	code-compliant
37:22 40:6	business 29:8,11	58:9	61:19 69:7	58:14
49:7 51:13	30:1,8,13 31:2	Carlos 37:4	changes 47:18	cohesive 50:19
52:4,22 53:8	36:11	Carol 1:9 3:5	54:13 69:19	COLLECTIVE
54:11,19 56:2	businesses 33:14	4:10,11 5:4 6:9	Channel 3:14	25:11 70:20
56:22 57:6,15	34:22	6:10 7:4 18:17	Chapter 3:9	come 5:12 34:1
58:9 60:2,15	busy 9:21 13:3	18:19 19:1,4,8	charge 14:3	34:9 35:8 63:7
61:6 64:4,8,16	buying 57:17	19:10,14,16,17	childcare 33:18	63:11
66:11 69:4,17	Bye 29:1	21:11 27:8,9	children 7:20,21	coming 34:10
70:1,17	bylaw 54:13	28:8,10,16,18	7:22 35:9,10	61:7 62:1
Board's 12:13	BZA 2:4 4:2	28:19,20,21	35:22	69:16
boarding 42:6,7	BZA-1145011	29:1	choice 21:12	comment 3:22
42:8	2:5 7:5	carry 60:19	chosen 8:22	4:1 19:19
boat 61:13	BZA-1147413	cars 36:3	circulation 50:8	23:22 36:17
born 7:21	2:8 28:7	case 2:2 5:5,5,6	50:10	52:4,10 56:20
Boston 42:1	BZA-1151091	5:10 7:5 11:22	circumstance	58:7,8 62:9
68:10	2:9 41:6	12:3 15:6 28:7	12:2 19:13	comments 49:8
bottom 7:17	BZA-1152107	28:12 41:6	circumstances	commercial
20:12 37:11	2:10 68:6	42:2 57:22	16:11 64:20	29:17,18 50:14
52:12		58:10,18 59:12	citizens 38:21	commission
bought 16:21	<u>C</u>	68:6 69:4,17	city 1:2,10 3:11	71:17
61:8	c 3:1 38:16	cases 2:3 5:20	5:18 34:19	Commonwealth
boundary 24:14	C-1 36:13	9:11 62:16	35:3 38:21	71:2,5
boxes 53:14	cable 3:14	categorized	43:3 45:11	Community
brand-new	call 3:20 31:5	44:18	53:12 55:12	10:3
54:18	45:1	cause 38:14	62:22	compelling 21:4
briefly 42:5 46:8	called 26:22	69:16	City's 4:2	complete 42:16
bring 14:19	calling 7:6 20:14	causing 58:17	clarify 14:7	compliant 60:9
bringing 17:1	37:12,20 52:13	Center 10:4	47:18	61:3
broadcast 3:14	52:21 68:7	29:5 34:3 37:6	clarity 50:20	component
build 58:21	Cambridge 1:2	39:7	classrooms 33:8	50:11
61:10	1:6 3:7,12,15	centers 34:21	cleaner 33:15	concern 53:10
building 29:7,15	5:16 7:13 9:14	central 50:12	cleanest 54:21	61:12,12,17

				Tage 14
conclude 10:15	22:16	42:22	described 42:7	discussion 17:16
Concord 29:13	contributes	currently 14:11		20:22 37:22
30:19	62:19	49:17,18	description 57:8 57:9	52:22 53:8
condition 9:13		cut 11:10 12:14		54:11 56:2
	control 35:6	cut 11:10 12:14	design 5:15 8:22 13:8	
26:4,9,15 39:5	controls 35:2	D		60:1,18 63:2
51:8 65:6 69:7 conditions 16:12	conundrum 63:15	d 2:1 3:1 38:19	designers 60:19 desirable 16:14	64:4,7 68:21 discussions
18:6 26:20	convince 53:20	daily 9:19	26:1 65:2	17:17
	convinced 53:16	Daniel 1:8 3:5	desiring 8:2	
64:15,21		4:8,9 5:4 7:4	O O	disrepair 42:9 57:10
confident 13:9 confirm 20:18	54:15,18	21:2,9 27:6,7	deteriorating 62:21	
	corner 11:6 25:8	28:4,15 39:16	-	district 8:7 29:8
22:18 37:17	47:4	39:16,17 41:4	deterioration	29:11,13 31:3
52:18	correct 17:22	53:1 54:20	62:17	31:3 36:12
conform 5:16	18:20 19:11	62:9 65:17,18	determination	39:1,1 65:1
39:5	25:1 31:10,15	67:9,10 68:4	48:12	districts 29:12
conformance	32:21 33:1,4,5	70:4,5	determined 25:2	divided 30:16
49:20	38:12 47:9,10	date 2:4,6 68:21	68:14	dividing 32:11
conforming	47:14,15,17,22	69:8,21	determines	doctors 9:18
43:11 46:12	48:2,8	dated 5:7 19:22	14:22	doesn't 17:11
conforms 26:4	correctly 19:10	26:7,15 39:8,8	determining	doing 10:1 42:11
65:6	32:16 61:4	65:8,8	15:7	47:12 58:1
congestion 38:14	correspondence	David 20:2	detriment 16:15	don't 7:16 14:10
	37:9 52:6,9	day 10:5 29:4	26:2 38:20 65:3	15:18 20:2
consideration	corridor 50:12	34:2,21 37:6		21:3,5,5,17
21:19	costs 57:11	71:13	detrimental	22:15 24:17
considering 14:6	couldn't 19:12	daycare 36:14	10:14 17:9 21:18	25:5 43:20
consistent 45:7	counsel 71:9 count 19:20 20:8	39:6		51:20 53:14,16 53:22 54:9,14
53:5	36:18 42:15	de 69:16	develop 8:18 developer 54:1	55:9,15,16
constrained	counted 61:4,4	deal 8:17	_	56:11,11 61:12
17:4	· ·	deed-restricted	development 38:16	62:2,4 63:12
constraint 50:15	counting 16:1,2 couple 13:17	51:18		•
construct 44:20	61:21	demand 33:18	diagonal 32:12 diagram 43:22	doorway 13:19
		demarcation		Dr 7:15,16,17,18
constructed 29:22	course 30:22	38:6	47:3,5 didn't 17:17	7:18 10:1,2
construction	Court 3:10 cream 34:8	demonstrate	45:17 48:16,19	12:13 14:8,14
	create 42:13	12:4	49:22	drawing 15:19 19:9 25:7
29:20 32:10,12 32:17 42:15	created 38:19	denied 66:8,9,10	difference 24:19	26:22
43:2 57:11		66:16	53:22	
59:13 66:13	criteria 38:9,10 39:3	density 50:17	different 15:12	drawings 26:5 39:6 65:7
continuance	crosswalk 11:3	Department	60:22	69:19
	Crowe 20:5	69:13,15	difficult 59:11	drive 23:9
68:12,22 continue 69:6,22	crucial 37:5	depth 17:5,10	dimensional 8:5	driver 15:5
continue 09.0,22	curb 8:19 11:10	22:4,7	18:8 26:17	drivers 10:9
5:5 28:11	12:14	derogating 12:7	39:11 64:12	drivers 10.9 driveway 8:3,4
38:16 69:21	curbline 9:15	16:16 26:3	65:11 69:19	8:5,7,17,18 9:1
70:14	curious 60:3	65:4	discovered	9:11 10:16,22
continuing	current 14:1	describe 43:14	43:12	11:4,11 12:11
Continuing	Current 17.1		73.12	11.7,11 12.11
	l		l	l

13:4,10,15,19	enjoy 18:6	57:20	55:11	forms 26:17
13:22 14:4,9	enlarged 8:13	extent 46:2	feet 25:8 30:12	69:19
14:10,10,11	enlarging 66:21	extra 22:7	44:20,21 46:4	forward 32:10
17:2 18:9 22:3	enlighten 49:13	extraordinary	49:11	found 35:18
23:1 24:5	entire 59:9	21:6	fence 18:19,21	four 19:20 20:9
26:22	entitled 26:5		19:2,3,4,6,10	27:11,12 44:20
driveways 11:1	39:6 65:7	F	22:10,16,18,22	54:1 61:5,20
18:7	especially 54:15	façade 53:15	23:2,4,4,20	63:8
drop 35:9	essentially 42:8	60:20	Fernando 1:8	four- 42:7
drop-off 35:5	45:22 50:10,11	face 8:15 18:22	Field 37:4	four-story 47:7
dry 33:15	50:22 51:6	47:8	figure 17:17	four-unit 42:7
dumpster 33:14	53:2	facilities 33:18	file 10:10 19:20	fourth 41:15
	established 18:8	facility 29:21	20:9 37:9 41:8	46:2,3 58:2
E	Esther 37:8	34:2	52:5,9 69:20	60:5
e 2:1 3:1,1 38:22	estimates 14:1	facility's 32:17	filed 42:18,19	frack 62:18
earlier 68:14	evening 7:7,8,14	fact 7:21 10:16	43:4,4	front 5:20 8:7
eases 34:20	27:15 29:2	11:19 17:6	fill-in 28:11	8:10 9:8 10:14
Educational	41:21 42:2	18:12 36:21	filled 36:20	15:2,3,9,11,13
36:14	68:13,16	47:5	final 5:18	23:3 24:5
effectively 44:16	everybody	facto 69:16	financial 57:19	25:16 35:4,11
effort 8:17	12:21 29:18	factor 26:13	59:15 64:19	41:17 45:17,18
egress 38:14	everybody's	45:17	financially	45:20 46:1,4
eight 42:15	49:6 61:22	factors 10:17	57:13 61:6	47:14,14 49:10
50:13	exactly 23:11	Failure 69:16	71:10	49:12 50:18
eighth 55:19	44:10 47:8	fairly 50:2 53:4	find 4:1 10:4	53:13 55:14
either 15:7	48:5,13,13	62:4	21:3,17 25:18	58:5 59:1
16:15 26:1	62:18	fall 34:7 55:6	57:18 64:16	60:19 63:9,10
65:3	Excellent 48:20	families 34:21	finding 21:2	63:11 64:13
elected 15:10	exemption 31:5	family 9:19,22	finish 56:20	66:14
element 9:19	existing 11:20	10:2 11:8,14	first 5:5 15:15	frontage 8:4
43:13 45:10	12:5 15:12,20	13:3,12,12	23:22 29:6	full 22:4 29:11
58:21 60:21	17:7 22:17	family's 10:20	34:10	57:16 58:13
elements 56:14	23:7 42:11	favor 6:3,5,7,10	fit 9:12 49:22	fully 37:6 42:20
58:17 59:3	47:8 53:1 55:1	6:11,13 19:21	five 6:13 28:10	43:10
eliminates 34:19	expand 54:22	20:9 21:3,15	40:2 51:7	funny 29:15
Elizabeth 71:4	expect 52:1	21:22 27:3,5,7	floor 45:15 58:2	furnishings 33:9
Elizabeth's 29:4	expectation	27:9,12 39:15	58:12 59:16	further 5:14
