

BOARD OF ZONING APPEAL  
FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY JANUARY 26, 2023

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Jim Monteverde, Vice Chair

Andrea A. Hickey

Laura Wernick

Matina Williams

Jason Marshall

City Employees

Olivia Ratay

Stephen Natola



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## I N D E X

CASE	PAGE
BZA-203312 -- 159 SHERMAN STREET - UNIT 2	5
BZA-202716 -- 164-166 VASSAL LANE	17
BZA-203324 -- 17-21 JAY STREET	19
BZA-205192 -- 255 GROVE STREET	28
BZA-204623 -- 4 WYMAN ROAD	30
BZA-205777 -- 8 DANA PL, A/K/A 11 DANA ST, UNIT 8	38
BZA-204121 -- 12 MAPLE AVENUE	60
BZA-206111 -- 142 THORNDIKE STREET	69

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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: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: Welcome to the January 26, 2023 meeting of the Cambridge Board of Zoning Appeal. My name is Jim Monteverde, and I will be the Chair for this evening.

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, and 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.

And there will also be a transcript of the

1 proceedings.

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

5 Members of the public will be kept on mute until  
6 it is time for public comment, and I will give instructions  
7 for public comment at that time. And you can also find  
8 instructions on the City's webpage for remote BZA meetings.

9 Generally, you will have up to three minutes to  
10 speak, but that may change based on the number of speakers.

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

13 STEPHEN NATOLA: Jason Marshall?

14 JASON MARSHALL: Here.

15 STEPHEN NATOLA: Andrea Hickey?

16 ANDREA HICKEY: Present.

17 STEPHEN NATOLA: Matina Williams?

18 MATINA WILLIAMS: Present.

19 STEPHEN NATOLA: Laura Wernick?

20 LAURA WERNICK: Present.

21 STEPHEN NATOLA: Jim Monteverde?

22 JIM MONTEVERDE: Present.

1 \* \* \* \* \*

2 (6:07 p.m.)

3 Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura  
4 Wernick, Matina Williams, and Jason  
5 Marshall

6 JIM MONTEVERDE: Okay. No continued cases this  
7 evening. And the first case I'm going to call is Case No.  
8 203312 -- 159 Sherman Street, Unit No. 2 Staff will now  
9 unmute you, please begin by introducing yourself and any  
10 other presenters on your team, and then commence your  
11 presentation.

12 ADAM GLASSMAN: Good evening, Mr. Chair, and  
13 members of the Board. I'm Adam Glassman, GCD Architects at  
14 2 Worthington Street in Cambridge. And I'm here  
15 representing Mark Cyr, who you can see back behind me, owner  
16 of 159 Sherman Street.

17 And we're here seeking a variance to construct an  
18 addition that's really in three parts -- a carport, covered  
19 walkway, and what we're calling a retirement room addition.

20 Mr. Cyr was born and raised this house. He went  
21 off to college. He spent time in the military, and for the  
22 past 210 years he's been back in the same house.

1           And he's been kind of a renowned local Japanese  
2 gardener. Did a lot of work in and around Cambridge. He's  
3 just retired, and is now seeking to create a home, modify  
4 the home so that he and his wife can continue to live here  
5 comfortably in their retirement years.

6           The first image, the first slide, is our open  
7 space plans. And it might have not gone unnoticed that we  
8 had an inconsistency in our calcs. But our existing useable  
9 open space is 0.612, and our proposed open space is 0.68 on  
10 the right, and then we have existing conforming conditions  
11 to remain conforming.

12           On the right portion of the plans, that dark gray  
13 hatch indicates the new addition, which is nonconforming due  
14 to the rear setback -- a bit of the rear setback; a  
15 crossover about four feet. So on the right is the proposed  
16 carport.

17           Around the back is the proposed covered walkway,  
18 which connects the carport to a lift and wraps around the  
19 left side to a two-story addition.

20           Next slide?

21           Our existing FAR is conforming, as is our proposed  
22 FAR. I don't know if people spend a lot of time on these,

1 but we can keep -- we can keep scrolling. We go from a 0.31  
2 to a 0. -- I'm sorry, a 0.31 to a 0.38, well under the  
3 required 0.50 maximum.

4 Oop, let's go back one more?

5 So the -- on the right, you can see the covered  
6 carport, 292 square feet we do not count, and then the 302-  
7 square foot covered walkway wraps around and connects to a  
8 covered deck, 232 square feet.

9 So none of this added FAR on the first-floor as  
10 habitable space. It's really all service space and covered  
11 deck. And you can see again the little bit that creeps past  
12 the rear setback.

13 Next slide?

14 Additional FAR plans showing, again, the --  
15 instead of the retirement room on the second floor on the  
16 left, which is really the only habitable space being added  
17 at 398 square feet.

18 The carport and the walkway -- and the covered  
19 walkway are one-story additions. Only the retirement room  
20 is the second-story addition.

21 Next slide, please?

22 These were all our zoning calcs. We don't have to

1 go through all these.

2           Next slide?

3           The areas marked in red are the existing first-  
4 and second- the first- and second-story porches. On the  
5 first-story entry stairs, that will be demolished to make  
6 way for the proposed addition.

7           Next slide, please?

8           Our proposed floor plans on the left. Again, you  
9 can see the carport, which is on the right side of the  
10 footprint of the house. Wraps around to the back in front  
11 of an existing shed. Connects to a small vestibule or hall  
12 to a lift enclosure.

13           Moving through it to the left corner, a covered  
14 area that connects to a proposed covered deck. And on the  
15 right side of the plans is the proposed retirement room,  
16 which will connect to the unit that Mark and his wife live  
17 in now.

18           Next slide?

19           Just the roof plans -- again, showing the extent  
20 of the new work and how just it creeps back beyond the rear  
21 setback.

22           Next slide, please?



1           Elevations. From the existing and proposed  
2 elevations on the left is the existing street view. And  
3 that little bit of the bay and the bay on the left -- far  
4 left of the house -- will be, is supposed to be demolished  
5 and replaced by this two-story retirement room, with a  
6 covered porch below.

7           And the carport, you can see on the right.

8           In this view, the right-side elevation. On the  
9 left is the existing. And on the right, we can see the  
10 proposed carport in the back approximately 21 feet long;  
11 beyond that the left and the retirement room roof.

12           All of this work is -- most of this work is  
13 concealed from the street view. The carport one can see  
14 from the street. The retirement room one can see from the  
15 street, but it is very far back. But the bulk of it is  
16 really behind the house out of public view, and this lot  
17 abuts up against a Veterans cemetery. So there's really no  
18 public input to this work.

19           Next slide, please?

20           The rear view, existing and the proposed, the  
21 carport, the walkway, and the retirement room on the right.

22           Next slide, please?

1           And the left view? This view we have on the left  
2 the existing sunrooms to be removed and converted into the  
3 retirement room and the support spaces.

4           Next slide?

5           Actually, let's go to the next slide. Yep. Here  
6 we go.

7           So this aerial view shows the area of the new work  
8 towards the back of the house -- you know, quite a bit a  
9 ways back from Sherman Street up against the rear lot line  
10 abutting the cemetery.

11           The large blue triple-decker that you see below  
12 with 59 Sherman, we have one letter of support in the file  
13 that's coming from the abutter in that building, and he's a  
14 local architect, and he's also very much in favor of the  
15 proposed work. And we have no letters of objection.

16           Next slide?

17           Just another aerial view showing the work area in  
18 the rear of the house -- very discreet.

19           Next slide?

20           More photos of the existing conditions, the work  
21 area. You can see on the left side is the rear shed and the  
22 entry basement. Those elements will remain. In the sunroom

1 towards the right, the two-story sunrooms will be converted  
2 and modified, per the new work.

3 Next slide?

4 And views from the street. The areas of work you  
5 can see are pretty far removed and won't change the  
6 character of the neighborhood or the building in any way.  
7 And that brings us to the end of our presentation.

8 JIM MONTEVERDE: Thank you. Do we have any  
9 questions from the members of the Board?

10 [Pause]

11 Anyone?

12 LAURA WERNICK: No questions.

13 MATINA WILLIAMS: No questions.

14 JIM MONTEVERDE: Okay. Hearing none, Mr.  
15 Glassman, I just have two questions --

16 ADAM GLASSMAN: Sure.

17 JIM MONTEVERDE: Just for the record. The  
18 variance requirement is to demonstrate a hardship.

19 ADAM GLASSMAN: Sure.

20 JIM MONTEVERDE: We assume that has to do with  
21 your clients' ability to maneuver around the house, the  
22 site?

1           ADAM GLASSMAN: That's exactly correct. In order  
2 to remain in this house, we really need to be able to  
3 construct the covered carport connected to a lift.

4           And actually, I should say that the sunroom  
5 addition is on its -- would be on its own a conforming  
6 addition. But because it's connected and contiguous to this  
7 carport, I felt like we had to treat it all as a single  
8 addition. But without the lift and without the carport, the  
9 -- they wouldn't be able to use the retirement room in any  
10 case.

11           JIM MONTEVERDE: Understood.

12           ADAM GLASSMAN: Yep.

13           JIM MONTEVERDE: And the only part of the building  
14 itself -- the elevator, the lift -- that's the only part of  
15 the structure, let's say that's impeding -- that's stepping  
16 over the rear lot line?

17           ADAM GLASSMAN: Yeah, and not even the -- not even  
18 the lift. It's the covered walkway and the back part of the  
19 carport.

20           JIM MONTEVERDE: Okay. Thank you. Any final  
21 questions from members of the Board?

22           JASON MARSHALL: Yeah, Mr. Chair, just following

1 on your question, which I appreciate that exchange, just the  
2 other prong of the Standard has to relate to -- the hardship  
3 has to relate to shape, topography, soil.

4           Could you just maybe clarify what the nexus is  
5 here? I didn't see, you know, one of those words  
6 specifically used in the description.

7           ADAM GLASSMAN: Sure. Well, you know, we have --  
8 although it's a large lot, it's still a nonconforming lot.  
9 We have an existing nonconforming building. It's a very old  
10 home, and it's so close to the -- the requested rear  
11 setback, which of course came along after this property was  
12 developed -- that we'd be unable to construct any of this  
13 without drastically reducing the size of the house, which  
14 would -- you know, practically be impossible.

15           JASON MARSHALL: So it sounds like maybe lot shape  
16 is what you're referring to?

17           ADAM GLASSMAN: Sure.

18           JASON MARSHALL: All right. I don't have any  
19 other questions right now. Thanks, Mr. Chair.

20           JIM MONTEVERDE: Okay. Any other final comments  
21 or questions from members of the Board?

22           ANDREA HICKEY: I have one question. What exactly

1 is a retirement room used for?

2 ADAM GLASSMAN: He will -- although he's retiring  
3 as a professional Japanese landscaper, he'll be using his  
4 room to grow his plants. Many of these plants he has, and  
5 he's had for many years, and this will be a space where he  
6 can enjoy his passion and his life's work.

7 ANDREA HICKEY: Thank you.

8 JIM MONTEVERDE: Any other questions from Board?  
9 No? Then I'll open it to public comment. Any members of  
10 the public who wish to speak should now click on the icon at  
11 the bottom of your Zoom screen that says, "Raise hand."

12 If you're calling in by phone, you can raise your  
13 hand by pressing \*9 and unmute or mute by pressing \*6. I'll  
14 now ask Staff to unmute speakers one at a time, and before  
15 you begin speaking, if you could please give us your name  
16 and address?

17 [Pause]

18 Anyone? No one calling in. And we have one  
19 written comment. And it is from Joe Gibbons. And he is in  
20 full support of granting this variance. So with that, I  
21 will close public testimony. Any final discussion from the  
22 Board?

1 [Pause]

2 No?

3 JASON MARSHALL: No. Ready to vote.

4 JIM MONTEVERDE: All right. Jason?

5 JASON MARSHALL: No. Sorry, Mr. Chair. Are you  
6 asking if I'm ready to vote, or are you looking for the vote  
7 itself?

8 JIM MONTEVERDE: Yeah, I'm asking if you're ready  
9 for a vote?

10 JASON MARSHALL: Yes. Ready for a vote.

11 JIM MONTEVERDE: Okay. Thank you.

12 JASON MARSHALL: Ready for the motion. Thank you.

13 JIM MONTEVERDE: So the Chair votes that we  
14 approve the variance request, based on the criteria of the  
15 variance request in the ordinance, Section 10.30. And the  
16 only condition is that the construction be done according to  
17 the drawings that have been submitted. And that will be  
18 initialed by the Chair.

19 Can we vote, please?

20 [Pause]

21 Oh, sorry. Andrea?

22 ANDREA HICKEY: Yes, in favor.

1 JIM MONTEVERDE: Thank you. Matina?

2 MATINA WILLIAMS: Yes, in favor.

3 JIM MONTEVERDE: Laura?

4 LAURA WERNICK: Yes, in favor.

5 JIM MONTEVERDE: And Jason?

6 JASON MARSHALL: In favor.

7 JIM MONTEVERDE: And Jim Monteverde in favor.

8 [All vote YES]

9 JIM MONTEVERDE: That's five votes in favor.

10 Motion is approved. Thank you.

11 JASON MARSHALL: Thank you all very much.

12 Goodnight.

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(6:21 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: The next case is No. 202716 -- 164-166 Vassal Lane. Is the proponent on the phone?

We have correspondence that the case will be continued as a case not heard. Propose a motion to accept the request to continue the case? We need to pick a date.

Oh, I'm sorry. We do have a letter from Stephens Niall and requesting a continuance. Yes, they're requesting to March 23. Do we have time? All right. This will be continued to 6:00 p.m. on March 23. So let me propose a motion to accept the request to continue this case to 6:00 p.m. on March 23.

Andrea?

ANDREA HICKEY: Yes, in favor.

JIM MONTEVERDE: And Matina?

MATINA WILLIAMS: Yes, in favor.

JIM MONTEVERDE: And Laura?

LAURA WERNICK: Yes, in favor.

1 JIM MONTEVERDE: And Jason?

2 JASON MARSHALL: In favor.

3 [All vote YES]

4 JIM MONTEVERDE: And Jim Monteverde in favor. So  
5 the request is approved. We're ahead of schedule. We have  
6 seven minutes to wait.

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(6:29 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: The next case is No. 203324 -- 17-21 Jay Street, Unit 19. Is there anyone who would like to speak to this case?

CHUCK VALOIS: Yes. I am present. My name is --

JIM MONTEVERDE: Can you state your name and address, please?

CHUCK VALOIS: My name is Chuck Valois. I live at 19 Jay Street, which is the -- so I'm the homeowner of 19 Jay Street, with -- along with my wife, who is traveling right now.

I was -- I was expecting to have my General Contractor handle this, but he is actually on a plane returning from his honeymoon. So I have to take this by myself. Thanks to the Board for hearing the case. It's a --

JASON MARSHALL: Can I just -- excuse me for a second, if I could just interrupt. And I just want to check

1 in with the Chair and my fellow Board members before we get  
2 into the substance of the case.

3 The form that is required to be submitted that  
4 goes through the Standard for a variance includes the basis  
5 for a hardship. It's very understandable for those that  
6 aren't before a Board regularly to maybe have some pause and  
7 not know the level of detail that's required to fill into  
8 that form.

9 In the case of the form, that's in the record as I  
10 reviewed it, it's not really filled out in terms of what the  
11 hardship is, and whether it's connected to shape,  
12 topography, or soil. It is the burden of the applicant to  
13 demonstrate that, so we don't have anything in the record  
14 right now. You could verbally describe that, and we could  
15 have a discussion.

16 But Mr. Chair, I'm just thinking through when you  
17 make the motion, it will be advisable to go through  
18 specifically what the hardship is, what the nexus is without  
19 that written down. That may be challenging for you. So I  
20 defer to you. I just wanted to raise that and see if others  
21 had a concern, or whether we want to move forward?

22 ANDREA HICKEY: The form itself under "Hardship"

1 the applicant wrote, "None." I don't see how we can hear  
2 the petition if part of what is being presented acknowledges  
3 no hardship. Even if we were to try to orally correct the  
4 record, really the basis of hardship in my mind should be in  
5 the initial application.

6 So I would be inclined to ask the petitioner to  
7 reconsider and revise that form accordingly, if there is in  
8 fact a hardship. Mr. Chair --

9 JIM MONTEVERDE: Agreed.

10 ANDREA HICKEY: -- I'll --

11 JIM MONTEVERDE: No, I agree.

12 ANDREA HICKEY: -- defer to you.

13 JIM MONTEVERDE: Thank you, both of you. Thank  
14 you for your comments. I think also what I don't find in  
15 the file is any type of plot plan, site plan that may in  
16 fact help you explain what the hardship is about. Because  
17 we really can't see how your particular units sits on the  
18 lot of the property line.

19 ANDREA HICKEY: Mr. Chair, let's see. I think  
20 there is a --

21 JIM MONTEVERDE: Is there?

22 ANDREA HICKEY: -- a plan. If -- at page, at

1 sheet 12 of -- I have up on my screened independent of the  
2 moderator's screen share --

3 JIM MONTEVERDE: Okay.

4 ANDREA HICKEY: -- I think there is a plan.

5 JIM MONTEVERDE: Let me look. I'm not seeing that  
6 in the file in front of me.

7 CHUCK VALOIS: Yeah, there should be. There  
8 should be a plan.

9 JIM MONTEVERDE: But either way, if we have it,  
10 that's great. If -- we obviously should have it.

11 ANDREA HICKEY: There it is.

12 JIM MONTEVERDE: So we should continue this.

13 CHUCK VALOIS: Okay. So I should ask the  
14 question, the hardship if -- again, just the homeowner here,  
15 but the hardship is that we have a slipping hazard at our  
16 main entrance. So it's actually the side.

17 ANDREA HICKEY: Um, it's --

18 JIM MONTEVERDE: Hold on. Before you -- before  
19 you get into explaining --

20 CHUCK VALOIS: Yep.

21 JIM MONTEVERDE: -- the --

22 ANDREA HICKEY: Right.

1           JIM MONTEVERDE:  -- details, the discussion's  
2 really about having you as a case not heard, if that's  
3 acceptable to you?  So we'd rather not get into the details.

4           And I would ask that you look, which you can find  
5 online, the zoning ordinance itself.  And you want to look  
6 at Section 10.30, variances, and 10.31 goes through the  
7 conditions that you need to meet, and you need to meet all  
8 of them in order for us to accept the request.

9           So please just look at those.  Because the first  
10 one on that list, as Jason mentioned, is -- talks about  
11 hardship.  So your application really wants to go back and  
12 talk about that, as you're trying to describe now.  Please.

13           CHUCK VALOIS:  Can I ask the Board what is an  
14 example of a hardship?

15           ANDREA HICKEY:  No, we really are not in a  
16 position of --

17           CHUCK VALOIS:  Okay.

18           ANDREA HICKEY:  -- advising you of how to prepare  
19 your documents.

20           CHUCK VALOIS:  Okay.

21           JIM MONTEVERDE:  Right.

22           ANDREA HICKEY:  You would really have to do that

1 or consult your own, you know, independent professionals for  
2 that purpose.

3 CHUCK VALOIS: Okay.

4 JIM MONTEVERDE: Right. So, Mr. Valois, are you  
5 okay in doing this as a cash and we'll reschedule?

6 CHUCK VALOIS: Okay. So I -- in other words,  
7 reapply with changes to the form, or?

8 JIM MONTEVERDE: Yep. You've got to resubmit the  
9 form.

10 CHUCK VALOIS: Resubmit.

11 JIM MONTEVERDE: The first time we have that we  
12 can take that is February 9. And you also have to get a  
13 waiver of -- you have to sign a waiver of time, and you have  
14 to change the -- you have the sign posted somewhere for the  
15 hearing?

16 CHUCK VALOIS: Mm-hm.

17 JIM MONTEVERDE: You just have to change the date  
18 and the time on that sign. And then resubmit the form with  
19 some description of the -- of hardship. And we can take  
20 care of you then.

21 ANDREA HICKEY: Obviously --

22 CHUCK VALOIS: And it's either-or including



1 topography and soil, I think, was the other one?

2 ANDREA HICKEY: Yeah, you should consult the  
3 ordinance.

4 JIM MONTEVERDE: Again, I think you can go online  
5 and read the variance.

6 ANDREA HICKEY: Right.

7 JIM MONTEVERDE: Read the --

8 CHUCK VALOIS: Okay.

9 JIM MONTEVERDE: -- read the ordinance and it'll  
10 give you a description. And if you need some assistance  
11 from an attorney, I suggest you stick that out, so that you  
12 can complete the form and be comfortable you have a case to  
13 present next time.

14 CHUCK VALOIS: Excellent. All right. Thank you.

15 ANDREA HICKEY: Mr. Chair, should we also inform  
16 the petitioner sort of when that submission needs to be in  
17 in order for us to hear his case on February 9, the date by  
18 which he would need to make those changes?

19 JIM MONTEVERDE: The Monday before? Yeah, it  
20 needs to be the -- you need to submit the new information  
21 the Monday before [we're saying February 9.]

