

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, SEPTEMBER 23, 2021

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Andrea A. Hickey

Jim Monteverde

Wendy Leiserson

City Employees

Sisia Daglian, Assistant Commissioner



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## I N D E X

CONTINUED CASES	PAGE
6:00 P.M. CASE NO. BZA-120040 -- 150 CAMBRIDGEPARK DRIVE	6
Original Hearing Date: 07/15/21 NOT HEARD	
6:00 P.M. CASE NO. BZA-119365 -- 39 HUBBARD AVENUE	9
Original Hearing Date: 06/24/21	
6:00 P.M. CASE NO. BZA-127988 -- 26 BELLIS CIRCLE #26	12
Original Hearing Date: 08/19/21 NOT HEARD	
REGULAR AGENDA	
6:30 P.M. CASE NO. BZA-134626 -- 1776 MASS AVENUE #1	78
6:45 P.M. CASE NO. BZA-134550 -- 318 CONCORD AVENUE	102
7:00 P.M. CASE NO. BZA-131742 -- 139 RIVER STREET	126
7:15 P.M. CASE NO. BZA-131123 -- 30 BELLIS CIRCLE	135
7:30 P.M. CASE NO. BZA-133183 -- 24 RICE STREET	144
7:45 P.M. CASE NO. BZA-134121 -- 1 GLADSTONE STREET	150
8:00 P.M. CASE NO. BZA-135907 -- 6 VERDUN STREET	154
8:15 P.M. CASE NO. BZA-138678 -- 36 WHITE STREET	160

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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Jim Monteverde, and Wendy Leiserson

CONSTANTINE ALEXANDER: Welcome to the September 23, 2021 meeting of the Cambridge Board of Zoning Appeals. My name Gus Alexander and I am the Chair.

This meeting is being held remotely, due to statewide emergency orders limiting the size of public gatherings in response to COVID-19, and in accordance with Governor Charles D. Baker's Executive Order of March 12, 2020, temporarily amending certain requirements of the Open Meeting Law; as well as the City of Cambridge temporary emergency restrictions on city public meetings, city events, and city permitted events, due to COVID-19, dated May 27, 2020.

This meeting is being video and audio recorded, and is broadcast on cable television Channel 22 within Cambridge. In due course, there will also be a transcript of tonight's proceedings.

1 All Board members, applicants, and members of the  
2 public will state their name before speaking. All votes  
3 will be taken by roll call.

4 Members of the public will be kept on mute until  
5 it is time for public comment. I will give instructions for  
6 public comment at that time, and you can also find  
7 instructions on the city's webpage for remote BZA meetings.  
8 Generally, you will have up to three minutes to speak.

9 I'll start by asking the Staff to take Board  
10 member attendance and verify that all members are audible.

11 SISIA DAGLIAN: Andrea Hickey?

12 ANDREA HICKEY: Present.

13 SISIA DAGLIAN: Wendy Leiserson?

14 SISIA DAGLIAN: Jim Monteverde?

15 JIM MONTEVERDE: Jim Monteverde is present.

16 SISIA DAGLIAN: Brendan Sullivan?

17 BRENDAN SULLIVAN: Brendan Sullivan present.

18 SISIA DAGLIAN: Gus Alexander?

19 CONSTANTINE ALEXANDER: And the Chair is present  
20 as well. Okay. As is our practice, we will start by  
21 hearing continued cases. We have three on the agenda for  
22 tonight. A continued case is a case that started at an

1 earlier date, that for one reason or another has been  
2 continued until tonight.

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(6:06 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Jim Monteverde, and Wendy Leiserson

CONSTANTINE ALEXANDER: The first continued case I'm going to call is Case Number 120040 -- 150 Cambridge Park Drive. Anyone here -- not here -- anyone wishing to be heard on this matter?

[Pause]

CONSTANTINE ALEXANDER: Okay. Apparently not. No one is wanting to be heard. And we do have a letter from Mr. James Rafferty, Counsel for the Petitioner, asking for a further continuance until -- as he put it -- a month from now, because they're planning to go -- he and his client are planning to go before the Planning Board in early October.

What would be the second -- roughly a month from now, what would be the date we have the meeting? October 21 is available? I think that's fine.

The Chair moves that we continue this case as a case not heard until 6:00 p.m. on October 21, subject to the following condition:

1           First, that the petitioner sign a notice -- a  
2 waiver of time for decision. And in fact he is or has  
3 already done so, because this case was continued before.

4           Second, a new posting sign must be erected and  
5 maintained for the 14 days before October 21.

6           And lastly, to the extent that there are new or  
7 revised plans, other data of that sort, that information  
8 must be in our files no later than 5:00 p.m. on the Monday  
9 before October 21.

10           Brendan, how do you vote?

11           BRENDAN SULLIVAN: Brendan Sullivan yes to the  
12 continuance.

13           CONSTANTINE ALEXANDER: Andrea?

14           ANDREA HICKEY: Andrea Hickey yes to the  
15 continuance.

16           CONSTANTINE ALEXANDER: Jim?

17           JIM MONTEVERDE: Jim Monteverde yes to the  
18 continuance.

19           CONSTANTINE ALEXANDER: Wendy?

20           WENDY LEISERSON: Wendy Leiserson yes to the  
21 continuance.

22           CONSTANTINE ALEXANDER: And the Chair votes yes to

1 the continuance as well.

2 [All vote YES]

3 CONSTANTINE ALEXANDER: The case will be  
4 continued.

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2 (6:08 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Jim Monteverde and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The next case that I'm  
7 going to call is Case Number 119365 - 39 Hubbard Avenue.  
8 Anyone here wishing to be heard on this matter?

9 [Pause]

10 Apparently not. Again, the answer is no. This  
11 case is going to have to be continued for -- well, at least  
12 two reasons. And I'm going to suggest that maybe we don't  
13 need to continue this case beyond tonight.

14 The first reason is that the petitioner has failed  
15 to put up a new posting sign, despite the fact she was  
16 specifically instructed that it had to be done like for all  
17 continued cases.

18 Second, and more meaningful, there is a legal  
19 issue here. The petitioner's spouse is a co-owner of the  
20 property. That spouse has not signed the application  
21 seeking zoning relief. And moreover, he has written a  
22 letter to the Board all but saying we should turn down the

1 relief being sought by his spouse.

2 On that basis, I conferred with the Legal  
3 Department, and they are of the mind that it would be best  
4 if we not pursue this case any further; that we should not  
5 hear this case under these circumstances.

6 Now, this has been going on for at least a month  
7 now, and we have not heard from the petitioner certainly  
8 about -- and the spouse has not signed the application.

9 So I'm going to move -- suggest to my Board  
10 members -- that we dismiss this case. I don't see any  
11 prospect for being ready to be decided in the near future.  
12 Anyone feel differently?

13 JIM MONTEVERDE: No.

14 CONSTANTINE ALEXANDER: I'm sorry, Jim?

15 JIM MONTEVERDE: No. I don't feel differently. I  
16 agree.

17 CONSTANTINE ALEXANDER: Okay. All right. the  
18 Chair moves that we dismiss this case, for failure to  
19 prosecute it. Jim? I mean Brendan?

20 BRENDAN SULLIVAN: Brendan Sullivan yes to the  
21 motion to dismiss.

22 CONSTANTINE ALEXANDER: Jim?

1           JIM MONTEVERDE: Jim Monteverde, I voted yes to  
2 the motion to dismiss.

3           CONSTANTINE ALEXANDER: Andrea?

4           ANDREA HICKEY: Andrea Hickey yes in favor of the  
5 motion to dismiss.

6           CONSTANTINE ALEXANDER: Wendy?

7           WENDY LEISERSON: Wendy Leiserson yes in favor of  
8 the motion to dismiss.

9           CONSTANTINE ALEXANDER: And the Chair who started  
10 this whole mess votes yes to dismiss the case as well.

11           [All vote YES]

12           This case has now been dismissed.

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(6:11 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan, Andrea A. Hickey, Jim Monteverde and Wendy Leiserson

CONSTANTINE ALEXANDER: We'll turn next to Case Number 127988 -- 26 Bellis Circle; #26. Anyone here wish to be heard on this matter?

[Pause]

CONSTANTINE ALEXANDER: Anyone out there wishing to be heard?

SARAH RHATIGAN: Good evening. Sorry. I was just invited in as a panelist. This is Sarah Rhatigan. Good evening, members of the Board. I am here representing the petitioners -- I'm sorry, from Trilogy Law, LLC, 12 Marshall Street in Boston, Massachusetts.

I am here representing the petitioners, who are the owners of 26 Bellis Circle. Tom Culotta and Mary Custic, who are on the screen there, if you can wave, guys. Thank you. And our architect is here, Grady Ragsdale as well. And thanks very much for hearing us this evening.

And just procedurally, Mr. Chairman, to clarify

1 this case was actually not heard when we were originally  
2 scheduled. The petitioners were offered the opportunity to  
3 continue the case because we were told that because of the  
4 panelists that were available at the last hearing, if we had  
5 requested a continuance, the same panel of Board members  
6 wouldn't be available again until January.

7 And being told that information that evening, we  
8 said thank you, we would love to be heard on another  
9 evening. So this is the first time the Board has heard this  
10 case.

11 You will note, however, that as a result of  
12 discussions and feedback from one of my client's neighbors  
13 about the original set of plans that were submitted to this  
14 Board, my clients went through a redesign and a revision to  
15 the original plans that were submitted to this Board.

16 And those revised plans were submitted on Monday  
17 and are part of the file that we're going to review today  
18 with you.

19 CONSTANTINE ALEXANDER: Can you briefly describe  
20 how meaningful the changes are on these revised plans from  
21 the original plan?

22 SARAH RHATIGAN: Yes. I definitely will. Yep.

1 And if I could ask, Sisia, do you have the slide  
2 presentation? Would you mind sharing the screen? Or  
3 Olivia. Thank you. Thanks, Olivia. Sorry about that.

4 Okay. The beginning of this is just some images  
5 of the property. We can just run through this briefly, if  
6 you don't mind.

7 Slide 2, please? Just to give folks a view of the  
8 property.

9 And Mr. Chairman, I will answer your question. If  
10 you don't mind, I'll just run through the images here to get  
11 people oriented.

12 CONSTANTINE ALEXANDER: Go ahead. It's your  
13 presentation.

14 SARAH RHATIGAN: This is -- okay. Thank you. And  
15 I'll try to keep this concise. So the property is the  
16 yellowish structure that you see in the front center of this  
17 image. That's in the rear. It's a single-family structure,  
18 but it's a condominium. It's one of four condominium units  
19 on this Bellis Circle property. And we'll see a plot plan  
20 soon. This is just a side view of the house.

21 Next slide, please?

22 This is a property -- Bellis Circle borders the

1 Danehy Park at the rear. So if you are in Danehy Park and  
2 you are looking at the back yards of the property, our  
3 structure is -- again, the yellow structure. And we're  
4 looking at the back yards of our structure and the  
5 neighbors', which becomes relevant.

6 Next slide, please?

7 These are showing some of the views from the  
8 neighbors' homes of the park, because I know that there's  
9 been some concern about neighbors losing views of Danehy  
10 Park.

11 And the addition that is being proposed for my  
12 client would be sited between the yellow house between our  
13 house and the park, and would not obstruct the windows that  
14 were highlighted in this picture.

15 Next image please?

16 SARAH RHATIGAN: And then this is a view from the  
17 back yard behind our structure, behind our house in our back  
18 yard. And this is a view towards the left of the  
19 neighboring property, and then the property that's two over.

20 And as Board members I'm sure have seen that there  
21 are two letters of objection; as far as we understand,  
22 they're just two neighbors who have opposed, or have

1 expressed -- one has expressed concern, one was definitely  
2 opposed [to] the addition.

3 And they are -- the blue house is, my  
4 understanding is Barbara and Tim -- Tim Wells and Barbara; I  
5 apologize, Barbara, I'm forgetting your last name? I know I  
6 have it in here. And the Wu family is the white structure  
7 that's on the left in this view.

8 Next image, please?

9 And again, this is a view from our back yard of  
10 the back of our house. And this is the location of where  
11 the addition will be sited.

12 Next view, please?

13 Next is the site plan with the landscape drawings  
14 of some arborvitae that are proposed. So this is probably  
15 the best place for me to just talk about the addition that's  
16 proposed and the changes that were made from the original  
17 plan site.

18 So you can see the shape of the back of the house  
19 that's shaded. That's the proposed addition. [Thanks for  
20 zooming in, I appreciate that.]

21 The original addition was further out towards the  
22 lot line. It used the full side lot allowance of 7.5 feet,



1 and then extended all the way back -- sorry, the numbers are  
2 hard to see there, but it extended back. I believe it was -  
3 -

4 CONSTANTINE ALEXANDER: Excuse me, Sarah.

5 SARAH RHATIGAN: -- 20 feet.

6 CONSTANTINE ALEXANDER: I'm sorry. I didn't mean  
7 to -- I just want to say that I have a question for you.

8 SARAH RHATIGAN: Okay, sure. It extended back to  
9 a narrow point. And I'm actually going to have Grady  
10 describe to the Board the -- kind of the reasonings that  
11 went through the original design and the revised design.

12 But the changes that were made that are filed now  
13 are the addition is pulled back a foot from the side lot  
14 line, and then there's an angle cut off of the rear  
15 addition. And the reason for this was to respond to  
16 concerns about lights and views for the neighbors.

17 So there's a real -- like a, one a decrease in the  
18 whole square footage of the project, and a cutting off of  
19 the angular bit of the addition that was extruding into the  
20 corner of the back lot.

21 Is that helpful?

22 CONSTANTINE ALEXANDER: My question for you is how

1 big is the house right now, or gross floor area, before the  
2 proposed addition?

3 SARAH RHATIGAN: So --

4 CONSTANTINE ALEXANDER: According to the filing,  
5 it's 7255 square feet.

6 SARAH RHATIGAN: So that is for the whole  
7 condominium association.

8 CONSTANTINE ALEXANDER: Okay. That's what I  
9 thought it might be.

10 SARAH RHATIGAN: Yep. It is.

11 CONSTANTINE ALEXANDER: How much is it?

12 SARAH RHATIGAN: The increase in square footage of  
13 this addition is -- of the new proposed addition is 560  
14 square feet.

15 CONSTANTINE ALEXANDER: Right. But how much is it  
16 on? What is the -- how much --

17 SARAH RHATIGAN: And it's adding on -- I'm sorry,  
18 do you mind, if you could advance the slide, I don't have  
19 that number memorized here. You know what? I think I cut  
20 the plan page off. Bear with me for one minute.

21 Grady, do you have the existing house plate  
22 number? I will pull it up.

1 GRADY RAGSDALE: It should be in the condo docs.

2 SARAH RHATIGAN: It's on the first page. Yeah,  
3 it's --

4 GRADY RAGSDALE: The existing's in the condo  
5 doctors at the very end.

6 SARAH RHATIGAN: Mr. Chairman, I will get that  
7 number for you and I will get it for you quickly.

8 CONSTANTINE ALEXANDER: You can continue if you  
9 like with your presentation.

10 SARAH RHATIGAN: Yeah. Thank you.

11 CONSTANTINE ALEXANDER: Return to it later.

12 SARAH RHATIGAN: Yep. Thank you. Grady, if you  
13 don't mind, if you could just find that number as we go  
14 through the next?

15 GRADY RAGSDALE: You just need the existing square  
16 footage for the house?

17 SARAH RHATIGAN: Yeah. Actually, you know what?  
18 Let's actually --

19 CONSTANTINE ALEXANDER: With the condition that we  
20 put -- that we added to it. Yeah.

21 JIM MONTEVERDE: It's on the dimensional form, if  
22 that has -- I'm sorry, the original dimensional form.

1           CONSTANTINE ALEXANDER: That's --

2           SARAH RHATIGAN: Yeah, the dimensional form --

3           JIM MONTEVERDE: No, I'm sorry.

4           SARAH RHATIGAN: -- compiles all of the units  
5 together.

6           CONSTANTINE ALEXANDER: Yep.

7           SARAH RHATIGAN: Yeah. And --

8           JIM MONTEVERDE: Gotcha.

9           SARAH RHATIGAN: I know we do -- I apologize. I  
10 know we do have the breakdown. It's on the filing Title  
11 Page, Grady, of your plan set.

12          JIM MONTEVERDE: Mm-hm.

13          SARAH RHATIGAN: It's just when I prepared this  
14 presentation for you, I was trying to be mindful of your  
15 time and I deleted your Title Page because it had a lot of  
16 text on there.

17          GRADY RAGSDALE: Okay. So --

18          SARAH RHATIGAN: So Grady, do you see it?

19          GRADY RAGSDALE: Gross floor area?

20          SARAH RHATIGAN: Gross floor area.

21          GRADY RAGSDALE: Existing is -- gross floor area  
22 is 1488. That's existing.

1 SARAH RHATIGAN: That's right. And then we're  
2 adding 560 square feet to that.

3 GRADY RAGSDALE: Right.

4 CONSTANTINE ALEXANDER: Increasing the size of the  
5 structure, or the usable space by roughly 50 percent - not  
6 quite; close to 50 percent. Am I not right?

7 SARAH RHATIGAN: Well --

8 CONSTANTINE ALEXANDER: 500?

9 SARAH RHATIGAN: No, that's less than 50 percent.  
10 It's --

11 GRADY RAGSDALE: 30 percent?

12 SARAH RHATIGAN: I'm not sure exactly.

13 JIM MONTEVERDE: Thirty.

14 SARAH RHATIGAN: Yeah, probably more like 30  
15 percent.

16 CONSTANTINE ALEXANDER: Okay.

17 SARAH RHATIGAN: Yeah, yeah. And if you'd like, I  
18 can -- we could go through the floor plans very quick. If  
19 you don't mind, go to page 10, Olivia? Because the addition  
20 is relatively simple.

21 And if I could suggest, Grady do you mind just  
22 briefly go through the thinking that went through the

1 redesign and the -- you know, functionally what we're trying  
2 to achieve here?

3 GRADY RAGSDALE: Sure.

4 SARAH RHATIGAN: And then I'll respond to the  
5 other issues.

6 GRADY RAGSDALE: Sure. I mean, the program is to  
7 get, you know, more living space on a level that's  
8 accessible from the rest of the first floor, and then on the  
9 second level, and an extra bedroom.

10 So in order to keep them on the second floor, we  
11 needed to use up one of the bedrooms so that we need enough  
12 space in that addition for two bedrooms and that addition.

13 So the program, you know, has a sort of limitation  
14 on how many square feet we need. Initially, we used the  
15 setbacks and went to setbacks, but that wasn't enough space  
16 for two bedrooms above.

17 So we extended beyond the setback in the back, and  
18 that's where one of the variances was originated from. You  
19 know, a few feet off the setback. But it went at a much  
20 greater angle towards the neighbors -- that original plan.

21 So that's the program, that's the criteria. We're  
22 trying to keep sensitive to the setbacks and try to create a

1 shape, you know, based on that.

2 As we went through the process, we did get  
3 feedback from some of the neighbors, so we decided to, you  
4 know, cut off one of the angles, you know, to -- that  
5 probably blocks the view the most and reduce the square  
6 footage.

7 But we still felt like this was a minimum that we  
8 could get away with to have two bedrooms on the second floor  
9 that would still satisfy having a bed and one desk in each  
10 space, kind of minimum square footage up there, you know,  
11 and a decent-sized family room.

12 So, again, we were able to shrink the square  
13 footage, eliminate some of the elevation that blocks views,  
14 and still satisfy the program. So that's kind of how we  
15 ended up where we are.

16 SARAH RHATIGAN: And if you don't mind, if you  
17 could advance to page 11, just so folks can see the  
18 upstairs. These are the two bedrooms that we were referring  
19 to. You can see the projected setback line. We didn't  
20 focus on this one. We were looking at the site plan.

21 But the shape of this lot is really unusual. It  
22 has a jig jab in the back yard -- through the back yard.

1 And then additionally, there are some constraints that are  
2 unique and difficult for this property that are imposed  
3 because of the fact that this is -- although it's a single  
4 unit with minimal space that is exclusively this -- you  
5 know, attributed to this unit to work in, it has a deep lot  
6 that gets the extended rear yard setback calculations.

7 So instead of having a 20-foot setback, it has a  
8 25 -- or it has a -- we're requesting 25 -- a 25.9-foot  
9 setback would be conforming. And we're, you know, anything  
10 sort of extended off the rear of the lot beyond just a few  
11 feet is ending up sort of in the setback.

12 Could you advance to the next slide, please?

13 This is just showing the view of the addition from  
14 the rear.

15 Next slide?

16 This is the view from the condominium neighbor.

17 Next slide, please?

18 This is the view from the neighbor to the left  
19 side. And then the renderings are probably most helpful for  
20 discussing sort of how this is going to appear.

21 And then if you can show the next slide as well?

22 This is viewed from the rear.



1           And if you could go to page 19?

2           So there was -- I'm going to have Grady take this  
3 back again. You know, Board members, you're aware that  
4 there were concerns raised by the owners -- the Wu family,  
5 who I'm sure will be here and be able to express their  
6 concerns directly. But they're living in the white house,  
7 which is part of a condominium; a front unit and a back  
8 unit. They're in the front unit, which you can see in this  
9 image here.

10           So we did spend quite a bit of time. Part of the  
11 -- you know, the redesign effort was to try to respond to  
12 their concerns about views of Danehy Park, concerns about  
13 whether there would be impacts in terms of shadow.

14           And one of the things that's important to realize  
15 about this lot and about this area is that there are some  
16 quite large and beautiful trees that provide quite a bit of  
17 shade. And Grady, if you could just run through the shadow  
18 studies, which --

19           GRADY RAGSDALE: Certainly.

20           SARAH RHATIGAN: -- start at the next pages here.

21           GRADY RAGSDALE: Yeah. I mean, this slide here  
22 just shows kind of where the trees are, the height of the

1 trees. We showed one afternoon shot. We could start to see  
2 some shadows, and then morning. Just to give you an idea  
3 kind of where the sun is coming through, and the height of  
4 some of those trees.

5 You go to the next slide.

6 So this is the existing conditions. This is just  
7 -- tried to take a view of, you know, every three months.  
8 So January 1, July 1, October 1. I know that trees -- you  
9 know, deciduous trees have different, you know, conditions  
10 during the first of the year. But the goal was to kind of  
11 show, you know, typically at sunset, you know, what the  
12 impact is.

13 And you can see in early January, you know, the  
14 sun is going down basically behind it. So there is not much  
15 impact on neighboring properties for shade, at least to the  
16 southeast and west during the early months.

17 Into April, again, it's -- you know, around 4:30  
18 is when the sun starts to set. I can't see it on here, but  
19 there is -- the sunset is, but you can see that in April the  
20 trees are starting to fill out. The shadows are cast -- the  
21 building is casting a shadow on the neighbors, but kind of  
22 minimally. And mostly it's the trees shading the 26 Bellis.

1           You get into July, shadows later in the day.  
2       7:00, the shadows are getting longer. And the existing  
3       building is already casting shadows on the neighbors.

4           And then we have in October, again, it's starting  
5       to move back the other way. The trees are creating more of  
6       a shadow issue than the existing building.

7           So if you go to the next one, the next slide will  
8       show with the addition that's -- you know, there is --

9           Next one? There you go.

10          You know, the idea is in January, again, there's  
11       really minimal amount of shading that's affecting the  
12       neighbors. It's mostly the trees. As you get into April,  
13       you can see there at sunset there's a little bit of --  
14       before it gets behind the trees, there's a little bit of  
15       shadow on those buildings. July, again, it's much later in  
16       the day, but the shadows are much deeper.

17          But the existing building if you can kind of  
18       compare this to the previous slide, the shadows from the  
19       existing building are almost the same as what's on the -- in  
20       the addition.

21          And then, again, in October it's more an issue of  
22       what's going on with the trees, as the sun moves back, you

1 know, late in the day around -- you know, around the south  
2 part.

3 Really, the summer -- the late, late summer hours  
4 are probably the only time when the addition will be, you  
5 know, really affecting shadows onto the neighboring  
6 buildings.

7 And that's kind of what all of this was to show,  
8 you know, not that there's no impact, but the impact is, you  
9 know, minimal and just at certain times and certain, you  
10 know, times of the year.

11 Hope that makes some sense. If you have any  
12 questions, please --

13 CONSTANTINE ALEXANDER: Don't worry, we'll ask  
14 questions.

15 SARAH RHATIGAN: Yeah. Thank you. And if you  
16 could go to Slide #23, which is the site plan again. If you  
17 don't mind, thank you. Just send it to the -- if you don't  
18 mind, Zoom it out, actually, just to see the whole area.  
19 Thank you. That's great.

20 Just to, you know, briefly just talk about kind of  
21 the zoning technical parts. And then I want to go back to  
22 some of the process and the neighbors and the community.

1           So I talked about the depth of the lot, and how  
2 we've kind of got, you know, the -- we've got the difficulty  
3 of having a deeper required setback in the rear, which is  
4 the reason for the variance.

5           Technically, under the -- you know, the Bellalta  
6 standard as it's been now incorporated into the zoning  
7 ordinance, if this were just an increase in FAR, it's  
8 conceivable that this Board could grant relief for a special  
9 permit to allow for an addition if it were not sited within  
10 the setback.

11           And so there was some discussion among the team as  
12 to whether or not we should try to figure out how to kind of  
13 avoid violating the rear setback.

14           But in doing so, it was sort of pushing the mass  
15 of an addition further towards the neighbors, because we do  
16 have space further -- closer to the left lot line that would  
17 frankly be, you know, less desirable, we would think, to  
18 them.

19           And it didn't seem to be a meaningful change,  
20 particularly where in this instance the rear abutter is the  
21 city of Cambridge and lots and lots of trees and a culvert,  
22 and, you know, the rear setback intrusion doesn't -- you

1 know.

2 CONSTANTINE ALEXANDER: Sarah, I'm puzzled.

3 SARAH RHATIGAN: Yeah.

4 CONSTANTINE ALEXANDER: The first requirement for  
5 a variance is that a literal enforcement of the provisions  
6 of the ordinance would involve a substantial hardship --

7 SARAH RHATIGAN: Mm-hm.

8 CONSTANTINE ALEXANDER: I don't think it's the  
9 siting of your current structure on the lot in the rear is  
10 the substantial hardship you're trying to deal with, I don't  
11 think.

12 SARAH RHATIGAN: So.

13 CONSTANTINE ALEXANDER: I mean, it's not much of a  
14 --

15 SARAH RHATIGAN: Well, so the --

16 CONSTANTINE ALEXANDER: There's got to be other  
17 reasons.

18 SARAH RHATIGAN: The -- yeah. No, the -- what we  
19 have is it's kind of like a constellation of several things  
20 go on at once. And I describe it in the application a bit,  
21 and I'll just try to describe it to you briefly.

22 So the property was -- the petitioners purchased

1 the property as a new construction in 2005. And it was  
2 purchased with "basement livable space" --quote, unquote--  
3 of approximately 700 square feet in the basement.

4 The expectation was that they would be able to use  
5 the space, you know, for, you know, living purposes. And  
6 under best circumstances, you know, they might be able to  
7 modify that to create bedroom space. If this were, you  
8 know, a situation where the conditions weren't what they  
9 are.

10 But as they've lived in this property for 16 years  
11 with their children, who are getting larger and their space  
12 needs becoming greater, they've had water infiltration  
13 issues that two sump pumps have not been able to remedy. So  
14 with large rains, the water is -- you know, buckets being,  
15 you know, emptied out into sinks in the basement.

16 CONSTANTINE ALEXANDER: What troubles me, Sarah,  
17 is the fact that --

18 SARAH RHATIGAN: Yep.

19 CONSTANTINE ALEXANDER: The Bellis Circle area has  
20 a known water problem. It's just not particular to this  
21 lot. And I don't see anyone else having a problem with  
22 water. I'm sure it requires an investment to deal with it,

1 maybe it can't be done, but other people seem to have done  
2 it. Why can't --

3 SARAH RHATIGAN: I don't -- I'm not -- I'm sorry,  
4 Mr. Chairman I'm not sure that that's shown in the record.  
5 It looks like maybe one of the concerns of the abutters two  
6 over has a concern about water?

7 CONSTANTINE ALEXANDER: What? All I know is --  
8 as you know, we have letters -- letters plural, of  
9 opposition to the relief your client is seeking. And they  
10 don't seem to be sympathetic to the issue of water damage,  
11 or water problems in the basement. So I have to --

12 SARAH RHATIGAN: Right. I think that there's one  
13 letter that's not sympathetic to what I --

14 CONSTANTINE ALEXANDER: No, it's more than one  
15 letter, sorry.

16 SARAH RHATIGAN: Okay.

17 CONSTANTINE ALEXANDER: There's at least two. I  
18 haven't gone through the rest of the file. The second one  
19 is -- I'll just tell you that it's from Barbara Thomas and  
20 Timothy Wall, who reside at 14B Bellis Circle. And they are  
21 opposed. And they've dealt with the water issue in the  
22 area.



1           So I have to ask, if they could do it, why can't  
2 your client do it, or is there another reason why you're  
3 looking to do what you want to do? That's my question.

4           SARAH RHATIGAN: Well, I mean I think that there's  
5 --

6           CONSTANTINE ALEXANDER: I don't mean to suggest --

7           SARAH RHATIGAN: Right.

8           CONSTANTINE ALEXANDER: -- duplicity here. I just  
9 want to understand the facts.

10          SARAH RHATIGAN: Okay. I certainly understand.  
11 And they're -- you know, I think that what -- hopefully what  
12 you'll see -- I'm hoping that we were able to persuade  
13 neighbors who wrote letters in support to also be able to  
14 attend this evening to, you know, voice their, you know,  
15 sort of character references.

16          But, you know, I think that there is not duplicity  
17 going on here. They're trying to -- these folks are trying  
18 to solve a problem.

19          And the, you know, without getting into details  
20 of, like, how one could engineer creating the space that  
21 they need in the basement, you know, the addition is the  
22 solution that was something that's been carefully, you know,

1 considered over time.

2           And in terms of the siting of it, one other thing  
3 I wanted to point out to you, to the Board, is that there's  
4 no way for this structure and on this kind of unique lot  
5 with the way the buildings are spaced so as to have the  
6 proper spacing between buildings.

7           There's no way to build up, because they can't  
8 increase the height of the structure. And there's no way  
9 for them to site an addition on any other side of the  
10 building.

11           They can't go to the front, because then they're  
12 violating a distance between buildings. They can't go to  
13 the other side where their current deck is located, because  
14 then the addition would be located in land that is exclusive  
15 use area that's not theirs, that they don't own or do not  
16 have control or rights of.

17           Or it would be in a parking area with some other  
18 improvements on it.

19           And so, you know, they were really trying to do  
20 the best they could to be able to stay in their home. I  
21 mean, they're not -- you know, this is a common, you know,  
22 you deal with these cases all the time, this Board does.

1           I think one of the things that is important for  
2 the Board to know as well -- obviously, I want a chance for  
3 you to be able to hear from, you know, from the neighbors.

4           But there was an effort from the very beginning to  
5 reach out to the neighbors, to the Wu family who lives next  
6 door to them back in the spring, and that effort was met  
7 with absolute resistance to discussion. So there was no  
8 willingness to be open to talking.

9           And that type of response of, "We are going to  
10 oppose you at any cost" has unfortunately continued. And  
11 there was some shouting in a yard and sort of difficult  
12 behavior that has been very difficult for my clients to be  
13 able to try to work directly with the Wus on a solution.

14           But they did make a lot of effort to reach out  
15 once they were aware that the owners two over from them had  
16 concerns about water and views.

17           And there were some discussions over the period of  
18 a month. And frankly, they were quite surprised when this  
19 revised addition wasn't met with approval, because they  
20 thought that the direction they were going in was consistent  
21 with conversations that they had.

22           And there had been quite a bit of effort put in to

1 trying to do this redesign to address those concerns,  
2 because it cut off, you know, a big corner of the addition  
3 to improve, you know, neighbors' views, and, you know, they  
4 thought that they had been really going in a good direction.

5 So, and the other thing I will point out -- and  
6 again, hopefully there will be people who have been able to  
7 attend tonight to be able to actually speak directly on  
8 this, but -- they do have the support of really all the  
9 other neighbors, who are in this general vicinity, and have  
10 been long-standing, you know, good neighbors for everyone  
11 there.

12 The -- just a few other things I wanted to point  
13 out on the hardship. So we have a combination of the soil  
14 conditions and the water infiltration in the basement,  
15 needing to find a solution to trying to essentially  
16 compensate for loss use space.

17 The complex zoning of the -- that's resulting in a  
18 larger required rear setback, and yet inability to have an  
19 increase front yard area, because they're building a set  
20 behind another yard -- another building.

21 And additionally this jagged rear yard that --  
22 rear yard line which results in a very sort of strange-

1 shaped rear yard setback that, you know, further contributes  
2 to the difficulty of finding a way to site an addition that,  
3 you know, conforms with the setbacks.

4 CONSTANTINE ALEXANDER: Is that it for the  
5 presentation?

6 SARAH RHATIGAN: That is.

7 CONSTANTINE ALEXANDER: The reason I ask is I want  
8 to open the matter up to questions from my fellow Board  
9 members, but I don't want to do that until you're finished.

10 SARAH RHATIGAN: I am. And I would just ask if --  
11 I know you usually do allow people to respond after there's  
12 been -- you know, further discussion. I'm just anticipating  
13 that there may be -- you know, things that we'd like to  
14 respond to after the public comment period.

15 CONSTANTINE ALEXANDER: I'm sorry. I just didn't  
16 catch everything you said.

17 SARAH RHATIGAN: Oh. I said I'm just -- I'm  
18 expecting and hoping that we would have an opportunity to  
19 respond after there was some public comment received?

20 CONSTANTINE ALEXANDER: Oh, yeah.

21 SARAH RHATIGAN: As usual. Yep, thank you.

22 CONSTANTINE ALEXANDER: Okay. Brendan, any

1 questions?

2           BRENDAN SULLIVAN: [Brendan Sullivan] yes, a  
3 comment. When I look at a development -- say a townhouse  
4 development, this is a condominium development -- and it  
5 comes back before us some years after it was built, I sort  
6 of look at -- I'm not totally convinced of the need to  
7 expand upon it.

8           The townhouse ordinance allows you some liberties,  
9 and we always find that the townhouse developer usually goes  
10 write up to the line with what he's allowed to do at the  
11 time, so that he doesn't get any -- have to come down before  
12 us.

13           Same way with this particular development here,  
14 which is a condominium development and again has all of the  
15 nuances of that. But that then again allows them to build  
16 what they build and not have to come down to us for this  
17 relief.

18           And, you know, there's a whole different set of --  
19 there's a different set of standards for both of those type  
20 of developments. And I'm not totally convinced on the  
21 hardship and why you can't make existing space. I know it's  
22 in the plan; that it is showing that you have an office

1 there, a family room, storage and a laundry in the basement.

2 So it appears to be usable. It may not be ideal;  
3 it may not be the size that you wish, but, you know, that's  
4 sort of what you purchased. And times change, and  
5 circumstances change.

6 But, you know, you're seeking relief from the  
7 ordinance. Some of the abutting neighbors are seeking the  
8 protection of the ordinance. And they're asking us, there  
9 is an ordinance in place, and to approve it. And in reading  
10 their letters -- and I feel that they do have some very  
11 legitimate concerns for the impact with this particular  
12 development.

13 So those are my thoughts.

14 CONSTANTINE ALEXANDER: Thank you. Jim, do you  
15 have any questions you want, or comments you want to make?

16 JIM MONTEVERDE: I do. A comment. Just on  
17 looking at the revised floor plan, and also the previous  
18 floor plan, the second floor in particular, if the goal is  
19 to add one bedroom, I think I heard Sarah say that it was  
20 impossible to do that within the lot lines.

21 But I'd be interested to see it. Because really  
22 the -- you know, the plan in front of us takes away one of

1 the bedrooms to create not just a passage to the new  
2 bedroom, but also that kind of warren (sic) of closet space.

3 So I'd just be curious if you had a study that  
4 showed that you could not achieve that within the lot line.  
5 I'd be curious to see it.

6 CONSTANTINE ALEXANDER: You want to respond to  
7 that comment or not? It's up to you.

8 SARAH RHATIGAN: Grady, would you be able to  
9 assist on that?

10 GRADY RAGSDALE: Sure. I think, you know, there's  
11 -- you know, there's obviously minimum property standards.  
12 But, you know, every bedroom needs a -- you know, a window,  
13 a closet.

14 If you were to try to stay inside those lot lines  
15 and create two bedrooms and get from the hallway back to a  
16 bedroom that's in that back space, I think you'd end up  
17 with, like, an eight-foot, you know, an eight-foot bedroom -  
18 - eight-foot wide or less, probably the width of that  
19 closet, in order to get yourself back to a space.

20 So, you know, you would have to -- and then you'd  
21 have to try to get two closets in that space as well.

22 So we haven't looked at it. You know, certainly



1 if we push ourselves back towards the -- back to the  
2 projected setback lines in both directions, you know, it may  
3 be possible. But I think doing that, we're just, you know,  
4 pushing the building and addition closer to the neighbors.  
5 And we're trying to be sensitive to that.

6 So it may be possible. But it's -- again, I don't  
7 think it -- it might save square foot (sic) and keep us  
8 within the proposals, but it doesn't -- that doesn't in  
9 particular address some of the concerns of the neighbors.  
10 But I think -- not to speak for Tom and Mary, but I think  
11 it's something we want to look at.

12 JIM MONTEVERDE: Okay. If it were within the  
13 property line, that back rear property line, would you then  
14 be able to do this as-of-right?

15 SARAH RHATIGAN: No. It would be --

16 JIM MONTEVERDE: Would you still need --

17 SARAH RHATIGAN: A special permit.

18 JIM MONTEVERDE: Okay.

19 SARAH RHATIGAN: It would be a special permit  
20 standard, yeah.

21 JIM MONTEVERDE: Yep. And then your Bellalta  
22 would apply and --

1 SARAH RHATIGAN: Correct.

2 JIM MONTEVERDE: You're in a different world?

3 SARAH RHATIGAN: Yeah.

4 JIM MONTEVERDE: Yeah. Okay. Thank you.

5 SARAH RHATIGAN: Correct.

6 JIM MONTEVERDE: Thank you.

7 CONSTANTINE ALEXANDER: Andrea? Do you have any  
8 questions or comments?

9 ANDREA HICKEY: Yes. I have a couple of questions  
10 and one comment. I'll start with a comment first. I'm sort  
11 of leaning toward my colleague, Mr. Monteverde's -- I don't  
12 know if it was a suggestion, but his query. I'd much rather  
13 see this before us as a special permit case under Bellalta  
14 versus a variance as presented. So that is my comment.

15 I'd like to ask Counsel, so this is a four-unit  
16 condo. And we know that -- if I understood correctly, one  
17 of the other unit owners objects. What about the other two  
18 unit owners?