34:2,7 37:6	42:21	39:17,19,21,22	60:5 61:5	14:9 15:5 17:2
39:6	expires 71:17	40:2 65:16,18	floors 61:5,20	19:2,5 25:3
emphasize 37:5	explain 12:10	66:8 67:4,6,8	63:8	26:16,19 39:10
employed 71:9	46:9	67:10,11 70:3	follow 63:1	61:20 62:5
Employees 1:10	extend 19:5	70:5,7,9,11	following 16:8	65:10 71:8
empty 34:19	36:11	feasible 57:13	25:18 26:20	future 32:14
ended 35:7	extended 50:6	feature 44:14	64:16	
energy 14:2	extending 19:1	features 44:14	foot 34:22 36:3	G
enforcement	extension 38:5	feel 53:13 54:19	form 36:9 37:7	G 3:1
16:9 25:19	extensions 45:13	55:10 62:4,16	38:4 39:11	gains 34:20
64:17	extensive 57:11	feelings 53:11	65:11	Garcia 37:3

garden 45:1 grade 42:10,13 grade 42:15 17:8,10 25:20 hope 46:20 impact 11 23:4,9,21 24:4 25:13 36:10 38:2 64:10 55:18 57:6,9 hopefully 29:21 impacting impact	1.10
23:4,9,21 24:4 25:13 36:10 55:18 57:6,9 hopefully 29:21 impacting impaction impacting impacting impaction impacting impacting impacting impacting impacting impacting impacting impacting impacting impaction impacting impaction impacting impacting impacting impaction impacting impacting impacting impacting impacting impaction	
gates 24:10 38:2 64:10 57:15 58:1,4 hoping 10:14 impair 39 gather 19:4 18:7 26:1,19 62:2 64:18,20 hosted 13:17 importan General 1:3 27:13 40:3 66:12 hazard 38:14,19 hours 13:4 improve 1 generally 4:3 65:2 graphic 31:12 health 10:3 8:14,15 11:20 improven generated 38:13 Great 43:19 hear 20:18 16:21 42:67,8 50:4 51: getting 43:8 48:22 37:17 52:18 44:13 45:20 55:2,5 57:17 green 2:5 7:6,19 62:16 46:3 inclined 20: give 3:22 15:18 7:20,21 9:2 heard 15:16 housing 43:2 including incorpora 56:17,19 69:17 10:15 11:5 69:4 Hubbard 2:10 66:10 giving 31:22 20:5,6,7 22:3,5 69:11 29:14,14 34:4 26:16 39:1 12:15,17 15:5 grilled 13:18 Heather 20:5 39:7 10:crease 3 17:4,11 22:14 22:19 25:3 30:2 31:6 32:5 35:6 49:7 60:7 39:7 10:crease 3 <t< td=""><td>α 21·10</td></t<>	α 21·10
gather 19:4 granted 16:14 58:17 59:11,16 59:19 importan Geez 61:7 18:7 26:1,19 62:2 64:18,20 hosted 13:17 importan General 1:3 27:13 40:3 66:12 hours 13:4 house 7:18 8:11 improve 1 generally 4:3 65:2 granting 34:18 health 10:3 8:14,15 11:20 43:2 50: generated 38:13 Great 43:19 hear 20:18 16:21 42:6,7,8 improven getting 43:8 48:22 37:17 52:18 44:13 45:20 55:2,5 57:17 green 2:5 7:6,19 62:16 46:3 housing 43:2 inclined 26 give 3:22 15:18 7:20,21 9:2 heard 15:16 housing 43:2 Hubbard 2:10 68:7 given 8:11 17:3 12:20 13:17 hearing 1:3 2:4 Huron 2:8 29:5 65:10 giving 31:22 20:5,6,7 22:3,5 69:11 47:7 29:14,14 34:4 39:7 go 5:20 11:14 26:6,22 Heather 20:5 height 45:16 39:7 10:13 17:4,11 22:14 22:19 25:3 30:2 31:6 32:5 32:8 44:10	
Geez 61:7 18:7 26:1,19 62:2 64:18,20 hosted 13:17 importan improve 1 43:2 50: improve 1 43:2 50: improve 1 43:2 50: improven 50:4 51: imp	
General 1:3 27:13 40:3 66:12 hours 13:4 hours 7:18 8:11 improve 1 generally 4:3 64:22 graphic 31:12 38:20 14:1,2 15:12 improven generated 38:13 48:22 37:17 52:18 16:21 42:6,7,8 50:4 51: give 3:22 15:18 48:22 37:17 52:18 44:13 45:20 55:2,5 56:17,19 69:17 7:20,21 9:2 heard 15:16 housing 43:2 housing 43:2 given 8:11 17:3 12:20 13:17 hearing 1:3 2:4 68:7 26:16 39 giving 31:22 20:5,6,7 22:3,5 69:11 47:7 29:14,14 34:4 35:19 37:7 go 5:20 11:14 26:6,22 Heather 20:5 39:7 10:crease 3 17:4,11 22:14 ground 45:2 ground 45:2 35:6 49:7 60:7 1'd 5:11 23:4 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 1'd 5:11 23:4 10:13 3:4 47:1 70:17 1'1 26:14 31:4 12:13	
3:10 65:2 granting 34:18 d4:22 hazard 38:14,19 health 10:3 mproven house 7:18 8:11 mproven 43:2 50: improven 64:22 generated 38:13 getting 43:8 Great 43:19 description 48:22 description 38:20 description 14:1,2 15:12 description 50:4 51: improven 57:17 give 3:22 15:18 56:17,19 69:17 given 8:11 17:3 21:4 53:1 diving 31:22 go 5:20 11:14 22:14 22:19 25:3 30:2 31:6 32:5 32:8 44:10 7:20,21 9:2 description heard 15:16 description housing 43:2 description include 26 description 69:4 description heard 15:16 description 68:7 description 26:16 39: description 69:4 description hearing 1:3 2:4 description 68:7 description 26:16 39: description 69:11 description 20:5,6,7 22:3,5 description 69:11 description 29:14,14 34:4 description 10:00 description 17:4,11 22:14 description 20:6,22 description description 39:7 description 17:4,11 22:14 description ground 45:2 description ground 45:2 description 35:6 49:7 60:7 description 10:15 12:13 description 18:14,15 11:20 description 14:13,2 15:12 description 16:21 42:6,7,8 description 16:21 42:6,7,8 description 19:14 53:1 10:15 11:5 description 10:15 11:5 description 10:15 11:5 description 10:15 11:5 descript	
generally 4:3 granting 34:18 health 10:3 8:14,15 11:20 improven generated 38:13 Great 43:19 48:22 38:20 14:1,2 15:12 50:4 51: getting 43:8 48:22 37:17 52:18 44:13 45:20 55:2,5 57:17 green 2:5 7:6,19 62:16 46:3 housing 43:2 include 26 give 3:22 15:18 10:15 11:5 69:4 Hubbard 2:10 68:7 26:16 39 56:17,19 69:17 12:20 13:17 hearing 1:3 2:4 68:7 26:16 39 giving 31:22 20:5,6,7 22:3,5 69:11 Huron 2:8 29:5 65:10 go 5:20 11:14 26:6,22 Heather 20:5 35:19 37:7 26:20 17:4,11 22:14 ground 45:2 47:7 39:7 Increasin 17:4,51 23:4 group 20:6 35:6 49:7 60:7 1'd 5:11 23:4 10:13 31:4 18:14,15 11:20 14:1,2 15:12 15:12 15:12 18:14,15 11:20 14:1,2 15:12 15:12 15:12 18:14,15 11:20 16:21 42:6,7,8 16:21 16:21	
64:22 graphic 31:12 38:20 14:1,2 15:12 50:4 51: getting 43:8 48:22 37:17 52:18 44:13 45:20 55:2,5 57:17 green 2:5 7:6,19 62:16 46:3 housing 43:2 include 26:16:20 56:17,19 69:17 10:15 11:5 69:4 Hubbard 2:10 incorporal i	
generated 38:13 Great 43:19 hear 20:18 16:21 42:6,7,8 inclined 2 57:17 green 2:5 7:6,19 62:16 44:13 45:20 55:2,5 give 3:22 15:18 7:20,21 9:2 heard 15:16 housing 43:2 include 26 given 8:11 17:3 12:20 13:17 hearing 1:3 2:4 48:7 26:16 39 21:4 53:1 14:9 19:22 20:5,6,7 22:3,5 69:11 49:14 34:4 16:21 42:6,7,8 65:2,5 giving 31:22 10:15 11:5 69:4 Hubbard 2:10 incorporal inc	
getting 43:8 48:22 37:17 52:18 44:13 45:20 55:2,5 give 3:22 15:18 7:20,21 9:2 62:16 46:3 housing 43:2 include 26 including incorporal incorpo	
57:17 give 3:22 15:18 62:16 46:3 include 26 62:16 heard 15:16 housing 43:2 include 26 62:16 46:3 include 26 46:3 include 26 46:3 46:3 46:3 include 26 46:3 4	24:15
give 3:22 15:18 7:20,21 9:2 heard 15:16 housing 43:2 including incorporal	
56:17,19 69:17 10:15 11:5 69:4 Hubbard 2:10 incorporal 26:16 39:18 given 8:11 17:3 12:20 13:17 14:9 19:22 26:42:2 68:16 Huron 2:8 29:5 65:10 giving 31:22 20:5,6,7 22:3,5 69:11 29:14,14 34:4 incorporal 26:16 39:10 go 5:20 11:14 26:6,22 Heather 20:5 35:19 37:7 26:20 17:4,11 22:14 ground 45:2 height 45:16 39:7 Increase 3 47:7 help 24:7,12 35:6 49:7 60:7 50:13 indulgence 12:13 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 11 126:14 31:4 12:13	-
given 8:11 17:3 12:20 13:17 hearing 1:3 2:4 68:7 26:16 39 giving 31:22 20:5,6,7 22:3,5 69:11 29:14,14 34:4 65:10 incorpora go 5:20 11:14 26:6,22 Heather 20:5 35:19 37:7 26:20 increase 3 17:4,11 22:14 22:19 25:3 ground 45:2 grounds 62:17 help 24:7,12 35:6 49:7 60:7 I'd 5:11 23:4 50:13 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 I'll 26:14 31:4 12:13	55:13