22 CHUCK VALOIS: Okay.

1 JIM MONTEVERDE: The Monday before.

2 ANDREA HICKEY: Right.

3 CHUCK VALOIS: Sounds good. Yep.

4 JIM MONTEVERDE: Okay?

5 CHUCK VALOIS: Excellent. Thank you.

6 JIM MONTEVERDE: All right. Let me make a motion  
7 to continue this case as a case not heard until --

8 CHUCK VALOIS: 6:00?

9 JIM MONTEVERDE: 6:00 February 9. Can we --  
10 Andrea?

11 ANDREA HICKEY: Yes, in favor of the continuance.

12 JIM MONTEVERDE: Thank you. Matina?

13 MATINA WILLIAMS: In favor of the continuance.

14 JIM MONTEVERDE: Laura?

15 LAURA WERNICK: Yes, in favor.

16 JIM MONTEVERDE: Jason?

17 JASON MARSHALL: In favor.

18 JIM MONTEVERDE: And Jim Monteverde in favor.

19 [All vote YES]

20 JIM MONTEVERDE: So five votes to continue the  
21 case as a case not heard. So February 9 at 6:00 p.m. Thank  
22 you.

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CHUCK VALOIS: Thank you.

JIM MONTEVERDE: And now we have -- we have  
another pause until 6:45. See you then.

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(6:45 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: The next case is No. 205192 -- 255 Grove Street. Is anyone from the proponent wishing to speak? Nope? Okay. We have a letter from Robert Linn asking that the case be continued, and we can propose as a case not heard -- and we can propose February 9 at 6:00 p.m.

So I'll make a motion to continue this case as a case not heard until February 9 at 6:00 p.m.

Andrea Hickey?

ANDREA HICKEY: Yes, in favor of the continuance.

JIM MONTEVERDE: Matina?

MATINA WILLIAMS: In favor of the continuance.

JIM MONTEVERDE: Laura?

LAURA WERNICK: In favor of the continuance.

JIM MONTEVERDE: Jason?

JASON MARSHALL: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

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JIM MONTEVERDE: And so, we'll be continuing. And  
once again, we'll take a break until 7:00. See you then.

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2 (7:00 p.m.)

3 Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura  
4 Wernick, Matina Williams, and Jason  
5 Marshall

6 JIM MONTEVERDE: We're back in prime time. The  
7 next case is No. 204623 -- 4 Wyman Road. And I see we have  
8 Katie Flynn, at least on camera. So if you want to intro  
9 yourself --

10 KATIE FLYNN: Hi.

11 JIM MONTEVERDE: -- and speak.

12 KATIE FLYNN: Yes, hi. My name is Katie Flynn  
13 from Hisel Flynn Architects. I'm here representing Liza  
14 Oliver and John Resnick, who own 4 Wyman Road. And we're  
15 here to seek relief to enlarge and rebuild the existing rear  
16 deck at their home.

17 Olivia, if Olivia could Share Screen, I think the  
18 plot plan would be the best place to start? Thanks.

19 This shows the parcel. This is -- the parcel is  
20 at the corner of Huron Ave and Spark Street. And it's a  
21 kind of triangular parcel. There's a verge that bends  
22 around, but that's not part of the property. Wyman Road

1 kind of peels off at a sharp angle. So we have two deep  
2 front yard setbacks to contend with.

3           And then from here if you could go to page 1,  
4 please, that shows our plan. And then that's maybe the  
5 clearest place to see the footprint of the existing deck,  
6 which is shown dashed under the hashed area at the rear.  
7 It's connected directly to the house, and it kind of goes  
8 very close to the rear property line, but sort of jogs  
9 around and has an angled stairway down to the driveway.

10           And what we're hoping to do is demolish that deck  
11 and make a new rectangular deck in basically the same  
12 footprint. But it's reshaped and slightly enlarged.

13           The deck is about between 1.5' and 2.5' above  
14 grade. And it's behind an under-construction brick wall  
15 that is shown kind of plan north right at the property. It  
16 curves around the back of the property and towards the  
17 intersection with Wyman Road.

18           So this is a private deck just for the homeowners'  
19 use. And we actually have a letter of support from the only  
20 direct abutter, the residents of 5 Wyman Road, which is just  
21 plan left, their neighbor to the left.

22           If you scroll down, I guess to page 5, that shows

1 a good image of what we're hoping to achieve. The tree is  
2 existing; there's a hole in the existing deck, and we're  
3 hoping to retain it. And that's part of why we want to do a  
4 deck in this location, as opposed to a patio at grade, to  
5 retain the mature plantings.

6 And then if you go down one page, that shows it's  
7 not actually the current condition of the site, but it was  
8 the current condition when we submitted the application,  
9 where the chain fence is -- in the photograph is now where  
10 the brick wall is.

11 So that is the scope of what we're hoping to seek  
12 relief from.

13 JIM MONTEVERDE: Okay. Thank you. Any members of  
14 the Board have any questions or comments?

15 KATIE FLYNN: Not at this time.

16 JIM MONTEVERDE: Okay. Hearing none. Just to  
17 confirm --

18 KATIE FLYNN: Yes.

19 JIM MONTEVERDE: -- Katie? This is a special  
20 permit?

21 KATIE FLYNN: Correct.

22 JIM MONTEVERDE: And you've filled out all the



1 paperwork for a special permit, so we have your responses  
2 there?

3 KATIE FLYNN: Yes.

4 JIM MONTEVERDE: And the reason here for a special  
5 permit, if you go back to the site plan --

6 KATIE FLYNN: Yes.

7 JIM MONTEVERDE: -- is that the current deck and  
8 the proposed deck sets within the setback requirement?

9 KATIE FLYNN: That's correct.

10 JIM MONTEVERDE: Right?

11 KATIE FLYNN: That's right.

12 JIM MONTEVERDE: Okay. And what's noted on this  
13 drawing as proposed second-story additions, that's not part  
14 of this case?

15 KEVIN CRANE: Correct. That's already  
16 constructed, and that permit has been closed out. I'm  
17 sorry, I am still unclear on the site plan. But --

18 JIM MONTEVERDE: No, that's okay.

19 KATIE FLYNN: -- what we're here to seek relief  
20 for is just the deck --

21 JIM MONTEVERDE: Just the deck?

22 KATIE FLYNN: That's correct. That's right.

1           JIM MONTEVERDE: Okay. I will open the matter up  
2 to public comment. Is there any member of the public who  
3 wishes to speak? If there is, please click now the icon at  
4 the bottom of your Zoom screen that says, "Raise hand." If  
5 you're calling in by phone, you can raise your hand by  
6 pressing \*9 and unmute or mute by pressing \*6.

7           Do we have anyone calling in?

8           [Pause]

9           Nope? And we are in receipt of a letter in favor  
10 of the application from Dan Cohn and Yune Kunes at 5 Wyman  
11 Road. I think that's everything.

12           Are we ready for any further comment from members  
13 of the Board, or are we ready for a motion?

14           ANDREA HICKEY: I do have a question. In terms of  
15 the depth of the deck, meaning its depth from the rear of  
16 the house heading toward the brick wall --

17           KATIE FLYNN: Yes.

18           ANDREA HICKEY: What is the existing depth versus  
19 the proposed? The proposed depth looks like 14.2?

20           KATIE FLYNN: That's right. I don't know if I  
21 have a measurement of the existing deck. But it's very  
22 close. I would say it's less than a foot. You can see the

1 short leg of the existing deck that kind of like bellies out  
2 towards Wyman Road. That's right. It goes that far  
3 presently.

4 ANDREA HICKEY: Okay.

5 KATIE FLYNN: And so we're kind of like filling in  
6 the corners.

7 ANDREA HICKEY: Yeah, got it.

8 KATIE FLYNN: And the other point is that -- that  
9 I'll just mention is that the existing deck sticks directly  
10 to the house, and the new deck is going to have a little bit  
11 of a gap just to, like, maintain foundation health and be  
12 able to have some plantings around the perimeter.

13 ANDREA HICKEY: Thank you. I have nothing  
14 further, Mr. Chair.

15 JIM MONTEVERDE: Thank you. Are we ready for a  
16 motion?

17 JASON MARSHALL: Yep, ready.

18 ANDREA HICKEY: Ready.

19 JIM MONTEVERDE: Okay. Thank you. So the Chair  
20 moves that we vote in favor of the special permit being  
21 requested, and we find that we've all submittals  
22 substantiate the requirements of Section 10.40 for special

1 permits. And we can vote.

2 JASON MARSHALL: Mr. Chair, just to the extent  
3 it's helpful, I think we've -- when Brendan makes the  
4 motion, he usually does add at the end something along the  
5 lines of that the special permit is granted on the condition  
6 that the work is in conformance.

7 JIM MONTEVERDE: Oh, sorry, yeah.

8 JASON MARSHALL: And then there's something about  
9 -- and so, I think if you added that referencing the  
10 drawings and the date, that might be helpful.

11 JIM MONTEVERDE: Thank you. Yeah. Sorry I  
12 forgot. So yes, it's on the condition that the deck be  
13 constructed in accordance with the drawings submitted, which  
14 I will sign, that are dated 06/23/21. Is that correct, Ms.  
15 Flynn?

16 KATIE FLYNN: That's right. I think the -- some  
17 of the drawings were dated. They have slightly different  
18 dates. But the submission --

19 JIM MONTEVERDE: Sorry, they have the last  
20 revision date is 12/06/22?

21 KATIE FLYNN: That's right, yeah.

22 JIM MONTEVERDE: Ok. All right. Are we ready for

1 a vote?

2 ANDREA HICKEY: Ready.

3 JIM MONTEVERDE: On that motion, Andrea?

4 ANDREA HICKEY: In favor.

5 JIM MONTEVERDE: Matina?

6 MATINA WILLIAMS: In favor.

7 JIM MONTEVERDE: Laura?

8 LAURA WERNICK: In favor.

9 JIM MONTEVERDE: Jason?

10 JASON MARSHALL: In favor.

11 JIM MONTEVERDE: In favor.

12 [All vote YES]

13 JIM MONTEVERDE: So the vote carries. Approved,

14 5:0. Thank you.

15 KATIE FLYNN: Thank you very much.

16 JIM MONTEVERDE: You're welcome. And we'll be

17 back in seven minutes.

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(7:15 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: The next case is 205777 -- 8 Dana Place, a/k/a 11 Dana Street, Unit 8. Is there anyone -- yes, I see two folks. Sarah and Mr. and Mrs.? I won't --

COLLECTIVE: Yes.

JIM MONTEVERDE: -- maul your name.

SARAH RHATIGAN: Thank you, Mr. Chairman.

JIM MONTEVERDE: You'd like to speak? Yep.

SARAH RHATIGAN: This is Sarah Rhatigan from Trilogy Law LLC, 12 Marshall Street in Boston. Thank you very much for hearing this case. I am also here with the owners of the property, Pamela Lipson, and Pawan Sinha. They're in the window there.

This is a case that is similar to one that you heard just at your last hearing for 11 Dana Street, I believe it was, Unit 6. Yes.

These are town homes. It's not a condominium association, but it's a townhome set of connected buildings

1 that were constructed all at the same time with rear decks  
2 that were pretty undersized and not up to current code  
3 standards.

4 A number of the owners had replaced and improved  
5 their decks over time, and this couple had owned since 2001.  
6 They went about preparing to get a contractor and an  
7 architect to help them design a new deck, and particularly  
8 instructed them that they didn't want to have to seek a  
9 variance or any zoning relief, they wanted a--quote,  
10 unquote-- "as-of-right deck."

11 There was a building permit that was issued for  
12 such a deck or what they thought was as-of-right.  
13 Construction occurred. Building Inspector came out several  
14 times, made a couple of adjustments on technical things.

15 They were waiting for a final inspection -- I  
16 think their inspector may have been out for health reasons -  
17 - when they got a Notice of Violation, which came as -- as  
18 you can imagine -- a real shock and surprise, at which point  
19 they contacted me and we sort of, you know, kind of figured  
20 out what was going on.

21 And I think that I imagine what happened that  
22 owner down the way went to get a deck, and that there was a

1 zoning issue, and that triggered a further review by the  
2 Building Department, who determined that the 8 Dana Place  
3 owners' deck actually did not comply with Zoning as they  
4 thought originally.

5 And the issue here is a quite small one. The deck  
6 as rebuilt is approximately eight inches too close to the  
7 left side of the lot line. The left side of their townhome  
8 is the one that connects with their neighbor there at the  
9 corner of this townhouse construction.

10 If -- I'm not sure if Olivia's running those  
11 slides, but if you don't mind, Olivia, or Stephen, if you  
12 could begin -- yeah, if --

13 JIM MONTEVERDE: No.

14 SARAH RHATIGAN: -- begin right here, this is  
15 perfect. Just the visual of where we are. So 8 Dana is the  
16 last townhome on the string of units. So the right side is  
17 a yard area. The front of the house is at the bottom of the  
18 plan. The rear of the house is where you're seeing the  
19 drawing for the deck.

20 And if -- it's a little tricky to see on the site  
21 plan. We'll look at it on the plot plans. But you can see  
22 sort of a dashed line of where the original deck was



1 located. And then the hatched box at the back is an  
2 approximate showing of where the proposed deck was to be.

3 This is approximate, the plans are specific, and  
4 what were drawn for the building permit that was issued.

5 If you could go to page 3 of that PDF that you cut  
6 up? Great. That's the elevation. Actually, I was thinking  
7 of page 3 of the plans, which maybe is not in the order --  
8 maybe it's not in your PDF.

9 No, I'm sorry. The left side will do.  
10 So on the top left image, where it says, No. 1 above-grade  
11 floor plan? Thank you. That's exactly what I want to look  
12 at. So here you can see the dashed line shows the old  
13 footprint of the old deck, and then, you know, the plans are  
14 showing the new proposed deck that actually has been  
15 constructed.

16 And then the area of concern, where we're -- we  
17 have this 8" encroachment into the side setback is if you  
18 were to walk up the stairs where you see the "up" line --

19 I'm sorry, I don't have a cursor, so I can't -- I  
20 can't show this to you, but you see there's a set of stairs  
21 with, "up"? That's it. Exactly. Partway -- that's the  
22 approximate area of the -- of the encroachment into the

1 side, the left side setback. That's the only variance that  
2 we've -- that we need that varies from the dimensional  
3 requirements.

4 In all of the other respects, in terms of right setbacks,  
5 the rear setback, the FAR: Everything else complies.

6 And if you could also just page to the Photos,  
7 because I think that kind of tells most of the story.

8 So here's -- sorry, No.4, page No.4. Thank you.  
9 This is what the old deck used to look like. And then 5 and  
10 6 we'll just look at. Here is the new deck.

11 And I will say that after this all occurred, the  
12 contractor informed us that he went back to the property  
13 very recently just to confirm that all of the construction  
14 was done in exact conformity with the plans that were filed  
15 with the Building Department with the building permit  
16 application, which we described already.

17 In terms of hardship, the technical hardship  
18 issues that we have: This is a very narrow lot. It's a  
19 townhouse construction with a zero-lot line, which means  
20 that, you know, with a 7.5' required sight line, it really  
21 puts a lot of restriction on the ability of the owner to  
22 build a reasonable-sized code-compliant deck with stairs.

1           And in this case, they need to have stairs that go  
2 up to the first floor of their unit, as well as stairs that  
3 you can see on the right. Those stairs go down to the  
4 garden level, where they have an accessory apartment.

5           And so, both of those flights of stairs needed to  
6 be code-compliant and wide enough for reasonable access.  
7 The other -- you know, there's some topography there. So in  
8 terms of meeting a technical standard for a hardship. But I  
9 think we have a pretty good one.

10           And then just the practical hardships here are  
11 kind of obvious. But when they got the order to --  
12 essentially to demolish a brand-new beautiful and quite  
13 expensive to build deck, you can imagine their heart  
14 dropping.

15           And there's not only the cost of removing this  
16 brand-new deck that they would never have built exactly to  
17 these specifications if they'd realized there was a zoning  
18 issue, but the actual act of deconstructing this will be  
19 harmful to the existing structure.

20           There was quite a bit of work in cement and rebar  
21 put in in order to attach the deck into a concrete retaining  
22 wall. So there's real concern about what would happen if

1 they did have to -- even if they had to revise, you know,  
2 sort of cut out a section of the deck, they would be put in  
3 a really difficult position, both financially and  
4 practically.

5 I hope that this is helpful for allowing the Board  
6 to reach the conclusion that a variance is reasonable. But  
7 we're happy to hear your questions.

8 Oh, also, one other thing to point out, most  
9 importantly, is that the neighbors are -- have been in full  
10 agreement to support the variance. And the neighbor  
11 directly next to 8 Dana Place -- so at 7 Dana Place -- is  
12 supportive of the application and submitted a letter.

13 Unit 6, Dana Place and 5 Dana Place, as well also  
14 have written in support. And you should have those --

15 JIM MONTEVERDE: Yep.

16 SARAH RHATIGAN: -- three letters in your file.

17 JIM MONTEVERDE: We have those.

18 SARAH RHATIGAN: Yeah.

19 JIM MONTEVERDE: And I think what she just  
20 described as the supporting statement for the variance we  
21 have on file in the record. It's all there in text form.

22 SARAH RHATIGAN: Great.

1 JIM MONTEVERDE: Anything else, Sarah?

2 SARAH RHATIGAN: That's it.

3 JIM MONTEVERDE: Okay. Thank you.

4 SARAH RHATIGAN: Thank you.

5 JIM MONTEVERDE: Members of the Board? Anybody  
6 have any questions or comments?

7 LAURA WERNICK: No. Mr. Chair?

8 JIM MONTEVERDE: Yes?

9 LAURA WERNICK: If Ms. Rhatigan could just go say  
10 -- again, to make perfectly clear -- that this was approved  
11 by this Board when it was originally designed, is that  
12 correct?

13 SARAH RHATIGAN: So the -- when this -- when this  
14 deck was originally designed, it was submitted for a  
15 building permit. And the Inspectional Services Department  
16 approved it for construction without requiring any zoning  
17 relief.

18 LAURA WERNICK: Okay.

19 SARAH RHATIGAN: The building permit issued,  
20 there's a copy of that building permit in the application.  
21 And, you know, construction commenced based on that building  
22 permit.

1           And as I said, there were several visits by the  
2 Inspector to review that work and comments related to, you  
3 know, they needed to move I think a structural support. I  
4 don't remember, but there was another sort of adjustment in  
5 the field, but nothing related to zoning was ever raised.  
6 And this is going on over a year.

7           Does that answer your question, Ms. Wernick?

8           LAURA WERNICK: Yes, yes.

9           SARAH RHATIGAN: Great.

10          LAURA WERNICK: Thank you.

11          JIM MONTEVERDE: Thank you. Are there any other  
12 questions or comments from members of the Board?

13          ANDREA HICKEY: If I could ask Counsel, if she  
14 knows, when the building permit was first applied for, what  
15 sort of a plan was presented that might have caused this  
16 question to come up properly at the beginning, versus at the  
17 end?

18          SARAH RHATIGAN: Yeah. The plans that are in this  
19 application are literally the plans that were filed with the  
20 Building Department.

21          ANDREA HICKEY: Okay.

22          JIM MONTEVERDE: Right. We have --

1 SARAH RHATIGAN: Those -- the --

2 JIM MONTEVERDE: It's the ones dated --

3 SARAH RHATIGAN: Yeah.

4 JIM MONTEVERDE: -- July 30 --

5 SARAH RHATIGAN: So --

6 JIM MONTEVERDE: 2020?

7 SARAH RHATIGAN: Exactly. And so, you see from  
8 the date, those were the architects' plans that were  
9 provided to the Building Department with the application. I  
10 mean, you can imagine how busy this Building Department is.  
11 It's understandable that, you know, mistakes can happen.

12 And as I said, the variation is pretty minor.  
13 When you look -- the picture that we have up on the screen  
14 is kind of helpful, because if you see where the stair  
15 railing leads up and connects to the main house.

16 And where it connects on that building wall is  
17 approximately -- our estimation is approximately 8" from the  
18 edge of the window. Do you see that there's a big window --  
19 I'm not sure --

20 ANDREA HICKEY: I do.

21 SARAH RHATIGAN: -- is that a sliding door? Yeah.  
22 The original deck ended at that window. So you can see that

1 the -- you know that expansion now is -- it's very helpful  
2 for the construction and the design, but it's also pretty  
3 minimal. So if it was missed by the Building Department,  
4 I'm guessing that's why.

5 ANDREA HICKEY: So where, Counsel, on the plan  
6 that was initially submitted, would it have shown the  
7 proposed distance from the setback?

8 SARAH RHATIGAN: Um--

9 ANDREA HICKEY: Is it the plan that's called, "New  
10 Deck Revision 1, 08/09/21"?

11 SARAH RHATIGAN: Yes. it is, yeah. I'm just  
12 looking to see what page it is on the PDF that's up on the  
13 screen.