19 SARAH RHATIGAN: No, I'm sorry Andrea -- I'm  
20 sorry, Ms. Hickey --

21 ANDREA HICKEY: That's all right. It's fine.

22 SARAH RHATIGAN: No -- sorry about that. There

1 are all of the condominium unit owners are in support of the

2 --

3 ANDREA HICKEY: Oh, okay.

4 SARAH RHATIGAN: -- application. And they have  
5 submitted a letter of support.

6 ANDREA HICKEY: Okay.

7 SARAH RHATIGAN: There is -- yeah. And there was  
8 -- at one point there was a suggestion in a previous letter  
9 of opposition I believe that there was opposition from  
10 condominium members --

11 ANDREA HICKEY: Right, right.

12 SARAH RHATIGAN: -- which was not, which was not  
13 true.

14 ANDREA HICKEY: Right.

15 SARAH RHATIGAN: And I'm not sure why that was  
16 claimed. But we went back to everyone and checked to make  
17 sure, and it's our understanding that everyone is still  
18 supportive of the plan.

19 ANDREA HICKEY: All right. That goes a long way  
20 with me, if everyone in this sort of contractual community  
21 is okay with it. That carries a lot of weight with me.  
22 Now, Counsel, you mentioned that it wouldn't be possible to

1 do some sort of addition in the area of the deck. Did I  
2 hear that or not?

3 SARAH RHATIGAN: That's correct in the sense of if  
4 they were to essentially shift the existing addition over to  
5 the other side --

6 ANDREA HICKEY: Right.

7 SARAH RHATIGAN: Because if we look at -- let's  
8 see, could we go to the site plan, which is page -- down  
9 towards the bottom -- and I know that the Master Plan for  
10 the condominium is part of our submission. I didn't include  
11 it in this package here. So I --

12 ANDREA HICKEY: I'm looking at it.

13 SARAH RHATIGAN: -- I'm sorry, I don't --

14 ANDREA HICKEY: I have it.

15 SARAH RHATIGAN: Okay.

16 ANDREA HICKEY: I printed it.

17 SARAH RHATIGAN: So my -- oh, okay, great. So my  
18 recollection, and from walking the site is that it's  
19 something like the exclusive use area for the unit that's  
20 number 25 starts something like maybe five feet off of the  
21 back corner of the other side of the structure. And if  
22 you're looking at the Master Plan, you probably can see that

1 dimension better than I can.

2 GRADY RAGSDALE: I'd also like to mention if I  
3 could that that rear setback, since it does come at an angle  
4 --

5 ANDREA HICKEY: Mm-hm.

6 GRADY RAGSDALE: The closer you get to that side  
7 of the building where the porch is, the more you're going to  
8 be into that --

9 ANDREA HICKEY: I get that.

10 GRADY RAGSDALE: -- rear setback.

11 SARAH RHATIGAN: Oh, yeah, that is true. And I'm  
12 sorry, the Master Plan I'm looking at actually doesn't -- it  
13 doesn't call out the dimension of how far it is off of the x  
14 exclusive use area.

15 ANDREA HICKEY: Mm-hm.

16 SARAH RHATIGAN: But on a site walk, there's a  
17 nice, wooden fence around the exclusive use yard area there.  
18 And there's a gate that is, you know, I'm guessing maybe  
19 four feet wide. So I think that the exclusive use yard  
20 area, at least as it's used, is four feet off of the -- off  
21 of the back corner.

22 ANDREA HICKEY: Okay, I'm --

1 SARAH RHATIGAN: Another one runs along the house.

2 ANDREA HICKEY: Yeah. I'm not taking that away  
3 from my review of the condo site plan, but I guess we can  
4 leave that alone for now.

5 Counsel, how high are the ceilings in the  
6 basement? Do you know, roughly?

7 SARAH RHATIGAN: Ooh.

8 ANDREA HICKEY: Is there any reason other than  
9 sort of water infiltration, which they're typically if you  
10 throw enough money at it is a way to deal with that. Is  
11 there any other reason why the basement wouldn't be suitable  
12 for additional living area?

13 SARAH RHATIGAN: This is where Grady and the  
14 client should step in. I have my subjective experience of  
15 it, which is that it felt very cramped, but -- and the water  
16 issues are significant and have been -- they've been trying  
17 to address them with sump pumps ineffectively.

18 Grady, do you recall?

19 GRADY RAGSDALE: Yeah. Also part of the program  
20 is, you know, Tom and Mary have parents who are going to be  
21 coming to live with them.

22 And we wanted to find someplace other than the

1 basement that a) they could get to as a, you know, living  
2 space, public space; but also a little bit more, you know,  
3 within the family, you know, level as opposed to trying to  
4 put them into a basement.

5 So, you know, the -- you know, the aging in place  
6 factor -- you know, the elderly factor was something that  
7 was in the program that we wanted to address and be  
8 sympathetic to that. So that's another reason why building  
9 an addition was more, you know, desirable than, you know,  
10 trying to get something -- living space in a basement.

11 ANDREA HICKEY: And that's all I have.

12 SARAH RHATIGAN: Mary and Tom, do you have a --  
13 oh, okay.

14 ANDREA HICKEY: I will yield, Mr. Chair.

15 CONSTANTINE ALEXANDER: Okay. Thank you, Andrea.  
16 Wendy, do you have any questions or comments you want to  
17 make at this point?

18 WENDY LEISERSON: I do. So I was gratified to  
19 hear the questions that were brought up by my colleagues. I  
20 did want some more clarity about the plan. So I see on the  
21 second floor -- the original plan -- well, first actually  
22 let me start with the square footage.

1 I'm looking at Exhibit C to the condo documents.  
2 And it says, I believe, that this unit is 1645 square feet.  
3 And I wanted to ask you about that, because I wanted to ask  
4 whether the 1400 that you cited earlier included the  
5 basement square footage, or is that a reallocation of the  
6 square feet?

7 GRADY RAGSDALE: No. That does not include the  
8 square footage.

9 SARAH RHATIGAN: And that's for -- because it does  
10 not -- it does not qualify as gross floor area for the  
11 ordinance.

12 WENDY LEISERSON: Okay. And then --

13 SARAH RHATIGAN: Yeah.

14 WENDY LEISERSON: -- but so the correct figure,  
15 would that be Exhibit C? Which would mean --

16 SARAH RHATIGAN: No, the correct, the preferred --

17 GRADY RAGSDALE: Did you say 16?

18 WENDY LEISERSON: "C" as in Cambridge. Sorry.

19 SARAH RHATIGAN: So the correct number in terms of  
20 the square footage of the existing unit is -- when we were  
21 asked that question, or when I was asked that question, I  
22 was thinking of gross floor area as defined in the



1 ordinance.

2 WENDY LEISERSON: Okay.

3 SARAH RHATIGAN: But if you add the basement, the  
4 basement is, you know, that additional square footage  
5 number.

6 WENDY LEISERSON: Okay.

7 SARAH LEMKE: So the condominium document number  
8 is -- should be accurate.

9 WENDY LEISERSON: Okay. Although it doesn't  
10 explain the numbers, I think. Because you -- I think in  
11 your statement you say there are 700 square feet in the  
12 basement? So that's different than what we're talking about  
13 here.

14 SARAH RHATIGAN: I think -- I think that that may  
15 include -- I apologize. I'm actually not sure what the --

16 GRADY RAGSDALE: Yeah, I'm looking at the con --

17 SARAH RHATIGAN: So I would have to look at my  
18 notes.

19 GRADY RAGSDALE: I'm looking at the condo docs  
20 here. It says, "Unit 26 first-floor area 728, total unit  
21 area 1488." That's where we pulled our numbers from.

22 WENDY LEISERSON: Okay. I'm not sure what I'm

1 looking at with Exhibit C then, but that's fine. So I just  
2 wanted to clarify about the basement.

3 GRADY RAGSDALE: Sure.

4 WENDY LEISERSON: The larger number would actually  
5 have, I thought, helped your case because you wouldn't be  
6 expanding it more than you are, you'd be expanding it less,  
7 percentagewise.

8 But in any event, okay, thank you for clarifying  
9 that. And I wanted to know also, so in the statement of  
10 what the hardship is, we get the water damage point you've  
11 made, but you also say about the elderly issue as one reason  
12 for your hardship.

13 But you say there that you need one additional  
14 bedroom. And the plan that you proposed is planning for two  
15 additional bedrooms. And so I'm wondering if the hardship  
16 is related to what you have in your petition, which is to  
17 help the aging parents move in, why you need the two  
18 bedrooms up top?

19 And how would going down to one bedroom be a  
20 hardship? Because that could also reduce your impact on the  
21 neighbors and the setback.

22 GRADY RAGSDALE: Can I answer that?

1 SARAH RHATIGAN: I was going to ask you to.

2 GRADY RAGSDALE: Yeah.

3 SARAH RHATIGAN: Yeah, Grady.

4 GRADY RAGSDALE: Yeah. There -- right now there's  
5 a master bedroom and two bedrooms for two daughters. In  
6 order to get back to that space, as you can see in the  
7 second-floor plan, we need to have closet space. We  
8 actually lose a bedroom in the process getting hallways and  
9 closets back.

10 So we are adding two bedrooms, but in this case,  
11 we're losing the bedroom. So basically with the linen  
12 closet, that all is one bedroom right now that you access,  
13 you know, from the main hallway right off the bathroom.

14 So the idea was to -- in order to keep the  
15 addition as small as possible to locate all the closets kind  
16 of within the volume of the former bedroom. So that's --  
17 it's two new bedrooms, but we're losing one in the process.

18 WENDY LEISERSON: I see. Okay. Thank you for  
19 explaining that to me too.

20 And then I also, like my colleagues, would be  
21 interested to understand how relocating the addition nearer  
22 where the deck is would also be a problem for you?

1 Especially if you were condo mates have no objections, but  
2 other neighbors do.

3 I wonder about the -- you know, alleviating the  
4 impact on the neighbors that do object, versus the condo  
5 mates who don't. So I would definitely like to see that  
6 submitted.

7 And then I think my other questions have been  
8 raised by my colleagues. Thank you.

9 CONSTANTINE ALEXANDER: Thanks, Wendy. I have  
10 nothing to add at this point. I've already asked my  
11 questions and made my comments during the course of Sarah's  
12 presentation.

13 So I will now open the matter up to public  
14 testimony. Any members of the public who wish to speak  
15 should now click the icon at the bottom of your Zoom screen  
16 that says, "Raise hand."

17 If you're calling in by phone, you can raise your  
18 hand by pressing \*9 and unmute or mute by pressing \*6.  
19 We'll take a moment to see if there are any public questions  
20 or commentary.

21 SISIA DAGLIAN: Leah Kerr?

22 LEAH KERR: Hi there. Can you hear me?

1           CONSTANTINE ALEXANDER: Yes.

2           LEAH KERR: Okay. My husband and I live at 27  
3 Bellis Circle -- Adam and Leah Kerr -- and we are condo  
4 mates on that property, and we live here with our three  
5 children. And we're in support of the project.

6           But I think what I can speak to is the water issue  
7 and the basement being -- I mean, I know you can throw a lot  
8 of money at it, but it -- very low ceilings, number 1.

9           I don't know if we said how high the ceilings  
10 were, but it's definitely not a place that you would want to  
11 put any of your parents. There is utilities and storage.

12           And I watch Mary and Tom's home when they go visit  
13 Mary's parents or go on vacation, and more than one time  
14 that I checked the basement, because you have to check the  
15 basement every time I'm watching the house, because  
16 inevitably there's going to be water.

17           We have the same -- I mean, this whole area has  
18 that problem, but for some reason their home in particular  
19 with the windows in the basement, there are so many ways for  
20 the water to get in. And so I think that's my biggest --  
21 why I am in support of putting the addition on.

22           And they're just -- they're great neighbors. I

1 know that there's a couple neighbors that aren't in support  
2 of it, but it's -- you know, they're --

3           CONSTANTINE ALEXANDER: Hello? I think we lost  
4 you. What happens to the sound?

5           LEAH KERR: Do you have any questions?

6           CONSTANTINE ALEXANDER: Thank you for taking the  
7 time to speak to us tonight. Anyone else wish to speak?

8           SISIA DAGLIAN: Nicola Barna?

9           NICOLA BARNA: Hi. Can you hear me?

10          CONSTANTINE ALEXANDER: Yes, we can hear you.

11          NICOLA BARNA: Okay. I don't know how to come to  
12 my camera. So my name is Nicola Barna. I live at 29 Bellis  
13 Circle, which is just on the other side of the condo  
14 association.

15                 And I would like to say that my husband, Dudley  
16 Wyman and I, are in full support of Mary and Tom's project.  
17 You know, I think they've been on the street since 2005.  
18 We've been on the street since 2004, and they've been really  
19 central members to the neighborhood, you know, contributing  
20 to the way that the neighborhood operates, supporting each  
21 other. Really, really just important to the kind of  
22 community that I think we all find very important in

1 Cambridge.

2 I've met their parents. I've met Mary's Mom quite  
3 a bit, and we completely support the idea of trying to build  
4 an aging in place environment for families.

5 You know, I think having all of us lived through  
6 the pandemic, or living through the pandemic, I think these  
7 are these times when I think family becomes so important.

8 So just again, a huge amount of support from our  
9 family, my husband and I, and I just hope that the Zoning  
10 Board approves this. Thank you.

11 CONSTANTINE ALEXANDER: Thank you for taking the  
12 time to comment. Anyone else?

13 SISIA DAGLIAN: Erwin Ramos?

14 [Pause]

15 SISIA DAGLIAN: Erwin Ramos?

16 ERWIN RAMOS: Yes. Can you hear me?

17 CONSTANTINE ALEXANDER: Yes. Now we can.

18 ERWIN RAMOS: Okay. Yes. My name is Erwin Ramos.  
19 And I'm a good friend of Mary and Tom. And my kids and  
20 their kids go to the same school in St. Peters. And I've  
21 known them for 15 years. And I also live in the  
22 neighborhood, 41 Concord Ave.

1           And I can say that I -- they are very good people  
2 in the community. And I also know, because I've also been  
3 in their house a lot of times, and I can see that the place  
4 is a little bit cramped. And we usually just stay outside,  
5 because the house is pretty small.

6           And I also know their parents. And they frequent  
7 through the house. And I'm sure they need also an extra  
8 room for that. And that's all I'm can say.

9           CONSTANTINE ALEXANDER: Okay. Thank you. anyone  
10 else?

11          SISIA DAGLIAN: Michael Siegell?

12          MICHAEL SIEGELL: Hello?

13          CONSTANTINE ALEXANDER: Hello.

14          MICHAEL SIEGELL: Oh, hi there. So I live at 33  
15 Bellis Circle, a little bit away but not far as the crow  
16 flies. I wrote a letter of support of this project in its  
17 first version, and I feel even more supportive of the  
18 project, given the accommodations that they've made in their  
19 design, to try to allay some of the concerns of two  
20 neighbors.

21                 I want to say that I've lived on Bellis Circle  
22 since 1980. I think I'm the longest-standing resident. And



1 I have seen tons of projects happen on this street, and the  
2 population has more than tripled. And I've been before this  
3 Board many times -- mostly in opposition of projects and  
4 building.

5 But this is one of the few where I'm very  
6 enthusiastically in favor. And the reason being, who these  
7 people are. They are anchors of the community. They've  
8 been with us for 16 years, and they've made a commitment to  
9 stay longer. And to me, that matters tremendously, who the  
10 players are.

11 I mean, Zoning doesn't look at individuals, but  
12 these are individuals who are looking for, in my view, a  
13 very modest change that will help them to stay in the  
14 community even longer, which we all care about, and will  
15 actually increase their footprint humanistically, you know,  
16 as players.

17 I just have to say one other thing about the  
18 basement, because the Chairman, you made some comment about  
19 the water problems. We built our house here in 1993 on  
20 Bellis Circle. We put a massive amount of money to try to  
21 mitigate the horrible water problem on Bellis Circle. We  
22 have lived through two major floods in our basement, one of

1     them which cost more than \$40,000. This is the great flood  
2     of the late '90s in Bellis Circle and elsewhere in  
3     Cambridge; and in the 2000s another one, costing us tens of  
4     thousands of dollars.

5             Every single person who lives in the perimeter of  
6     Bellis Circle closest to Danehy Park not only knows about  
7     the perennial water problem, but has experienced lots and  
8     lots of problems with it.

9             We have two sump pumps. We have a massive French  
10    drain construction. Other people are constantly trying to  
11    tweak the water situation in their basements, whether  
12    they're lived in or not.

13            So there's no question at all -- I've been in  
14    their house -- that it's not really livable space. And it's  
15    a tremendous hardship to try to force the parents to go down  
16    there.

17            So in the end, I just want to say Tom and Mary are  
18    huge assets to the community. They are -- we applaud their  
19    desire to stay. And the objections of some of the  
20    neighbors, I don't want to get personal here, but these are  
21    not people who have been with us long, and they've stated  
22    publicly that they're not going to stay long. And I think

1 that matters.

2 So those are my comments. And thank you for your  
3 time.

4 CONSTANTINE ALEXANDER: Thank you for taking the  
5 time.

6 MICHAEL SIEGELL: Sure.

7 SISIA DAGLIAN: Timothy Wall?

8 TIMOTHY WALL: Okay. This is Tim Wall and my  
9 wife, Barbara Thomas, is here. So we've written a letter  
10 expressing our concerns. In the previous pictures, ours is  
11 the blue house seen in between the adjacent condos. We  
12 received the update yesterday -- the updated plans yesterday  
13 afternoon. So really haven't had the time to look or  
14 evaluate at that.

15 We've here since the year 2000, in terms of  
16 context, at which point there were no condos or anything  
17 stretching out that side of the house. So we've  
18 progressively seen that area get populated down to where  
19 there's no open space anymore.

20 We've seen all the water problems that have  
21 happened over the past few years -- well, since 2000.  
22 Several flooding instances.

1 I actually looked at the property -- Tom's  
2 property -- as it was being built, both theirs and the one  
3 in front of it; the basement, not even originally being  
4 allocated as livable space was -- had its height reduced  
5 even further as more concrete was poured over the existing  
6 basement, either due to flooding issues or cracks in the  
7 foundation.

8 So I would agree that yeah, I don't think anybody  
9 would want to live down there. I had made a -- we went over  
10 to Tom and Mary's at one point, and to understand what was  
11 going on.

12 I had made the suggestion as one of the Counselors  
13 did -- of moving the addition to the other side of the  
14 house, which I -- you know, anything coming out the back of  
15 the house is going to protect our view. But it would be  
16 less so to move to the other side.

17 I figured that would probably make it entirely  
18 invisible to the neighbors that have the most objection.

19 But one of our big concerns is that -- you know,  
20 as properties have been built around the Circle, the  
21 groundwater situation has gotten much worse. We had put in  
22 a storage shed, a small storage shed that was below ground

1 level, but at the time did a test of what the highwater mark  
2 would be after rains. So we were above that.

3 It -- you know, the high water now, you know, any  
4 sort of heavy rain sort of results in that sunken area for  
5 the shed turning into a swimming pool.

6 And, you know, pictures of that are in the -- I  
7 believe the overall review packet.

8 So do you have anything else to add, Barbara?

9 BARBARA WALL: We are at this point having to  
10 consider the hardship of redoing our whole back yard because  
11 of this continued flooding.

12 TIMOTHY WALL: So we will likely have to do some  
13 additional landscaping to address the shed issue. But  
14 that's our cross to bear. I don't have anything else to  
15 add.

16 CONSTANTINE ALEXANDER: Help me for a second. Are  
17 you in favor of granting relief? Not in favor, or are you  
18 on the fence? I can put it that way. I don't mean to be  
19 sarcastic.

20 TIMOTHY WALL: Yeah. I would say on the fence. I  
21 mean --

22 CONSTANTINE ALEXANDER: Okay.

1           TIMOTHY WALL: There may be something that can be  
2 done that --

3           CONSTANTINE ALEXANDER: Okay. Thank you.

4           SISIA DAGLIAN: Kate Childs?

5           KATHRYN CHILDS: Hello? Hello? Hello. Can you  
6 hear me?

7           CONSTANTINE ALEXANDER: Yes, we can hear you.

8           KATHRYN CHILDS: Okay, great. Hi. My name is  
9 Kathryn Childs. My husband, Stuart Kane and I, live at 24  
10 Bellis Circle, and we are Tom and Mary's closest immediate  
11 abutters, as fellow condo units owners.

12                   And we're just here to voice our full support for  
13 their project and their petition for variances, which we  
14 view as minimal. We feel their addition is well-designed,  
15 sensitively sited and proportional to the size of their  
16 exclusive use area.

17                   In fact, I feel that the area of our -- the lot on  
18 which our four units are located -- is arguably one of the  
19 least densely developed areas of the whole neighborhood.  
20 Most of the houses are very close together, with very little  
21 open space.

22                   In any event, we believe that their addition would

1 have no negative impacts on the interests protected by the  
2 zoning code, and it will enhance the quality of the  
3 neighborhood. Thank you.

4 CONSTANTINE ALEXANDER: Thank you. Anyone else?  
5 That's it. No one else wishes to speak? So I will close  
6 public testimony. And we'll go and we'll talk about --  
7 well, the Board will, about what --

8 SARAH RHATIGAN: Excuse me, Mr. Sullivan -- I'm  
9 sorry, "Mr. Sullivan." Mr. Alexander, sorry.

10 CONSTANTINE ALEXANDER: I'm sorry. Go ahead,  
11 Sarah.

12 SARAH RHATIGAN: I was -- I apologize. There was  
13 an additional neighbor who had been trying to join the  
14 meeting, but she was offsite, and she just texted my client  
15 at some point to tell us that her phone was dying. But she  
16 had submitted a letter to the Board very late today. And I  
17 have a copy of the letter, and I wanted to ask if I could  
18 just read it briefly into the record?

19 CONSTANTINE ALEXANDER: What letter is that? Who?  
20 I'm sorry, what's the name of your --

21 SARAH RHATIGAN: The name of this neighbor -- and  
22 it's an important neighbor just in terms of, you know, the

1 situation in terms of where the neighbor is located. The  
2 neighbor is immediately to the left of us, but located  
3 towards the rear. It's at 16 Bellis Circle. And the  
4 owner's name is Erica J. Bial, B-i-a-l.

5 CONSTANTINE ALEXANDER: Oh, yes. We have -- the  
6 letter is in our file.

7 SARAH RHATIGAN: You do have that letter?

8 CONSTANTINE ALEXANDER: Oh, yes.

9 SARAH RHATIGAN: Okay. And if --

10 CONSTANTINE ALEXANDER: I don't think you need to  
11 read it. We do have it.

12 SARAH RHATIGAN: Okay. You believe that Board  
13 members did receive it? Because it was very late this  
14 afternoon that the letter, I believe, arrived.

15 CONSTANTINE ALEXANDER: Okay.

16 SARAH RHATIGAN: I'm sorry.

17 CONSTANTINE ALEXANDER: It's a long letter.

18 Really, we have had a long session in this case. It's  
19 almost --

20 SARAH RHATIGAN: I agree.

21 CONSTANTINE ALEXANDER: -- the case --

22 SARAH RHATIGAN: If you don't mind, I just wanted



1 to point out that this is the neighbor who is probably the  
2 most impacted in terms of being located the closest to the  
3 addition. And she really provides a very, very -- what I  
4 consider a very strong letter of support of the addition.

5 CONSTANTINE ALEXANDER: I would just comment --  
6 and as you well know, Sarah -- that Zoning decisions are not  
7 a popular vote. The fact that most of the --

8 SARAH RHATIGAN: No, it's --

9 CONSTANTINE ALEXANDER: -- most of them are for  
10 something doesn't mean we would grant relief. Similarly, if  
11 a majority of the neighbors oppose something, doesn't mean  
12 we're going to deny relief. So -- but we do read the  
13 letter.

14 SARAH RHATIGAN: Certainly. Understand that. But  
15 the facts in the letter I think are also very helpful, in  
16 that they're -- she's in a position to be able to describe,  
17 you know, the fact that there aren't going to be impacts on  
18 lights and views, et cetera.

19 But if -- I don't mean to take up your time. I  
20 understand if you have the letter that's great.

21 CONSTANTINE ALEXANDER: Yes, we do.

22 SARAH RHATIGAN: We appreciate you paying

1 attention to all that testimony.

2           CONSTANTINE ALEXANDER: Do you have any final  
3 comments before we go, the Board discusses the merits of the  
4 case?

5           SARAH RHATIGAN: No, I don't think so. Thank you.

6           CONSTANTINE ALEXANDER: Okay. Thank you. All  
7 right. Now we're back to the case itself. Brendan, do you  
8 have any -- well, we can --

9           BRENDAN SULLIVAN: Yeah, [Brendan Sullivan] --

10           CONSTANTINE ALEXANDER: I'll make a motion to  
11 grant relief. And then in that context of that, we can have  
12 a discussion and people can say yes or no when we get to  
13 taking the vote.

14           So I -- the Board -- so the Chair moves that we  
15 make the following findings: That a literal enforcement of  
16 the provisions of the ordinance would involve a substantial  
17 hardship, such hardship being is that the petitioner is in  
18 need of additional living space -- the petitioner and family  
19 -- additional living space, and are restricted in their  
20 ability to create it given the shape of the lot.

21           That the hardship is owing to basically the soil  
22 conditions and the water problem that seems to be endemic to

1 the Bellis Circle area. Although the finding would have to  
2 be that it especially affects this lot, and not the  
3 generally the zoning district in which the lot is located.

4 And that relief may be granted without substantial  
5 detriment to the public good, or nullifying or substantially  
6 derogating from the intent or purpose of this ordinance.

7 And on the basis of all of these findings, the  
8 Chair moves that we grant the variance requested on the  
9 condition that the work proceeds in accordance with plans  
10 submitted by the petitioner and prepared by New England  
11 Design and Construction dated September 19, 2021.

12 All right, that's -- you have it on the table?  
13 I'm sorry, now, Brendan. Do you want to --

14 BRENDAN SULLIVAN: [Brendan Sullivan] Yeah, I would  
15 not support the motion to grant the relief in the latest  
16 submittal. But I would like to explore the thought that Jim  
17 had as to whether or not they could possibly come back with  
18 a different iteration seeking a special permit, and would  
19 entail a redesign. So that's my comment.

20 CONSTANTINE ALEXANDER: And this, are you in favor  
21 of granting relief?

22 BRENDAN SULLIVAN: I would not be in favor of

1 granting relief for the --

2 CONSTANTINE ALEXANDER: For a variance?

3 BRENDAN SULLIVAN: -- for the variance on the --

4 CONSTANTINE ALEXANDER: Got it.

5 BRENDAN SULLIVAN: -- current proposal before us.

6 CONSTANTINE ALEXANDER: Okay. Jim Monteverde?

7 JIM MONTEVERDE: [Jim Monteverde] I would not be in  
8 favor of granting the variance, as it's stated. I would  
9 concur with Brendan that I would suggest they prepare a  
10 scheme that attempts to keep within the property line and be  
11 able to do it as a special permit.

12 CONSTANTINE ALEXANDER: Let me just comment, as  
13 Sarah knows, with the two votes already we've heard against,  
14 relief will be denied. As a matter of law -- state law --  
15 you need four votes to get the variance.

16 Sarah, are you interested in continuing the case  
17 and dealing with Brendan's suggestion about a special permit  
18 or any other changes you might want to make in the project?

19 SARAH RHATIGAN: Yes. We will like to seek a  
20 continuance in order to be able to explore those options.

21 CONSTANTINE ALEXANDER: So Andrea and Wendy and  
22 myself will hold our tongues until we hear the next round of

1 this. How much time would you need/would you like? And  
2 then we'll see how our schedule works?

3 SARAH RHATIGAN: Do you think a month is  
4 sufficient?

5 GRADY RAGSDALE: We would need to --

6 CONSTANTINE ALEXANDER: I know you want to get  
7 going on this project, if you would get relief, but I would  
8 not push the envelope too tight. Take another two weeks,  
9 and I think you might be better served. But it's your call.

10 GRADY RAGSDALE: Yes.

11 BRENDAN SULLIVAN: [Brendan Sullivan.] Let me just  
12 walk along this path here. If you were to come back with  
13 another plan that would only require a special permit, then  
14 this proposal that is before us would not be acted on  
15 favorably, which means then they would have to come back  
16 with a refile.

17 CONSTANTINE ALEXANDER: I think what it means is  
18 that we would continue this case tonight. If they want to  
19 proceed with a special permit, they file a new application.

20 BRENDAN SULLIVAN: Right. It would be a refile  
21 for a special permit.

22 CONSTANTINE ALEXANDER: But --

1 SARAH RHATIGAN: That's correct, and then we would  
2 withdraw this. We could withdraw this application  
3 simultaneously with submitting a new application for a  
4 special permit.

5 BRENDAN SULLIVAN: Yeah.

6 SARAH RHATIGAN: Is that --

7 BRENDAN SULLIVAN: Basically what it does --

8 SARAH RHATIGAN: -- procedurally?

9 BILL SCOTT: -- it at least keeps this alive, and  
10 you don't run into the repetitive petition problem.

11 CONSTANTINE ALEXANDER: Okay. So you're going to  
12 withdraw your --

13 SARAH RHATIGAN: And consid --

14 CONSTANTINE ALEXANDER: -- application tonight for  
15 the variance, and when would -- and you're going to file a  
16 new application, a special permit, and that will be when it  
17 is?

18 SARAH RHATIGAN: Well, could I actually request  
19 just procedurally could we continue this case? Because I'm  
20 not --

21 CONSTANTINE ALEXANDER: Sure.

22 SARAH RHATIGAN: -- confident at this moment --

1           CONSTANTINE ALEXANDER: Sure.

2           SARAH RHATIGAN: -- that we're able to be able to  
3 -- you know, keep this. We will try very, very hard to be  
4 able to make this a special permit case, but --

5           CONSTANTINE ALEXANDER: No problem.

6           SARAH RHATIGAN: You know, we don't want --

7           CONSTANTINE ALEXANDER: I think you've going to  
8 continue it.

9           SARAH RHATIGAN: Yeah. We want to preserve the  
10 right to --

11          CONSTANTINE ALEXANDER: You probably --

12          SARAH RHATIGAN: -- come back to you to --

13          CONSTANTINE ALEXANDER: 2 months or something?  
14 Because you're going to presumably have something better  
15 than that. I don't want to continue it and you're not ready  
16 with your special permit --

17          SARAH RHATIGAN: Correct.

18          CONSTANTINE ALEXANDER: -- per the continuance.

19          SARAH RHATIGAN: So two months would be a hearing  
20 date of -- is it November 18?

21          CONSTANTINE ALEXANDER: It will be the end of  
22 November. It doesn't -- I'm throwing this out. I'm just --

1 there's no magic.

2           ANDREA HICKEY: Mr. Chair, it's Andrea Hickey  
3 speaking. Wouldn't the Building Department sort of set a  
4 date for a new application? It wouldn't be a continued  
5 date, correct?

6           CONSTANTINE ALEXANDER: The special permit would  
7 be a new case, and this case would continue as a continued  
8 case. And if we granted the special permit, obviously they  
9 would withdraw this.

10           ANDREA HICKEY: Understood. So it doesn't really  
11 matter when we're continuing the current case to, if that's  
12 not the case they're moving forward to?

13           CONSTANTINE ALEXANDER: No, I don't want to just  
14 keep continuing cases and cluttering up our docket.

15           ANDREA HICKEY: All right.

16           CONSTANTINE ALEXANDER: That's what I'm trying to  
17 get at.

18           ANDREA HICKEY: Understood.

19           SARAH RHATIGAN: Perhaps if we could continue for  
20 a month with the expectation that we'll withdraw the  
21 continuance as soon as we've submitted a special permit  
22 application?



1           CONSTANTINE ALEXANDER: I personally think a month  
2 is too short, because we'll have to continue it again, but  
3 I'm willing to do that. When is it, roughly a month from  
4 now?

5           SISIA DAGLIAN: Or --

6           CONSTANTINE ALEXANDER: October 21? Would a  
7 continuance to --

8           SARAH RHATIGAN: Okay, now --

9           CONSTANTINE ALEXANDER: -- October 21 --

10          SARAH RHATIGAN: Yeah, now I apologize, because I  
11 have a conflict that day. I can't. If we could -- what's  
12 the next hearing date? November 11?

13          SISIA DAGLIAN: November 4.

14          CONSTANTINE ALEXANDER: November 4 is the next.

15          SARAH RHATIGAN: November 4? Are -- that's okay  
16 with me. Grady, is that okay with you?

17          CONSTANTINE ALEXANDER: I've got to see if the  
18 other Board members can make --

19          SARAH RHATIGAN: Okay.

20          CONSTANTINE ALEXANDER: -- does anyone have a  
21 problem with November 4? People who are on the call  
22 tonight?

1 BRENDAN SULLIVAN: Brendan Sullivan no problem.

2 CONSTANTINE ALEXANDER: Jim?

3 JIM MONTEVERDE: [Jim Monteverde,] it works for me.

4 CONSTANTINE ALEXANDER: Okay. Andrea?

5 ANDREA HICKEY: Fine with me. I have another  
6 continued case that night.

7 CONSTANTINE ALEXANDER: [Laughter]

8 JIM MONTEVERDE: Yep. So do I.

9 CONSTANTINE ALEXANDER: And Wendy?

10 WENDY LEISERSON: Unfortunately, I do have a  
11 conflict for my daughter's schooling event.

12 CONSTANTINE ALEXANDER: You can't make November 4  
13 is what you're saying?

14 SARAH RHATIGAN: Okay, and our --

15 WENDY LEISERSON: Unless --

16 SARAH RHATIGAN: Mr. -- yeah, Mr. Ragsdale can't  
17 make it either. So, although he says he may be able to get  
18 someone else. But if we don't have all the Board members,  
19 we wanted rather not proceed on that night. So I think  
20 we're now back to two months.

21 CONSTANTINE ALEXANDER: So that would be -- what's  
22 the one after November 4?

1 SARAH RHATIGAN: Yeah, wait.

2 CONSTANTINE ALEXANDER: Eighteenth? November 18?  
3 Which is roughly two months from now. Let me go around.  
4 Brendan?

5 BRENDAN SULLIVAN: November 18 is fine with me.

6 CONSTANTINE ALEXANDER: Jim?

7 JIM MONTEVERDE: Jim Monteverde, that's fine with  
8 me.

9 CONSTANTINE ALEXANDER: Andrea?

10 ANDREA HICKEY: I'm checking. One second.

11 CONSTANTINE ALEXANDER: Okay.

12 ANDREA HICKEY: That looks okay for me.

13 CONSTANTINE ALEXANDER: Okay, and Wendy?

14 WENDY LEISERSON: As of this moment, it looks  
15 good. So I'll book it.

16 CONSTANTINE ALEXANDER: Sorry?

17 WENDY LEISERSON: I said I'll book it now while I  
18 can.

19 CONSTANTINE ALEXANDER: Okay.

20 WENDY LEISERSON: So yes. I can attend.

21 CONSTANTINE ALEXANDER: You're okay?

22 SARAH RHATIGAN: Okay. Thank you. We'll -- thank

1 you for taking the time.

2 CONSTANTINE ALEXANDER: Oh, we have to take a  
3 vote; don't go away.

4 SARAH RHATIGAN: Yeah. But we appreciate your  
5 time regardless.

6 CONSTANTINE ALEXANDER: I'm sorry?

7 SARAH RHATIGAN: We appreciate your time.

8 CONSTANTINE ALEXANDER: Oh, thank you. Okay, the  
9 Chair moves that we continue this case as a case heard until  
10 6:00 p.m. on November 18, subject to the following  
11 conditions:

12 One is that the petitioner sign a waiver of time  
13 for decision, and that the waiver must be signed no later  
14 than a week from this coming Monday. Failing to do that, we  
15 will -- the case will be automatically dismissed.

16 Second, that a new posting sign has to be erected  
17 and maintained for the 14 days prior to the November 18  
18 date.

19 And lastly, to the extent there are new or  
20 modified plans, drawings, specifications, what have you,  
21 they must be in our file no later than 5:00 p.m. on the  
22 Monday before November 18. Failure to do that means we will

1 not hear the case on November 18.

2 Brendan, how do you vote?

3 BRENDAN SULLIVAN: Yes to the continuance.

4 CONSTANTINE ALEXANDER: Jim?

5 JIM MONTEVERDE: Jim Monteverde yes to the  
6 continuance.

7 CONSTANTINE ALEXANDER: Andrea?

8 ANDREA HICKEY: Andrea Hickey yes to the  
9 continuance.

10 CONSTANTINE ALEXANDER: Wendy?

11 WENDY LEISERSON: Wendy Leiserson yes to the  
12 continuance.

13 CONSTANTINE ALEXANDER: And the Chair votes yes to  
14 continue as well.

15 [All vote YES]

16 CONSTANTINE ALEXANDER: Case continued.

17 SARAH RHATIGAN: Thank you.

18 CONSTANTINE ALEXANDER: Okay.

19 GRADY RAGSDALE: Thank you.

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(7:30 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Andrea A. Hickey, Jim Monteverde, and  
Wendy Leiserson

CONSTANTINE ALEXANDER: Okay. We will now turn to our  
regular agenda. And the first case we're going to call is  
Case Number 134626 -- 1776 Massachusetts Avenue, #1.

Anyone here wishing to be heard on this matter?

[Pause]

Hello? I can see someone on the screen.

LIMING XU: Oh, hello.

CONSTANTINE ALEXANDER: Yes?

LIMING XU: Can you hear me?

CONSTANTINE ALEXANDER: Now I can, yes.

LIMING XU: Okay.

CONSTANTINE ALEXANDER: The floor is yours.

LIMING XU: I made slide presentation.

CONSTANTINE ALEXANDER: I'm sorry?

LIMING XU: I said I made a slide -- yeah, yeah,  
yeah, yeah.

1           CONSTANTINE ALEXANDER: Okay.

2           LIMING XU: Do I just start now?

3           CONSTANTINE ALEXANDER: You're seeking a special  
4 permit for what the zoning ordinance calls, a "fast food  
5 establishment" -- it's a fast-order food establishment. And  
6 that requires a special permit and a number of boxes that  
7 have to be checked off.

8           And I trust you're aware that there is a  
9 substantial neighborhood opposition to what you're  
10 proposing, both from the condominium Lancaster Terrace  
11 Condominium, which is going to change its rules and  
12 neighboring business -- at least one neighboring business --  
13 and others in the area.

14           So since you have to establish that allowing this  
15 to go forward will not adversely affect -- will not -- let  
16 me start again.

17           That the continued operation of or development of  
18 adjacent uses, as permitted in the zoning ordinance, will  
19 not be adversely affected, should we grant you the relief  
20 you're proposing, you're seeking? And as I've indicated, we  
21 have a lot of letters saying it would.

22           Now, if you could address that, that's how we

1 would -- that's the way we should go.

2 LIMING XU: So let us go directly to address it,  
3 instead of going through the slides. Okay.

4 CONSTANTINE ALEXANDER: I'm sorry, could you  
5 repeat that? We --

6 LIMING XU: Do I just go -- do I just directly,  
7 like, go to, like, address their concerns? Or do I go do  
8 the slides one by one?

9 CONSTANTINE ALEXANDER: Well, have you seen the  
10 files? It's all in our files. You should go down in the  
11 Building Department office and read the letters, and see  
12 what the opposition is. Plus there may be new opposition  
13 tonight, when we open the matter up to public testimony.