21:4 53:1 giving 31:22 go 5:20 11:14 12:15,17 15:5 17:4,11 22:14 22:19 25:3 30:2 31:6 32:5 32:8 44:10 14:9 19:22 20:5,6,7 22:3,5 69:11 Heather 20:5 69:11 Heather 20:5 height 45:16 47:7 help 24:7,12 35:6 49:7 60:7 group 20:6 guess 21:2 54:21 2:6 42:2 68:16 69:11 Heather 20:5 height 45:16 47:7 help 24:7,12 35:6 49:7 60:7 70:17 I'd 5:11 23:4 I'll 26:14 31:4 12:13	ate
giving 31:22 go 5:20 11:14 12:15,17 15:5 17:4,11 22:14 22:19 25:3 30:2 31:6 32:5 32:8 44:10 20:5,6,7 22:3,5 26:6,22 grilled 13:18 ground 45:2 grounds 62:17 group 20:6 guess 21:2 54:21 69:11 Heather 20:5 height 45:16 47:7 help 24:7,12 35:6 49:7 60:7 70:17 129:14,14 34:4 35:19 37:7 39:7 Increase 3 Increase	9:10
go 5:20 11:14 26:6,22 Heather 20:5 35:19 37:7 26:20 12:15,17 15:5 grilled 13:18 height 45:16 39:7 increase 3 17:4,11 22:14 ground 45:2 grounds 62:17 help 24:7,12 I'd 5:11 23:4 50:13 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 I'll 26:14 31:4 12:13	
go 5:20 11:14 26:6,22 Heather 20:5 35:19 37:7 26:20 12:15,17 15:5 grilled 13:18 height 45:16 39:7 increase 3 17:4,11 22:14 ground 45:2 grounds 62:17 help 24:7,12 I'd 5:11 23:4 50:13 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 I'll 26:14 31:4 12:13	ating
12:15,17 15:5 grilled 13:18 height 45:16 39:7 increase 3 17:4,11 22:14 ground 45:2 height 45:16 1 1 22:19 25:3 grounds 62:17 help 24:7,12 1 1'd 5:11 23:4 50:13 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 1'll 26:14 31:4 12:13	Ü
17:4,11 22:14 ground 45:2 47:7 22:19 25:3 grounds 62:17 help 24:7,12 30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 32:8 44:10 guess 21:2 54:21 70:17 Increasing 50:13 indulgence 12:13	34:21
22:19 25:3 30:2 31:6 32:5 32:8 44:10 grounds 62:17 group 20:6 guess 21:2 54:21 help 24:7,12 35:6 49:7 60:7 70:17 I'd 5:11 23:4 I'll 26:14 31:4 12:13	
30:2 31:6 32:5 group 20:6 35:6 49:7 60:7 l'd 5:11 23:4 indulgence 32:8 44:10 guess 21:2 54:21 70:17 l'll 26:14 31:4 12:13	8
32:8 44:10 guess 21:2 54:21 70:17 I'll 26:14 31:4 12:13	ce
0	
47:6,7 49:15 62:8,14 helpful 13:5 36:9,17 37:20 initial 29:	10
54:1 61:20 guidelines 51:11 44:2,7 46:22 41:11 52:10 42:19 62	
62:5,13 63:4 49:13 59:20 56:5 initialed 2	-
68:19 H hereunto 71:12 I'm 7:12 12:19 39:8 65:	
goal 42:13 hadn't 24:2 Hi 7:10,11 53:9 17:8 18:7 21:2 initially 4:	
Sour 12:13	2.10
5005 22.22 25.2	1
1 1.0,5 5.1 7.1 Inspection	
20.4.22 (
21.20,20,22	nai
42:22 45:1 hand 20:13,15 41:4 53:1 47:1 48:16,21 36:14	
51:14 54:1 37:12,13 52:13 65:18 67:10 51:19 53:5,9 instructio	
57:21 59:9	
66:18 happen 59:13 high 44:17 54:15,20 55:1 integrity 3	
golden 69:4 happened 29:9 higher 21:8 45:9 55:8 56:4 59:2 intend 23:	
good 7:8 8:17 happening historic 44:14 60:3,14 61:10 intended 9	
16:15 19:18 32:13 58:22 62:3,9 intent 12:	
27:14 29:2 happens 58:12 historically 42:6 I've 25:4 57:5 16:16 17	7:9
36:22 41:21 happy 12:9 24:2 history 42:5 ice 34:8 26:3 45:	:7 65:4
52:1 53:7 65:3 24:5 26:10 Hm 60:8 icon 20:12 37:11 intention	23:9
goodnight 29:1 53:5 Hoheb 48:17,19 52:12 23:20 42	2.11
70:20 hardscape 10:16 48:21 49:1,14 illustrated 26:21 intents 50	2:11
gotten 24:2 hardship 11:19 56:13 illustration 31:7 interest 62	
Governor 3:11 12:4,11 16:10 home 14:9,12 image 44:12,22 interested):22
grab 26:10 16:11,19,20 homes 8:3 18:5 45:21 51:6 interestin	0:22 2:20
	0:22 2:20 d 71:10

Page 77

5:19 44:14	16:1,5,20	60:1,3,7,9,12	45:6 47:19	37:7 41:8,11
interject 60:17	17:15,19,21	60:14,17 62:7	51:22 53:16	68:14
internal 58:11	18:2,5,12 19:3	63:1,17,19,22	54:13,14,16,17	letters 10:10,12
58:16	19:11 22:20,22	64:3,7 65:15	55:9,11,15,16	10:18 11:2
interrupt 30:20	23:2,16,19	65:17,19,21	58:14 59:4,8	34:6
30:21	24:17 25:2	66:1,4,4,7,15	59:10 61:8,13	level 44:16 45:1
introduce 48:16	26:8,12 27:14	67:5,7,9,11,11	62:2,4,18,20	45:1 50:9
introduction	January 27:1	68:3,6,17,19	knowing 15:10	58:15 64:13
12:21	Jennifer 7:15	69:1,3 70:4,6,8	17:18	lies 41:17
intruding 66:14	Jim 1:7 3:4,6,8	70:10,10,13,16	knowingly	life 9:19
involve 16:10	4:14,15 5:3,5	70:19	17:22	liked 33:22
25:20 64:18	6:4,6,8,11,11		Koning 20:4	line 19:10,13
involved 16:19	6:13,16 7:3,5	K		24:14 30:7,7
involvement	7:10 12:17	Kachmar 60:11	L	30:17 31:2,8
10:21	14:17,22 15:14	60:13,13,16	Lamani 37:3	31:17 32:22
involves 11:7	15:18,22 16:3	63:16,18,20,21	land 16:13 26:7	38:6 42:22
irregular 44:3	16:6 17:13,16	64:1,1,1,5	64:22	45:22 49:11,18
isn't 9:17 21:13	17:20 18:1,4	Karima 37:2	landscape 8:18	50:4,6 53:2
issue 10:12 17:8	18:11,14,18,21	keep 41:13 50:3	8:20 26:9,22	63:6,9
49:12 58:3,10	19:7,9,12,15	50:18 51:9	large 13:13	lines 11:3 29:13
issues 50:8 57:7	19:18 21:9,16	keeping 55:1	33:18 35:22	listed 15:19
it's 8:16,16 11:1	22:1,12,21	62:8	larger 53:3	listening 12:21
11:9,21 12:7	23:1,6,14,17	Keesler 1:8 3:5	LaRosa 1:9 28:5	literal 16:9
14:12 16:1,2	24:7,16,22	4:12,13 5:4 6:5	28:15 39:21	25:19 64:17
17:2,7,21	25:6,12 26:10	7:4 21:17 27:5	41:5 53:9,20	little 13:13 25:3
21:14 22:5,15	26:14 27:4,6,8	28:4,17 39:15	53:22 55:8,18	34:14 59:19
23:10,13 24:12	27:10,10,12	41:4 54:20	55:21 56:4	63:4
24:13,20,22	28:3,6,9,13,17	60:3,8 61:16	61:14,17 62:12	livable 42:14
25:2 26:12	28:20,22 30:4	62:8,13 65:16	65:20,22 66:3	45:3
29:22 30:16	30:18,20 31:1	67:8 68:4 70:3	67:4 68:5 70:9	live 34:5 53:4
31:3 32:19	31:11,16,19,22	kept 3:21	70:18	lived 13:1
35:10 36:8	32:3,16,19,22	kids 9:20,20,21	lastly 16:14	lives 19:22
38:4 43:8,21	33:2,5 36:4,6	13:2,14	38:21	Liz 37:4
44:4,18 48:15	39:18,20,22,22	kind 22:9,11	Lauren 20:5	LLC 41:22
49:15 50:9	40:2,5 41:3,6	23:21 43:22	Law 41:22 68:10	68:10
54:4,16,17	43:16,18,21	50:1,3,10,14	Laws 37:3	load 60:19
58:16,16 59:8	46:16,19,21	50:16,18 51:11	layout 16:21	Loayza 37:8
60:20 61:2,14	47:1,3,11,16	53:3 54:12,16	25:14 58:11	local 34:22
61:15,15 62:2	47:20,22 48:2	62:8	leaning 22:11	locally 9:18
62:4,10 63:12	48:4,6,9,11,14	kinds 9:21	learn 34:9	located 7:13
63:13 66:9,22	49:4,7 51:12	King 7:22	leaves 31:12	8:12 29:5 65:1
67:1	52:3 53:7,9,19	knew 57:16	ledge 48:11	location 8:6 15:1
	53:21 54:3,9	know 7:16 9:22	left 8:22 11:9	locations 37:1
J	55:3,20 56:1,5	13:1 21:4,5,6,8	31:8 44:12	long 22:9
Jacquelyn 52:7	56:8,10,15,17	23:22 24:17	45:4	long-standing
James 7:8,11,11	56:19,22 57:2	34:8 35:4,8,16	legal 59:11	10:20
12:21 14:7,21	57:4 58:19	35:21 42:14,20	let's 34:17	longer 11:4,12
15:4,17,21	59:6,18,21	43:7 44:4 45:2	letter 5:7 36:19	11:13 47:9

66:22	marketing	60:15 64:4,8	modest 51:21	60:17 62:7
longtime 7:19	51:19	66:12 68:3	modifications	63:1,17,19,22
look 8:8 33:10	Marshall 42:1	69:3 70:1,17	5:15	64:3,7 65:15
52:4 58:11	68:10	mention 26:14	moment 20:10	65:17,19,21
63:3	Martha 29:2,2,3	41:11	55:9 56:1,20	66:1,4,4,7,15
looked 25:3 45:8	30:6,19,22	mentioned	Monday 69:16	67:5,7,9,11,11
49:19 50:3,18	31:10,15,18,21	22:13 46:17	69:21	68:3,6,17,19
looking 25:5	32:2,6,18,21	49:18 56:13	money 61:9	69:1,3 70:4,6,8
36:10 44:11	33:1,4,6 36:5	merits 21:6	Monteverde 1:7	70:10,10,13,16
50:21	39:7 40:4,6	met 38:12	3:4,6,8 4:14,15	70:10,10,13,10
looks 44:9,13,15	Massachusetts	metered 35:3,13	5:3,5 6:4,6,8	motion 5:22
46:2 61:15	1:5,6 3:10 7:13	metered 55.5,15 meters 35:7	6:11,11,13,16	25:10,13 38:1
lose 13:9 22:6	71:2,5	Michael 1:9	7:3,5,10 12:17	38:2 64:8,8,10
61:3,5	massing 44:9	28:4,15 39:20	14:17,22 15:14	66:15,20 69:6
losing 17:12	massive 61:19	39:21 41:4	15:18,22 16:3	69:22