14 JIM MONTEVERDE: It looks like the cover sheet.  
15 There is no sheet number. The one with the surveys? Yeah.

16 SARAH RHATIGAN: So --

17 JIM MONTEVERDE: There.

18 SARAH RHATIGAN: No, this one's --

19 JIM MONTEVERDE: No.

20 SARAH RHATIGAN: -- this one's, that one's not as  
21 helpful, I think. I think that the plan that would be --  
22 the Building Department might have seen this better -- is,



1 well I see what you mean, it doesn't show setbacks.

2 JIM MONTEVERDE: Correct.

3 ANDREA HICKEY: Right. I mean --

4 SARAH RHATIGAN: Yeah. So if you go back to the  
5 site plan, it actually is suggesting that the deck would  
6 take up -- that would extend all the way to the left lot  
7 line. And in fact the deck doesn't extend that far. So if  
8 you look -- if you look at the markings --

9 PAMELA LIPSON: Sarah, can I speak for a second?

10 SARAH RHATIGAN: Oh yeah, sure.

11 PAMELA LIPSON: Okay.

12 SARAH RHATIGAN: Let me just finish this one  
13 thought --

14 JIM MONTEVERDE: But...

15 SARAH RHATIGAN: -- Pamela, and then -- and then -

16 - JIM MONTEVERDE: -- Yeah.

17 SARAH RHATIGAN: I'll let you speak. So if you  
18 see the bold lines --

19 PAMELA LIPSON: I do.

20 SARAH RHATIGAN: -- that are shown, that actually  
21 shows the deck extending all the way to the lot line. And  
22 that actually is not the case.

1           ANDREA HICKEY:   So --

2           SARAH RHATIGAN:   So the --

3           ANDREA HICKEY:   -- the point --

4           SARAH RHATIGAN:   Yeah.

5           ANDREA HICKEY:   -- of my line of questioning is  
6 how did this happen? Because no homeowner wants to go to  
7 time and expense of doing extensive work to get a letter  
8 like this in the mail. So what went wrong here is what I'm  
9 trying to figure out.

10           SARAH RHATIGAN:   Yeah. And I have to say that we  
11 spent some time trying to determine that as well. The only  
12 thing that I can say from, you know, from the owners'  
13 perspective is they did -- honestly, they did more than most  
14 people do to -- you know, follow the letter of the law and  
15 also to instruct their architect that they wanted a design  
16 that was as-of-right.

17                           And in fact, I think it was written into the  
18 contract. I can't remember if it -- Pamela, you maybe  
19 wanted to say this, but they specifically instructed the  
20 architect and the contractor that they wanted this to be,  
21 you know, done without having to do what they're doing  
22 today.

1                   Pamela, did you want to add something?

2                   PAMELA LIPSON: Yes. On the above-grade floor  
3 plan, the architect has put in setbacks.

4                   JIM MONTEVERDE: Right. That's what I'm looking  
5 at. So --

6                   SARAH RHATIGAN: Oh, yeah. I do see that. Yeah.  
7 Thank you.

8                   PAMELA LIPSON: And we -- we definitely never  
9 intended; we were never going to bring the deck out to the -  
10 - to the full extent of our lot line. We said, "Please just  
11 tell us where the setbacks are, and we'll -- we want to be  
12 in compliance of the setbacks."

13                   JIM MONTEVERDE: So Sarah, let me understand.  
14 Looking at this same diagram -- sorry, Andrea, were you done  
15 with your question?

16                   ANDREA HICKEY: I'm done for now. I'm still  
17 trying to get a handle on why this wasn't picked up by the  
18 Building Department initially, and whether it was because  
19 the plans showing the setback wasn't clear, or was it  
20 something that was just missed by mistake by the Building  
21 Department?

22                   JIM MONTEVERDE: Okay.

1           ANDREA HICKEY: But I'll defer to you, Mr. Chair.  
2 Thank you.

3           JIM MONTEVERDE: Thank you. So on this plan --  
4 sorry, if I understand it correctly, the setback on the  
5 left-hand side, there's no issue with? It really looks like  
6 the rear setback line where there's construction of the deck  
7 and portion of the stair going up that in fact in the  
8 landing, that sits over that setback line. Is that correct?

9           SARAH RHATIGAN: No.

10          JIM MONTEVERDE: No?

11          SARAH RHATIGAN: I'm sorry. No, just a  
12 correction. So there's no issue with the rear setback.

13          JIM MONTEVERDE: Okay.

14          SARAH RHATIGAN: The deck does extend out further  
15 than the original deck, but it is 20 feet. The fully  
16 constructed deck is 20 feet from the rear setback, so that's  
17 conforming.

18          JIM MONTEVERDE: Okay.

19          SARAH RHATIGAN: The issue is the left side  
20 boundary, which is where the hand symbol is here.

21          JIM MONTEVERDE: Yep.

22          SARAH RHATIGAN: And it's -- if you look at the

1 portion of the desk that reads, "up" --

2 JIM MONTEVERDE: Yep.

3 SARAH RHATIGAN: -- that's where the deck railing  
4 goes up in that photo, and it extends straight back and then  
5 hits the house. So --

6 ANDREA HICKEY: So --

7 SARAH RHATIGAN: -- you know, the architect's  
8 lines for where the setback is, that -- you know, the two  
9 arrows, it says "Setback" and then you can see the two  
10 arrows to the dashed lines -- that may be inaccurate.

11 JIM MONTEVERDE: Right. That's -- that was the  
12 second option.

13 SARAH RHATIGAN: Yeah.

14 ANDREA HICKEY: Right. Because that was --

15 JIM MONTEVERDE: So Laura, I think that's your --  
16 I think that's the answer to your question.

17 LAURA WERNICK: I think that might be the answer  
18 to the question.

19 JIM MONTEVERDE: That document that was submitted  
20 to Counsel was in compliance, when in fact it was -- there  
21 was something incorrect in the way the documentation was  
22 stated. That really was not the case.

1           LAURA WERNICK: So the setback dimension is not --  
2 should not be 1'4", it should be 3'4" or something like  
3 that?

4           JIM MONTEVERDE: Something else, yeah.

5           LAURA WERNICK: 3'8" maybe?

6           SARAH RHATIGAN: Yeah.

7           JIM MONTEVERDE: Right. And that -- that's not  
8 stated. I don't think that's stated anywhere in the  
9 documentation. But I think that's --

10          SARAH RHATIGAN: With the building -- right, with  
11 the building permit application. I agree.

12          JIM MONTEVERDE: Correct.

13          SARAH RHATIGAN: I also just want to mention that,  
14 you know, it's possible that the -- the architect's  
15 information was, you know, slightly inexact. There's kind  
16 of a fence divider between these two lots, and maybe it's  
17 unclear which side of the fence the property line exists on.  
18 So, I mean --

19          JIM MONTEVERDE: Yeah. I don't think they missed  
20 this by --

21          SARAH RHATIGAN: It's difficult.

22          JIM MONTEVERDE: -- that small of a dimension.

1           SARAH RHATIGAN: But I think -- yeah. I think,  
2 but -- and I appreciate this Board trying to sort of, like,  
3 get to the bottom of like, you know, how did this happen and  
4 what's going on?

5           Because we are in front of the Board requesting a  
6 variance, we hope that regardless of how this happened, you  
7 know, the owners certainly are -- I think are extremely  
8 innocent in this and -- and hopefully are, you know,  
9 deserving of the -- of the relief.

10          JIM MONTEVERDE: Okay. Any other comments or  
11 questions from any of the Board members?

12          LAURA WERNICK: Just from my perspective, because  
13 there is the pavement going down to the lower -- the garden  
14 level, there -- you know, usually the setbacks are to allow  
15 open space to make sure neighbors are not crowded at times  
16 to restrict perhaps the level of activity in the -- within  
17 the setbacks or outside the setbacks.

18          But because you already have a paved area going  
19 down, because this is a -- you know, a townhouse situation,  
20 you're already cheek by jowl with your neighbor, I don't see  
21 that these -- to my mind, I mean I appreciate this kind of  
22 trying to understand what the heck went wrong, because it

1 seems like a fairly significant error initially -- but the  
2 fact that the setbacks are not serving any real purpose in  
3 this particular instance because you're al -- there was  
4 already the pavement up to the -- to the boundary line, to  
5 the property line, as I understand it, I don't see the eight  
6 inches being a -- a situation that is detrimental to the  
7 neighbors or the neighborhood in any way, shape or form at  
8 this point.

9 Just my take on this.

10 JIM MONTEVERDE: All right. Thank you. Any other  
11 Board member have any other comments or questions?

12 JASON MARSHALL: Yeah, Mr. Chair, just following  
13 on that, I mean in fact I think there are letters of support  
14 in the application.

15 JIM MONTEVERDE: Correct.

16 JASON MARSHALL: And just following on the earlier  
17 discussion, I don't know if there's a representative from  
18 the Building Department here, but certainly I think this  
19 Board would be receptive to any comments.

20 I didn't see anything written in the record from  
21 the Building Department that could provide further  
22 clarification, but, you know, my perspective at this point,



1 you know, pending of course public comment and hearing from  
2 other Board members, but this does seem to me to be a  
3 development that was done in good faith.

4 I don't think these are bad faith actors. I find  
5 the applicants to be credible, and there's matters of equity  
6 here. So I would at this point be inclined to support the  
7 petition.

8 JIM MONTEVERDE: Thank you. Anyone else, or are  
9 we ready for public comment?

10 [Pause]

11 Okay, let's open it to public comment. Any  
12 members of the public who wish to speak should now click the  
13 icon at the bottom of your Zoom screen that says, "Raise  
14 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. Do  
17 we have anyone? Nope. No one here.

18 And we have -- as has been stated -- we have two,  
19 well we have several letters in the file in favor. We have  
20 a letter for Liz Graham, who's a resident of Unit 6 in  
21 favor. We have a letter from Thomas Snow, who's a resident  
22 of 5 Dana Place and speaking in favor. And we have one from

1 Audrey Chen, who lives at Unit -- 11 Dana Street, Unit 7  
2 speaking in favor.

3 Any other discussion from the Board before we move  
4 to motion? No? Okay. Let me suggest the motion to accept  
5 the request for a -- this is a variance request.

6 I think the applicant has stated their case for  
7 the meeting the variance criteria in their submission. And  
8 it's already constructed. So it's in accordance with the  
9 plans being submitted, which I can initial, but it's kind of  
10 after the fact.

11 How do the Board members vote? Andrea?

12 ANDREA HICKEY: Yes, I'm in favor. Thank you.

13 JIM MONTEVERDE: All right. Matina?

14 MATINA WILLIAMS: In favor.

15 JIM MONTEVERDE: Laura?

16 LAURA WERNICK: In favor.

17 JASON MARSHALL: Jason?

18 JASON MARSHALL: In favor.

19 JIM MONTEVERDE: Thank you. And Jim Monteverde is  
20 in favor as well.

21 [All vote YES]

22 JIM MONTEVERDE: And the drawings I will initial

1 are dated initially July 30, 2020 with Revision 1 dated  
2 August 9, 2021. Thank you.

3 SARAH RHATIGAN: Thank you very much.

4 JIM MONTEVERDE: You're welcome.

5 COLLECTIVE: Thank you very much.

6 JIM MONTEVERDE: You're welcome.

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(7:39 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: The next case we will hear is No. 204121, 12 Maple Avenue. Is there anyone here who would like to speak?

MARTHA O'MARA: Hi.

JIM MONTEVERDE: Hi. Can you state your name and address for the record?

MARTHA O'MARA: Yes, absolutely. My name is Martha O'Mara, and I am the homeowner of 12 Maple Avenue. And also on the call, if we have any questions is my contractor, Gavin Hodgkins, of Northmen Construction.

JIM MONTEVERDE: Okay. Can you walk us through what you're --

MARTHA O'MARA: Sure. Can I --

JIM MONTEVERDE: -- wanting to do, you want the variance or the special permit?

MARTHA O'MARA: -- explain -- yeah, let me share a screen here. Oh, can I share --

1 JIM MONTEVERDE: No.

2 MARTHA O'MARA: -- my screen?

3 JIM MONTEVERDE: We'll bring it up for you if you  
4 like. Just let it know which of the submitted graphics  
5 you'd like.

6 MARTHA O'MARA: Right. Oh, I had put some  
7 PowerPoints together as well. I don't know if --

8 JIM MONTEVERDE: No, that's okay. Just walk us  
9 through this.

10 MARTHA O'MARA: Oh, okay. All right. Great.  
11 Well, I have a 400 square-foot garage at the back of my  
12 property at 12 Maple Avenue.

13 You can see some pictures of the existing garage  
14 here. And we want to make it into an accessory dwelling  
15 unit. In fact, we've gone through the construction  
16 drawings.

17 On our application, we have met all of the  
18 requirements in the zoning for an ADU, and so, we're just  
19 here to get a special permit approved and see if you all  
20 have any questions about it.

21 I do have letters of support from my neighbors. I  
22 also have one from my neighbor across the street -- Alanna

1 Mallon, the Vice Mayor -- and any other, you know,  
2 information I can give you I'm happy to answer any questions  
3 or show any other visuals that aren't on the application.

4 JIM MONTEVERDE: Okay. Are there any questions  
5 from members of the Board?

6 JASON MARSHALL: Yeah. Just one question, Mr.  
7 Chair. Was this unit being less than 900 square feet?

8 MARTHA O'MARA: Yes, it's 400 square feet. 396  
9 square feet.

10 JASON MARSHALL: Okay. Thanks.

11 JIM MONTEVERDE: Any other questions from any  
12 other members of the Board? If not, I'll open it to public  
13 comment. Any member of the public who wishes to speak  
14 should now click the icon at the bottom of your Zoom screen  
15 that says, "Raise hand."

16 If you're calling in by phone, you can raise your  
17 hand by pressing \*9 and unmute or mute by pressing \*6. Is  
18 there anyone who's calling in? Nope. We see no one.

19 We have two letters in the file, or three I think,  
20 in favor. We have one from -- doesn't give an address, but  
21 it's our Vice-Mayor, Alanna Mallon, speaking in supportive  
22 favor. Another e-mail from Susan Davies, who's a neighbor,

1 doesn't give an address -- Susan Davies, a neighbor.

2 MARTHA O'MARA: Oh, they're -- they're 8.5 so  
3 they're in the back.

4 JIM MONTEVERDE: Oh, okay. 8.5. Yep.

5 MARTHA O'MARA: Yeah.

6 JIM MONTEVERDE: I see it.

7 MARTHA O'MARA: Sorry, yeah. And my -- my -- my  
8 neighborhood from 14 then went in. She said she would. I -  
9 - she was at Disneyworld with her kids, so --

10 JIM MONTEVERDE: Okay.

11 MARTHA O'MARA: -- and the back abutter as well  
12 has written in favor on Fayette.

13 JIM MONTEVERDE: Okay. So let me just finish  
14 here. So the letters we do have in file [are] e-mailed from  
15 Susan Davies and Rick Talkov, residents of 8.5 Maple Avenue.  
16 And then from Howard Blum, who's the owner of 11 and 15  
17 Fayette. Doesn't give an address. And that it the records  
18 that we have in our public plan.

19 Do we have any discussion from the Board members  
20 or are we ready for a motion?

21 LAURA WERNICK: I'm -- actually, Mr. Chair, I've  
22 got just a question about the fence that is up there. Is

1 that just to separate, to provide protection from the  
2 parking from the driveway?

3 MARTHA O'MARA: Oh, yeah. That fence is actually  
4 going to come down. It was -- originally it actually wheels  
5 in. I -- when I moved in, I've lived here for 22 years --  
6 when I moved in, I had a 2-year-old, so we used the garage  
7 as kind of a play space. And now the last, you know, 15  
8 years it's really just been a dumping ground. Yeah. So.

9 JIM MONTEVERDE: So the fence is on your property,  
10 it's really not separating you from the neighbor; it's all  
11 yours?

12 MARTHA O'MARA: No, no. It was just to keep the  
13 kids and the dog inside. You know?

14 JIM MONTEVERDE: Yeah.

15 MATINA WILLIAMS: I have a questions. What is  
16 this, is this like a rental unit for you?

17 MARTHA O'MARA: Yes. It will be a rental unit. I  
18 mean, the -- it -- one thing, you know, Cambridge has added,  
19 you know, 33,000 jobs in the last 10 years. And we've only  
20 added about 6600 dwelling units -- additional dwelling units  
21 in that 10-year period.

22 You know, I mean, I live within walking distance



1 of Kendall Square, and it just seems -- honestly, you know,  
2 it just seems like a shame to have the thing sitting empty  
3 when it could provide additional housing units.

4 So yes, and I'm retired now. And, you know, the  
5 income will be really helpful. But most of it's just to  
6 provide more housing, you know? In a very dense area. I  
7 believe very strongly in ADUs and the -- and trying to make  
8 the most of the existing infrastructure we have.

9 JIM MONTEVERDE: Are there any other questions  
10 from any other members of the Board?

11 ANDREA HICKEY: If I could ask the petitioner  
12 whether she has any intention of doing any sort of short-  
13 term rentals in this unit?

14 MARTHA O'MARA: No. No, absolutely not. Yeah. I  
15 have a two-family. I already rent out downstairs. I'm an  
16 experienced landlady. No, it's not for short-term rental.

17 ANDREA HICKEY: And would you have any objection  
18 to our decision-making note of that?

19 MARTHA O'MARA: Well, you know at some point I  
20 will probably do some Airbnb in my own home, because I have  
21 extra bedrooms, you know? So I don't -- I wouldn't want  
22 that to be restricted on my property. I don't -- I don't --

1 you know --

2 JIM MONTEVERDE: This -- I think this -- unless  
3 one of the other Board members can correct me, but this is  
4 really about the accessory dwelling unit only.

5 ANDREA HICKEY: Right. But I don't think an  
6 accessory dwelling unit can be used for short-term rental.

7 JIM MONTEVERDE: No, I understand. So I think  
8 just for the petitioner --

9 MARTHA O'MARA: Yeah. No plan to do that.

10 JASON MARSHALL: Well, I mean, that would be  
11 subject to the ordinance. So it would be whatever the City  
12 Council has determined is permissible as short-term rental.  
13 And no action we took here I think would impede that  
14 process.

15 JIM MONTEVERDE: Okay.

16 ANDREA HICKEY: That's fine. Thank you.

17 JIM MONTEVERDE: All right. Any other comments  
18 from members of the Board, or are we ready for a motion?

19 JASON MARSHALL: Ready.

20 MASON WELLS: Ready for a motion.

21 JIM MONTEVERDE: All right. Thank you. Let me  
22 propose a motion for a vote to accept the application for a

1 special permit to convert the existing garage into an  
2 accessory dwelling unit, and that the applicant has met the  
3 requirements and the criteria of the special permit, Section  
4 10.40 of the ordinance.

5 And that you -- by filling out all of the info in  
6 the supporting statement for the special permit with the  
7 condition that the construction occur in accordance with the  
8 directions, drawings that have been submitted and dated is  
9 that 06/09/22 that the permit said?

10 MARTHA OMARA: Mm-hm.

11 JIM MONTEVERDE: And initialed and dated by the  
12 Chair. Andrea?

13 ANDREA HICKEY: Yes, in favor.

14 JIM MONTEVERDE: Matina?

15 MATINA WILLIAMS: Yes, in favor.

16 JIM MONTEVERDE: Laura?

17 LAURA WERNICK: Yes, in favor.

18 JIM MONTEVERDE: Jason?

19 JASON MARSHALL: In favor.

20 JIM MONTEVERDE: And Jim Monteverde passed.

21 [All vote YES]

22 JIM MONTEVERDE: Thank you.

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MARTHA O'MARA: All right. Thank you, guys.  
Thank you. Okay.

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(7:48 p.m.)

Sitting Members: Andrea A. Hickey, Jim Monteverde, Laura Wernick, Matina Williams, and Jason Marshall

JIM MONTEVERDE: Next case is No. 206111 -- 142 Thorndike Street. Is there anyone wishing to be heard on this matter?

CHIA-JUNG CHANG: Yes. Hello?

JIM MONTEVERDE: If you'd like to tell us your name and address, and then make your presentation, please?

CHIA-JUNG CHANG: Hi. May I speak now?

JIM MONTEVERDE: Give us your name and address and go right ahead.

CHIA-JUNG CHANG: Thank you very much.

JIM MONTEVERDE: Your screen just froze. I'm sorry.

[Pause]

Ms. Chang, your screen just froze.

[Pause]

Alex Svirsky, are you with the proponent, or are you a member of the public?

1           ALEX SVIRSKY: Yes, sir.

2           JIM MONTEVERDE: Are you --

3           ALEX SVIRSKY: I'm the architect for the project.

4           JIM MONTEVERDE: Okay. Do you want to walk us  
5 through the application, the variance and the special  
6 permit?

7           ALEX SVIRSKY: Sure.

8           JIM MONTEVERDE: First, introduce yourself with  
9 the name and address.

10           ALEX SVIRSKY: My name is Alex Svirsky, S-v-i-r-s-  
11 k-y. I'm an architect practicing in Framingham,  
12 Massachusetts. The project is an existing three-family  
13 house in very poor condition, both structurally and  
14 otherwise.