14 LIMING XU: Okay. So I'll just directly address  
15 the concerns right now, right?

16 CONSTANTINE ALEXANDER: What?

17 LIMING XU: Do I just address the concerns right  
18 now? Or do I --

19 CONSTANTINE ALEXANDER: Why don't you address why  
20 the -- what you're proposing will not adversely affect the  
21 continued operation of or development of adjacent uses, as  
22 permitted by our ordinance?



1           Again, you've got to deal with the fact that the  
2 neighbors in the area have expressed their views as to why  
3 it will.

4           LIMING XU: Mm-hm. So, like, one of the problems  
5 that they had is that, like, they're talking about a rat.  
6 So I think, like, "rat" is like a Mass Ave problem. And  
7 it's not really fair to not let us open because of this.  
8 And, like, I feel like we could all, like, fix the problem.

9           And, like, a question I had in my mind, which is,  
10 like, doesn't, like, residential unit, like, you know, the  
11 grocery food like count as food?

12           And another problem, like, they had was venting.  
13 Like, our venting, we're using, like, a ventless system.  
14 And, like, later, one of my -- like my Dad's friends, like,  
15 who owns a sushi restaurant in Boston will talk about it.

16           And about, like, the noise, like, we can enclose  
17 the courtyard portion off to people at night, like starting  
18 at 6:00 p.m., and we'll clean up trash, like, left by  
19 passengers and, like, and our customers?

20           And our entrance is on Mass Ave, and I don't think  
21 it will affect the other units.

22           And, like, another problem they had was, like, the

1 smell, the odor. But, like, we all have, like, our own AC  
2 and heating system. Like, everything is separated. So,  
3 like, I don't think it will create any problem, like, with  
4 the enclosed space. I think, like, these were, like, the  
5 concerns that they had.

6 BRENDAN SULLIVAN: This is Brendan Sullivan. Let  
7 me -- could you just turn your screen -- it's, we're getting  
8 the top of your head.

9 CONSTANTINE ALEXANDER: That's right.

10 BRENDAN SULLIVAN: -- and the ceiling. If you  
11 could just turn your screen down a little bit.

12 LIMING XU: Uh-huh. Yeah, because I don't -- I  
13 can't -- I couldn't really hear you, so I have to, like,  
14 lean towards my mic, I mean like the --

15 BRENDAN SULLIVAN: Okay. Much better. Thank you.

16 CONSTANTINE ALEXANDER: Questions from members of  
17 the Board?

18 BRENDAN SULLIVAN: The letters in opposition, I  
19 think a lot of them had to do with they weren't sure exactly  
20 what you were going to serve, what you were going to  
21 prepare.

22 And the dress shop, or -- more than a dress shop,

1 but the clothing shop -- directly above you was very  
2 concerned about any odors coming up and penetrating their  
3 space, and basically clinging to, you know, their wares that  
4 they're selling there.

5           And I think it's a very legitimate concern.  
6 What's another concern that I had is that your hours of  
7 operation; you were going to be open until 11:00 at night,  
8 is that correct?

9           LIMING XU: Mm-hm.

10           BRENDAN SULLIVAN: Yes. And that the -- basically  
11 the courtyard out in front of your space, which is shared  
12 with Channing Real Estate, has some tables and chairs. And  
13 that could also be a gathering spot at night and during the  
14 day, that also affect residential units directly above, you  
15 know.

16           And that both use there as residential units and  
17 yours as the commercial food operation may have a conflict  
18 as far as their peace and tranquility and yours, wanting to  
19 obviously sell and distribute your product.

20           LIMING XU: Mm-hm.

21           BRENDAN SULLIVAN: So those two concerns --  
22 objections -- sort of resonated with me, anyhow.

1           CONSTANTINE ALEXANDER: And I would add to that.  
2 This is -- I mean, fast food -- fast-order food  
3 establishments are not really appropriate in residential  
4 districts.

5           And this is at least semi-residential. There's a  
6 lot of -- your building, where you'll have your operation,  
7 business is a residential; has residential units.

8           So I have a problem, personally, voting in support  
9 of this. This is the wrong location. I have no quarrel  
10 with the product line and the bubble tea, although I've  
11 never had it, but I have no problem. And I don't know if I  
12 want it in this neighborhood, particularly where you have  
13 many neighbors who do not want this in this neighborhood.

14           LIMING XU: Mm-hm.

15           CONSTANTINE ALEXANDER: Jim, do you have any  
16 comments?

17           JIM MONTEVERDE: No. I don't have anything to add  
18 at the moment. Thank you.

19           CONSTANTINE ALEXANDER: Andrea?

20           ANDREA HICKEY: No. I have nothing to add. I  
21 agree.

22           CONSTANTINE ALEXANDER: Wendy?

1           WENDY LEISERSON: [Wendy Leiserson,] I don't have  
2 anything to add at the moment.

3           CONSTANTINE ALEXANDER: Okay. I'll now open the  
4 matter up to public testimony. Any members of the public  
5 who wish to speak should now click the icon at the bottom of  
6 your Zoom screen that says, "Raise hand."

7           If you're calling in by phone, you can raise your  
8 hand by pressing \*9 and unmute or mute by pressing \*6.  
9 We'll take a moment to see if anyone's calling in and wishes  
10 to speak.

11           SISIA DAGLIAN: Andy Kuang?

12           ANDY KUANG: Yes. Can you hear me?

13           CONSTANTINE ALEXANDER: Yes.

14           ANDY KUANG: Oh, hi. Hi, everybody. Good  
15 evening. My name is Andy Kuang. I own a sushi restaurant  
16 down in the Park Square Building, 31 St. James Avenue in  
17 Boston for more than 10 years.

18           I really -- you know, I understand the concerns,  
19 like, the neighborhood or the people who live in it about  
20 the odor of the food, you know. Actually, my restaurant is  
21 in the building of the Park Square Building, and this is the  
22 twelfth -- the building has 12 floors.

1           And we have the old office in the college up to in  
2 my store (sic). And in the same lobby, we have more than I  
3 think like seven restaurants -- six restaurants. So I --  
4 the fire I'm using, you know, for quite a while, and then we  
5 don't create any bother to the people who have the office or  
6 the college upstairs.

7           So I'm not sure how people are concerned about the  
8 (indiscernible) you know, of the business -- the novelty of  
9 this kind of fire, because we use Wells brand, W-e-l-l-s,  
10 which is -- they have charcoal filter in there.

11           So any time it can absorb already the odor, and  
12 then the oil instantly into the charcoal -- oil, which is  
13 that the air already put out; it's just hot air. You know  
14 what I mean? And then passed. They have ventilation to  
15 bring that out to the building separate.

16           So I'm not sure people -- I understand people have  
17 concerns about that, but I'm sure within those 10 years I am  
18 operating in my restaurant into the building, and wasn't  
19 have any troubles at all. And people doesn't either  
20 complain about the operation what I did either.

21           So that's -- that's why I'm -- the people could be  
22 more clarified about that part, you know. So it should be

1     okay, it should be good to have Bubble Tea there, you know,  
2     which is the people that's owning above, they're concerned  
3     about owner, you know what I mean? Yeah.

4             So I think to be vote in favor to learn to operate  
5     this kind of business in there.

6             CONSTANTINE ALEXANDER: Thank you for your  
7     comments. But you have to understand that at least in the  
8     neighborhood, and quite likely to this Board, you say that  
9     the odor won't be a problem because of filters and the like.

10            Well, what if it turns out not to be the case?  
11     Then the people who have their businesses and who live in  
12     the buildings in their neighborhood are going to have a  
13     problem, and it will be too late to do anything about it.

14            Further, there is a point -- you mentioned you  
15     have your operations in Boston. We're talking about  
16     Cambridge. The hours in a fast-food establishment that will  
17     be open until 11:00 at night could be disruptive to the  
18     residents nearby, to the restaurant.

19            So I will go back and say what I said before, and  
20     that this has nothing to do with the product line. It has  
21     everything to do with the location. That's why you're not  
22     going to get my vote in any event.

1           Anyone else wish to speak?

2           SISIA DAGLIAN: Noreen Hession?

3           NOREEN HESSION: Yeah, hi. My name is Noreen  
4 Hession. I had prepared something. Wait a second. I had  
5 prepared something to -- it looks like I'm just a bunch of  
6 apples, but oh, well. I prepared something to address the  
7 Vivi Bubble Tea franchise. I'm not sure whether or not I'm  
8 going to waste people's time, because it sounds like you're  
9 leaning towards saying no. Is that correct?

10           CONSTANTINE ALEXANDER: We'll take a vote. We  
11 haven't taken a vote yet, so I'm not going to answer just  
12 yet.

13           NOREEN HESSION: Yeah. So let me just talk  
14 briefly. And I just -- I want to thank the Board for giving  
15 me the opportunity to speak. I'm requesting that you deny  
16 the petition for the special permit for the fast-food  
17 restaurant, the Vivi Bubble Tea food franchise.

18           I think you understand that Lancaster Terrace  
19 Condominiums is made up of nine units; five are commercial,  
20 four are residential. I bought one of the residential units  
21 in 1995; it's been my home on and off for over 25 years.  
22 And my condo would be upstairs from the proposed fast-food



1 franchise.

2           Our building was built in '82, and, since  
3 Lancaster Terrace was established 39 years ago, none of the  
4 commercial units in our buildings have ever been permitted,  
5 nor have they even proposed to sell food or drink. There's  
6 never been a restaurant or a fast-food operation at  
7 Lancaster Terrace.

8           You know, I agree with the Board member who talked  
9 about the fact that, you know, that there's a patio outside  
10 of Unit 1, and that would cause people to congregate.

11           One of the other things, too, is that the doorway  
12 of the proposed Bubble Tea franchise doesn't face Mass Ave;  
13 it actually faces Lancaster Street. So if people were  
14 hanging out in that patio area up on the knee wall, that  
15 would be disruptive to myself and other people who live in  
16 the building.

17           You know, most of the businesses in that  
18 neighborhood are shut down early -- many of them by 5:00.  
19 And for the past 25 years, the previous unit owners -- the  
20 owners of Unit #1 have been a computer repair shop and a  
21 children's art studio. Both have been closed by 5:00, so --  
22 and any increased activity would impact our lives.

1           The petitioner's hoping to sell not only bubble  
2 tea, but also sausage, popcorn, chicken, and something  
3 called Takoyaki, which is a batter of dried kelp, fish  
4 flakes, and diced octopus.

5           And I understand the petitioner, you know, is  
6 going to do what they can to mitigate the smells, but the  
7 truth is that, you know, fried food, even with an odorless  
8 fryer, smells -- all food, especially fried food, brings  
9 smells, and if not when cooking, certainly when serving.

10          So I'm a vegetarian. For me, personally, the  
11 smells would render my home uninhabitable. The logo is  
12 inconsistent with the building itself.

13          I don't know if that makes any difference to the  
14 Board, but according to the Lancaster Terrace condo  
15 documents, all exterior paint color shall be consistent with  
16 Devoe historic paint colors, which are -- so, our condo  
17 documents state the appropriate colors for the building are  
18 Victorian colors, which are illustrated in a book, you know,  
19 the decoration: Victorian Colors for Victorian Homes.

20          So a modern, bright pink fast-food restaurant sign  
21 with black and white graphics would create a substantial  
22 change in the character of the building.

1           And in terms of impacts of noise and disturbance,  
2 as mentioned before, you know, any fast-food venture is  
3 going to bring noise.

4           But in addition to the noise and foot traffic, the  
5 petitioner states that they anticipate deliveries around  
6 7:00 or 8:00 a.m., whether or not a lot of people. And this  
7 is what makes me nervous. Because in fact this is exactly  
8 when the residents are home.

9           One of the things I love about my neighborhood is  
10 that it's quiet both at night and in the morning. So 7:00  
11 or 8:00 a.m. deliveries will impact an otherwise quiet  
12 morning neighborhood.

13           So Lancaster Terrace Condominium passed an  
14 amendment to the condominium documents, which is meant to  
15 clarify how we have lived and how we have worked at  
16 Lancaster Terrace since the building was built in 1982.

17           The amendment was passed by 100 percent of the  
18 other non-petitioners, they've -- 100 percent of the  
19 condominium members. And it's been recorded at the Registry  
20 of Deeds. It reads, "In part, no unit shall be used for the  
21 sale of any food. No restaurants, no bars, no fast-food  
22 restaurants, no convenient stores or drugstores."

1           So there are eight neighbors in addition to the  
2 petitioner, but 100 percent of the neighbors had signed off  
3 on the amendment saying, "We don't want to allow the sale of  
4 food or fast-food restaurants in the building." My  
5 neighbors and I ask you to please deny the petitioner their  
6 request for a special permit for fast food in our building.

7           I also want to add that Liming seems like a lovely  
8 young woman, and we all wish her well. We hope the family  
9 are able to find another use for the space that works for  
10 everyone. Thank you.

11           CONSTANTINE ALEXANDER: Thank you. Anyone else?

12           SISIA DAGLIAN: Jennifer Evans?

13           JENNIFER EVANS: Hi. This is Jennifer Evans. I  
14 own the unit directly above where this restaurant would be.  
15 I'm also one of the Trustees, as was Noreen, so I will keep  
16 my comments brief, because Noreen covered just about  
17 everything.

18           I just want to say when the petitioner was doing  
19 some work, there was smoking going on below us, and that  
20 smoke rose up and we could smell it in our unit. So just to  
21 say that the smells really do transfer; we've seen it and  
22 felt it.

1           The business that I run, I'm an acupuncturist, and  
2 we have body workers, and we really need a certain kind of  
3 space that we've had, that we've enjoyed, that we feel it  
4 would be in direct conflict with something like a  
5 restaurant. And I think I'll just leave it there.

6           CONSTANTINE ALEXANDER: Thank you.

7           SISIA DAGLIAN: Evanson?

8           ELIZABETH EVANSON: Hi. My name is Elizabeth  
9 Evanson, and I am a renter in Unit #1. Jen Evans is my  
10 landlord. I am the owner of BodyOne Massage. We have been  
11 there for the past 10 years, and have so enjoyed the quiet  
12 building.

13           This summer was a real challenge for us. I had to  
14 credit longtime clients every time they would come in  
15 because the smell of cigarette smoke that was wafting up  
16 from the basement during construction was just too much.  
17 They weren't used to smelling or having this sort of  
18 pollution in this space when they were experiencing their  
19 wellness treatment.

20           So I am against. I think Noreen and Jennifer  
21 covered everything that I would add. But we have loved  
22 being in that space. We have, you know, been a quiet

1 business, and really enjoyed it for so long. And we're  
2 hoping that it doesn't change. Thank you.

3 CONSTANTINE ALEXANDER: Thank you.

4 SISIA DAGLIAN: So Yi Ing (phonetic).

5 SI YI ING: Hello?

6 CONSTANTINE ALEXANDER: Hello.

7 SI YI ING: Hello. Good evening to everybody. My  
8 name is So Yi. And I strongly support the review (sic) of  
9 Bubble Tea. This is -- the reason is I trust the owner.  
10 They will follow everything that's instructed, and also,  
11 follow the rules.

12 I think that during the pandemic last year, that -  
13 - well, I understand that that might, like, bring a lot of  
14 latent activity effect to the city. But this family is --  
15 this family and owner, they are upright. They put a very  
16 positive work and hard work to bring the prosperity to the  
17 City of Cambridge. I think that we should give them the  
18 credit.

19 I understand that people are concerned about the  
20 smell, and also, concerned about the noise. But, according  
21 to what they described, they would get the takeout. And  
22 also, they will close the gate during the nighttime, which

1 is an 7:00 or 7:30 or something.

2 But I think that the owner is doing the best and  
3 trying to do hard work to maintain every rules and  
4 regulations they might follow. And also, they can, like, do  
5 as much as they can to solve every problem as they can.

6 So I think that they might have a little, like,  
7 language barrier. But it doesn't mean that they are not  
8 good people. They're very diligent, and they are  
9 hardworking, and they also are willing to follow everything  
10 possible to make a change.

11 And also, they want to work hard and do that  
12 business. I hope everybody can consider about that.

13 Thank you for your time.

14 CONSTANTINE ALEXANDER: Thank you for taking the  
15 time.

16 SISIA DAGLIAN: Catherine Luther?

17 CATHERINE LUTHER: Hello? My name is Catherine  
18 Luther.

19 CONSTANTINE ALEXANDER: Yes, we hear you.

20 CATHERINE LUTHER: Oh, wonderful. I own Channing  
21 Real Estate, as does Jen own Channing -- her company, and  
22 Barbara owns her company; three women owning their

1 businesses trying to stay alive during these challenging  
2 years with COVID. And it's been hard. It has been very  
3 hard for all of us.

4 My office is right next door to -- on the same  
5 level, ground level, as the Massage or Bubble Tea Shop at  
6 1776 Mass Ave. I have been running a business now for over  
7 35 years in Cambridge, and it was a very -- I really enjoyed  
8 meeting the family. They were very nice, polite. I really  
9 enjoyed them a lot.

10 But what concerns me is that many times we were  
11 concerned about noise. And we were concerned about the  
12 cigarette smoking. And it became a serious situation for  
13 me. I had to literally shut down my business for days at a  
14 time. And then my clients, I couldn't meet them -- my  
15 clients in my office, which I've paid for -- dearly. And it  
16 was a real problem.

17 I asked, and I talked to Nguyen and their family  
18 about the situation with the cigarettes smokes (sic) and the  
19 noise. Sometimes they were very kind, and they were very  
20 helpful. Other times they just ignored it and just kept  
21 going.

22 I had to pick up -- oh my God, I don't know, over



1 50 or 60 cigarette butts in the courtyard where my front  
2 entrance is. And where their front entrance would be for  
3 the Bubble Tea shop is the same courtyard. And that has me  
4 greatly concerned that I will either have to have my clients  
5 wade through their buyers coming through to my office -- my  
6 front door.

7 Very concerned about that, and very concerned  
8 about security, and very concerned about noise and smells  
9 from the shop.

10 UNIDENTIFIED SPEAKER: And the rats.

11 NOREEN HESSION: And the rats, we have a serious  
12 problem with rats. And being on the ground level, I am very  
13 concerned about that. I know the neighborhood has a  
14 serious issue with it -- all of Cambridge has a serious  
15 issue with the rats.

16 I bought in this store, this -- my condo, and when  
17 I bought it, I made a point of identifying and letting  
18 everybody and the Trustees know what I do for a living --  
19 what I do, what I've been doing there at the space. And I  
20 made sure they were all aware who I was, and I got their  
21 approval before I even thought of purchasing the space.

22 When I understood Nguyen and her family, I thought

1 it was a spa massage shop that they were putting in. That's  
2 all I thought. Then after they bought the space and they  
3 were in it, all of a sudden, this Bubble Tea came up  
4 afterwards, which really disturbs me, because if we'd known  
5 ahead of time, we'd have told them before they even bought  
6 it, that this would not have been acceptable.

7 It's never been in this building, and it would not  
8 have been acceptable.

9 It's fast food. I'm very concerned about trash.  
10 I'm very concerned about fire, because I read the directions  
11 on her fryer that she wants to use. And it's very careful.  
12 It says -- basically, if that cup of grease is not removed  
13 and cleaned out constantly, it could become flammable. And  
14 we've already had a horrific fire in this building. And our  
15 insurance went through the roof.

16 And what she is basically going to do this with  
17 fast food, I know, again, our insurance as a whole building  
18 will go through the roof again. And it was very expensive.  
19 And right now, I don't think any of us small businesswomen  
20 can afford any more costs at this point.

21 So I ask you very kindly not to go ahead with  
22 this. But if they're willing to consider other options, I'm

1 willing to help them. I'm willing to do whatever I can to  
2 help them. I really enjoyed meeting them. They're very  
3 nice people. And I hate to say this, but I can't go ahead  
4 and agree to this. I'm very sorry.

5           CONSTANTINE ALEXANDER: Thank you. And there was  
6 no one else who wishes to speak, so I will close public  
7 testimony. As indicated from my earlier comments, there are  
8 a number of letters in our file in opposition to the relief  
9 being sought. But I think there are -- if memory serves,  
10 there are some in support as well.

11           I'm going to make a motion since public testimony  
12 is closed. I think it's the easiest way of discussing the  
13 case beyond that. I'll make a motion to grant the relief,  
14 and then we can discuss that and vote yes or no and then see  
15 how it all ends up.

16           So the Chair moves that we make the following  
17 findings with regard to the relief being sought -- these  
18 findings by the way come out of Section 10.43 of our  
19 ordinance:

20           First is that the requirements of the ordinance  
21 cannot be met unless we grant the special permit for the  
22 Bubble Tea restaurant that the petitioner is proposing.

1           That traffic generated or patterns of access or  
2 egress resulting from what is being proposed will not cause  
3 congestion, hazard, or substantial change in established  
4 neighborhood character. And it's that last phrase,  
5 "substantial change in established neighborhood character"  
6 that has been the subject of much of the discussion tonight.

7           That the continued operation of or development of  
8 adjacent uses, as permitted in the zoning ordinance, will  
9 not be adversely affected by the nature of the proposed use.  
10 And again, we've had ample testimony as to whether in fact  
11 there could be an adverse effect on what is being proposed,  
12 particularly with regard to odors and potential disruption  
13 to the outside by the long hours that the petitioner is  
14 proposing.

15           No nuisance or hazard will be created to the  
16 detriment of the health, safety and/or welfare of the  
17 occupant of the proposed use, or the citizens of the city.

18           And generally, what is being proposed will not  
19 impair the integrity of the district or adjoining district,  
20 or otherwise derogate from the intent and purpose of this  
21 ordinance.

22           So on the basis of all these findings, the Chair

1 moves that we grant the special permit to operate the fast-  
2 order food establishment proposed by the petitioner.

3 Brendan, how do you vote?

4 BRENDAN SULLIVAN: I would vote no to supporting  
5 the granting of the special permit.

6 CONSTANTINE ALEXANDER: Okay. Jim?

7 JIM MONTEVERDE: I would vote no for the special  
8 permit.

9 CONSTANTINE ALEXANDER: Andrea?

10 ANDREA HICKEY: Andrea Hickey voting no.

11 CONSTANTINE ALEXANDER: Wendy?

12 WENDY LEISERSON: Wendy Leiserson voting no.

13 CONSTANTINE ALEXANDER: And the Chair votes no as  
14 well. It's unanimous.

15 [All vote NO]

16 CONSTANTINE ALEXANDER:

17 Relief denied. Case is over.

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(7:46 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Andrea A. Hickey, Jim Monteverde and Wendy  
Leiserson

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number 134550 -- 318 Concord Avenue. Anyone here wish  
to be heard on this matter? Anyone here on this case?

[Pause]

CONSTANTINE ALEXANDER: No? Okay. The floor is  
yours, sir. Or the mic is yours, I should say, maybe.  
Hello?

[Pause]

JIM MONTEVERDE: He has to unmute himself.

CONSTANTINE ALEXANDER: Could be on mute. I don't  
know.

JIM MONTEVERDE: He's on mute.

LEWIS COLTEN: Hello.

JIM MONTEVERDE: There he is.

CONSTANTINE ALEXANDER: All right. At last.  
Thank you, Jim.

JIM MONTEVERDE: Yep.

1           CONSTANTINE ALEXANDER: Does the petitioner want  
2 to speak?

3           LEWIS COLTEN: Yes. My name is Lewis Colten. I'm  
4 the architect, and I'm representing the owner of 318 Concord  
5 Avenue with regard to the variance that we're requesting.

6           CONSTANTINE ALEXANDER: Okay. I'm sorry. My mind  
7 wandered for a second. Could you just repeat what you just  
8 said? Sir?

9           LEWIS COLTEN: Yes, sir.

10          CONSTANTINE ALEXANDER: Can you make your  
11 presentation?

12          LEWIS COLTEN: Certainly.

13          CONSTANTINE ALEXANDER: Why should we grant the  
14 special permit that you're requesting to install a second  
15 curb cut? Keeping in mind, sir, that this Board has dealt  
16 with curb cuts before, and we have a -- not a consistent,  
17 but we have an aversion to putting in new curb cuts.

18                Because what is being done is appropriating city  
19 property that's open to anybody to park in the area of the  
20 curb cut, and reserving it for the owner of the property in  
21 front.

22                And particularly given this, the allocation on

1 Concord Avenue, there isn't a lot of parking space on that  
2 street. There are a lot of curb cuts. And why should we  
3 therefore create even less parking space on Concord Avenue?

4 LEWIS COLTEN: Understood. And my presentation is  
5 as such: We have in fact -- this is a renovation project.  
6 It's for a two-family dwelling. Quite a bit of effort and  
7 quite a bit of time has been put into these.

8 CONSTANTINE ALEXANDER: Sir, this doesn't justify  
9 granting -- taking space from the city and granting it to  
10 the second condo unit owner.

11 LEWIS COLTEN: Yes, but as such where -- I'm about  
12 to give that explanation, if I may.

13 CONSTANTINE ALEXANDER: Okay.

14 LEWIS COLTEN: So our situation is -- so it's a  
15 two-family. It's a two-family unit. We -- for all intents  
16 and purposes need to provide two off-street parking spaces  
17 for each one of the units.

18 Now, there is an existing -- there is an existing  
19 curb cut, which is on the -- which is on the west side of  
20 the building.

21 We had originally submitted drawings, which we  
22 were trying to use. That's the curb cut that we had to



1 drive -- be able to have the owners of this as well as their  
2 guests and what not -- to be able to park in the rear. And  
3 we had submitted drawings showing the parking being made in  
4 the back of the property.

5 We had gone through a number of iterations, met  
6 with the Building Department and so on, and even in the  
7 Planning Department. And it was determined that that drive  
8 that was on that west side was not wide enough in order to  
9 get -- in order to get those cars to come back.

10 So we had submitted another set of drawings in  
11 which we had a car parked parallel to the front of the house  
12 on the north at the front and the north side, with another  
13 car parking along the east side.

14 Now, we thought that that might have solved the  
15 problem of having two off-street parking units for the  
16 dwelling, and that was not permitted.

17 As we went through that iteration, it was pointed  
18 out, and that parking in the front of the house as such, in  
19 front of the porch, was a distraction, and it was not  
20 accepted.

21 So we had come up with this new version, which is  
22 before you. And what this is -- and I think what we're

1 trying to express here -- is that there is a hardship. And  
2 let me go into that.

3 We are able to come into the existing -- into the  
4 existing curb cut and be able to park on the west side and  
5 bring a car in far enough that it doesn't get between the  
6 building and the -- and work with the setbacks. So we were  
7 able to make that an acceptable single-unit car parking  
8 space.

9 Now, that takes care of just one parking space,  
10 but it didn't take care of our second unit. Now, if you  
11 would go over and look on our drawings at the east side, and  
12 this is where I think you're asking for relief. There is  
13 already a curb cut. There's a curb cut that is shared by  
14 our neighbor, and six feet of that curb cut is shared by us.

15 My question and our problem and our hardship is  
16 that a six-foot wide curb cut in order to park a car on the  
17 east side of this building -- and as you will notice in our  
18 drawings -- is able to park there and not provide or create  
19 any particular problem, except for the fact that we need an  
20 additional four feet of an existing curb cut.

21 So it's not a question of a brand-new curb cut;  
22 all we are simply asking for is an additional four feet so

1 that this could be made as a viable, necessary space in  
2 order to get two cars; one for each dwelling unit, as off-  
3 street parking. And that's the basis and function, or basis  
4 of our request.

5 And as you will notice, we're able to get one car  
6 on the east and one car on the west. They are within the  
7 setbacks. They meet all the requirements. And as I said,  
8 we already have a six-foot curb cut on that side; we just  
9 don't have enough to make a legitimate spot.

10 Unfortunately, we've tried -- you know, if  
11 somebody wanted to park there, they could come across the  
12 Concord Avenue on a diagonal basis, and partially cut across  
13 our abutters' existing driveway and try to squeeze in, but  
14 it's a hardship.

15 And I think that the simplicity of it is simply  
16 can we obtain an additional four feet. It's not a brand-  
17 new, you know, non -- you know, non-or never have been curb  
18 cut there to begin with.

19 We are not establishing a new, a new curb cut that  
20 would do a number of things, as you're indicating that would  
21 cut down on street parking and what not. It's already --  
22 like I said, it's already there.

1           And so that's where our hardship lies. That's  
2 where our -- the necessity of trying to get this taken care  
3 of so that both of these -- both of these dwelling units  
4 will have a legitimate and legal place to park their cars.

5           CONSTANTINE ALEXANDER: Okay. Thank you. You're  
6 keeping the word, "hardship" and this is not a variance  
7 case. Put that aside. I mean, the hardship in a lay sense  
8 is that one of the two owners of that structure on there are  
9 going to have to park in the street.

10           That's not such a -- I mean it's a hardship to  
11 some extent, but it is not overwhelming when you take into -  
12 - in my opinion -- when you take into consideration that to  
13 solve your hardship, you're taking away property from the  
14 city, in terms of other people who could park their cars.

15           Let me mention that we do have a letter in our  
16 files. It is from Doug Brown, who could not attend tonight.  
17 He sent us a letter, which is in our files. And he points  
18 out, as you know, all curb cut requests must be approved by  
19 a majority vote of the Cambridge City Council.

20           And he states, "As the designated neighborhood  
21 representative for West Cambridge, I would ordinarily  
22 receive notice of such a request. Though I have yet to

1 receive a notice in this case, let me be clear that I  
2 strongly disapprove of such a request when and if it is  
3 received."

4 And then he sets forth his reasons why on behalf  
5 of the neighborhood, and they go on for a page or so.

6 LEWIS COLTEN: I'd like to express a point that  
7 should be raised. And that is a letter went out to  
8 everybody in the neighborhood. Mr. Brown, I'm not exactly  
9 sure has standing in this case, because it's my  
10 understanding that he lives on the block behind us.

11 But every single neighbor, including the abutters  
12 of this property, the people across the street -- I have six  
13 signed letters in agreement and not objecting to this curb  
14 cut.

15 So I'm not exactly sure where Mr. Brown's position  
16 is coming from, but I want to make it clear that the  
17 neighbors -- the immediate neighbors of this property are  
18 not in any way objecting to this request.

19 CONSTANTINE ALEXANDER: Thank you. Your point is  
20 well taken, and I appreciate you bringing that to our  
21 attention. I'll open --

22 LEWIS COLTEN: I don't know if you have a copy of

1 those letters, but I thought I forwarded them to you.

2 CONSTANTINE ALEXANDER: We'll look in the file.

3 LEWIS COLTEN: You should have a copy of every one  
4 of those letters.

5 CONSTANTINE ALEXANDER: I don't have a letter -- I  
6 don't have any letter on the file, other than the letter  
7 from Mr. Brown that I just referred to. So --

8 LEWIS COLTEN: Certainly can make sure that you  
9 can see them, but I believe when I sent them, I think we did  
10 send them all in.

11 CONSTANTINE ALEXANDER: You said that the  
12 neighbors in the area have written letters of support; we'll  
13 accept that. But we don't have it. I don't have physical  
14 evidence of that in the file right now.

15 LEWIS COLTEN: I can -- rest assured I can have  
16 that forwarded to you. But as I said, we had forwarded the  
17 whole package of everything that we had. I can even read  
18 you the -- I can read you the names of all of those people  
19 who have signed a letter. It's an application for driveway  
20 cuts, and 318 had agreed it was not a problem. 3 -- there's  
21 -- I have six letters with me.

22 CONSTANTINE ALEXANDER: No, sir, I apologize.

1           LEWIS COLTEN:  It's not --

2           CONSTANTINE ALEXANDER:  My colleague on the Board  
3 has pointed out that we have what you refer to as letters as  
4 a form.  And the form --

5           LEWIS COLTEN:  It's not really letters of form,  
6 it's a form letter.

7           CONSTANTINE ALEXANDER:  And it's -- well, okay.  
8 It's set up as a form.  And it's been signed by several  
9 individuals, all of whom are indicating approval of what you  
10 want.

11          LEWIS COLTEN:  Yes, sir.

12          CONSTANTINE ALEXANDER:  You're right.  All right,  
13 Brendan?

14          BRENDAN SULLIVAN:  All right, well, that's all  
15 very nice.  I guess my feeling is first of all, there's only  
16 parking on one side of Concord Avenue, which is across the  
17 street.  And there is a plethora of cars in all of those  
18 houses on Concord Avenue.  Somebody and people are going to  
19 park on either of these two spaces that are shown.

20                 It's going to be tight.  You can park a car there.  
21 How you're going to exit the car or get into the car once  
22 it's there is another issue.

1           What I am not fond of is that the entire front  
2 area of the house next to this garage way is paved in  
3 hardscape. And I would vote to allow you the curb cut for  
4 the required width, but that the area in front of the house,  
5 which has now got paving --

6           LEWIS COLTEN: I would like to make a correction  
7 there. That has been changed, which you would recognize in  
8 fact by going over there that we have in fact landscaped  
9 that entire front of the building.

10           So the hard surface and paving has been removed,  
11 and there is a fenced in landscape area, so that in front of  
12 the building we have between two parking spaces a rather  
13 nice landscaped --

14           BRENDAN SULLIVAN: Well, Mr. Colten, unless it was  
15 done from 4:00 this afternoon until now -- I was there this  
16 afternoon, and the area directly in front facing the  
17 building on the left side in front of the bay window, which  
18 --

19           LEWIS COLTEN: Oh yeah, no, the left -- well, if  
20 you're saying it's the east side that's correct.

21           BRENDAN SULLIVAN: Okay. So you stand corrected.

22           LEWIS COLTEN: That is hardscape.



1           BRENDAN SULLIVAN: That's correct. Thank you. I  
2 would want that hardscape removed, and I would want it to be  
3 grass, so that a car -- because I think what this particular  
4 plan shows is yes, a car parked there. But I also think it  
5 opens up that entire area to have another car parked there.  
6 And it is --

7           LEWIS COLTEN: No objection.

8           BRENDAN SULLIVAN: No doubt in my mind that I will  
9 allow for a car, because people park in their front yards up  
10 and down Concord Avenue because of necessity, but that area  
11 directly in front of the bay window, that that hardscape be  
12 taken up, and that it be grass. So in order to get my  
13 support, that's what I would -- would be the recommendation  
14 I make.

15          LEWIS COLTEN: And we have no objection. We would  
16 -- I would encourage the owner to do so also.

17          BRENDAN SULLIVAN: And that should be done before  
18 the curb cut is done.

19          LEWIS COLTEN: Because in the past what has  
20 happened is the city has been notified, they come in, they  
21 do the curb cut and I can point out two examples where the  
22 people never removed the hardscape. Anyhow, that's my

1 thought on it.

2 CONSTANTINE ALEXANDER: Jim, comments?

3 JIM MONTEVERDE: Just a question. If you go back  
4 to the plan that was first up on the screen, if I could.  
5 Just to ask other members of the Board and the Commissioner,  
6 doesn't the parking space hard against the property line  
7 require other relief and hard against the building? I'm  
8 looking at the parking space in the east.

9 BRENDAN SULLIVAN: One and two-families, Jim, can  
10 be within five feet of a structure.

11 JIM MONTEVERDE: And within the side property  
12 line?

13 BRENDAN SULLIVAN: Yes.

14 JIM MONTEVERDE: Okay. Thank you.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: I have no questions at the moment.

17 CONSTANTINE ALEXANDER: Okay. Wendy?

18 WENDY LEISERSON: I have no questions at the  
19 moment.

20 CONSTANTINE ALEXANDER: Okay. I've expressed my  
21 views already. I am troubled by any curb cuts that we  
22 approve, because of the consequences to the neighborhood in

1 terms of appropriating, if you will, a parking space to  
2 improve the economic value of a condominium. And I think  
3 this has probably been recently converted into a two-unit  
4 condominium.

5 I just don't think that's what the zoning laws are  
6 all about. That's my view. I'll open the matter up to  
7 public testimony.

8 SISIA DAGLIAN: Austin Allen?

9 AUSTIN ALLEN: Good evening and thank you for the  
10 opportunity to speak. My name is Austin Allen. I am the  
11 owner at 322 Concord Avenue, immediately abutting this  
12 property.

13 A couple of points I would like to make. Firstly,  
14 as shown on the plan here for the parking that is on the --  
15 I think the west side, which will be immediately abutting  
16 ourselves -- the measurement shown there has been 8 foot 8  
17 inches for the proposed parking layout.

18 I would first of all strongly contest that. Just  
19 been done with a tape measure in the last five minutes, and  
20 that's a space of 7 foot 6 inches, not 8 foot 8.

21 And, you know, when -- the second point I'd like  
22 to make is when the owner, Mr. Bellal, approached us all as

1 neighbors in asking us to sign the form for -- you know,  
2 approving the curb cut.

3 He had explained himself verbally to us as, you  
4 know, waving his arm in the general direction of the east  
5 side saying, "We're going to put our parking over there on  
6 the east side, two spaces over there," and in fact we  
7 wouldn't park down in that smaller space, where there is in  
8 fact an opportunity to fit a car in."

9 There's a third point I would like to make, and  
10 this is just a contention; when Mr. Bellal started  
11 renovating the property, he removed the fence that had been  
12 existing between our two properties, and has yet to fully  
13 replace it. Has paved all the way down to the back.

14 And, you know, this house is on the market and  
15 it's being shown by his realtor. And the realtor keeps on  
16 saying, "Yeah, you can drive down the side here and you can  
17 park right down at the very back." And we're thinking, "Ah,  
18 you can't actually, without driving on our driveway."

19 And, you know, until such time as the fence is  
20 replaced, that line is going to perpetuate.

21 Thank you. That's what I wanted to say.

22 CONSTANTINE ALEXANDER: Thank you.

1           LEWIS COLTEN: I would like to clarify that also.

2           AUSTIN ALLEN: Happy, Mr. Colten to clarify.

3           CONSTANTINE ALEXANDER: Wait a minute, we're  
4 public comment. You're not in to debate it or interject at  
5 this point. Let's get the rest of the public comments out,  
6 and then you can have a final statement. Any other? No one  
7 else. I'm sorry, Mr. Colten. There is no one else who  
8 wants to speak, so you go right ahead.

9           LEWIS COLTEN: Oh, that's me?

10          AUSTIN ALLEN: Yes.

11          LEWIS COLTEN: All right. Thanks. Two things  
12 with regards to that. One -- three things, if I will. The  
13 dimension that's being mentioned is the fact that we are not  
14 putting a car into the -- alongside the building.

15                 We are in fact just putting the car up to the  
16 building alongside the porch. So we do have that extra  
17 width that's necessary to make it a legitimate width of a  
18 car space. That's number one.

19                 Number two, we -- there was a fence between the  
20 two properties. We did not remove that fence. I'm sorry to  
21 -- you know, to disagree with you on that, but we did not --  
22 that was not our fence. We would have never removed

1 somebody else's property. And so that's simply not the  
2 case.

3 And number three, there was a significant  
4 complaint made to us by our abutter that the drainage from  
5 our property on that driveway that has been paved, that was  
6 done, was spilling over into -- onto his property. We made  
7 a significant effort to make sure to assure that that would  
8 not happen.