59:8	match 45:6	53:9,20,22	16:6 17:13,16	move 30:6 31:2
loss 10:11 13:7	53:15	55:6,8,18,21	17:20 18:1,4	32:6,10
59:7	Matt 20:5	56:4 57:4 60:4	18:11,14,18,21	moved 14:13
lot 12:4 16:21	matter 6:13 9:7	61:13,14,17	19:7,9,12,15	17:9
17:2,3,4,10,11	17:6 69:6,22	62:12 65:19,20	19:18 21:9,16	moving 17:8
21:19,21 25:22	70:13	65:22 66:1,3	22:1,12,21	31:16
29:11 30:11,12	McAvoy 71:4	67:3,4 68:4	23:1,6,14,17	multifamily
41:17 44:3,3,5	mean 17:18 22:8	70:8,9,18	24:7,16,22	43:2
44:5 45:22	51:20,21 54:14	middle 9:2 52:1	25:6,12 26:10	multiple 35:22
46:4 51:1,4,6,8	55:15 61:21	Middlesex 71:3	26:14 27:4,6,8	mute 3:21 20:15
53:17 55:12	Medicine 10:3	Mike 54:4,13	27:10,10,12	37:13 52:14
63:3,3	meet 9:2,3 16:8	Mike's 63:2	28:3,6,9,13,20	37.13 32.17
lots 13:19 51:4	29:15 35:9	mind 41:13	28:22 30:4,18	N
love 13:21 51:9	50:14	43:15,20 56:12	30:20 31:1,11	N 2:1 3:1
lower 43:21 44:1	meeting 1:4 3:7	62:19	31:16,19,22	name 3:7,19
47:4	3:13 7:16	minimal 10:16	32:3,16,19,22	12:17 20:17
Loya 37:4	69:21 70:13	51:10	33:2,5 36:4,6	29:2 36:20
Loya 57.4	meetings 3:12	minutes 4:3	39:18,20,22,22	37:16 52:17
M	4:2 35:13	20:19 37:18	40:2,5 41:3,6	narrow 48:11
maintain 58:5	meets 39:3	52:19	43:16,18,21	natural 53:3
major 42:11	Meg 20:2	mirroring 51:6	46:16,19,21	nature 10:15
making 47:18	member 20:11	Missael 37:3	47:1,3,11,16	nearby 10:19
53:3 59:16	member 20:11 members 3:4,18	misspoke 31:18	47:20,22 48:2	11:3 36:1
map 29:10	3:18,21 4:4,5	misunderstood	48:4,6,9,11,14	nearest 25:8
Marc 7:14 12:15	5:3 7:3,9 14:18	55:4	49:4,7 51:12	necessarily 53:9
12:19,19 14:15	18:15 20:22	mitigate 11:18	52:3 53:7,19	55:9
23:19,22	25:9 27:2 28:3	mitigating 10:17	53:21 54:3,9	necessary 57:12
March 1:3 3:6	31:20 36:6,16	26:12	55:3,20 56:1,5	66:22
5:7 39:8	37:10,22 40:6	mixed 53:11	56:8,10,15,17	need 9:4 10:4
Margaret 37:3	41:3 51:13	55:11	56:19,22 57:2	15:8 47:9,13
Maria 69:12	52:3,11,22	Mm-hm 17:13	57:4 58:19	54:9,18 57:18
market-rate	53:8 54:11	55:17 61:16	59:6,18,21	57:20 59:3
51:15	56:2,22 60:2	modern 42:13	60:1,7,9,12,14	needed 46:10
			· · · · · · · · · · · · · · · · · · ·	
	I	I	I	I

	I		I	I
50:12	Notary 71:4,16	32:4,6 33:5	outcome 60:5	3:11
needs 48:6	notched 59:2	48:7,14 54:3,6	71:10	particular 21:5
neighbor 51:1,5	60:6 62:14	55:3 60:8	outside 47:7,21	31:5 51:16
52:7	note 13:11 23:7	61:19 68:17	48:1	Particularly
neighborhood	noted 11:1,17	Olivia 1:11 4:6,8	owing 16:11	51:7
8:1 10:21	notes 22:16	4:10,12,14	25:21 64:20	parties 13:17
21:14 33:17	November	22:14 28:14,17	owner 35:14	71:9
34:5,8,18	71:18	43:15 49:14	42:3,10 68:11	partly 61:14
49:22 50:2,5	Noyes 19:21	69:12	owners 12:8,20	party 14:8
50:18 53:5	Nuisance 38:19	on-street 10:8	17:14 34:7	passersby 34:9
63:12	nullifying 16:16	once 23:20	57:16	patio 15:20 17:1
neighbors 10:20	26:2 65:4	42:15		21:12 22:8
13:7 34:9	number 18:5	Oncologist 10:1	P	pattern 62:18
36:21	30:8 32:7 33:7	one-street 21:19	P 3:1	patterns 38:13
neither 71:8	33:20 35:20	ones 37:2	p.m 1:4 3:3 5:2	paved 9:1
never 61:7	36:22 42:9	ongoing 29:21	7:2 28:2 41:2	peculiar 30:15
new 5:21 32:22	57:6	Oops 60:16	68:2 69:9,20	Pediatric 10:1
41:13 43:7,11	nursery 29:20	open 9:3,17	70:21	pending 5:20
44:19 45:16	32:10 33:10,12	11:16 15:6,8	Pacheco 69:12	Penzenik 29:2,3
46:13 53:10	34:4,11	15:10 16:2,3	page 2:2 44:8	29:3 30:6,19
54:13,16 55:10		17:12 19:19	49:15	30:22 31:10,15
61:18 62:4	0	29:22 36:17	pan 50:8	31:18,21 32:2
63:6 66:13	O 3:1	52:10	panels 13:22	32:6,18,21
69:8,9,18	objecting 19:21	opening 34:3	24:11	33:1,4,6 36:5
newly 41:15	20:1	operation 38:16	paragraph 5:11	39:7 40:4,6
Ng 1:7 3:4 4:6,7	obtained 69:12	opposed 27:10	parallel 29:13	people 9:8,10
5:3 6:3,7 7:3	obviously 14:10	27:13 59:1	29:14 30:17	34:6 35:8,20
22:2 23:13,18	23:3,5 53:11	65:14,20,21	parent 35:11	36:20
24:9 27:3 28:3	occupant 38:20	66:3,5,7	parents 33:22	percent 30:11
28:15 39:19	occur 59:15	opposition 13:6	35:12	perfect 44:10
41:3 51:14,18	occurred 43:5	20:6,7	park 2:10 9:10	perioperative
52:2 54:12	odd 10:5 44:14	options 49:19	68:7	14:9
65:14 67:6	of-right 58:3	ordained 42:20	parked 8:15	permissible
68:3 70:7	Off- 25:14	order 5:15 32:9	9:15 11:4,9,22	41:15 45:15
nice 14:4 34:16	off-street 35:16	57:18 63:6	19:5 23:10	46:5
35:1 51:21	offer 66:10	ordinance 5:16	35:11	permit 31:4
61:15	offered 35:14	5:21 9:1 12:8	parking 8:6 9:5	34:13,18 38:1
nigher 44:20	offices 7:13	16:10,17 17:10	10:5,7,8,9 11:2	38:9 39:4 41:8
night 10:5	oh 7:17 15:17	25:14,20 26:3	13:7 15:1	41:10 46:9,10
ninth 71:13	28:9,16 33:16	31:7 32:1 38:3	21:20 25:15	46:13 66:17,19
Nolan 26:6	54:7 56:21	38:11,17 41:16	33:11 35:2,5	66:21 67:12
nonconforming	68:8 69:4	43:7 45:11	35:16 51:1,4	permitted 38:17
11:20 15:13	okay 15:17,22	47:6 53:11	part 10:3 15:15	perpendicular
45:13,18 46:12	18:1 19:8,14	55:10 61:18	15:16 26:17	29:14
64:14	21:16 22:1,12	63:7 64:11,18	29:7,8,22	personal 12:10
nonconformity	24:7,16 26:14	65:5 67:1	39:11 64:6	perspective 8:5
46:5	28:19,21 30:3	original 2:4,6	65:11	Peter 26:6
north 51:1	30:6 31:19	34:2	participation	petitioner 5:8

42:3 64:19	46:4 59:1	64:5	42:10	raising 7:20
68:11 69:7,10	possession 17:14	problems 21:12	purpose 16:17	Ratay 1:11 4:6,8
petitioners 5:14	possible 13:8	proceedings	26:3 65:5	4:10,12,14
phase 34:10	43:11	3:17 70:21	purposes 50:22	28:14,17 69:12
phone 20:14	posting 69:8	71:7	Pursuant 3:9	rationale 58:4
37:12 52:13	postmodern	produce 14:2	pushing 49:20	react 25:7
phonetic 52:7	50:1	product 52:1	put 8:9 13:10,14	reaction 62:15
photo 11:7	practical 59:17	project 43:13	13:22,22 14:4	read 5:11 19:9
29:17 42:4	practicalities	44:21 50:11	23:9 24:4 33:8	22:15 64:15
44:9	59:12	51:11,16,18	35:22 42:4	reading 5:7
photograph	pre-K 34:20	57:13 59:14,16	55:12	reads 20:13 57:8
23:11	precedent 62:2	64:2	putting 29:20	ready 21:1 25:9
photos 11:6	63:2,13	properties 22:2	43:15	64:8
physicians 13:3	predate 18:7	22:4 35:15		reality 8:10
pickup 35:5	preexisting	63:5	Q	10:22
picture 13:12	45:12,18 51:5	property 12:8	question 14:19	realize 59:10
piece 49:9 52:6	prefer 24:4	18:13 19:10,13	15:14 19:16,19	really 11:7 21:5
Pine 52:7	preferred 60:4	21:6 23:3,3	22:12 23:8	21:13 25:21
pink 30:8	prefers 24:1	42:14 49:11,18	46:21 55:6	31:22 43:12
pizza 33:15	prejudice 5:9	50:6 53:2 61:8	questionable	45:2 47:13
place 17:4 32:12	6:1 41:10	63:6,9 68:11	17:7	49:22 56:2
places 33:19	66:17,19 67:1	proponent 61:7	questionnaires	57:22 58:3
plan 8:8,20	prepared 26:6	proponents	35:18	59:15
14:20 22:14,15	27:1,1 39:7	57:16 63:7	questions 14:18	rear 44:6 47:18
25:4 26:9,22	65:7	proposal 42:22	18:15 36:6,16	reason 9:4 29:6
planned 24:6	preschool 29:4	43:1 44:21	51:13 52:3	46:7 53:14
plans 41:18	34:3 36:14	proposed 26:4	quick 13:11	55:13
42:12,16 46:17	37:6 39:6	38:22 39:5	22:12	reasoning 53:17
49:3,5	present 4:7,9,11	41:14 42:15	quite 45:2 60:7	reasons 5:13
playground	4:13,15 12:8	58:12,14 65:6	quote 36:9	33:16 38:22
33:11	presentation	proposing 33:8		50:16
please 6:1 22:14	24:18	protruded 60:21	R	recall 14:13
23:6 27:2 32:7	pressing 20:15	provide 33:20	R 3:1	received 34:6
39:13 49:8	20:15 37:13,14	provisions 16:9	Rafferty 7:7,8	recognizing
60:15 64:4	52:14,15	25:19 43:7	7:11,12 14:7	15:11 26:21
65:13 67:2	pretty 13:3,9	64:17	14:21 15:4,15	record 7:11
70:1	42:8 44:4	public 3:19,21	15:17,21 16:1	41:22 71:6