15           The -- any remedial work on the house would need  
16 to involve a new stairwell, and not just about new  
17 stairwell, but because this is a three-family, it would  
18 involve a sprinkler system.

19           So the concept is that: Add an existing porch  
20 that serves as a second means of egress. Keep the existing  
21 setup; first and second-floor: Two bedroom apartments,  
22 attic floor: One-bedroom apartment.

1           Use single stair as a means of egress, per code,  
2 and renovate the building completely.

3           The problem, however, is that existing structure  
4 is not sufficient to be used in contemporary structural  
5 standards. So we are asking the Board to raise the roof of  
6 the main building about four feet and the rear portion, the  
7 flat portion of the building, about two and a half feet.

8           In addition, we're asking the Board to give us  
9 relief and construct two shed dormers in the attic to allow  
10 for adequate ceiling height for the stair, the bathroom, and  
11 the kitchen. One of the drawing's section detail would show  
12 exactly in red the existing building and the new.

13           And lastly, the right elevation that is the  
14 nonconforming one and has several windows -- sort of  
15 haphazard windows, different size: We're asking the Board  
16 to allow us to change their location to make them smaller,  
17 to make smaller units. And that's it.

18           JIM MONTEVERDE: Thank you. Any questions from  
19 any members of the Board?

20           LAURA WERNICK: If I could ask just so the raising  
21 the roof is really to make the third floor usable, is that  
22 correct?

1           ALEX SVIRSKY: No, the third floor is an existing  
2 apartment?

3           LAURA WERNICK: But it doesn't meet code?

4           ALEX SVIRSKY: Oh, nothing meets code there.

5           LAURA WERNICK: Okay, thank you.

6           ALEX SVIRSKY: In addition, as you probably know,  
7 these roofs, they will not be able to reuse them in any way  
8 to match the requirements for our ratings. So the  
9 combination of the structural floors and the roof itself  
10 adds about four feet to the building.

11           JIM MONTEVERDE: Laura, did that answer your  
12 question?

13           LAURA WERNICK: Yes.

14           JIM MONTEVERDE: Can I ask a follow-up using the  
15 section that's on the screen? Mr. Svirksy, I'm assuming  
16 you're -- or can you confirm your plan -- you need a  
17 variance for the raising the roof, not because of the  
18 height, the height's compliant with your district, but it's  
19 because it adds some FAR and it pushes you over the --

20           ALEX SVIRSKY: It adds an FAR with the -- correct,  
21 it adds --

22           JIM MONTEVERDE: Right.



1           ALEX SVIRSKY: -- a little bit of FAR for the  
2 dormers.

3           JIM MONTEVERDE: Right.

4           ALEX SVIRSKY: And it also adds the volume.

5           JIM MONTEVERDE: Right. But everything it -- but  
6 the height is compliant; what's not is the --

7           ALEX SVIRSKY: Yes.

8           JIM MONTEVERDE: -- FAR?

9           ALEX SVIRSKY: Yes.

10          JIM MONTEVERDE: We're both raising the roof and  
11 getting some additional square footage that counts towards  
12 FAR, plus the dormers?

13          ALEX SVIRSKY: Right.

14          JIM MONTEVERDE: Correct?

15          ALEX SVIRSKY: Right.

16          JIM MONTEVERDE: Those are the two components of  
17 the variance?

18          ALEX SVIRSKY: Correct.

19          JIM MONTEVERDE: All right. Thank you. Does any  
20 other member of the Board have any questions?

21          JASON MARSHALL: Yes. So you stated that the  
22 house is going to be torn down, is that right?

1           ALEX SVIRSKY: I don't think we have that  
2 privilege. I think --

3           JIM MONTEVERDE: Is that a yes or a no?

4           ALEX SVIRSKY: No.

5           CHIA-JUNG CHANG: No, we don't. We are doing the  
6 --

7           ALEX SVIRSKY: -- in compliance of existing  
8 building, and basically -- I mean, unless the Board says,  
9 "Well it's -- obviously it's going to be cheaper if we just  
10 put a brand new building." But I don't think that's  
11 allowed.

12           JIM MONTEVERDE: That's -- that's --

13           JASON MARSHALL: I wouldn't --

14           JIM MONTEVERDE: -- not the case in front of us.

15           JASON MARSHALL: I wouldn't read too much into  
16 that question. Can't blame you for trying. I thought I did  
17 read that in the application, but it seems like I misread  
18 that. So I'll take the clarification and I approach it.

19           ALEX SVIRSKY: No, we'll carefully remove and  
20 replace and add all the structure to the existing one, and  
21 then reside it and refinish everything, yes.

22           JASON MARSHALL: Okay, thanks. That's all I have

1 for right now.

2 JIM MONTEVERDE: Thank you. Any other Board  
3 members have any question? I have one regarding the  
4 dormers. Can you go to the elevation that shows the -- side  
5 elevation that shows the new dorm? Thank you. Mr. Svirsky,  
6 are you familiar with the Dormer Guidelines?

7 ALEX SVIRSKY: Yes.

8 JIM MONTEVERDE: Okay. I don't -- I cannot find  
9 the width of the dormers on the drawings anywhere. Can you  
10 tell me how wide those are?

11 ALEX SVIRSKY: Sure. Okay.

12 JIM MONTEVERDE: Either for plan or elevation or -  
13 -

14 ALEX SVIRSKY: Hold on a second.

15 CHIA-JUNG CHANG: Alex, I think we have it on the  
16 plan, right? Yeah. I apologize; this is the homeowner. CJ  
17 Chang.

18 JIM MONTEVERDE: That's okay. Ms. Chang, can you  
19 introduce yourself and give us your address?

20 CHIA-JUNG CHANG: Yes. Thank you so much, Mr.  
21 Chair. My name is Chia-Jung Chang. Apologize there's a  
22 technical disconnect issue, I don't know why it just freezes

1 up. So I just wanted to take this opportunity to introduce  
2 myself and really appreciate your time.

3 My husband and I are the owners of the property on  
4 142 Thorndike Street. And then so, you know, we -- we  
5 really like the location. It is very -- like, like, the  
6 neighborhood, it is a very convenient location. It's on a  
7 quiet street, and then the neighbors are welcoming, very  
8 nice. It's just like the house needs a lot of work.

9 I believe I think I heard Alex, our architect, was  
10 trying to explain, right? The situation of the house and a  
11 lot of things need to be -- like, I think Alex told us,  
12 like, everything needs to be updated. And then so that's  
13 why we are hoping to do the renovation and to bring the  
14 house back to life.

15 Basically, you know, we are hoping that we can  
16 make the house functional while bringing aesthetic  
17 improvement to the neighborhood and that's what we -- you  
18 know, are trying to -- hoping to achieve.

19 JIM MONTEVERDE: Thank you.

20 CHIA-JUNG CHANG: Thank you very much. I  
21 apologize for the -- for the --

22 JIM MONTEVERDE: No, that's okay.

1           ALEX SVIRSKY: I have the answer.

2           JIM MONTEVERDE: Yep.

3           ALEX SVIRSKY: It's 15' 2.25" wide.

4           JIM MONTEVERDE: And does that show up on the  
5 documentation anywhere?

6           CHIA-JUNG CHANG: I think I read it somewhere on  
7 the floor plan, not on the elevation but probably on the  
8 floor plan, if I remember right. Well, Alex showed it to us  
9 somewhere.

10           Like, if you look at the floor plan on the third  
11 floor like A-B - yeah, I think those A-B-C-Ds I think it's  
12 probably between -- yeah, B and C, something like that.  
13 Alex, am I right?

14           JIM MONTEVERDE: Yeah, 15' would be no discussion  
15 really. It falls within the Dormer Guidelines.

16           CHIA-JUNG CHANG: I believe that's what it said.

17           JIM MONTEVERDE: Is that the correct answer, Mr.  
18 Svirsky?

19           ALEX SVIRSKY: That was the intention.

20           JIM MONTEVERDE: Ok.

21           ALEX SVIRSKY: How come it became two inches  
22 larger, I don't have a good answer.

1           JIM MONTEVERDE: Okay. So do you have any objection  
2 if in --

3           ALEX SVIRSKY: But we will definitely --

4           JIM MONTEVERDE: when we get --

5           ALEX SVIRSKY: We will definitely make -- okay, so  
6 on the plan, I showed 15.

7           JIM MONTEVERDE: Okay.

8           ALEX SVIRSKY: But the 15' unfortunately referred  
9 to the grid, and not the sheathing and siding. So half an  
10 inch and another half an inch and an eighth, so two of them,  
11 that would give you 2.25" of extra.

12          JIM MONTEVERDE: So 15' 2.25"?

13          ALEX SVIRSKY: I will -- I apologize for that.

14          JIM MONTEVERDE: That's all right. So once we  
15 take a vote, if the vote is in favor, if it's okay with you,  
16 I will so note that on the plans that are being submitted,  
17 and just because I can't find it simply. Do you take any  
18 exception to that?

19          LAURA WERNICK: It is in the plans.

20          LAURA WERNICK: It's still in the plans.

21          JIM MONTEVERDE: It is? Okay.

22          LAURA WERNICK: Yes.

1           JIM MONTEVERDE: Fine. Thank you.

2           LAURA WERNICK: The 15' is on the plans.

3           JIM MONTEVERDE: 15'. That's what I -- okay. As long  
4 we're at 15', we're good. Any other discussion from members  
5 of the Board before I move up to public comment?

6           ANDREA HICKEY: Mr. Chair, if I could just ask the  
7 petitioner to confirm that the 142 Thorndike is her address  
8 as well? I did get her name, but I wasn't clear as to  
9 whether this is her address.

10          CHIA-JUNG CHANG: My husband and I, we purchased  
11 this house and then we are the homeowner. Does this answer  
12 your questions?

13          ANDREA HICKEY: No. Do you live at this property?

14          CHIA-JUNG CHANG: It is not habitable right now,  
15 like, based on the current house location. So nobody can --  
16 like, it is inhabitable right now.

17          ANDREA HICKEY: So the property is vacant right  
18 now?

19          CHIA-JUNG CHANG: Yes, the property is vacant.  
20 Nobody is living there, so we are really hoping we can get,  
21 you know, the plan approved, and then we can move on to  
22 renovate it and install it. That would be helpful.

1           ANDREA HICKEY: All right. If you could just give  
2 us your current residential address for the record, please?

3           CHIA-JUNG CHANG: Yes, sure. So do you want me to  
4 send it to Olivia, by e-mail or --

5           JIM MONTEVERDE: No, just read it off to me,  
6 please.

7           CHIA-JUNG CHANG: Oh, yeah, sure. So we are in 9  
8 Caroll Circle, Weston, Massachusetts.

9           ANDREA HICKEY: Okay.

10          CHIA-JUNG CHANG: Thank you very much.

11          JIM MONTEVERDE: I'm sorry, is that Terrace  
12 Circle?

13          CHIA-JUNG CHANG: Caroll Circle.

14          JIM MONTEVERDE: Carol (phonetic)?

15          CHIA-JUNG CHANG: Yeah, Carol Circle.

16          ANDREA HICKEY: Carol, C-a-r-o-l?

17          CHIA-JUNG CHANG: C-a-r-r-o-l-l --

18          JIM MONTEVERDE: Yeah.

19          CHIA-JUNG CHANG: -- Circle.

20          JIM MONTEVERDE: Circle. And the town, again was  
21 Weston?

22          LAURA WERNICK: Weston.



1 CHIA-JUNG CHANG: Weston, yes. Thank you.

2 JIM MONTEVERDE: Okay. Thank you.

3 CHIA-JUNG CHANG: Thank you very much.

4 JIM MONTEVERDE: Any other comments and questions  
5 from the Board before I open it up to public comment? No?  
6 Okay. Any members of the public who wish to speak should  
7 now click the icon at the bottom of your Zoom screen that  
8 says, "Raise hand."

9 If you are calling in by phone, you can raise your  
10 hand by pressing \*9 and unmute or mute by pressing \*6. Do  
11 we have anyone who wants to be heard? Doesn't look it.

12 In the file, we have a letter from Philip  
13 Jefferson from 138 Thorndike Street. Sorry, Philip  
14 Jefferson from 138 Thorndike Street writing in favor of the  
15 proponent. And that's the one letter. And that's for the  
16 variance.

17 Shall we vote? Are members ready? Any questions  
18 about the variance? Take a motion on the variance first?

19 ANDREA HICKEY: Ready.

20 JIM MONTEVERDE: Okay. The Chair makes a motion  
21 to find in favor of the request of the variance; that the  
22 application and the information submitted substantiates the

1 requirements of the ordinance requirements under 10.30 for a  
2 variance, and with the documentation with drawings submitted  
3 dated 12/23/2022, which will be initialed by the Chair.

4 Andrea?

5 [Pause]

6 Andrea?

7 ANDREA HICKEY: Yes, with the caveat that the work  
8 proceed in accordance with the plans that have been --

9 JIM MONTEVERDE: Yes. Sorry.

10 ANDREA HICKEY: Thank you.

11 JIM MONTEVERDE: Yep. Matina?

12 MATINA WILLIAMS: Yes, in favor.

13 JIM MONTEVERDE: Laura?

14 LAURA WERNICK: Yes, in favor.

15 JIM MONTEVERDE: Yes, with the same caveat that  
16 Andrea described. Yep. Thank you. And Jim Monteverde in  
17 favor.

18 [All vote YES]

19 JIM MONTEVERDE: So the variance request is  
20 accepted. And now to the special permit. Mr. Svirsky or  
21 Ms. Chang, can you please walk us through the new and  
22 relocated window openings?

1           ALEX SVIRSKY: I think I can do that.

2           JIM MONTEVERDE: Thank you.

3           ALEX SVIRSKY: So we have existing windows.

4       There's a picture in an existing elevation that shows the  
5       existing on a different elevation. And that elevation is  
6       nonconforming because it's on the property line. And you  
7       can see those in one of the pictures. Yes. So there are  
8       currently one-two-three-four-five-six-seven-eight windows of  
9       different sizes and shapes?

10           JIM MONTEVERDE: Right. You're referring to the  
11       right elevation?

12           ALEX SVIRSKY: Right.

13           CHIA-JUNG CHANG: Right.

14           JIM MONTEVERDE: Okay.

15           ALEX SVIRSKY: We are planning to replace them  
16       with a -- six smaller windows.

17           CHIA-JUNG CHANG: Right. So this is the rear  
18       elevation.

19           JIM MONTEVERDE: Okay. And that's the extent of  
20       the request for the special permit, is that correct?

21           ALEX SVIRSKY: Correct.

22           JIM MONTEVERDE: Okay. Members of the Board, any

1 questions? No?

2 JASON MARSHALL: No questions.

3 LAURA WERNICK: No questions.

4 JIM MONTEVERDE: Thank you. And public comment,  
5 any members of the public who wish to speak should now click  
6 the icon at the bottom of your Zoom screen that says, "Raise  
7 hand."

8 If you're calling in by phone, you can raise your  
9 hand by pressing \*9 and unmute or mute by pressing \*6. Do  
10 we have anyone who wants to speak? Nope? No one.

11 And we have the same letter from Philip Jefferson  
12 at 138 Thorndike in support of the requirement -- not  
13 requirement, the request.

14 Any other comments or questions from members of  
15 the Board, or are we ready for a motion?

16 ANDREA HICKEY: Ready?

17 JIM MONTEVERDE: Ready. The Chair --

18 JASON MARSHALL: Sorry, did you go to public  
19 comment yet? I may have missed that.

20 JIM MONTEVERDE: I did.

21 JASON MARSHALL: You did? Okay.

22 JIM MONTEVERDE: There was no one there.

1 JASON MARSHALL: All right. Thank you.

2 JIM MONTEVERDE: Thank you. So the Chair proposes  
3 a motion to accept the request for the special permit with  
4 the new and relocated window and door openings and finding  
5 that that request is in conformance with the ordinance  
6 section 10.40 for a special permit, and that those window  
7 relocations will be done according to the plans submitted  
8 that are dated December 23, 2022 initialed by the Chair.

9 Andrea?

10 ANDREA HICKEY: Yes, in favor.

11 JIM MONTEVERDE: Thank you. Matina?

12 MATINA WILLIAMS: Yes, in favor.

13 JIM MONTEVERDE: Laura?

14 LAURA WERNICK: Yes, in favor.

15 JIM MONTEVERDE: Jason?

16 JASON MARSHALL: In favor.

17 JIM MONTEVERDE: And Jim Monteverde in favor, so  
18 that's approved.

19 [All vote YES]

20 JIM MONTEVERDE: Thank you.

21 COLLECTIVE: Thank you.

22 JIM MONTEVERDE: You're welcome. That is a wrap.

1 Thank you, Board members, for your help and support.

2 COLLECTIVE: Thank you, Mr. Chair.

3 JIM MONTEVERDE: Thank you, goodnight.

4 CHIA-JUNG CHANG: Thank you.

5 [08:10 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.

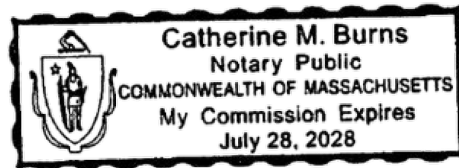
In witness whereof, I have hereunto set my hand this 22nd day of February, 2023.



Notary Public

My commission expires:

July 28, 2028



<p style="text-align: center;"><b>A</b></p> <p><b>a--quote</b> 39:9</p> <p><b>A-2</b> 2:7</p> <p><b>A-B</b> 77:11</p> <p><b>A-B-C-Ds</b> 77:11</p> <p><b>a/k/a</b> 38:7</p> <p><b>ability</b> 11:21 42:21 87:7</p> <p><b>able</b> 12:2,9 35:12 72:7</p> <p><b>above-grade</b> 41:10 51:2</p> <p><b>absolutely</b> 60:12 65:14</p> <p><b>abuts</b> 9:17</p> <p><b>abutter</b> 10:13 31:20 63:11</p> <p><b>abutting</b> 10:10</p> <p><b>accept</b> 17:9,15 23:8 58:4 66:22 85:3</p> <p><b>acceptable</b> 23:3</p> <p><b>accepted</b> 82:20</p> <p><b>access</b> 43:6</p> <p><b>accessory</b> 43:4 61:14 66:4,6 67:2</p> <p><b>achieve</b> 32:1 76:18</p> <p><b>acknowledges</b> 21:2</p> <p><b>act</b> 43:18</p> <p><b>action</b> 66:13 87:9,11</p> <p><b>activity</b> 55:16</p> <p><b>actors</b> 57:4</p> <p><b>actual</b> 43:18</p> <p><b>Adam</b> 5:12,13 11:16,19 12:1 12:12,17 13:7 13:17 14:2</p> <p><b>add</b> 36:4 51:1 70:19 74:20</p> <p><b>added</b> 7:9,16 36:9 64:18,20</p> <p><b>addition</b> 5:18,19 6:13,19 7:20 8:6 12:5,6,8</p>	<p>71:8 72:6</p> <p><b>additional</b> 7:14 64:20 65:3 73:11</p> <p><b>additions</b> 7:19 33:13</p> <p><b>address</b> 14:16 19:11 60:11 62:20 63:1,17 69:11,13 70:9 75:19 79:7,9 80:2</p> <p><b>adds</b> 72:10,19 72:20,21 73:4</p> <p><b>adequate</b> 71:10</p> <p><b>adjustment</b> 46:4</p> <p><b>adjustments</b> 39:14</p> <p><b>ADU</b> 61:18</p> <p><b>ADUs</b> 65:7</p> <p><b>advisable</b> 20:17</p> <p><b>advising</b> 23:18</p> <p><b>aerial</b> 10:7,17</p> <p><b>aesthetic</b> 76:16</p> <p><b>agree</b> 21:11 54:11</p> <p><b>Agreed</b> 21:9</p> <p><b>agreement</b> 44:10</p> <p><b>ahead</b> 18:5 69:14</p> <p><b>Airbnb</b> 65:20</p> <p><b>AKA</b> 2:8</p> <p><b>al</b> 56:3</p> <p><b>Alanna</b> 61:22 62:21</p> <p><b>Alex</b> 69:21 70:1 70:3,7,10,10 72:1,4,6,20 73:1,4,7,9,13 73:15,18 74:1 74:4,7,19 75:7 75:11,14,15 76:9,11 77:1,3 77:8,13,19,21 78:3,5,8,13 83:1,3,12,15 83:21</p>	<p><b>allow</b> 55:14 71:9 71:16</p> <p><b>allowed</b> 74:11</p> <p><b>allowing</b> 44:5</p> <p><b>amending</b> 3:14</p> <p><b>Andrea</b> 1:7 3:4 4:15,16 5:3 13:22 14:7 15:21,22 17:3 17:17,18 19:3 20:22 21:10,12 21:19,22 22:4 22:11,17,22 23:15,18,22 24:21 25:2,6 25:15 26:2,10 26:11 28:3,13 28:14 30:3 34:14,18 35:4 35:7,13,18 37:2,3,4 38:3 46:13,21 47:20 48:5,9 49:3 50:1,3,5 51:14 51:16 52:1 53:6,14 58:11 58:12 60:3 65:11,17 66:5 66:16 67:12,13 69:3 79:6,13 79:17 80:1,9 80:16 81:19 82:4,6,7,10,16 84:16 85:9,10</p> <p><b>angle</b> 31:1</p> <p><b>angled</b> 31:9</p> <p><b>answer</b> 46:7 53:16,17 62:2 72:11 77:1,17 77:22 79:11</p> <p><b>Anybody</b> 45:5</p> <p><b>apartment</b> 43:4 70:22 72:2</p> <p><b>apartments</b> 70:21</p> <p><b>apologize</b> 75:16 75:21 76:21 78:13</p>	<p><b>Appeal</b> 1:1 3:8</p> <p><b>applicant</b> 20:12 21:1 58:6 67:2</p> <p><b>applicants</b> 4:2 57:5</p> <p><b>application</b> 21:5 23:11 32:8 34:10 42:16 44:12 45:20 46:19 47:9 54:11 56:14 61:17 62:3 66:22 70:5 74:17 81:22</p> <p><b>applied</b> 46:14</p> <p><b>appreciate</b> 13:1 55:2,21 76:2</p> <p><b>approach</b> 74:18</p> <p><b>approve</b> 15:14</p> <p><b>approved</b> 16:10 18:5 37:13 45:10,16 61:19 79:21 85:18</p> <p><b>approximate</b> 41:2,3,22</p> <p><b>approximately</b> 9:10 40:6 47:17,17</p> <p><b>architect</b> 10:14 39:7 50:15,20 51:3 70:3,11 76:9</p> <p><b>architect's</b> 53:7 54:14</p> <p><b>Architects</b> 5:13 30:13</p> <p><b>architects'</b> 47:8</p> <p><b>area</b> 8:14 10:7 10:17,21 31:6 40:17 41:16,22 55:18 65:6</p> <p><b>areas</b> 8:3 11:4</p> <p><b>aren't</b> 62:3</p> <p><b>arrows</b> 53:9,10</p> <p><b>as-of-right</b> 39:10,12 50:16</p> <p><b>asking</b> 4:11 15:6 15:8 28:9 71:5</p>	<p>71:8,15</p> <p><b>assistance</b> 25:10</p> <p><b>association</b> 38:22</p> <p><b>assume</b> 11:20</p> <p><b>assuming</b> 72:15</p> <p><b>attach</b> 43:21</p> <p><b>attendance</b> 4:12</p> <p><b>attic</b> 70:22 71:9</p> <p><b>attorney</b> 25:11</p> <p><b>audible</b> 4:12</p> <p><b>audio</b> 3:19</p> <p><b>Audrey</b> 58:1</p> <p><b>August</b> 59:2</p> <p><b>Ave</b> 30:20</p> <p><b>Avenue</b> 1:5 2:9 60:7,13 61:12 63:15</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>B</b> 77:12</p> <p><b>back</b> 5:15,22 6:17 7:4 8:10 8:20 9:10,15 10:8,9 12:18 23:11 30:6 31:16 33:5 37:17 41:1 42:12 49:4 53:4 61:11 63:3,11 76:14</p> <p><b>bad</b> 57:4</p> <p><b>Baker's</b> 3:13</p> <p><b>based</b> 4:10 15:14 45:21 79:15</p> <p><b>basement</b> 10:22</p> <p><b>basically</b> 31:11 74:8 76:15</p> <p><b>basis</b> 20:4 21:4</p> <p><b>bathroom</b> 71:10</p> <p><b>bay</b> 9:3,3</p> <p><b>beautiful</b> 43:12</p> <p><b>bedroom</b> 70:21</p> <p><b>bedrooms</b> 65:21</p> <p><b>beginning</b> 46:16</p> <p><b>believe</b> 38:20 65:7 76:9</p>
---	--	---	--	--