9 And what we had done was tore up the edge of the  
10 hardscape, and we put a curb in -- a raised curb -- in order  
11 to assure that no water from our property would spill over  
12 into our abutter's property.

13 And in doing that, please understand that the  
14 additional curb reduced that width as it went alongside the  
15 building.

16 So the dimension that you're mentioning, which is  
17 done by a Civil Engineer -- and that was the Civil  
18 Engineer's dimension -- that that actually was reduced by  
19 practicality by the fact that there's a curb at the request  
20 -- or not the request, at our effort to ensure that there  
21 would be no spillage of any water going onto his property.

22 So that's the reason that that was done. And we

1 did not -- and I can't emphasize that strongly enough -- we  
2 would not be tearing down the fence of an abutter without  
3 his acceptance and agreement. So that's just -- we just  
4 would never have done that.

5 AUSTIN ALLEN: Well, I'm sorry to contradict you,  
6 Mr. Colten, but the contract is that Mr. Bellal's employee  
7 did come and due to down that fence. Moreover, they  
8 partially rebuilt it up to the bottom part of the house  
9 where the porch is. But that's as far as they went.

10 And so, you know, and the intention, as they said  
11 -- Mr. Bellal said to us -- was yeah, we want to be able to  
12 fit cars down the side.

13 Now, as to whether or not any work that was done  
14 to remediate the drainage was successful or not, I mean  
15 that's a whole different thing. Because my car is under two  
16 feet of water in that space in the driveway in the last  
17 rain, due to the excess runoff that's coming from this  
18 property.

19 But, you know, coming back --

20 LEWIS COLTEN: I'm sorry, how did that -- this is  
21 the first that we're hearing of that, that's number one --  
22 and number two, I mean we created and built a curb for the

1 specific reason of assuring that water would not go across  
2 your property.

3 AUSTIN ALLEN: There's a curb that's been filled  
4 in and then paved. So there's absolutely no bearing --

5 CONSTANTINE ALEXANDER: Excuse me, this is not --

6 LEWIS COLTEN: I'm sorry, I can't agree with you  
7 on that.

8 CONSTANTINE ALEXANDER: Excuse me. This dialogue  
9 is not relevant to the case before us and the decision this  
10 Board has to make. Settle this offline or some other  
11 fashion, okay?

12 LEWIS COLTEN: Certainly.

13 CONSTANTINE ALEXANDER: And we're going to end  
14 public testimony. So time for a decision. I'll make a  
15 motion as I've done before, and we'll discuss it or vote on  
16 it and the like. And Brendan, give me the condition you  
17 want to put on the plan and get there?

18 Okay, the Chair moves that we make the following  
19 findings with regard to the special permit that's being  
20 sought to install a second curb cut:

21 That the requirements of the ordinance cannot be  
22 met unless we grant the special permit.



1           That traffic generated or patterns of access or  
2 egress resulting from what is proposed will not cause  
3 congestion, hazard, or substantial change in established  
4 neighborhood character.

5           That the continued operation of or development of  
6 adjacent uses, as permitted in the zoning ordinance, will  
7 not be adversely affected by what is proposed by the nature  
8 of the curb cuts that are being proposed.

9           No nuisance or hazard will be created to the  
10 detriment of the health, safety and/or welfare of the  
11 occupant of the proposed use, or the citizens of the city.

12           And generally, what is being proposed will not  
13 impair the integrity of the districts or adjoining district,  
14 or otherwise derogate from the intent and purpose of this  
15 ordinance.

16           So on the basis of these findings, the Chair moves  
17 that we grant the relief being sought on the condition that  
18 the work proceed in accordance with the plans submitted by  
19 the petitioner. It's a certified plot plan. It's initialed  
20 by the Chair and subject to the further condition that Mr.  
21 Sullivan will --

22           BRENDAN SULLIVAN: I will mark up the drawing, and

1 I will show the area directly in front of the bay window.  
2 That the hardscape be removed, and that it be replaced with  
3 a grass area.

4 And I will mark up the drawing. And the other  
5 full condition is that work be completed prior to the curb  
6 cut being performed by the city.

7 CONSTANTINE ALEXANDER: And I would just add to  
8 that, not only will the grassy area be established, but it  
9 be maintained, so that if it -- it shouldn't die, the grass  
10 shouldn't die or there should be patches of non-grass or the  
11 like. It should be maintained as most lawn areas are  
12 maintained, or should be maintained.

13 BRENDAN SULLIVAN: Jim, is there a better word  
14 than, "grassed area"? I mean, a greenscape or --

15 JIM MONTEVERDE: No, I just think landscape area,  
16 you know, grass or otherwise. It's meant to be landscape,  
17 not hardscape.

18 BRENDAN SULLIVAN: Landscape?

19 JIM MONTEVERDE: Yeah.

20 BRENDAN SULLIVAN: And, "Landscape area to be  
21 installed."

22 JIM MONTEVERDE: Yep.

1 BRENDAN SULLIVAN: Is that correct?

2 CONSTANTINE ALEXANDER: And maintained.

3 JIM MONTEVERDE: And maintained.

4 BRENDAN SULLIVAN: Okay, good.

5 WENDY LEISERSON: Mr. Chair?

6 CONSTANTINE ALEXANDER: Yes.

7 WENDY LEISERSON: I'm not sure of the procedure,  
8 but I wonder if I might suggest a couple other conditions?  
9 This is Wendy Leiserson.

10 CONSTANTINE ALEXANDER: I'm sorry, Wendy, I didn't  
11 catch --

12 WENDY LEISERSON: I wondered if I could suggest  
13 another condition to meet the concern of the neighborhood.

14 CONSTANTINE ALEXANDER: What would you propose?

15 WENDY LEISERSON: I would propose a requirement  
16 that the fencing be restored and maintained to separate the  
17 two properties, and that the end of the driveway be set  
18 where Mr. Colten represented it should be, which is at the -  
19 - where the porch meets the house.

20 And that additional greenscape should come over  
21 from that point onwards to alleviate the concern of the  
22 neighbor about representations that the parking is to be

1 continued throughout the side of that house.

2 CONSTANTINE ALEXANDER: Okay. That will be --  
3 your comments will be added to the motion that's before us  
4 now. Thank you.

5 AUSTIN ALLEN: May we comment on that?

6 CONSTANTINE ALEXANDER: No.

7 JIM MONTEVERDE: No.

8 BRENDAN SULLIVAN: Brendan Sullivan yes to  
9 granting the special permit with the conditions attached.

10 CONSTANTINE ALEXANDER: Jim?

11 JIM MONTEVERDE: Jim Monteverde yes for granting  
12 the relief with the conditions attached.

13 CONSTANTINE ALEXANDER: Andrea?

14 ANDREA HICKEY: Andrea Hickey reluctantly yes to  
15 granting the relief with all the conditions attached to be  
16 met prior to the curb cuts being made.

17 CONSTANTINE ALEXANDER: Wendy?

18 WENDY LEISERSON: I echo Andrea's reluctant  
19 agreement.

20 CONSTANTINE ALEXANDER: I'm sorry, one more time.

21 WENDY LEISERSON: Yes, as Andrea stated.

22 CONSTANTINE ALEXANDER: Thank you. And the Chair,

1 like Andrea, very -- maybe put the word in "very" -- very  
2 reluctantly votes in favor of granting the relief, with the  
3 changes that we've already discussed.

4 [All vote YES]

5 CONSTANTINE ALEXANDER: So with that, the motion  
6 has been granted.

7 And now, I guess the petitioner has to go to the  
8 Counsel to get relief for the curb cut. This is not the end  
9 of the day for the curb cut. It is further under laws of  
10 Cambridge. Further steps need to be taken. All right,  
11 moving on.

12 LEWIS COLTEN: Thank you. We accept.

13 CONSTANTINE ALEXANDER: I'm sorry.

14 LEWIS COLTEN: Thank you. We accept.

15 CONSTANTINE ALEXANDER: Okay, you're welcome.  
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2 (8:32 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Jim Monteverde and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number 131742 -- 139 River Street. Anyone here  
8 wishing to be heard on this matter?

9 CAMPBELL ELLSWORTH: Yes. Good evening, Mr.  
10 Chairman and members of the Board. My name is Campbell  
11 Ellsworth. Can you hear me okay otherwise?

12 CONSTANTINE ALEXANDER: Yes.

13 CAMPBELL ELLSWORTH: Ok, very good. My name is  
14 Campbell Ellsworth. I am the architect for the owner, Mr.  
15 Weiwen Wang, who is also joining us.

16 We are here tonight to request a special permit  
17 for the modification and addition of openings in a façade of  
18 the building that is inside of the required setback of the  
19 building.

20 If we could go -- actually, can we move to the  
21 photographs first? That would be helpful. Okay. Super.  
22 Thank you. So the top photograph is the two-family

1 structure.

2 Just a very quick synopsis of this building and  
3 this project. It is an 1873 building. It was originally a  
4 two-family home split right down the middle, perpendicular  
5 to River Street all the way -- back, left and right. And it  
6 was the choice of the owner to keep that configuration of a  
7 two-family structure.

8 This top view is from across the street, probably  
9 on the sidewalk of River Street, probably where the old --  
10 around where the old Keezer's was, looking straight at the  
11 front of the building.

12 The left side of the building, which you can see  
13 at the bottom left of this, is -- since the building is  
14 perpendicular to River Street, but the site -- and we'll  
15 look at the site plan in a second -- the site is a kind of a  
16 pine-shaped site, which narrows as it goes further back.

17 What it does is it creates a nonconformity of that  
18 left side of the building, because it starts to encroach.  
19 At the very back of that photograph, it is approximately  
20 four-and-a-half feet from the property line.

21 The right side actually is fine. It is  
22 perpendicular to River, as is the property line, and there

1 is not a difficulty with that one.

2 If we could move to the site plan, which is two  
3 down, here you can see the building. You can Zoom in on  
4 that a little bit if you want, sure. Okay.

5 So River Street is on the bottom. You can see the  
6 front of the building is perpendicular to River Street, goes  
7 back. But as you can see, that left side property line  
8 squeezes in and creates the nonconformity.

9 This is the nonconformity of this building is --  
10 you know, essentially the front setback, which is only about  
11 seven feet in a required 10-foot setback zone. This is a  
12 BA-3, I believe, which defaults to a C-1 residential zone.  
13 And of course, the left side, which is the side we're  
14 seeking relief for.

15 So in the -- perhaps we could go to the elevation,  
16 which is on Drawing A1.4. Okay, perfect. Thank you. And  
17 so you can see on the left side the proposed west elevation.  
18 It is those windows that are bubbled in red that -- for  
19 which we are requesting. That is the left side of the  
20 building as you're looking at it from the street.

21 And those are the ones that are requiring, and for  
22 which we are requesting the special permit, so that we can



1 create good living space, have a decent symmetrical layout  
2 of the two units, et cetera.

3 Again, not -- this has been an interesting  
4 project. When the project began, there were construction  
5 began, there was a collapse of the foundation. We were able  
6 to lift it up and save the building, to the great  
7 appreciation of the Cambridge Historical Commission.

8 And now we have a better building with a better  
9 foundation, and we're just trying to create good units.  
10 Obviously, the pie shaped shape of the lot is really the  
11 determining factor.

12 I should point out that we have been -- the owner  
13 has been -- the owner has been in touch with all of the  
14 abutters, as per, you know, the Maria Pacheco's list; sent  
15 letters and/or dropped off notices to both owners and  
16 renter, if there were some.

17 We have -- in the file we have one letter of  
18 support, which is great. And I know that the owner had also  
19 spoken to another neighbor, who gave us a verbal approve.  
20 And I don't believe you have the letter from them.

21 CONSTANTINE ALEXANDER: We don't.

22 CAMPBELL ELLSWORTH: Okay.

1           CONSTANTINE ALEXANDER: But one thing I'm most  
2 interested in, is what about the neighbors -- abutters --  
3 who are facing the window, or the window will be facing and  
4 maybe impact on their privacy? Have you received any  
5 complaints, questions or the like with regard to that?

6           CAMPBELL ELLSWORTH: Obviously, the record has no  
7 letters in support or opposition. I have not heard anything  
8 back from them, and I don't believe that Mr. Wang has  
9 received any letters of either -- or notification from them  
10 either.

11           Currently, there's a pretty sizable existing fence  
12 between the two properties that would block most -- well, a  
13 fair amount, at least 50 percent of I think those first-  
14 floor windows at any rate.

15           I am fairly certain that it is the owner's intent  
16 to keep a fence there. So I think that there is really not  
17 any intrusion on the first-floor level. And the second  
18 floor is a bedroom. So no, we have not received anything.

19           And, you know, besides this one request for this  
20 modification and the fact that it is a preexisting,  
21 nonconforming, everything else about this building is  
22 essentially as-of-right in terms of height, in terms of GFA,

1 et cetera, which we've tried to keep very clean, if you  
2 will.

3 CONSTANTINE ALEXANDER: Thank you. Questions from  
4 members of the Board? Brendan?

5 BRENDAN SULLIVAN: No. Brendan Sullivan no  
6 questions.

7 CONSTANTINE ALEXANDER: Jim?

8 JIM MONTEVERDE: Jim Monteverde no questions.

9 CONSTANTINE ALEXANDER: Andrea?

10 ANDREA HICKEY: No questions.

11 CONSTANTINE ALEXANDER: Wendy?

12 WENDY LEISERSON: Wendy Leiserson no questions.

13 CONSTANTINE ALEXANDER: And the Chair has asked  
14 the question, has no other questions beyond that. I'll open  
15 the matter up to public testimony. Any members of the  
16 public who wish to speak should now click the icon at the  
17 bottom of your Zoom screen that says, "Raise hand."

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

20 We'll I'll take a moment to see if anyone wishes to speak.

21 [Pause]

22 CONSTANTINE ALEXANDER: No. Apparently, there is

1 no one who wishes to speak, so I will close public  
2 testimony.

3 I'm going to make a motion for a vote. I don't  
4 think there's much to discuss beyond that. It's a very  
5 clear-cut case. Anyway, the Chair moves that we make the  
6 following findings with regard to the special permit that's  
7 being sought:

8 That the requirements of the ordinance cannot be  
9 met without the special permit.

10 That traffic generated or patterns of access or  
11 egress resulting from the window relocations will not cause  
12 congestion, hazard, or substantial change in established  
13 neighborhood character.

14 That the continued operation of or development of  
15 adjacent uses, as permitted in the ordinance will not be  
16 adversely affected by what is being proposed. And again,  
17 this is supported by the fact that there has been no  
18 expressed opposition to the relief that the petitioner is  
19 seeking.

20 No nuisance or hazard will be created to the  
21 detriment of the health, safety and/or welfare of the  
22 occupant of the proposed use, or the citizens of the city.

1           And generally, what is being proposed will not  
2           impair the integrity of the district or adjoining district,  
3           or otherwise derogate from the intent and purpose of this  
4           ordinance.

5           So on the basis of all these findings, the Chair  
6           moves that we grant the special permit requested by the  
7           petitioner on the grounds that the work proceed in  
8           accordance with plans prepared by Ellsworth Associates,  
9           Inc., dated March 18, 2021, the first page of which has been  
10          initialed by the Chair.

11           Brendan?

12           BRENDAN SULLIVAN: Brendan Sullivan yes to  
13           granting the special permit.

14           CONSTANTINE ALEXANDER: Jim?

15           JIM MONTEVERDE: Jim Monteverde yes for granting  
16           the special permit.

17           CONSTANTINE ALEXANDER: Andrea?

18           ANDREA HICKEY: Andrea Hickey yes in favor of  
19           granting the special permit.

20           CONSTANTINE ALEXANDER: Wendy?

21           WENDY LEISERSON: Wendy Leiserson yes in favor of  
22           granting the special permit.

1                   CONSTANTINE ALEXANDER: The Chair votes yes as  
2 well in favor of granting the special permit.

3                   [All vote YES]

4                   CAMPBELL ELLSWORTH: Thank you very much.

5                   CONSTANTINE ALEXANDER: You're welcome. Relief  
6 granted. Okay.

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(8:43 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Andrea A. Hickey, Jim Monteverde and Wendy  
Leiserson

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number 131123 -- 30 Bellis Circle, familiar address.  
Anyone here wishing to be heard on this matter?

LEVI TOFIAS: Hi. Can you hear me okay?

CONSTANTINE ALEXANDER: Yes, we can.

LEVI TOFIAS: Hi. Levi Tofias. I am the  
homeowner and also the architect on this project. So to  
begin with, the special permit. So this house was  
previously granted a special permit for altering windows in  
the setback.

And during construction, when one of those windows  
was opened up -- specifically a bathroom window on the  
second floor, we realized that the window as drawn  
originally, it was in a bad location, and was looking  
directly into a neighbor's -- the rear neighbor's property.

So we decided to raise the window up and move it  
slightly to the side to create more privacy for us and

1     arguably privacy for the rear neighbor also.

2             So as a result, now, you know, the window is such  
3     that it's high enough up that there's privacy, so you can  
4     look out towards the sky instead of directly onto our  
5     neighbor's window.

6             I think there are drawings too. I don't know how  
7     to --

8             CONSTANTINE ALEXANDER: I have a drawing in the  
9     file. It's a single page, actually.

10            LEVI TOFIAS: Yes, it is. Yep.

11            CONSTANTINE ALEXANDER: We do have it and it's on  
12    the screen right now.

13            LEVI TOFIAS: Yeah. So you can see on the right-  
14    hand side of the page at the top, that is the approved  
15    drawing. And that window on the second floor on the right  
16    side. Then, if you look down below, you'll see the  
17    requested window change, which is moving it up and to the  
18    right.

19            CONSTANTINE ALEXANDER: And what about the --  
20    you're also seeking a variance --

21            LEVI TOFIAS: Yes.

22            CONSTANTINE ALEXANDER: -- with regard to the --



1 to widen the exterior stairs in the rear setback.

2 LEVI TOFIAS: Yes. So if you look at the original  
3 -- the previously approved plan in the upper left corner,  
4 that -- I guess what's not showing clearly is the rear  
5 property line is right along the back of the house there.  
6 So that existing -- sorry, that -- the drawn deck and stairs  
7 there is entirely in the setback, the rear setback.

8 So the other problem we ran into during  
9 construction was COVID. So as our design evolved, we wanted  
10 to incorporate more outdoor seating area, you know, to be  
11 able to have more outdoor events at our house.

12 So to make the stairs -- to widen the stairs  
13 towards the house away from the rear property line to have  
14 some increased seating.

15 And we also added a built-in bench on that rear  
16 deck. So those are the two changes we made to the deck to  
17 create more outdoor space in that small Cambridge back yard.

18 CONSTANTINE ALEXANDER: Okay. Is that it?

19 LEVI TOFIAS: Yep.

20 CONSTANTINE ALEXANDER: Okay. Questions?

21 BRENDAN SULLIVAN: Brendan Sullivan no questions.

22 CONSTANTINE ALEXANDER: Jim?

1 JIM MONTEVERDE: Jim Monteverde no questions.

2 CONSTANTINE ALEXANDER: Andrea?

3 ANDREA HICKEY: No questions.

4 CONSTANTINE ALEXANDER: Wendy?

5 WENDY LEISERSON: Wendy no questions.

6 CONSTANTINE ALEXANDER: And the Chair has no  
7 questions as well. So I'm going to make a motion first for  
8 the variance, we'll take a vote on that. And then --

9 BRENDAN SULLIVAN: Public comment.

10 CONSTANTINE ALEXANDER: Oh, yeah, I need public  
11 comment. I'm sorry. I'm sorry, I was reminded we have to  
12 open the matter up to public comment. Any members of the  
13 public who wish to speak should now click the icon at the  
14 bottom of your Zoom screen that says, "Raise hand."

15 If you're calling in by phone, you can raise your  
16 hand by pressing \*9 and unmute or mute by pressing \*6. Take  
17 a second to see if anyone wishes to ask any questions or  
18 speak?

19 [Pause]

20 CONSTANTINE ALEXANDER: No one is. So we now can  
21 proceed to the vote. First, with regard to the variance.  
22 The Chair moves that we make the following findings with

1 regard to the variance, and the findings really piggyback on  
2 the findings we made when we granted the variance the last  
3 time, since this is a modification of that.

4 And in fact, I think we can just -- I'm going to  
5 propose that we incorporate the findings that justify the  
6 granting of a variance, which in this case that will justify  
7 the granting of a variance in this case. So that's with  
8 regard to the -- all of the findings for a variance.

9 So on the basis of these findings, the Chair moves  
10 that we grant the variance requested on the condition that  
11 the work proceed in accordance with plan prepared by  
12 Lightbox Architecture dated July 2, 2021.

13 Brendan?

14 BRENDAN SULLIVAN: Brendan Sullivan yes to  
15 granting the amended variance.

16 CONSTANTINE ALEXANDER: Jim?

17 JIM MONTEVERDE: Jim Monteverde yes to granting  
18 the amended variance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes in favor of  
21 granting the amended variance.

22 CONSTANTINE ALEXANDER: Wendy?

1           WENDY LEISERSON: Wendy Leiserson yes in favor of  
2 granting the variance.

3           CONSTANTINE ALEXANDER: Okay. And the Chair votes  
4 yes as well.

5           [All vote YES]

6           CONSTANTINE ALEXANDER: The variance has been  
7 granted. Turning to the special permit, which is to alter a  
8 window in the rear setback, the Chair moves that we make the  
9 following findings:

10           That the requirements of the ordinance cannot be  
11 met with regards to the relief being sought unless we grant  
12 the relief being sought unless we grant the relief.

13           That traffic generated or patterns of access or  
14 egress resulting from this window modification will not  
15 cause congestion, hazard, or substantial change in  
16 established neighborhood character. That the continued  
17 operation of or development of adjacent uses, as permitted  
18 in the zoning ordinance, will not be adversely affected by  
19 the window change.

20           No nuisance or hazard will be created to the  
21 detriment of the health, safety and/or welfare of the  
22 occupant of the proposed use, or the citizens of the city.

1           And generally, the proposal will not impair the  
2 integrity of the district or adjoining district, or  
3 otherwise derogate from the intent and purpose of this  
4 ordinance.

5           So on the basis of all of these findings, the  
6 Chair moves that we grant the special permit requested on  
7 the condition that the work proceed in accordance with the  
8 plan referred to as part of the granting of the variance.  
9 Jim? I mean Brendan.

10           BRENDAN SULLIVAN: Brendan Sullivan yes to  
11 granting the special permit.

12           CONSTANTINE ALEXANDER: Jim?

13           JIM MONTEVERDE: In favor of the special permit.

14           CONSTANTINE ALEXANDER: Andrea?

15           ANDREA HICKEY: Andrea Hickey voting yes to grant  
16 the special permit.

17           CONSTANTINE ALEXANDER: Wendy?

18           WENDY LEISERSON: Wendy Leiserson yes to the  
19 special permit.

20           CONSTANTINE ALEXANDER: And the Chair votes yes as  
21 well.

22           [All vote YES]

1           CONSTANTINE ALEXANDER: Special permit granted.

2           And the case is over.

3           CAMPBELL ELLSWORTH: Thank you.

4           CONSTANTINE ALEXANDER: Thank you.

5           JIM MONTEVERDE: Mr. Chair, can I request a two-  
6 minute recess, please?

7           CONSTANTINE ALEXANDER: By all means. Let's take  
8 -- let me look at my --

9           BRENDAN SULLIVAN: You only want two; I want five.

10          CONSTANTINE ALEXANDER: Well, we can do five  
11 minutes. It's 8:52.

12          JIM MONTEVERDE: We'll take five.

13          CONSTANTINE ALEXANDER: We'll reconvene at 8:57.

14          JIM MONTEVERDE: Thank you.

15          [BREAK]

16          CONSTANTINE ALEXANDER: Thank you.

17          JIM MONTEVERDE: All right, Coach, ready to play.

18          CONSTANTINE ALEXANDER: Ready? No, we've got to  
19 do it at 8:57.

20          JIM MONTEVERDE: All right.

21          CONSTANTINE ALEXANDER: My watch says 8:56.

22          JIM MONTEVERDE: Okay. Sorry. I'll take --

1                   CONSTANTINE ALEXANDER:  Grab a beer, or --

2                   JIM MONTEVERDE:  Yeah.  I'm not going there.

3                   CONSTANTINE ALEXANDER:  Why does the time go so  
4  slowly when you look at the watch all the time?  It's only  
5  8:56.

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2 (8:57 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Jim Monteverde and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: Ah! Now 8:57. So the  
7 Chair will reconvene our meeting, it being 8:57, and call  
8 Case Number 133183 -- 24 Rice -- R-i-c-e -- Rice Street.  
9 Anyone wishing to be heard on this matter?

10 JOHN LODGE: My name is John Lodge. And I am the  
11 architect for Tom and Ariane Agnew, who are the homeowners  
12 at 24 Rice Street. Can you guys hear me?

13 CONSTANTINE ALEXANDER: Go ahead. We can hear  
14 you.

15 JOHN LODGE: Oh, good. Sorry. So we previously  
16 got a special permit to reconfigure an existing sunporch on  
17 the back of this house, before -- actually it sounds a  
18 little bit like the last -- the last case you heard before  
19 COVID.

20 And during COVID, we had a chance to sort of think  
21 a little bit more carefully about the back of the house. I  
22 think Tom and his wife spend a lot more time staring out the



1 window, obviously.

2           And we realized that the lot to the west of the  
3 house basically has a giant parking lot in the back. And so  
4 one thing we wanted to do was to move the -- so if you want  
5 to go to Z4, I think that might be the best -- the best  
6 drawing to sort of talk from. Yeah. Perfect.

7           So if you look at the previously approved south  
8 elevation, we basically kept most of the existing sunporch  
9 on the left-hand side of the drawing, which is next to this  
10 parking lot at the rear of the triple-decker next door.

11           And then as we thought more about it, I don't know  
12 if you can scroll -- can everybody see the next one? Okay,  
13 there. Yeah.

14           As we thought more about it, we realized that  
15 there would be a big benefit in moving the porch a little  
16 bit to the right. First of all, it would move us further  
17 away from the parking lot.

18           And second of all, it would actually let us roam  
19 for a new bulkhead, which would then separate the two means  
20 of egress much farther apart, because there's a small  
21 apartment in the basement.

22           And so based on that, we reconfigured the design

1 of the existing -- or the design of the porch to replace the  
2 existing sunroom.

3 And now what we're doing is we're asking for a  
4 special permit to -- for the -- really at this point I think  
5 it's just a special permit for the windows, which are in the  
6 rear yard setback, because because of moving the porch to  
7 the right on this drawing, we're no longer in the side yard  
8 setback on the left-hand side.

9 So basically, that's our proposal. And if you  
10 guys have any questions, I would be happy to answer them or  
11 go through them in the drawings.

12 CONSTANTINE ALEXANDER: Thank you. Brendan, any  
13 questions?

14 BRENDAN SULLIVAN: Brendan Sullivan no questions.

15 JIM MONTEVERDE: Jim? Jim Monteverde?

16 JIM MONTEVERDE: Jim Monteverde no questions.

17 CONSTANTINE ALEXANDER: Okay. Andrea?

18 ANDREA HICKEY: Andrea Hickey no questions.

19 CONSTANTINE ALEXANDER: Wendy?

20 WENDY LEISERSON: Wendy Leiserson no questions.

21 CONSTANTINE ALEXANDER: The Chair has no questions  
22 as well. So, at this point I'll open the matter up to

1 public testimony. Any members of the public who wish to  
2 speak should now click the icon at the bottom of your Zoom  
3 screen that says, "Raise hand."

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

6 We'll I'll take a moment to see if anyone wishes to speak.

7 [Pause]

8 CONSTANTINE ALEXANDER: I have no one from the  
9 public wishes to speak. So we'll close public testimony,  
10 and turn to the merits of the case themselves.

11 Again, this is a pretty straightforward case, so  
12 I'm going to suggest that I make the motion to grant the  
13 relief, and we can use that as our jumping off point if we  
14 have any further discussion.

15 So the Chair moves that we make the following  
16 findings with regard to the relief being sought: That the  
17 requirements of the ordinance cannot be met unless we grant  
18 the special permit.

19 That traffic generated or patterns of access or  
20 egress resulting from what is being proposed will not cause  
21 congestion, hazard, or substantial change in established  
22 neighborhood character. In fact, the modifications are

1 relatively modest, and have really no -- as I mentioned --  
2 no neighborhood impact.

3 And by the way we have -- I should have mentioned,  
4 and I'll do it right now, that we have a number of letters  
5 of support from the neighbors, no letters of opposition.

6 That the continued operation of or development of  
7 adjacent uses, as permitted in the zoning ordinance, will  
8 not be adversely affected by the nature of what is being  
9 proposed.

10 No nuisance or hazard will be created to the  
11 detriment of the health, safety and/or welfare of the  
12 occupant of the proposed use, or the citizens of the city.

13 And for other reasons, the proposed use will not  
14 impair the integrity of the district or adjoining district,  
15 or otherwise derogate from the intent and purpose of this  
16 ordinance.

17 The Chair has mentioned more than once, the relief  
18 is very modest in nature, but it has really no impact beyond  
19 the property itself.

20 So on the basis of all these findings, the Chair  
21 moves that we grant the special permit on the condition that  
22 the work proceed in accordance with plans prepared by john

1 Lodge Architects, dated August 2, 2021. Brendan, how do you  
2 vote?

3 BRENDAN SULLIVAN: Brendan Sullivan yes to  
4 granting the special permit.

5 CONSTANTINE ALEXANDER: Jim?

6 JIM MONTEVERDE: Jim Monteverde yes for the  
7 special permit.

8 CONSTANTINE ALEXANDER: Andrea?

9 ANDREA HICKEY: Andrea Hickey yes in favor of the  
10 special permit.

11 CONSTANTINE ALEXANDER: Wendy?

12 WENDY LEISERSON: Wendy Leiserson yes in favor of  
13 the special permit.

14 CONSTANTINE ALEXANDER: And the Chair will make it  
15 unanimous.

16 [All vote YES]

17 CONSTANTINE ALEXANDER: I vote in favor as well.

18 Special permit granted. Good luck.

19 COLLECTIVE: Thank you very much.

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2 (9:03 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Jim Monteverde and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: Okay. The Chair will now  
7 call Case Number 134121 -- 1 Gladstone Street #1. #2, I'm  
8 sorry. 1 Gladstone Street #2. Anyone wishing to be heard  
9 on this matter?

10 KHALID ADEM: Hello. My name is Khalid Adem.  
11 I'm representing my mother as well as myself.

12 CONSTANTINE ALEXANDER: Okay.

13 KHALID ADEM: So what we're looking to do is  
14 extend an existing Three Seasons porch on a second floor of  
15 a two-family at 1 Gladstone Street to meet the existing  
16 structure on the side setbacks, and also to build on top of  
17 that existing porch. And we can look at that on the picture  
18 on the -- all the way to the right, that one right there.

19 And so we're looking to have that meet the side of  
20 the property, make that a full-time living room. And then  
21 if you scroll down to the next page, on the left-hand side  
22 is to build a bedroom on top of that to extend the current

1 bedroom, and that will meet the existing rooflines and stay  
2 within the footprint of the existing structure.

3 CONSTANTINE ALEXANDER: Okay. Is that the  
4 presentation?

5 KHALID ADEM: That's it.

6 CONSTANTINE ALEXANDER: Okay. Short and sweet.  
7 I'll open the matter up to public -- to questions from  
8 members of the Board. Brendan?

9 BRENDAN SULLIVAN: Brendan Sullivan no questions.

10 CONSTANTINE ALEXANDER: Jim?

11 JIM MONTEVERDE: Jim Monteverde no questions.

12 CONSTANTINE ALEXANDER: Andrea?

13 ANDREA HICKEY: No questions.

14 CONSTANTINE ALEXANDER: Wendy?

15 WENDY LEISERSON: Wendy Leiserson no questions.

16 CONSTANTINE ALEXANDER: And the Chair has no  
17 questions as well. I'll open the matter up to public  
18 testimony. Any members of the public who wish to speak  
19 should now click the icon at the bottom of your Zoom screen  
20 that says, "Raise hand."

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

1 We'll take a moment to see whether anyone wishes to be  
2 heard. No one in the public wishes to speak, so I'll close  
3 public testimony. And I'll make a motion.

4 This case, by the way, or this petition, will be  
5 governed by Section -- a new section in our ordinance  
6 8.22.2d, which comes as a result of a Supreme Judicial Court  
7 decision, which makes it easier under specified  
8 circumstances which the petitioner satisfies, to obtain  
9 zoning relief to modify a nonconforming structure.

10 And what we have to find as a Board is that what  
11 is being proposed is this this modification to the structure  
12 is not more detrimental than the existing structure to the  
13 neighborhood.

14 And in this regard, I will note that basically --  
15 basically what the petitioner is doing is enclosing or  
16 making a porch into a bedroom or a room to be inhabited. So  
17 there's really no -- and it's in the back of the structure.  
18 So there's no real impact on the neighborhood at all.

19 But with that, Brendan, how do you vote?

20 BRENDAN SULLIVAN: Brendan Sullivan yes to  
21 granting the --

22 CONSTANTINE ALEXANDER: Special permit.



1 BRENDAN SULLIVAN: -- special permit.

2 CONSTANTINE ALEXANDER: Jim?

3 JIM MONTEVERDE: Jim Monteverde yes to granting  
4 the special permit.

5 CONSTANTINE ALEXANDER: Andrea?

6 ANDREA HICKEY: Andrea Hickey yes in favor of  
7 granting the special permit.

8 CONSTANTINE ALEXANDER: Wendy?

9 WENDY LEISERSON: Wendy Leiserson in favor of  
10 granting the special permit.

11 CONSTANTINE ALEXANDER: And the Chair votes -- is  
12 in favor of granting the special permit.

13 [All vote YES]

14 Special permit granted. Thank you.

15 COLLECTIVE: Thank you.

16 CONSTANTINE ALEXANDER: We'll take a second, let  
17 me get my files in order.

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(9:05 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Andrea A. Hickey, Jim Monteverde and Wendy  
Leiserson

CONSTANTINE ALEXANDER: The Chair will now call  
Case Number Number -- I apologize for the confusion. The  
Chair will now call Case Number 135907 -- 6 Verdun Street.  
Anyone here wishing to be heard on this matter?

TIMNA MOLBERGER: Yes. Good evening. My name is  
Timna Molberger. I'm here with my husband, Matt Molberger.  
We're the homeowners at 6 Verdun Street.

CONSTANTINE ALEXANDER: Haven't we seen you folks  
before?

TIMNA MOLBERGER: No.

MATT MOLBERGER: No.

CONSTANTINE ALEXANDER: All right. That must be a  
neighboring case. It looks very familiar, the drawing or  
the lot plan. But anyway, I'm sorry. Go ahead. Thank you.

TIMNA MOLBERGER: Not a problem. So we're here to  
ask for a small addition to create a ground-level entrance  
that we would use as a mudroom, as shown and indicated in

1 the variance application. If you all want to pull that up,  
2 we can reference some of the drawings and pictures.

3 So the reason that we're asking for this addition  
4 is to create a safer entryway with our three children, who  
5 currently enter onto a 3 by 3-foot mid-stair landing, which  
6 you can see if you scroll in the pictures starting at page  
7 4-5. Yep.

8 And if you go to the next couple of pictures, you  
9 get the view indoors as well. And then the walls in the  
10 roof of the addition that we're asking for are just a  
11 continuation of the existing part of the back side of the  
12 house that juts out. You can see that in picture Number 4.  
13 So it would be a continuation of what you see there to the  
14 end of the house on the right side.

15 And we've spoken with all of our neighbors. We  
16 have no objections, and we've included two letters of  
17 support from the neighbors that are on the side immediately  
18 next to the addition.

19 CONSTANTINE ALEXANDER: Okay.

20 MATT MOLBERGER: The only thing to add is that  
21 this entrance is the primary point of access for the house.  
22 There's a parking spot you can see in this picture here.

1 And so it's the entrance that we're using day-to-day, and I  
2 think it just --

3           CONSTANTINE ALEXANDER: Isn't part of your problem  
4 is the way the structures are on the lot? It's an older  
5 structure, and that your freestanding garage is near the  
6 building, and so you do need some sort of mudroom, otherwise  
7 it's very difficult, or maybe unsafe, to go into the  
8 entrance with the garage looming over you? This will solve  
9 that problem, particularly if you have small children. Is  
10 that -- would you concur with that?

11           MATT MOLBERGER: Yes. That is an excellent  
12 summary.

13           CONSTANTINE ALEXANDER: Okay. Questions?  
14 Brendan?

15           BRENDAN SULLIVAN: No questions.

16           CONSTANTINE ALEXANDER: No questions. Jim?

17           JIM MONTEVERDE: Jim Monteverde no questions.

18           CONSTANTINE ALEXANDER: Andrea?

19           ANDREA HICKEY: I have no questions. In my  
20 opinion, this is a modest request and a good presentation.

21           CONSTANTINE ALEXANDER: Yes. The shorter the  
22 better, actually, at this time of the night. But it is a

1 modest request, as I tried to point out with my motion where  
2 the garage is located and the size of the lot and the  
3 location of the lot. And Wendy?

4 WENDY LEISERSON: Wendy Leiserson no questions.

5 CONSTANTINE ALEXANDER: Okay. And the Chair has  
6 no questions as well. I shot off my mouth already. We'll  
7 open the matter up to public testimony. Any members of the  
8 public who wish to speak should now click the icon at the  
9 bottom of your Zoom screen that says, "Raise hand."

10 If you're calling in by phone, you can raise your  
11 hand by pressing \*9 and unmute or mute by pressing \*6.  
12 We'll take a moment to see if we have anybody?

13 [Pause]

14 CONSTANTINE ALEXANDER: No. No one wishes to  
15 speak, and I'm just checking, there appear to be no letters  
16 in the file pro or con with regard to the relief. If I  
17 missed one, I apologize. Okay. Time for a decision. I'll  
18 make a motion to grant the variance, and people can talk  
19 about whether to grant the variance off that motion.

20 The Chair moves that we make the following  
21 findings with regard to the variance being sought:

22 That a literal enforcement of the provisions of

1 the ordinance would involve a substantial hardship, such  
2 hardship being, again, given the location of the garage,  
3 given the age of the structure, given the location on the  
4 lot, that a mudroom is necessary or quite desirable at  
5 least, to improve the inhabitability of the structure.

6 The hardship is owing to the decided location of  
7 the structure and the fact that given its age, any  
8 modification would require a variance, and that relief may  
9 be granted without substantial detriment to the public good,  
10 or nullifying or substantially derogating from the intent or  
11 purpose of this ordinance.

12 So on the basis of all these findings, the Chair  
13 moves that we grant the variance requested on the condition  
14 that the work proceed in accordance with plans submitted by  
15 the petitioner, and which have been initialed by the Chair.  
16 Brendan?

17 BRENDAN SULLIVAN: Yes to granting the variance.

18 CONSTANTINE ALEXANDER: Jim?

19 JIM MONTEVERDE: Jim Monteverde yes to granting  
20 the variance.

21 CONSTANTINE ALEXANDER: Andrea?

22 ANDREA HICKEY: Andrea Hickey yes to granting the

1 variance.