pleasing 62:11	prevents 17:1	3:22 4:1 16:15	16:5,18,20	recorded 3:13
plenty 36:2	previously	19:19 20:11,21	17:15,19,21	redeveloped
plot 14:20	15:16 24:6	36:2,17 37:10	18:2,5,12 19:3	16:22
Plus 12:7	45:8 46:10	37:20 52:4,10	19:11 22:18,20	redrawn 29:12
point 23:5 42:16	price 51:19	52:11,21 62:20	22:22 23:2,16	reduce 15:6
43:22 56:12	prior 14:12	65:3 71:4,16	23:19 24:17	reduces 41:13
points 51:20	69:21	pull 68:15	25:2 26:8,12	reduction 10:8
policy 17:8	probably 9:7	pulling 43:16	27:14	15:8,9
pooling 35:21	24:11,11 58:20	61:22	raise 20:13,14	refer 56:5
portion 23:20	62:3	purchase 17:17	37:12,13 52:13	referring 14:8
30:13 41:16	problem 21:11	purchased 7:18	52:14	14:12
	=	=	raised 45:2	
	1	1	1	1

reflect 69:8	required 5:18	49:2,5 51:17	49:5,18 51:17	29:17 30:3,7
reflecting 30:16	8:11 12:6 15:8	54:7 55:17	54:7 55:15,17	30:15 32:9
reflects 10:20	16:2 24:19	56:7,9,11,16	56:7,9,11,16	33:10 34:17
Regular 2:7	46:13	56:18,21 57:1	56:18,19,21	41:18 42:19
28:6,14	requirement 9:6	57:3 58:8,20	57:1,3 58:7,8	44:3,9,12,21
related 11:19	9:8,9 24:13,21	59:7,19,22	58:20 59:7,19	45:19,20,21
16:21 71:8	30:10 63:10	68:9,10,18,20	59:22 68:8,9,9	46:15 50:10
relating 16:12	requirements	69:2 70:15	68:18,20 69:2	53:22 58:11,12
64:21	9:3 18:9 25:13	riding 35:20	70:15	61:11 70:19
relatively 51:20	38:3,9,11	right 11:5 12:18	sat 50:5	seeing 66:12
53:10 55:10	50:21 64:11,12	14:17 15:21	satisfied 22:9	seek 15:7,11
relief 5:17 9:4	66:11 69:11	18:11 21:9	sausiicu 22.7 saw 45:19	seen 10:17 42:12
10:13 15:7,11	requires 9:16	22:6 25:9 32:4	saw 43.17 saying 20:17	57:6,6 63:5
16:14 21:6	45:10 50:13	32:20 36:4	37:16 52:17	sensitive 61:7
25:13 26:1,13	57:11 66:13	43:21 44:1,17	55:4,8 61:7	sent 68:14
27:13 30:5	research 10:2	44:22 45:4,21	says 23:7 24:22	serve 9:16
38:2 40:2	residence 20:7	45:22 47:20	25:7 37:12	Services 43:10
45:10 48:6	36:12,13	48:16,18 51:12	41:11 52:13	69:13,15
64:10 65:2	residential 29:8	51:17,17 54:2	school 2:9 7:22	set 58:13 60:20
relocating 66:21	30:9,13 31:3	61:4 66:18	9:20 29:20	66:14 71:12
reluctant 21:3	42:14 43:2	69:5	32:10 33:10,12	setback 8:7,10
Rem 20:4	50:15 57:12,21	right-hand	34:4,11 41:7	8:11,14 9:3,9
remains 11:17	63:5	31:12 47:4	63:4 65:7	10:14 11:20,21
remote 1:4 3:11	residents 7:19	Rithmire 20:2	Schwartz 7:14	12:1,5,6 15:2,3
4:2	respect 41:16	Road 2:10 68:7	7:15,17,18	15:9,11,12,13
removal 46:9	respond 23:17	roll 3:20	10:1 12:14,15	24:19,20 25:16
Remove 22:16	response 24:9	roof 60:22	12:19,19 14:8	45:22 47:14
23:7	34:16	room 24:13	14:14,15 23:22	49:10,10,21
removed 19:5	restrictions 18:8	Roslindale 10:3	scope 41:13	50:21 51:2,4
removed 15.5	restrictive 30:10	ruling 69:17	screen 20:12	53:2,13 55:1
renders 58:15	31:9,13 36:11	run 42:16	25:7 31:6	55:22 58:5,5
renewable 14:2	36:12 38:5	runs 10:2	37:11 42:4	63:10 64:13
renovation	result 10:8	Tuns 10.2	43:17 47:4	66:14
42:11	resulted 43:6	S	48:17 52:12	setbacks 11:16
rental 42:14	return 69:14	S 3:1	second 15:16	44:6 45:12,14
repair 57:19	review 5:18	safety 38:20	16:18 26:5	45:17,18 46:11
replace 23:21	revised 43:5	Sam 60:11,12,13	30:2,21 47:4	47:6,12 48:3
represent 29:4	45:11 63:7	60:13,16 63:16	Secondly 16:6	55:14
request 5:8 12:3	66:22	63:18,20,21	section 11:5	sets 63:2
15:8 16:7,7	reworking 59:9	64:1,1,1,3,5	31:7 36:10	setting 63:13
21:18 41:12,14	Rhatigan 5:7	Sarah 5:7 6:15	38:4,7,10 39:3	seven 55:21
50:17 54:4	6:15 41:9,21	41:9,20,21,22	64:13,14	shape 16:12
66:20 68:22	41:22 43:17,19	43:17,19 44:1	Sections 25:14	21:21 25:21
requesting 30:5	44:1 46:17,20	46:17,20,22	38:3 64:11	64:21
31:4 41:9 49:9	46:22 47:2,10	47:2,10,15,17	see 5:12,19 7:17	shaped 44:3
68:12	47:15,17,21	47:21 48:1,3,5	8:13,22 11:8	sheet 50:9
require 43:13	48:1,3,5,8,10	48:8,10,13,15	20:3 21:5	shop 33:15
59:9	48:13,15,20,22	48:20,22 49:2	22:15,16 25:5	shops 35:1
	, , ,		,	- I
	l	l		l

				1490 02
short 15:4	65:8	63:22	22:13 23:13,18	64:22
short-term	slides 43:15	special 31:4	24:7,9 27:2,3	struggled 57:5
35:10	slight 21:11	34:13,18 38:1	28:3,15 39:18	struggling 21:7
shortage 34:21	sliver 59:15	38:9 39:4 41:8	39:19 41:3	subject 5:18
show 11:6	small 31:12	41:10 46:9,10	51:14 52:2	submittals
showed 25:4	social 34:8	46:13 53:17	54:12 55:5	69:18
29:10 31:5	soil 16:12 64:21	66:16,18,21	61:13 65:13,14	submitted 8:9
shown 8:21 61:1	solar 13:22	67:12	67:5,6 68:3	10:10,19 26:17
shows 23:11	solid 42:14	specific 37:2	70:6,7	39:11 65:11
32:13 33:7	somewhat 10:11	specifically	sticking 21:13	substantial
shy 24:20	17:2,7 21:3	25:15 57:4	21:14	16:10,15,19
side 9:2 11:16	soon 29:22	64:12	stopping 35:4	25:20 26:2
24:14 31:12	Sophia 20:3	spent 43:9	stops 36:1	33:20 35:20
32:12 44:22	sorry 25:8 26:5	spot 13:9 29:15	storefront 34:19	38:14 54:5
45:12 46:11	31:18 47:3	34:14	stories 44:20	57:12 64:18
47:5,11	48:16 54:8	spots 35:8	54:1	65:3
sidewalk 19:6	56:4 60:14,16	square 30:12	story 41:15	substantially
54:2	63:19 64:3	ss 71:3	44:16,18 45:5	16:16 26:2
sidewalk's	65:21,22 68:19	staff 4:4 5:18	45:8 46:2,3,3	65:4
24:11	sort 35:21 42:21	20:16,18 35:9	54:22 58:21	suddenly 54:16
sign 69:8,10,14	44:13,22 46:8	37:15,17 43:9	straight 45:14	sufficient 8:4
signatures 34:15	52:1 56:12	52:16,18	59:1 62:13	suggesting 18:2
36:18	58:16 59:4,14	stage 24:2	street 2:4,5,9 5:6	support 10:17
signed 36:20	sounds 21:18	staggered 35:6	7:6,19,20,21	10:19 12:3
significant	south 51:5	59:5	8:3 9:14,14,14	20:1,3,4,5
11:18 42:9	space 8:6 9:3,5	stair 58:13	11:1,5,6,12,13	34:12 37:3,4,5
57:10,19	9:17 10:5,8,11	60:21	12:20 13:1,7	52:8 53:6
similar 18:6	11:12,15 15:1	stairs 58:13,14	13:10,14,16,17	54:15,17 55:2
57:7	15:6,9,10,19	59:9	13:18 14:9	55:5 59:4
similarly 11:13	16:2,3 17:12	standard 59:11	18:6 19:22	supporting
simply 61:2	21:20,21 25:3	standards 21:8	20:4,5,6,7 22:3	26:16 39:10
single 11:7	37:7 44:5,6	start 4:4 63:7	22:6 25:15	56:6 65:10
sit 63:5,9	45:3 59:8	started 50:7	26:6 27:1 37:4	69:20
site 8:8 11:3	61:10	state 3:19 5:14	41:7 42:1 52:7	supposed 28:11
22:7,14,15	spaces 10:7 11:2	stated 36:8 38:4	63:4 65:7	sure 12:15,19
49:17	11:17 25:15	statement 56:6	68:10	16:6 18:7
sits 44:4 45:20	33:11,21 34:20	statements	strike 31:8	43:10 47:2
45:21 46:3	35:3,13,15	26:17 39:11	strikes 53:2	49:5,14 51:19
Sitting 3:4 5:3	speak 4:3 10:12	65:11 69:20	strips 9:2	59:2 61:11
7:3 28:3,14	12:14 16:18	states 38:7	strips 3.2 strong 37:4	surprise 18:3
41:3 68:3	20:11,19 37:10	statutory 69:11	57:22	survey 8:8,13
situation 54:16	37:18 52:11,19	stay 35:12	strongest 13:6	45:20
six 61:5	54:5	Steve 48:17,18	structural 59:3	Surveyors 26:7
size 17:10 25:22	speakers 20:16	48:19,21 49:1	structure 42:12	surveys 35:18
51:22	37:15 52:16	49:2,4,14	44:4 45:6	SUV 13:13
sizes 51:20	speaking 3:19	Steven 1:7 3:4	58:16,17,22	sway 55:16
SKA 48:17	19:20,22 20:3	4:6,7 5:3 6:2,3	64:14	sway 55.16 swayed 57:15
60:13 63:21	20:4 36:18	6:6,7 7:3 22:2	structures 16:13	62:3
00.13 03.21	20.130.10	0.0,7 7.3 22.2		02.3
	l	l	l	l

swinging 24:10	44:10 46:5,7	third-floor	31:13	57:12,21 58:1
	46:22 47:12,15	49:19 50:9	tried 13:8	63:5
	47:16,17 48:9	thought 25:4	Trieu 7:15,16,18	universal 34:20
T-r-i-e-u 7:15	49:12,12 51:17	29:18 55:12	10:2	unmindful
Table 64:11 take 4:4 13:13	51:17 52:8	61:17	Trilogy 41:22	18:12
13:14 25:12	53:16 54:1,9	thoughtful	68:10	unmute 20:15