<p>77:16  <b>bellies</b> 35:1  <b>bends</b> 30:21  <b>best</b> 30:18 87:6  <b>better</b> 48:22  <b>beyond</b> 8:20            9:11  <b>big</b> 47:18  <b>bit</b> 6:14 7:11 9:3            10:8 35:10            43:20 73:1  <b>blame</b> 74:16  <b>blue</b> 10:11  <b>Blum</b> 63:16  <b>Board</b> 1:1 3:8            4:2,11 5:13            11:9 12:21            13:21 14:8,22            19:19 20:1,6            23:13 32:14            34:13 44:5            45:5,11 46:12            55:2,5,11            56:11,19 57:2            58:3,11 62:5            62:12 63:19            65:10 66:3,18            71:5,8,15,19            73:20 74:8            75:2 79:5 81:5            83:22 84:15            86:1  <b>bold</b> 49:18  <b>born</b> 5:20  <b>Boston</b> 38:14  <b>bottom</b> 14:11            34:4 40:17            55:3 57:13            62:14 81:7            84:6  <b>boundary</b> 52:20            56:4  <b>box</b> 41:1  <b>brand</b> 74:10  <b>brand-new</b>            43:12,16  <b>break</b> 29:2  <b>Brendan</b> 36:3</p>	<p><b>brick</b> 31:14            32:10 34:16  <b>bring</b> 51:9 61:3            76:13  <b>bringing</b> 76:16  <b>brings</b> 11:7  <b>broadcast</b> 3:20  <b>build</b> 42:22            43:13  <b>building</b> 10:13            11:6 12:13            13:9 39:11,13            40:2 41:4            42:15,15 45:15            45:19,20,21            46:14,20 47:9            47:10,16 48:3            48:22 51:18,20            54:10,11 56:18            56:21 71:2,6,7            71:12 72:10            74:8,10  <b>buildings</b> 38:22  <b>built</b> 43:16  <b>bulk</b> 9:15  <b>burden</b> 20:12  <b>Burns</b> 87:4  <b>busy</b> 47:10  <b>BZA</b> 4:8  <b>BZA-202716</b> 2:4  <b>BZA-203312</b> 2:3  <b>BZA-203324</b> 2:5  <b>BZA-204121</b> 2:9  <b>BZA-204623</b> 2:7  <b>BZA-205192</b> 2:6  <b>BZA-205777</b> 2:8  <b>BZA-206111</b>            2:10</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>C</b> 3:1 77:12  <b>C-a-r-o-l</b> 80:16  <b>C-a-r-r-o-l-l</b>            80:17  <b>cable</b> 3:20  <b>cales</b> 6:8 7:22  <b>call</b> 4:4 5:7            60:14</p>	<p><b>called</b> 48:9  <b>calling</b> 5:19            14:12,18 34:5            34:7 57:15            62:16,18 81:9            84:8  <b>Cambridge</b> 1:2            1:6 3:8,15,21            5:14 6:2 64:18  <b>camera</b> 30:8  <b>care</b> 24:20  <b>carefully</b> 74:19  <b>Carol</b> 80:15,16  <b>Carol(phonetic)</b>            80:14  <b>Caroll</b> 80:8,13  <b>carport</b> 5:18            6:16,18 7:6,18            8:9 9:7,10,13            9:21 12:3,7,8            12:19  <b>carries</b> 37:13  <b>case</b> 2:2 5:7,7            12:10 17:6,8,9            17:10,15 19:6            19:8,19 20:2,9            23:2 25:12,17            26:7,7,21,21            28:6,9,10,11            28:12 30:7            33:14 38:6,15            38:18 43:1            49:22 53:22            58:6 60:6 69:6            74:14  <b>cases</b> 5:6  <b>cash</b> 24:5  <b>Catherine</b> 87:4  <b>caused</b> 46:15  <b>caveat</b> 82:7,15  <b>ceiling</b> 71:10  <b>cement</b> 43:20  <b>cemetery</b> 9:17            10:10  <b>certain</b> 3:14  <b>certainly</b> 55:7            56:18  <b>CERTIFICA...</b></p>	<p>87:1  <b>certify</b> 87:5,8  <b>chain</b> 32:9  <b>Chair</b> 1:7 3:9            5:12 12:22            13:19 15:5,13            15:18 20:1,16            21:8,19 25:15            35:14,19 36:2            45:7 52:1            56:12 62:7            63:21 67:12            75:21 79:6            81:20 82:3            84:17 85:2,8            86:2  <b>Chairman</b> 38:11  <b>challenging</b>            20:19  <b>Chang</b> 69:9,12            69:15,19 74:5            75:15,17,18,20            75:21 76:20            77:6,16 79:10            79:14,19 80:3            80:7,10,13,15            80:17,19 81:1            81:3 82:21            83:13,17 86:4  <b>change</b> 4:10            11:5 24:14,17            71:16  <b>changes</b> 24:7            25:18  <b>Channel</b> 3:20  <b>character</b> 11:6  <b>Charles</b> 3:13  <b>cheaper</b> 74:9  <b>check</b> 19:22  <b>cheek</b> 55:20  <b>Chen</b> 58:1  <b>Chia-Jung</b> 69:9            69:12,15 74:5            75:15,20,21            76:20 77:6,16            79:10,14,19            80:3,7,10,13            80:15,17,19</p>	<p>81:1,3 83:13            83:17 86:4  <b>Chuck</b> 19:9,12            19:12 22:7,13            22:20 23:13,17            23:20 24:3,6            24:10,16,22            25:8,14,22            26:3,5,8 27:1  <b>Circle</b> 80:8,12            80:13,15,19,20  <b>city</b> 1:2,12 3:15            3:16,16,17            66:11  <b>City's</b> 4:8  <b>CJ</b> 75:16  <b>clarification</b>            56:22 74:18  <b>clarify</b> 13:4  <b>clear</b> 45:10            51:19 79:8  <b>clearest</b> 31:5  <b>click</b> 14:10 34:3            57:12 62:14            81:7 84:5  <b>clients'</b> 11:21  <b>close</b> 13:10            14:21 31:8            34:22 40:6  <b>closed</b> 33:16  <b>code</b> 39:2 71:1            72:3,4  <b>code-compliant</b>            42:22 43:6  <b>Cohn</b> 34:10  <b>COLLECTIVE</b>            38:9 59:5            85:21 86:2  <b>college</b> 5:21  <b>combination</b>            72:9  <b>come</b> 46:16 64:4            77:21  <b>comfortable</b>            25:12  <b>comfortably</b> 6:5  <b>coming</b> 10:13  <b>commence</b> 5:10</p>
--	--	--	--	---

<b>commenced</b> 45:21	6:10,11,21 12:5 52:17	11:1	<b>curves</b> 31:16	<b>deconstructing</b> 43:18
<b>comment</b> 4:6,7 14:9,19 34:2 34:12 57:1,9 57:11 62:13 79:5 81:5 84:4 84:19	<b>conformity</b> 42:14	<b>copy</b> 45:20	<b>cut</b> 41:5 44:2	<b>deep</b> 31:1
<b>comments</b> 13:20 21:14 32:14 45:6 46:2,12 55:10 56:11,19 66:17 81:4 84:14	<b>connect</b> 8:16	<b>corner</b> 8:13 30:20 40:9	<b>Cyr</b> 5:15,20	<b>defer</b> 20:20 21:12 52:1
<b>commission</b> 87:17	<b>connected</b> 12:3 12:6 20:11 31:7 38:22	<b>corners</b> 35:6	<b>D</b>	<b>definitely</b> 51:8 78:3,5
<b>Commonwealth</b> 87:2,5	<b>connects</b> 6:18 7:7 8:11,14 40:8 47:15,16	<b>correct</b> 12:1 21:3 32:21 33:9,15,22 36:14 45:12 49:2 52:8 54:12 56:15 66:3 71:22 72:20 73:14,18 77:17 83:20,21	<b>D</b> 2:1 3:1,13	<b>demolish</b> 31:10 43:12
<b>complete</b> 25:12	<b>construct</b> 5:17 12:3 13:12 71:9	<b>correction</b> 52:12	<b>Dan</b> 34:10	<b>demolished</b> 8:5 9:4
<b>completely</b> 71:2	<b>constructed</b> 33:16 36:13 39:1 41:15 52:16 58:8	<b>correctly</b> 52:4	<b>Dana</b> 2:8,8 38:6 38:7,19 40:2 40:15 44:11,11 44:13,13 57:22 58:1	<b>demonstrate</b> 11:18 20:13
<b>compliance</b> 51:12 53:20 74:7	<b>construction</b> 15:16 39:13 40:9 42:13,19 45:16,21 48:2 52:6 60:15 61:15 67:7	<b>correspondence</b> 17:8	<b>dark</b> 6:12	<b>dense</b> 65:6
<b>compliant</b> 72:18 73:6	<b>consult</b> 24:1 25:2	<b>cost</b> 43:15	<b>dashed</b> 31:6 40:22 41:12 53:10	<b>Department</b> 40:2 42:15 45:15 46:20 47:9,10 48:3 48:22 51:18,21 56:18,21
<b>complies</b> 42:5	<b>construction</b> 15:16 39:13 40:9 42:13,19 45:16,21 48:2 52:6 60:15 61:15 67:7	<b>Council</b> 66:12	<b>date</b> 17:10 24:17 25:17 36:10,20 47:8	<b>depth</b> 34:15,15 34:18,19
<b>comply</b> 40:3	<b>contacted</b> 39:19	<b>counsel</b> 46:13 48:5 53:20 87:9	<b>dated</b> 3:17 36:14 36:17 47:2 59:1,1 67:8,11 82:3 85:8	<b>describe</b> 20:14 23:12
<b>components</b> 73:16	<b>contemporary</b> 71:4	<b>count</b> 7:6	<b>dates</b> 36:18	<b>described</b> 42:16 44:20 82:16
<b>concealed</b> 9:13	<b>contend</b> 31:2	<b>counts</b> 73:11	<b>Davies</b> 62:22 63:1,15	<b>description</b> 13:6 24:19 25:10
<b>concept</b> 70:19	<b>contiguous</b> 12:6	<b>couple</b> 39:5,14	<b>day</b> 87:13	<b>deserving</b> 55:9
<b>concern</b> 20:21 41:16 43:22	<b>continuance</b> 17:12 26:11,13 28:14,16,18	<b>course</b> 13:11 57:1	<b>December</b> 85:8	<b>design</b> 39:7 48:2 50:15
<b>conclusion</b> 44:6	<b>continue</b> 6:4 17:10,15 22:12 26:7,20 28:11	<b>cover</b> 48:14	<b>decision-maki...</b> 65:18	<b>designed</b> 45:11 45:14
<b>concrete</b> 43:21	<b>continued</b> 5:6 17:9,14 28:9	<b>covered</b> 5:18 6:17 7:5,7,8,10 7:18 8:13,14 9:6 12:3,18	<b>deck</b> 7:8,11 8:14 30:16 31:5,10 31:11,13,18 32:2,4 33:7,8 33:20,21 34:15 34:21 35:1,9 35:10 36:12 39:7,10,12,22 40:3,5,19,22 41:2,13,14 42:9,10,22 43:13,16,21 44:2 45:14 47:22 48:10 49:5,7,21 51:9 52:6,14,15,16 53:3	<b>desk</b> 53:1
<b>condition</b> 15:16 32:7,8 36:5,12 67:7 70:13	<b>contract</b> 50:18	<b>COVID-19</b> 3:12 3:17	<b>decks</b> 39:1,5	<b>detail</b> 20:7 71:11
<b>conditions</b> 6:10 10:20 23:7	<b>contractor</b> 19:17 39:6 42:12 50:20 60:15	<b>CRANE</b> 33:15		<b>details</b> 23:1,3
<b>condominium</b> 38:21	<b>convenient</b> 76:6	<b>create</b> 6:3		<b>determine</b> 50:11
<b>confirm</b> 32:17 42:13 72:16 79:7	<b>convert</b> 67:1	<b>credible</b> 57:5		<b>determined</b> 40:2 66:12
<b>conformance</b> 36:6 85:5	<b>converted</b> 10:2	<b>creeps</b> 7:11 8:20		<b>detrimental</b> 56:6
<b>conforming</b>		<b>criteria</b> 15:14 58:7 67:3		<b>developed</b> 13:12
		<b>crossover</b> 6:15		<b>development</b> 57:3
		<b>crowded</b> 55:15		<b>diagram</b> 51:14
		<b>current</b> 32:7,8 33:7 39:2 79:15 80:2		<b>different</b> 36:17 71:15 83:5,9
		<b>currently</b> 83:8		<b>difficult</b> 44:3
		<b>cursor</b> 41:19		

54:21 <b>dimension</b> 54:1 54:22 <b>dimensional</b> 42:2 <b>direct</b> 31:20 <b>directions</b> 67:8 <b>directly</b> 31:7 35:9 44:11 <b>disconnect</b> 75:22 <b>discreet</b> 10:18 <b>discussion</b> 14:21 20:15 56:17 58:3 63:19 77:14 79:4 <b>discussion's</b> 23:1 <b>Disneyworld</b> 63:9 <b>distance</b> 48:7 64:22 <b>district</b> 72:18 <b>divider</b> 54:16 <b>document</b> 53:19 <b>documentation</b> 53:21 54:9 77:5 82:2 <b>documents</b> 23:19 <b>dog</b> 64:13 <b>doing</b> 24:5 50:7 50:21 65:12 74:5 <b>door</b> 47:21 85:4 <b>dorm</b> 75:5 <b>Dormer</b> 75:6 77:15 <b>dormers</b> 71:9 73:2,12 75:4,9 <b>downstairs</b> 65:15 <b>drastically</b> 13:13 <b>drawing</b> 33:13 40:19 <b>drawing's</b> 71:11 <b>drawings</b> 15:17	36:10,13,17 58:22 61:16 67:8 75:9 82:2 <b>drawn</b> 41:4 <b>driveway</b> 31:9 64:2 <b>dropping</b> 43:14 <b>due</b> 3:10,17 6:13 <b>dumping</b> 64:8 <b>dwelling</b> 61:14 64:20,20 66:4 66:6 67:2 <hr/> <b>E</b> <hr/> <b>E</b> 2:1 3:1,1 <b>e-mail</b> 62:22 80:4 <b>e-mailed</b> 63:14 <b>earlier</b> 56:16 <b>edge</b> 47:18 <b>egress</b> 70:20 71:1 <b>eight</b> 40:6 56:5 <b>eighth</b> 78:10 <b>either</b> 22:9 75:12 <b>either-or</b> 24:22 <b>elements</b> 10:22 <b>elevation</b> 9:8 41:6 71:13 75:4,5,12 77:7 83:4,5,5,11,18 <b>elevations</b> 9:1,2 <b>elevator</b> 12:14 <b>emergency</b> 3:11 3:16 <b>employed</b> 87:9 <b>Employees</b> 1:12 <b>empty</b> 65:2 <b>enclosure</b> 8:12 <b>encroachment</b> 41:17,22 <b>ended</b> 47:22 <b>enjoy</b> 14:6 <b>enlarge</b> 30:15 <b>enlarged</b> 31:12 <b>entrance</b> 22:16 <b>entry</b> 8:5 10:22	<b>equity</b> 57:5 <b>error</b> 56:1 <b>essentially</b> 43:12 <b>estimation</b> 47:17 <b>evening</b> 3:9 5:7 5:12 <b>events</b> 3:17,17 <b>exact</b> 42:14 <b>exactly</b> 12:1 13:22 41:11,21 43:16 47:7 71:12 <b>example</b> 23:14 <b>Excellent</b> 25:14 26:5 <b>exception</b> 78:18 <b>exchange</b> 13:1 <b>excuse</b> 19:21 <b>Executive</b> 3:13 <b>existing</b> 6:8,10 6:21 8:3,11 9:1 9:2,9,20 10:2 10:20 13:9 30:15 31:5 32:2,2 34:18 34:21 35:1,9 43:19 61:13 65:8 67:1 70:12,19,20 71:3,12 72:1 74:7,20 83:3,4 83:5 <b>exists</b> 54:17 <b>expansion</b> 48:1 <b>expecting</b> 19:16 <b>expense</b> 50:7 <b>expensive</b> 43:13 <b>experienced</b> 65:16 <b>expires</b> 87:17 <b>explain</b> 21:16 60:21 76:10 <b>explaining</b> 22:19 <b>extend</b> 49:6,7 52:14 <b>extending</b> 49:21	<b>extends</b> 53:4 <b>extensive</b> 50:7 <b>extent</b> 8:19 36:2 51:10 83:19 <b>extra</b> 65:21 78:11 <b>extremely</b> 55:7 <hr/> <b>F</b> <hr/> <b>fact</b> 21:8,16 49:7 50:17 52:7 53:20 56:2,13 58:10 61:15 <b>fairly</b> 56:1 <b>faith</b> 57:3,4 <b>falls</b> 77:15 <b>familiar</b> 75:6 <b>far</b> 6:21,22 7:9 7:14 9:3,15 11:5 35:2 42:5 49:7 72:19,20 73:1,8,12 <b>favor</b> 10:14 15:22 16:2,4,6 16:7,9 17:18 17:20,22 18:2 18:4 26:11,13 26:15,17,18 28:14,16,18,20 28:21 34:9 35:20 37:4,6,8 37:10,11 57:19 57:21,22 58:2 58:12,14,16,18 58:20 62:20,22 63:12 67:13,15 67:17,19 78:15 81:14,21 82:12 82:14,17 85:10 85:12,14,16,17 <b>Fayette</b> 63:12,17 <b>February</b> 24:12 25:17,21 26:9 26:21 28:10,12 <b>feet</b> 6:15 7:6,8 7:17 9:10 52:15,16 62:7 62:8,9 71:6,7	72:10 <b>fellow</b> 20:1 <b>felt</b> 12:7 <b>fence</b> 32:9 54:16 54:17 63:22 64:3,9 <b>field</b> 46:5 <b>figure</b> 50:9 <b>figured</b> 39:19 <b>file</b> 10:12 21:15 22:6 44:16,21 57:19 62:19 63:14 81:12 <b>filed</b> 42:14 46:19 <b>fill</b> 20:7 <b>filled</b> 20:10 32:22 <b>filling</b> 35:5 67:5 <b>final</b> 12:20 13:20 14:21 39:15 <b>financially</b> 44:3 87:10 <b>find</b> 4:7 21:14 23:4 35:21 57:4 75:8 78:17 81:21 <b>finding</b> 85:4 <b>fine</b> 66:16 79:1 <b>finish</b> 49:12 63:13 <b>first</b> 5:7 6:6,6 23:9 24:11 43:2 46:14 70:8,21 81:18 <b>first-</b> 8:3,4 <b>first-floor</b> 7:9 <b>first-story</b> 8:5 <b>five</b> 16:9 26:20 <b>flat</b> 71:7 <b>flights</b> 43:5 <b>floor</b> 7:15 8:8 41:11 43:2 51:2 70:22 71:21 72:1 77:7,8,10,11 <b>floors</b> 72:9 <b>Flynn</b> 30:8,10
---	---	---	---	--