2 CONSTANTINE ALEXANDER: Wendy? I'm sorry, Wendy.

3 WENDY LEISERSON: No problem. It's getting late.

4 Wendy Leiserson yes to granting the variance.

5 CONSTANTINE ALEXANDER: And the Chair votes yes as

6 well.

7 [All vote YES]

8 CONSTANTINE ALEXANDER: Variance granted. Good

9 luck.

10 TIMNA MOLBERGER: Thank you so much.

11 MATT MOLBERGER: Thank you very much.

12 CONSTANTINE ALEXANDER: Okay.

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2 (9:14 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Jim Monteverde and Wendy  
5 Leiserson

6 CONSTANTINE ALEXANDER: We have one last case,  
7 which I will call for the record. 36 White Street, Case  
8 Number Number 138678. And the Chair will report, at this  
9 hour we're very pleased to report that the petitioner has  
10 withdrawn his petition. So there's no case. I guess we  
11 should vote to accept the withdrawal?

12 Brendan, how do you vote?

13 BRENDAN SULLIVAN: Yes accepting the withdrawal.

14 CONSTANTINE ALEXANDER: Jim?

15 JIM MONTEVERDE: Yes to accept the withdrawal.

16 CONSTANTINE ALEXANDER: Andrea?

17 ANDREA HICKEY: Yes to accepting the withdrawal.

18 CONSTANTINE ALEXANDER: Wendy?

19 WENDY LEISERSON: Wendy yes to accepting the  
20 withdrawal.

21 CONSTANTINE ALEXANDER: Even though you're not  
22 going to have any ice cream in your neighborhood?



1                   WENDY LEISERSON:    I know.  I'm very disappointed.  
2   My daughter's very disappointed.

3                   CONSTANTINE ALEXANDER:  And the Chair votes yes as  
4   well.

5                   [All vote YES]

6                   CONSTANTINE ALEXANDER:  The withdrawal has been  
7   approved.  The case is over.  The night's over.  Thank you  
8   all very much.

9                   JIM MONTEVERDE:  Thank you all.  Goodnight.

10                  CONSTANTINE ALEXANDER:  Goodnight.

11                  COLLECTIVE:  Goodnight.

12   [09:15 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts

Middlesex, ss.

I, Catherine Burns, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

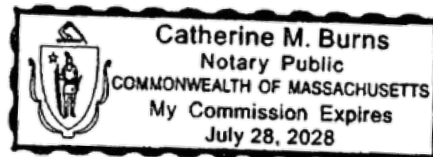
In witness whereof, I have hereunto set my hand this tenth day of October, 2021.



Notary Public

My commission expires:

July 28, 2028



<b>A</b>				
<b>a.m</b> 91:6,11	40:4	47:7 61:13	<b>air</b> 86:13,13	85:3,13 87:6
<b>A1.4</b> 128:16	<b>acted</b> 69:14	79:22 80:2,7	<b>Alexander</b> 1:7	88:10 92:11
<b>ability</b> 66:20	<b>action</b> 162:9,11	80:14,17,19	3:4,7,9 4:18,19	93:6 94:3,6
162:7	<b>activity</b> 89:22	88:6 135:7	6:3,6,11 7:13	95:14,19 99:5
<b>able</b> 23:12 25:5	94:14	<b>adjacent</b> 59:11	7:16,19,22 8:3	101:6,9,11,13
31:4,6,13	<b>acupuncturist</b>	79:18 80:21	9:3,6 10:14,17	101:16 102:3,6
33:12,13 34:20	93:1	100:8 121:6	10:22 11:3,6,9	102:10,15,20
35:3,13 36:6,7	<b>Adem</b> 150:10	132:15 140:17	12:3,6,10	103:1,6,10,13
40:8 41:14	150:10,13	148:7	13:19 14:12	104:8,13 108:5
65:16 68:11,20	151:5	<b>adjoining</b>	17:4,6,22 18:4	109:19 110:2,5
71:2,2,4 74:17	<b>add</b> 39:19 49:3	100:19 121:13	18:8,11,15	110:11,22
92:9 105:1,2	52:10 61:8,15	133:2 141:2	19:8,11,19	111:2,7,12
106:3,4,7,18	84:1,17,20	148:14	20:1,6 21:4,8	114:2,15,17,20
107:5 119:11	85:2 92:7	<b>advance</b> 18:18	21:16 28:13	116:22 117:3
129:5 137:11	93:21 122:7	23:17 24:12	30:2,4,8,13,16	120:5,8,13
<b>absolute</b> 35:7	155:20	<b>adverse</b> 100:11	31:16,19 32:7	122:7 123:2,6
<b>absolutely</b> 120:4	<b>added</b> 19:20	<b>adversely</b> 79:15	32:14,17 33:6	123:10,14
<b>absorb</b> 86:11	124:3 137:15	79:19 80:20	33:8 37:4,7,15	124:2,6,10,13
<b>abutter</b> 29:20	<b>adding</b> 18:17	100:9 121:7	37:20,22 39:14	124:17,20,22
118:4 119:2	21:2 51:10	132:16 140:18	40:6 42:7	125:5,13,15
<b>abutter's</b> 118:12	<b>addition</b> 15:11	148:8	47:15 52:9	126:3,6,12
<b>abutters</b> 32:5	16:2,11,15,19	<b>affect</b> 79:15	53:1 54:3,6,10	129:21 130:1
62:11 109:11	16:21 17:13,15	80:20 81:21	55:11,17 56:9	131:3,7,9,11
129:14 130:2	17:19 18:2,13	83:14	56:13 59:4	131:13,22
<b>abutters'</b> 107:13	18:13 21:19	<b>afford</b> 98:20	61:16,22 62:3	133:14,17,20
<b>abutting</b> 39:7	22:12,12 24:13	<b>afternoon</b> 26:1	62:7 63:4,9,10	134:1,5 135:3
115:11,15	27:8,20 28:4	59:13 64:14	63:19 64:5,8	135:6,10 136:8
<b>AC</b> 82:1	29:9,15 33:21	112:15,16	64:10,15,17,21	136:11,19,22
<b>accept</b> 110:13	34:9,14 35:19	<b>age</b> 158:3,7	65:5,9,21 66:2	137:18,20,22
125:12,14	36:2 37:2 41:4	<b>agenda</b> 4:21	66:6,10 67:20	138:2,4,6,10
160:11,15	44:1,4 47:9	78:8	68:2,4,6,12,21	138:20 139:16
<b>acceptable</b> 98:6	51:15,21 53:21	<b>aging</b> 47:5 50:17	69:6,17,22	139:19,22
98:8 106:7	60:13 62:14,22	55:4	70:11,14,21	140:3,6 141:12
<b>acceptance</b>	65:3,4 91:4	<b>Agnew</b> 144:11	71:1,5,7,11,13	141:14,17,20
119:3	92:1 126:17	<b>ago</b> 89:3	71:18,21 72:6	142:1,4,7,10
<b>accepted</b> 105:20	154:21 155:3	<b>agree</b> 10:16 60:8	72:13,16 73:1	142:13,16,18
<b>accepting</b>	155:10,18	64:20 84:21	73:6,9,14,17	142:21 143:1,3
160:13,17,19	<b>additional</b> 46:12	89:8 99:4	73:20 74:2,4,7	144:3,6,13
<b>access</b> 51:12	49:4 50:13,15	120:6	74:9,12,21	146:12,17,19
100:1 121:1	61:13 63:13	<b>agreed</b> 110:20	75:2,6,9,11,13	146:21 147:8
132:10 140:13	66:18,19	<b>agreement</b>	75:16,19,21	149:5,8,11,14
147:19 155:21	106:20,22	109:13 119:3	76:2,6,8 77:4,7	149:17 150:3,6
<b>accessible</b> 22:8	107:16 118:14	124:19	77:10,13,16,18	150:12 151:3,6
<b>accommodati...</b>	123:20	<b>Ah</b> 116:17 144:6	78:4,7,14,16	151:10,12,14
56:18	<b>additionally</b>	<b>ahead</b> 14:12	78:18,20 79:1	151:16 152:22
<b>accurate</b> 49:8	24:1 36:21	63:10 98:5,21	79:3 80:4,9,16	153:2,5,8,11
<b>achieve</b> 22:2	<b>address</b> 36:1	99:3 117:8	80:19 82:9,16	153:16 154:3,6
	41:9 46:17	144:13 154:19	84:1,15,19,22	154:13,17

155:19 156:3 156:13,16,18 156:21 157:5 157:14 158:18 158:21 159:2,5 159:8,12 160:3 160:6,14,16,18 160:21 161:3,6 161:10 <b>alive</b> 70:9 96:1 <b>allay</b> 56:19 <b>Allen</b> 115:8,9,10 117:2,10 119:5 120:3 124:5 <b>alleviate</b> 123:21 <b>alleviating</b> 52:3 <b>allocated</b> 60:4 <b>allocation</b> 103:22 <b>allow</b> 29:9 37:11 92:3 112:3 113:9 <b>allowance</b> 16:22 <b>allowed</b> 38:10 <b>allowing</b> 79:14 <b>allows</b> 38:8,15 <b>alongside</b> 117:14,16 118:14 <b>alter</b> 140:7 <b>altering</b> 135:14 <b>amended</b> 139:15 139:18,21 <b>amending</b> 3:14 <b>amendment</b> 91:14,17 92:3 <b>amount</b> 27:11 55:8 57:20 130:13 <b>ample</b> 100:10 <b>anchors</b> 57:7 <b>and/or</b> 100:16 121:10 129:15 132:21 140:21 148:11 <b>Andrea</b> 1:8 3:5 4:11,12 6:4 7:13,14,14 9:4	11:3,4,4 12:4 42:7,9,19,21 43:3,6,11,14 43:19 44:6,12 44:14,16 45:5 45:9,15,22 46:2,8 47:11 47:14,15 68:21 72:2,2,10,15 72:18 74:4,5 75:9,10,12 77:7,8,8 78:5 84:19,20 101:9 101:10,10 102:4 114:15 114:16 124:13 124:14,14,21 125:1 126:4 131:9,10 133:17,18,18 135:4 138:2,3 139:19,20,20 141:14,15,15 144:4 146:17 146:18,18 149:8,9,9 150:4 151:12 151:13 153:5,6 153:6 154:4 156:18,19 158:21,22,22 160:4,16,17 <b>Andrea's</b> 124:18 <b>Andy</b> 85:11,12 85:14,15 <b>angle</b> 17:14 22:20 45:3 <b>angles</b> 23:4 <b>angular</b> 17:19 <b>answer</b> 9:10 14:9 50:22 88:11 146:10 <b>anticipate</b> 91:5 <b>anticipating</b> 37:12 <b>anybody</b> 60:8 103:19 157:12 <b>anymore</b> 59:19	<b>anyone's</b> 85:9 <b>anyway</b> 132:5 154:19 <b>apart</b> 145:20 <b>apartment</b> 145:21 <b>apologize</b> 16:5 20:9 49:15 63:12 73:10 110:22 154:7 157:17 <b>Apparently</b> 6:11 9:10 131:22 <b>APPEAL</b> 1:1 <b>Appeals</b> 3:8 <b>appear</b> 24:20 157:15 <b>appears</b> 39:2 <b>applaud</b> 58:18 <b>apples</b> 88:6 <b>applicants</b> 4:1 <b>application</b> 9:20 10:8 30:20 43:4 69:19 70:2,3,14,16 72:4,22 110:19 155:1 <b>apply</b> 41:22 <b>appreciate</b> 16:20 65:22 76:4,7 109:20 <b>appreciation</b> 129:7 <b>approached</b> 115:22 <b>appropriate</b> 84:3 90:17 <b>appropriating</b> 103:18 115:1 <b>approval</b> 35:19 97:21 111:9 <b>approve</b> 39:9 114:22 129:19 <b>approved</b> 108:18 136:14 137:3 145:7 161:7 <b>approves</b> 55:10	<b>approving</b> 116:2 <b>approximately</b> 31:3 127:19 <b>April</b> 26:17,19 27:12 <b>arborvitae</b> 16:14 <b>architect</b> 12:20 103:4 126:14 135:12 144:11 <b>Architects</b> 149:1 <b>Architecture</b> 139:12 <b>area</b> 18:1 20:19 20:20,21 25:15 28:18 31:19 32:22 34:15,17 36:19 44:1,19 45:14,17,20 46:12 48:10,22 49:20,21 53:17 59:18 61:4 62:16,17 67:1 79:13 81:2 89:14 103:19 110:12 112:2,4 112:11,16 113:5,10 122:1 122:3,8,14,15 122:20 137:10 <b>areas</b> 62:19 122:11 <b>aren't</b> 54:1 <b>arguably</b> 62:18 136:1 <b>Ariane</b> 144:11 <b>arm</b> 116:4 <b>arrived</b> 64:14 <b>art</b> 89:21 <b>as-of-right</b> 41:14 130:22 <b>aside</b> 108:7 <b>asked</b> 48:21,21 52:10 96:17 131:13 <b>asking</b> 4:9 6:13 39:8 106:12,22 116:1 146:3	155:3,10 <b>assets</b> 58:18 <b>assist</b> 40:9 <b>Assistant</b> 1:13 <b>Associates</b> 133:8 <b>association</b> 18:7 54:14 <b>assure</b> 118:7,11 <b>assured</b> 110:15 <b>assuring</b> 120:1 <b>attached</b> 124:9 124:12,15 <b>attempts</b> 68:10 <b>attend</b> 33:14 36:7 75:20 108:16 <b>attendance</b> 4:10 <b>attention</b> 66:1 109:21 <b>attributed</b> 24:5 <b>audible</b> 4:10 <b>audio</b> 3:19 <b>August</b> 149:1 <b>Austin</b> 115:8,9 115:10 117:2 117:10 119:5 120:3 124:5 <b>automatically</b> 76:15 <b>available</b> 6:19 13:4,6 <b>Ave</b> 55:22 81:6 81:20 89:12 96:6 <b>Avenue</b> 1:6 2:4 2:8,9 9:7 78:9 85:16 102:7 103:5 104:1,3 107:12 111:16 111:18 113:10 115:11 <b>aversion</b> 103:17 <b>avoid</b> 29:13 <b>aware</b> 25:3 35:15 79:8 97:20
<hr/> <b>B</b> <hr/>				

<b>B-i-a-l</b> 64:4	<b>basements</b>	62:22 64:12,14	10:9 12:14	67:13,14,14,22
<b>BA-3</b> 128:12	58:11	110:9 128:12	13:5,9,14,15	68:3,5,9 69:11
<b>back</b> 15:2,4,17	<b>basically</b> 26:14	129:20 130:8	15:20 17:10	69:11,20 70:5
15:17 16:9,10	51:11 66:21	<b>Bellalta</b> 29:5	25:3 29:8 34:3	70:7 74:1,1
16:18 17:1,2,8	70:7 83:3,10	41:21 42:13	34:22 35:2	75:4,5 77:2,3
17:13,20 22:17	98:12,16 145:3	<b>Bellis</b> 2:6,11	37:8 55:10	78:4 82:6,6,10
23:22,22 25:3	145:8 146:9	12:7,18 14:19	57:3 63:7,16	82:15,18 83:10
25:7 27:5,22	152:14,15	14:22 26:22	64:12 66:3,14	83:21 101:3,4
28:21 35:6	<b>basis</b> 10:2 67:7	31:19 32:20	73:18 74:18	102:3 111:13
38:5 40:15,16	100:22 107:3,3	53:3 54:12	82:17 87:8	111:14 112:14
40:19 41:1,1	107:12 121:16	56:15,21 57:20	88:14 89:8	112:21 113:1,8
41:13 43:16	133:5 139:9	57:21 58:2,6	90:14 103:15	113:17 114:9
44:21 45:21	141:5 148:20	62:10 64:3	111:2 114:5	114:13 120:16
51:6,9 60:14	158:12	67:1 135:7	120:10 126:10	121:22 122:13
61:10 66:7	<b>bathroom</b> 51:13	<b>bench</b> 137:15	131:4 151:8	122:18,20
67:17 69:12,15	135:17	<b>benefit</b> 145:15	152:10	123:1,4 124:8
71:12 74:20	<b>batter</b> 90:3	<b>best</b> 10:3 16:15	<b>body</b> 93:2	124:8 126:3
87:19 105:4,9	<b>bay</b> 112:17	31:6 34:20	<b>BodyOne</b> 93:10	131:4,5,5
114:3 116:13	113:11 122:1	95:2 145:5,5	<b>book</b> 75:15,17	133:11,12,12
116:17 119:19	<b>bear</b> 18:20	162:6	90:18	135:3 137:21
127:5,16,19	61:14	<b>better</b> 45:1 69:9	<b>borders</b> 14:22	137:21 138:9
128:7 130:8	<b>bearing</b> 120:4	71:14 82:15	<b>Boston</b> 12:16	139:13,14,14
137:5,17	<b>beautiful</b> 25:16	122:13 129:8,8	81:15 85:17	141:9,10,10
144:17,21	<b>becoming</b> 31:12	156:22	87:15	142:9 144:3
145:3 152:17	<b>bed</b> 23:9	<b>beyond</b> 9:13	<b>bother</b> 86:5	146:12,14,14
155:11	<b>bedroom</b> 22:9	22:17 24:10	<b>bottom</b> 44:9	149:1,3,3
<b>bad</b> 135:19	31:7 39:19	99:13 131:14	52:15 85:5	150:3 151:8,9
<b>Baker's</b> 3:13	40:2,12,16,17	132:4 148:18	119:8 127:13	151:9 152:19
<b>Barbara</b> 16:4,4	50:14,19 51:5	<b>Bial</b> 64:4	128:5 131:17	152:20,20
16:5 32:19	51:8,11,12,16	<b>big</b> 18:1 36:2	138:14 147:2	153:1 154:3
59:9 61:8,9	130:18 150:22	60:19 145:15	151:19 157:9	156:14,15
95:22	151:1 152:16	<b>biggest</b> 53:20	<b>bought</b> 88:20	158:16,17
<b>Barna</b> 54:8,9,11	<b>bedrooms</b> 22:11	<b>BILL</b> 70:9	97:16,17 98:2	160:3,12,13
54:12	22:12,16 23:8	<b>bit</b> 17:19 25:10	98:5	<b>Brendan's</b> 68:17
<b>barrier</b> 95:7	23:18 40:1,15	25:16 27:13,14	<b>boxes</b> 79:6	<b>brief</b> 92:16
<b>bars</b> 91:21	50:15,18 51:5	30:20 35:22	<b>brand</b> 86:9	<b>briefly</b> 13:19
<b>based</b> 23:1	51:10,17	47:2 55:3 56:4	<b>brand-</b> 107:16	14:5 21:22
145:22	<b>beer</b> 143:1	56:15 82:11	<b>brand-new</b>	28:20 30:21
<b>basement</b> 31:2,3	<b>began</b> 129:4,5	104:6,7 128:4	106:21	63:18 88:14
31:15 32:11	<b>beginning</b> 14:4	144:18,21	<b>BREAK</b> 142:15	<b>bright</b> 90:20
33:21 36:14	35:4	145:16	<b>breakdown</b>	<b>bring</b> 86:15 91:3
39:1 46:6,11	<b>behalf</b> 109:4	<b>black</b> 90:21	20:10	94:13,16 106:5
47:1,4,10 48:5	<b>behavior</b> 35:12	<b>block</b> 109:10	<b>Brendan</b> 1:8 3:4	<b>bringing</b> 109:20
49:3,4,12 50:2	<b>Bellal</b> 115:22	130:12	4:16,17,17 6:3	<b>brings</b> 90:8
53:7,14,15,19	116:10 119:11	<b>blocks</b> 23:5,13	7:10,11,11 9:3	<b>broadcast</b> 3:20
57:18,22 60:3	<b>Bellal's</b> 119:6	<b>blue</b> 16:3 59:11	10:19,20,20	<b>brought</b> 47:19
60:6 93:16	<b>believe</b> 17:2	<b>Board</b> 1:1 3:8	12:3 37:22	<b>Brown</b> 108:16
145:21	43:9 48:2 61:7	4:1,9 6:16 9:22	38:2,2 66:7,9,9	109:8 110:7

<b>Brown's</b> 109:15	94:1 95:12	1:6 3:8,15,21	77:16 78:8,9	4:19 6:20 7:22
<b>bubble</b> 84:10	96:6,13	6:7 29:21	87:10 99:13	10:18 11:9
87:1 88:7,17	<b>businesses</b> 87:11	48:18 55:1	101:17 102:7,8	47:14 66:14
89:12 90:1	89:17 96:1	58:3 87:16	108:7 109:1,9	67:8 72:2 76:9
94:9 96:5 97:3	<b>businesswomen</b>	94:17 96:7	118:2 120:9	77:13 99:16
98:3 99:22	98:19	97:14 108:19	126:7 132:5	100:22 101:13
<b>bubbled</b> 128:18	<b>butts</b> 97:1	108:21 125:10	135:7 139:6,7	102:6 120:18
<b>buckets</b> 31:14	<b>buyers</b> 97:5	129:7 137:17	142:2 144:8,18	121:16,20
<b>build</b> 34:7 38:15	<b>BZA</b> 4:7	<b>CAMBRIDG...</b>	147:10,11	123:5 124:22
38:16 55:3	<b>BZA-119365</b> 2:4	2:3	150:7 152:4	126:6 131:13
150:16,22	<b>BZA-120040</b> 2:3	<b>camera</b> 54:12	154:7,8,18	132:5 133:5,10
<b>building</b> 26:21	<b>BZA-127988</b> 2:6	<b>Campbell</b> 126:9	160:6,7,10	134:1 135:6
27:3,6,17,19	<b>BZA-131123</b>	126:10,13,14	161:7	138:6,22 139:9
34:10 36:19,20	2:11	129:22 130:6	<b>cases</b> 2:2 4:21	140:3,8 141:6
41:4 45:7 47:8	<b>BZA-131742</b>	134:4 142:3	9:17 34:22	141:20 142:5
57:4 72:3	2:10	<b>car</b> 105:11,13	72:14	144:7 146:21
80:11 84:6	<b>BZA-133183</b>	106:5,7,16	<b>cast</b> 26:20	147:15 148:17
85:16,21,21,22	2:12	107:5,6 111:20	<b>casting</b> 26:21	148:20 149:14
86:15,18 89:2	<b>BZA-134121</b>	111:21,21	27:3	150:6 151:16
89:16 90:12,17	2:13	113:3,4,5,9	<b>catch</b> 37:16	153:11 154:6,7
90:22 91:16	<b>BZA-134550</b> 2:9	116:8 117:14	123:11	157:5,20
92:4,6 93:12	<b>BZA-134626</b> 2:8	117:15,18	<b>Catherine</b> 95:16	158:12,15
98:7,14,17	<b>BZA-135907</b>	119:15	95:17,17,20	159:5 160:8
104:20 105:6	2:14	<b>care</b> 57:14 106:9	162:4	161:3
106:6,17 112:9	<b>BZA-138678</b>	106:10 108:2	<b>cause</b> 89:10	<b>Chairman</b> 12:22
112:12,17	2:15	<b>careful</b> 98:11	100:2 121:2	14:9 19:6 32:4
114:7 117:14	<b>C</b>	<b>carefully</b> 33:22	132:11 140:15	57:18 126:10
117:16 118:15	<b>C</b> 3:1 48:1,15,18	144:21	147:20	<b>chairs</b> 83:12
126:18,19	50:1	<b>carries</b> 43:21	<b>ceiling</b> 82:10	<b>challenge</b> 93:13
127:2,3,11,12	<b>C-1</b> 128:12	<b>cars</b> 105:9 107:2	<b>ceilings</b> 46:5	<b>challenging</b> 96:1
127:13,18	<b>cable</b> 3:20	108:4,14	53:8,9	<b>chance</b> 35:2
128:3,6,9,20	<b>calculations</b>	111:17 119:12	<b>center</b> 14:16	144:20
129:6,8 130:21	24:6	<b>case</b> 2:3,4,6,7,8	<b>central</b> 54:19	<b>change</b> 29:19
156:6	<b>call</b> 4:3 6:7 9:7	2:9,10,11,12	<b>certain</b> 3:14	39:4,5 57:13
<b>buildings</b> 27:15	45:13 69:9	2:13,14,15	28:9,9 93:2	79:11 90:22
28:6 34:5,6,12	73:21 78:8	4:22,22 6:6,7	130:15	94:2 95:10
87:12 89:4	102:6 126:6	6:20,21 7:3 8:3	<b>certainly</b> 10:7	100:3,5 121:3
<b>built</b> 38:5 57:19	135:6 144:7	9:6,7,11,13	25:19 33:10	132:12 136:17
60:2,20 89:2	150:7 154:6,8	10:4,5,10,18	40:22 65:14	140:15,19
91:16 119:22	160:7	11:10,12 12:6	90:9 103:12	147:21
<b>built-in</b> 137:15	<b>called</b> 90:3	13:1,3,10	110:8 120:12	<b>changed</b> 112:7
<b>bulkhead</b>	<b>calling</b> 52:17	42:13 50:5	<b>CERTIFICA...</b>	<b>changes</b> 13:20
145:19	85:7,9 131:18	51:10 64:18,21	162:1	16:16 17:12
<b>bunch</b> 88:5	138:15 147:4	66:4,7 68:16	<b>certified</b> 121:19	68:18 125:3
<b>Burns</b> 162:4	151:21 157:10	69:18 70:19	<b>certify</b> 162:5,8	137:16
<b>business</b> 79:12	<b>calls</b> 79:4	71:4 72:7,7,8	<b>cetera</b> 65:18	<b>Channel</b> 3:20
79:12 84:7	<b>Cambridge</b> 1:2	72:11,12 74:6	129:2 131:1	<b>Channing</b> 83:12
86:8 87:5 93:1		76:9,9,15 77:1	<b>Chair</b> 1:7,8 3:9	95:20,21

<b>character</b> 33:15 90:22 100:4,5 121:4 132:13 140:16 147:22	<b>city's</b> 4:7 <b>Civil</b> 118:17,17 <b>claimed</b> 43:16 <b>clarified</b> 86:22 <b>clarify</b> 12:22 50:2 91:15 117:1,2 <b>clarifying</b> 50:8 <b>clarity</b> 47:20 <b>clean</b> 81:18 131:1 <b>cleaned</b> 98:13 <b>clear</b> 109:1,16 <b>clear-cut</b> 132:5 <b>clearly</b> 137:4 <b>click</b> 52:15 85:5 131:16 138:13 147:2 151:19 157:8 <b>client</b> 6:15 15:12 32:9 33:2 46:14 63:14 <b>client's</b> 13:12 <b>clients</b> 13:14 35:12 93:14 96:14,15 97:4 <b>clinging</b> 83:3 <b>close</b> 21:6 62:20 63:5 94:22 99:6 132:1 147:9 152:2 <b>closed</b> 89:21 99:12 <b>closer</b> 29:16 41:4 45:6 <b>closest</b> 58:6 62:10 65:2 <b>closet</b> 40:2,13,19 51:7,12 <b>closets</b> 40:21 51:9,15 <b>clothing</b> 83:1 <b>cluttering</b> 72:14 <b>co-owner</b> 9:19 <b>Coach</b> 142:17 <b>code</b> 63:2 <b>collapse</b> 129:5 <b>colleague</b> 42:11	111:2 <b>colleagues</b> 47:19 51:20 52:8 <b>COLLECTIVE</b> 149:19 153:15 161:11 <b>college</b> 86:1,6 <b>color</b> 90:15 <b>colors</b> 90:16,17 90:18,19 <b>Colten</b> 102:18 103:3,3,9,12 104:4,11,14 109:6,22 110:3 110:8,15 111:1 111:5,11 112:6 112:14,19,22 113:7,15,19 117:1,2,7,9,11 119:6,20 120:6 120:12 123:18 125:12,14 <b>combination</b> 36:13 <b>come</b> 38:11,16 45:3 54:11 67:17 69:12,15 71:12 93:14 99:18 105:9,21 106:3 107:11 113:20 119:7 123:20 <b>comes</b> 38:5 152:6 <b>coming</b> 26:3 46:21 60:14 76:14 83:2 97:5 109:16 119:17,19 <b>comment</b> 4:5,6 37:14,19 38:3 39:16 40:7 42:10,10,14 55:12 57:18 65:5 67:19 68:12 117:4 124:5 138:9,11 138:12	<b>commentary</b> 52:20 <b>comments</b> 39:15 42:8 47:16 52:11 59:2 66:3 84:16 87:7 92:16 99:7 114:2 117:5 124:3 <b>commercial</b> 83:17 88:19 89:4 <b>commission</b> 129:7 162:17 <b>Commissioner</b> 1:13 114:5 <b>commitment</b> 57:8 <b>common</b> 34:21 <b>Commonwealth</b> 162:2,5 <b>community</b> 28:22 43:20 54:22 56:2 57:7,14 58:18 <b>company</b> 95:21 95:22 <b>compare</b> 27:18 <b>compensate</b> 36:16 <b>compiles</b> 20:4 <b>complain</b> 86:20 <b>complaint</b> 118:4 <b>complaints</b> 130:5 <b>completed</b> 122:5 <b>completely</b> 55:3 <b>complex</b> 36:17 <b>computer</b> 89:20 <b>con</b> 49:16 157:16 <b>conceivable</b> 29:8 <b>concern</b> 15:9 16:1 32:6 83:5 83:6 123:13,21 <b>concerned</b> 83:2 86:7 87:2	94:19,20 96:11 96:11 97:4,7,7 97:8,13 98:9 98:10 <b>concerns</b> 17:16 25:4,6,12,12 32:5 35:16 36:1 39:11 41:9 56:19 59:10 60:19 80:7,15,17 82:5 83:21 85:18 86:17 96:10 <b>concise</b> 14:15 <b>Concord</b> 2:9 55:22 102:7 103:4 104:1,3 107:12 111:16 111:18 113:10 115:11 <b>concrete</b> 60:5 <b>concur</b> 68:9 156:10 <b>condition</b> 6:22 19:19 67:9 120:16 121:17 121:20 122:5 123:13 139:10 141:7 148:21 158:13 <b>conditions</b> 26:6 26:9 31:8 36:14 66:22 76:11 123:8 124:9,12,15 <b>condo</b> 19:1,4 42:16 46:3 48:1 49:19 52:1,4 53:3 54:13 62:11 88:22 90:14,16 97:16 104:10 <b>condominium</b> 14:18,18 18:7 24:16 25:7 38:4,14 43:1 43:10 44:10
--	--	--	--	---

49:7 79:10,11 91:13,14,19 115:2,4 <b>Condominiums</b> 88:19 <b>condos</b> 59:11,16 <b>conferred</b> 10:2 <b>confident</b> 70:22 <b>configuration</b> 127:6 <b>conflict</b> 73:11 74:11 83:17 93:4 <b>conforming</b> 24:9 <b>conforms</b> 37:3 <b>confusion</b> 154:7 <b>congestion</b> 100:3 121:3 132:12 140:15 147:21 <b>congregate</b> 89:10 <b>consequences</b> 114:22 <b>consid</b> 70:13 <b>consider</b> 61:10 65:4 95:12 98:22 <b>consideration</b> 108:12 <b>considered</b> 34:1 <b>consistent</b> 35:20 90:15 103:16 <b>Constantine</b> 1:7 3:4,7 4:19 6:3 6:6,11 7:13,16 7:19,22 8:3 9:3 9:6 10:14,17 10:22 11:3,6,9 12:3,6,10 13:19 14:12 17:4,6,22 18:4 18:8,11,15 19:8,11,19 20:1,6 21:4,8 21:16 28:13 30:2,4,8,13,16	31:16,19 32:7 32:14,17 33:6 33:8 37:4,7,15 37:20,22 39:14 40:6 42:7 47:15 52:9 53:1 54:3,6,10 55:11,17 56:9 56:13 59:4 61:16,22 62:3 62:7 63:4,10 63:19 64:5,8 64:10,15,17,21 65:5,9,21 66:2 66:6,10 67:20 68:2,4,6,12,21 69:6,17,22 70:11,14,21 71:1,5,7,11,13 71:18,21 72:6 72:13,16 73:1 73:6,9,14,17 73:20 74:2,4,7 74:9,12,21 75:2,6,9,11,13 75:16,19,21 76:2,6,8 77:4,7 77:10,13,16,18 78:4,7,14,16 78:18,20 79:1 79:3 80:4,9,16 80:19 82:9,16 84:1,15,19,22 85:3,13 87:6 88:10 92:11 93:6 94:3,6 95:14,19 99:5 101:6,9,11,13 101:16 102:3,6 102:10,15,20 103:1,6,10,13 104:8,13 108:5 109:19 110:2,5 110:11,22 111:2,7,12 114:2,15,17,20 116:22 117:3 120:5,8,13	122:7 123:2,6 123:10,14 124:2,6,10,13 124:17,20,22 125:5,13,15 126:3,6,12 129:21 130:1 131:3,7,9,11 131:13,22 133:14,17,20 134:1,5 135:3 135:6,10 136:8 136:11,19,22 137:18,20,22 138:2,4,6,10 138:20 139:16 139:19,22 140:3,6 141:12 141:14,17,20 142:1,4,7,10 142:13,16,18 142:21 143:1,3 144:3,6,13 146:12,17,19 146:21 147:8 149:5,8,11,14 149:17 150:3,6 150:12 151:3,6 151:10,12,14 151:16 152:22 153:2,5,8,11 153:16 154:3,6 154:13,17 155:19 156:3 156:13,16,18 156:21 157:5 157:14 158:18 158:21 159:2,5 159:8,12 160:3 160:6,14,16,18 160:21 161:3,6 161:10 <b>constantly</b> 58:10 98:13 <b>constellation</b> 30:19 <b>constraints</b> 24:1 <b>construction</b>	31:1 58:10 67:11 93:16 129:4 135:16 137:9 <b>contention</b> 116:10 <b>contest</b> 115:18 <b>context</b> 59:16 66:11 <b>continuance</b> 6:14 7:12,15 7:18,21 8:1 13:5 68:20 71:18 72:21 73:7 77:3,6,9 77:12 <b>continuation</b> 155:11,13 <b>continue</b> 6:20 9:13 13:3 19:8 69:18 70:19 71:8,15 72:7 72:19 73:2 76:9 77:14 <b>continued</b> 2:2 4:21,22 5:2 6:6 7:3 8:4 9:11,17 35:10 61:11 72:4,7 74:6 77:16 79:17 80:21 100:7 121:5 124:1 132:14 140:16 148:6 <b>continuing</b> 68:16 72:11,14 <b>contract</b> 119:6 <b>contractual</b> 43:20 <b>contradict</b> 119:5 <b>contributes</b> 37:1 <b>contributing</b> 54:19 <b>control</b> 34:16 <b>convenient</b> 91:22 <b>conversations</b> 35:21	<b>converted</b> 115:3 <b>convinced</b> 38:6 38:20 <b>cooking</b> 90:9 <b>copy</b> 63:17 109:22 110:3 <b>corner</b> 17:20 36:2 44:21 45:21 137:3 <b>correct</b> 42:1,5 44:3 48:14,16 48:19 70:1 71:17 72:5 83:8 88:9 112:20 113:1 123:1 <b>corrected</b> 112:21 <b>correction</b> 112:6 <b>correctly</b> 42:16 <b>cost</b> 35:10 58:1 <b>costing</b> 58:3 <b>costs</b> 98:20 <b>Council</b> 108:19 <b>counsel</b> 6:13 42:15 43:22 46:5 125:8 162:9 <b>Counselors</b> 60:12 <b>count</b> 81:11 <b>couple</b> 42:9 54:1 115:13 123:8 155:8 <b>course</b> 3:21 52:11 128:13 <b>Court</b> 152:6 <b>courtyard</b> 81:17 83:11 97:1,3 <b>covered</b> 92:16 93:21 <b>COVID</b> 96:2 137:9 144:19 144:20 <b>COVID-19</b> 3:12 3:17 <b>cracks</b> 60:6 <b>cramped</b> 46:15
---	--	---	---	--



56:4	<b>customers</b> 81:19	73:11 83:14	<b>Department</b>	<b>diced</b> 90:4
<b>cream</b> 160:22	<b>cut</b> 17:14 18:19	125:9 162:13	10:3 72:3	<b>die</b> 122:9,10
<b>create</b> 22:22	23:4 36:2	<b>day-to-day</b>	80:11 105:6,7	<b>difference</b> 90:13
31:7 40:1,15	103:15,20	156:1	<b>depth</b> 29:1	<b>different</b> 26:9
66:20 82:3	104:19,22	<b>days</b> 7:5 76:17	<b>derogate</b> 100:20	38:18,19 42:2
86:5 90:21	106:4,13,13,14	96:13	121:14 133:3	49:12 67:18
104:3 106:18	106:16,20,21	<b>deal</b> 30:10 31:22	141:3 148:15	119:15
129:1,9 135:22	107:8,12,18,19	34:22 46:10	<b>derogating</b> 67:6	<b>differently</b>
137:17 154:21	107:21 108:18	81:1	158:10	10:12,15
155:4	109:14 112:3	<b>dealing</b> 68:17	<b>describe</b> 13:19	<b>difficult</b> 24:2
<b>created</b> 100:15	113:18,21	<b>dealt</b> 32:21	17:10 30:20,21	35:11,12 156:7
119:22 121:9	116:2 120:20	103:15	65:16	<b>difficulty</b> 29:2
132:20 140:20	122:6 125:8,9	<b>dearly</b> 96:15	<b>described</b> 94:21	37:2 128:1
148:10	<b>cuts</b> 103:16,17	<b>debate</b> 117:4	<b>design</b> 17:11,11	<b>diligent</b> 95:8
<b>creates</b> 127:17	104:2 110:20	<b>decent</b> 129:1	56:19 67:11	<b>dimension</b> 45:1
128:8	114:21 121:8	<b>decent-sized</b>	137:9 145:22	45:13 117:13
<b>creating</b> 27:5	124:16	23:11	146:1	118:16,18
33:20	<b>cutting</b> 17:18	<b>decided</b> 10:11	<b>designated</b>	<b>dimensional</b>
<b>credit</b> 93:14		23:3 135:21	108:20	19:21,22 20:2
94:18	<b>D</b>	158:6	<b>desirable</b> 29:17	<b>direct</b> 93:4
<b>criteria</b> 22:21	<b>D</b> 2:1 3:1,13	<b>deciduous</b> 26:9	47:9 158:4	<b>direction</b> 35:20
<b>cross</b> 61:14	<b>Dad's</b> 81:14	<b>decision</b> 7:2	<b>desire</b> 58:19	36:4 116:4
<b>crow</b> 56:15	<b>Daglian</b> 1:13	76:13 120:9,14	<b>desk</b> 23:9	<b>directions</b> 41:2
<b>Culotta</b> 12:18	4:11,13,14,16	152:7 157:17	<b>despite</b> 9:15	98:10
<b>culvert</b> 29:21	4:18 52:21	<b>decisions</b> 65:6	<b>details</b> 33:19	<b>directly</b> 25:6
<b>cup</b> 98:12	54:8 55:13,15	<b>deck</b> 34:13 44:1	<b>determined</b>	35:13 36:7
<b>curb</b> 103:15,16	56:11 59:7	51:22 137:6,16	105:7	80:2,6,14 83:1
103:17,20	62:4 73:5,13	137:16	<b>determining</b>	83:14 92:14
104:2,19,22	85:11 88:2	<b>decoration</b>	129:11	112:16 113:11
106:4,13,13,14	92:12 93:7	90:19	<b>detriment</b> 67:5	122:1 135:20
106:16,20,21	94:4 95:16	<b>decrease</b> 17:17	100:16 121:10	136:4
107:8,17,19	115:8	<b>Deeds</b> 91:20	132:21 140:21	<b>disagree</b> 117:21
108:18 109:13	<b>damage</b> 32:10	<b>deep</b> 24:5	148:11 158:9	<b>disappointed</b>
112:3 113:18	50:10	<b>deeper</b> 27:16	<b>detrimental</b>	161:1,2
113:21 114:21	<b>Danehy</b> 15:1,1,9	29:3	152:12	<b>disapprove</b>
116:2 118:10	25:12 58:6	<b>defaults</b> 128:12	<b>developed</b> 62:19	109:2
118:10,14,19	<b>data</b> 7:7	<b>defined</b> 48:22	<b>developer</b> 38:9	<b>discuss</b> 99:14
119:22 120:3	<b>date</b> 2:3,5,6 5:1	<b>definitely</b> 13:22	<b>development</b>	120:15 132:4
120:20 121:8	6:18 71:20	16:1 52:5	38:3,4,4,13,14	<b>discussed</b> 125:3
122:5 124:16	72:4,5 73:12	53:10	39:12 79:17	<b>discusses</b> 66:3
125:8,9	76:18	<b>deleted</b> 20:15	80:21 100:7	<b>discussing</b> 24:20
<b>curious</b> 40:3,5	<b>dated</b> 3:17 67:11	<b>deliveries</b> 91:5	121:5 132:14	99:12
<b>current</b> 30:9	133:9 139:12	91:11	140:17 148:6	<b>discussion</b> 29:11
34:13 68:5	149:1	<b>denied</b> 68:14	<b>developments</b>	35:7 37:12
72:11 150:22	<b>daughter's</b>	101:17	38:20	66:12 100:6
<b>currently</b>	74:11 161:2	<b>densely</b> 62:19	<b>Devoe</b> 90:16	147:14
130:11 155:5	<b>daughters</b> 51:5	<b>deny</b> 65:12	<b>diagonal</b> 107:12	<b>discussions</b>
<b>Custic</b> 12:19	<b>day</b> 27:1,16 28:1	88:15 92:5	<b>dialogue</b> 120:8	13:12 35:17