	58:15,15 59:4	10:18 13:8	true 33:19 71:6	20:16 37:13,15
43:6 48:19 taken 3:20	59:19 61:12	three 4:3 7:20	truly 10:6	52:14,16
talk 30:4	63:13,15 66:7	7:21,22 13:14	truth 9:7	unusual 9:13
	68:17 70:16	20:8,19 33:8	try 13:16,19	usable 59:17
talking 24:18 team 42:21 69:2	there's 10:10	35:8 37:18	51:9 54:1	use 3:11 13:13
television 3:14	11:16 18:21	52:19 66:6,7	trying 43:1	13:19 32:3
tell 12:17	21:18 24:1,13	THURSDAY	58:21 63:11	34:13 36:11,12
terms 17:5	24:19 32:15	1:3	turn 35:9	36:14 38:5,22
33:16 35:2	34:22 35:16	tight 44:5	turns 23:4	50:16
43:1 44:5	36:2 41:7 44:5	time 3:22 4:1	twelfth 50:9	uses 38:17
51:19 57:17	44:13 48:4	17:15 20:17	two 9:1 19:21	utilize 37:7
	51:15 53:11,17	29:19 35:10	21:12 24:10,10	$\overline{\mathbf{V}}$
testimony 20:22 37:21 52:22	55:11 56:6	37:16 43:8,9	31:2 33:11	valuable 15:10
thank 6:6,8,15	57:22 58:20	52:17 69:9	45:3 51:3 61:3	value 12:11
1 1	60:19,20 61:2	70:19	61:5,10 64:20	variable 13:3
6:16 14:6,17	they're 7:19,20	times 10:5 35:5	66:6,7	variable 13.3 variance 12:4,22
16:3,5 18:14	9:4 37:1 47:19	35:6 61:5	two- 44:15	· · · · · · · · · · · · · · · · · · ·
21:9 22:1	51:21 57:21	tinge 44:2	two-part 41:7	16:7,7 21:4,8
27:13,14 28:22	they've 7:22	today 19:22	two-story 44:15	24:3 25:16
36:4 39:16,18	8:22 12:9 22:3	44:13 46:7	type 54:17 58:22	26:19 41:7,12
39:20 40:4,6	22:5,8	tonight 31:1	59:2	41:14 43:13
43:19 44:10	thing 8:2 13:21	41:19	U	46:6 47:11
46:16,19 51:12	14:7 47:13,16	top 45:5,15		49:9 53:18,21
52:2 53:7 54:3	57:5 63:11	59:16 63:8	Uh 28:8	54:4,17 56:8
54:10 58:6,8	things 43:9	topography	unchanged 11:17	62:5,17 64:9
59:18 63:1	68:15	16:12 64:21	•	64:15 66:8,11
66:4 70:4,6,8	think 12:2 13:6	total 30:11,12	unclear 49:15	66:13,16
70:10,14,15,16	15:15 17:6,7	towering 53:14	understand 23:8	vehicle 8:15 9:5
70:18	17:13 20:8,8	town 35:7	32:16 53:15	9:11,15,17
thanks 12:20,21	21:20 22:2,5,5	track 47:8	understandably	10:4 11:4,7,8,9
33:5 42:1	25:2 26:12	traditional 50:2	10:11	11:10,13 17:4
that's 5:19 6:13	28:13 31:11	traffic 34:22	understood 16:3	17:11 19:12
10:13 11:7,12	43:21 46:20	35:2,6 38:13	undisruptive	22:13 24:13
11:14 12:2	48:15 53:4	trailers 35:22	51:10	25:15
13:11 15:14,21	54:3,14,18	transcript 3:16	unimproved	vehicle's 22:10
17:8 19:11	55:13 57:4	68:9 71:6	44:17	Verdant 8:20
20:8,9 21:21	59:6,7,12	transportation	unique 12:2	25:4 27:1
23:5,12 25:7	62:19 63:12	36:2	unit 42:15 51:20	verify 4:5
26:14 27:12	thinking 59:10	transporting	55:19	versus 21:12
31:19 34:22	59:22	9:19,20	units 42:15	62:13
37:8 38:10	third 46:3 64:13	trash 33:13	50:13 51:15,15	vertical 41:14
40:2 41:19	65:2	triangle 30:16	51:18,21 55:21	45:13

vertically 58:22 wanting 63:8 wasn't 13:11 yilde of 1:13 and of 1:13 and of 1:14 and o					
video 3:13 24:12 29:18 watching 42:21 watching 42:21 watching 42:21 willage 34:19 Watching 42:21 wishes 20:11 (52:11) 58:8,19 61:2 61:12 61:12 (61:12) 0 01/30/25 2:6 02/39 1:6 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 0 01/30/25 2:6 02/39 1:1 <t< th=""><th>vertically 58:22</th><th>wanting 63:8</th><th>windows 46:11</th><th>55:20 56:1,10</th><th>52:12</th></t<>	vertically 58:22	wanting 63:8	windows 46:11	55:20 56:1,10	52:12
view 23:10 village 34:19 way 10:14 29:9 vishes 20:11 of 8:27	Vice 1:7	wasn't 13:11	46:14 66:22	56:15 57:1	
village 34:19 way 10:14 29:9 wishes 20:11 year 7:19 13:17 02:139 1:6 03/05/2025 65:8 Virginia 1:8 35:3 6:4 30:15 31:16 33:1.10 53:3 34:1.10 53:3 34:1.10 53:3 44:12,13 5:3 6:4 year 7:19 13:17 14:13,15 17:14 40305/2025 65:8 6:5 7:3 21:17 22:1 27:4,5 28:3,17 39:14 34:1.10 53:3 40:10 67:4,12 withdrawal 5:9 31:13 12:06 62:0 31:13 39:15 41:3 54:22 60:19,20 66:20 withdrawal 5:9 31:13 10 5:7 8:14,16 12:06 52:7 1,942 30:13 10 5:7 8:14,16 10 5:7 8:14,16 11 2:06 62:0 11 2:06 62:0 31:13 10 5:7 8:14,16 96:17,19 67:1 12:06 62:0 31:13 30:13 10 5:7 8:14,16 11 2:06 62:0 11 2:06 62:0 11 2:06 62:0 11 2:06 62:0 11 2:06 62:0 12 2:07 92:17 12 2:06 52:7 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:19 12 2:07 92:1	video 3:13	24:12 29:18	wish 26:8 37:10	58:8,19 61:2	
Virginia 1:8 3:4	view 23:10	watching 42:21	52:11	61:12	
4:12,13 5:3 6:4 6:5 7:3 21:17 22:1 27:4,5 28:3,17 39:14 39:15 41:3 54:20 60:3,8 61:14,16 62:8 61:14,16 62:8 61:14,16 62:8 61:13 65:15,16 67:7,8 68:3 70:2,3 38:1 42:4,16 67:7,8 68:3 70:2,3 38:1 42:4,16 43:14 45:20 we're 10:14 13:2 voice 6:1 27:2 39:13 65:13 67:2 70:1 29:41:8 25:17 20:une 65:22 vote 6:1,12 21:1 21:3 27:2,11 27:11 39:13 66:6,6,8,16,18 67:2,13 70:1 70:12 70:12 votes 3:19 voting 31:20 Waiking 12:16 walk 9:20 48:12 votes 3:19 voting 31:20 we're 10:14 18:2 votes 3:19 voting 31:20 Waiking 35:20 walk 2:2,17 39:13 65:13 66:6,6,8,16,18 67:2,13 70:1 70:12 votes 3:19 voting 31:20 Waiking 35:20 walk 2:2:17 33:13 3:2 32:11,11 33:7 49:2 vote 6:1,12 2:1 38:16 32:9 57:14 48:18 30:18 67:2,13 70:1 70:12 13:8,16 32:9 57:6 63:5 wecks 61:21 welcome 3:6 asics 40:5 55:16 welcome 3:6 walk 2:2:17 32:11,13:7 32:11,11 33:7 32:11,13 3:	village 34:19	way 10:14 29:9	wishes 20:11	year 7:19 13:17	
55 7:3 21:17 22:1 27:4,5 61:2,9 66:20 ways 13:20 36:3 withdrawal 5:9 41:10 67:4,12	Virginia 1:8 3:4	30:15 31:16	68:7	14:13,15 17:14	03/05/2025 65:8
22:1 27:4,5 28:3,17 39:14 39:15 41:3 54:20 60:3,8 61:14,16 62:8 51:9 we'l 15:12,19 67:7,8 68:3 70:2,3 visual 9:16 43:14 voice 6:1 27:2 39:13 65:13 67:2 70:1 volume 65:22 vote 6:1,12 21:1 21:3 27:2,11 21:3 27:2,11 21:3 27:2,11 21:3 27:2,11 21:3 27:2,11 21:3 27:3,11 66:6,6,8,16,18 66:6,6,8,16,18 67:2,137 67:12 votes 3:19 voting 31:20 Walk 9:20 48:12 votes 3:19 voting 31:20 Walk 9:20 48:12 vote 8:12 vote 8:12 vote 8:12 vote 8:13 40:1 65:13 66:6,6,8,16,18 64:16,18 64:16,18 64:17,18 69:14 vote 8:8 13:1,2 70:12 vote 8:8 13:1,2 70:12 vote 8:11 36:15 6:11 69:14 vote 8:8 13:1,2 70:12 vote 8:11 36:15 6:10 37:19 52:20 vote 6:1,12 21:1 70:12 vote 8:13 40:1 65:13 66:6,6,8,16,18 64:6,6,8,16,18 64:16,8,16 voting 31:20 Walk 9:20 48:12 vote 8:13 36:15 6:1: 49:2 vote 8:13 36:15 6:1: 55:16 voting 31:20 Walk 9:20 48:12 vote 8:10 36:5 40:5 55:16 voting 31:20 vote 8:12 vote 8:10 37:19 52:20 70:16 voting 31:20 Vote 8:12 vote 8:10 37:19 52:20 70:16 voting 31:20 Vote 8:10 37:19 52:20 70:16 voting 31:20 Vote 8:10 36:5 40:5 55:16 voting 31:20 Vote 8:10 36:5 40:5 55:16 voting 31:20 Vote 8:10 12:17 20:2,11 40:10	4:12,13 5:3 6:4	34:1,10 53:3	withdraw 5:22	years 13:2 42:9	
28:3,17 39:14 39:15 41:3 54:20 60:3,8 61:14,16 62:8 62:13 65:15,16 67:7,8 68:3 70:2,3 70:2,3 70:2,3 70:1 70:12 70:12 70:12 70:12 70:12 70:12 70:12 70:12 70:12 70:13 66:16,18:6 70:13 66:17,18 69:4 70:12 70:12 70:10 70:12 70:12 70:13 66:16,8:16 86:17,18 69:4 86:18 8 wart 14:7 16:18 8 wart 14:7 16:18 8 wart 14:7 16:18 30:6 51:21 56:12 58:7 8 wart 14:10 66:74,12 withdrawn 6:14 66:17,19 67:1 witness 71:12 wonder 8:9,20 word 9:2 word 9:12 wonder 66:10,12 15:50 66:6 15:50 10.31 25:17 10.31 25:17 66:15,18 66:17 10.31 25:17 10.31 25:17 66:15,18 66:17 10.31 25:17 10.31 25:17 66:15,18 66:17 10.31 25:17 10.31 25:17 66:15,18 66:17 10.31 25:17 10.31 25:17 66:15,18 66:17 10.31 25:17 10.31 25:17 10.31 2	6:5 7:3 21:17	54:22 60:19,20	66:20	57:14	1
39:15 41:3	22:1 27:4,5	61:2,9	withdrawal 5:9	yellow 30:8	
S-1:0 First S-1:0 Goods	28:3,17 39:14	ways 13:20 36:3	41:10 67:4,12	31:13	,