<p>30:12,12,13 32:15,18,21 33:3,6,9,11,19 33:22 34:17,20 35:5,8 36:15 36:16,21 37:15 <b>folks</b> 38:8 <b>follow</b> 50:14 <b>follow-up</b> 72:14 <b>following</b> 12:22 56:12,16 <b>foot</b> 7:7 34:22 <b>footage</b> 73:11 <b>footprint</b> 8:10 31:5,12 41:13 <b>forgot</b> 36:12 <b>form</b> 20:3,8,9,22 21:7 24:7,9,18 25:12 44:21 56:7 <b>forward</b> 20:21 <b>foundation</b> 35:11 <b>four</b> 6:15 71:6 72:10 <b>Framingham</b> 70:11 <b>freezes</b> 75:22 <b>front</b> 8:10 22:6 31:2 40:17 55:5 74:14 <b>froze</b> 69:16,19 <b>full</b> 14:20 44:9 51:10 <b>fully</b> 52:15 <b>functional</b> 76:16 <b>further</b> 34:12 35:14 40:1 52:14 56:21 87:8</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>G</b> 3:1 <b>gap</b> 35:11 <b>garage</b> 61:11,13 64:6 67:1 <b>garden</b> 43:4 55:13</p>	<p><b>gardener</b> 6:2 <b>gatherings</b> 3:12 <b>Gavin</b> 60:15 <b>GCD</b> 5:13 <b>General</b> 1:3 19:16 <b>Generally</b> 4:9 <b>getting</b> 73:11 <b>Gibbons</b> 14:19 <b>give</b> 4:6 14:15 25:10 62:2,20 63:1,17 69:13 71:8 75:19 78:11 80:1 <b>Glassman</b> 5:12 5:13 11:15,16 11:19 12:1,12 12:17 13:7,17 14:2 <b>go</b> 7:1,4 8:1 10:5 10:6 20:17 23:11 25:4 31:3 32:6 33:5 41:5 43:1,3 45:9 49:4 50:6 69:14 75:4 84:18 <b>goes</b> 20:4 23:6 31:7 35:2 53:4 <b>going</b> 5:7 35:10 39:20 46:6 51:9 52:7 55:4 55:13,18 64:4 73:22 74:9 <b>good</b> 5:12 26:3 32:1 43:9 57:3 77:22 79:4 <b>goodnight</b> 16:12 86:3 <b>Governor</b> 3:13 <b>grade</b> 31:14 32:4 <b>Graham</b> 57:20 <b>granted</b> 36:5 <b>granting</b> 14:20 <b>graphics</b> 61:4 <b>gray</b> 6:12 <b>great</b> 22:10 41:6</p>	<p>44:22 46:9 61:10 <b>grid</b> 78:9 <b>ground</b> 64:8 <b>Grove</b> 2:6 28:7 <b>grow</b> 14:4 <b>guess</b> 31:22 <b>guessing</b> 48:4 <b>Guidelines</b> 75:6 77:15 <b>guys</b> 68:1</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>habitable</b> 7:10 7:16 79:14 <b>half</b> 71:7 78:9 78:10 <b>hall</b> 8:11 <b>hand</b> 14:11,13 34:4,5 52:20 57:14,16 62:15 62:17 81:8,10 84:7,9 87:12 <b>handle</b> 19:17 51:17 <b>haphazard</b> 71:15 <b>happen</b> 43:22 47:11 50:6 55:3 <b>happened</b> 39:21 55:6 <b>happy</b> 44:7 62:2 <b>hardship</b> 11:18 13:2 20:5,11 20:18,22 21:3 21:4,8,16 22:14,15 23:11 23:14 24:19 42:17,17 43:8 <b>hardships</b> 43:10 <b>harmful</b> 43:19 <b>hashed</b> 31:6 <b>hatch</b> 6:13 <b>hatched</b> 41:1 <b>hazard</b> 22:15 <b>he'll</b> 14:3 <b>heading</b> 34:16</p>	<p><b>health</b> 35:11 39:16 <b>hear</b> 21:1 25:17 44:7 60:6 <b>heard</b> 17:9 23:2 26:7,21 28:10 28:12 38:19 69:7 76:9 81:11 <b>hearing</b> 1:3 11:14 19:19 24:15 32:16 38:15,19 57:1 <b>heart</b> 43:13 <b>heck</b> 55:22 <b>height</b> 71:10 72:18 73:6 <b>height's</b> 72:18 <b>held</b> 3:10 <b>Hello</b> 69:9 <b>help</b> 21:16 39:7 86:1 <b>helpful</b> 36:3,10 44:5 47:14 48:1,21 65:5 79:22 <b>hereunto</b> 87:12 <b>hi</b> 30:10,12 60:9 60:10 69:12 <b>Hickey</b> 1:7 3:4 4:15,16 5:3 13:22 14:7 15:22 17:3,18 19:3 20:22 21:10,12,19,22 22:4,11,17,22 23:15,18,22 24:21 25:2,6 25:15 26:2,11 28:3,13,14 30:3 34:14,18 35:4,7,13,18 37:2,4 38:3 46:13,21 47:20 48:5,9 49:3 50:1,3,5 51:16 52:1 53:6,14 58:12 60:3</p>	<p>65:11,17 66:5 66:16 67:13 69:3 79:6,13 79:17 80:1,9 80:16 81:19 82:7,10 84:16 85:10 <b>Hisel</b> 30:13 <b>hits</b> 53:5 <b>Hodgkins</b> 60:15 <b>Hold</b> 22:18 75:14 <b>hole</b> 32:2 <b>home</b> 6:3,4 13:10 30:16 65:20 <b>homeowner</b> 19:13 22:14 50:6 60:13 75:16 79:11 <b>homeowners'</b> 31:18 <b>homes</b> 38:21 <b>honestly</b> 50:13 65:1 <b>honeymoon</b> 19:18 <b>hope</b> 44:5 55:6 <b>hopefully</b> 55:8 <b>hoping</b> 31:10 32:1,3,11 76:13,15,18 79:20 <b>house</b> 5:20,22 8:10 9:4,16 10:8,18 11:21 12:2 13:13 31:7 34:16 35:10 40:17,18 47:15 53:5 70:13,15 73:22 76:8,10,14,16 79:11,15 <b>housing</b> 65:3,6 <b>Howard</b> 63:16 <b>Huron</b> 30:20 <b>husband</b> 76:3 79:10</p>
---	--	--	---	---

<b>I</b>	67:11 82:3 85:8 <b>initially</b> 48:6 51:18 56:1 59:1 <b>innocent</b> 55:8 <b>input</b> 9:18 <b>inside</b> 64:13 <b>inspection</b> 39:15 <b>Inspectional</b> 45:15 <b>inspector</b> 39:13 39:16 46:2 <b>install</b> 79:22 <b>instance</b> 56:3 <b>instruct</b> 50:15 <b>instructed</b> 39:8 50:19 <b>instructions</b> 4:6 4:8 <b>intended</b> 51:9 <b>intention</b> 65:12 77:19 <b>interested</b> 87:10 <b>interrupt</b> 19:22 <b>intersection</b> 31:17 <b>intro</b> 30:8 <b>introduce</b> 70:8 75:19 76:1 <b>introducing</b> 5:9 <b>involve</b> 70:16,18 <b>issue</b> 40:1,5 43:18 52:5,12 52:19 75:22 <b>issued</b> 39:11 41:4 45:19 <b>issues</b> 42:18 <b>it'll</b> 25:9	16:5,6,11 17:4 18:1,2 19:4,21 23:10 26:16,17 28:4,19,20 30:4 35:17 36:2,8 37:9,10 38:4 56:12,16 58:17,17,18 60:4 62:6,10 66:10,19 67:18 67:19 69:4 73:21 74:13,15 74:22 84:2,18 84:21 85:1,15 85:16 <b>Jay</b> 2:5 19:7,13 19:14 <b>Jefferson</b> 81:13 81:14 84:11 <b>Jim</b> 1:7 3:4,7,9 4:21,22 5:3,6 11:8,14,17,20 12:11,13,20 13:20 14:8 15:4,8,11,13 16:1,3,5,7,7,9 17:3,6,19,21 18:1,4,4 19:3,6 19:10 21:9,11 21:13,21 22:3 22:5,9,12,18 22:21 23:1,21 24:4,8,11,17 25:4,7,9,19 26:1,4,6,9,12 26:14,16,18,18 26:20 27:2 28:3,6,15,17 28:19,21,21 29:1 30:3,6,11 32:13,16,19,22 33:4,7,10,12 33:18,21 34:1 35:15,19 36:7 36:11,19,22 37:3,5,7,9,11 37:13,16 38:3 38:6,10,12	40:13 44:15,17 44:19 45:1,3,5 45:8 46:11,22 47:2,4,6 48:14 48:17,19 49:2 49:14,16 51:4 51:13,22 52:3 52:10,13,18,21 53:2,11,15,19 54:4,7,12,19 54:22 55:10 56:10,15 57:8 58:13,15,19,19 58:22 59:4,6 60:3,6,10,16 60:19 61:1,3,8 62:4,11 63:4,6 63:10,13 64:9 64:14 65:9 66:2,7,15,17 66:21 67:11,14 67:16,18,20,20 67:22 69:3,6 69:10,13,16 70:2,4,8 71:18 72:11,14,22 73:3,5,8,10,14 73:16,19 74:3 74:12,14 75:2 75:8,12,18 76:19,22 77:2 77:4,14,17,20 78:1,4,7,12,14 78:21 79:1,3 80:5,11,14,18 80:20 81:2,4 81:20 82:9,11 82:13,15,16,19 83:2,10,14,19 83:22 84:4,17 84:20,22 85:2 85:11,13,15,17 85:17,20,22 86:3 <b>jobs</b> 64:19 <b>Joe</b> 14:19 <b>jogs</b> 31:8 <b>John</b> 30:14	<b>jowl</b> 55:20 <b>July</b> 47:4 59:1 87:18
	<b>J</b>		<b>K</b>	
<b>icon</b> 14:10 34:3 57:13 62:14 81:7 84:6 <b>image</b> 6:6 32:1 41:10 <b>imagine</b> 39:18 39:21 43:13 47:10 <b>impede</b> 66:13 <b>impeding</b> 12:15 <b>importantly</b> 44:9 <b>impossible</b> 13:14 <b>improved</b> 39:4 <b>improvement</b> 76:17 <b>inaccurate</b> 53:10 <b>inch</b> 78:10,10 <b>inches</b> 40:6 56:6 77:21 <b>inclined</b> 21:6 57:6 <b>includes</b> 20:4 <b>including</b> 24:22 <b>income</b> 65:5 <b>inconsistency</b> 6:8 <b>incorrect</b> 53:21 <b>independent</b> 22:1 24:1 <b>indicates</b> 6:13 <b>inexact</b> 54:15 <b>info</b> 67:5 <b>inform</b> 25:15 <b>information</b> 25:20 54:15 62:2 81:22 <b>informed</b> 42:12 <b>infrastructure</b> 65:8 <b>inhabitable</b> 79:16 <b>initial</b> 21:5 58:9 58:22 <b>initialed</b> 15:18	<b>January</b> 1:3 3:7 <b>Japanese</b> 6:1 14:3 <b>Jason</b> 1:9 3:5 4:13,14 5:4 12:22 13:15,18 15:3,4,5,10,12	<b>Kevin</b> 33:15 <b>kids</b> 63:9 64:13 <b>kind</b> 6:1 30:21 31:1,7,15 35:1 35:5 39:19 42:7 43:11 47:14 54:15 55:21 58:9 64:7 <b>kitchen</b> 71:11 <b>know</b> 6:22 10:8 13:5,7,14 20:7 24:1 34:20 39:19 41:13 42:20 43:7 44:1 45:21 46:3 47:11 48:1 50:12,14 50:21 53:7,8 54:14,15 55:3 55:7,8,14,19 56:17,22 57:1 61:4,7 62:1 64:7,13,18,19 64:22 65:1,4,6 65:19,21 66:1 72:6 75:22 76:4,15,18 79:21 <b>knows</b> 46:14 <b>Kunes</b> 34:10		

<b>L</b>	<p><b>letters</b> 10:15  44:16 56:13  57:19 61:21  62:19 63:14  <b>level</b> 20:7 43:4  55:14,16  <b>life</b> 76:14  <b>life's</b> 14:6  <b>lift</b> 6:18 8:12  12:3,8,14,18  <b>limiting</b> 3:11  <b>line</b> 10:9 12:16  21:18 31:8  40:7,22 41:12  41:18 42:19,20  49:7,21 50:5  51:10 52:6,8  54:17 56:4,5  83:6  <b>lines</b> 36:5 49:18  53:8,10  <b>Linn</b> 28:8  <b>Lipson</b> 38:16  49:9,11,19  51:2,8  <b>list</b> 23:10  <b>literally</b> 46:19  <b>little</b> 7:11 9:3  35:10 40:20  73:1  <b>live</b> 6:4 8:16  19:12 64:22  79:13  <b>lived</b> 64:5  <b>lives</b> 58:1  <b>living</b> 79:20  <b>Liz</b> 57:20  <b>Liza</b> 30:13  <b>LLC</b> 38:14  <b>local</b> 6:1 10:14  <b>located</b> 41:1  <b>location</b> 32:4  71:16 76:5,6  79:15  <b>long</b> 9:10 79:3  <b>look</b> 22:5 23:4,5  23:9 40:21  41:11 42:9,10</p>	<p>47:13 49:8,8  52:22 77:10  81:11  <b>looking</b> 15:6  48:12 51:4,14  <b>looks</b> 34:19  48:14 52:5  <b>lot</b> 6:2,22 9:16  10:9 12:16  13:8,8,15  21:18 40:7  42:18,21 49:6  49:21 51:10  76:8,11  <b>lots</b> 54:16  <b>lower</b> 55:13</p>	<p>85:1,16  <b>Martha</b> 60:9,12  60:13,18,21  61:2,6,10 62:8  63:2,5,7,11  64:3,12,17  65:14,19 66:9  67:10 68:1  <b>MASON</b> 66:20  <b>Massachusetts</b>  1:5,6 70:12  80:8 87:2,5  <b>match</b> 72:8  <b>Matina</b> 1:9 3:5  4:17,18 5:4  11:13 16:1,2  17:4,19,20  19:4 26:12,13  28:4,15,16  30:4 37:5,6  38:4 58:13,14  60:4 64:15  67:14,15 69:4  82:11,12 85:11  85:12  <b>matter</b> 34:1 69:8  <b>matters</b> 57:5  <b>mature</b> 32:5  <b>maul</b> 38:10  <b>maximum</b> 7:3  <b>Mayor</b> 62:1  <b>mean</b> 47:10 49:1  49:3 54:18  55:21 56:13  64:18,22 66:10  74:8  <b>meaning</b> 34:15  <b>means</b> 42:19  70:20 71:1  <b>measurement</b>  34:21  <b>meet</b> 23:7,7 72:3  <b>meeting</b> 1:4 3:8  3:10,15,19  43:8 58:7  <b>meetings</b> 3:16  4:8  <b>meets</b> 72:4</p>	<p><b>member</b> 34:2  56:11 62:13  69:22 73:20  <b>members</b> 3:4  4:2,2,5,12,12  5:3,13 11:9  12:21 13:21  14:9 17:3 19:3  20:1 28:3 30:3  32:13 34:12  38:3 45:5  46:12 55:11  57:2,12 58:11  60:3 62:5,12  63:19 65:10  66:3,18 69:3  71:19 75:3  79:4 81:6,17  83:22 84:5,14  86:1  <b>mention</b> 35:9  54:13  <b>mentioned</b>  23:10  <b>met</b> 61:17 67:2  <b>Middlesex</b> 87:3  <b>military</b> 5:21  <b>mind</b> 21:4 40:11  55:21  <b>minimal</b> 48:3  <b>minor</b> 47:12  <b>minutes</b> 4:9 18:6  37:17  <b>misread</b> 74:17  <b>missed</b> 48:3  51:20 54:19  84:19  <b>mistake</b> 51:20  <b>mistakes</b> 47:11  <b>Mm-hm</b> 24:16  67:10  <b>moderator's</b>  22:2  <b>modified</b> 11:2  <b>modify</b> 6:3  <b>Monday</b> 25:19  25:21 26:1  <b>Monteverde</b> 1:7</p>
	<p><b>mail</b> 50:8  <b>main</b> 22:16  47:15 71:6  <b>maintain</b> 35:11  <b>Mallon</b> 62:1,21  <b>maneuver</b> 11:21  <b>Maple</b> 2:9 60:7  60:13 61:12  63:15  <b>March</b> 3:13  17:13,14,16  <b>Mark</b> 5:15 8:16  <b>marked</b> 8:3  <b>markings</b> 49:8  <b>Marshall</b> 1:9 3:6  4:13,14 5:5  12:22 13:15,18  15:3,5,10,12  16:6,11 17:5  18:2 19:5,21  26:17 28:5,20  30:5 35:17  36:2,8 37:10  38:5,14 56:12  56:16 58:17,18  60:5 62:6,10  66:10,19 67:19  69:5 73:21  74:13,15,22  84:2,18,21</p>	<p style="text-align: center;"><b>M</b></p>		