<b>dismiss</b> 10:10,18 10:21 11:2,5,8 11:10	76:20 104:21 105:3,10 106:11,18	35:6,14,22 104:6 118:7,20	<b>engineer</b> 33:20 118:17	95:21
<b>dismissed</b> 11:12 76:15	136:6 146:11 155:2	<b>egress</b> 100:2 121:2 132:11 140:14 145:20 147:20	<b>Engineer's</b> 118:18	<b>et</b> 65:18 129:2 131:1
<b>disruption</b> 100:12	<b>drawn</b> 135:18 137:6	<b>eight</b> 92:1	<b>England</b> 67:10	<b>evaluate</b> 59:14
<b>disruptive</b> 87:17 89:15	<b>dress</b> 82:22,22	<b>eight-foot</b> 40:17 40:17,18	<b>enhance</b> 63:2	<b>Evans</b> 92:12,13 92:13 93:9
<b>distance</b> 34:12	<b>drink</b> 89:5	<b>Eighteenth</b> 75:2	<b>enjoyed</b> 93:3,11 94:1 96:7,9 99:2	<b>Evanson</b> 93:7,8 93:9
<b>distraction</b> 105:19	<b>drive</b> 2:3 6:8 105:1,7 116:16	<b>either</b> 60:6 74:17 86:19,20 97:4 111:19 130:9,10	<b>ensure</b> 118:20	<b>evening</b> 12:12 12:14,21 13:7 13:9 33:14 85:15 94:7 115:9 126:9 154:10
<b>distribute</b> 83:19	<b>driveway</b> 107:13 110:19 116:18 118:5 119:16 123:17	<b>elderly</b> 47:6 50:11	<b>entail</b> 67:19	<b>event</b> 50:8 62:22 74:11 87:22
<b>district</b> 67:3 100:19,19 121:13 133:2,2 141:2,2 148:14 148:14	<b>driving</b> 116:18	<b>elevation</b> 23:13 128:15,17 145:8	<b>enter</b> 155:5	<b>events</b> 3:16,17 137:11
<b>districts</b> 84:4 121:13	<b>dropped</b> 129:15	<b>eliminate</b> 23:13	<b>entirely</b> 60:17 137:7	<b>everybody</b> 85:14 94:7 95:12 97:18 109:8 145:12
<b>disturbance</b> 91:1	<b>drugstores</b> 91:22	<b>Elizabeth</b> 93:8,8	<b>entrance</b> 81:20 97:2,2 154:21 155:21 156:1,8	<b>evidence</b> 110:14
<b>disturbs</b> 98:4	<b>Dudley</b> 54:15	<b>Ellsworth</b> 126:9 126:11,13,14 129:22 130:6 133:8 134:4 142:3	<b>entryway</b> 155:4	<b>evolved</b> 137:9
<b>docket</b> 72:14	<b>due</b> 3:10,17,21 60:6 119:7,17	<b>else's</b> 118:1	<b>envelope</b> 69:8	<b>exactly</b> 21:12 82:19 91:7 109:8,15
<b>docs</b> 19:1 49:19	<b>duplicity</b> 33:8 33:16	<b>emergency</b> 3:11 3:16	<b>environment</b> 55:4	<b>examples</b> 113:21
<b>doctors</b> 19:5	<b>dwelling</b> 104:6 105:16 107:2 108:3	<b>emphasize</b> 119:1	<b>erected</b> 7:4 76:16	<b>excellent</b> 156:11
<b>document</b> 49:7	<b>dying</b> 63:15	<b>employed</b> 162:9	<b>Erica</b> 64:4	<b>excess</b> 119:17
<b>documents</b> 48:1 90:15,17 91:14	<hr/> <b>E</b> <hr/>	<b>employee</b> 119:6	<b>Erwin</b> 55:13,15 55:16,18,18	<b>exclusive</b> 34:14 44:19 45:14,17 45:19 62:16
<b>doing</b> 29:14 41:3 92:18 95:2 97:19 118:13 146:3 152:15	<b>E</b> 2:1 3:1,1	<b>Employees</b> 1:12	<b>Especially</b> 52:1 67:2 90:8	<b>exclusively</b> 24:4
<b>dollars</b> 58:4	<b>earlier</b> 5:1 48:4 99:7	<b>emptied</b> 31:15	<b>essentially</b> 36:15 44:4 128:10 130:22	<b>Excuse</b> 17:4 63:8 120:5,8
<b>door</b> 35:6 96:4 97:6 145:10	<b>early</b> 6:16 26:13 26:16 89:18	<b>enclose</b> 81:16	<b>establish</b> 79:14	<b>Executive</b> 3:13
<b>doorway</b> 89:11	<b>easier</b> 152:7	<b>enclosed</b> 82:4	<b>established</b> 89:3 100:3,5 121:3 122:8 132:12 140:16 147:21	<b>Exhibit</b> 48:1,15 50:1
<b>doubt</b> 113:8	<b>easiest</b> 99:12	<b>enclosing</b> 152:15	<b>establishing</b> 107:19	<b>existing</b> 18:21 19:15 20:21,22 26:6 27:2,6,17 27:19 38:21 44:4 48:20 60:5 104:18,18 106:3,4,20 107:13 116:11
<b>Doug</b> 108:16	<b>east</b> 105:13 106:11,17 107:6 112:20 114:8 116:4,6	<b>encourage</b> 113:16	<b>establishment</b> 79:5,5 87:16 101:2	
<b>drain</b> 58:10	<b>echo</b> 124:18	<b>encroach</b> 127:18	<b>establishments</b> 84:3	
<b>drainage</b> 118:4 119:14	<b>economic</b> 115:2	<b>ended</b> 23:15	<b>Estate</b> 83:12	
<b>drawing</b> 121:22 122:4 128:16 136:8,15 145:6 145:9 146:7 154:18	<b>edge</b> 118:9	<b>endemic</b> 66:22		
<b>drawings</b> 16:13	<b>effect</b> 94:14 100:11	<b>ends</b> 99:15		
	<b>effort</b> 25:11 35:4	<b>enforcement</b> 30:5 66:15 157:22		

130:11 137:6 144:16 145:8 146:1,2 150:14 150:15,17 151:1,2 152:12 155:11 <b>existing's</b> 19:4 <b>exit</b> 111:21 <b>expand</b> 38:7 <b>expanding</b> 50:6 50:6 <b>expectation</b> 31:4 72:20 <b>expecting</b> 37:18 <b>expensive</b> 98:18 <b>experience</b> 46:14 <b>experienced</b> 58:7 <b>experiencing</b> 93:18 <b>expires</b> 162:17 <b>explain</b> 49:10 <b>explained</b> 116:3 <b>explaining</b> 51:19 <b>explanation</b> 104:12 <b>explore</b> 67:16 68:20 <b>express</b> 25:5 106:1 109:6 <b>expressed</b> 16:1,1 81:2 114:20 132:18 <b>expressing</b> 59:10 <b>extend</b> 150:14 150:22 <b>extended</b> 17:1,2 17:8 22:17 24:6,10 <b>extent</b> 7:6 76:19 108:11 <b>exterior</b> 90:15 137:1 <b>extra</b> 22:9 56:7 117:16	<b>extruding</b> 17:19 <hr/> <b>F</b> <b>façade</b> 126:17 <b>face</b> 89:12 <b>faces</b> 89:13 <b>facing</b> 112:16 130:3,3 <b>fact</b> 7:2 9:15 24:3 31:17 62:17 65:7,17 81:1 89:9 91:7 100:10 104:5 106:19 112:8,8 116:6,8 117:13 117:15 118:19 130:20 132:17 139:4 147:22 158:7 <b>factor</b> 47:6,6 129:11 <b>facts</b> 33:9 65:15 <b>failed</b> 9:14 <b>Failing</b> 76:14 <b>failure</b> 10:18 76:22 <b>fair</b> 81:7 130:13 <b>fairly</b> 130:15 <b>familiar</b> 135:7 154:18 <b>families</b> 55:4 <b>family</b> 16:6 23:11 25:4 35:5 39:1 47:3 55:7,9 66:18 92:8 94:14,15 96:8,17 97:22 <b>far</b> 15:21 29:7 45:13 56:15 83:18 106:5 119:9 <b>farther</b> 145:20 <b>fashion</b> 120:11 <b>fast</b> 79:4 84:2 92:6 98:9,17 <b>fast-</b> 101:1 <b>fast-food</b> 87:16 88:16,22 89:6	90:20 91:2,21 92:4 <b>fast-order</b> 79:5 84:2 <b>favor</b> 11:4,7 57:6 61:17,17 67:20,22 68:8 87:4 125:2 133:18,21 134:2 139:20 140:1 141:13 149:9,12,17 153:6,9,12 <b>favorably</b> 69:15 <b>feedback</b> 13:12 23:3 <b>feel</b> 10:12,15 39:10 56:17 62:14,17 81:8 93:3 <b>feeling</b> 111:15 <b>feet</b> 16:22 17:5 18:5,14 21:2 22:14,19 24:11 31:3 44:20 45:19,20 48:2 48:6 49:11 106:14,20,22 107:16 114:10 119:16 127:20 128:11 <b>fellow</b> 37:8 62:11 <b>felt</b> 23:7 46:15 92:22 <b>fence</b> 45:17 61:18,20 116:11,19 117:19,20,22 119:2,7 130:11 130:16 <b>fenced</b> 112:11 <b>fencing</b> 123:16 <b>figure</b> 29:12 48:14 <b>figured</b> 60:17 <b>file</b> 13:17 32:18 64:6 69:19	70:15 76:21 99:8 110:2,6 110:14 129:17 136:9 157:16 <b>filed</b> 17:12 <b>files</b> 7:8 80:10 80:10 108:16 108:17 153:17 <b>filing</b> 18:4 20:10 <b>fill</b> 26:20 <b>filled</b> 120:3 <b>filter</b> 86:10 <b>filters</b> 87:9 <b>final</b> 66:2 117:6 <b>financially</b> 162:10 <b>find</b> 4:6 19:13 36:15 38:9 46:22 54:22 92:9 152:10 <b>finding</b> 37:2 67:1 <b>findings</b> 66:15 67:7 99:17,18 100:22 120:19 121:16 132:6 133:5 138:22 139:1,2,5,8,9 140:9 141:5 147:16 148:20 157:21 158:12 <b>fine</b> 6:19 42:21 50:1 74:5 75:5 75:7 127:21 <b>finished</b> 37:9 <b>fire</b> 86:4,9 98:10 98:14 <b>first</b> 6:6 7:1 9:14 13:9 19:2 22:8 26:10 30:4 42:10 47:21 56:17 78:8 99:20 111:15 114:4 115:18 119:21 126:21 133:9 138:7,21 145:16 <b>first-</b> 130:13	<b>first-floor</b> 49:20 130:17 <b>Firstly</b> 115:13 <b>fish</b> 90:3 <b>fit</b> 116:8 119:12 <b>five</b> 44:20 88:19 114:10 115:19 142:9,10,12 <b>fix</b> 81:8 <b>flakes</b> 90:4 <b>flammable</b> 98:13 <b>flies</b> 56:16 <b>flood</b> 58:1 <b>flooding</b> 59:22 60:6 61:11 <b>floods</b> 57:22 <b>floor</b> 18:1 20:19 20:20,21 21:18 22:8,10 23:8 39:17,18,18 47:21 48:10,22 78:18 102:10 130:14,18 135:18 136:15 150:14 <b>floors</b> 85:22 <b>focus</b> 23:20 <b>folks</b> 14:7 23:17 33:17 154:13 <b>follow</b> 94:10,11 95:4,9 <b>following</b> 6:22 66:15 76:10 99:16 120:18 132:6 138:22 140:9 147:15 157:20 <b>fond</b> 112:1 <b>food</b> 79:4,5 81:11,11 83:17 84:2,2 85:20 88:17 89:5 90:7,8,8 91:21 92:4,6 98:9,17 101:2 <b>foot</b> 17:13 41:7 91:4 115:16,20
--	--	--	--	--

115:20	112:16,17	<b>given</b> 56:18	96:21 98:16	147:12,17
<b>footage</b> 17:18	113:9,11 122:1	66:20 103:22	99:11 108:9	148:21 157:18
18:12 19:16	127:11 128:6	158:2,3,3,7	111:18,20,21	157:19 158:13
23:6,10,13	128:10	<b>giving</b> 88:14	112:8 116:5,20	<b>granted</b> 67:4
47:22 48:5,8	<b>fryer</b> 90:8 98:11	<b>Gladstone</b> 2:13	118:21 120:13	72:8 125:6
48:20 49:4	<b>full</b> 16:22 54:16	150:7,8,15	132:3 138:7	134:6 135:14
<b>footprint</b> 57:15	62:12 122:5	<b>go</b> 6:15,16 14:12	139:4 143:2	139:2 140:7
151:2	<b>full-time</b> 150:20	19:13 21:18,19	147:12 160:22	142:1 149:18
<b>force</b> 58:15	<b>fully</b> 116:12	21:22 25:1	<b>good</b> 12:12,13	153:14 158:9
<b>forgetting</b> 16:5	<b>function</b> 107:3	26:5 27:7,9	36:4,10 55:19	159:8
<b>form</b> 19:21,22	<b>functionally</b>	28:16,21 30:20	56:1 67:5	<b>granting</b> 61:17
20:2 111:4,4,5	22:1	34:11,12 44:8	75:15 85:14	67:21 68:1,8
111:6,8 116:1	<b>further</b> 6:14	53:12,13 55:20	87:1 94:7 95:8	101:5 104:9,9
<b>former</b> 51:16	10:4 16:21	58:15 63:6,10	115:9 123:4	124:9,11,15
<b>forth</b> 109:4	29:15,16 37:1	66:3 75:3 76:3	126:9,13 129:1	125:2 133:13
<b>forward</b> 72:12	37:12 60:5	79:15 80:1,2,6	129:9 144:15	133:15,19,22
79:15	87:14 121:20	80:7,7,10	149:18 154:10	134:2 139:6,7
<b>forwarded</b>	125:9,10	87:19 98:18,21	156:20 158:9	139:15,17,21
110:1,16,16	127:16 145:16	99:3 106:2,11	159:8	140:2 141:8,11
<b>foundation</b> 60:7	147:14 162:8	109:5 114:3	<b>Goodnight</b>	149:4 152:21
129:5,9	<b>future</b> 10:11	117:8 120:1	161:9,10,11	153:3,7,10,12
<b>four</b> 14:18 45:19		125:7 126:20	<b>Gotcha</b> 20:8	158:17,19,22
45:20 62:18	<b>G</b>	128:15 143:3	<b>gotten</b> 60:21	159:4
68:15 88:20	<b>G</b> 3:1	144:13 145:5	<b>governed</b> 152:5	<b>graphics</b> 90:21
106:20,22	<b>garage</b> 112:2	146:11 154:19	<b>Governor</b> 3:13	<b>grass</b> 113:3,12
107:16	156:5,8 157:2	155:8 156:7	<b>Grab</b> 143:1	122:3,9,16
<b>four-and-a-half</b>	158:2	<b>goal</b> 26:10 39:18	<b>Grady</b> 12:20	<b>grassed</b> 122:14
127:20	<b>gate</b> 45:18 94:22	<b>God</b> 96:22	17:9 18:21	<b>grassy</b> 122:8
<b>four-unit</b> 42:15	<b>gathering</b> 83:13	<b>goes</b> 38:9 43:19	19:1,4,12,15	<b>gratified</b> 47:18
<b>franchise</b> 88:7	<b>gatherings</b> 3:12	127:16 128:6	20:11,17,18,19	<b>grease</b> 98:12
88:17 89:1,12	<b>general</b> 1:3 36:9	<b>going</b> 6:7 9:7,11	20:21 21:3,11	<b>great</b> 28:19
<b>frankly</b> 29:17	116:4	9:12 10:6,9	21:21 22:3,6	44:17 53:22
35:18	<b>generally</b> 4:8	13:17 17:9	25:2,17,19,21	58:1 62:8
<b>freestanding</b>	67:3 100:18	24:20 25:2	40:8,10 45:2,6	65:20 129:6,18
156:5	121:12 133:1	26:14 27:22	45:10 46:13,18	<b>greater</b> 22:20
<b>French</b> 58:9	141:1	33:17 35:9,20	46:19 48:7,17	31:12
<b>frequent</b> 56:6	<b>generated</b> 100:1	36:4 45:7	49:16,19 50:3	<b>greatly</b> 97:4
<b>fried</b> 90:7,8	121:1 132:10	46:20 50:19	50:22 51:2,3,4	<b>greenscape</b>
<b>friend</b> 55:19	140:13 147:19	51:1 53:16	69:5,10 73:16	122:14 123:20
<b>friends</b> 81:14	<b>getting</b> 27:2	58:22 60:11,15	77:19	<b>grocery</b> 81:11
<b>front</b> 14:16 25:7	31:11 33:19	65:12,17 69:7	<b>grant</b> 29:8 65:10	<b>gross</b> 18:1 20:19
25:8 34:11	51:8 82:7	70:11,15 71:7	66:11 67:8,15	20:20,21 48:10
36:19 39:22	159:3	71:14 78:8	79:19 99:13,21	48:22
60:3 83:11	<b>GFA</b> 130:22	79:11 80:3	101:1 103:13	<b>ground</b> 60:22
97:1,2,6	<b>giant</b> 145:3	82:20,20 83:7	120:22 121:17	96:5 97:12
103:21 105:11	<b>give</b> 4:5 14:7	87:12,22 88:8	133:6 139:10	<b>ground-level</b>
105:12,18,19	26:2 94:17	88:11 90:6	140:11,12	154:21
112:1,4,9,11	104:12 120:16	91:3 92:19	141:6,15	<b>grounds</b> 133:7

<p><b>groundwater</b> 60:21</p> <p><b>guess</b> 46:3 111:15 125:7 137:4 160:10</p> <p><b>guessing</b> 45:18</p> <p><b>guests</b> 105:2</p> <p><b>Gus</b> 3:9 4:18</p> <p><b>guys</b> 12:19 144:12 146:10</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>hallway</b> 40:15 51:13</p> <p><b>hallways</b> 51:8</p> <p><b>hand</b> 52:16,18 85:6,8 131:17 131:19 136:14 138:14,16 147:3,5 151:20 151:22 157:9 157:11 162:12</p> <p><b>hanging</b> 89:14</p> <p><b>happen</b> 57:1 118:8</p> <p><b>happened</b> 59:21 113:20</p> <p><b>happens</b> 54:4</p> <p><b>happy</b> 117:2 146:10</p> <p><b>hard</b> 17:2 71:3 94:16 95:3,11 96:2,3 112:10 114:6,7</p> <p><b>hardscape</b> 112:3 112:22 113:2 113:11,22 118:10 122:2 122:17</p> <p><b>hardship</b> 30:6 30:10 36:13 38:21 50:10,12 50:15,20 58:15 61:10 66:17,17 66:21 106:1,15 107:14 108:1,6 108:7,10,13 158:1,2,6</p>	<p><b>hardworking</b> 95:9</p> <p><b>hate</b> 99:3</p> <p><b>hazard</b> 100:3,15 121:3,9 132:12 132:20 140:15 140:20 147:21 148:10</p> <p><b>head</b> 82:8</p> <p><b>health</b> 100:16 121:10 132:21 140:21 148:11</p> <p><b>hear</b> 10:5 35:3 44:2 47:19 52:22 54:9,10 55:16 62:5,7 68:22 77:1 78:15 82:13 85:12 95:19 126:11 135:9 144:12,13</p> <p><b>heard</b> 2:3,6 6:9 6:12,21 9:8 10:7 12:8,11 13:1,8,9 39:19 68:13 76:9 78:10 102:8 126:8 130:7 135:8 144:9,18 150:8 152:2 154:9</p> <p><b>hearing</b> 1:3 2:3 2:5,6 4:21 12:21 13:4 71:19 73:12 119:21</p> <p><b>heating</b> 82:2</p> <p><b>heavy</b> 61:4</p> <p><b>height</b> 25:22 26:3 34:8 60:4 130:22</p> <p><b>held</b> 3:10</p> <p><b>hello</b> 54:3 56:12 56:13 62:5,5,5 78:12,13 94:5 94:6,7 95:17 102:12,18 150:10</p>	<p><b>help</b> 50:17 57:13 61:16 99:1,2</p> <p><b>helped</b> 50:5</p> <p><b>helpful</b> 17:21 24:19 65:15 96:20 126:21</p> <p><b>hereunto</b> 162:12</p> <p><b>Hession</b> 88:2,3,4 88:13 97:11</p> <p><b>hi</b> 52:22 54:9 56:14 62:8 85:14,14 88:3 92:13 93:8 135:9,11</p> <p><b>Hickey</b> 1:8 3:5 4:11,12 6:4 7:14,14 9:4 11:4,4 12:4 42:9,20,21 43:3,6,11,14 43:19 44:6,12 44:14,16 45:5 45:9,15,22 46:2,8 47:11 47:14 72:2,2 72:10,15,18 74:5 75:10,12 77:8,8 78:5 84:20 101:10 101:10 102:4 114:16 124:14 124:14 126:4 131:10 133:18 133:18 135:4 138:3 139:20 139:20 141:15 141:15 144:4 146:18,18 149:9,9 150:4 151:13 153:6,6 154:4 156:19 158:22,22 160:4,17</p> <p><b>high</b> 46:5 53:9 61:3 136:3</p> <p><b>highlighted</b> 15:14</p> <p><b>highwater</b> 61:1</p>	<p><b>historic</b> 90:16</p> <p><b>Historical</b> 129:7</p> <p><b>hold</b> 68:22</p> <p><b>home</b> 34:20 53:12,18 88:21 90:11 91:8 127:4</p> <p><b>homeowner</b> 135:12</p> <p><b>homeowners</b> 144:11 154:12</p> <p><b>homes</b> 15:8 90:19</p> <p><b>hope</b> 28:11 55:9 92:8 95:12</p> <p><b>hopefully</b> 33:11 36:6</p> <p><b>hoping</b> 33:12 37:18 90:1 94:2</p> <p><b>horrible</b> 57:21</p> <p><b>horrific</b> 98:14</p> <p><b>hot</b> 86:13</p> <p><b>hour</b> 160:8</p> <p><b>hours</b> 28:3 83:6 87:16 100:13</p> <p><b>house</b> 14:20 15:12,13,17 16:3,10,18 18:1,21 19:16 25:6 46:1 53:15 56:3,5,7 57:19 58:14 59:11,17 60:14 60:15 105:11 105:18 112:2,4 116:14 119:8 123:19 124:1 135:13 137:5 137:11,13 144:17,21 145:3 155:12 155:14,21</p> <p><b>houses</b> 62:20 111:18</p> <p><b>Hubbard</b> 2:4 9:7</p> <p><b>huge</b> 55:8 58:18</p>	<p><b>humanistically</b> 57:15</p> <p><b>husband</b> 53:2 54:15 55:9 62:9 154:11</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>ice</b> 160:22</p> <p><b>icon</b> 52:15 85:5 131:16 138:13 147:2 151:19 157:8</p> <p><b>idea</b> 26:2 27:10 51:14 55:3</p> <p><b>ideal</b> 39:2</p> <p><b>identifying</b> 97:17</p> <p><b>ignored</b> 96:20</p> <p><b>illustrated</b> 90:18</p> <p><b>image</b> 14:17 15:15 16:8 25:9</p> <p><b>images</b> 14:4,10</p> <p><b>immediate</b> 62:10 109:17</p> <p><b>immediately</b> 64:2 115:11,15 155:17</p> <p><b>impact</b> 26:12,15 28:8,8 39:11 50:20 52:4 89:22 91:11 130:4 148:2,18 152:18</p> <p><b>impacted</b> 65:2</p> <p><b>impacts</b> 25:13 63:1 65:17 91:1</p> <p><b>impair</b> 100:19 121:13 133:2 141:1 148:14</p> <p><b>important</b> 25:14 35:1 54:21,22 55:7 63:22</p> <p><b>imposed</b> 24:2</p> <p><b>impossible</b> 39:20</p> <p><b>improve</b> 36:3</p>
---	---	--	--	--

115:2 158:5	<b>inside</b> 40:14	105:17	149:5,6,6	26:3,10,21
<b>improvements</b>	126:18	<b>iterations</b> 105:5	150:4 151:10	27:17 28:7,20
34:18	<b>install</b> 103:14		151:11,11	29:2,12 30:19
<b>inability</b> 36:18	120:20	<b>J</b>	153:2,3,3	34:4 40:2
<b>inches</b> 115:17,20	<b>installed</b> 122:21	<b>J</b> 64:4	154:4 156:16	51:15 54:21
<b>include</b> 44:10	<b>instance</b> 29:20	<b>jab</b> 23:22	156:17,17	86:9 87:5 93:2
48:7 49:15	<b>instances</b> 59:22	<b>jagged</b> 36:21	158:18,19,19	96:19 127:15
<b>included</b> 48:4	<b>instantly</b> 86:12	<b>James</b> 6:13	160:4,14,15	<b>kindly</b> 98:21
155:16	<b>instructed</b> 9:16	85:16	161:9	<b>knee</b> 89:14
<b>including</b>	94:10	<b>January</b> 13:6	<b>john</b> 144:10,10	<b>know</b> 15:8 16:5
109:11	<b>instructions</b> 4:5	26:8,13 27:10	144:15 148:22	18:19 19:17
<b>inconsistent</b>	4:7	<b>Jen</b> 93:9 95:21	<b>join</b> 63:13	20:9,10 22:1,7
90:12	<b>insurance</b> 98:15	<b>Jennifer</b> 92:12	<b>joining</b> 126:15	22:13,19 23:1
<b>incorporate</b>	98:17	92:13,13 93:20	<b>Judicial</b> 152:6	23:4,4,10 24:5
137:10 139:5	<b>integrity</b> 100:19	<b>jig</b> 23:22	<b>July</b> 26:8 27:1	24:9 25:3,11
<b>incorporated</b>	121:13 133:2	<b>Jim</b> 1:9 3:5 4:14	27:15 139:12	26:7,8,9,9,11
29:6	141:2 148:14	4:15,15 6:4	162:18	26:11,13,17
<b>increase</b> 18:12	<b>intent</b> 67:6	7:16,17,17 9:4	<b>jumping</b> 147:13	27:8,10 28:1,1
29:7 34:8	100:20 121:14	10:13,14,15,19	<b>justify</b> 104:8	28:5,8,9,10,20
36:19 57:15	130:15 133:3	10:22 11:1,1	139:5,6	29:2,5,17,22
<b>increased</b> 89:22	141:3 148:15	12:4 19:21	<b>juts</b> 155:12	30:1 31:5,5,6,8
137:14	158:10	20:3,8,12		31:14,15 32:7
<b>Increasing</b> 21:4	<b>intention</b> 119:10	21:13 39:14,16	<b>K</b>	32:8 33:11,14
<b>indicated</b> 79:20	<b>intents</b> 104:15	41:12,16,18,21	<b>Kane</b> 62:9	33:14,16,19,21
99:7 154:22	<b>interested</b> 39:21	42:2,4,6 67:16	<b>Kate</b> 62:4,5,8	33:22 34:19,21
<b>indicating</b>	51:21 68:16	68:6,7,7 74:2,3	<b>Katherine</b> 62:9	34:21 35:2,3
107:20 111:9	130:2 162:10	74:3,8 75:6,7,7	<b>keep</b> 14:15	36:2,3,3,10
<b>indiscernible</b>	<b>interesting</b>	77:4,5,5 78:5	22:10,22 41:7	37:1,3,11,12
86:8	129:3	84:15,17 101:6	51:14 68:10	37:13 38:18,21
<b>individuals</b>	<b>interests</b> 63:1	101:7 102:4,14	71:3 72:14	39:3,6,22
57:11,12 111:9	<b>interject</b> 117:4	102:17,19,21	92:15 127:6	40:10,11,12,12
<b>indoors</b> 155:9	<b>intrusion</b> 29:22	102:22 114:2,3	130:16 131:1	40:17,20,22
<b>ineffectively</b>	130:17	114:9,11,14	<b>keeping</b> 103:15	41:2,3 42:12
46:17	<b>investment</b>	122:13,15,19	108:6	42:16 44:9
<b>inevitably</b> 53:16	31:22	122:22 123:3	<b>keeps</b> 70:9	45:18 46:6,20
<b>infiltration</b>	<b>invisible</b> 60:18	124:7,10,11,11	116:15	47:1,2,3,5,5,6
31:12 36:14	<b>invited</b> 12:13	126:4 131:7,8	<b>Keezer's</b> 127:10	47:9,9 49:4
46:9	<b>involve</b> 30:6	131:8 133:14	<b>kelp</b> 90:3	50:9 51:13
<b>information</b> 7:7	66:16 158:1	133:15,15	<b>kept</b> 4:4 96:20	52:3 53:7,9
13:7	<b>issue</b> 9:19 27:6	135:4 137:22	145:8	54:1,2,11,17
<b>Ing</b> 94:4,5,7	27:21 32:10,21	138:1,1 139:16	<b>Kerr</b> 52:21,22	54:19 55:5
<b>inhabitability</b>	50:11 53:6	139:17,17	53:2,3 54:5	56:2,6 57:15
158:5	61:13 97:14,15	141:9,12,13	<b>Khalid</b> 150:10	60:14,19 61:3
<b>inhabited</b>	111:22	142:5,12,14,17	150:10,13	61:3,6 63:22
152:16	<b>issues</b> 22:5	142:20,22	151:5	65:6,17 69:6
<b>initialed</b> 121:19	31:13 46:16	143:2 144:4	<b>kids</b> 55:19,20	71:3,6 81:10
133:10 158:15	60:6	146:15,15,15	<b>kind</b> 17:10	83:3,15 84:11
<b>Initially</b> 22:14	<b>iteration</b> 67:18	146:16,16	23:10,14 25:22	85:18,20 86:4

86:8,13,22	159:3	126:5 131:12	109:6,22 110:3	54:12 55:21
87:1,3 89:8,9	<b>latent</b> 94:14	131:12 133:21	110:8,15 111:1	56:14 60:9
89:17 90:5,7	<b>latest</b> 67:15	133:21 135:5	111:5,11 112:6	62:9 85:19
90:13,18 91:2	<b>Laughter</b> 74:7	138:5 140:1,1	112:19,22	87:11 89:15
93:22 96:22	<b>laundry</b> 39:1	141:18,18	113:7,15,19	<b>lived</b> 31:10 55:5
97:13,18 98:17	<b>law</b> 3:15 12:15	144:5 146:20	117:1,9,11	56:21 57:22
102:16 107:10	68:14,14	146:20 149:12	119:20 120:6	58:12 91:15
107:17,17	<b>lawn</b> 122:11	149:12 150:5	120:12 125:12	<b>lives</b> 58:5 89:22
108:18 109:22	<b>laws</b> 115:5 125:9	151:15,15	125:14	109:10
115:21 116:1,4	<b>lay</b> 108:7	153:9,9 154:5	<b>liberties</b> 38:8	<b>living</b> 22:7 25:6
116:14,19	<b>layout</b> 115:17	157:4,4 159:3	<b>lies</b> 108:1	31:5 46:12
117:21 119:10	129:1	159:4 160:5,19	<b>lift</b> 129:6	47:1,10 55:6
119:19 122:16	<b>Leah</b> 52:21,22	161:1	<b>Lightbox</b> 139:12	66:18,19 97:18
128:10 129:14	53:2,3 54:5	<b>LEMKE</b> 49:7	<b>lights</b> 17:16	129:1 150:20
129:18 130:19	<b>lean</b> 82:14	<b>let's</b> 19:18 44:7	65:18	<b>LLC</b> 12:15
136:2,6 137:10	<b>leaning</b> 42:11	117:5 142:7	<b>Liming</b> 78:13,15	<b>lobby</b> 86:2
145:11 161:1	88:9	<b>letter</b> 6:12 9:22	78:17,19,21	<b>locate</b> 51:15
<b>known</b> 31:20	<b>learn</b> 87:4	32:13,15 43:5	79:2 80:2,6,14	<b>located</b> 34:13,14
55:21 98:4	<b>leave</b> 46:4 93:5	43:8 56:16	80:17 81:4	62:18 64:1,2
<b>knows</b> 58:6	<b>left</b> 15:18 16:7	59:9 63:16,17	82:12 83:9,20	65:2 67:3
68:13	24:18 29:16	63:19 64:6,7	84:14 92:7	157:2
<b>Kuang</b> 85:11,12	64:2 81:18	64:14,17 65:4	<b>limitation</b> 22:13	<b>location</b> 16:10
85:14,15	112:17,19	65:13,15,20	<b>limiting</b> 3:11	84:9 87:21
	127:5,12,13,18	108:15,17	<b>line</b> 16:22 17:14	135:19 157:3
	128:7,13,17,19	109:7 110:5,6	23:19 29:16	158:2,3,6
	137:3	110:6,19 111:6	36:22 38:10	<b>Lodge</b> 144:10,10
<b>L</b>	<b>left-hand</b> 145:9	129:17,20	40:4 41:13,13	144:15 149:1
<b>Lancaster</b> 79:10	146:8 150:21	<b>letters</b> 15:21	68:10 84:10	<b>logo</b> 90:11
88:18 89:3,7	<b>legal</b> 9:18 10:2	32:8,8 33:13	87:20 114:6,12	<b>long</b> 43:19 58:21
89:13 90:14	108:4	39:10 79:21	116:20 127:20	58:22 64:17,18
91:13,16	<b>legitimate</b> 39:11	80:11 82:18	127:22 128:7	94:1 100:13
<b>land</b> 34:14	83:5 107:9	99:8 109:13	137:5,13	<b>long-standing</b>
<b>landing</b> 155:5	108:4 117:17	110:1,4,12,21	<b>linen</b> 51:11	36:10
<b>landlord</b> 93:10	<b>Leiserson</b> 1:9	111:3,5 129:15	<b>lines</b> 39:20	<b>longer</b> 27:2 57:9
<b>landscape</b> 16:13	3:6 4:13 6:5	130:7,9 148:4	40:14 41:2	57:14 146:7
112:11 122:15	7:20,20 9:5	148:5 155:16	<b>list</b> 129:14	<b>longest-standi...</b>
122:16,18,20	11:7,7 12:5	157:15	<b>literal</b> 30:5	56:22
<b>landscaped</b>	47:18 48:12,14	<b>letting</b> 97:17	66:15 157:22	<b>longtime</b> 93:14
112:8,13	48:18 49:2,6,9	<b>level</b> 22:7,9 47:3	<b>literally</b> 96:13	<b>look</b> 38:3,6
<b>landscaping</b>	49:22 50:4	61:1 96:5,5	<b>little</b> 27:13,14	41:11 44:7
61:13	51:18 74:10,15	97:12 130:17	47:2 56:4,15	49:17 57:11
<b>language</b> 95:7	75:14,17,20	<b>levels</b> 35:5	62:20 82:11	59:13 106:11
<b>large</b> 25:16	77:11,11 78:6	<b>Levi</b> 135:9,11,11	95:6 128:4	110:2 127:15
31:14	85:1,1 101:12	136:10,13,21	144:18,21	136:4,16 137:2
<b>larger</b> 31:11	101:12 102:5	137:2,19	145:15	142:8 143:4
36:18 50:4	114:18 123:5,7	<b>Lewis</b> 102:18	<b>livable</b> 31:2	145:7 150:17
<b>lastly</b> 7:6 76:19	123:9,12,15	103:3,3,9,12	58:14 60:4	<b>looked</b> 40:22
<b>late</b> 28:1,3,3	124:18,21	104:4,11,14	<b>live</b> 46:21 53:2,4	60:1
58:2 63:16				
64:13 87:13				