Since Sinc	39:15 41:3	we'd 13:22 14:1	withdrawn 6:14	Yep 14:21 17:16	· · · · · · · · · · · · · · · · · · ·
62:13 65:15,16 67:7,8 68:3 70:2.3 visual 9:16 43:14 45:20 voice 6:1 27:2 39:13 65:13 67:2 70:1 volume 65:22 vote 6:1,12 21:1 27:11 39:13 40:1 65:13 66:6,6,6,8,16,18 67:2,13 70:1 70:12 votes 3:19 voting 31:20 We've 8:8 13:1,2 70:2.3 We've 8:8 13:1,2 16:61 18:2 We've 8:8 13:1,2 16:61 18:2 We've 8:8 13:1,2 16:61 18:2 16:61 18:2 16:61 18:2 16:6 18:2 17:1,20 61:9 18:1,20,20,22 18:1,10 65:13 66:1,18 69:4 18:1,20 18:2 18:1,20 18:3 18:1,21 18:1 18:1,20 18:3 18:1,21 18:1 18:1,20 18:3 18:1,21 18:1 18:1,20 18:3 18:1,21 18:1 18:1,20 18:3 44:1,2,2 48:3 49:1,21 18:4 49:1,12 18:1 10.30 25:16 10.31 28:10 10.31 28:10 10.43 38:10 39:3 10/21/24 26:7 103 29:10 30:5 10/21/24 26:7 103 29:13 38:1 103-19:6:7 103-19:6:7 103-19:6:6:6:6:2 103-10:14 10:30 25:16 10:31 22:18 10:31 28:10 10	54:20 60:3,8	15:7 24:1,5	66:17,19 67:1	18:4,18 30:18	· · · · · · · · · · · · · · · · · · ·
67:7,8 68:3 70:2,3 wisual 9:16 43:14 45:20 wondering 59:21 62:7,12 49:11,21 51:4 43:14 we're 10:14 13:2 works 19:2 works 19:1 you'd 49:8 you'd 49:8 70:1 39:13 65:13 16:6 18:2 39:5 51:11 59:10 62:7,12 49:13,215:17 39:13 65:13 16:6 18:2 39:5 51:11 50:10 you're 14:11 60:31 25:17 40:1 65:13 46:13 51:7 46:13 51:7 works 69:2 works 69:2 <td>61:14,16 62:8</td> <td>51:9</td> <td>witness 71:12</td> <td>33:6 43:18</td> <td></td>	61:14,16 62:8	51:9	witness 71:12	33:6 43:18	
70:2,3 visual 9:16 43:14 voice 6:1 27:2 13:3,21 14:19 39:5 51:11 67:2 70:1 volume 65:22 vote 6:1,12 21:1 21:3 27:2,11 27:11 39:13 40:1 65:13 66:6,6,8,16,18 67:2,13 70:1 70:12 votes 3:19 voting 31:20 welk 9:14 waiting 12:16 waiting 12:16 waiting 12:16 waik 9:20 48:12 49:2 walk 9:20 48:12 55:16 walk 9:20 48:12 49:2 walk 9:20 48:12 49:2 walk 9:20 48:12 49:2 walk 9:20 48:12 49:2 walk 9:20 48:12 55:16 whos's 42:3 30:6 51:21 54:4 55:19 63:6 69:1,2,7,8 70:1 58:5 60:20 63:6 69:1,2,7,8 70:1 45:19 46:15 57:10,33 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.42 42:6:1 58:2 68:8 work 9:18 3:4 45:19 46:15 57:10, 40:19 28:20 30:5 47:12 48:18 70:12 47:12 48:18 70:1 47:12 48:18 70:1 48:19 46:15 57:10, 40:19 57:66:69:3 work 9:18 13:4 45:19 46:15 57:10, 30:5; 10 40:15 40:5 58:2 168:8 you're 14:11 28:20 30:5 10.43 38:10 39:3 10.42 42:6:1 58:20 30:5 10.43 38:10 39:3 10.42 42:6:1 58:20 30:5 10.43 38:10 39:3 10.42 42:6:1 58:20 30:5 10.43 38:10 39:3 10.42 42:6:1 58:20 30:5 10.43 38:10 39:3 10.42 42:6:7 10.31 22:14 58:20 30:5 10.43 38:10 39:3 10.42 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:1 47:12 48:18 70:16 58:21 68:8 70:10 30:5 10.43 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.43 38:10 39:3 10.43 18:10 4	62:13 65:15,16	we'll 5:12,19	wonder 8:9,20	44:2,2 48:3	
visual 9:16 43:14 45:20 works 19:2 you'd 49:8 you'll 42:18 60:66:19:18 70:1 10.30 25:16 10.31 25:17 70:1 10.31 25:17 70:1 10.30 25:16 10.31 25:17 70:1 10.30 25:16 10.31 25:17 70:1 10.31 25:17 64:15 10.31 25:17 70:1 64:15 50:10 works 69:2 works 69:2 works 69:2 works 69:2 works 69:2 47:12 48:18 103.29 41:6 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15 10.31 25:17 64:15	67:7,8 68:3	19:19 20:21	wondering	59:21 62:7,12	· ·
Work 18 13:4 voice 6:1 27:2 39:13 65:13 67:2 70:1 24:18 25:17 24:18 25:17 24:18 25:17 24:18 25:17 24:18 25:17 25:16 69:2 24:18 25:17 25:11 20:10 25:10 26:6 69:3 26:6 69:3 27:11 39:13 40:1 65:13 66:66,68,16,18 66:61,18 69:4 40:1 65:13 66:66,68,16,18 66:11,18 69:4 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 69:14 40:1 60:1 40:1 60	70:2,3	38:1 42:4,16	14:11	67:5 69:1	
voice 6: 1 27:2 39:13 65:13 45:19 46:15 45:19 46:15 10.30 25:16 67:2 70:1 16:6 18:2 24:18 25:17 39:5 51:11 50:10	visual 9:16	43:14 45:20	words 19:2	you'd 49:8	
39:13 65:13 16:6 18:2 24:18 25:17 39:5 51:11 57:11,20 61:9 you're 14:11 28:20 30:5 10.43 38:10 39:3 10.52 18:10 28:20 30:5 36:5 40:5 28:20 30:5 36:5 40:5 28:20 30:5 36:5 40:5 36:6 66:6,6,8,16,18 66:61,1,18 69:4 we've 8:8 13:1,2 17:16 weive 69:10,11 69:14 walk 9:20 48:12 49:2 walk 9:20 48:12 49:2 walk 9:20 48:12 49:2 walk 12:17 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 32:11,11 33:7 36:15 61:1 who's 42:3 63:22 wide 24:11 willing 17:18 wind 21:15 wind 21:15 wind 21:15 wind 21:15 wind 21:15 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8 39:11 44:2 39:11 44:2 39:8 69:7,8 39:8 69:7,8 39:11 44:2 39:11 44:2 39:11 44:2 39:8 69:7,8 39:8 69:7,8 39:11 44:2	43:14	we're 10:14 13:2	work 9:18 13:4	you'll 42:18	
Comparison of the comparison	voice 6:1 27:2	13:3,21 14:19	15:3 26:4,21	45:19 46:15	
Wolume 65:22 31:1,20,20,22 65:6 69:3 28:20 30:5 10/21/24 26:7 vote 6:1,12 21:1 33:7 36:8,9 working 50:7 working 50:7 43:16 44:19 works 69:2 47:12 48:18 10/21/24 26:7 40:1 65:13 46:13 51:7 61:19,21,21 worling 50:7 worling 50:7 working 50:7 49:9 55:5,15 103:19 65:7 103:29 41:6 1	39:13 65:13	16:6 18:2	39:5 51:11	50:10	
Worte 6:1,12 21:1 33:7 36:8,9 working 50:7 36:5 40:5 36:5 40:5 10/21/24 26:7 103 2:9 41:6 </td <td>67:2 70:1</td> <td>24:18 25:17</td> <td>57:11,20 61:9</td> <td>you're 14:11</td> <td></td>	67:2 70:1	24:18 25:17	57:11,20 61:9	you're 14:11	
21:3 27:2,11 21:3 27:2,11 27:1 39:13 40:1 65:13 66:6,6,8,16,18 67:2,13 70:1 70:12 votes 3:19 voting 31:20 W	volume 65:22	31:1,20,20,22	65:6 69:3	28:20 30:5	
27:11 39:13	vote 6:1,12 21:1	33:7 36:8,9	working 50:7	36:5 40:5	
40:1 65:13 40:1 65:13 66:6,6,8,16,18 66:2,13 70:1 70:12 votes 3:19 voting 31:20 Waiting 12:16 waiver 69:10,11 69:14 walk 9:20 48:12 49:2 walking 35:20 wall 22:17 23:7 32:11,11 33:7 47:7,8 want 14:7 16:18 30:6 51:21 shape of the state of t	21:3 27:2,11	43:16 44:19	works 69:2	47:12 48:18	
Control of the cont	27:11 39:13	46:13 51:7	worry 13:7	49:9 55:5,15	
weith (3.5)	40:1 65:13	61:19,21,21	wouldn't 60:10	58:21 68:8	
70:12 70:12 70:13:8,16 32:9 70:16 we've's 3:19 70:16 we've's 3:19 70:16 writing 37:5 70:16 writing 37:5 Z zero 45:22 zone 31:14 32:4 38:6 12/12/24 2:4 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 12/12/24 2:4 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 13:13 3:6 27:1 39:8 17:11:8 39:8 17:12:8 29:5 39:8 17:12:8 29:5 39:8 17:12:8 29:5 39:8 17:12:8 29:5 39:8 17:12:8 29:5 39:7 17:12:8 29:5 17:12:5 15:7 18:24 5:6 19:24 29:10 19:42 29:16 19:42 29:16 19:42 29:16 19:42 29:16 19:42 29:16 23:17 38:17 49:24 29:19 49:31 48:6 53:11 <	66:6,6,8,16,18	66:11,18 69:4	wrap 20:20	you've 31:11	
votes 3:19 57:6 63:5 writing 37:5 zero 45:22 39:8 waiting 12:16 week 69:15 wrote 52:8 zoning 1:1 3:7 13:33:6 27:1 waiting 12:16 weeks 61:21 x x 38:6 20 ing 1:1 3:7 171:18 177:18 177:18 177:18 177:18 177:18 177:18 177:18 177:28:7 171:28:29:5 37:7 39:7 171:28:29:5 37:7 39:7 182:4 5:6 182:	*	we've 8:8 13:1,2	37:19 52:20	42:12 55:5	· · · · · · · · · · · · · · · · · · ·
voting 31:20 webpage 4:2 week 69:15 weeks 61:21 welcome 3:6 wrong 20:8 wrote 52:8 zero 45:22 zone 31:14 32:4 38:6 39:8 13,538 30:12 17 71:18 waiting 12:16 waiver 69:10,11 69:14 walk 9:20 48:12 49:2 wealking 35:20 wall 22:17 23:7 32:11,11 33:7 47:7,8 want 14:7 16:18 30:6 51:21 54:4 55:19 wanted 46:8 56:12 58:7 64:5 68:18 X 2:1	70:12	-	70:16		