<p>3:4,7,9 4:21,22 5:3,6 11:8,14 11:17,20 12:11 12:13,20 13:20 14:8 15:4,8,11 15:13 16:1,3,5 16:7,7,9 17:3,6 17:19,21 18:1 18:4,4 19:3,6 19:10 21:9,11 21:13,21 22:3 22:5,9,12,18 22:21 23:1,21 24:4,8,11,17 25:4,7,9,19 26:1,4,6,9,12 26:14,16,18,18 26:20 27:2 28:3,6,15,17 28:19,21,21 29:1 30:3,6,11 32:13,16,19,22 33:4,7,10,12 33:18,21 34:1 35:15,19 36:7 36:11,19,22 37:3,5,7,9,11 37:13,16 38:3 38:6,10,12 40:13 44:15,17 44:19 45:1,3,5 45:8 46:11,22 47:2,4,6 48:14 48:17,19 49:2 49:14,16 51:4 51:13,22 52:3 52:10,13,18,21 53:2,11,15,19 54:4,7,12,19 54:22 55:10 56:10,15 57:8 58:13,15,19,19 58:22 59:4,6 60:3,6,10,16 60:19 61:1,3,8 62:4,11 63:4,6 63:10,13 64:9 64:14 65:9</p>	<p>66:2,7,15,17 66:21 67:11,14 67:16,18,20,20 67:22 69:3,6 69:10,13,16 70:2,4,8 71:18 72:11,14,22 73:3,5,8,10,14 73:16,19 74:3 74:12,14 75:2 75:8,12,18 76:19,22 77:2 77:4,14,17,20 78:1,4,7,12,14 78:21 79:1,3 80:5,11,14,18 80:20 81:2,4 81:20 82:9,11 82:13,15,16,19 83:2,10,14,19 83:22 84:4,17 84:20,22 85:2 85:11,13,15,17 85:17,20,22 86:3</p> <p><b>motion</b> 15:12 16:10 17:9,15 20:17 26:6 28:11 34:13 35:16 36:4 37:3 58:4,4 63:20 66:18,20 66:22 81:18,20 84:15 85:3</p> <p><b>move</b> 20:21 46:3 58:3 79:5,21</p> <p><b>moved</b> 64:5,6</p> <p><b>moves</b> 35:20</p> <p><b>Moving</b> 8:13</p> <p><b>mute</b> 4:5 14:13 34:6 57:16 62:17 81:10 84:9</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>N</b> 2:1 3:1</p> <p><b>name</b> 3:8 4:3 14:15 19:9,10</p>	<p>19:12 30:12 38:10 60:10,12 69:11,13 70:9 70:10 75:21 79:8</p> <p><b>narrow</b> 42:18</p> <p><b>Natola</b> 1:14 4:13 4:15,17,19,21</p> <p><b>need</b> 12:2 17:10 23:7,7 25:10 25:18,20 42:2 43:1 70:15 72:16 76:11</p> <p><b>needed</b> 43:5 46:3</p> <p><b>needs</b> 25:16,20 76:8,12</p> <p><b>neighbor</b> 31:21 40:8 44:10 55:20 61:22 62:22 63:1 64:10</p> <p><b>neighborhood</b> 11:6 56:7 63:8 76:6,17</p> <p><b>neighbors</b> 44:9 55:15 56:7 61:21 76:7</p> <p><b>neither</b> 87:8</p> <p><b>never</b> 43:16 51:8 51:9</p> <p><b>new</b> 6:13 8:20 10:7 11:2 25:20 31:11 35:10 39:7 41:14 42:10 48:9 70:16,16 71:12 74:10 75:5 82:21 85:4</p> <p><b>nexus</b> 13:4 20:18</p> <p><b>Niall</b> 17:12</p> <p><b>nice</b> 76:8</p> <p><b>No.4</b> 42:8,8</p> <p><b>nonconforming</b> 6:13 13:8,9 71:14 83:6</p>	<p><b>Nope</b> 28:8 34:9 57:17 62:18 84:10</p> <p><b>north</b> 31:15</p> <p><b>Northmen</b> 60:15</p> <p><b>Notary</b> 87:4,16</p> <p><b>note</b> 65:18 78:16</p> <p><b>noted</b> 33:12</p> <p><b>Notice</b> 39:17</p> <p><b>number</b> 4:10 39:4 48:15</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O</b> 3:1</p> <p><b>O'Mara</b> 60:13</p> <p><b>O'MARA</b> 60:9 60:12,18,21 61:2,6,10 62:8 63:2,5,7,11 64:3,12,17 65:14,19 66:9 68:1</p> <p><b>objection</b> 10:15 65:17 78:1</p> <p><b>obvious</b> 43:11</p> <p><b>obviously</b> 22:10 24:21 74:9</p> <p><b>occur</b> 67:7</p> <p><b>occurred</b> 39:13 42:11</p> <p><b>Oh</b> 15:21 17:11 36:7 44:8 49:10 51:6 60:22 61:6,10 63:2,4 64:3 72:4 80:7</p> <p><b>Ok</b> 36:22 77:20</p> <p><b>okay</b> 5:6 11:14 12:20 13:20 15:11 22:3,13 23:17,20 24:3 24:5,6 25:8,22 26:4 28:8 32:13,16 33:12 33:18 34:1 35:4,19 45:3 45:18 46:21 49:11 51:22</p>	<p>52:13,18 55:10 57:11 58:4 60:16 61:8,10 62:4,10 63:4 63:10,13 66:15 68:2 70:4 72:5 74:22 75:8,11 75:18 76:22 78:1,5,7,15,21 79:3 80:9 81:2 81:6,20 83:14 83:19,22 84:21</p> <p><b>old</b> 13:9 41:12 41:13 42:9</p> <p><b>Oliver</b> 30:14</p> <p><b>Olivia</b> 1:13 30:17,17 40:11 80:4</p> <p><b>Olivia's</b> 40:10</p> <p><b>OMARA</b> 67:10</p> <p><b>once</b> 29:2 78:14</p> <p><b>one's</b> 48:18,20 48:20</p> <p><b>One-bedroom</b> 70:22</p> <p><b>one-story</b> 7:19</p> <p><b>one-two-three...</b> 83:8</p> <p><b>ones</b> 47:2</p> <p><b>online</b> 23:5 25:4</p> <p><b>Oop</b> 7:4</p> <p><b>open</b> 3:14 6:6,9 6:9 14:9 34:1 55:15 57:11 62:12 81:5</p> <p><b>openings</b> 82:22 85:4</p> <p><b>opportunity</b> 76:1</p> <p><b>opposed</b> 32:4</p> <p><b>option</b> 53:12</p> <p><b>orally</b> 21:3</p> <p><b>order</b> 3:13 12:1 23:8 25:17 41:7 43:11,21</p> <p><b>orders</b> 3:11</p> <p><b>ordinance</b> 15:15 23:5 25:3,9</p>
--	---	--	---	--

66:11 67:4 82:1 85:5 <b>original</b> 40:22 47:22 52:15 <b>originally</b> 40:4 45:11,14 64:4 <b>outcome</b> 87:10 <b>outside</b> 55:17 <b>owned</b> 39:5 <b>owner</b> 5:15 39:22 42:21 63:16 <b>owners</b> 38:16 39:4 55:7 76:3 <b>owners'</b> 40:3 50:12	<b>patio</b> 32:4 <b>pause</b> 11:10 14:17 15:1,20 20:6 27:3 34:8 57:10 69:18,20 82:5 <b>paved</b> 55:18 <b>pavement</b> 55:13 56:4 <b>Pawan</b> 38:16 <b>PDF</b> 41:5,8 48:12 <b>peels</b> 31:1 <b>pending</b> 57:1 <b>people</b> 6:22 50:14 <b>perfect</b> 40:15 <b>perfectly</b> 45:10 <b>perimeter</b> 35:12 <b>period</b> 64:21 <b>permissible</b> 66:12 <b>permit</b> 32:20 33:1,5,16 35:20 36:5 39:11 41:4 42:15 45:15,19 45:20,22 46:14 54:11 60:20 61:19 67:1,3,6 67:9 70:6 82:20 83:20 85:3,6 <b>permits</b> 36:1 <b>permitted</b> 3:17 <b>perspective</b> 50:13 55:12 56:22 <b>petition</b> 21:2 57:7 <b>petitioner</b> 21:6 25:16 65:11 66:8 79:7 <b>Philip</b> 81:12,13 84:11 <b>phone</b> 14:12 17:7 34:5 57:15 62:16	81:9 84:8 <b>photo</b> 53:4 <b>photograph</b> 32:9 <b>photos</b> 10:20 42:6 <b>pick</b> 17:10 <b>picked</b> 51:17 <b>picture</b> 47:13 83:4 <b>pictures</b> 61:13 83:7 <b>PL</b> 2:8 <b>place</b> 30:18 31:5 38:7 40:2 44:11,11,13,13 57:22 <b>plan</b> 21:15,15,22 22:4,8 30:18 31:4,15,21 33:5,17 40:18 40:21 41:11 46:15 48:5,9 48:21 49:5 51:3 52:3 63:18 66:9 72:16 75:12,16 77:7,8,10 78:6 79:21 <b>plane</b> 19:17 <b>planning</b> 83:15 <b>plans</b> 6:7,12 7:14 8:8,15,19 40:21 41:3,7 41:13 42:14 46:18,19 47:8 51:19 58:9 78:16,19,20 79:2 82:8 85:7 <b>plantings</b> 32:5 35:12 <b>plants</b> 14:4,4 <b>play</b> 64:7 <b>please</b> 4:3 5:9 7:21 8:7,22 9:19,22 14:15 15:19 19:11 23:9,12 31:4	34:3 51:10 69:11 80:2,6 82:21 <b>plot</b> 21:15 30:18 40:21 <b>plus</b> 73:12 <b>point</b> 35:8 39:18 44:8 50:3 56:8 56:22 57:6 65:19 <b>poor</b> 70:13 <b>porch</b> 9:6 70:19 <b>porches</b> 8:4 <b>portion</b> 6:12 52:7 53:1 71:6 71:7 <b>position</b> 23:16 44:3 <b>possible</b> 54:14 <b>posted</b> 24:14 <b>PowerPoints</b> 61:7 <b>practical</b> 43:10 <b>practically</b> 13:14 44:4 <b>practicing</b> 70:11 <b>prepare</b> 23:18 <b>preparing</b> 39:6 <b>present</b> 4:16,18 4:20,22 19:9 25:13 <b>presentation</b> 5:11 11:7 69:11 <b>presented</b> 21:2 46:15 <b>presenters</b> 5:10 <b>presently</b> 35:3 <b>pressing</b> 14:13 14:13 34:6,6 57:16,16 62:17 62:17 81:10,10 84:9,9 <b>pretty</b> 11:5 39:2 43:9 47:12 48:2 <b>prime</b> 30:6 <b>private</b> 31:18	<b>privilege</b> 74:2 <b>probably</b> 65:20 72:6 77:7,12 <b>problem</b> 71:3 <b>proceed</b> 82:8 <b>proceedings</b> 4:1 86:5 87:7 <b>process</b> 66:14 <b>professional</b> 14:3 <b>professionals</b> 24:1 <b>project</b> 70:3,12 <b>prong</b> 13:2 <b>properly</b> 46:16 <b>property</b> 13:11 21:18 30:22 31:8,15,16 38:16 42:12 54:17 56:5 61:12 64:9 65:22 76:3 79:13,17,19 83:6 <b>proponent</b> 17:7 28:7 69:21 81:15 <b>propose</b> 17:9,14 28:9,10 66:22 <b>proposed</b> 6:9,15 6:17,21 8:6,8 8:14,15 9:1,10 9:20 10:15 33:8,13 34:19 34:19 41:2,14 48:7 <b>proposes</b> 85:2 <b>protection</b> 64:1 <b>provide</b> 56:21 64:1 65:3,6 <b>provided</b> 47:9 <b>public</b> 3:11,16 4:3,5,6,7 9:16 9:18 14:9,10 14:21 34:2,2 57:1,9,11,12 62:12,13 63:18 69:22 79:5
<b>P</b>				
<b>P</b> 3:1 <b>p.m</b> 1:4 3:3 5:2 17:2,14,16 19:2 26:21 28:2,10,12 30:2 38:2 60:2 69:2 86:5 <b>page</b> 2:2 21:22 31:3,22 32:6 41:5,7 42:6,8 48:12 <b>Pamela</b> 38:16 49:9,11,15,19 50:18 51:1,2,8 <b>paperwork</b> 33:1 <b>parcel</b> 30:19,19 30:21 <b>parking</b> 64:2 <b>part</b> 12:13,14,18 21:2 30:22 32:3 33:13 <b>particular</b> 21:17 56:3 <b>particularly</b> 39:7 <b>parties</b> 87:9 <b>parts</b> 5:18 <b>Partway</b> 41:21 <b>passed</b> 67:20 <b>passion</b> 14:6				



81:5,6 84:4,5 84:18 87:4,16 <b>purchased</b> 79:10 <b>purpose</b> 24:2 56:2 <b>pushes</b> 72:19 <b>put</b> 43:21 44:2 51:3 61:6 74:10 <b>puts</b> 42:21	72:17 73:10 <b>Ratay</b> 1:13 <b>ratings</b> 72:8 <b>reach</b> 44:6 <b>read</b> 25:5,7,9 74:15,17 77:6 80:5 <b>reads</b> 53:1 <b>ready</b> 15:3,6,8 15:10,12 34:12 34:13 35:15,17 35:18 36:22 37:2 57:9 63:20 66:18,19 66:20 81:17,19 84:15,16,17 <b>real</b> 39:18 43:22 56:2 <b>realized</b> 43:17 <b>really</b> 5:18 7:10 7:16 9:16,17 12:2 20:10 21:4,17 23:2 23:11,15,22 42:20 44:3 52:5 53:22 64:8,10 65:5 66:4 71:21 76:2,5 77:15 79:20 <b>reapply</b> 24:7 <b>rear</b> 6:14,14 7:12 8:20 9:20 10:9,18,21 12:16 13:10 30:15 31:6,8 34:15 39:1 40:18 42:5 52:6,12,16 71:6 83:17 <b>reason</b> 33:4 <b>reasonable</b> 43:6 44:6 <b>reasonable-siz...</b> 42:22 <b>reasons</b> 39:16 <b>rebar</b> 43:20 <b>rebuild</b> 30:15	<b>rebuilt</b> 40:6 <b>receipt</b> 34:9 <b>receptive</b> 56:19 <b>reconsider</b> 21:7 <b>record</b> 11:17 20:9,13 21:4 44:21 56:20 60:11 80:2 87:6 <b>recorded</b> 3:19 <b>records</b> 63:17 <b>rectangular</b> 31:11 <b>red</b> 8:3 71:12 <b>reducing</b> 13:13 <b>referencing</b> 36:9 <b>referred</b> 78:8 <b>referring</b> 13:16 83:10 <b>refinish</b> 74:21 <b>regarding</b> 75:3 <b>regardless</b> 55:6 <b>regularly</b> 20:6 <b>relate</b> 13:2,3 <b>related</b> 46:2,5 87:8 <b>relief</b> 30:15 32:12 33:19 39:9 45:17 55:9 71:9 <b>relocated</b> 82:22 85:4 <b>relocations</b> 85:7 <b>remain</b> 6:11 10:22 12:2 <b>remedial</b> 70:15 <b>remember</b> 46:4 50:18 77:8 <b>remote</b> 1:4 4:8 <b>remotely</b> 3:10 <b>remove</b> 74:19 <b>removed</b> 10:2 11:5 <b>removing</b> 43:15 <b>renovate</b> 71:2 79:22 <b>renovation</b> 76:13	<b>renowned</b> 6:1 <b>rent</b> 65:15 <b>rental</b> 64:16,17 65:16 66:6,12 <b>rentals</b> 65:13 <b>replace</b> 74:20 83:15 <b>replaced</b> 9:5 39:4 <b>representative</b> 56:17 <b>representing</b> 5:15 30:13 <b>request</b> 15:14,15 17:10,15 18:5 23:8 58:5,5 81:21 82:19 83:20 84:13 85:3,5 <b>requested</b> 13:10 35:21 <b>requesting</b> 17:12,12 55:5 <b>required</b> 7:3 20:3,7 42:20 <b>requirement</b> 11:18 33:8 84:12,13 <b>requirements</b> 3:14 35:22 42:3 61:18 67:3 72:8 82:1 82:1 <b>requiring</b> 45:16 <b>reschedule</b> 24:5 <b>reshaped</b> 31:12 <b>reside</b> 74:21 <b>Residence</b> 2:7 <b>resident</b> 57:20 57:21 <b>residential</b> 80:2 <b>residents</b> 31:20 63:15 <b>Resnick</b> 30:14 <b>respects</b> 42:4 <b>response</b> 3:12 <b>responses</b> 33:1 <b>restrict</b> 55:16	<b>restricted</b> 65:22 <b>restriction</b> 42:21 <b>restrictions</b> 3:16 <b>resubmit</b> 24:8 24:10,18 <b>retain</b> 32:3,5 <b>retaining</b> 43:21 <b>retired</b> 6:3 65:4 <b>retirement</b> 5:19 6:5 7:15,19 8:15 9:5,11,14 9:21 10:3 12:9 14:1 <b>retiring</b> 14:2 <b>returning</b> 19:18 <b>reuse</b> 72:7 <b>review</b> 40:1 46:2 <b>reviewed</b> 20:10 <b>revise</b> 21:7 44:1 <b>revision</b> 36:20 48:10 59:1 <b>Rhatigan</b> 38:11 38:13,13 40:14 44:16,18,22 45:2,4,9,13,19 46:9,18 47:1,3 47:5,7,21 48:8 48:11,16,18,20 49:4,10,12,15 49:17,20 50:2 50:4,10 51:6 52:9,11,14,19 52:22 53:3,7 53:13 54:6,10 54:13,21 55:1 59:3 <b>Rick</b> 63:15 <b>right</b> 6:10,12,15 7:5 8:9,15 9:7 9:9,21 11:1 13:18,19 15:4 17:13 19:15 20:14 22:22 23:21 24:4 25:6,14 26:2,6 31:15 33:10,11 33:22 34:20
<hr/> <b>Q</b> <hr/> <b>question</b> 13:1,22 22:14 34:14 46:7,16 51:15 53:16,18 62:6 63:22 72:12 74:16 75:3 <b>questioning</b> 50:5 <b>questions</b> 11:9 11:12,13,15 12:21 13:19,21 14:8 32:14 44:7 45:6 46:12 55:11 56:11 60:14 61:20 62:2,4 62:11 64:15 65:9 71:18 73:20 79:12 81:4,17 84:1,2 84:3,14 <b>quiet</b> 76:7 <b>quite</b> 10:8 40:5 43:12,20				
<hr/> <b>R</b> <hr/> <b>R</b> 3:1 <b>railing</b> 47:15 53:3 <b>raise</b> 14:11,12 20:20 34:4,5 57:13,15 62:15 62:16 71:5 81:8,9 84:6,8 <b>raised</b> 5:20 46:5 <b>raising</b> 71:20				

<p>35:2 36:16,21 36:22 40:14,16 42:4 43:3 46:22 49:3 51:4 53:11,14 54:7,10 56:10 58:13 61:6,10 66:5,17,21 68:1 69:14 71:13 72:22 73:3,5,13,15 73:19,22 75:1 75:16 76:10 77:8,13 78:14 79:14,16,17 80:1 83:10,11 83:12,13,17 85:1 <b>right-side</b> 9:8 <b>Road</b> 2:7 30:7 30:14,22 31:17 31:20 34:11 35:2 <b>Robert</b> 28:8 <b>roll</b> 4:4 <b>roof</b> 8:19 9:11 71:5,21 72:9 72:17 73:10 <b>roofs</b> 72:7 <b>room</b> 5:19 7:15 7:19 8:15 9:5 9:11,14,21 10:3 12:9 14:1 14:4 <b>running</b> 40:10</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>S</b> 3:1 <b>S-v-i-r-s-</b> 70:10 <b>Sarah</b> 38:8,11 38:13,13 40:14 44:16,18,22 45:1,2,4,13,19 46:9,18 47:1,3 47:5,7,21 48:8 48:11,16,18,20 49:4,9,10,12 49:15,17,20</p>	<p>50:2,4,10 51:6 51:13 52:9,11 52:14,19,22 53:3,7,13 54:6 54:10,13,21 55:1 59:3 <b>saying</b> 25:21 <b>says</b> 14:11 34:4 41:10 53:9 57:13 62:15 74:8 81:8 84:6 <b>schedule</b> 18:5 <b>scope</b> 32:11 <b>screen</b> 14:11 22:2 30:17 34:4 47:13 48:13 57:13 60:22 61:2 62:14 69:16,19 72:15 81:7 84:6 <b>screened</b> 22:1 <b>scroll</b> 31:22 <b>scrolling</b> 7:1 <b>second</b> 7:15 19:22 49:9 53:12 70:20 75:14 <b>second-</b> 8:4 <b>second-floor</b> 70:21 <b>second-story</b> 7:20 8:4 33:13 <b>section</b> 15:15 23:6 35:22 44:2 67:3 71:11 72:15 85:6 <b>see</b> 5:15 7:5,11 8:9 9:7,9,13,14 10:11,21 11:5 13:5 20:20 21:1,17,19 27:3 29:2 30:7 31:5 34:22 38:8 40:20,21 41:12,18,20 43:3 47:7,14</p>	<p>47:18,22 48:12 49:1,18 51:6 53:9 55:20 56:5,20 61:13 61:19 62:18 63:6 83:7 <b>seeing</b> 22:5 40:18 <b>seek</b> 30:15 32:11 33:19 39:8 <b>seeking</b> 5:17 6:3 <b>seen</b> 48:22 <b>send</b> 80:4 <b>separate</b> 64:1 <b>separating</b> 64:10 <b>serves</b> 70:20 <b>service</b> 7:10 <b>Services</b> 45:15 <b>serving</b> 56:2 <b>set</b> 38:22 41:20 87:12 <b>setback</b> 6:14,14 7:12 8:21 13:11 33:8 41:17 42:1,5 48:7 51:19 52:4,6,8,12,16 53:8,9 54:1 <b>setbacks</b> 31:2 42:4 49:1 51:3 51:11,12 55:14 55:17,17 56:2 <b>sets</b> 33:8 <b>setup</b> 70:21 <b>seven</b> 18:6 37:17 <b>shame</b> 65:2 <b>shape</b> 13:3,15 20:11 56:7 <b>shapes</b> 83:9 <b>share</b> 22:2 30:17 60:21,22 <b>sharp</b> 31:1 <b>sheathing</b> 78:9 <b>shed</b> 8:11 10:21 71:9 <b>sheet</b> 22:1 48:14 48:15</p>	<p><b>Sherman</b> 2:3 5:8 5:16 10:9,12 <b>shock</b> 39:18 <b>short</b> 35:1 <b>short-</b> 65:12 <b>short-term</b> 65:16 66:6,12 <b>show</b> 41:20 49:1 62:3 71:11 77:4 <b>showed</b> 77:8 78:6 <b>showing</b> 7:14 8:19 10:17 41:2,14 51:19 <b>shown</b> 31:6,15 48:6 49:20 <b>shows</b> 10:7 30:19 31:4,22 32:6 41:12 49:21 75:4,5 83:4 <b>side</b> 6:19 8:9,15 10:21 22:16 40:7,7,16 41:9 41:17 42:1,1 52:5,19 54:17 75:4 <b>siding</b> 78:9 <b>sight</b> 42:20 <b>sign</b> 24:13,14,18 36:14 <b>significant</b> 56:1 <b>similar</b> 38:18 <b>simply</b> 78:17 <b>single</b> 12:7 71:1 <b>Sinha</b> 38:16 <b>sir</b> 70:1 <b>site</b> 11:22 21:15 32:7 33:5,17 40:20 49:5 <b>sits</b> 21:17 52:8 <b>sitting</b> 3:4 5:3 17:3 19:3 28:3 30:3 38:3 60:3 65:2 69:3 <b>situation</b> 55:19 56:6 76:10</p>	<p><b>six</b> 83:16 <b>size</b> 3:11 13:13 71:15 <b>sizes</b> 83:9 <b>slide</b> 6:6,20 7:13 7:21 8:2,7,18 8:22 9:19,22 10:4,5,16,19 11:3 <b>slides</b> 40:11 <b>sliding</b> 47:21 <b>slightly</b> 31:12 36:17 54:15 <b>slipping</b> 22:15 <b>small</b> 8:11 40:5 54:22 <b>smaller</b> 71:16,17 83:16 <b>Snow</b> 57:21 <b>soil</b> 13:3 20:12 25:1 <b>sorry</b> 7:2 15:5 15:21 17:11 33:17 36:7,11 36:19 41:9,19 42:8 51:14 52:4,11 63:7 69:17 80:11 81:13 82:9 84:18 <b>sort</b> 25:16 31:8 39:19 40:22 44:2 46:4,15 55:2 65:12 71:14 <b>sounds</b> 13:15 26:3 <b>space</b> 6:7,9,9 7:10,10,16 14:5 55:15 64:7 <b>spaces</b> 10:3 <b>Spark</b> 30:20 <b>speak</b> 4:10 14:10 19:8 28:8 30:11 34:3 38:12 49:9,17 57:12</p>
--	--	--	---	--