<b>looking</b> 15:2,4 23:20 33:3 39:17 44:12,22 45:12 48:1 49:16,19 50:1 57:12 114:8 127:10 128:20 135:19 150:13 150:19	<b>magic</b> 72:1 <b>main</b> 51:13 <b>maintain</b> 95:3 <b>maintained</b> 7:5 76:17 122:9,11 122:12,12 123:2,3,16 <b>major</b> 57:22 <b>majority</b> 65:11 108:19 <b>making</b> 152:16 <b>March</b> 3:13 133:9 <b>Maria</b> 129:14 <b>mark</b> 61:1 121:22 122:4 <b>market</b> 116:14 <b>Marshall</b> 12:15 <b>Mary</b> 12:18 41:10 46:20 47:12 53:12 54:16 55:19 58:17 <b>Mary's</b> 53:13 55:2 60:10 62:10 <b>mass</b> 2:8 29:14 81:6,20 89:12 96:6 <b>Massachusetts</b> 1:6,6 12:16 78:9 162:2,5 <b>massage</b> 93:10 96:5 98:1 <b>massive</b> 57:20 58:9 <b>master</b> 44:9,22 45:12 51:5 <b>mates</b> 52:1,5 53:4 <b>Matt</b> 154:11,16 155:20 156:11 159:11 <b>matter</b> 6:9 9:8 12:8 37:8 52:13 68:14 72:11 78:10 80:13 85:4	102:8 115:6 126:8 131:15 135:8 138:12 144:9 146:22 150:9 151:7,17 154:9 157:7 <b>matters</b> 57:9 59:1 <b>mean</b> 10:19 17:6 22:6 25:21 30:13 33:4,6 34:21 48:15 53:7,17 57:11 61:18,21 65:10 65:11,19 82:14 84:2 86:14 87:3 95:7 108:7,10 119:14,22 122:14 141:9 <b>meaningful</b> 9:18 13:20 29:19 <b>means</b> 69:15,17 76:22 142:7 145:19 <b>meant</b> 91:14 122:16 <b>measure</b> 115:19 <b>measurement</b> 115:16 <b>meet</b> 96:14 107:7 123:13 150:15,19 151:1 <b>meeting</b> 1:5 3:8 3:10,15,19 6:18 63:14 96:8 99:2 144:7 <b>meetings</b> 3:16 4:7 <b>meets</b> 123:19 <b>member</b> 4:10 89:8 <b>members</b> 3:4 4:1,1,4,10 6:3 9:3 10:10 12:3 12:14 13:5	15:20 25:3 37:9 43:10 52:14 54:19 64:13 73:18 74:18 78:4 82:16 85:4 91:19 102:3 114:5 126:3,10 131:4,15 135:3 138:12 144:3 147:1 150:3 151:8,18 154:3 157:7 160:3 <b>memorized</b> 18:19 <b>memory</b> 99:9 <b>mention</b> 45:2 108:15 <b>mentioned</b> 43:22 87:14 91:2 117:13 148:1,3,17 <b>mentioning</b> 118:16 <b>merits</b> 66:3 147:10 <b>mess</b> 11:10 <b>met</b> 35:6,19 55:2 55:2 99:21 105:5 120:22 124:16 132:9 140:11 147:17 <b>mic</b> 82:14 102:11 <b>Michael</b> 56:11 56:12,14 59:6 <b>mid-stair</b> 155:5 <b>middle</b> 127:4 <b>Middlesex</b> 162:3 <b>mind</b> 10:3 14:2 14:6,10 18:18 19:13 21:19,21 23:16 28:17,18 64:22 81:9 103:6,15 113:8 <b>mindful</b> 20:14 <b>minimal</b> 24:4 27:11 28:9	62:14 <b>minimally</b> 26:22 <b>minimum</b> 23:7 23:10 40:11 <b>minute</b> 18:20 117:3 142:6 <b>minutes</b> 4:8 115:19 142:11 <b>missed</b> 157:17 <b>mitigate</b> 57:21 90:6 <b>Mm-hm</b> 20:12 30:7 45:5,15 81:4 83:9,20 84:14 <b>modern</b> 90:20 <b>modest</b> 57:13 148:1,18 156:20 157:1 <b>modification</b> 126:17 130:20 139:3 140:14 152:11 158:8 <b>modifications</b> 147:22 <b>modified</b> 76:20 <b>modify</b> 31:7 152:9 <b>Molberger</b> 154:10,11,11 154:15,16,20 155:20 156:11 159:10,11 <b>Mom</b> 55:2 <b>moment</b> 52:19 70:22 75:14 84:18 85:2,9 114:16,19 131:20 147:6 152:1 157:12 <b>Monday</b> 7:8 13:16 76:14,22 <b>money</b> 46:10 53:8 57:20 <b>Monteverde</b> 1:9 3:5 4:14,15,15 6:4 7:17,17 9:4 10:13,15 11:1
<b>M</b>				



<p>11:1 12:4  19:21 20:3,8  20:12 21:13  39:16 41:12,16  41:18,21 42:2  42:4,6 68:6,7,7  74:3,3,8 75:7,7  77:5,5 78:5  84:17 101:7  102:4,14,17,19  102:22 114:3  114:11,14  122:15,19,22  123:3 124:7,11  124:11 126:4  131:8,8 133:15  133:15 135:4  138:1,1 139:17  139:17 141:13  142:5,12,14,17  142:20,22  143:2 144:4  146:15,15,16  146:16 149:6,6  150:4 151:11  151:11 153:3,3  154:4 156:17  156:17 158:19  158:19 160:4  160:15 161:9  <b>Monteverde's</b>  42:11  <b>month</b> 6:14,17  10:6 35:18  69:3 72:20  73:1,3  <b>months</b> 26:7,16  71:13,19 74:20  75:3  <b>morning</b> 26:2  91:10,12  <b>mother</b> 150:11  <b>motion</b> 10:21  11:2,5,8 66:10  67:15 99:11,13  120:15 124:3  125:5 132:3  138:7 147:12</p>	<p>152:3 157:1,18  157:19  <b>mouth</b> 157:6  <b>move</b> 10:9 27:5  50:17 60:16  126:20 128:2  135:21 145:4  145:16  <b>moves</b> 6:20  10:18 27:22  66:14 67:8  76:9 99:16  101:1 120:18  121:16 132:5  133:6 138:22  139:9 140:8  141:6 147:15  148:21 157:20  158:13  <b>moving</b> 60:13  72:12 125:11  136:17 145:15  146:6  <b>mudroom</b>  154:22 156:6  158:4  <b>mute</b> 4:4 52:18  85:8 102:15,17  131:19 138:16  147:5 151:22  157:11</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>N</b> 2:1 3:1  <b>name</b> 3:9 4:2  16:5 54:12  55:18 62:8  63:20,21 64:4  85:15 88:3  93:8 94:8  95:17 103:3  115:10 126:10  126:13 144:10  150:10 154:10  <b>names</b> 110:18  <b>narrow</b> 17:9  <b>narrows</b> 127:16  <b>nature</b> 100:9</p>	<p>121:7 148:8,18  <b>near</b> 10:11  156:5  <b>nearby</b> 87:18  <b>nearer</b> 51:21  <b>necessary</b> 107:1  117:17 158:4  <b>necessity</b> 108:2  113:10  <b>need</b> 9:13 19:15  22:11,14 33:21  38:6 41:16  50:13,17 51:7  56:7 64:10  66:18 68:15  69:5 93:2  104:16 106:19  125:10 138:10  156:6  <b>need/would</b> 69:1  <b>needed</b> 22:11  <b>needing</b> 36:15  <b>needs</b> 31:12  40:12  <b>negative</b> 63:1  <b>neighbor</b> 24:16  24:18 63:13,21  63:22 64:1,2  65:1 106:14  109:11 123:22  129:19 136:1  <b>neighbor's</b>  135:20,20  136:5  <b>neighborhood</b>  54:19,20 55:22  62:19 63:3  79:9 84:12,13  85:19 87:8,12  89:18 91:9,12  97:13 100:4,5  108:20 109:5,8  114:22 121:4  123:13 132:13  140:16 147:22  148:2 152:13  152:18 160:22  <b>neighboring</b></p>	<p>15:19 26:15  28:5 79:12,12  154:18  <b>neighbors</b> 13:12  15:9,22 17:16  22:20 23:3  26:21 27:3,12  28:22 29:15  33:13 35:3,5  36:9,10 39:7  41:4,9 50:21  52:2,4 53:22  54:1 56:20  58:20 60:18  65:11 81:2  84:13 92:1,2,5  109:17,17  110:12 116:1  130:2 148:5  155:15,17  <b>neighbors'</b> 15:5  15:8 36:3  <b>neither</b> 162:8  <b>nervous</b> 91:7  <b>never</b> 84:11 89:6  98:7 107:17  113:22 117:22  119:4  <b>new</b> 7:4,6 9:15  18:13 31:1  40:1 51:17  67:10 69:19  70:3,16 72:4,7  76:16,19 80:12  103:17 105:21  107:17,19,19  145:19 152:5  <b>Nguyen</b> 96:17  97:22  <b>nice</b> 45:17 96:8  99:3 111:15  112:13  <b>Nicola</b> 54:8,9  54:11, 12  <b>night</b> 74:6,19  81:17 83:7,13  87:17 91:10  156:22</p>	<p><b>night's</b> 161:7  <b>nighttime</b> 94:22  <b>nine</b> 88:19  <b>noise</b> 81:16 91:1  91:3,4 94:20  96:11,19 97:8  <b>non</b> 107:17  <b>non-grass</b>  122:10  <b>non-or</b> 107:17  <b>non-petitioners</b>  91:18  <b>nonconforming</b>  130:21 152:9  <b>nonconformity</b>  127:17 128:8,9  <b>Noreen</b> 88:2,3,3  88:13 92:15,16  93:20 97:11  <b>north</b> 105:12,12  <b>Notary</b> 162:4,16  <b>note</b> 13:11  152:14  <b>notes</b> 49:18  <b>notice</b> 7:1  106:17 107:5  108:22 109:1  <b>notices</b> 129:15  <b>notification</b>  130:9  <b>notified</b> 113:20  <b>novelty</b> 86:8  <b>November</b>  71:20,22 73:12  73:13,14,15,21  74:12,22 75:2  75:5 76:10,17  76:22 77:1  <b>nuances</b> 38:15  <b>nuisance</b> 100:15  121:9 132:20  140:20 148:10  <b>nullifying</b> 67:5  158:10  <b>number</b> 9:7  18:19,22 19:7  19:13 44:20  48:19 49:5,7</p>
---	---	---	---	--

50:4 53:8 78:9 79:6 99:8 102:7 105:5 107:20 117:18 117:19 118:3 119:21,22 126:7 135:7 144:8 148:4 150:7 154:7,8 155:12 160:8 <b>numbers</b> 17:1 49:10,21	80:11 86:1,5 96:4,15 97:5 <b>offline</b> 120:10 <b>offsite</b> 63:14 <b>oh</b> 37:17,20 43:3 44:17 45:11 47:13 56:14 64:5,8 76:2,8 78:13 85:14 88:6 95:20 96:22 112:19 117:9 138:10 144:15 <b>oil</b> 86:12,12 <b>Ok</b> 126:13 <b>okay</b> 4:20 6:11 10:17 14:4,14 17:8 18:8 20:17 21:16 32:16 33:10 37:22 41:12,18 42:4 43:3,6,21 44:15,17 45:22 47:13,15 48:12 49:2,6,9,22 50:8 51:18 53:2 54:11 55:18 56:9 59:8 61:22 62:3,8 64:9,12 64:15 66:6 68:6 70:11 73:8,15,16,19 74:4,14 75:11 75:12,13,19,21 75:22 76:8 77:18 78:7,17 79:1 80:3,14 82:15 85:3 87:1 101:6 102:10 103:6 104:13 108:5 111:7 112:21 114:14,17,20 120:11,18 123:4 124:2 125:15 126:11 126:21 128:4	128:16 129:22 134:6 135:9 137:18,20 140:3 142:22 145:12 146:17 150:6,12 151:3 151:6 155:19 156:13 157:5 157:17 159:12 <b>old</b> 86:1 127:9 127:10 <b>older</b> 156:4 <b>Olivia</b> 14:3,3 21:19 <b>once</b> 30:20 35:15 111:21 148:17 <b>ones</b> 128:21 <b>onwards</b> 123:21 <b>Ooh</b> 46:7 <b>open</b> 3:14 35:8 37:8 52:13 59:19 62:21 80:13 81:7 83:7 85:3 87:17 103:19 109:21 115:6 131:14 138:12 146:22 151:7 151:17 157:7 <b>opened</b> 135:17 <b>openings</b> 126:17 <b>opens</b> 113:5 <b>operate</b> 87:4 101:1 <b>operates</b> 54:20 <b>operating</b> 86:18 <b>operation</b> 79:17 80:21 83:7,17 84:6 86:20 89:6 100:7 121:5 132:14 140:17 148:6 <b>operations</b> 87:15 <b>opinion</b> 108:12 156:20 <b>opportunity</b>	13:2 37:18 88:15 115:10 116:8 <b>oppose</b> 35:10 65:11 <b>opposed</b> 15:22 16:2 32:21 47:3 <b>opposition</b> 32:8 43:9,9 57:3 79:9 80:12,12 82:18 99:8 130:7 132:18 148:5 <b>options</b> 68:20 98:22 <b>order</b> 3:13 22:10 40:19 51:6,14 68:20 101:2 105:8,9 106:16 107:2 113:12 118:10 153:17 <b>orders</b> 3:11 <b>ordinance</b> 29:7 30:6 38:8 39:7 39:8,9 48:11 49:1 66:16 67:6 79:4,18 80:22 99:19,20 100:8,21 120:21 121:6 121:15 132:8 132:15 133:4 140:10,18 141:4 147:17 148:7,16 152:5 158:1,11 <b>ordinarily</b> 108:21 <b>oriented</b> 14:11 <b>original</b> 2:3,5,6 13:13,15,21 16:16,21 17:11 19:22 22:20 47:21 137:2 <b>originally</b> 13:1 60:3 104:21 127:3 135:19	<b>originated</b> 22:18 <b>outcome</b> 162:10 <b>outdoor</b> 137:10 137:11,17 <b>outside</b> 56:4 89:9 100:13 <b>overall</b> 61:7 <b>overwhelming</b> 108:11 <b>owing</b> 66:21 158:6 <b>owner</b> 87:3 93:10 94:9,15 95:2 103:4,20 104:10 113:16 115:11,22 126:14 127:6 129:12,13,18 <b>owner's</b> 64:4 130:15 <b>owners</b> 12:18 25:4 35:15 42:17,18 43:1 62:11 89:19,20 105:1 108:8 129:15 <b>owning</b> 87:2 95:22 <b>owns</b> 81:15 95:22
<hr/> <b>O</b> <hr/>				<hr/> <b>P</b> <hr/>
<b>O</b> 3:1 <b>object</b> 52:4 <b>objecting</b> 109:13,18 <b>objection</b> 15:21 60:18 113:7,15 <b>objections</b> 52:1 58:19 83:22 155:16 <b>objects</b> 42:17 <b>obstruct</b> 15:13 <b>obtain</b> 107:16 152:8 <b>obviously</b> 35:2 40:11 72:8 83:19 129:10 130:6 145:1 <b>occupant</b> 100:17 121:11 132:22 140:22 148:12 <b>October</b> 6:16,18 6:21 7:5,9 26:8 27:4,21 73:6,9 <b>octopus</b> 90:4 <b>odor</b> 82:1 85:20 86:11 87:9 <b>odorless</b> 90:7 <b>odors</b> 83:2 100:12 <b>off-</b> 107:2 <b>off-street</b> 104:16 105:15 <b>offered</b> 13:2 <b>office</b> 38:22				<b>P</b> 3:1 <b>p.m</b> 1:4 2:3,4,6,8 2:9,10,11,12 2:13,14,15 3:3 6:2,21 7:8 9:2 12:2 76:10,21 78:3 81:18 102:2 126:2 135:2 144:2 150:2 154:2 160:2 161:12 <b>Pacheco's</b> 129:14 <b>package</b> 44:11 110:17 <b>packet</b> 61:7

<b>page</b> 2:2 18:20 19:2 20:11,15 21:19 23:17 25:1 44:8 109:5 133:9 136:9,14 150:21 155:6	<b>partially</b> 107:12 119:8	109:12 110:18 111:18 113:9 113:22 157:18	<b>perpendicular</b> 127:4,14,22 128:6	61:6 155:2,6,8
<b>pages</b> 25:20	<b>particular</b> 31:20 38:13 39:11,18 41:9 53:18 106:19 113:3	<b>people's</b> 88:8	<b>perpetuate</b> 116:20	<b>pie</b> 129:10
<b>paid</b> 96:15	<b>particularly</b> 29:20 84:12 100:12 103:22 156:9	<b>percent</b> 21:5,6,9 21:11,15 91:17 91:18 92:2 130:13	<b>person</b> 58:5	<b>piggyback</b> 139:1
<b>paint</b> 90:15,16	<b>parties</b> 162:9	<b>percentage-wise</b> 50:7	<b>personal</b> 58:20	<b>pine-shaped</b> 127:16
<b>pandemic</b> 55:6,6 94:12	<b>parts</b> 28:21	<b>perennial</b> 58:7	<b>personally</b> 73:1 84:8 90:10	<b>pink</b> 90:20
<b>panel</b> 13:5	<b>passage</b> 40:1	<b>perfect</b> 128:16 145:6	<b>persuade</b> 33:12	<b>place</b> 16:15 39:9 47:5 53:10 55:4 56:3 108:4
<b>panelist</b> 12:13	<b>passed</b> 86:14 91:13,17	<b>performed</b> 122:6	<b>Peters</b> 55:20	<b>plan</b> 13:21 14:19 16:13,17 18:20 20:11 22:20 23:20 28:16 38:22 39:17,18 39:22 43:18 44:8,9,22 45:12 46:3 47:20,21 50:14 51:7 69:13 113:4 114:4 115:14 120:17 121:19 127:15 128:2 137:3 139:11 141:8 154:19
<b>panelists</b> 13:4	<b>passengers</b> 81:19	<b>perimeter</b> 58:5	<b>petition</b> 50:16 62:13 70:10 88:16 152:4 160:10	<b>petitioner</b> 6:13 7:1 9:14 10:7 66:17,18 67:10 76:12 90:5 91:5 92:2,5,18 99:22 100:13 101:2 103:1 121:19 125:7 132:18 133:7 152:8,15 158:15 160:9
<b>parallel</b> 105:11	<b>patches</b> 122:10	<b>period</b> 35:17 37:14	<b>petitioner's</b> 9:19 90:1	<b>petitioners</b> 12:15,17 13:2 30:22
<b>parents</b> 46:20 50:17 53:11,13 55:2 56:6 58:15	<b>path</b> 69:12	<b>permit</b> 29:9 41:17,19 42:13 67:18 68:11,17 69:13,19,21 70:4,16 71:4 71:16 72:6,8 72:21 79:4,6 88:16 92:6 99:21 101:1,5 101:8 103:14 120:19,22 124:9 126:16 128:22 132:6,9 133:6,13,16,19 133:22 134:2 135:13,14 140:7 141:6,11 141:13,16,19 142:1 144:16 146:4,5 147:18 148:21 149:4,7 149:10,13,18 152:22 153:1,4 153:7,10,12,14	<b>plans</b> 7:7 13:13 13:15,16,20 21:18 59:12 67:9 76:20 121:18 133:8 148:22 158:14	
<b>park</b> 6:7 15:1,1 15:8,10,13 25:12 58:6 85:16,21 103:19 105:2 106:4,16,18 107:11 108:4,9 108:14 111:19 111:20 113:9 116:7,17	<b>patterns</b> 100:1 121:1 132:10 140:13 147:19	<b>permitted</b> 3:17 79:18 80:22 89:4 100:8 105:16 121:6 132:15 140:17 148:7	<b>phone</b> 52:17 63:15 85:7 131:18 138:15 147:4 151:21 157:10	<b>plate</b> 18:21
<b>parked</b> 105:11 113:4,5	<b>Pause</b> 6:10 9:9 12:9 55:14 78:11 102:9,13 131:21 138:19 147:7 157:13		<b>phonetic</b> 94:4	<b>play</b> 142:17
<b>parking</b> 34:17 104:1,3,16 105:3,13,15,18 106:7,9 107:3 107:21 111:16 112:12 114:6,8 115:1,14,17 116:5 123:22 145:3,10,17 155:22	<b>paved</b> 112:2 116:13 118:5 120:4		<b>photograph</b> 126:22 127:19	<b>players</b> 57:10,16
<b>part</b> 13:17 25:7 25:10 28:2 44:10 46:19 86:22 91:20 119:8 141:8 155:11 156:3	<b>paving</b> 112:5,10		<b>photographs</b> 126:21	<b>please</b> 14:7,21 15:6,15 16:8 16:12 24:12,17 28:12 92:5 118:13 142:6
	<b>paying</b> 65:22		<b>phrase</b> 100:4	<b>pleased</b> 160:9
	<b>peace</b> 83:18		<b>physical</b> 110:13	<b>plethora</b> 111:17
	<b>penetrating</b> 83:2		<b>pick</b> 96:22	<b>plural</b> 32:8
	<b>people</b> 14:11 32:1 36:6 37:11 56:1 57:7 58:10,21 66:12 73:21 81:17 85:19 86:5,7,16,16 86:19,21 87:2 87:11 89:10,13 89:15 91:6 94:19 95:8 99:3 108:14		<b>picture</b> 15:14 150:17 155:12 155:22	<b>plot</b> 14:19 121:19

<b>Plus</b> 80:12	130:20	127:8,9	<b>projects</b> 57:1,3	99:22 100:14
<b>point</b> 17:9 34:3 36:5,12 43:8 47:17 50:10 52:10 59:16 60:10 61:9 63:15 65:1 87:14 97:17 98:20 109:6,19 113:21 115:21 116:9 117:5 123:21 129:12 146:4,22 147:13 155:21 157:1	<b>preferred</b> 48:16 <b>prepare</b> 68:9 82:21 <b>prepared</b> 20:13 67:10 88:4,5,6 133:8 139:11 148:22 <b>present</b> 4:12,15 4:17,19 <b>presentation</b> 14:2,13 19:9 20:14 37:5 52:12 78:19 103:11 104:4 151:4 156:20 <b>presented</b> 42:14 <b>preserve</b> 71:9 <b>pressing</b> 52:18 52:18 85:8,8 131:19,19 138:16,16 147:5,5 151:22 151:22 157:11 157:11 <b>presumably</b> 71:14 <b>pretty</b> 56:5 130:11 147:11 <b>previous</b> 27:18 39:17 43:8 59:10 89:19 <b>previously</b> 135:14 137:3 144:15 145:7 <b>primary</b> 155:21 <b>printed</b> 44:16 <b>prior</b> 76:17 122:5 124:16 <b>privacy</b> 130:4 135:22 136:1,3 <b>pro</b> 157:16 <b>probably</b> 16:14 21:14 23:5 24:19 28:4 40:18 44:22 60:17 65:1 71:11 115:3	<b>problem</b> 31:20 31:21 33:18 51:22 53:18 57:21 58:7 66:22 70:10 71:5 73:21 74:1 81:6,8,12 81:22 82:3 84:8,11 87:9 87:13 95:5 96:16 97:12 105:15 106:15 106:19 110:20 137:8 154:20 156:3,9 159:3 <b>problems</b> 32:11 57:19 58:8 59:20 81:4 <b>procedurally</b> 12:22 70:8,19 <b>procedure</b> 123:7 <b>proceed</b> 69:19 74:19 121:18 133:7 138:21 139:11 141:7 148:22 158:14 <b>proceedings</b> 3:22 161:12 162:7 <b>proceeds</b> 67:9 <b>process</b> 23:2 28:22 51:8,17 <b>product</b> 83:19 84:10 87:20 <b>program</b> 22:6 22:13,21 23:14 46:19 47:7 <b>progressively</b> 59:18 <b>project</b> 17:18 53:5 54:16 56:16,18 62:13 68:18 69:7 104:5 127:3 129:4,4 135:12 <b>projected</b> 23:19 41:2	<b>proper</b> 34:6 <b>properties</b> 26:15 60:20 116:12 117:20 123:17 130:12 <b>property</b> 9:20 14:5,8,15,19 14:22 15:2,19 15:19 24:2 30:22 31:1,10 40:11 41:13,13 53:4 60:1,2 68:10 103:19 103:20 105:4 108:13 109:12 109:17 114:6 114:11 115:12 116:11 118:1,5 118:6,11,12,21 119:18 120:2 127:20,22 128:7 135:20 137:5,13 148:19 150:20 <b>proportional</b> 62:15 <b>proposal</b> 68:5 69:14 141:1 146:9 <b>proposals</b> 41:8 <b>propose</b> 123:14 123:15 139:5 <b>proposed</b> 15:11 16:14,16,19 18:2,13 50:14 88:22 89:5,12 100:2,9,11,17 100:18 101:2 115:17 121:2,7 121:8,11,12 128:17 132:16 132:22 133:1 140:22 147:20 148:9,12,13 152:11 <b>proposing</b> 79:10 79:20 80:20	<b>prosecute</b> 10:19 <b>prospect</b> 10:11 <b>prosperity</b> 94:16 <b>protect</b> 60:15 <b>protected</b> 63:1 <b>protection</b> 39:8 <b>provide</b> 25:16 104:16 106:18 <b>provides</b> 65:3 <b>provisions</b> 30:5 66:16 157:22 <b>public</b> 3:11,16 4:2,4,5,6 37:14 37:19 47:2 52:13,14,19 63:6 67:5 80:13 85:4,4 99:6,11 115:7 117:4,5 120:14 131:15,16 132:1 138:9,10 138:12,13 147:1,1,9,9 151:7,17,18 152:2,3 157:7 157:8 158:9 162:4,16 <b>publicly</b> 58:22 <b>pull</b> 18:22 155:1 <b>pulled</b> 17:13 49:21 <b>pumps</b> 31:13 46:17 58:9 <b>purchased</b> 30:22 31:2 39:4 <b>purchasing</b> 97:21 <b>purpose</b> 67:6 100:20 121:14 133:3 141:3 148:15 158:11 <b>purposes</b> 31:5 104:16 <b>pursue</b> 10:4 <b>push</b> 41:1 69:8

<b>pushing</b> 29:14 41:4	<b>quiet</b> 91:10,11 93:11,22	<b>reads</b> 91:20	118:22 120:1 155:3	100:12 103:5 120:19 130:5
<b>put</b> 6:14 9:15 19:20 35:22 47:4 53:11 57:20 60:21 61:18 86:13 94:15 104:7 108:7 116:5 118:10 120:17 125:1	<b>quite</b> 21:6 25:10 25:16,16 35:18 35:22 55:2 86:4 87:8 104:6,7 158:4	<b>ready</b> 10:11 71:15 142:17 142:18	<b>reasonings</b> 17:10	132:6 136:22 138:21 139:1,8 147:16 152:14 157:16,21
<b>putting</b> 53:21 98:1 103:17 117:14,15	<b>quote</b> 31:2	<b>real</b> 17:17 83:12 93:13 95:21 96:16 152:18	<b>reasons</b> 9:12 30:17 109:4 148:13	<b>regardless</b> 76:5
<b>puzzled</b> 30:2	<b>quote</b> 31:2	<b>realize</b> 25:14	<b>rebuilt</b> 119:8	<b>regards</b> 117:12 140:11
<hr/> <b>Q</b> <hr/>	<hr/> <b>R</b> <hr/>	<b>realized</b> 135:18 145:2,14	<b>recall</b> 46:18	<b>Registry</b> 91:19
<b>qualify</b> 48:10	<b>R 3:1</b>	<b>reallocation</b> 48:5	<b>receive</b> 64:13 108:22 109:1	<b>regular</b> 78:8
<b>quality</b> 63:2	<b>R-i-c-e</b> 144:8	<b>really</b> 23:21 27:11 28:3,5 34:19 36:4,8 39:21 54:18,21 54:21 58:14 59:13 64:18 65:3 72:10 81:7 82:13 84:3 85:18 92:21 93:2 94:1 96:7,8 98:4 99:2 111:5 129:10 130:16 139:1 146:4 148:1,18 152:17	<b>received</b> 37:19 59:12 109:3 130:4,9,18	<b>regulations</b> 95:4
<b>quarrel</b> 84:9	<b>Rafferty</b> 6:13	<b>realtor</b> 116:15 116:15	<b>recess</b> 142:6	<b>related</b> 50:16 162:8
<b>query</b> 42:12	<b>Ragsdale</b> 12:20 19:1,4,15 20:17,19,21 21:3,11 22:3,6 25:19,21 40:10 45:2,6,10 46:19 48:7,17 49:16,19 50:3 50:22 51:2,4 69:5,10 74:16 77:19	<b>rear</b> 14:17 15:1 17:14 24:6,10 24:14,22 29:3 29:13,20,22 30:9 36:18,21 36:22 37:1 41:13 45:3,10 64:3 105:2 135:20 136:1 137:1,4,7,13 137:15 140:8 145:10 146:6	<b>recognize</b> 112:7	<b>relatively</b> 21:20 148:1
<b>question</b> 14:9 17:7,22 33:3 48:21,21 58:13 81:9 106:15,21 114:3 131:14	<b>rain</b> 61:4 119:17	<b>reason</b> 5:1 9:14 17:15 29:4 33:2 37:7 46:8 46:11 47:8 50:11 53:18 57:6 94:9	<b>recollection</b> 44:18	<b>relevant</b> 15:5 120:9
<b>questions</b> 28:12 28:14 37:8 38:1 39:15 42:8,9 47:16 47:19 52:7,11 52:19 54:5 82:16 114:16 114:18 130:5 131:3,6,8,10 131:12,14 137:20,21 138:1,3,5,7,17 146:10,13,14 146:16,18,20 146:21 151:7,9 151:11,13,15 151:17 156:13 156:15,16,17 156:19 157:4,6	<b>rains</b> 31:14 61:2	<b>reconfigure</b> 113:13	<b>reconfigurat...</b> 113:13	<b>relief</b> 9:21 10:1 29:8 32:9 38:17 39:6 61:17 65:10,12 66:11 67:4,15 67:21 68:1,14 69:7 79:19 99:8,13,17 101:17 106:12 114:7 121:17 124:12,15 125:2,8 128:14 132:18 134:5 140:11,12,12 147:13,16 148:17 152:9 157:16 158:8
<b>quick</b> 21:18 127:2	<b>raise</b> 52:16,17 85:6,7 131:17 131:18 135:21 138:14,15 147:3,4 151:20 151:21 157:9 157:10	<b>reconfigured</b> 145:22	<b>reconfigure</b> 144:16	<b>relocating</b> 51:21
<b>quickly</b> 19:7	<b>Ramos</b> 55:13,15 55:16,18,18	<b>reconvene</b> 142:13 144:7	<b>reconfigured</b> 145:22	<b>relocations</b> 132:11
	<b>ran</b> 137:8	<b>record</b> 32:4 63:18 130:6 160:7 162:6	<b>reconfigurat...</b> 113:13	<b>reluctant</b> 124:18
	<b>rat</b> 81:5,6	<b>recorded</b> 3:19 91:19	<b>reconfigure</b> 144:16	<b>reluctantly</b> 124:14 125:2
	<b>rate</b> 130:14	<b>red</b> 128:18	<b>reconfigure</b> 144:16	<b>remediate</b> 119:14
	<b>rats</b> 97:10,11,12 97:15	<b>redesign</b> 13:14 22:1 25:11 36:1 67:19	<b>reconfigured</b> 145:22	<b>remedy</b> 31:13
	<b>reach</b> 35:5,14	<b>redoing</b> 61:10	<b>reconvene</b> 142:13 144:7	<b>reminded</b> 138:11
	<b>read</b> 63:18 64:11 65:12 80:11 98:10 110:17,18	<b>reduce</b> 23:5 50:20	<b>record</b> 32:4 63:18 130:6 160:7 162:6	<b>remote</b> 1:5 4:7
	<b>reading</b> 39:9	<b>reduced</b> 60:4 118:14,18	<b>recorded</b> 3:19 91:19	<b>remotely</b> 3:10
		<b>refer</b> 111:3	<b>red</b> 128:18	
		<b>reference</b> 155:2	<b>redesign</b> 13:14 22:1 25:11 36:1 67:19	
		<b>references</b> 33:15	<b>redoing</b> 61:10	
		<b>referred</b> 110:7 141:8	<b>reduce</b> 23:5 50:20	
		<b>referring</b> 23:18	<b>reduced</b> 60:4 118:14,18	
		<b>refile</b> 69:16,20	<b>refer</b> 111:3	
		<b>regard</b> 99:17	<b>reference</b> 155:2	
			<b>references</b> 33:15	
			<b>referred</b> 110:7 141:8	
			<b>referring</b> 23:18	
			<b>refile</b> 69:16,20	
			<b>regard</b> 99:17	

<b>remove</b> 117:20	114:7 158:8	136:2 152:6	71:19 72:19	94:11 95:3
<b>removed</b> 98:12	<b>required</b> 29:3	<b>resulting</b> 36:17	73:8,10,15,19	<b>run</b> 14:5,10
112:10 113:2	36:18 112:4	100:2 121:2	74:14,16 75:1	25:17 70:10
113:22 116:11	126:18 128:11	132:11 140:14	75:22 76:4,7	93:1
117:22 122:2	<b>requirement</b>	147:20	77:17	<b>running</b> 96:6
<b>render</b> 90:11	30:4 123:15	<b>results</b> 36:22	<b>Rice</b> 2:12 144:8	<b>runoff</b> 119:17
<b>renderings</b>	<b>requirements</b>	61:4	144:8,12	<b>runs</b> 46:1
24:19	3:14 99:20	<b>Return</b> 19:11	<b>right</b> 10:17 18:1	
<b>renovating</b>	107:7 120:21	<b>review</b> 13:17	18:15 21:1,3,6	<hr/> <b>S</b> <hr/>
116:10	132:8 140:10	46:3 61:7 94:8	32:12 33:7	<b>S</b> 3:1
<b>renovation</b>	147:17	<b>revised</b> 7:7	42:21 43:11,11	<b>safer</b> 155:4
104:5	<b>requires</b> 31:22	13:16,20 17:11	43:14,19 44:6	<b>safety</b> 100:16
<b>renter</b> 93:9	79:6	35:19 39:17	51:4,12,13	121:10 132:21
129:16	<b>requiring</b>	<b>revision</b> 13:14	66:7 67:12	140:21 148:11
<b>repair</b> 89:20	128:21	<b>Rhatigan</b> 12:12	69:20 71:10	<b>sale</b> 91:21 92:3
<b>repeat</b> 80:5	<b>reserving</b>	12:13 13:22	72:15 80:15,15	<b>Sarah</b> 12:12,13
103:7	103:20	14:14 15:16	80:17 82:9	13:22 14:14
<b>repetitive</b> 70:10	<b>reside</b> 32:20	17:5,8 18:3,6	96:4 98:19	15:16 17:4,5,8
<b>replace</b> 116:12	<b>resident</b> 56:22	18:10,12,17	102:20 110:14	18:3,6,10,12
146:1	<b>residential</b>	19:2,6,10,12	111:12,12,14	18:17 19:2,6
<b>replaced</b> 116:20	81:10 83:14,16	19:17 20:2,4,7	116:17 117:8	19:10,12,17
122:2	84:3,7,7 88:20	20:9,13,18,20	117:11 125:10	20:2,4,7,9,13
<b>report</b> 160:8,9	88:20 128:12	21:1,7,9,12,14	127:4,5,21	20:18,20 21:1
<b>representations</b>	<b>residents</b> 87:18	21:17 22:4	136:12,15,18	21:7,9,12,14
123:22	91:8	23:16 25:20	137:5 142:17	21:17 22:4
<b>representative</b>	<b>resistance</b> 35:7	28:15 30:3,7	142:20 145:16	23:16 25:20
108:21	<b>resonated</b> 83:22	30:12,15,18	146:7 148:4	28:15 30:2,3,7
<b>represented</b>	<b>respond</b> 17:15	31:18 32:3,12	150:18,18	30:12,15,18
123:18	22:4 25:11	32:16 33:4,7	154:17 155:14	31:16,18 32:3
<b>representing</b>	37:11,14,19	33:10 37:6,10	<b>right-</b> 136:13	32:12,16 33:4
12:14,17 103:4	40:6	37:17,21 40:8	<b>rights</b> 34:16	33:7,10 37:6
150:11	<b>response</b> 3:12	41:15,17,19	<b>River</b> 2:10 126:7	37:10,17,21
<b>request</b> 70:18	35:9	42:1,3,5,19,22	127:5,9,14,22	39:19 40:8
92:6 107:4	<b>rest</b> 22:8 32:18	43:4,7,12,15	128:5,6	41:15,17,19
108:22 109:2	110:15 117:5	44:3,7,13,15	<b>roam</b> 145:18	42:1,3,5,19,22
109:18 118:19	<b>restaurant</b>	44:17 45:11,16	<b>roll</b> 4:3	43:4,7,12,15
118:20 126:16	81:15 85:15,20	46:1,7,13	<b>roof</b> 98:15,18	44:3,7,13,15
130:19 142:5	86:18 87:18	47:12 48:9,13	155:10	44:17 45:11,16
156:20 157:1	88:17 89:6	48:16,19 49:3	<b>rooflines</b> 151:1	46:1,7,13
<b>requested</b> 13:5	90:20 92:14	49:14,17 51:1	<b>room</b> 23:11 39:1	47:12 48:9,13
67:8 133:6	93:5 99:22	51:3 63:8,12	56:8 150:20	48:16,19 49:3
136:17 139:10	<b>restaurants</b> 86:3	63:21 64:7,9	152:16	49:7,14,17
141:6 158:13	86:3 91:21,22	64:12,16,20,22	<b>rose</b> 92:20	51:1,3 63:8,11
<b>requesting</b> 24:8	92:4	65:8,14,22	<b>roughly</b> 6:17	63:12,21 64:7
88:15 103:5,14	<b>restored</b> 123:16	66:5 68:19	21:5 46:6 73:3	64:9,12,16,20
128:19,22	<b>restricted</b> 66:19	69:3 70:1,6,8	75:3	64:22 65:6,8
<b>requests</b> 108:18	<b>restrictions</b> 3:16	70:13,18,22	<b>round</b> 68:22	65:14,22 66:5
<b>require</b> 69:13	<b>result</b> 13:11	71:2,6,9,12,17	<b>rules</b> 79:11	68:13,16,19