W week 69:15 wrote 52:8 zone 31:14 32:4 13,538 30:12 Waiting 12:16 week 69:15,11 week 69:15 zoning 1:1 3:7 177:1:18 Walk 9:20 48:12 welfare 38:20 yard 9:2 14:5 9:4,16 11:21 37:7 39:7 Walking 35:20 went 8:17 61:18 what's 15:19 yard 9:2 14:5 29:10 30:5,7 18 2:4 5:6 1924 29:10 Wall 22:17 23:7 31:1 33:21 36:15 61:1 47:5,11 58:5 42:21 43:1,4,7 42:21 43:1,4,7 43:11 44:19 43:11 44:19 43:11 44:19 20:23 3:9 want 14:7 16:18 who's 42:3 63:22 wide 24:11 23:13,18 24:9 48:6 53:11 20:23 3:9 wanted 46:8 willing 17:18 willing 17:18 31:21 32:2 20:24 27:1 64:5 68:18 wind 21:15 41:148:8,10 37:11 44:2 39:8 69:7,8	votes 3:19	57:6 63:5	writing 37:5		
W weeks 61:21 weeks 61:21 38:6 17 71:18 waiver 69:10,11 36:5 40:5 X X 3:12 5:16 8:7 37:7 39:7 walk 9:20 48:12 welfare 38:20 went 8:17 61:18 yard 9:2 14:5 9:4,16 11:21 37:7 39:7 18 2:4 5:6 1924 29:10 wall 22:17 23:7 31:1 33:21 36:15 61:1 47:5,11 58:5 42:21 43:1,4,7 1942 29:16 want 14:7 16:18 wheel 36:3 whereof 71:12 yeah 14:15 18:1 43:11 44:19 45:16 46:13 1962 18:8 wanted 46:8 wide 24:11 26:12 28:13 31:21 32:2 26:12 28:13 31:21 32:2 2023 3:9 64:5 68:18 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8	voting 31:20	1 0	C		
waiting 12:16 welcome 3:6 X zoning 1:1 3:7 17-28:7 69:14 36:5 40:5 55:16 36:5 40:5 37:7 39:7 walk 9:20 48:12 welfare 38:20 went 8:17 61:18 yard 9:2 14:5 9:4,16 11:21 37:7 39:7 walk 9:20 48:12 went 8:17 61:18 yard 9:2 14:5 29:10 30:5,7 18 2:4 5:6 walk 9:20 48:12 what's 15:19 31:1 33:21 35:16 44:6 31:17 38:17 1942 29:10 walk 9:21,11 33:7 36:15 61:1 47:5,11 58:5 47:5,11 58:5 42:21 43:1,4,7 43:11 44:19 want 14:7 16:18 who's 42:3 63:22 63:22 48:6 53:11 23:13,18 24:9 wanted 46:8 wide 24:11 23:13,18 24:9 54:13 55:10 61:18 64:22 56:12 58:7 willing 17:18 31:21 32:2 2025 1:3 3:6 64:5 68:18 37:11 44:2 39:8 69:7,8			wrote 52:8		,
waiver 69:10,11 36:5 40:5 X 2:1 3:12 5:16 8:7 171 2:8 29:5 walk 9:20 48:12 welfare 38:20 went 8:17 61:18 Y 9:4,16 11:21 37:7 39:7 walking 35:20 went 8:17 61:18 what's 15:19 31:1 33:21 25:16 44:6 29:10 30:5,7 18 2:4 5:6 1924 29:10 walk 9:20 48:12 what's 15:19 31:1 33:21 47:5,11 58:5 41:13,16 42:19 1943 29:12 1943 29:12 want 14:7 16:18 whereof 71:12 whereof 71:12 yeah 14:15 18:1 45:16 46:13 48:6 53:11 23:13,18 24:9 45:16 46:13 48:6 53:11 2023 3:9 2023 3:9 wanted 46:8 wide 24:11 willing 17:18 31:21 32:2 700m 20:12 2025 1:3 3:6 39:8 69:7,8 64:5 68:18 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8					
69:14 walk 9:20 48:12 49:2 walking 35:20 wall 22:17 23:7 32:11,11 33:7 47:7,8 want 14:7 16:18 30:6 51:21 56:12 58:7 64:5 68:18 solid 34:0 yard 9:2 14:5 15:2,3,5,19 25:16 44:6 47:5,11 58:5 64:13 66:14 yeah 14:15 18:1 21:7 22:2,11 23:13,18 24:9 26:12 28:13 31:21 32:2 44:1 48:8,10 9:4,16 11:21 12:5 15:7 18 2:4 5:6 1924 29:10 1943 29:12 194					
walk 9:20 48:12 welfare 38:20 yard 9:2 14:5 12:5 15:7 18 2:4 5:6 1924 29:10 walking 35:20 what's 15:19 31:1 33:21 35:16 44:6 41:13,16 42:19 1943 29:12 32:11,11 33:7 47:7,8 wheel 36:3 whereof 71:12 47:5,11 58:5 42:21 43:1,4,7 1962 18:8 want 14:7 16:18 who's 42:3 63:22 26:12 28:13 48:6 53:11 54:13 55:10 2023 3:9 wanted 46:8 wide 24:11 willing 17:18 31:21 32:2 2024 27:1 64:5 68:18 wind 21:15 41:13,16 42:19 42:21 43:1,4,7 43:11 44:19 45:16 46:13 48:6 53:11 2023 3:9 2024 27:1 2025 1:3 3:6 31:21 32:2 2024 27:1 2025 1:3 3:6 39:8 69:7,8			X 2:1		
walk 9.20 went 8:17 61:18 yard 9:2 14:5 29:10 30:5,7 1924 29:10 walking 35:20 what's 15:19 31:1 33:21 35:16 44:6 41:13,16 42:19 1943 29:12 want 14:7 16:18 wheel 36:3 whereof 71:12 who's 42:3 64:13 66:14 yeah 14:15 18:1 45:16 46:13 48:6 53:11 2023 3:9 wanted 46:8 wide 24:11 willing 17:18 31:21 32:2 26:12 28:13 31:21 32:2 2023 3:9 46:5 68:18 wind 21:15 47:14:2 47:14:2 47:14:2				/	
walking 35:20 what's 15:19 15:2,3,5,19 31:17 38:17 1942 29:16 wall 22:17 23:7 31:1 33:21 36:15 61:1 47:5,11 58:5 42:21 43:1,4,7 42:21 43:1,4,7 42:21 43:1,4,7 43:11 44:19 45:16 46:13 46:13 66:14 46:13 66:14 48:6 53:11 48:6 53:11 2023 3:9 wanted 46:8 wide 24:11 willing 17:18 31:21 32:2 2024 27:1 64:5 68:18 wind 21:15 43:11 44:2 37:11 44:2 39:8 69:7,8					
wall 22:17 23:7 31:1 33:21 25:16 44:6 41:13,16 42:19 1943 29:12 32:11,11 33:7 36:15 61:1 47:5,11 58:5 42:21 43:1,4,7 42:21 43:1,4,7 47:7,8 47:7,8 43:11 44:19 45:16 46:13 45:16 46:13 48:6 53:11 30:6 51:21 36:22 36:22 36:22 48:6 53:11 36:13 55:10 36:12 28:13 48:6 53:11 36:18 64:22 2023 3:9 wanted 46:8 31:21 32:2 31:21 32:2 37:11 44:2 39:8 69:7,8			•	· ·	
32:11,11 33:7 47:7,8 want 14:7 16:18 30:6 51:21 54:4 55:19 wanted 46:8 56:12 58:7 64:5 68:18 36:15 61:1 wheel 36:3 whereof 71:12 who's 42:3 63:22 wide 24:11 willing 17:18 wind 21:15 47:5,11 58:5 64:13 66:14 yeah 14:15 18:1 21:7 22:2,11 23:13,18 24:9 26:12 28:13 31:21 32:2 44:1 48:8,10 47:5,11 58:5 42:21 43:1,4,7 43:11 44:19 45:16 46:13 48:6 53:11 54:13 55:10 61:18 64:22 700m 20:12 39:8 69:7,8					
47:7,8 wheel 36:3 64:13 66:14 43:11 44:19 43:11 44:19 23:9 30:6 51:21 who's 42:3 63:22 48:6 53:11 54:13 55:10 54:13 55:10 54:13 55:10 61:18 64:22 2023 3:9 wanted 46:8 wide 24:11 31:21 32:2 700m 20:12 2025 1:3 3:6 39:8 69:7,8 64:5 68:18 wind 21:15 43:11 44:19 45:16 46:13 48:6 53:11 54:13 55:10 2023 3:9 2024 27:1 2025 1:3 3:6 39:8 69:7,8					
want 14:7 16:18 whereof 71:12 yeah 14:15 18:1 45:16 46:13 2 30:6 51:21 who's 42:3 48:6 53:11 23:13,18 24:9 54:13 55:10 2023 3:9 wanted 46:8 wide 24:11 26:12 28:13 61:18 64:22 2024 27:1 56:12 58:7 willing 17:18 31:21 32:2 200m 20:12 39:8 69:7,8 64:5 68:18 wind 21:15 43:13 12:1 43:13 55:10 43:13	•		· ·		1704 18:8
want 14: / 16:18 whereof 71:12 year 14: / 3 / 18: / 18 45:16 / 46: / 13 23:9 30:6 51:21 63:22 23:13,18 / 24: / 23: / 13: / 23: / 13: / 23: / 13: / 23: / 23: / 23: / 23: / 33: / 23: / 23: / 23: / 33: / 23: / 23: / 33: / 23: / 23: / 33: / 23: / 23: / 33: / 23:	· ·				2
30.0 31.21 who's 42:3 48.0 35.11 54:4 55:19 63:22 54:13 55:10 wanted 46:8 26:12 28:13 61:18 64:22 56:12 58:7 31:21 32:2 2023 3:9 64:5 68:18 37:11 44:2 39:8 69:7,8			•		
wanted 46:8 wide 24:11 26:12 28:13 61:18 64:22 56:12 58:7 willing 17:18 31:21 32:2 Zoom 20:12 2024 27:1 64:5 68:18 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8			· ·		
wanted 40.8 wide 24:11 20:12 20:15 01:18 04:22 56:12 58:7 willing 17:18 31:21 32:2 Zoom 20:12 39:8 69:7,8 64:5 68:18 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8			· · · · · · · · · · · · · · · · · · ·		
64:5 68:18 wind 21:15 44:1 48:8,10 37:11 44:2 39:8 69:7,8					
04.5 00.16 Wind 21:15 111 10:0510 57.11 44.2		0			
70.171.13	04:3 08:18	wind 21:15	· ·	3/:11 44:2	,
			JT.J,12 JJ.J		, , , , , , , , , , , , , , , , , , ,

			rage oo
2020 71:10	(.02.7:2		
2028 71:18	6:03 7:2		
21 37:4	6:30 28:2		
22 3:14	6:48 41:2		
24 61:4	68 2:10		
25 30:7 31:8	7		
32:3 36:11	-		
38:6	72:5		
28 2:8	7:10 68:2 70:21		
3	8		
3 24:20 30:8	8.22.3 64:13		
36:10	80 34:15		
3.23.1 36:10	83 36:18,22		
3.30 38:7	831 1:5		
3.32.1 38:4			
3.33.1 31:7	9		
	9 20:15 37:13		
4	52:14		
4 32:7	907 7:13		
4,369 30:14			
4.3 25:8			
4.30 38:8			
4.33.b.2 38:8			
4.50 38:8			
4.55.1.2 38:8			
4.56.c.1 38:8			
4'3 24:22			
41 2:9 34:20			
45 44:20,20			
45A 20:4			
5			
5 2:4 33:7 69:20			
5.31 25:14 64:11			
5.7 25:1			
50 22:6 30:11			
515 20:5			
521 20:7			
527 2:5 7:5			
12:20 22:5			
26:6,22			
551 20:6			
6			
6 20:15 37:14			
52:15 69:9			
6.44.1.c 25:14			
6:00 1:4 3:3			
6:02 5:2			
U.U# J.L			
	1	1	ı