60:8 62:13 69:12 81:6 84:5,10 <b>speakers</b> 4:10 14:14 <b>speaking</b> 4:3 14:15 57:22 58:2 62:21 <b>special</b> 32:19 33:1,4 35:20 35:22 36:5 60:20 61:19 67:1,3,6 70:5 82:20 83:20 85:3,6 <b>specific</b> 41:3 <b>specifically</b> 13:6 20:18 50:19 <b>specifications</b> 43:17 <b>spend</b> 6:22 <b>spent</b> 5:21 50:11 <b>sprinkler</b> 70:18 <b>square</b> 7:6,7,8 7:17 62:7,8,9 65:1 73:11 <b>square-foot</b> 61:11 <b>ss</b> 87:3 <b>ST</b> 2:8 <b>Staff</b> 4:11 5:8 14:14 <b>stair</b> 47:14 52:7 71:1,10 <b>stairs</b> 8:5 41:18 41:20 42:22 43:1,2,3,5 <b>stairway</b> 31:9 <b>stairwell</b> 70:16 70:17 <b>standard</b> 13:2 20:4 43:8 <b>standards</b> 39:3 71:5 <b>start</b> 4:11 30:18 <b>state</b> 4:3 19:10 60:10 <b>stated</b> 53:22	54:8,8 57:18 58:6 73:21 <b>statement</b> 44:20 67:6 <b>statewide</b> 3:11 <b>Stephen</b> 1:14 4:13,15,17,19 4:21 40:11 <b>Stephens</b> 17:11 <b>stepping</b> 12:15 <b>stick</b> 25:11 <b>sticks</b> 35:9 <b>story</b> 42:7 <b>straight</b> 53:4 <b>street</b> 2:3,5,6,10 5:8,14,16 9:2 9:13,14,15 10:9 11:4 19:7 19:13,14 28:7 30:20 38:7,14 38:19 58:1 61:22 69:7 76:4,7 81:13 81:14 <b>string</b> 40:16 <b>strongly</b> 65:7 <b>structural</b> 46:3 71:4 72:9 <b>structurally</b> 70:13 <b>structure</b> 12:15 43:19 71:3 74:20 <b>subject</b> 66:11 <b>submission</b> 25:16 36:18 58:7 <b>submit</b> 25:20 <b>submittals</b> 35:21 <b>submitted</b> 15:17 20:3 32:8 36:13 44:12 45:14 48:6 53:19 58:9 61:4 67:8 78:16 81:22 82:2 85:7	<b>substance</b> 20:2 <b>substantiate</b> 35:22 <b>substantiates</b> 81:22 <b>sufficient</b> 71:4 <b>suggest</b> 25:11 58:4 <b>suggesting</b> 49:5 <b>sunroom</b> 10:22 12:4 <b>sunrooms</b> 10:2 11:1 <b>support</b> 10:3,12 14:20 31:19 44:10,14 46:3 56:13 57:6 61:21 84:12 86:1 <b>supporting</b> 44:20 67:6 <b>supportive</b> 44:12 62:21 <b>supposed</b> 9:4 <b>sure</b> 11:16,19 13:7,17 40:10 47:19 49:10 55:15 60:18 70:7 75:11 80:3,7 <b>surprise</b> 39:18 <b>surveys</b> 48:15 <b>Susan</b> 62:22 63:1,15 <b>Svirksy</b> 72:15 <b>Svirsky</b> 69:21 70:1,3,7,10,10 72:1,4,6,20 73:1,4,7,9,13 73:15,18 74:1 74:4,7,19 75:5 75:7,11,14 77:1,3,18,19 77:21 78:3,5,8 78:13 82:20 83:1,3,12,15 83:21 <b>symbol</b> 52:20	<b>system</b> 70:18 <hr/> <b>T</b> <hr/> <b>take</b> 4:11 19:18 24:12,19 29:2 49:6 56:9 74:18 76:1 78:15,17 81:18 <b>taken</b> 4:4 <b>talk</b> 23:12 <b>Talkov</b> 63:15 <b>talks</b> 23:10 <b>team</b> 5:10 <b>technical</b> 39:14 42:17 43:8 75:22 <b>television</b> 3:20 <b>tell</b> 51:11 69:10 75:10 <b>tells</b> 42:7 <b>temporarily</b> 3:14 <b>temporary</b> 3:15 <b>term</b> 65:13 <b>terms</b> 20:10 34:14 42:4,17 43:8 <b>Terrace</b> 80:11 <b>testimony</b> 14:21 <b>text</b> 44:21 <b>thank</b> 11:8 12:20 14:7 15:11,12 16:1 16:10,11 21:13 21:13 25:14 26:5,12,21 27:1 32:13 35:13,15,19 36:11 37:14,15 38:11,14 41:11 42:8 45:3,4 46:10,11 51:7 52:2,3 56:10 57:8 58:12,19 59:2,3,5 66:16 66:21 67:22 68:1,2 69:15 71:18 72:5	73:19 75:2,5 75:20 76:19,20 79:1 80:10 81:1,2,3 82:10 82:16 83:2 84:4 85:1,2,11 85:20,21 86:1 86:2,3,4 <b>thanks</b> 13:19 19:19 30:18 62:10 74:22 <b>they'd</b> 43:17 <b>thing</b> 44:8 50:12 64:18 65:2 <b>things</b> 39:14 76:11 <b>think</b> 21:14,19 22:4 25:1,4 30:17 34:11 36:3,9,16 39:16,21 42:7 43:9 44:19 46:3 48:21,21 50:17 53:15,16 53:17 54:8,9 54:19 55:1,1,7 56:13,18 57:4 58:6 62:19 66:2,5,7,13 74:1,2,10 75:15 76:9,11 77:6,11,11 83:1 <b>thinking</b> 20:16 41:6 <b>third</b> 71:21 72:1 77:10 <b>Thomas</b> 57:21 <b>Thorndike</b> 2:10 69:7 76:4 79:7 81:13,14 84:12 <b>thought</b> 39:12 40:4 49:13 74:16 <b>three</b> 4:9 5:18 44:16 62:19 <b>three-family</b> 70:12,17
--	---	--	--	---

<p><b>THURSDAY</b>  1:3  <b>time</b> 4:6,7 5:21  6:22 14:14  17:13 24:11,13  24:18 25:13  30:6 32:15  39:1,5 50:7,11  76:2  <b>times</b> 39:14  55:15  <b>today</b> 50:22  <b>told</b> 76:11  <b>top</b> 41:10  <b>topography</b>  13:3 20:12  25:1 43:7  <b>torn</b> 73:22  <b>town</b> 38:21  80:20  <b>townhome</b>  38:22 40:7,16  <b>townhouse</b> 40:9  42:19 55:19  <b>transcript</b> 3:22  87:6  <b>traveling</b> 19:14  <b>treat</b> 12:7  <b>tree</b> 32:1  <b>triangular</b> 30:21  <b>tricky</b> 40:20  <b>triggered</b> 40:1  <b>Trilogy</b> 38:14  <b>triple-decker</b>  10:11  <b>true</b> 87:6  <b>try</b> 21:3  <b>trying</b> 23:12  50:9,11 51:17  55:2,22 65:7  74:16 76:10,18  <b>two</b> 11:15 31:1  38:8 53:8,9  54:16 57:18  62:19 70:21  71:7,9 73:16  77:21 78:10  <b>two-family</b></p>	<p>65:15  <b>two-story</b> 6:19  9:5 11:1  <b>type</b> 21:15</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>Um</b> 22:17  <b>Um--</b> 48:8  <b>unable</b> 13:12  <b>unclear</b> 33:17  54:17  <b>under-constru...</b>  31:14  <b>undersized</b> 39:2  <b>understand</b>  51:13 52:4  55:22 56:5  66:7  <b>understandable</b>  20:5 47:11  <b>Understood</b>  12:11  <b>unfortunately</b>  78:8  <b>unit</b> 2:3,8 5:8  8:16 19:7 38:7  38:20 43:2  44:13 57:20  58:1,1 61:15  62:7 64:16,17  65:13 66:4,6  67:2  <b>units</b> 21:17  40:16 64:20,20  65:3 71:17  <b>unmute</b> 5:9  14:13,14 34:6  57:16 62:17  81:10 84:9  <b>unnoticed</b> 6:7  <b>unquote--</b> 39:10  <b>updated</b> 76:12  <b>usable</b> 71:21  <b>use</b> 12:9 31:19  71:1  <b>useable</b> 6:8  <b>usually</b> 36:4  55:14</p>	<hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>vacant</b> 79:17,19  <b>Valois</b> 19:9,12  19:12 22:7,13  22:20 23:13,17  23:20 24:3,4,6  24:10,16,22  25:8,14,22  26:3,5,8 27:1  <b>variance</b> 5:17  11:18 14:20  15:14,15 20:4  25:5 39:9 42:1  44:6,10,20  55:6 58:5,7  60:20 70:5  72:17 73:17  81:16,18,18,21  82:2,19  <b>variances</b> 23:6  <b>variation</b> 47:12  <b>varies</b> 42:2  <b>Vassal</b> 2:4 17:7  <b>verbally</b> 20:14  <b>verge</b> 30:21  <b>verify</b> 4:12  <b>versus</b> 34:18  46:16  <b>vestibule</b> 8:11  <b>Veterans</b> 9:17  <b>Vice</b> 1:7 62:1  <b>Vice-Mayor</b>  62:21  <b>video</b> 3:19  <b>view</b> 9:2,8,13,16  9:20 10:1,1,7  10:17  <b>views</b> 11:4  <b>Violation</b> 39:17  <b>visits</b> 46:1  <b>visual</b> 40:15  <b>visuals</b> 62:3  <b>volume</b> 73:4  <b>vote</b> 15:3,6,6,9  15:10,19 16:8  18:3 26:19  28:22 35:20  36:1 37:1,12</p>	<p>37:13 58:11,21  66:22 67:21  78:15,15 81:17  82:18 85:19  <b>votes</b> 4:4 15:13  16:9 26:20</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 18:6  <b>waiting</b> 39:15  <b>waiver</b> 24:13,13  <b>walk</b> 41:18  60:16 61:8  70:4 82:21  <b>walking</b> 64:22  <b>walkway</b> 5:19  6:17 7:7,18,19  9:21 12:18  <b>wall</b> 31:14 32:10  34:16 43:22  47:16  <b>want</b> 19:22  20:21 23:5  30:8 32:3 39:8  41:11 51:1,11  54:13 60:19  61:14 65:21  70:4 80:3  <b>wanted</b> 20:20  39:9 50:15,19  50:20 76:1  <b>wanting</b> 60:19  <b>wants</b> 23:11  50:6 81:11  84:10  <b>wasn't</b> 51:17,19  79:8  <b>way</b> 8:6 11:6  22:9 39:22  49:6,21 53:21  56:7 72:7  <b>ways</b> 10:9  <b>we'll</b> 24:5 29:1,2  37:16 40:21  42:10 51:11  61:3 74:19  <b>we're</b> 5:17,19  18:5 25:21</p>	<p>30:6,14 31:10  32:1,2,11  33:19 35:5  41:16 44:7  61:18 71:8,15  73:10 79:4,4  <b>we've</b> 35:21 36:3  42:2 61:15  64:19  <b>webpage</b> 4:8  <b>welcome</b> 3:7  37:16 59:4,6  85:22  <b>welcoming</b> 76:7  <b>WELLS</b> 66:20  <b>Wendy</b> 1:8  <b>went</b> 5:20 39:6  39:22 42:12  50:8 55:22  63:8  <b>Wernick</b> 1:8 3:5  4:19,20 5:4  11:12 16:4  17:4,22 19:4  26:15 28:4,18  30:4 37:8 38:4  45:7,9,18 46:7  46:8,10 53:17  54:1,5 55:12  58:16 60:4  63:21 67:17  69:4 71:20  72:3,5,13  78:19,20,22  79:2 80:22  82:14 84:3  85:14  <b>Weston</b> 80:8,21  80:22 81:1  <b>wheels</b> 64:4  <b>whereof</b> 87:12  <b>wide</b> 43:6 75:10  77:3  <b>width</b> 75:9  <b>wife</b> 6:4 8:16  19:14  <b>Williams</b> 1:9 3:5  4:17,18 5:4</p>
---	---	--	---	--

11:13 16:2 17:4,20 19:4 26:13 28:4,16 30:4 37:6 38:4 58:14 60:4 64:15 67:15 69:4 82:12 85:12 <b>window</b> 38:17 47:18,18,22 82:22 85:4,6 <b>windows</b> 71:14 71:15 83:3,8 83:16 <b>wish</b> 14:10 57:12 81:6 84:5 <b>wishes</b> 34:3 62:13 <b>wishing</b> 28:7 69:7 <b>witness</b> 87:12 <b>words</b> 13:5 24:6 <b>work</b> 6:2 8:20 9:12,12,18 10:7,15,17,20 11:2,4 14:6 36:6 43:20 46:2 50:7 70:15 76:8 82:7 <b>Worthington</b> 5:14 <b>wouldn't</b> 12:9 65:21 74:13,15 <b>wrap</b> 85:22 <b>wraps</b> 6:18 7:7 8:10 <b>writing</b> 81:14 <b>written</b> 14:19 20:19 44:14 50:17 56:20 63:12 <b>wrong</b> 50:8 55:22 <b>wrote</b> 21:1 <b>Wyman</b> 2:7 30:7 30:14,22 31:17	31:20 34:10 35:2 <hr/> <b>X</b> <hr/> <b>X</b> 2:1 <hr/> <b>Y</b> <hr/> <b>yard</b> 31:2 40:17 <b>yeah</b> 12:17,22 15:8 22:7 25:2 25:19 35:7 36:7,11,21 40:12 44:18 46:18 47:3,21 48:11,15 49:4 49:10,16 50:4 50:10 51:6,6 53:13 54:4,6 54:19 55:1 56:12 60:21 62:6 63:5,7 64:3,8,14 65:14 66:9 75:16 77:11,12 77:14 80:7,15 80:18 <b>year</b> 46:6 <b>years</b> 5:22 6:5 14:5 64:5,8,19 <b>Yep</b> 10:5 12:12 22:20 24:8 26:3 35:17 38:12 44:15 52:21 53:2 63:4 77:2 82:11,16 <b>Yune</b> 34:10 <hr/> <b>Z</b> <hr/> <b>zero-lot</b> 42:19 <b>Zone</b> 2:7 <b>zoning</b> 1:1 3:8 7:22 23:5 39:9 40:1,3 43:17 45:16 46:5 61:18 <b>Zoom</b> 14:11 34:4 57:13 62:14 81:7	84:6 <hr/> <b>0</b> <hr/> <b>0</b> 7:2 <b>0.31</b> 7:1,2 <b>0.38</b> 7:2 <b>0.50</b> 7:3 <b>0.612</b> 6:9 <b>0.68</b> 6:9 <b>02139</b> 1:6 <b>06/09/22</b> 67:9 <b>06/23/21</b> 36:14 <b>08/09/21</b> 48:10 <b>08:10</b> 86:5 <hr/> <b>1</b> <hr/> <b>1</b> 31:3 41:10 48:10 59:1 <b>1'4</b> 54:2 <b>1.5'</b> 31:13 <b>10</b> 64:19 <b>10-year</b> 64:21 <b>10.30</b> 15:15 23:6 82:1 <b>10.31</b> 23:6 <b>10.40</b> 35:22 67:4 85:6 <b>11</b> 2:8 38:7,19 58:1 63:16 <b>12</b> 2:9 3:13 22:1 38:14 60:7,13 61:12 <b>12/06/22</b> 36:20 <b>12/23/2022</b> 82:3 <b>138</b> 81:13,14 84:12 <b>14</b> 63:8 <b>14.2</b> 34:19 <b>142</b> 2:10 69:6 76:4 79:7 <b>15</b> 63:16 64:7 78:6 <b>15'</b> 77:3,14 78:8 78:12 79:2,3,4 <b>159</b> 2:3 5:8,16 <b>164-166</b> 2:4 17:7 17 2:4 <b>17-21</b> 2:5 19:7 <b>19</b> 2:5 19:7,13	19:13 <hr/> <b>2</b> <hr/> <b>2</b> 2:3 5:8,14 <b>2-year-old</b> 64:6 <b>2.25</b> 77:3 78:11 78:12 <b>2.5'</b> 31:13 <b>20</b> 52:15,16 <b>2001</b> 39:5 <b>2020</b> 3:14,18 47:6 59:1 <b>2021</b> 59:2 <b>2022</b> 85:8 <b>2023</b> 1:3 3:7 87:13 <b>202716</b> 17:6 <b>2028</b> 87:18 <b>203312</b> 5:8 <b>203324</b> 19:6 <b>204121</b> 60:7 <b>204623</b> 30:7 <b>205192</b> 28:6 <b>205777</b> 38:6 <b>206111</b> 69:6 <b>21</b> 9:10 <b>210</b> 5:22 <b>22</b> 3:20 64:5 <b>23</b> 17:13,14,16 85:8 <b>232</b> 7:8 <b>255</b> 2:6 28:7 <b>26</b> 1:3 3:7 <b>27</b> 3:18 <b>28</b> 2:6 87:18 <b>292</b> 7:6 <hr/> <b>3</b> <hr/> <b>3</b> 41:5,7 <b>3'4</b> 54:2 <b>3'8</b> 54:5 <b>30</b> 2:7 47:4 59:1 <b>302-</b> 7:6 <b>33,000</b> 64:19 <b>38</b> 2:8 <b>396</b> 62:8 <b>398</b> 7:17 <hr/> <b>4</b> <hr/> <b>4</b>	4 2:7 30:7,14 <b>400</b> 61:11 62:8 <hr/> <b>5</b> <hr/> <b>5</b> 2:3 31:20,22 34:10 42:9 44:13 57:22 <b>5:0</b> 37:14 <b>59</b> 10:12 <hr/> <b>6</b> <hr/> <b>6</b> 14:13 34:6 38:20 42:10 44:13 57:16,20 62:17 81:10 84:9 <b>6:00</b> 1:4 3:3 17:14,15 26:8 26:9,21 28:10 28:12 <b>6:07</b> 5:2 <b>6:21</b> 17:2 <b>6:29</b> 19:2 <b>6:45</b> 27:3 28:2 <b>60</b> 2:9 <b>6600</b> 64:20 <b>69</b> 2:10 <hr/> <b>7</b> <hr/> <b>7</b> 44:11 58:1 <b>7.5'</b> 42:20 <b>7:00</b> 29:2 30:2 <b>7:15</b> 38:2 <b>7:39</b> 60:2 <b>7:48</b> 69:2 <hr/> <b>8</b> <hr/> <b>8</b> 2:8,8 38:6,7 40:2,15 41:17 44:11 47:17 <b>8.5</b> 63:2,4,15 <b>831</b> 1:5 <hr/> <b>9</b> <hr/> <b>9</b> 14:13 24:12 25:17,21 26:9 26:21 28:10,12 34:6 57:16 59:2 62:17
---	--	--	---	---

80:7 81:10 84:9 <b>900</b> 62:7				
---------------------------------------	--	--	--	--