69:3 70:1,6,8 70:13,18,22 71:2,6,9,12,17 71:19 72:19 73:8,10,15,19 74:14,16 75:1 75:22 76:4,7 77:17 <b>Sarah's</b> 52:11 <b>sarcastic</b> 61:19 <b>satisfies</b> 152:8 <b>satisfy</b> 23:9,14 <b>sausage</b> 90:2 <b>save</b> 41:7 129:6 <b>saying</b> 9:22 74:13 79:21 88:9 92:3 112:20 116:5 116:16 <b>says</b> 48:2 49:20 52:16 74:17 85:6 98:12 131:17 138:14 142:21 147:3 151:20 157:9 <b>schedule</b> 69:2 <b>scheduled</b> 13:2 <b>scheme</b> 68:10 <b>school</b> 55:20 <b>schooling</b> 74:11 <b>SCOTT</b> 70:9 <b>screen</b> 12:19 14:2 52:15 78:12 82:7,11 85:6 114:4 131:17 136:12 138:14 147:3 151:19 157:9 <b>scroll</b> 145:12 150:21 155:6 <b>Seasons</b> 150:14 <b>seating</b> 137:10 137:14 <b>second</b> 6:17 7:4 9:18 22:9,10 23:8 32:18 39:18 47:21 61:16 75:10	76:16 88:4 103:7,14 104:10 106:10 115:21 120:20 127:15 130:17 135:18 136:15 138:17 145:18 150:14 153:16 <b>second-floor</b> 51:7 <b>section</b> 99:18 152:5,5 <b>security</b> 97:8 <b>see</b> 10:10 14:16 14:19 16:18 17:2 20:18 23:17,19 25:8 26:1,13,18,19 27:13 28:18 31:21 33:12 39:21 40:5 42:13 44:8,22 47:20 51:6,18 52:5,19 56:3 69:2 73:17 78:12 80:11 85:9 99:14 110:9 127:12 128:3,5,7,17 131:20 136:13 136:16 138:17 145:12 147:6 152:1 155:6,12 155:13,22 157:12 <b>seek</b> 68:19 <b>seeking</b> 9:21 32:9 39:6,7 67:18 79:3,20 128:14 132:19 136:20 <b>seen</b> 15:20 57:1 59:11,18,20 80:9 92:21 154:13 <b>sell</b> 83:19 89:5 90:1 <b>selling</b> 83:4	<b>semi-residential</b> 84:5 <b>send</b> 28:17 110:10 <b>sense</b> 28:11 44:3 108:7 <b>sensitive</b> 22:22 41:5 <b>sensitively</b> 62:15 <b>sent</b> 108:17 110:9 129:14 <b>separate</b> 86:15 123:16 145:19 <b>separated</b> 82:2 <b>September</b> 1:4 3:7 67:11 <b>serious</b> 96:12 97:11,14,14 <b>serve</b> 82:20 <b>served</b> 69:9 <b>serves</b> 99:9 <b>serving</b> 90:9 <b>session</b> 64:18 <b>set</b> 13:13 20:11 26:18 36:19 38:18,19 72:3 105:10 111:8 123:17 162:12 <b>setback</b> 22:17 22:19 23:19 24:6,7,9,11 29:3,10,13,22 36:18 37:1 41:2 45:3,10 50:21 126:18 128:10,11 135:15 137:1,7 137:7 140:8 146:6,8 <b>setbacks</b> 22:15 22:15,22 37:3 106:6 107:7 150:16 <b>sets</b> 109:4 <b>Settle</b> 120:10 <b>seven</b> 86:3 128:11 <b>shade</b> 25:17	26:15 <b>shaded</b> 16:19 <b>shading</b> 26:22 27:11 <b>shadow</b> 25:13 25:17 26:21 27:6,15 <b>shadows</b> 26:2,20 27:1,2,3,16,18 28:5 <b>shape</b> 16:18 23:1,21 66:20 129:10 <b>shaped</b> 37:1 129:10 <b>shared</b> 83:11 106:13,14 <b>sharing</b> 14:2 <b>shed</b> 60:22,22 61:5,13 <b>shift</b> 44:4 <b>shop</b> 82:22,22 83:1 89:20 96:5 97:3,9 98:1 <b>short</b> 73:2 151:6 <b>shorter</b> 156:21 <b>shot</b> 26:1 157:6 <b>shouting</b> 35:11 <b>show</b> 24:21 26:11 27:8 28:7 122:1 <b>showed</b> 26:1 40:4 <b>showing</b> 15:7 24:13 38:22 105:3 137:4 <b>shown</b> 32:4 111:19 115:14 115:16 116:15 154:22 <b>shows</b> 25:22 113:4 <b>shrink</b> 23:12 <b>shut</b> 89:18 96:13 <b>SI</b> 94:5,7 <b>sic</b> 40:2 41:7 86:2 94:8	96:18 <b>side</b> 14:20 16:22 17:13 24:19 34:9,13 44:5 44:21 45:6 54:13 59:17 60:13,16 104:19 105:8 105:12,13 106:4,11,17 107:8 111:16 112:17,20 114:11 115:15 116:5,6,16 119:12 124:1 127:12,18,21 128:7,13,13,17 128:19 135:22 136:14,16 145:9 146:7,8 150:16,19,21 155:11,14,17 <b>sidewalk</b> 127:9 <b>Siegell</b> 56:11,12 56:14 59:6 <b>sign</b> 7:1,4 9:15 76:12,16 90:20 116:1 <b>signed</b> 9:20 10:8 76:13 92:2 109:13 110:19 111:8 <b>significant</b> 46:16 118:3,7 <b>Similarly</b> 65:10 <b>simple</b> 21:20 <b>simplicity</b> 107:15 <b>simply</b> 106:22 107:15 118:1 <b>simultaneously</b> 70:3 <b>single</b> 24:3 58:5 109:11 136:9 <b>single-family</b> 14:17 <b>single-unit</b> 106:7
--	--	--	---	--

<b>sinks</b> 31:15	27:7,18 28:16	125:13 137:6	<b>spaces</b> 104:16	76:20
<b>sir</b> 102:11 103:8	78:19,21	138:11,11	111:19 112:12	<b>specified</b> 152:7
103:9,15 104:8	<b>slides</b> 80:3,8	142:22 144:15	116:6	<b>spend</b> 25:10
110:22 111:11	<b>slightly</b> 135:22	150:8 154:19	<b>spacing</b> 34:6	144:22
<b>Sisia</b> 1:13 4:11	<b>slowly</b> 143:4	159:2	<b>speak</b> 4:8 36:7	<b>spill</b> 118:11
4:13,14,16,18	<b>small</b> 51:15 56:5	<b>sort</b> 7:7 22:13	41:10 52:14	<b>spillage</b> 118:21
14:1 52:21	60:22 98:19	24:10,11,20	53:6 54:7,7	<b>spilling</b> 118:6
54:8 55:13,15	137:17 145:20	29:14 33:15	63:5 85:5,10	<b>split</b> 127:4
56:11 59:7	154:21 156:9	35:11 36:22	88:1,15 99:6	<b>spoken</b> 129:19
62:4 73:5,13	<b>smaller</b> 116:7	38:5 39:4	103:2 115:10	155:15
85:11 88:2	<b>smell</b> 82:1 92:20	42:10 43:20	117:8 131:16	<b>spot</b> 83:13 107:9
92:12 93:7	93:15 94:20	44:1 46:9 61:4	131:20 132:1	155:22
94:4 95:16	<b>smelling</b> 93:17	61:4 72:3	138:13,18	<b>spouse</b> 9:19,20
115:8	<b>smells</b> 90:6,8,9	83:22 93:17	147:2,6,9	10:1,8
<b>site</b> 16:13,17	90:11 92:21	144:20 145:6	151:18 152:2	<b>spring</b> 35:6
23:20 28:16	97:8	156:6	157:8,15	<b>square</b> 17:18
34:9 37:2 44:8	<b>smoke</b> 92:20	<b>sought</b> 10:1 99:9	<b>SPEAKER</b>	18:5,12,14
44:18 45:16	93:15	99:17 120:20	97:10	19:15 21:2
46:3 127:14,15	<b>smokes</b> 96:18	121:17 132:7	<b>speaking</b> 4:2	22:14 23:5,10
127:15,16	<b>smoking</b> 92:19	140:11,12	72:3	23:12 31:3
128:2	96:12	147:16 157:21	<b>special</b> 29:8	41:7 47:22
<b>sited</b> 15:12	<b>soil</b> 36:13 66:21	<b>sound</b> 54:4	41:17,19 42:13	48:2,5,6,8,20
16:11 29:9	<b>solution</b> 33:22	<b>sounds</b> 88:8	67:18 68:11,17	49:4,11 85:16
62:15	35:13 36:15	144:17	69:13,19,21	85:21
<b>siting</b> 30:9 34:2	<b>solve</b> 33:18 95:5	<b>south</b> 28:1 145:7	70:4,16 71:4	<b>squeeze</b> 107:13
<b>Sitting</b> 3:4 6:3	108:13 156:8	<b>southeast</b> 26:16	71:16 72:6,8	<b>squeezes</b> 128:8
9:3 12:3 78:4	<b>solved</b> 105:14	<b>spa</b> 98:1	72:21 79:3,6	<b>ss</b> 162:3
102:3 126:3	<b>somebody</b>	<b>space</b> 21:5 22:7	88:16 92:6	<b>St</b> 55:20 85:16
135:3 144:3	107:11 111:18	22:12,15 23:10	99:21 101:1,5	<b>Staff</b> 4:9
150:3 154:3	118:1	24:4 29:16	101:7 103:14	<b>stairs</b> 137:1,6,12
160:3	<b>someplace</b> 46:22	31:2,5,7,11	120:19,22	137:12
<b>situation</b> 31:8	<b>soon</b> 14:20	33:20 36:16	124:9 126:16	<b>stand</b> 112:21
58:11 60:21	72:21	38:21 40:2,16	128:22 132:6,9	<b>standard</b> 29:6
64:1 96:12,18	<b>sorry</b> 10:14	40:19,21 47:2	133:6,13,16,19	41:20
104:14	12:12,15 14:3	47:2,10 51:6,7	133:22 134:2	<b>standards</b> 38:19
<b>six</b> 86:3 106:14	17:1,6 18:17	58:14 59:19	135:13,14	40:11
109:12 110:21	19:22 20:3	60:4 62:21	140:7 141:6,11	<b>standing</b> 109:9
<b>six-foot</b> 106:16	32:3,15 37:15	66:18,19 82:4	141:13,16,19	<b>staring</b> 144:22
107:8	42:19,20,22	83:3,11 92:9	142:1 144:16	<b>start</b> 4:9,20
<b>sizable</b> 130:11	44:13 45:12	93:3,18,22	146:4,5 147:18	25:20 26:1
<b>size</b> 3:11 21:4	48:18 63:9,9	97:19,21 98:2	148:21 149:4,7	42:10 47:22
39:3 62:15	63:10,20 64:16	104:1,3,9	149:10,13,18	79:2,16
157:2	67:13 75:16	106:8,9 107:1	152:22 153:1,4	<b>started</b> 4:22
<b>sky</b> 136:4	76:6 78:20	114:6,8 115:1	153:7,10,12,14	11:9 116:10
<b>slide</b> 14:1,7,21	80:4 99:4	115:20 116:7	<b>specific</b> 120:1	<b>starting</b> 26:20
15:6 18:18	103:6 117:7,20	117:18 119:16	<b>specifically</b> 9:16	27:4 81:17
24:12,15,17,21	119:5,20 120:6	129:1 137:17	135:17	155:6
25:21 26:5	123:10 124:20	<b>spaced</b> 34:5	<b>specifications</b>	<b>starts</b> 26:18



44:20 127:18 <b>state</b> 4:2 68:14 90:17 <b>stated</b> 58:21 68:8 124:21 <b>statement</b> 49:11 50:9 117:6 <b>states</b> 91:5 108:20 <b>statewide</b> 3:11 <b>stay</b> 34:20 40:14 56:4 57:9,13 58:19,22 96:1 151:1 <b>step</b> 46:14 <b>steps</b> 125:10 <b>storage</b> 39:1 53:11 60:22,22 <b>store</b> 86:2 97:16 <b>stores</b> 91:22 <b>straight</b> 127:10 <b>straightforward</b> 147:11 <b>strange-</b> 36:22 <b>street</b> 2:10,12,13 2:14,15 12:16 54:17,18 57:1 89:13 104:2 107:3,21 108:9 109:12 111:17 126:7 127:5,8 127:9,14 128:5 128:6,20 144:8 144:12 150:7,8 150:15 154:8 154:12 160:7 <b>stretching</b> 59:17 <b>strong</b> 65:4 <b>strongly</b> 94:8 109:2 115:18 119:1 <b>structure</b> 14:16 14:17 15:3,3,4 15:17 16:6 21:5 30:9 34:4 34:8 44:21 108:8 114:10 127:1,7 150:16	151:2 152:9,11 152:12,17 156:5 158:3,5 158:7 <b>structures</b> 156:4 <b>Stuart</b> 62:9 <b>studies</b> 25:18 <b>studio</b> 89:21 <b>study</b> 40:3 <b>subject</b> 6:21 76:10 100:6 121:20 <b>subjective</b> 46:14 <b>submission</b> 44:10 <b>submittal</b> 67:16 <b>submitted</b> 13:13 13:15,16 43:5 52:6 63:16 67:10 72:21 104:21 105:3 105:10 121:18 158:14 <b>submitting</b> 70:3 <b>substantial</b> 30:6 30:10 66:16 67:4 79:9 90:21 100:3,5 121:3 132:12 140:15 147:21 158:1,9 <b>substantially</b> 67:5 158:10 <b>successful</b> 119:14 <b>sudden</b> 98:3 <b>sufficient</b> 69:4 <b>suggest</b> 9:12 10:9 21:21 33:6 68:9 123:8,12 147:12 <b>suggestion</b> 42:12 43:8 60:12 68:17 <b>suitable</b> 46:11 <b>Sullivan</b> 1:8 3:5 4:16,17,17 6:4	7:11,11 9:3 10:20,20 12:4 38:2,2 63:8,9 66:9,9 67:14 67:14,22 68:3 68:5 69:11,11 69:20 70:5,7 74:1,1 75:5 77:3 78:4 82:6 82:6,10,15,18 83:10,21 101:4 102:3 111:14 112:14,21 113:1,8,17 114:9,13 121:21,22 122:13,18,20 123:1,4 124:8 124:8 126:3 131:5,5 133:12 133:12 135:3 137:21,21 138:9 139:14 139:14 141:10 141:10 142:9 144:3 146:14 146:14 149:3,3 150:3 151:9,9 152:20,20 153:1 154:3 156:15 158:17 160:3,13 <b>summary</b> 156:12 <b>summer</b> 28:3,3 93:13 <b>sump</b> 31:13 46:17 58:9 <b>sun</b> 26:3,14,18 27:22 <b>sunken</b> 61:4 <b>sunporch</b> 144:16 145:8 <b>sunroom</b> 146:2 <b>sunset</b> 26:11,19 27:13 <b>Super</b> 126:21 <b>support</b> 33:13	36:8 43:1,5 53:5,21 54:1 54:16 55:3,8 56:16 62:12 65:4 67:15 84:8 94:8 99:10 110:12 113:13 129:18 130:7 148:5 155:17 <b>supported</b> 132:17 <b>supporting</b> 54:20 101:4 <b>supportive</b> 43:18 56:17 <b>Supreme</b> 152:6 <b>sure</b> 15:20 17:8 21:12 22:3,6 25:5 31:22 32:4 40:10 43:15,17 49:15 49:22 50:3 56:7 59:6 70:21 71:1 82:19 86:7,16 86:17 88:7 97:20 109:9,15 110:8 118:7 123:7 128:4 <b>surface</b> 112:10 <b>surprised</b> 35:18 <b>sushi</b> 81:15 85:15 <b>sweet</b> 151:6 <b>swimming</b> 61:5 <b>symmetrical</b> 129:1 <b>sympathetic</b> 32:10,13 47:8 <b>synopsis</b> 127:2 <b>system</b> 81:13 82:2	26:7 52:19 65:19 69:8 76:2 85:9 88:10 106:10 108:11,12 131:20 138:8 138:16 142:7 142:12,22 147:6 152:1 153:16 157:12 <b>taken</b> 4:3 88:11 108:2 109:20 113:12 125:10 <b>takeout</b> 94:21 <b>takes</b> 39:22 106:9 <b>Takoyaki</b> 90:3 <b>talk</b> 16:15 28:20 63:6 81:15 88:13 145:6 157:18 <b>talked</b> 29:1 89:8 96:17 <b>talking</b> 35:8 49:12 81:5 87:15 <b>tape</b> 115:19 <b>tea</b> 84:10 87:1 88:7,17 89:12 90:2 94:9 96:5 97:3 98:3 99:22 <b>team</b> 29:11 <b>tearing</b> 119:2 <b>technical</b> 28:21 <b>Technically</b> 29:5 <b>television</b> 3:20 <b>tell</b> 32:19 63:15 <b>temporarily</b> 3:14 <b>temporary</b> 3:15 <b>tens</b> 58:3 <b>terms</b> 25:13 34:2 48:19 59:15 63:22 64:1 65:2 91:1 108:14 115:1
<b>T</b>				
<b>table</b> 67:12 <b>tables</b> 83:12 <b>take</b> 4:9 25:2				

130:22,22 <b>Terrace</b> 79:10 88:18 89:3,7 90:14 91:13,16 <b>test</b> 61:1 <b>testimony</b> 52:14 63:6 66:1 80:13 85:4 99:7,11 100:10 115:7 120:14 131:15 132:2 147:1,9 151:18 152:3 157:7 <b>text</b> 20:16 <b>texted</b> 63:14 <b>thank</b> 12:20 13:8 14:3,14 19:10,12 28:15 28:17,19 37:21 39:14 42:4,6 47:15 50:8 51:18 52:8 54:6 55:10,11 56:9 59:2,4 62:3 63:3,4 66:5,6 75:22 75:22 76:8 77:17,19 82:15 84:18 87:6 88:14 92:10,11 93:6 94:2,3 95:13,14 99:5 102:21 108:5 109:19 113:1 114:14 115:9 116:21,22 124:4,22 125:12,14 126:22 128:16 131:3 134:4 142:3,4,14,16 146:12 149:19 153:14,15 154:19 159:10 159:11 161:7,9 <b>thanks</b> 12:21 14:3 16:19 52:9 117:11	<b>that's</b> 20:1 27:11 118:1 120:3 <b>theirs</b> 34:15 60:2 <b>thing</b> 34:2 36:5 57:17 119:15 130:1 145:4 155:20 <b>things</b> 25:14 30:19 35:1 36:12 37:13 89:11 91:9 107:20 117:11 117:12 <b>think</b> 6:19 18:19 29:17 30:8,11 32:12 33:4,11 33:16 35:1 39:19 40:10,16 41:3,7,10,10 45:19 49:10,10 49:14,14 52:7 53:6,20 54:3 54:17,22 55:5 55:6,7 56:22 58:22 60:8 64:10 65:15 66:5 69:3,9,17 71:7 73:1 74:19 81:6,20 82:3,4,19 83:5 86:3 87:4 88:18 93:5,20 94:12,17 95:2 95:6 98:19 99:9,12 105:22 106:12 107:15 110:9 113:3,4 115:2,5,15 122:15 130:13 130:16 132:4 136:6 139:4 144:20,22 145:5 146:4 156:2 <b>thinking</b> 21:22 48:22 116:17	<b>third</b> 116:9 <b>Thirty</b> 21:13 <b>Thomas</b> 32:19 59:9 <b>thought</b> 18:9 35:20 36:4 50:5 67:16 97:21,22 98:2 105:14 110:1 114:1 145:11 145:14 <b>thoughts</b> 39:13 <b>thousands</b> 58:4 <b>three</b> 4:8,21 26:7 53:4 95:22 117:12 118:3 150:14 155:4 <b>throw</b> 46:10 53:7 <b>throwing</b> 71:22 <b>THURSDAY</b> 1:4 <b>tight</b> 69:8 111:20 <b>Tim</b> 16:4,4 59:8 <b>time</b> 4:5,6 7:2 13:9 20:15 25:10 28:4 34:1,22 38:11 53:13,15 54:7 55:12 59:3,5 59:13 61:1 65:19 69:1 76:1,5,7,12 86:11 88:8 93:14 95:13,15 96:14 98:5 104:7 116:19 120:14 124:20 139:3 143:3,4 144:22 156:22 157:17 <b>times</b> 28:9,10 39:4 55:7 56:3 57:3 96:10,20 <b>Timna</b> 154:10 154:11,15,20	159:10 <b>Timothy</b> 32:20 59:7,8 61:12 61:20 62:1 <b>Title</b> 20:10,15 <b>today</b> 13:17 63:16 <b>Tofias</b> 135:9,11 135:11 136:10 136:13,21 137:2,19 <b>told</b> 13:3,7 98:5 <b>Tom</b> 12:18 41:10 46:20 47:12 55:19 58:17 60:10 62:10 144:11 144:22 <b>Tom's</b> 53:12 54:16 60:1 <b>tongues</b> 68:22 <b>tonight</b> 4:22 5:2 9:13 36:7 54:7 69:18 70:14 73:22 80:13 100:6 108:16 126:16 <b>tonight's</b> 3:22 <b>tons</b> 57:1 <b>top</b> 50:18 82:8 126:22 127:8 136:14 150:16 150:22 <b>tore</b> 118:9 <b>total</b> 49:20 <b>totally</b> 38:6,20 <b>touch</b> 129:13 <b>townhouse</b> 38:3 38:8,9 <b>traffic</b> 91:4 100:1 121:1 132:10 140:13 147:19 <b>tranquility</b> 83:18 <b>transcript</b> 3:21 162:6 <b>transfer</b> 92:21	<b>trash</b> 81:18 98:9 <b>treatment</b> 93:19 <b>trees</b> 25:16,22 26:1,4,8,9,20 26:22 27:5,12 27:14,22 29:21 <b>tremendous</b> 58:15 <b>tremendously</b> 57:9 <b>tried</b> 26:7 107:10 131:1 157:1 <b>Trilogy</b> 12:15 <b>triple-decker</b> 145:10 <b>tripled</b> 57:2 <b>troubled</b> 114:21 <b>troubles</b> 31:16 86:19 <b>true</b> 43:13 45:11 162:6 <b>trust</b> 79:8 94:9 <b>Trustees</b> 92:15 97:18 <b>truth</b> 90:7 <b>try</b> 14:15 22:22 25:11 29:12 30:21 35:13 40:14,21 56:19 57:20 58:15 71:3 107:13 <b>trying</b> 20:14 22:1,22 30:10 33:17,17 34:19 36:1,15 41:5 46:16 47:3,10 55:3 58:10 63:13 72:16 95:3 96:1 104:22 106:1 108:2 129:9 <b>turn</b> 9:22 12:6 78:7 82:7,11 147:10 <b>turning</b> 61:5 140:7 <b>turns</b> 87:10
--	--	--	---	--

<b>tweak</b> 58:11	<b>understanding</b>	45:19 62:16	<b>version</b> 56:17	<b>votes</b> 4:2 7:22
<b>twelfth</b> 85:22	16:4 43:17	83:16 86:9	105:21	11:10 68:13,15
<b>two</b> 9:12 15:19	109:10	92:9 98:11	<b>versus</b> 42:14	77:13 101:13
15:21,22 22:12	<b>understood</b>	100:9,17	52:4	125:2 134:1
22:16 23:8,18	42:16 72:10,18	104:22 121:11	<b>viable</b> 107:1	140:3 141:20
31:13 32:5,17	97:22 104:4	132:22 140:22	<b>Vice</b> 1:8	153:11 159:5
35:15 40:15,21	<b>unfortunately</b>	147:13 148:12	<b>vicinity</b> 36:9	161:3
42:17 50:14,17	35:10 74:10	148:13 154:22	<b>Victorian</b> 90:18	<b>voting</b> 84:8
51:5,5,10,17	107:10	<b>uses</b> 79:18 80:21	90:19,19	101:10,12
56:19 57:22	<b>UNIDENTIFI...</b>	100:8 121:6	<b>video</b> 3:19	141:15
58:9 68:13	97:10	132:15 140:17	<b>view</b> 14:7,20	
69:8 71:19	<b>uninhabitable</b>	148:7	15:16,18 16:7	<b>W</b>
74:20 75:3	90:11	<b>usual</b> 37:21	16:9,12 23:5	<b>W-e-l-l-s</b> 86:9
83:21 104:16	<b>unique</b> 24:2	<b>usually</b> 37:11	24:13,16,18	<b>wade</b> 97:5
105:15 107:2	34:4	38:9 56:4	26:7 57:12	<b>wafting</b> 93:15
108:8 111:19	<b>unit</b> 24:4,5 25:7	<b>utilities</b> 53:11	60:15 62:14	<b>wait</b> 75:1 88:4
112:12 113:21	25:8,8 42:17		115:6 127:8	117:3
116:6,12	42:18 43:1	<b>V</b>	155:9	<b>waiver</b> 7:2 76:12
117:11,19,20	44:19 48:2,20	<b>vacation</b> 53:13	<b>viewed</b> 24:22	76:13
119:15,22	49:20,20 81:10	<b>value</b> 115:2	<b>views</b> 15:7,9	<b>walk</b> 45:16
123:17 128:2	89:10,19,20	<b>variance</b> 29:4	17:16 23:13	69:12
129:2 130:12	91:20 92:14,20	30:5 42:14	25:12 35:16	<b>walking</b> 44:18
137:16 142:9	93:9 104:10,15	67:8 68:2,3,8	36:3 65:18	<b>wall</b> 32:20 59:7
145:19 155:16	106:10 107:2	68:15 70:15	81:2 114:21	59:8,8 61:9,12
<b>two-</b> 142:5	<b>units</b> 14:18 20:4	103:5 108:6	<b>violating</b> 29:13	61:20 62:1
<b>two-families</b>	62:11,18 81:21	136:20 138:8	34:12	89:14
114:9	83:14,16 84:7	138:21 139:1,2	<b>visit</b> 53:12	<b>walls</b> 155:9
<b>two-family</b>	88:19,20 89:4	139:6,7,8,10	<b>Vivi</b> 88:7,17	<b>wandered</b> 103:7
104:6,15,15	104:17 105:15	139:15,18,21	<b>voice</b> 33:14	<b>Wang</b> 126:15
126:22 127:4,7	108:3 129:2,9	140:2,6 141:8	62:12	130:8
150:15	<b>unmute</b> 52:18	155:1 157:18	<b>volume</b> 51:16	<b>want</b> 17:7 28:21
<b>two-unit</b> 115:3	85:8 102:14	157:19,21	<b>vote</b> 7:10 8:2	33:3,9 35:2
<b>type</b> 35:9 38:19	131:19 138:16	158:8,13,17,20	11:11 65:7	37:7,9 39:15
<b>typically</b> 26:11	147:5 151:22	159:1,4,8	66:13 76:3	39:15 40:6
46:9	157:11	<b>variances</b> 22:18	77:2,15 87:4	41:11 47:16,20
	<b>unquote--</b> 31:2	62:13	87:22 88:10,11	53:10 56:21
<b>U</b>	<b>unsafe</b> 156:7	<b>vegetarian</b>	99:14 101:3,4	58:17,20 60:9
<b>Uh-huh</b> 82:12	<b>unusual</b> 23:21	90:10	101:7,15	67:13 68:18
<b>unanimous</b>	<b>update</b> 59:12	<b>ventilation</b>	108:19 112:3	69:6,18 71:6,9
101:14 149:15	<b>updated</b> 59:12	86:14	120:15 125:4	71:15 72:13
<b>understand</b>	<b>upper</b> 137:3	<b>venting</b> 81:12,13	132:3 134:3	84:12,13 88:14
15:21 33:9,10	<b>upright</b> 94:15	<b>ventless</b> 81:13	138:8,21 140:5	92:3,7,18
51:21 60:10	<b>upstairs</b> 23:18	<b>venture</b> 91:2	141:22 149:2	95:11 103:1
65:14,20 85:18	86:6 88:22	<b>verbal</b> 129:19	149:16,17	109:16 111:10
86:16 87:7	<b>usable</b> 21:5 39:2	<b>verbally</b> 116:3	152:19 153:13	113:2,2 119:11
88:18 90:5	<b>use</b> 22:11 31:4	<b>Verdun</b> 2:14	159:7 160:11	120:17 128:4
94:13,19	34:15 36:16	154:8,12	160:12 161:5	142:9,9 145:4
118:13	44:19 45:14,17	<b>verify</b> 4:10	<b>voted</b> 11:1	155:1

<b>wanted</b> 34:3 36:12 46:22 47:7 48:3,3 50:2,9 63:17 64:22 74:19 107:11 116:21 137:9 145:4	85:9 88:10 110:2,12 120:15 127:14 131:20 138:8 142:12,13 147:6,9 152:1 153:16 157:6 157:12	62:14	<b>weren't</b> 31:8	154:9
<b>wanting</b> 6:12 83:18	<b>we're</b> 13:17 15:3 21:1 22:1,21 24:8,9 41:3,5 49:12 51:11,17 53:5 62:12 65:12 66:7 71:2 72:11 74:20 78:8 81:13 82:7 87:15 94:1 103:5 105:22 107:5 116:5,17 117:3 119:21 120:13 128:13 129:9 146:3,3 146:7 150:13 150:19 154:12 154:20 155:3 155:10 156:1 160:9	<b>wellness</b> 93:19 <b>Wells</b> 16:4 86:9 <b>Wendy</b> 1:9 3:6 4:13 6:5 7:19 7:20,20 9:4 11:6,7,7 12:5 47:16,18 48:12 48:14,18 49:2 49:6,9,22 50:4 51:18 52:9 68:21 74:9,10 74:15 75:13,14 75:17,20 77:10 77:11,11 78:6 84:22 85:1,1 101:11,12,12 102:4 114:17 114:18 123:5,7 123:9,10,12,15 124:17,18,21 126:4 131:11 131:12,12 133:20,21,21 135:4 138:4,5 138:5 139:22 140:1,1 141:17 141:18,18 144:4 146:19 146:20,20 149:11,12,12 150:4 151:14 151:15,15 153:8,9,9 154:4 157:3,4 157:4 159:2,2 159:3,4 160:4 160:18,19,19 161:1	<b>west</b> 26:16 104:19 105:8 106:4 107:6 108:21 115:15 128:17 145:2 <b>whereof</b> 162:12 <b>white</b> 2:15 16:6 25:6 90:21 160:7 <b>wide</b> 40:18 45:19 105:8 106:16 <b>widen</b> 137:1,12 <b>width</b> 40:18 112:4 117:17 117:17 118:14 <b>wife</b> 59:9 144:22 <b>willing</b> 73:3 95:9 98:22 99:1,1 <b>willingness</b> 35:8 <b>window</b> 40:12 112:17 113:11 122:1 130:3,3 132:11 135:17 135:18,21 136:2,5,15,17 140:8,14,19 145:1 <b>windows</b> 15:13 53:19 128:18 130:14 135:14 135:16 146:5 <b>wish</b> 12:7 39:3 52:14 54:7 85:5 88:1 92:8 102:7 131:16 138:13 147:1 151:18 157:8 <b>wishes</b> 63:5 85:9 99:6 131:20 132:1 138:17 147:6,9 152:1 152:2 157:14 <b>wishing</b> 6:8 9:8 12:10 78:10 126:8 135:8 144:9 150:8	<b>withdraw</b> 70:2,2 70:12 72:9,20 <b>withdrawal</b> 160:11,13,15 160:17,20 161:6 <b>withdrawn</b> 160:10 <b>witness</b> 162:12 <b>woman</b> 92:8 <b>women</b> 95:22 <b>wonder</b> 52:3 123:8 <b>wondered</b> 123:12 <b>wonderful</b> 95:20 <b>wondering</b> 50:15 <b>wooden</b> 45:17 <b>word</b> 108:6 122:13 125:1 <b>work</b> 24:5 35:13 67:9 92:19 94:16,16 95:3 95:11 106:6 119:13 121:18 122:5 133:7 139:11 141:7 148:22 158:14 <b>worked</b> 91:15 <b>workers</b> 93:2 <b>works</b> 69:2 74:3 92:9 <b>world</b> 42:2 <b>worry</b> 28:13 <b>worse</b> 60:21 <b>wouldn't</b> 13:6 43:22 46:11 50:5 72:3,4 116:7 <b>write</b> 38:10 <b>written</b> 9:21 59:9 110:12 <b>wrong</b> 84:9 <b>wrote</b> 33:13 56:16 <b>Wu</b> 16:6 25:4
<b>wants</b> 98:11 117:8				
<b>wares</b> 83:3				
<b>warren</b> 40:2				
<b>wasn't</b> 22:15 35:19 86:18				
<b>waste</b> 88:8				
<b>watch</b> 53:12 142:21 143:4				
<b>watching</b> 53:15				
<b>water</b> 31:12,14 31:20,22 32:6 32:10,10,21 35:16 36:14 46:9,15 50:10 53:6,16,20 57:19,21 58:7 58:11 59:20 61:3 66:22 118:11,21 119:16 120:1				
<b>wave</b> 12:19				
<b>waving</b> 116:4				
<b>way</b> 17:1 27:5 34:4,5,7,8 37:2 38:13 43:19 46:10 54:20 61:18 80:1 99:12,18 109:18 112:2 116:13 127:5 148:3 150:18 152:4 156:4				
<b>ways</b> 53:19				
<b>we'll</b> 12:6 14:19 28:13 52:19 63:6,6 69:2 72:20 73:2 75:22 81:18				
	<b>webpage</b> 4:7 <b>week</b> 76:14 <b>weeks</b> 69:8 <b>weight</b> 43:21 <b>Weiwen</b> 126:15 <b>welcome</b> 3:7 125:15 134:5 <b>welfare</b> 100:16 121:10 132:21 140:21 148:11 <b>well-designed</b>	<b>went</b> 13:14 17:11 21:22 22:15,19 23:2 43:16 60:9 98:15 105:17 109:7 118:14 119:9 <b>weren't</b> 82:19 93:17		

35:5 <b>Wus</b> 35:13 <b>Wyman</b> 54:16	89:3,19 93:11 96:2,7 <b>yellow</b> 15:3,12 <b>yellowish</b> 14:16 <b>Yep</b> 13:22 18:10 19:12 20:6 31:18 37:21 41:21 74:8 102:22 122:22 136:10 137:19 155:7 <b>yesterday</b> 59:12 59:12 <b>Yi</b> 94:4,5,7,8 <b>yield</b> 47:14 <b>young</b> 92:8	86:17 93:11 <b>10-foot</b> 128:11 <b>10.43</b> 99:18 <b>100</b> 91:17,18 92:2 <b>102</b> 2:9 <b>11</b> 23:17 73:12 <b>11:00</b> 83:7 87:17 <b>119365</b> 9:7 <b>12</b> 2:6 3:13 12:15 85:22 <b>120040</b> 6:7 <b>126</b> 2:10 <b>127988</b> 12:7 <b>131123</b> 135:7 <b>131742</b> 126:7 <b>133183</b> 144:8 <b>134121</b> 150:7 <b>134550</b> 102:7 <b>134626</b> 78:9 <b>135</b> 2:11 <b>135907</b> 154:8 <b>138678</b> 160:8 <b>139</b> 2:10 126:7 <b>14</b> 7:5 76:17 <b>1400</b> 48:4 <b>144</b> 2:12 <b>1488</b> 20:22 49:21 <b>14B</b> 32:20 <b>15</b> 55:21 <b>150</b> 2:3,13 6:7 <b>154</b> 2:14 <b>16</b> 31:10 48:17 57:8 64:3 <b>160</b> 2:15 <b>1645</b> 48:2 <b>1776</b> 2:8 78:9 96:6 <b>18</b> 71:20 75:2,5 76:10,17,22 77:1 133:9 <b>1873</b> 127:3 <b>19</b> 25:1 67:11 <b>1980</b> 56:22 <b>1982</b> 91:16 <b>1993</b> 57:19 <b>1995</b> 88:21	<b>2</b> <b>2</b> 14:7 71:13 149:1 150:7,8 <b>2,2021</b> 139:12 <b>20</b> 17:5 <b>20-foot</b> 24:7 <b>2000</b> 59:15,21 <b>2000s</b> 58:3 <b>2004</b> 54:18 <b>2005</b> 31:1 54:17 <b>2020</b> 3:14,18 <b>2021</b> 1:4 3:8 67:11 133:9 149:1 162:13 <b>2028</b> 162:18 <b>21</b> 6:18,21 7:5,9 73:6,9 <b>22</b> 3:20 <b>23</b> 1:4 3:8 28:16 <b>24</b> 2:12 62:9 144:8,12 <b>25</b> 24:8,8 44:20 88:21 89:19 <b>25.9-foot</b> 24:8 <b>26</b> 2:6,6 12:7,7 12:18 26:22 49:20 <b>27</b> 3:17 53:2 <b>28</b> 162:18 <b>29</b> 54:12	155:12 <b>4-5</b> 155:7 <b>4:00</b> 112:15 <b>4:30</b> 26:17 <b>40,000</b> 58:1 <b>41</b> 55:22
<b>X</b> <b>x</b> 2:1 45:13 <b>XU</b> 78:13,15,17 78:19,21 79:2 80:2,6,14,17 81:4 82:12 83:9,20 84:14	<b>Y</b> <b>yard</b> 15:17,18 16:9 23:22,22 24:6 35:11 36:19,20,21,22 37:1 45:17,19 61:10 137:17 146:6,7 <b>yards</b> 15:2,4 113:9 <b>yeah</b> 19:2,10,17 19:20 20:2,7 21:14,17,17 25:21 28:15 30:3,18 37:20 41:20 42:3,4 43:7 45:11 46:2,19 48:13 49:16 51:2,3,4 60:8 61:20 66:9 67:14 70:5 71:9 73:10 74:16 75:1 76:4 78:21,21,22,22 82:12 87:3 88:3,13 112:19 116:16 119:11 122:19 136:13 138:10 143:2 145:6,13 <b>year</b> 26:10 28:10 59:15 94:12 <b>years</b> 31:10 38:5 55:21 57:8 59:21 85:17 86:17 88:21	<b>Z</b> <b>Z4</b> 145:5 <b>zone</b> 128:11,12 <b>zoning</b> 1:1 3:8 9:21 28:21 29:6 36:17 55:9 57:11 63:2 65:6 67:3 79:4,18 100:8 115:5 121:6 140:18 148:7 152:9 <b>Zoom</b> 28:18 52:15 85:6 128:3 131:17 138:14 147:2 151:19 157:9 <b>zooming</b> 16:20	<b>3</b> <b>3</b> 110:20 155:5 <b>3-foot</b> 155:5 <b>30</b> 2:11 21:11,14 135:7 <b>31</b> 85:16 <b>318</b> 2:9 102:7 103:4 110:20 <b>322</b> 115:11 <b>33</b> 56:14 <b>35</b> 96:7 <b>36</b> 2:15 160:7 <b>39</b> 2:4 9:7 89:3	<b>5</b> <b>5:00</b> 7:8 76:21 89:18,21 <b>50</b> 21:5,6,9 97:1 130:13 <b>500</b> 21:8 <b>560</b> 18:13 21:2
			<b>6</b> <b>6</b> 2:3,14 52:18 85:8 115:20 131:19 138:16 147:5 151:22 154:8,12 157:11 <b>6:00</b> 1:4 2:3,4,6 3:3 6:21 76:10 81:18 <b>6:06</b> 6:2 <b>6:08</b> 9:2 <b>6:11</b> 12:2 <b>6:30</b> 2:8 <b>6:45</b> 2:9 <b>60</b> 97:1	
			<b>7</b> <b>7</b> 115:20 <b>7.5</b> 16:22 <b>7:00</b> 2:10 27:2 91:6,10 95:1 <b>7:15</b> 2:11 <b>7:30</b> 2:12 78:3 95:1 <b>7:45</b> 2:13 <b>7:46</b> 102:2 <b>700</b> 31:3 49:11 <b>7255</b> 18:5 <b>728</b> 49:20 <b>78</b> 2:8	
			<b>8</b> <b>8</b> 115:16,16,20	

115:20 <b>8:22.2d</b> 152:6 <b>8:00</b> 2:14 91:6 91:11 <b>8:15</b> 2:15 <b>8:32</b> 126:2 <b>8:43</b> 135:2 <b>8:52</b> 142:11 <b>8:56</b> 142:21 143:5 <b>8:57</b> 142:13,19 144:2,6,7 <b>82</b> 89:2 <b>831</b> 1:6				
<hr/> <b>9</b> <hr/>				
<b>9</b> 2:4 52:18 85:8 131:19 138:16 147:5 151:22 157:11 <b>9:03</b> 150:2 <b>9:05</b> 154:2 <b>9:14</b> 160:2 <b>90s</b> 58:2				